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Thursday, June 26, 1986

OPENING OF SESSION

At 5:19 p.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Jose Luis Martin C. Gascon.

Everybody remained standing for the Prayer.

PRAYER

MR. GASCON: Isang Pagbasa mula sa Ebanghelyo ni San Lukas:

At sinabi ni Maria:

Ang puso ko'y nagpupuri sa Panginoon at nagagalak ang aking espiritu dahil sa Diyos na aking tagapagligtas sapagkat nilingap Niya ang Kaniyang abang alipin, at mula ngayon, ako ay tatawaging mapalad ng lahat ng saling lahi. Dahil sa mga dakilang bagay na ginawa sa akin ng Maykapangyarihan, banal ang Kaniyang pangalan. Kinahahabagan Niya ang mga may takot sa Kaniya sa lahat ng saling lahi. Ipinakita Niya ang lakas ng Kaniyang mga bisig; ipinangalat Niya ang mga palalo ang isipan; ibinagsak Niya ang mga hari mula sa kanilang trono at itinaas ang mga nasa abang kalagayan; binusog Niya ang mabubuting bagay, ang mga nagugutom at pinalayas Niya nang wala ni anuman ang mayayaman; tinulungan Niya ang Kaniyang bayang Israel bilang pagtupad sa pangako Nya sa ating mga magulang, kay Abraham at sa Kaniyang saling lahi magpakailan man.

Amang mapagmahal at mapagpalaya, sa araw na ito ay iniaalay namin ang aming sarili, ang aming kahinaan at kalakasan. Gabayan Mo kami sa aming pagkukulang at tulungan Mo kami upang patuloy naming isulong ang sandigan at mithiin ng aming sambayanan — ang isang malayang lipunan, upang makayanan naming ialay ang aming sarili sa pagbuo ng tunay na maka-Pilipino at maka-Diyos na pamayanan na nakatimo sa kalayaan, katarungan, katotohanan at pag-ibig. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present Natividad Present *

Alonto Present Nieva Present

Aquino Present Nollado Present

Azcuna Present Ople Present

Bacani Present Padilla Present

Bengzon Present Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present

Brocka Present Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion Present Sarmiento Present

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present Tadeo Present

Gascon Present Tan Present

Guingona Present Tingson Present

Jamir Present Treñas Present

Laurel Absent Uka Present

Lerum Present Villacorta Present

Maambong Present Villegas Present

Monsod Present

The President is present.

The roll call shows 46 Members responded to the call.

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

APPROVAL OF JOURNAL

MR. CALDERON: I move that we dispense with the reading of the Journal of the previous session and that we approve the same.

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolutions on First Reading and Communications, the President making the corresponding references:

PROPOSED RESOLUTIONS ON FIRST READING

Proposed Resolution No. 274; entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION SECTIONS THREE AND FOUR, ARTICLE FOUR, OF THE 1973 CONSTITUTION WITH MODIFICATION TO MAKE THE PROTECTION MORE EFFECTIVE.

Introduced by Hon. Treñas.

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Proposed Resolution No. 275, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION SECTION ELEVEN, PARAGRAPH (1), ARTICLE X OF THE 1973 CONSTITUTION WITH MODIFICATIONS AND WITH AN ADDITIONAL PARAGRAPH TO FURTHER STRENGTHEN THE COMPULSORY CHARACTER OF SAID PROVISION.

Introduced by Hon. Treñas, Colayco, Romulo and Suarez.

To the Committee on the Judiciary.

Proposed Resolution No. 276, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION FOR A NATIONALIST, SCIENTIFIC AND PEOPLE ORIENTED EDUCATION.

Introduced by Hon. Quesada.

To the Committee on Human Resources.

Proposed Resolution No. 277, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON A NATIONAL HEALTH POLICY FOR A COMPREHENSIVE HEALTH CARE DELIVERY SYSTEM FOR THE ENTIRE COUNTRY.

Introduced by Hon. Quesada, Suarez and Sarmiento.

To the Committee on Social Justice.

Proposed Resolution No. 278, entitled:

RESOLUTION TO PROVIDE IN THE GENERAL PROVISIONS OF THE CONSTITUTION THAT THE STATE SHALL NOT INTERFERE WITH THE RIGHT OF EVERY CITIZEN TO SELECT HIS PROFESSION OR COURSES OF STUDY.

Introduced by Hon. Nollado and Sarmiento.

To the Committee on Human Resources.

Proposed Resolution No. 279, entitled:

RESOLUTION TO PROVIDE IN THE NEW CONSTITUTION THAT THE STATE SHALL FOSTER AND PROMOTE THE ESTABLISHMENT OF COOPERATIVES AND SUPPORTING SERVICES ALL OVER THE COUNTRY ESPECIALLY IN THE RURAL AREAS.

Introduced by Hon. Nollado.

To the Committee on Social Justice.

Proposed Resolution No. 280, entitled:

RESOLUTION TO STRENGTHEN, INVIGORATE AND CONSTITUTIONALIZE THE OMBUDSMAN KNOWN AS THE TANODBAYAN.

Introduced by Hon. Nollado.

To the Committee on Accountability of Public Officers.

Proposed Resolution No. 281, entitled:

RESOLUTION FIXING THE PERIOD WITHIN WHICH THE CIVIL SERVICE COMMISSION SHALL DECIDE CASES BROUGHT BEFORE IT AND PROVIDING FOR APPEALS THEREFROM TO THE SUPREME COURT.

Introduced by Hon. Davide, Jr.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 282, entitled:

RESOLUTION AUTHORIZING APPEALS ON QUESTIONS OF FACT FROM DECISIONS, ORDERS OR RULINGS OF THE COMMISSION ON AUDIT.

Introduced by Hon. Davide, Jr.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 283, entitled:

RESOLUTION TO FURTHER STRENGTHEN THE CONSTITUTIONAL COMMISSIONS BY EXPANDING THE SCOPE OF THE PROHIBITION ON MEMBERS THEREOF TO BE FINANCIALLY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH, OR IN ANY FRANCHISE OR PRIVILEGE GRANTED BY THE GOVERNMENT.

Introduced by Hon. Davide, Jr.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 284, entitled:

RESOLUTION AUTHORIZING APPEALS ON QUESTIONS OF FACT FROM DECISIONS OF THE COMMISSION ON ELECTIONS.

Introduced by Hon. Davide, Jr.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 285, entitled:

RESOLUTION TO PROHIBIT CERTAIN PUBLIC OFFICIALS FROM RUNNING IN THE FIRST NATIONAL AND LOCAL ELECTIONS AFTER THE RATIFICATION OF THE NEW CONSTITUTION.

Introduced by Hon. Suarez and Jamir.

To the Committee on Amendments and Transitory Provisions.

Proposed Resolution No. 286, entitled:

RESOLUTION TO PROVIDE IN THE CONSTITUTION OF 1986 FOR THE DEVELOPMENT AND FORMAL ADOPTION OF A COMMON NATIONAL LANGUAGE TO BE KNOWN AS FILIPINO; THE CREATION OF AN 11 MEMBER COMMISSION ON NATIONAL LANGUAGE AND INTERNATIONAL LANGUAGE, AND PRESCRIBING THE OFFICIAL LANGUAGES.

Introduced by Hon. Uka, Alonto and Abubakar.

To the Committee on Human Resources.

Proposed Resolution No. 287, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON THE CITIZENS' RIGHTS AND DUTIES TO HEALTH.

Introduced by Hon. Quesada and Suarez.

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Proposed Resolution No. 288, entitled:

RESOLUTION PROVIDING IN THE NEW CONSTITUTION THAT THE STATE SHALL RECOGNIZE THE PRIMACY OF LABOR OVER CAPITAL IN THE REGULATION OF THE ECONOMY.

Introduced by Hon. Bacani.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 289, entitled:

RESOLUTION PROVIDING IN THE NEW CONSTITUTION THE TEACHING OF RELIGION IN PUBLIC ELEMENTARY AND SECONDARY SCHOOLS UNDER CERTAIN CONDITIONS.

Introduced by Hon. Bacani.

To the Committee on Human Resources.

Proposed Resolution No. 290, entitled:

RESOLUTION LIMITING THE PROHIBITION FOR LEGISLATORS TO APPEAR AS COUNSEL TO COURTS INFERIOR TO COLLEGIATE COURTS OF APPELLATE JURISDICTION AND MAKING SUCH PROHIBITION APPLICABLE TO THEIR FIRM PARTNERS OR ASSOCIATES BUT ALLOWING THEM AND SUCH PARTNERS OR ASSOCIATES TO APPEAR AS COUNSEL BEFORE THE CONSTITUTIONAL COMMISSIONS; OR, IN THE ALTERNATIVE, ALLOWING THEM, AS THEY WERE ALLOWED IN THE 1935 CONSTITUTION, TO APPEAR IN ANY COURT EXCEPT IN CERTAIN CASES WHERE IN THE GOVERNMENT OR AN OFFICER OR EMPLOYEE THEREOF IS INVOLVED.

Introduced by Hon. Foz.

To the Committee on the Legislative.

