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Senator Angara. Mr. President, the author and I conferred with the personnel of the corporation. We are prepared to introduce an alternative provision to this exemption. On that note, let me end my interpellation. I will introduce the appropriate amendments during the period of individual amendments.

Thank you, Mr. President.

Senator Magsaysay. Thank you, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, I move that we close the period of interpellations?

The President. Is there any objection? [*Silence*] There being none, the period of interpellations is closed.

#### SUSPENSION OF CONSIDERATION OF S. NO. 1283

Senator Tatad. Mr. President, the committee amendments are all incorporated in the committee report. There are members who would like to propose individual amendments but they have asked for time to prepare and formulate their amendments. I therefore move that we suspend consideration of Senate Bill No. 1283.

The President. Is there any objection? [*Silence*] There being no objection, the motion is approved.

#### BILL ON SECOND READING

S. No. 1728 - Indigenous People's Right Act of 1996  
(*Continuation*)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 1728 as reported out under Committee Report No. 236.

The President. Is there any objection? [*Silence*] There being none, resumption of consideration of Senate Bill No. 236 is now in order.

Senator Tatad. Mr. President, I would like to make of record that we are honored this afternoon with the presence of the members of the various cultural communities from the North.

I ask that the distinguished sponsor of this measure, the chairman of the Committee on Cultural Communities, the gentleman from the Cordilleras, Senator Juan Flavies, be recognized.

For the first interpellation, I ask that the distinguished gentleman from Cebu, the Honorable Sergio Osmena III, be recognized.

The President. The distinguished gentleman from the

Cordilleras, Senator Flavier, and the distinguished gentleman from Cebu, Senator Osmena, are recognized to start the debate.

Senator Flavier. Mr. President, let me first put on record that Senators Alvarez, Magsaysay, Jr., Revilla and Maceda are coauthors of this bill.

I would like to thank Senator Tatad for acknowledging the presence of all the indigenous peoples who are behind us in the gallery.

Mga kasama, kapag hindi pa naman natin naipasa ito ngayong nandito na silang lahat, aywan ko kung ano pa ang aking masasabi.

I am now ready for the interpellation, Mr. President.

Senator Osmena. Thank you, Mr. President. Will the distinguished sponsor of this bill, the giant from the Cordilleras and Baguio City, yield for a few questions?

Senator Flavier. With pleasure, Mr. President, to the most handsome senator, second to me. [Laughter]

Senator Osmena. Mr. President, in the bill, it seems that the sponsor used two different terms to describe the same peoples. One is termed "indigenous cultural communities," and the other is termed "indigenous peoples."

Would the gentleman clarify if these two phrases have one and the same meaning or are there nuances or differences in their meanings?

Senator Flavier. Mr. President, I am glad we are starting with the basics. Yes, these are really one and the same.

The reason we are using both of them is that the commonly accepted international usage now is indigenous peoples by virtue of a proclamation called "The Decade of Indigenous Peoples" which covers 1994 to 2004.

In that proclamation of "The Decade" made in 1993, the agreement was to use the appellation of indigenous peoples. However, our Constitution, which was formulated in 1987, does not refer to indigenous peoples but only refers to indigenous cultural communities. Therefore, to be on the very safe and clear side, we decided to put both in the title and in the substance of the bill, Mr. President.

Senator Osmena. Thank you for that clarification, Mr. President.

What is the population of all the indigenous cultural communities in this country?

Senator Flavier. Mr. President, that is a good question, mainly because I want to say honestly that there is no exact population of indigenous peoples, and this fact indirectly signifies how much we have neglected this particular group.

Through a rough estimation, which is done by computing, I would say these are around 12% to 13% of the total population. That means about 10 million to 13 million. But in an estimate done, the indigenous peoples, broken by region, totaled 12,151,223. Again, that is really just an estimate.

Senator Osmena. That seems like a very precise number or figure, Mr. President, including the 223...

Senator Flavier. Yes, Mr. President, because the estimates were done by the regional offices and also by the Department of Environment and Natural Resources, and also by the Office of Northern Cultural Communities and the Office of the Southern Cultural Communities.

I must confess, as I said earlier, that this is not the result of an actual census that we have made for the country. But I would base my own estimates and studies on these figures because, I think, they are close enough to, plus or minus, say, half a million.

Senator Osmena. Mr. President, is the Muslim community included as part of the indigenous cultural community count?

Senator Flavier. Yes, Mr. President, they are included in the estimate.

Senator Osmena. In absolute numbers, Mr. President, how many would be part of the Muslim community and how many would be non-Muslim?

