

JOURNAL NO. 98

Thursday, October 2, 1986

CALL TO ORDER

At 10:17 a.m., the Presiding Officer, the Honorable Jose C. Colayco, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Crispino M. de Castro, to wit:

Heavenly Father, as we approach the end of our labors in the making of a new Constitution for our people, we saw how You guided our minds and our hearts. We also saw how You enlightened us and opened our eyes and minds when we tried to understand and finally understood the ideals and proposals that differed from our own. We saw how You allowed the light of reason to shine on our discussions and debates and thus we were able to exchange ideas, thoughts and arguments with truth, clarity and sincerity.

For all these, we thank You, O Lord.

We pray that You continue to give us a little more strength, a little more wisdom and understanding to discern what is right and what is wrong; what is good and what is bad; what is true and what is not true, that our Constitution shall be truly reflective of the ideals of our people.

We pray for humility when our resolutions are favored and allow us to accept defeat graciously when our resolutions are voted down.

Guide us, Almighty God, in these final days to make this Constitution truly democratic and acceptable to our people.

These we ask You through our Lord.

Amen.

ROLL CALL

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

Azcuna, A. S	Nolledo, J. N.
Bengzon, J. F. S	Ople, B. F.
Bennagen, P. L	Padilla, A. B.
Bernas, J. G.	Quesada, M. L. M
Rosario Braid, F	Rama, N. G
De Castro, C. M	Regalado, F. D
Colayco, J. C.	De los Reyes, R. F
Concepcion, R. R.	Rigos, C. A.
Davide, H. G.	Rodrigo, F. A
Foz, V. B.	Romulo, R. J
Gascon, J. L. M. C	Suarez, J. E
Guingona, S. V.C	Sumulong, L. M
Jamir, A. M. K.	Tadeo, J. S. L
Lerum, E. R	Tingson, G. J.
Maambong, R. E	Treñas, E. B
Natividad, T. C	Uka, L. L

With 32 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.
Aquino, F. S.
Garcia, E. G.
Nieva, M. T. F

Muñoz Palma,
Samiento, R. V
C.Tan, C.
Villacorta, W. V.

P.M.

Bacani, T. C.

Monsod, C. S.

Mr. Laurel was absent.

Messrs. Calderon and Rosales were sick.

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

On September 29, 1986, Mr. Alonto, who was on official mission, was inadvertently marked absent.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Rama, there being no objection, the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body.

REFERENCE OF BUSINESS

On motion of Mr. Rama, there being no objection, the Body proceeded to the Reference of Business.

REFERRAL TO COMMITTEES OF PETITION AND COMMUNICATIONS

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

PETITION

Petition No. 4 — Constitutional Commission of 1986

Petition of the Committee on the Judiciary signed by its Chairman, the Honorable Roberto R. Concepcion, earnestly requesting the Constitutional Commission to reopen Sections 3, 10, 11 and 14 of the Article on the Judiciary

TO THE STEERING COMMITTEE

COMMUNICATIONS

Communication No. 1031 — Constitutional Commission of 1986

Letter from Governor Ismael D. Sueno, Koronadal, South Cotabato, transmitting a resolution adopted by the OIC Provincial Governor and OIC Municipal Mayors of the Province of South Cotabato, seeking the creation of four (4) congressional districts for South Cotabato

TO THE COMMITTEE ON THE LEGISLATIVE

Communication No. 1032 — Constitutional Commission of 1986

Letter from OIC Governor Bantas W. Suanding of the Province of Benguet, transmitting Resolution No. 75 of the Sangguniang Bayan of Mankayan, Benguet, informing the Constitutional Commission that said municipality is strongly endorsing the regionalization of the Cordilleras as far as administration is concerned and not as an autonomous region

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Two letters from the Honorable Anacleto D. Badoy, Jr., Commission on Elections, Manila, to wit:

Communication No. 1033 — Constitutional Commission of 1986

1) Letter seeking separate representation in the Lower House of Congress for cities whose charters prohibit their residents from voting in the elections for provincial elective officials

TO THE COMMITTEE ON THE LEGISLATIVE

Communication No. 1034 — Constitutional Commission of 1986

2) Letter seeking the deletion of the phrase "concurrence of the President" in Section 2(4) of Resolution No. 11 of the Constitutional Commission of 1986, incorporating in the Constitution the provisions on the Commission on Elections, and to add the following new paragraph to Section 12 of said Resolution, to wit: "Funds appropriated for the operating expenses of the Commission shall likewise be released automatically upon certification of the Chairman of the Commission."

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 1035 — Constitutional Commission of 1986

Letter from Mr. Johnny Midnight of 821 J.P. Rizal, Makati, Metro Manila, urging the Constitutional Commission to incorporate in the Constitution an article that would clearly define what and who is a Filipino

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 1036 — Constitutional Commission of 1986 Communication from the North Philippine Union Mission of Seventh-day Adventists, Donada Street, Pasay City, signed by Espiritu B. Guadiz, objecting to any constitutional provision allowing the teaching of religion in public schools

TO THE COMMITTEE ON HUMAN RESOURCES

MOTION TO VOTE ON THIRD READING ON THE ARTICLE ON SOCIAL JUSTICE

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

Resolution to incorporate in the new Constitution a separate Article on Social Justice,

copies of which were distributed to the Members of the Commission on August 13, 1986, pursuant to Section 27, Rule VI of the Rules of the Commission.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Suarez, the Chair suspended the session.

It was 10:26 a.m.