Proposed Resolution No. 291, entitled:

RESOLUTION PROPOSING THAT JUDICIAL REVIEW OF DECISIONS, ORDERS, AND RULINGS OF THE CIVIL SERVICE COMMISSION BE PROVIDED FOR IN THE CONSTITUTION.

Introduced by Hon. Foz.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 292, entitled:

RESOLUTION PROVIDING FOR APPEAL FROM JUDGMENT OF ACQUITTAL WHEN IT IS MANIFESTLY AGAINST THE EVIDENCE AND IS CONTRARY TO LAW.

Introduced by Hon. Padilla.

To the Committee on the Judiciary.

Proposed Resolution No. 293, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION PROTECTING THE RIGHTS OF VICTIMS OF CRIMES.

Introduced by Hon. Natividad.

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Proposed Resolution No. 294, entitled:

RESOLUTION PROVIDING IN THE NEW CONSTITUTION DISQUALIFICATIONS TO RUN FOR ELECTIVE POSITION.

Introduced by Hon. Suarez and Jamir.

To the Committee on Amendments and Transitory Provisions.

Proposed Resolution No. 295, entitled:

RESOLUTION STRESSING THAT THE CONCEPT OF THE STATE INCLUDES THE PEOPLE AS THE SUPREME ELEMENT.

Introduced by Hon. Villacorta, Suarez and Bennagen.

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

COMMUNICATIONS

Letter from Nichol's Airmen's Village Residents Association, Inc. signed by Ms. Rosario B. Martizano proposing, among others, a bicameral legislature.

(Communication No. 53 — Constitutional Commission of 1986)

To the Committee on the Legislative.

Letter from Messrs. Oscar Musni, Mariano Carrasco, and Ike Macias, all of Cagayan de Oro City, requesting that a public hearing be held in Cagayan de Oro City.

(Communication No. 54 — Constitutional Commission of 1986)

To the Ad Hoc Planning Committee on Public Hearings.

Letter from the People's Organization Working for Effective Reforms, Inc., Intramuros, Manila, signed by Mr. Armando P. Francisco, expressing their desire to attend the scheduled public hearings and submitting their proposals on social justice.

(Communication No. 55 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from the Honorable Commissioner Ahmad Domocao Alonto submitting a copy of the lecture of the late Senator Benigno Aquino, Jr., at the King Abdul Aziz University, Jeddah, Saudi Arabia, on May 12, 1981 and requesting that the same be made part of the records of the Constitutional Commission.

(Communication No. 56 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Marino M. Mena, College of Engineering, University of the Philippines, proposing provisions on science and technology, education, and environment.

(Communication No. 57 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from the Honorable Neptali A. Gonzalez, referring a paper of Mr. Nicolas A. Gerochi, Jr., Regional Trial Court Judge, Makati, Metro Manila, with a specific recommendation for a bicameral legislature.

(Communication No. 58 — Constitutional Commission of 1986)

To the Committee on the Legislative.

Letter from the Samahan sa Kultura at Sining signed by Ms. Julie Borromeo, transmitting a proposal for a Ministry of Culture.

(Communication No. 59 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Vicente Bengzon, Jr., c/o Supreme Court, Padre Faura, Manila, proposing that judicial funds be placed under the supervision and control of the Supreme Court to ensure the independence of the Judiciary.

(Communication No. 60 — Constitutional Commission of 1986)

To the Committee on the Judiciary.

Letter from Mr. Felino C.T. Leon of Potrero, Malabon, Metro Manila, submitting a paper on a proposed form of government, its structure and process.

(Communication No. 61 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Napoleon B. Sayson of 2428 Dapdap St., Parañaque, Metro Manila, suggesting, among others, a speedy judicial process and a vice-president each for Luzon, Visayas and Mindanao.

(Communication No. 62 — Constitutional Commission of 1986)

To the Committee on the Judiciary.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that Assistant Floor Leader Ahmad Domocao Alonto be recognized.

THE PRESIDENT: Assistant Floor Leader Alonto is recognized.

MR. ALONTO: Madam President, thank you for the recognition. I stand here not as Assistant Floor Leader but I am here, Madam President, to reiterate my request, dated June 24, 1986, addressed to the President of the Commission.

This is regarding the lecture of the late martyr Senator Benigno Aquino, Jr. delivered on May 12, 1981 at the King Abdul Aziz University Science Auditorium, Jeddah, Kingdom of Saudi Arabia, entitled: "The Historical Background of the Moro Problem in the Southern Philippines."

I believe, Madam President, that this lecture of former Senator Aquino is not only an important historical document, but also a pronouncement which embodies an essential formula for the solution of one of the most persistent problems in this country. I beg to request that the same be made part of the record of this Constitutional Commission.* Also, I move that this be immediately reproduced and distributed to the Members of this Commission.

THE PRESIDENT: Yes. For the information of Commissioner Alonto, his communication denominated as Communication No. 56 in our Order of Business today has been referred to the Committee on Human Resources.

Thank you.

MR. ALONTO: Yes, Madam President, I am very grateful for referring it to this Committee, but my purpose in requesting that the lecture be reproduced and distributed to the Members of the Commission is that it would serve us in getting a formula to be embodied in the Constitution which could solve the problem persisting in our country.

THE PRESIDENT: Commissioner Alonto is moving that the lecture be reproduced and distributed to the Members.

Is there any objection to the motion of Commissioner Alonto? (Silence) The Chair hears none; the motion is approved.

MR. ALONTO: Thank you, Madam President.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, I rise on a question of collective privilege.

THE PRESIDENT: What is the subject of the Gentleman's question of collective privilege?

MR. SARMIENTO: Madam President, it is about an item published by one of the dailies on June 25, which I think affects the integrity and dignity of the Constitutional Commission.

THE PRESIDENT: Does the Commissioner believe that it is of such urgency that we have to take it up now?

MR. SARMIENTO: Yes, Madam President, I believe in the urgency of this item.

THE PRESIDENT: Commissioner Sarmiento may proceed.

QUESTION OF PRIVILEGE OF COMMISSIONER SARMIENTO

MR. SARMIENTO: Madam President, on June 25, 1986, there appeared a news item which reads, and I quote:

Initial "public hearings" on the proposed Constitution confirm earlier predictions that they will be dominated by "cause-oriented" and other political pressure' groups. "Feedbacks" from urban centers like Dagupan, Tarlac and Naga claim that "leftwing" National Democratic Front (NDF) affiliates virtually monopolized proceedings called by a committee of the Constitutional Commission (Con-Com). Conservative elements of these cities were reported unable to put in a word edgewise.

Indicative of the weakness and lack of popular acceptance of the Con-Com committees was the fiasco in Baguio City where a public hearing was turned into a gripe session just to accommodate the wishes of leaders of the so-called Cordillera People's Assembly (CPA), a federation of organizations in the five provinces in the Cordillera highlands of Northern Luzon clamoring for self-rule.

Another item, Madam President, appeared in the papers several days ago which stated that a walkout in one, of the public hearings was averted because the format was waived by the Commissioners.

Madam President, Commissioner Nollado and I were in Naga City last weekend. We can, in all honesty, say that no group, no organization, no party virtually monopolized the proceedings called by the Constitutional Commission. Almost all participated in the workshops and plenary sessions held. In the radio dialogue that was conducted in the evening, calls were received starting at eight o'clock in the evening. The telephone receiver had to be lifted at 10:00 p.m. because of the numerous public calls.

Madam President, I asked the Commissioners concerned about the averted walkout in another public hearing and they replied it was not true. Those who have not asked the Commissioners who came from the field, those who have not checked the veracity of these reports, and even fellow Commissioners will think that provincial public hearings are dominated by only one group or organization, or that formats are formulated in utter disregard of the local people's needs.

Madam President, these reports affect public confidence in the Constitutional Commission. Even the Commissioners are at a loss as to what really happened in the provinces.

May I humbly suggest an urgent motion, Madam President: That each team of Commissioners, through its team leader, be allotted at least three to five minutes every Monday to give its report, subject to questions by Commissioners about its trip in the provinces. In this way, we could get first hand information from our fellow Commissioners who came from the field.

Thank you, Madam President.

THE PRESIDENT: Thank you.

Will Commissioner Sarmiento put his suggestion to a motion so that it can be formally acted upon?

MR. SARMIENTO: I respectfully move, Madam President, that each team, through its team leader, be allotted three to five minutes every Monday of our plenary sessions to give its report of the public hearings in the provinces, subject to questions by their fellow Commissioners.

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

MR. MAAMBONG: Madam President.

MR. OPLE: I second the motion.

However, will Commissioner Sarmiento entertain a minor amendment without prejudice to the written ; reports of the team.

THE PRESIDENT: Commissioner Ople, the motion has already been approved. Is there any reconsideration then of the approval so that this amendment can come in?

MR. OPLE: This is not such a critical amendment, but if it is understood that this is embraced within the meaning of the motion of Commissioner Sarmiento, I will not disturb the prior approval, Madam President.

THE PRESIDENT: Thank you.