Senator Flavier. The estimate ranges from four million to five million, Mr. President, although in the figure that I mentioned, it is not included. The reason we did not include it is that, for purposes of ancestral domain, that seems to be an issue that is not as relevant to the Muslims as it is to the other tribes.

Senator Osmena. So the four million to five million figure that the gentleman has just mentioned are Muslims or non-Muslims?

Senator Flavier. They are really non-Muslims and Muslims. But I do not have the estimate for the ARMM in particular. What I have here is the indigenous cultural communities totaling 12 million, as I mentioned earlier, but they are referred to more as tribes. Therefore, a distinction of Muslims was made based on the fact that this is more of a religious appellation.

Senator Osmena. Mr. President, the Badjao tribes, for example, they would be included in the Muslim count of the ICCs,

would they not?

Senator Flavier. If the gentleman's question is whether a tribal member can be a Muslim also, my best impression is that yes, they would. They can be both. They are members of a tribe and they practice the Muslim religion.

Senator Osmena. But this bill, Mr. President, refers specifically to tribes rather than religion. In other words, it may be possible for the gentleman or me to convert and become Muslims but we would not be included as part of the indigenous cultural community.

Senator Flavier. Yes, Mr. President, that would be a correct statement.

Senator Osmena. Mr. President, I believe a national census is taken every ten years in this country. The last national census was undertaken in 1995, if I am not mistaken.

Is the gentleman telling us that the National Census and Statistical Office is quite inaccurate in its count?

Senator Flavier. Let me put it this way, Mr. President. The last census that we made for the country was in 1995. However, it is my impression that the last census of the indigenous peoples was done in 1985. But in 1995, it was not covered. The point of the gentleman is well-taken. In the next census, I think we must make it a matter of requirement—that they are specifically counted. Since we are doing it, anyway, we might as well be accurate and complete.

Senator Osmena. Mr. President, how many hectares would be involved in this bill?

Senator Flavier. Let me answer the gentleman by saying that the whole country has something like 30 million hectares. But for purposes of this particular bill, which is the point of the gentleman's question, Mr. President, we are really talking, more or less, around 110 to 116 tribes whose unsettled ancestral domain areas would be around three million hectares.

In the past, the number that was used was four to five million hectares. However, because of the role that the DENR has played, I understand that about a million has been since then surveyed, delineated, and awarded in certificates of ancestral domain claims.

Senator Osmena. Which means that the one million hectares that the gentleman says has been certificated will form part of the three million hectares that this bill will cover?

Senator Flavier. Yes, Mr. President, but only to the extent of converting them to certificates of ancestral domain. In the old system of the DENR, it only awards what it called

"Certificate of Ancestral Domain Claims" or CADC. Therefore, this bill, if enacted into law, will allow conversion without anymore further processing and resurveying of the area. To be very exact, this area that was surveyed by the DENR is 982,000 hectares which encompasses about 69 tribes.

Senator Osmena. Mr. President, earlier the gentleman stated that the entire country has about 30 million hectares.

Senator Flavier. That is right, Mr. President.

Senator Osmena. The ancestral domain bill will cover about three million hectares or roughly 10%.

Senator Flavier. Yes, Mr. President. That is correct.

Senator Osmena. Mr. President, off the top of my head, this seems like a very large percentage.

Senator Flavier. That is true, Mr. President. However, I do not foresee that all of these will be awarded, because it will also depend on many factors, like the development needs of the country, whether these areas claimed are really highly urbanized or highly developed, and whether they have been titled legitimately by third party claimants and also by others who have gotten them in the course of time.

Senator Osmena. Therefore, Mr. President, the DENR and the offices of Northern Cultural Communities and the Southern Cultural Communities have, more or less, a general idea of the areas that will be claimed as part of the ancestral domain lands of the indigenous cultural communities.

Senator Flavier. Yes, Mr. President. In fact, the way they assured me, and I also had the same kind of concern, was to say that the number of hectares--because we are saying that there are about 12 million indigenous peoples--would roughly be about one hectare each. But the one that we are talking about is really the three million hectares.

Senator Osmena. Mr. President, what happens if some or most of these lands have already been titled in the names of those who are not members of the indigenous cultural communities? What will happen to their ownership thereof?

Senator Flavier. That is an excellent question, Mr. President, because that is the main concern of many people, particularly those in Baguio with whom I had a dialogue because they are already on site. That is the reason Section 61 was provided for in the bill which states that property rights within the ancestral domains already existing upon the effectivity of this Act shall be recognized and respected.

Senator Osmena. But there would be a cutoff date; otherwise, between now and the actual signing of this bill into

law, there might be a rush to title whatever has not yet been titled inside the ancestral domain by those who are not members of the indigenous cultural communities. Would the gentleman have a cutoff date in the bill?

