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CALL TO ORDER

At 10:29 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. Cirilo A. Rigos, to wit:

Almighty God, in whom we live and move and have our being, we look back to the past four months with deep gratitude in our hearts for the mysterious ways by which Thou hast guided us. Thou hast enabled us to overcome not only the clashes of ideas and philosophies each one of us possesses and passionately cherishes, but also the aberrations in our personal relationships that rent our hearts and disturbed our peace. We thank Thee for the miracle of Thy love which enabled us to transcend all difficulties and to come up with a document produced collectively.

As we look forward to the future, grant us the faith to believe that our nation will enjoy a greater measure of freedom and prosperity, the grace to honor the new Constitution, and the wisdom to preserve it for as long as necessary. And for the present, particularly today, all we need is the guidance of Thy Spirit and humility on our part to obey the same.

We beg Thy special comforting grace upon Flerida Ruth Romero, whose beloved mother, Juliana Pineda, passed away two days ago. Give her the assurance of Thy divine companionship especially during the period of bereavement.

We pray in Jesus' name.

Amen.

ROLL CALL

The Roll Call was dispensed with and the Chair declared the presence of a quorum.

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. 1053 — Constitutional Commission of 1986

Communication from the participants of the LUSSA regional consultation with the basic sectors, expressing appreciation of the introduction and approval of several provisions which are believed will promote the welfare and interests of the poor and underprivileged sectors of society, at the same time, commenting on the various economic concepts embodied in the proposed Constitution

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 1054 — Constitutional Commission of 1986

Letter from Mr. Noli Carbonel of 373 Quezon Avenue, Quezon City, urging the continuance of the U.S. Military Bases in the Philippines if the rental paid thereof is more or at par with what the U.S. pays to Spain, Greece and Turkey; otherwise, the U.S. bases should be dismantled.

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

Communication No. 1055 — Constitutional Commission of 1986

Letter from Mr. Bienvenido Castillo of Pulilan, Bulacan, reminding the Constitutional Commission not to rush the Constitution, or else the country will be trailing the same path of most dejected Filipinos in the past, saying that if it needs three hundred sixty-five days to finish the draft which will give a more satisfying outcome, then, the Commission should do so.

TO THE STEERING COMMITTEE

Communication No. 1056 — Constitutional Commission of 1986

Letter from Mr. Joseph A. Cosente, OIC, Municipal Mayor of Tublay, Benguet, transmitting Resolution No. 32 of the Sangguniang Bayan of Tublay, indorsed by the OIC, Provincial Governor of Benguet, opposing the proposal to create the Cordilleras as one autonomous region like Muslim Mindanao; instead, favoring its creation as one separate and distinct region from Regions I and II.

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 1057 — Constitutional Commission of 1986

Letter from Mr. Enrique B. Inting, Provincial Fiscal of Bohol, proposing amendment to Sec. 3, Art. IV of the 1973 Constitution, favoring "strong evidence of guilt" to "probable cause" in the issuance of arrest and search warrants, and also submitting a copy of his article, "Probable Cause: A Procedural Anathema in Our Criminal Justice System", printed in the Criminal Justice Journal, January-April 1985 issue.

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

COMMITTEE REPORT

Committee Report No. 41 on Petition No. 4, prepared by the Steering Committee, entitled:

AN URGENT PETITION TO REOPEN SECTIONS 3, 7, 10, 11, 13 AND 14 OF THE ARTICLE ON THE JUDICIARY,

recommending that the same be unanimously given due course.

Sponsors: Hon. Bengzon, Jr. and Concepcion

TO THE CALENDAR OF UNASSIGNED BUSINESS

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

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

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

SUSPENSION OF SESSION

The Chair suspended the session.

It was 10:37 a.m.

RESUMPTION OF SESSION

At 10 39 a.m., the session was resumed.

The Chair recognized Mr. Concepcion for His proposed provision.

AMENDMENT OF MR. CONCEPCION

Thereupon, Mr. Concepcion proposed the following as Section 21 of the Transitory Provisions:

THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIOD FOR THE DECISION OR RESOLUTION OF THE CASES OR MATTERS SUBMITTED FOR ADJUDICATION BY COURTS OF JUSTICE SHALL BE DETERMINED AND DECIDED OR RESOLVED BY THE SUPREME COURT AS SOON AS PRACTICABLE AFTER SUCH RATIFICATION.

He also informed that he proposes an additional paragraph to provide for the means of disposal of cases after the ratification of the new Constitution which shall read:

THE PROVISIONS OF PARAGRAPHS (3) AND (4) OF SECTION 14 OF THE MAIN TEXT OF THE ARTICLE ON THE JUDICIARY SHALL APPLY TO CASES OR MATTERS FILED BEFORE THE RATIFICATION OF THIS CONSTITUTION WHEN THE APPLICABLE PERIODS LAPSE AFTER SUCH RATIFICATION.