MR. OPLE: Thank you.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Considering that there is still five minutes left from Commissioner Sarmiento's time, I wonder if he would be willing to yield to a few questions.

MR. SARMIENTO: Gladly, Commissioner Maambong.

THE PRESIDENT: Commissioner Maambong may proceed.

MR. MAAMBONG: Commissioner Sarmiento mentioned a situation wherein the integrity of the Constitutional Commission has been slandered or assailed. Would the Commissioner give some recommendations as to how we can counter this kind of slanderous reports?

MR. SARMIENTO: I suggest that the Committee on Public Relations make representations with the authors of these newspaper items. We were given a list of newspapermen just this afternoon. So, I think that Committee should make representations with those newsmen about the reports that should be published in the papers.

MR. MAAMBONG: This is just for the record. Will the Commissioner put in the record the names of the newspapers which published the subject matter of the Commissioner's speech?

MR. SARMIENTO: I refer to the Manila Bulletin, dated June 23, 1986 and June 25, 1986.

MR. MAAMBONG: Is that the only paper?

MR. SARMIENTO: That is the only paper I referred to in my speech this afternoon.

MR. MAAMBONG: Actually, I do not want to dignify that report which I have also read. But considering that the Commissioner has already opened up the subject, I just want to inform the body that I have also in my news file a report stating that what we are doing here is just a "palabas" and that a draft of the Constitution has actually been prepared. I consider that a very serious accusation, and I also feel that if it were not for the time limitation, I would also speak on a matter of collective and personal privilege. Does the Commissioner have any further

recommendations aside from calling the attention of our Committee on Public Relations?

MR. SARMIENTO: Or maybe we can ask the reporter to make a public apology for his kind of reporting.

MR. MAAMBONG: That would be all, Madam President; thank you.

THE PRESIDENT: Thank you.

REV. RIGOS: Madam President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, I think we are overly sensitive to the reports we read every now and then. It is not uncommon anymore to read news items about the Con-Com that are simply not true and we are spending a lot of time trying to get the entire Commission to correct whatever misinformation has been written about us. Probably, it will be better to just call the attention of our Committee that has something to do with this to make the necessary correction instead of us bringing the matter before the entire body everytime there is an inaccurate news article. This is just a suggestion, Madam President.

THE PRESIDENT: Thank you.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: May I request the Chair to recognize Commissioner Guingona.

THE PRESIDENT: Commissioner Guingona is recognized

MR. GUINGONA: Thank you, Madam President.

I would like to invite the attention of the honorable, Members of this body to the observations made, which I think would affect the sufficiency and integrity of our proceedings. I refer to the observations made in the column of Mr. Miguel Genovea that appeared in the Philippine Daily Express yesterday. With the President's permission, I shall read portions thereof:

. . . As appointive Members, they suffer from the disadvantage of having less contact with the people for whom they are writing a new charter. Elective delegates, on the other hand, ensure that they have a feel of the public pulse.

To make up for such disadvantage, the Con-Com members should similarly gauge the public pulse by sponsoring opinion surveys or encouraging civic groups, like the Rotary, Jaycees and Lions Clubs to conduct mini-referenda on constitutional issues. True, the Con-Com is conducting weekend public hearings, but these are hardly sufficient to determine mass sentiment.

With the time constraints, there is no guarantee now that the Con-Com, unless it really determines the feelings of the governed, runs the risk of putting out a half-baked Constitution.

Madam President, the honorable Members of this Commission will recall that I had expressed the same view when I tried to present a motion during the early days of our proceedings for us to seek the cooperation and assistance of prestigious and responsible organizations which have nationwide clubs or units to conduct mini-referenda with the people in their respective localities regarding constitutional proposals and to subsequently provide us with summarized reports of such proposals Mr. Genovea and I share the same concern that if we limit our exposure to the inputs that we will receive from the public hearings, we will not be able to gather sufficient

materials to determine mass sentiment and we will run the risk of putting out what Mr. Genovea refers to as a "half-baked constitution," an eventuality which would reflect adversely on the integrity of our proceedings.

Going over the final schedules of the public hearings outside of Metro Manila for the periods June 21 to July 13, we note the very apparent inadequacy of such public hearings relative to our collective desire to adequately feel the public pulse. In saying this, I do not intend to lay any blame on the planners of the public hearings I believe they have done an excellent work,

- considering the time and other constraints. However, the schedules show that we have only allowed one site for one province. Examples are Malolos for Bulacan, Lipa City for Batangas, and so forth, and that only two-thirds of all the provinces have been covered. The advantages of the so-called mini-referenda would be, among others: The organizers need not wait for week ends, which we have to do because we work here from Mondays to Fridays. They need not hold their sessions the whole day. They can hold these in the evenings. There will be no expenses as far as the Commission is concerned. The participants who are in the locality could perhaps even walk to the site of the session, and the people need not talk to some Commissioners who may not even understand their dialects.

And so, Madam President, I would like to reiterate the motion that I had earlier presented, but which I have to withdraw because, as correctly pointed out at that time, the motion was untimely presented. There was an untimely presentation because we had not yet started our deliberations on public hearings.

May I now present my motion, Madam President.

THE PRESIDENT: The Commissioner may proceed.

MR. GUINGONA: I move that the Commission, thru the honorable President, solicit the assistance and cooperation of prestigious civic, professional, religious and responsible organizations with nationwide network such as the Rotary, the Jaycees, the Lions, the National Press Club, either by itself or thru its provincial contacts, the Integrated Bar of the Philippines and other professional organizations like labor, students, faculty, religious groups and others to appeal to their clubs and local units to conduct minireferenda, particularly outside of Metro Manila, within two weeks and to submit to this Commission summarized reports on constitutional proposals gathered during such minireferenda on or before July 12, 1986; and that a special ad hoc committee composed of Members of this Commission be created by the honorable President with the task of classifying, collating, and summarizing the reports received and to present its report either in plenary session or in writing on July 21.

Thank you, Madam President.

THE PRESIDENT: Does the Chair understand that Commissioner Guingona's motion will again further delay the timetable of this Commission? In other words, we have already delayed our calendar to await the results of the public hearings. Does the Chair understand that we will have to wait again for the results of the referenda that will be taken over by these civic organizations? In other words, we will not be able to discuss the reports until we receive them?

MR. GUINGONA: No, Madam President, these reports will be supplementary and the way we envision them, they will be coming in from the time that the minireferenda will be held and that is on July 13 which means that we can receive reports even as early as one week from now or before July 13, the date set for our last out-of-town public hearing.

THE PRESIDENT: The committee reports are supposed to be submitted by July 7.

MR. GUINGONA: Yes, Madam President.

THE PRESIDENT: Is there any comment?

Commissioner Bacani is recognized.

BISHOP BACANI: I wish to object to the resolution proposed by Commissioner Guingona due to the following reasons: First, the Commissioners who want to engage in such minireferenda can do that on their own private initiative. Second, it would only be duplicating the work of the public hearings to which these people who were supposed to be invited can come anyway. Hence, I object to the resolution.

VIVA VOCE

THE PRESIDENT: Are there any other comments? Are we ready to vote on the motion of Commissioner Guingona?

As many as are in favor of the motion, say yea.

FEW MEMBERS: Yea.

THE PRESIDENT: As many as are against, say nay.

SEVERAL MEMBERS: Nay.

THE PRESIDENT: The nays have it; the motion is lost.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move to terminate the freewheeling debate on citizenship because this has been sufficiently debated.

THE PRESIDENT: Is there any objection to the motion to terminate the period of sponsorship and debate?

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: May I just remind the Assistant Floor Leader that Committee Report No. 4 on citizenship is already in the period of sponsorship and debate. It is no longer on freewheeling discussion. So, with the permission of the Assistant Floor Leader, I would like to propose that the motion be to terminate the period of sponsorship and debate on Committee Report No. 4 on Citizenship to pave the way for another motion for the discussion of the committee report on national territory.

MR. CALDERON: Yes, I am agreeable to what the Chairman of the Steering Committee has proposed.

THE PRESIDENT: So the motion now before the body is that the period of sponsorship and debate on Committee Report No. 4 be terminated.

MR. SUAREZ: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: I have only one question addressed to Commissioner Bengzon.

THE PRESIDENT: The Commissioner may proceed.

MR. SUAREZ: Commissioner Bengzon is proposing to terminate the period of sponsorship and debate. Is the Commissioner precluding the period for filing, for voicing out opposition to the sponsorship?

MR. BENGZON: We agreed last that we would go into the period of sponsorship and debate without

amendments.

MR. SUAREZ: Yes, but we did not deny the Members the right to file or object to the proposed resolution.

MR. BENGZON: Therefore, if there are Commissioners who want to speak against the committee report, then I am certainly going to suspend my motion.

MR. SUAREZ: Thank you.

We just want to be sure that those who want to speak against the resolution are free to do so.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 6:02 p.m.

RESUMPTION OF SESSION

At 6:11 p.m., the session was resumed.

