

JOURNAL NO. 60

Tuesday, August 19, 1986

CALL TO ORDER

At 9:52 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. Alberto M. K. Jamir, to wit:

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

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

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

Amen."

ROLL CALL

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

Aquino, F. S.
Bernas, J. G.

Quesada, M. L. M.
Rama, N. G.

Rosario Braid, F.
Calderon, J. D.
De Castro, C. M. .
Colayco, J. C.
Concepcion, R. R.
Davide, H. G.
Foz, V. B.
Garcia, E. G.
Jamir, A. M. K.
Laurel, J. B.
Monsod, C. S.
Nieva, M.. T. F.
Nolledo, J. N.
Padilla, A. B.
Muñoz Palma, C.

Regalado, F. D.
De los Reyes, R. F.
Rigos, C. A
Rodrigo, F. A.
Romulo, R. J.
Rosales, D. R.
Sarmiento, R. V.
Suarez, J. B.
Sumulong, L. M
Tadeo, J. S. L.
Tan, C.
Tingson, G. J.
Uka, L. L.
Villegas, B. M.

With 33 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R.
Alonto, A. D.
Azcuna, A.S.
Bacani, T. C.
Bengzon, J. F. S.
Bennagen, P. L.

Guingona, S. V. C.
Lerum, E. R.
Maambong, R. E.
Natividad, T. C
Ople, B. F.
Villacorta, W. V.

Mr. Treñas was sick.

Messrs. Brocka and Gascon were absent.

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 AND COMMITTEE REPORT

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

Communication No. 576 — Constitutional Commission of 1986

Communication from Mr. Herminio H. Cacanindin, Provincial Secretary, transmitting Resolution No. 70 of the Sangguniang Panlalawigan of La

Union, declaring/embodying the opposition of the Province of La Union against the storage of nuclear armaments in the Philippines
TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 577 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 578 — Constitutional Commission of 1986

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

TO THE STEERING COMMITTEE

Communication No. 579 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 580 — Constitutional Commission of 1986

Letter from Ms. Phyllis Zaballero and Ms. Maria Isabel Ongpin of the Alliance of Women Towards Action and Reform (AWARE), proposing inclusion in the Constitution of the following provision: "The State recognizes the right of women to equal treatment with men in all spheres of civic, political, economic, social and cultural life."

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

Communication No. 581 — Constitutional Commission of 1986

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

TO THE STEERING COMMITTEE

COMMITTEE REPORT

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

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

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

Sponsors: Hon. Nieva, Villacorta, Gascon, Uka, Tadeo, Monsod, Aquino, Brocka, Suarez, Ople, Quesada, Bacani, Garcia, Lerum, Tan, Bennagen, Bengzon, Jr., Rodrigo, Guingona, Rigos, Rosario Braid and Treñas

TO THE STEERING COMMITTEE

UNFINISHED BUSINESS: COMMITTEE REPORTS NOS. 21 AND 25, AS AMENDED, ON PROPOSED RESOLUTION NO. 470 ON THE ARTICLE ON LOCAL GOVERNMENTS

On motion of Mr. Rama, there being no objection, the Body resumed consideration of Committee Reports Nos. 21 and 25, as amended, on Proposed Resolution No. 470, entitled:

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

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

For the record, Mr. Rama stated that Proposed Resolution No. 470 is a consolidation of Proposed, Resolutions Nos. 470 and 511 of the Committee on Local Governments.

MOTION TO DEFER CONSIDERATION OF THE SUBHEADING ON LOCAL GOVERNMENTS

At this juncture, Mr. Rama moved to defer consideration of the first subheading on Local Governments in order to accommodate some Muslim visitors from Mindanao who had been around for sometime to observe the deliberations on the Autonomous Regions.

Mr. Nollado, however, objected on the ground that only a few sections remained of the first part of the Article and, moreover, that Messrs. Alonto, Abubakar and Bennagen, who were most concerned with the second part, were not yet in the Session Hall.

Thereupon, Mrs Rama withdrew his motion.

Mr. Nollado stated that Mr. Padilla was presenting an-amendment when the previous session was adjourned.

Thereupon, the Chair recognized Mr. Padilla.

AMENDMENT OF MR. PADILLA

On Section 11, page 2, line 23, Mr. Padilla proposed to add the words AND LIMITATIONS after "guidelines".

Explaining his amendment, Mr. Padilla called attention to the fact that the Committee had substituted "guidelines" for the word "limitations" used in the previous Constitutions. He stated that while the Commission agreed to give, or even increase local autonomy to political subdivisions, it must be careful that the power of local governments to tax may not be without limitation because the power to tax may include the power to destroy. He warned that an unlimited power of taxation without limitations by Congress could be dangerous and, instead of promoting the common will, could be resorted to by some local executives as an arbitrary means to exact more contributions by way of levies, taxes and fees to the detriment of the general public. He stated that while he would have no objection to the word "guidelines", he would like the word "limitations" to be also retained.

Mr. Nolleto did not accept the amendment on the ground that adding the word "limitations" to "guidelines" would unduly restrict the power of the Local Governments to tax. He explained that the provision was in response to the unanimous request of the League of Governors and City Mayors to delete the word "limitations" in view of the many limitations set forth in PD 231 which particularly deny local governments the power to tax. He observed that the dictum "the power to tax includes the power to destroy" has been misinterpreted by some lawyers. He opined, as a professor of taxation, that simply means that as long as the tax law is legal, the taxpayer cannot evade payment of taxes on the ground that the payment would render his business inutile or would result in his impoverishment.

Adverting to one recent case, Mr. Nolleto pointed out that the Supreme Court, through Chief Justice Fernando, observed that this dictum of Chief Justice Marshall was overruled by Justice Frankfurter in the case of *Graves v. New York*, 306 U.S. 466. He disagreed that simply stating "guidelines" would grant the local chief-executives the power to impose unnecessary taxes or taxes beyond the capacity of the taxpayer to pay because of the settled limitations recognized in all republican governments that the power to tax shall be subject to certain conditions, namely, 1) that the tax must be for a public purpose; 2) that it must be uniform within a locality; 3) that it must not infringe upon accepted national economic guidelines; and 4) that it must not be confiscatory. He stressed that these principles are deeply imbedded in every Constitutional government. He then urged his colleagues to listen to the plea of the governors and city mayors who were unanimous in substituting the word "limitations" with "guidelines".

INQUIRY OF MR. OPLE

In reply to Mr. Ople's query on whether the addition of the word "limitations" would imply a clearer guarantee that the principles of taxation would be observed, Mr. Padilla stated that the Constitution provides that the rules of taxation shall be uniform and equitable and shall adopt a progressive system of taxation.