Mr. Concepcion remarked that the problem anticipated by the Body refers to the number of cases that may have to be filed to determine the status of the cases and the periods for which they lapse before the adoption of the Constitution. He stated that the Committee proposes an amendment which would require the Supreme Court to decide the cases as soon as practicable, after the adoption of the new Constitution, adding that instead of the courts waiting for parties to take the initiative, the Supreme Court may, in one or a few cases, pass upon the question as an incident of the cases or matters.

INQUIRY OF MR. PADILLA

Mr. Padilla stated that the Committee on the Judiciary would propose an amendment to increase the membership of the Supreme Court from 11 to 15 and in its discretion may divide into divisions composed of 3, 5 or 7 members to enable them to dispose more expeditiously the pending cases, whether those filed after the February revolution or those pending prior thereto, including less important cases such as those involving labor, workmen's compensation cases or appeals from the Sandiganbayan. Furthermore, he observed that Section 5 of the Transitory Provisions already approved by the Body gives the Supreme Court one year after ratification of the Constitution to adopt a systematic plan to expedite the decision or resolution of cases pending before it and lower courts.

As to whether these two provisions would be sufficient to expedite the disposal of cases, Mr. Concepcion replied that the provisions were adopted to accomplish that purpose and that there are other provisions, one being that in cases heard by the Court en banc, a vote of the majority of all the members who took part in the deliberations will be sufficient.

On whether the proposed additional section would still be necessary considering that the legal effect will always be subject to appropriate judicial proceedings in view of the adoption of plans or measures by the Supreme Court and lower courts to dispose of pending cases, Mr. Concepcion replied that the proposed section contemplates something else than the disposal of backlog cases. He explained that in connection with the disposal of backlog cases, there might be a question as to whether there is already a vested right to the affirmance of the appealed decisions or the dismissal of original cases of petitions for certiorari, prohibition, etc. He clarified that the plan, on the other hand, refers to the disposition of the cases on their merits.

Mr. Concepcion stated that the proposed section discusses the legal effects of the lapse of the period, whether the lapse creates in favor of the respondent in original petitions or the appellee in appealed cases, a vested right to have the petitions dismissed or the appeals affirmed.

On Mr. Padilla's comment that this is a judicial issue, Mr. Concepcion replied that precisely the Supreme Court shall be asked to dispose of the issue once and for all.

On Mr. Padilla's observation that the legal effect of the lapse shall be determined in appropriate judicial proceedings in accordance with the proposed section, Mr. Concepcion replied that with the amendment it shall be determined by the Supreme Court as soon as practicable after the ratification of the Constitution. He added that the Supreme Court, by trying two or three cases, can settle the matter and save the lower courts the task of determining what is the legal effect of the lapse of the applicable periods.

Mr. Padilla stated that he has no objection to the Supreme Court deciding the legal effects of the lapse which would require either party to raise the issue for determination by the Supreme Court. However, he manifested objection to the inclusion of the proposal in the Transitory Provisions.

Mr. Concepcion replied that he precisely proposed the amendment in view of said observation. He stated that inasmuch as there may be a number of cases on the particular question, to avoid multiplicity of such cases, the provision would state

that the Supreme Court shall decide the issue once and for all and as soon as practicable.

On whether there can be one decision that will apply to all pending cases, he stated that although there may be variations in the facts and issues, in general, there would be guidelines as to the appropriate steps the parties may take.

At this juncture, Mr. Suarez informed that the Committee is thinking of blending the two sections together and that one Section could include the lapses even before the adoption of the 1986 Constitution, to wit:

THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIOD . . .

Mr. Concepcion pointed out that the second paragraph refers to cases for which the periods have lapsed after the ratification, although these cases had been filed before such ratification.

On Mr. Suarez' suggestion to simply use the phrase "before and after the ratification", Mr. Concepcion explained that should they lapse after the ratification, the provisions of the new Constitution would apply.

On whether the proposal envisions two decisions or rulings to be enunciated by the Supreme Court, Mr. Concepcion stated that the ruling is requested only in connection with cases or matters for which the period would lapse before the adoption of the Constitution.

APPROVAL OF SECTION 21

Thereafter, Mr. Suarez proposed that the two Sections be voted upon separately, the first one, to read:

THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIODS FOR THE DECISION OR RESOLUTION OF THE CASE OR MATTER SUBMITTED FOR ADJUDICATION BY THE COURTS, SHALL BE DETERMINED BY THE SUPREME COURT AS SOON AS PRACTICABLE AFTER THE RATIFICATION OF THIS CONSTITUTION.

Submitted to a vote, and with 19 Members voting in favor and none against, the first section was approved by the Body.

CONSIDERATION OF SECTION 22

Thereafter, Mr. Suarez restated the succeeding section, denominated as Section 22, to wit:

THE PROVISIONS OF PARAGRAPHS (3) AND (4) OF SECTION 14, ARTICLE ON THE JUDICIARY, SHALL APPLY, ALSO, TO CASES FILED BEFORE THE RATIFICATION OF THE PRESENT CONSTITUTION, WHEN THE APPLICABLE PERIOD LAPSES AFTER SUCH RATIFICATION.

Mr. Regalado proposed to delete "also" and to insert the words OR MATTERS after "cases" so that the line would read "shall apply to cases or matters filed before the ratification."