THE PRESIDENT: The session resumed.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, no one has registered today for the turno en contra with respect to Committee No. 4 submitted by the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights. On this basis, we assume that nobody wants to go into that period. Hence, I would like to find out now if there is anyone who wants to take advantage of this particular period of turno en contra. If there is none, then I would like to move that the period of sponsorship, interpellations, and period of turno en contra with respect to Committee Report No. 4 be terminated.

THE PRESIDENT: Is there anyone who would like to avail of the turno en contra with respect to Committee Report No. 4?

Is there any objection then to the motion of Commissioner Bengzon to terminate the period of sponsorship and debate on Committee Report No. 4? (Silence) The Chair hears none; the motion is approved.

CONSIDERATION OF PROPOSED RESOLUTION

NO. 263

(Article on the National Territory)

PERIOD OF SPONSORSHIP AND DEBATE

MR. BENGZON: I move that we consider Committee Report No. 3 on Proposed Resolution No. 263 as reported out by the Committee on Preamble, National Territory and Declaration of Principles.

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

Consideration of Proposed Resolution No. 263 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 263, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL TERRITORY.

(The following is the whole text of the substitute resolution per C.R. No. 3.)

COMMITTEE REPORT NO. 3

The Committee on Preamble, National Territory and Declaration of Principles to which was referred Proposed Resolution No. 6, introduced by Hon. Davide Jr., entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL TERRITORY TO ENSURE THE SOVEREIGNTY OF THE REPUBLIC OVER SEAS RECOGNIZED BY THE 1982 UNITED NATION'S CONVENTION ON THE LAW OF THE SEA,

Proposed Resolution No. 27, introduced by Hon. Nollado, entitled:

RESOLUTION PROVIDING FOR THE RESOLUTION OF THE SABAH ISSUE IN THE TRANSITORY PROVISIONS,

Proposed Resolution No. 136, introduced by Hon. Nollado, entitled:

RESOLUTION TO PROVIDE AN AMENDED PROVISION ON NATIONAL TERRITORY IN THE CONSTITUTION,

Proposed Resolution No. 141, introduced by Hon. Tingson, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL TERRITORY,

has considered the same and has the honor to report them back to the Constitutional Commission of 1986 with the recommendation that attached Proposed Resolution No. 263, prepared by the Committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL TERRITORY,

be approved in substitution of Proposed Resolution Nos. 6, 27, 136 and 141 with Honorable Davide, Jr., Nollado, Tingson, Rosales, Aquino, Rosario Braid, Quesada and Villegas as authors.

(Sgd.) Hon. Decoroso R. Rosales

Chairman

Committee on Preamble, National Territory
and Declaration of Principles

PROPOSED RESOLUTION NO. 263

(Substitute Resolution)

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL TERRITORY

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled:

To incorporate in the new Constitution the following provision:

ARTICLE I

THE NATIONAL TERRITORY

SECTION 1. The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories belonging to the Philippines by historic right or legal title, including the territorial

sea, the air space, the sub- soil, the sea-bed, the insular shelves, and the other submarine areas over which the Philippines has sovereignty or jurisdiction. The waters around, between and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the Philippines. Sovereignty or jurisdiction of the Philippines shall also extend to straits connecting these waters with the economic zone provided for in the Convention on the Law of the Sea.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: Before we go to the discussion on the Proposed Resolution on National Territory, may I request the Chair to recognize Commissioner Tingson.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, this is a small matter but it is very important to me. I rise with the intention of making an amendment to the resolution I have filed respecting the presence of United States military bases in the country. While I was discussing this Resolution No. 268 with my staff, there were several options available to this humble Representation. We had ranged these options between two extremes with my intention of choosing one more closely akin to the announced position of our present government but not any one of the extreme positions.

With the permission of the Chair and due to an inadvertence, I should, want to correct a portion of this resolution. I move that page 2, lines 2, 3 and 4 of Resolution No. 268 should read: PROVIDED, HOWEVER, THAT THE LEASE ON THOSE BASES EXTENDABLE FROM ONE PERIOD TO ANOTHER UPON THE CONCURRENCE OF THE PARTIES SHALL BE BASED ON JUSTICE, THE HISTORICAL AMITY OF THE PEOPLES OF THE PHILIPPINES AND THE UNITED STATES AND THEIR COMMON DEFENSE INTEREST.

This is just to make it very clear, Madam President, because some are making snide remarks against this humble Representation. I want the following words to be deleted because this was not my intention: "Resolved further that the lease for these military bases be extended for another one hundred years from the date of the adoption of the new Constitution."

Madam President, that is far from my thinking. I am not naive on this issue. May I repeat then that in lieu of that it should be: PROVIDED, HOWEVER, THAT THE LEASE ON THOSE BASES EXTENDABLE FROM ONE PERIOD TO ANOTHER UPON THE CONCURRENCE OF THE PARTIES SHALL BE BASED ON JUSTICE, THE HISTORICAL AMITY OF THE PEOPLES OF THE PHILIPPINES AND THE UNITED STATES AND THEIR COMMON DEFENSE INTEREST.

I will appreciate it very much if the President will help me correct this.

THE PRESIDENT: Is there any objection to the motion of Commissioner Tingson? (Silence) The Chair hears none; let the proper correction be made.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: May I call on Commissioner Nollado.

THE PRESIDENT: Commissioner Nollado is recognized to sponsor the committee report.

SPONSORSHIP SPEECH OF COMMISSIONER NOLLEDO

MR. NOLLEDO: Thank you, Madam President.

I stand to sponsor Committee Report No. 3 on the definition of the national territory which was the product of an extensive discussion among the members of the Committee on Preamble, National Territory, and Declaration of Principles chaired by Commissioner Decoroso Rosales. The Committee had the honor of listening to the enlightening remarks of Ambassador Juan Arreglado and the officials of the Bureau of Coast and Geodetic Survey.

Your committee report is a consolidation of the resolutions of Commissioners Davide, Tingson and Nollado. This Committee decided to adopt the definition of the national territory as set forth in the 1973 Constitution with slight modification, taking into account the economic zone now recognized by the Law of the Sea of 1982. The recommended definition reads as follows:

ARTICLE I

THE NATIONAL TERRITORY

SECTION 1. The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories belonging to the Philippines by historic right or legal title, including the territorial sea, the air space, the subsoil, the sea-bed, the insular shelves, and the other submarine areas over which the Philippines has sovereignty or jurisdiction. The waters around, between and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the Philippines.

Then I continue; this is the addition:

SOVEREIGNTY OR JURISDICTION OF THE PHILIPPINES SHALL ALSO EXTEND TO STRAITS CONNECTING THESE WATERS WITH THE ECONOMIC ZONE PROVIDED FOR IN THE CONVENTION ON THE LAW OF THE SEA.

The definition ends there. The above definitions Madam President and my beloved colleagues in this Commission, was actually an amended provision on national territory as found in the 1935 Constitution. In this old definition, our national territory comprised the following: 1) all territories ceded to the United States by the Treaty of Paris concluded between the United States and Spain on December 10, 1898; 2) all islands embraced in the treaty concluded in Washington between the United States and Spain on December 7, 1900, and these were: Cagayan, Sulu and the Sibutu groups which were omitted in the Treaty of Paris; 3) all islands embraced in the treaty concluded between the United States and Great Britain on January 2, 1930, and these were: the Turtle Islands and the Mangsee Islands; and 4) all other territories over which the present government of the Philippines exercises jurisdiction.

The 1973 definition of our national territory, Madam President, adopted in toto by the Committee with addition, contains the following: 1) reference of the Philippine archipelago as comprising the national territory, and the word "archipelago" was used to project the archipelagic principle; 2) reference to specific areas suggestive of the air and undersea world within the jurisdiction and sovereignty of the Philippines. Thus, the use of the words "territorial sea, air space, subsoil, sea-bed, insular shelves, and other submarine areas"; and 3) the statement that all the other territories belonging to the Philippines by historic right or legal title. So, we did not refer anymore to the Treaty of Paris, the Treaty in Washington, etc., in the 1973 or 1986 definition.

The Philippines, Madam President, is justifiably jealous of its waters. We, have fought for the adoption of the

archipelagic principle in various conferences on the Law of the Sea, and for many years this principle has met serious resistance from the world powers particularly Japan and even the United States. The previous conferences resulted in a stalemate. Our fight for this principle culminated in the Convention on the Law of the Sea signed at Jamaica on December 10, 1982.

With the permission of my beloved colleagues, I would like to underscore the importance of the sea to mankind. I quote the observations of former Foreign Minister of Singapore, Sinnathamby Rajaratnam. He said:

Undoubtedly, the sea may be tomorrow's economic frontier and a possible source for as many conflicts as the up of the earth's surface generated since mankind's history. Hitherto, the ocean has remained for the most part a no-man's-land; and, therefore, all-men's-land simply because mankind had not the means to effectively seize and occupy the sea. Today, many nations have the means or think they have. Mankind is turning towards the sea again to possibly reproduce all the foolishness and madness entailed in curbing up the land. The trade routes that link nations are still primarily by sea. Marine transport accounts for 78 percent of the physical volume of foreign trade and 68 percent of the freight in terms of cost. Sea transport is still the cheapest form of transport and is likely to remain so with the development of supertankers and containerization.

With the kindest indulgence of my beloved colleagues, I would like to recall what I said in my speech in the 1971 Constitutional Convention to oppose the motion of the late Voltaire Garcia to delete the definition of the national territory in the Constitution. I said that if we, as we said in our Preamble, are concerned with the preservation and development of our national patrimony, we must, by constitutional mandate, define that patrimony. We do not talk only of our natural resources on land; we have to protect as well our vast resources in the sea, for the wealth of the sea is enormous. The sea yields the great variety of fish that forms part of our diet. The sea is a source of minerals, like petroleum. It is a source of pearls that may win human hearts. It is a source of cobalt that gives power. It gives forth seaweeds that bring forth iodine. It produces salt that makes our food tasty. It provides us with ever continuous supply of silica used in the manufacture of our glasses. It is precisely the richness of the sea that makes the eyes of selfish powers bulge with condemnable envy and engulf them with the desire for territorial aggrandizement.

According to Reverend Father Bernas, Philippine territory may be roughly divided into three groups: 1) the Philippine archipelago, 2) other territories belonging to the Philippines; 3) Philippine waters, air space and submarine areas. According to him, our territory has a horizontal reach consisting of land and water, an upward reach consisting of air space over the land and waters and a downward reach consisting of submarine areas.

Madam President, the definition of our territory symbolizes our national unity and asserts the territorial integrity of the Republic of the Philippines.

Thank you.

I am ready to entertain questions.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: May I request that Commissioner Ople be given the floor?

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

Will the distinguished sponsor yield to a few questions?

MR. NOLLEDO: Certainly, with pleasure.

MR. OPLE: Thank you very much.

I have noted the historical presentation, which is rather thorough, of the evolution of the definition of the national territory in the Constitution since 1935. Does the sponsor confirm that in the 1935 Constitution the territorial jurisdiction of the Philippines comprised only those areas that were ceded to the United States by Spain in the Treaty of Paris and those that subsequently were incorporated in the Philippine territory as a result of the treaty between the United States and Great Britain, but without the Batanes archipelago? Is that correct?

MR. NOLLEDO: That is correct.

MR. OPLE: In the case of the Batanes Islands, however, this gap, if any, was made up in the territorial provision of the 1973 Constitution when it was presumably embraced by the clause "by historic right or legal title," so that any kind of lingering ambiguity about the Batanes Islands as part of the Philippines was thereby conclusively resolved.

MR. NOLLEDO: Will the Commissioner proceed?

Even under the 1935 Constitution, Batanes, which was excluded in the Treaty of Paris, in the Treaty of Washington and the treaty between the United States and Great Britain, could fall under the category of all other territories over which the present government of the Philippines exercises jurisdiction.

Under the 1973 Constitution, it could fall under either historic right or legal title — historic right because from time immemorial, the Philippine government has been exercising jurisdiction over the Batanes Islands; and legal title because for a considerable length of time or for a long period of time, the Philippine government had acquired by occupation the right over the Batanes Islands.

MR. OPLE: I have no doubt in my own mind that the Batanes Islands, even in Spanish times, had formed part of the territory of the Philippines.

MR. NOLLEDO: That is correct.

MR. OPLE: But this merely shows that, if we rely on foreign treaties to define the limits of our territory, this kind of dependence can be very risky, having had these two treaties concerning the Philippine territory and a third one concerning the small islands, known as the Turtle Islands which were reverted to the Philippines during the Macapagal administration. It took the Philippine Constitution framers to eliminate any iota of doubt that, indeed, the Batanes Islands belonged to Philippine territory.

We are talking of the evolution of the historical definition of national territory. I dispute what was uttered here yesterday that only one man wrote the 1973 Constitution, because I knew that the distinguished Commissioner now at the podium helped write many provisions in that Constitution, together with 10 other colleagues that we now have in the Constitutional Commission.

At any rate, what is new in the definition of national territory in the 1973 Constitution is the phrase "by historic right or legal title." Presumably, this included not only the territories over which the Republic of the Philippines exercised jurisdiction. It could pertain to other territories over which the Philippines exercises no jurisdiction. Does the Commissioner confirm that?

MR. NOLLEDO: Presumably.

MR. OPLE: According to the Commissioner's best recollection when the 1971 Constitutional Convention was deliberating on this definition — one might say the enhanced definition' of our national territory especially with the

introduction of the new phrase "by historic right or legal title" — was it the intention of the framers then to include within the purview of this definition territories over which the Philippines may have filed a claim and over which there was some contemplation that in the future a claim could be filed?

MR. NOLLEDO: Before I answer the question of Commissioner Ople, I would like to make some comments on his previous statements. In fairness to the late Delegate Eduardo Quintero and the many witnesses who appeared before our committee, particularly Ambassador Arreglado and Dr. Domingo Abella, I think there was no interference by any outside power in the formulation of the definition of national territory. I was not a member of the committee, but I can say with all candidness that I attended all the meetings of the committee, except during the time when I was incarcerated in Camp Crame.

MR. OPLE: Thank you.

MR. NOLLEDO: I would like to proceed because I have not answered the Commissioner's question yet. I would like the Commissioner to know that when we included the words "by historic right or legal title," we opened the avenue towards the pursuit of the Philippine claim over Sabah and Freedomland, including, possibly, Marianas Islands.

MR. OPLE: Marianas Islands in the Pacific?

MR. NOLLEDO: I would like to say that these were the three territories mentioned by Delegate Quintero in our committee hearings.

MR. OPLE: Yes. And since 1973, the situation with respect to our territory and our claims has been dynamically developing. The Commissioner is undoubtedly aware of what happened in 1977 in Kuala Lumpur during the summit of the Association of Southeast Asian Nations.

MR. NOLLEDO: Bangkok and London.

MR. OPLE: I am referring to the 1977 ASEAN Summit Meeting.

MR. NOLLEDO: Yes.

MR. OPLE: At that time, if my memory does not fail me, the distinguished colleague of ours now present in this Commission was the Ambassador to Malaysia. And by nodding his head ever so slightly, Commissioner Abubakar has confirmed that. And in that summit of the ASEAN, the Philippine government, speaking thru the incumbent President then, formally announced to the other heads of state then assembled in Kuala Lumpur and to the world the relinquishment of the Sabah claim.

MR. NOLLEDO: I am aware of that.

MR. OPLE: And is the Commissioner aware that the reason for that action taken by the then President of the Philippines was based on the attainment of a consensus in that government over time? I said "over time" because three Ministers of Foreign Affairs had recommended this — General Carlos P. Romulo, the most recent . . .

MR. NOLLEDO: The most notable.

MR. OPLE: The sponsor is probably right although Ambassador Pelaez may dispute that. A whole series of foreign ministers of the Philippines from Pelaez to Tolentino to Romulo — or is that the wrong sequence — had recommended that the Philippine government renounce the Sabah claim because it had become self-defeating in terms of our national objectives. I have dared to rephrase the arguments I heard from them more recently by saying that the claim has turned into a paradox in the sense that if we wanted to benefit from a close association with Sabah and with Malaysia, if that is a goal because there are great complementarities in labor and trade

between the Philippines and that country, then, only the claim stands in the way to having that objective realized.

Of course, I will not rehash the legal arguments. We subscribed to self-determination as an important leader in the formation of the UN Declaration on Human Rights. And, of course, in 1963, the United Nations conducted a referendum in Sabah at the behest of the Philippines and Indonesia, who were then teamed up together in MAPHILINDO . and whose relations with Malaysia had become adversary for some reasons we need not delve into. That referendum was conducted and the people of Sabah overwhelmingly voted to become part of the Federation of Malaysia that was being formed that year. The Philippines and Indonesia sent observers. They made some feeble protests about the way the referendum was conducted by the United Nations which made notes on the consciousness of mankind at that time.

The Commissioner is aware that there are 140,000 Filipino refugees in Sabah. They all come from Mindanao, many of them from Cagayan de Sulu and from Sulu.

The Commissioner is undoubtedly aware that these people hardly know the grace of concern of the Philippine government and that they have to function in an atmosphere that is less than friendly, sometimes inhibitingly cold because of the Sabah claim.

May I report to the sponsor, if he will not begrudge me a little time.

MR. NOLLEDO: Yes, please.

MR. OPLE: When I was a Special Assistant to the President during the time of Magsaysay, I was personally involved in negotiating an agreement with the British North Borneo government which wanted an assured supply of 10,000 Filipino immigrant workers a year in what was then known as British North Borneo or Sabah. Of course, they specified that they should be Ilocanos. At that time, the Ilocanos were not predominant in government. I thought they just wanted 10,000 Ilocanos a year. Later on, that agreement, even before it could be implemented, was abrogated unilaterally by the British North Borneo side because they started to hear reports that the Philippine government would file a claim on Sabah.

Does the sponsor realize that had that agreement materialized, 10,000 Filipino immigrant workers a year, not including their progeny, would have gone there, and we should by now be the majority in Sabah?

MR. NOLLEDO: I do realize.