RESUMPTION OF SESSION

At 10:30 a.m., the session was resumed.

WITHDRAWAL OF MOTION TO VOTE ON THIRD READING ON THE ARTICLE ON SOCIAL JUSTICE

Upon resumption of session, in view of the request of some Members of the Committee on Social Justice to defer the voting on Third Reading on the Article on Social Justice, Mr. Rama withdrew

his motion.

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

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

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

Thereupon, the Chair recognized the Chairman and the members of the Committee on Transitory Provisions.

Mr. Rama stated that the Body was in the period of interpellations and amendments, in accordance with the revised rules.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed a substitute amendment on Section 3, which reads as follows:

SECTION 3. UNLESS THEY ARE INCONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION, ALL EXISTING LAWS SHALL REMAIN VALID, AND ALL EXISTING DECREES, EXECUTIVE ORDERS, PROCLAMATIONS, LETTERS OF INSTRUCTION AND OTHER EXECUTIVE ISSUANCES SHALL REMAIN OPERATIVE, UNTIL SUBSEQUENTLY AMENDED, MODIFIED, REPEALED OR REVOKED.

Mr. Maambong agreed with the deletion of the words "by Congress" so that the President can also repeal, modify or revoke decrees and other Presidential issuances even before Congress is convened.

Mr. Davide, however, clarified that the authority of the incumbent President to revoke would be exercised not necessarily because of her legislative power but because of her executive powers.

The Sponsor accepted Mr. Davide's amendment.

MR. RODRIGO'S AMENDMENT TO THE AMENDMENT

Mr. Rodrigo then proposed to delete the word "modified" stating that it is the same as "amended".

The Sponsor accepted Mr. Rodrigo's amendment the amendment.

Mr. Rodrigo likewise proposed to delete the word "revoked" as synonymous with "repealed", in reply to which, Mr. Maambong explained that "revoked" refers to the action of the President and not of Congress.

PROPOSED AMENDMENT OF MR. PADILLA

Thereafter, Mr. Padilla observed that the formulation of Mr. Davide did not make any clear distinction between statutory laws and presidential issuances He suggested that the proposed Section be divided into two sentences to clarify the differences as he had proposed during the previous session.

Mr. Maambong pointed out that the distinction between laws and decrees was already set out in Section 3 of the Article on the Judiciary, specifically on the jurisdiction of the Supreme Court as to the constitutionality of executive orders and decrees as distinguished from laws, and such distinction would not be necessary in the Transitory Provisions.

Mr. Padilla insisted that Section 3 be divided into two sentences.

Mr. Maambong did not accept Mr. Padilla's amendment to Mr. Davide's amendment.

POINT OF INFORMATION OF MR. REGALADO

On Mr. Maambong's reference to Section 3(2) on the constitutionality of treaties and international agreements or laws in relation to Section 3(3) on presidential decrees and proclamations, Mr. Regalado pointed out that Section 3(2) requires a vote of majority plus one while Section 3(3) requires only a majority. He disclosed, however, that the Committee on the Judiciary proposed that there should be no distinction in the number of votes required with respect to treaties, international or executive agreements, as well as presidential decrees, proclamations and other issuances, so that the two subsections would be merged into just one section.

In view thereof, Mr. Maambong stated that it would not be necessary to make a distinction in the Transitory Provisions since no distinction was made in the body of the Constitution.

Mr. Regalado, however, clarified that it was only a proposal of the Committee on the Judiciary subject to the reconsideration of the said section and approval by the Body.

REMARKS OF MR. PADILLA

Mr. Padilla maintained that with the earlier acceptance by the Committee and Mr. Maambong of the distinction found in the Article on the Judiciary, it would be necessary to reflect such distinction in the Transitory Provisions. But as regards the constitutionality of treaties and international agreements and the presidential decrees and issuances, the Supreme Court has the judicial power to pass upon that constitutionality but he opined that the original distinction is necessary and that he would request for a copy of said proposal so that he could make suggestions to reflect such distinction.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Rama, the Chair suspended the session.

It was 10:46 a. m

RESUMPTION OF SESSION

At 10:49 a.m., the session was resumed. Upon resumption of session, Mr. Davide stated that since the Committee has already accepted his proposal to insert the word "revoked", he would not accept Mr. Padilla's proposed amendment to his amendment because the concerns of the latter are already well taken care of. He then submitted the matter for decision by the Body.

REMARKS OF MR. PADILLA

Thereupon, Mr. Padilla expressed regret that as the original proponent of the amendment to divide the section into two sentences so as to make a distinction between existing laws and Presidential Decrees, which proposal was practically accepted by Mr. Davide after trying to reformulate it, he would now be completely disregarded and now it appears that he is merely reamending the latter's amendment. He added that since the Body is already satisfied therewith, he would no longer press his point but he hoped that the same incident of disregarding the original proponent of an amendment should not happen again in the future.

Mr. Maambong clarified that when Mr. Davide presented the amendment, he gave the assurance that it reflected the intention of Mr. Padilla. He stressed that Mr. Padilla was never left out in the formulation presented by Mr. Davide.

Mr. Padilla, however, pointed out that he had not been consulted with regard to the last formulation which was accepted by the Committee.

Thereupon, Mr. Davide stated that the Committee did not accept his formulation. He explained that the Committee only recommended the deletion of the words "by Congress" and accepted his proposal to add REVOKED after "repealed".

APPROVAL OF SECTION 3

Thereafter, Mr. Suarez read the reformulated version of Section 3 as follows: