

**JOURNAL NO. 97**

Wednesday, October 1, 1986

CALL TO ORDER

At 10:08 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. Hilario G. Davide, Jr., to wit:

Dear Lord, this is the third time in plenary session that I have been given the mission to pray for all of us and the Commission.

I am sure this will be my last, for before October 15 we will be through with our task in formulating the fundamental Charter which shall guide the destiny of a country to You so dear.

This then will be my opportune time to thank You for all things sublime which You in Your limitless goodness gifted forty-seven minds of varied approaches.

We thank You:

for. Your patience in staying with us even beyond our original timetable;

for the constancy of Your Divine inspiration without which we would have weakened or faltered;

for Your Divine light without which we would have walked in the dark;

for Your Divine strength without which we would have cowed in fear, yielded to pressures or intimidations;

for Your Divine love without which we could not have kept our togetherness in the search for ideals which shall bind our people in unity and understanding;

for Your Divine wisdom without which we could not have adopted proposals reflective of the inspirations and dreams of our people, and assure them justice, freedom, equality and peace.

Definitely our work does not end by our approval of the final draft. Our people will still render judgment on it.

We pray then, dear Lord, that just as You have been very kind to us, You shower upon our people Your Divine inspiration, light, strength, love and wisdom so that they will overwhelmingly approve, love, treasure and cherish the new Constitution.

This we ask through Your Son Jesus Christ who lives and reigns forever.

Amen.

ROLL CALL

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

Bacani, T. C.  
Bengzon, J. F. S  
Bennagen, P. L  
Bernas, J. G.  
Rosario Braid, F  
De Castro, C. M

Padilla. A. B.  
Muñoz Palma, C.  
Quesada, M. L. M  
Rama, N. G  
Regalado, F. D  
De los Reyes, R. F

Colayco, J. C.  
Concepcion, R. R.  
Davide, H. G.  
Foz, V. B.  
Garcia, E. G.  
Guingona, S. V.C  
Jamir, A. M. K.  
Lerum, E. R  
Maambong, R. E  
Monsod, C. S.  
Natividad, T. C  
Nieva, M. T. F

Rigos, C. A.  
Rodrigo, F. A  
Romulo, R. J  
Samiento, R. V  
Suarez, J. E.  
Sumulong, L. M  
Tadeo, J. S. L  
Tan, C.  
Treñas, E. B  
Uka, L. L  
Villacorta, W. V.

With 35 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

Gascon, J. L. M. C  
Nolledo, J. N.  
Tingson, G. J.

P.M.

Aquino, F. S.

Ople , B. F.

Dumas St., Makati Metro Manila, expressing his opinion on the country's reported negative economic growth rate saying that "we are poor because . . . too much of our money and the jobs and industries it could have created were stolen from us."

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 31 ON PROPOSED RESOLUTION NO. 531 ON GENERAL PROVISIONS

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. S31 (Committee Report No. 31), entitled:

Resolution proposing to incorporate in the Constitution an Article on General Provisions and a Section in the Transitory Provisions.

Thereupon, the Chair recognized the Chairman and Members of the Committee on General Provisions.

WITHDRAWAL OF PROPOSED AMENDMENT TO SECTION 13

Mr. Romulo, upon consultation with the other proponents, Mr. Rigos, Ms. Aquino and Mrs. Rosario Braid, withdrew the proposed amendment to Section 13 on the understanding that in the absence of a provision on population welfare and responsible parenthood, the government would not be prevented from proceeding with these programs and that Section 3(d) of the Article on the Family would allow prospective parents to participate in the planning and implementation of policies and programs that affect them in order to acquaint themselves with their choices in this regard and thus arrive at an informed conscience.

INQUIRIES OF MR. DE LOS REYES

On Mr. de los Reyes' query whether Section 12 would mean that the police force would be separated from the Philippine Constabulary, Mr. Natividad replied in the affirmative, explaining that the Philippine Constabulary has a dual character in the sense that it is both the national police and a military force, being a major command of the Armed Forces. Furthermore, he stated that the police force should be separated from the military force in order to be consistent with the provision on the Article on Civil Service prohibiting the military from occupying any Civil Service position and in the light of the universal acceptance that a police force is a civilian function which should not be performed by the military force.

On whether this would mean that there would be two police forces, Mr. Natividad stated that this could not be possible because the country cannot afford two national police forces. He pointed out that what is envisioned in Section 22 is for the State to establish and maintain one police force which in a way would accomplish the original plan provided for in Section 12, Article XV of the 1973 Constitution, a plan which was never implemented during the past regime.