MR. OPLE: Does the Commissioner realize that the whole of Borneo Island comprising Sabah, Indonesia, Sarawak and Indonesian Kalimantan has a population of only 7,000,000 against Mindanao's present population of 10,000,000 plus? Sabah is almost as large as Mindanao, with a population of less than 1,000,000; Sarawak less than a million; and the bigger part of Borneo, Indonesian Kalimantan, has only 5,000,000. The whole population of Borneo in relation to Mindanao alone is less than the people of Mindanao, Tawi-Tawi, Sulu, Basilan and Palawan.

Therefore, speaking of demographic complementarities, does the Commissioner agree that Mindanao is already getting overpopulated and that the whole of Borneo plus the surrounding islands, including Celebes and Moluccas belonging to Indonesia, now constitute the last major frontier of Southeast Asia but are rapidly developing and offering major opportunities for exchanges in labor and trade with the Philippines, especially with Mindanao? Is this not a very impressive prospect for the Filipino people, especially for our Muslim brothers who will stand to benefit directly from the synergy of labor and trade that will undoubtedly bring about closer association between the Philippines and Malaysia?

And, finally, having in mind this background and the events that have developed since 1973 and 1935, may I

know from the sponsor whether the Committee on Preamble, National Territory, and Declaration of Principles, by retaining the words "historic right or legal title" in the territorial provision, refers specifically to Sabah?

MR. NOLLEDO: By retaining the words "historic right or legal title," we did not specifically refer to Sabah but the words can cover our claim over Sabah.

I would like to further explain, Commissioner Ople, that when President Marcos relinquished our claim over Sabah, the heirs of the Sultan of Sulu raised vigorous objection to the relinquishment, because as I understand it — correct me if I am wrong — there are two theories or doctrines involved in our claim over Sabah: the doctrine of imperium under which the state may claim on behalf of the heirs, and the doctrine of dominion, referring to the claim of the heirs of the Sultan of Sulu themselves.

So I think in the resolution of our claim over Sabah, while the Philippine government may relinquish or might have relinquished its claim over Sabah, we cannot deny that there must be some basis for monetary claim on the part of the heirs of the Sultan of Sulu.

MR. OPLE: I strongly support the position just taken by the Committee through the sponsor. In my mind, of course, I am trying to segregate the private claims from the official government claim, and I also take the position that under no circumstances should the private rights accruing to the heirs of the Sultan of Sulu be set aside or emasculated.

And, happily, based on published reports, the authoritative spokesmen of the Federation of Malaysia have already said that they will be glad to honor the private rights, although the magnitudes will, of course, be subject to negotiation. So the rights of the heirs of the Sultan of Sulu should never be compromised.

MR. NOLLEDO: If Commissioner Ople does not mind, I filed a resolution authorizing the President of the Philippines, being the officer-in-charge of the conduct of foreign relations, to resolve the Sabah issue, and that whatever resolution the President may arrive at should be given full respect.

MR. OPLE: Yes, but this is in relation to the interpretation and determination of the intent of the framer, beginning with the intent of the Committee, concerning the scope of the words "historic right or legal title" in the territorial provision. If this arises from the Commission's interpretation of the meaning of the phrase, then I will be wholeheartedly in support of it, leaving the determination of the steps to be taken in this regard to the hands of the Executive Department — the President of the Philippines, in particular, who is responsible for foreign policy.

MR. NOLLEDO: And if Commissioner Ople has read the Explanatory Note to my resolution, he will be happy to note that the words indicate a suggestion to the President to drop the Sabah claim.

MR. OPLE: I was not aware of that, but I certainly look forward with relish to being able to see it after this interpellation.

I said that was going to be my last question, but I am sorry I have to refer to another territory which we now consider an organic part of the Philippine territory — I refer to the Kalayaan Islands.

MR. NOLLEDO: The Freedomland.

MR. OPLE: Technically speaking — and I think the Bureau of Geodetic Survey must have informed the Committee — the present official name of this chain of islands belonging to the Republic of the Philippines is the Kalayaan Islands.

MR. NOLLEDO: That is correct.

MR. OPLE: This is, of course, still misrepresented in some international maps as part of the Spratley Archipelago,

which, of course, is very hotly disputed by several powers, including . . .

MR. NOLLEDO: South Vietnam.

MR. OPLE: There is no longer a South Vietnam. Vietnam . . .

MR. NOLLEDO: Yes, the former South Vietnam.

MR. OPLE: Yes. Vietnam, China in Peking, and the Republic of China in Taiwan.

MR. NOLLEDO: Kampuchea also?

MR. OPLE: Of course, the Commissioner is aware that right there in the Kalayaan Islands we are cheek to jowl with an island garrisoned by Vietnamese troops and another island called Itu Abba, a bigger island, garrisoned by troops of the Republic of China in Taiwan.

The Commissioner undoubtedly read a newspaper report about a year ago, when a Philippine Air Force plane — must have been a Gung Ho pilot — flew very low and buzzed the Vietnamese garrison. It was reported that the garrison fired a few shots at the Philippine Air Force plane, just to indicate the tensions existing in that part of the South China Sea where we have a group of five islands called Kalayaan, but which are still contested as part of the Spratleys by China, Taiwan and Vietnam.

The Commissioner undoubtedly is aware that we have barangay governments already existing in the Kalayaan Islands.

MR. NOLLEDO: I am aware.

MR. OPLE: That they fall under the jurisdiction of the provincial government of Palawan.

MR. NOLLEDO: I am aware. In fact, the Honorable Mitra won there with the soldiers as voters.

MR. OPLE: It is important to establish that the Philippine government now exercises effective jurisdiction over these islands, in the sense that we have military garrisons, as well as a local civil government in these places.

MR. NOLLEDO: I agree that we have effective jurisdiction, and that Kalayaan Islands should be considered part and parcel of the Republic of the Philippines.

MR. OPLE: Thank you for that clarification, Commissioner Nolleddo.

MR. NOLLEDO: Thank you.

MR. ABUBAKAR: Madam President.

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: Since this involves the discussion on territorial definition of the Philippines, our definition, as it is, does not include the Sabah territory. The Sabah territory was, turned over to a British commercial company whose right over the territory was, in turn, transferred to the British government.

There was for a while a certain misunderstanding as to the true nature of this transfer, as well as the claim of the Philippines, not of its own right but of the right of the Sultan of Sulu to lease the territory of Sabah to two British merchants. As a result of this lease, the British acquired the right to develop the territory and lorded over it. But the Sultan of Sulu signed the Lease Contract which was a perpetual lease — in the interpretation of both the British and the Sultan of Sulu was practically a secession of the territory to the British North Borneo government from which the British Government acquired the right. As a result of these negotiations and claim of the Philippines,

friction arose between the government of Sabah and the Philippine government. Even the people of Sabah — a portion of which are Filipinos — did not favor the issue of the Philippines claiming the territory.

MR. NOLLEDO: I would like Commissioner Abubakar to know that a perpetual lease was entered into through the intercession of two British, Gustavus Baron de Overbeck and Alfred Dent, and there would have been no problem if the rental had been paid continuously.

When Sabah was transferred to the U.S. government, the perpetual lease was questioned by the heirs of the Sultan of Sulu because the British government stopped paying the rent. That is why they felt aggrieved and considered the stoppage of payment of rent a violation of the contract, because of which they felt that the contract was rescinded.

I would like the Commissioner also to know that the Philippine government laid their claim upon Sabah under the doctrine of imperium — the theory derived from the principle of sovereignty. The Philippine government has no property rights over Sabah, and because the heirs of the Sultan of Sulu are Filipino citizens, the government protects their rights, specifically their property rights or claims over Sabah.

MR. ABUBAKAR: I understand that very clearly. It is not only a question of property right, but sovereignty over Sabah as well.

MR. NOLLEDO: That is correct.

MR. ABUBAKAR: But in the treaty by which this transfer was effected, sovereignty, as well as the physical right to the territory of Sabah, was transferred by the Sultan of Sulu to the British government. That position rather weakened the claim of the Philippines over the territory. And when the claim was pushed through, we realized then that our position was not as strong as we had conceived it.

In return, the heirs to the Sultanate of Sulu recognized that what has been transferred was not only the physical possession over Sabah but also the right of sovereignty over it. Because of that concept, we feel that our right to push the claim and acquire sovereignty over Sabah is weak and, therefore, we allow the heirs of the Sultan of Sulu to continue the negotiation with respect to property rights so as to enable them to ask for an increase in the yearly rental for which Sabah was acquired with the agreement of Overbeck and the Sultan of Sulu.

That is settled. That is why we have not pursued our claim. I was one of those involved in the acquisition of Sabah. Angking and Sangkalang were my great grandfathers. They were the ones who acquired Sabah, not the Sultanate of Sulu.

MR. NOLLEDO: When Macapagal filed a claim of the Philippines over Sabah, the 1973 Constitution, of course, was not yet existing. During the Bangkok Conference and the London Conference, the Philippine government was embarrassed because they said there was no indication whatsoever to support such claim.

The definition of the territory as appearing in the 1935 Constitution will support the Commissioner's claim and that was the reason why we discussed in the Committee on National Territory the 1971 Constitutional Convention's need to put the words "historic right or legal title" in order to constitute a basis for negotiation over the Sabah claim.

MR. ABUBAKAR: Yes. Even if this additional claim of historic right will lead to negotiation, the present position of the Philippine government has changed. In order to maintain the cordial relation between Sabah and Southern Philippines and for other reasons, we have already agreed, I think by our silence and by our acceptance, that we are not pursuing the claim and that Sabah is, as embodied in the territorial Constitution of Malaysia, a part of Malaysia and not the Philippines.

MR. NOLLEDO: I find very good friends of Malaysia in this Commission.

MR. ABUBAKAR: I regret that the development towards this end has not only sort of weakened the Philippine claim but affected the right of the heirs of the Sultan of Sulu towards claiming possession of this territory.

MR. NOLLEDO: Thank you, Commissioner.

MR. ABUBAKAR: Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Tingson be recognized.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, I rise to address a question which, to some Filipinos, has touched their national pride, if not indeed their national right. This is the question of Sabah — whether or not it should rightly belong to the Philippines as part of its national territory, and to the Filipino people as a parcel of their national patrimony. Would I be allowed to proceed?

THE PRESIDENT: Does the Commissioner desire to interpellate the sponsor, or would he want to make his own sponsorship speech?

MR. TINGSON: Madam President, I am a member of this Committee and I specifically requested that I make a little exception to our report.

MR. NOLLEDO: Madam President, may I transfer my right to speak on this report to Commissioner Tingson.

THE PRESIDENT: Commissioner Tingson may proceed.

MR. TINGSON: Thank you, Madam President.

I have often wondered if all the people who have anything to say on this question, for or against it, have gotten hold of the sense that our so-called Sabah claim is nothing more than the private claim of the Sultan of Sulu over Sabah itself. But by the action of the 1971 Constitutional Convention of which I was a humble Member, the provisions of the 1935 Constitution were revised by expanding their application to accommodate the private legal claim of the Sultan of Sulu. While we did not specifically claim Sabah right there and then to be a part of our national territory, we made our intentions clear in the 1973 Constitution to pursue the claim, or at the very least, leave open the door to its pursuance.

Now it has become a vexing question: Were we wise and prudent to have put behind the claim of the Sultan of Sulu a national policy enshrined in the Constitution no less? Did it serve our national interest to tinker with our Constitution to accommodate the private legal claim of a Filipino citizen over a piece of real estate lying out side the territorial limits of this nation and state when it became independent on July 4, 1946?

Madam President, I leave it to this body to pass judgment on the action of the 1971 Constitutional Convention on this question. But no matter how that judgment might turn out to be, one thing is certain — our reluctance to drop the Sabah claim altogether is the biggest single obstacle to the achievement of a harmonious and mutually beneficial relationship between the people of Malaysia and ours. The trade between our Filipino brothers in the South and the people of Borneo, once a voluminous, brisk and profitable undertaking, has slumped over the years by reason of this continuing and festering irritant. By a constitutional act, we have placed those regions on a shaky footing and destabilized its once sanguine prospects of regional prosperity. By undermining that trade route, so

traditional and basic to the economic and social stability of our southern provinces, we have likewise put in question our ability in the future to hold those provinces together under our government.

Madam President, it has become distinctly clear that we are being drawn by our instincts to survive and to prosper into regional cooperation and into the world of nations. Whereas in the past our world revolved merely around the special relationship that we had enjoyed with the United States of America, the imperatives now should compel us not only to look farther, but also nearer. Our future is bound irrevocably with the collective prospects of the nations in Southeast Asia. These existing relationships, however, demand of us a greater sensitivity to the rights and feelings of neighboring countries.

When we became a part of the larger community of nations, the inevitable result had to be that our rights must be bent to conform with the "generally accepted principles of international law."

Thus we say in Section 3, Article II of our 1973 Constitution:

The Philippines . . . adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

Madam President and colleagues, I submit that the right to self-determination by a people is an honored principle of international law. Upon this principle we have based our own sovereign will to establish a new government. Based on this same principle, the 64 dollar question, however, is this: Do the people of Sabah have the right to self-determination? Granting the Sultan of Sulu has a valid legal claim to that territory, do the people of Sabah by living in that territory since time out of mind acquire a right to that territory superior even to the claims of the Sulu Sultan?

Madam President, I submit that the land itself cannot supersede the right of any people to self-determination. For, indeed, if the right to the ownership of land is supreme over people's rights to self-government, then I should say that even land reform in the Philippines would be impossible to implement. But the moral behind land reform precisely is the belief that the people are more important than the land. In biblical terms, we say that the sabbath was made for man, and not man for the sabbath. Land was created for man and not the reverse. The people of Sabah have lived and died in Sabah since time immemorial antedating by a long and undeterminable period the claims of the Sultan of Sulu. It seems but commonsensical that where their destiny was concerned, they should have the right to determine it for themselves, and determine it they did. In 1963 when the British were proposing to launch the Federation of Malaysia, a United Nations Mission visited Sabah to determine the people's opinion there. Over the mild protest of the Filipino observers, the mission determined that the people of Sabah wanted to form part of the presumptive federation.

Madam President, how can this nation in conscience claim ownership over a piece of land that it has never effectively occupied and governed at any time in history, from the time it was ceded by the Sultan of Brunei to the Sultan of Sulu some 280 years ago?

My colleagues, our own quest for independence spanning centuries in time was never based on any legal right or title over the islands of our beloved country. This we did not have. Rather, our quest was based upon what we have long perceived to be our national identity, a nationhood that we held to be superior to the claims of foreigners. We were willing to fight for this right, and we did fight against three waves of imperial powers. There is absolutely no reason for us to believe that the people of Sabah do not feel a nationalistic sentiment. For us to override their sentiment is to compel our people to commit a wrong against which they have struggled. Must this nation, first in Asia to revolt against colonialism, perpetuate a colonial policy against an unwilling neighbor?

Our heroes in the past did not spill their blood for Sabah. The sad muses did not visit our cantors of liberation to

sing the plaintive song for the freedom of Sabah. Sabah is alien to our national consciousness, a land beyond the compass of our national soul. By giving up Sabah, we do not lose so much of a legal claim as we gain a friend: the good people of Malaysia.

Thank you, Madam President.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Parliamentary inquiry, Madam President. I would like to ask Commissioner Tingson if that was another sponsorship speech and we are now through with the sponsorship speech of our Committee.

MR. NOLLEDO: I am through with my sponsorship speech. I think the period of interpellation is still going on.

MS. QUESADA: Does Commissioner Nolleddo adopt the position just expressed by Commissioner Tingson?

MR. NOLLEDO: I said to Commissioner Ople that I filed a resolution authorizing the President of the Philippines to resolve the Sabah issue. I am not in favor of the immediate dropping of the Sabah claim. Let us rely on the President because her office is in charge of the conduct of foreign relations. So I do not necessarily adopt the views of Commissioner Tingson.

MS. QUESADA: Yes, because the position of the Committee of which I am a member — as I recall — was that we were not going to give up the Sabah claim, and that we were going to retain just the historic and legal right to it. We did not discuss at all this particular position of Commissioner Tingson in our Committee deliberations.

MR. NOLLEDO: Commissioner Tingson may react to that observation.

MR. TINGSON: Madam President, the records of our Committee meetings would show that I specifically asked to be given a chance to voice a contrary opinion on this particular question of the claim over Sabah. So I thought the Committee allowed me to do that.

THE PRESIDENT: The Chair would like to clarify the situation because we do not want to be confused. We just wanted to be sure that we got the position of the Committee correctly in this report that it is proposing the adoption of the same provision in the 1973 Constitution in this new Constitution. Is that correct?

MR. NOLLEDO: Yes, Madam President, with a little addition — the last sentence of the proposed provision.

THE PRESIDENT: The statement of Commissioner Tingson is a dissenting vote or opinion on the report of the Committee. Is that right?

MR. NOLLEDO: No, Commissioner Tingson made a reservation to speak on the Sabah issue, so there being no objection, the Committee took note of that.

THE PRESIDENT: Did Commissioner Tingson not vote against this committee report?

MR. NOLLEDO: No, he did not vote against it.

THE PRESIDENT: Just a moment, does Commissioner de los Reyes desire to be recognized? Is the answer that particular question? Is the Gentleman going to interpellate?

MR. DE LOS REYES: Yes, Madam President. I would like to ask the distinguished sponsor a few clarificatory questions.

THE PRESIDENT: Commissioner Nolleddo may yield, if he so desires.

MR. NOLLEDO: Willingly, Madam President.

MR. DE LOS REYES: I recall very vividly that during the 1971 Constitutional Convention, upon motion of then Delegate Azcuna, now Commissioner Azcuna, the phrase used in the Article on National Territory was "continental shelves" and not "insular shelves." But after going through the process of styling, I suddenly noticed that instead of "continental shelves," we are proposing "insular shelves." Now, being a distinguished law professor and author of law books, I think Commissioner Nollado might be able to give us a free lecture on what could be the difference between continental shelf and insular shelf. I really do not know.