On whether the Philippine Constabulary would be absorbed by the National Police Force, Mr. Natividad replied in the affirmative, stating that under the concept, there would be a civilian National Police Force and the members of the Philippine Constabulary would be given enough time to choose either to join the civilian police force or to return to the ground force as part of the major military command of the Armed Forces.

With respect to provincial guards, Mr. Natividad stated that traditionally, they are under the office the Governor being the keepers of provincial jails and they are not part of the police force because they have no police power. He explained that those included under the term "Integrated National Police" are the local police forces, referring to the town and city police forces, the jail personnel and fire services.

As to how the provision which states that "the national police shall be administered and controlled by a National Police Commission and at the same time local executives will be granted a certain amount of authority over police units in their jurisdiction as provided by law" could be operationalized, Mr. Natividad stated that based on experience, it is not advisable to provide, either in the Constitution or by law, full control of the police by local executives because this might spawn warlordism and sanctuaries for vices and abuses. He explained that if the national government does not have a mechanism to supervise these fragmented police forces composed of 1,500 separate municipal police forces and 61 city police forces, it would be difficult to present a modern professional police force. It is for this reason, he stated, that a certain amount of supervision and control would have to be exercised by the national government. He stated that if the local executives are in complete control of the day-to-day business of their respective police forces, the national government would control only the administrative aspect like the standardization of salaries. He informed that, at present, the national government maintains 13 academies and one Philippine National Police Academy which is a cadet system similar to that of the Philippine Military Academy and it offers a four-year bachelor's degree in Public Safety.

Mr. Natividad affirmed that the usual duties being performed by the ordinary policemen would be under the supervision of the local executives but, in exceptional cases, when the situation is beyond the capacity of the local government, even the operational control could be taken over by the National Police Commission.

With respect to the payment of the salaries of members of the local police forces, Mr. Natividad stated that the pay would be standardized, the payment of which would be provided by law, in the sense that there would be an appropriation provided by the national government in addition to the contributions of local government units.

On the contributions of local government units, Mr. Natividad explained that in the past when the police forces were completely fragmented and they were not under the control of the national government there was a lot of discrepancy in salaries between policemen in the rural areas and those in the urban areas. It was for this reason, he stated, that a law was enacted so that there would be uniformity in their living wages. He pointed out that while the Committee would not want these police forces to be under the military, there is the desire to professionalize them because the police is the first line of defense against crime. Furthermore, he pointed out

that there are 42 colleges in the country offering a bachelor's degree in Police Science or in Criminology which is recognized as one of the 36 professions. He stressed that it is the Committee's intent to have the police developed as a profession ready to implement a civilian police force in the country.

On whether the police force is at present under the Philippine Constabulary, Mr. Natividad replied in the affirmative and pointed out that the civilian police could not blossom into a full profession because most of the key positions are being occupied by the military. He stated that, at present, the police forces are of no help in the investigation of human rights violations because they are under the Philippine Constabulary and are sometimes victims of human rights violations themselves.

Relative to the second sentence of Section 22, on whether there is already an existing law or whether this contemplates a future law, Mr. Natividad stated that there is already a law which is Executive Order No. 1012, as amended by Executive Order No. 1027 which, in substance, provides that the local executives have the control of their police operations on a day-to-day business and direction over their respective police forces. He disclosed that the Committee would propose to change the word "direction" to "control" in order to give more emphasis to the meaning of "day-to-day business" in police work.

#### INQUIRIES OF MR. RAMA

On Mr. Rama's queries, Mr. Natividad affirmed that there are already laws defining the powers of the police force in relation to the local governments and the Philippine Constabulary, which laws, he stated, are not satisfactory to him because they run counter to the basic tenets of a modern police organization which should be removed from the military.

On the possible controversy that may arise involving the jurisdiction or powers of the police between the Commission and the local authority, Mr. Natividad stated that any controversy could be settled by legislation.

On whether he would just be giving a guideline in the Constitution to the separation of powers between the Commission and the local authority, Mr. Natividad stated that he has to make lengthy explanations on this matter in order to serve as the guideline to the future legislature.

#### RESTATEMENT OF SECTION 22

Mr. Natividad restated Section 22, to wit:

THE STATE SHALL ESTABLISH AND MAINTAIN ONE POLICE FORCE WHICH SHALL BE NATIONAL IN SCOPE AND CIVILIAN IN CHARACTER TO BE ADMINISTERED AND CONTROLLED BY A NATIONAL POLICE COMMISSION. THE AUTHORITY OF LOCAL EXECUTIVES OVER THE POLICE UNITS IN THEIR JURISDICTION SHALL BE PROVIDED BY LAW.

#### MANIFESTATION OF MR. MAAMBONG

Mr. Maambong manifested for the record that Section 22, as formulated, carries the approval of the Chief of the Philippine Constabulary, Brig. Gen. Renato de Villa and that the provision was discussed with the participation of Deputy Minister Hjalmar Quintana, General Ahorro of the PC-INP and Colonels Aguirre, David and Cruz of the Armed Forces, Mr. Cicero Ocampo, Chairman of the National Police Commission, and Commissioners Mateo and Go of the same Commission.

Mr. Maambong, likewise, manifested for the record that the formulation of Section 22 was based on Resolution Nos. 174 and 243 authored by Messrs. Ople, Natividad, de los Reyes and Maambong; Resolution No. 142 authored by Mr. Davide; and Resolution No. 133 authored by Mr. Guingona.

#### INQUIRIES OF MR. GUINGONA

On Mr. Guingona's queries, Mr. Natividad stated that in case of minor offenses as defined by law, the mayors would have the exclusive jurisdiction and they could impose a 30-day suspension without pay but beyond the imposition of such penalty, the same shall be decided by the

National Police Commission. He stated that Executive Order No. 1012 defines a major offense and a grave offense, which definitions were adopted by the Committee.

#### REMARKS OF MR. DE CASTRO

Mr. de Castro stated that the provision would professionalize the police service so that there would be two units carrying arms. He pointed out that at present, the Armed Forces and the Police are joined together such that both units could be used to topple the government by anybody strong and influential enough with these two units. He stated that through this provision, the police would be separated from the Armed Forces and it would be quite difficult for any one man to topple the government.

Mr. de Castro cited the case of Indonesia when President Sukarno was toppled by the combined forces of the police and the armed forces used by Suharto and his men.

#### INQUIRY OF MR. PADILLA

In reply to Mr. Padilla's query on whether the phrase "minor offenses" would mean light felonies while the phrase "grave offenses" would include grave and less grave felonies as provided in Article 9 of the Revised Penal Code, Mr. Natividad pointed out that the proposal refers not to criminal offenses but to the administrative cases enumerated in Section 16 of Executive Order Nos. 1012.

#### INQUIRY OF MR. RODRIGO

On Mr. Rodrigo's query, Mr. Natividad affirmed that the National Police does not fall under the President as Commander-in-Chief of the Armed Forces but under the supervision and control of the Office of the President.

#### APPROVAL OF SECTION 22

Mr. Natividad restated Section 22, to wit:

THE STATE SHALL ESTABLISH AND MAINTAIN ONE POLICE FORCE WHICH SHALL BE NATIONAL IN SCOPE AND CIVILIAN IN CHARACTER TO BE ADMINISTERED AND CONTROLLED BY A NATIONAL POLICE COMMISSION. THE AUTHORITY OF LOCAL EXECUTIVES OVER THE POLICE UNITS IN THEIR JURISDICTION SHALL BE PROVIDED BY LAW.

Submitted to a vote, and with 36 Members voting in favor and none against, Section 22 was approved by the Body.

Mrs. Rosario Braid noted that this was the first proposed section of the Constitution that was not amended.

#### MANIFESTATION OF MR. MAAMBONG

Thereafter, Mr. Maambong manifested that the proviso to be included in the Transitory Provision as found on lines 13 to 16 of the Committee Report, which states that "All armed groups and paramilitary forces now existing contrary to law shall be dismantled" had been reformulated by the Committee on Transitory Provisions and would be included in Section 9 of Proposed Resolution No. 540, Committee Report No. 38, to read:

ALL ARMED GROUPS AND PARAMILITARY FORCES NOW EXISTING OUTSIDE OF THE REGULAR POLICE AND ARMED FORCES SHALL BE DISMANTLED.

He then moved that the provisions on lines 13 to 16 of Committee Report No. 31 be considered in Committee Report No. 38 on the Article on Transitory Provisions.

Mrs. Rosario Braid agreed, stating that even the Constitution of Egypt provides that no organization or group may establish military or paramilitary forces.

#### AMENDMENT OF MR. DAVIDE