MR. NOLLEDO: That is a technical question but I will attempt to explain. Is Commissioner de los Reyes referring to submarine areas?

MR. DE LOS REYES: No, I am referring to this provision that among those included within our territory are the "insular shelves." But as I said, as I recall it — and I think Commissioner Azcuna will bear me out — the original phrase used was "continental shelves." I am just wondering whether there is a difference between the two terms.

MR. NOLLEDO: I would say so, because the term "insular shelves" necessarily covers continental shelves. A continental shelf is only one of the manifestations of insular shelves. I think the simplest explanation is: a continental shelf is a certain area or zone coming from or adjacent to an island, going downward with marked increased slope to greater depth zone and whose elongation is unaltered like the doctrine of proximate cause, where economic exploitation will be permitted on the part of the state, from where the continental shelf begins. Continental shelf is a submerged portion of an island.

MR. DE LOS REYES: How about insular shelves?

MR. NOLLEDO: The term "insular shelf" necessarily covers "continental shelf." Insular shelves are not elongated and there are some irregular areas not similar to those of continental shelves. That is what I understand.

The Commissioner's question, however, does now, in any way, affect the substance of the definition. As he said, I should give this body a free lecture, but this matter is beyond my competence. So, I am stating the concept as a layman.

MR. DE LOS REYES: Suppose we exclude the words "including the territorial sea, the air space, the subsoil, the sea-bed, the insular shelves," would that, in any way, diminish the territory of our country?

MR. NOLLEDO: I think so, because when we say "insular shelves" . .

MR. DE LOS REYES: No, I am referring to the territorial sea, the air space, the subsoil and the sea-bed.

MR. NOLLEDO: What would the Commissioner like to eliminate?

MR. DE LOS REYES: No, I am not asking that we eliminate anything; I was just thinking, suppose we were to delete the words "territorial sea, the air space, the subsoil, the sea-bed," would that diminish the area of our territory? Or is it not a part of international law that the air space, the subsoil and the sea-bed are really parts of the territory of a country?

MR. NOLLEDO: I would think so. I would still insist on my original answer in view of certain questionable provisions of the Law of the Sea.

MR. DE LOS REYES: What would these be?

MR. NOLLEDO: I cannot specify now. But Commissioner de los Reyes was a Member of the Batasang Pambansa when that body ratified the Law of the Sea in 1982. Then MP Tolentino enumerated several

reservations or understandings authorized by a certain section of the Law of the Sea, which included the definition of "national territory" as set forth in the 1973 Constitution. Even the meaning of "internal waters" became nebulous because the Convention on the Law of the Sea mentioned the term "archipelagic waters." That is the reason why Ambassador Arreglado, appearing before our Committee, asked us not to refer at all to the 1982 Law of the Sea because it has many provisions that may prejudice in some way our Philippine territory.

MR. DE LOS REYES: I took no part in the ratification of that Law of the Sea when I was a Member of the Batasan.

MR. NOLLEDO: It was ratified by the Batasang Pambansa.

MR. DE LOS REYES: Did Ambassador Arreglado say that there should be no mention anymore of the Law of the Sea?

MR. NOLLEDO: Yes.

MR. DE LOS REYES: And did the Commissioner agree with the ambassador?

MR. NOLLEDO: We did not fully agree because of the representations made by Commissioner Davide. That is why we added the last sentence.

MR. DE LOS REYES: Yes. And I am going to that because I really am not knowledgeable about the meaning of sovereignty or jurisdiction of the Philippines.

MR. NOLLEDO: The Commissioner can always consult the dictionary.

MR. DE LOS REYES: But it says "SOVEREIGNTY OR JURISDICTION OF THE PHILIPPINES SHALL ALSO EXTEND TO STRAITS CONNECTING THESE EXTENDS WITH THE ECONOMIC ZONE . . ." What is this economic zone referred to? We want to learn, Madam President, because we have to explain this to the people.

MR. NOLLEDO: Yes, that is a pertinent question.

I would like the Commissioner to know the substantial provisions of the Law of the Sea which run like this: "The exclusive economic zone is an area beyond and adjacent to the territorial sea" and "shall not extend beyond 200 nautical miles from the base lines . . ." A portion of Article 56 states that the coastal State has sovereign rights in the exclusive economic zone to explore, manage and exploit all the natural resources, living and nonliving, of the waters, the sea-bed and its subsoil. According to Commissioner Davide, this will expand our territory.

MR. DE LOS REYES: So the purpose of including the last sentence referring to "STRAITS CONNECTING THESE WATERS WITH THE ECONOMIC ZONE" is to expand our territorial jurisdiction?

MR. NOLLEDO: Yes.

MR. DE LOS REYES: I see. What will be the effect of this expansion on the innocent passage of foreign vessels through our waters?

MR. NOLLEDO: I think innocent passage is guaranteed even before the Law of the Sea was formulated because it does not infringe on any provision of international law or, perhaps, because of extreme and imperative necessity to save human lives brought about by un caso fortuito or fortuitous event. It does not affect. Innocent passage does not cover internal waters. It is permitted over the territorial sea.

MR. DE LOS REYES: My point is: This refers to the Law of the sea. Is that not already covered in the Declaration of Principles? Expectedly, we will adopt international law as part of the law of our country and?

therefore, there is no more need to state that our sovereignty or jurisdiction shall extend to straits connecting these waters with the economic zone provided for in the Convention on the Law of the Sea. Is that not superfluous?

MR. NOLLEDO: No, it is not superfluous. Let me explain. If the Commissioner would read carefully the technical words of the Law of the Sea, there are questionable matters; such as, for example, the meaning of internal waters. According to former Senator Tolentino — if the Commissioner does not mind, I would like to read this to be sure:

Under our Constitution, the waters between and around the islands are called internal waters. The constitutional internal waters include both the archipelagic waters and the internal waters under the Convention.

That is why Ambassador Arreglado said that the term "archipelagic waters" was recommended very strongly by Indonesia. The archipelagic appearance of Indonesia is different from that of the Philippines. If we adopt the pertinent provisions of the Law of the Sea, there is a possibility that innocent passage may be exercised across our national internal waters because they can be called archipelagic waters under the Convention. That was the reason Senator Tolentino had made several reservations, called "Understandings," before the Convention before he signed the Law of the Sea. In fact, there were eight understandings, and one of them is, and I quote:

Such signing shall not, in any manner, affect the sovereign right of the Republic of the Philippines as successor of the United States of America under and arising out of the Treaty of Paris between Spain and the United States of America of December 10, 1898, and the Treaty of Washington between the United States of America and Great Britain of January 2, 1930. Such signing shall not, in any manner, impair or prejudice the sovereignty of the Republic of the Philippines over any territory over which it exercises sovereign authority, including the Kalayaan Islands and the waters appurtenant thereto.

MR. DE LOS REYES: I really do not know anything about this Law of the Sea which Commissioner Nollado is mentioning. I never participated in the discussion of the Law of the Sea for it was never discussed during our time. Frankly, I am more confused now after hearing the Commissioner's explanation.

MR. NOLLEDO: The Commissioner's questions brought about the confusion. That is why the Committee followed partially the recommendation of Ambassador Arreglado that we should not make any express reference to the Law of the Sea because there will really be confusion. Thus, in reading the Law of the Sea, we will have to read also the understandings made by Senator Tolentino before he signed the Law of the Sea. These understandings were considered when the Law of the Sea of 1982 was ratified by the Batasang Pambansa. So, the ratification was dependent upon the observation by other states of these understandings.

MR. DE LOS REYES: We will leave it at that. The definition starts with: "The national territory comprises the Philippine archipelago." According to Commissioner Nollado, we use the word "archipelago" in order to emphasize the archipelagic theory. Do I get him right?

MR. NOLLEDO: Yes. That was mentioned in the proceedings of the 1971 Constitutional Convention, if the Commissioner remembers.

MR. DE LOS REYES: Yes, that is correct. I remember that Commissioner Nollado was also a Member of the 1971 Constitutional Convention.

In the draft Constitution which was sent by former President Macapagal, the definition of the national territory starts something like this:

The Philippines comprises the ancestral home of the Filipino people, composed of all the islands and waters, and

all the other territories, . . .

What is the Commissioner's reaction to that suggestion from President Macapagal? Would that, in any way, affect the archipelagic theory as mentioned?

MR. NOLLEDO: Not necessarily, because the reaction there was given by Voltaire Garcia. If the Commissioner will remember, he said that by using the term "ancestral home," he is including everything, every island covered by the Madjapahit Empire, and, therefore, may cover possibly Borneo — that includes Sabah — and perhaps a greater portion of Indonesia.

MR. DE LOS REYES: All right. I thank Commissioner Nollado for his free lecture, although I must confess that I am really confused.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA: I move for the adjournment of the session until tomorrow at nine o'clock in the morning.

THE PRESIDENT: The session is adjourned until tomorrow at nine o'clock in the morning.

It was 7:25 p.m.

[*] Appeared after the roll call. * See Appendices. 06-26-1986 R.C.C. No. 18

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