Senator Flavier. Actually, that is a real possibility, Mr. President, except that we also have a provision that would enable us to look into this in the clause that says, "those lands that were illegally secured will go through a process so that right will be maintained."

Senator Osmena. Thank you for that answer, Mr. President. What about local governance? Will this affect the positioning or the present demographics of local government units? Will the indigenous cultural communities be entitled to put up their own local government units? Or will they continue to be part and parcel of existing LGUs wherever they may be?

Senator Flavier. Yes, Mr. President. That is a very good point; in fact, it impinges on several issues.

First is that, if these were a geographical area, then we would also go into the whole concept of the autonomous regions, and they would then be part of this. However, it also has an implication in terms of their governance as far as the formation of indigenous peoples' barangays are concerned. And where they form an identifiable group, this bill will allow them to establish a barangay which will not require Local Government Code procedure.

This is a special concession that has been granted and will enable them to use their own justice system, conflict resolution, peace-building processes or mechanisms, and other customary laws and practices within their respective communities, as may be compatible with the national legal system and with internationally recognized human rights.

The bill also reiterates the intent of Section 386 of the Local Government Code, stating that the indigenous peoples may create or form tribal barangays, even without conforming with the requirements provided in the law. However, such will be subject of a separate legislation and plebiscite.

Senator Osmena. So it is not contained in this legislation. It will be a subject of a separate legislation.

Senator Flavier. As far as barangay formation is concerned, they will be able to form it without the necessary requirements as normally provided for in the Local Government Code, Mr. President. I think later on, that will, of course, be a subject of more explicit legislation. But in the meantime, the Code allows them to form tribal barangays without following the normal procedures.

Senator Osmena. I am a little bit puzzled about this, Mr.

President. Because it is my impression that aside from, I think, national parks, every square meter of populated land in this country is already part and parcel of a political unit, the smallest of which is called the barangay. So lands are part of a province, part of a district, part of a city or municipality and part of a barangay.

So, where would they possibly carve out these new barangays as far as land is concerned?

Senator Flavier. That is an important point, Mr. President. To the best of my understanding, the concession is being given in part because of the level of their understanding and their education. And the other implication is that it will really be a fairly small group, almost an enclave within, say, a barangay or within a municipality that will be delimited but small in scale, and will be allowed to be considered a tribal barangay in consideration of their peculiar situation.

*At this juncture, the Senate President relinquished the Chair to Hon. Orlando S. Mercado.*

Senator Osmena. But they would have actual jurisdiction over a certain amount of land area. Would they not?

Senator Flavier. Yes, as far as occupancy is concerned but not necessarily communal ownership, until the provisions of this bill are put to operation. Then they can file for the claim, which will be communal in nature, in keeping with the spirit of the ancestral domain.

Senator Osmena. Mr. President, who determines what ancestral domain belongs to whom? Would the lead agency here be the DENR?

Senator Flavier. Heretofore, Mr. President, the delineation of the ancestral domain was done by the DENR. However, when this particular bill is approved, there will be a commission with powers to survey, delineate and award of the certificate.

Senator Osmena. Will this commission take the place of the Office of Northern Cultural Communities and the Office of the Southern Cultural Communities?

Senator Flavier. That is very accurate, Mr. President, if the new commission will really be formed out of the Office of Northern Cultural Communities and the Office of Southern Cultural Communities.

Senator Osmena. What would happen to the employees of the existing offices, both of the northern and the southern cultural communities, Mr. President?

Senator Flavier. That is an important issue, Mr. President,

because it involves a group of people numbering 544 for the Office of Northern Cultural Communities and 813 for the Office of Southern Cultural Communities. Since the two were created by Executive Order Nos. 122-B and 122-C, respectively, for the north and the south offices of cultural communities, the two will be phased out and within six months, all properties will accrue to the new commission. There will be a placement panel composed of the chairman of the commission, top and middle level employees of the two offices of cultural communities, an NGO representative, and also a representative from the indigenous people.

However, the existing employees will be given priority in the employment to the National Commission on Indigenous People, based on qualifications that will be set by the placement committee, in collaboration with the Civil Service Commission of the Philippine government.

Senator Osmena. Therefore, Mr. President, there is not only a possibility but a probability that many people will not be rehired by the new commission. Are they going to be given the benefits of retirement pay and all other benefits?

Senator Flavio. That is another good question, Mr. President, showing the gentleman's sensitivity to the welfare of our people. Yes, we have two possible options: one is the usual gratuity which will be more or less computed on the basis of one month salary for every year of continuous and satisfactory service and the other is the option of retirement if they are already of that particular age in life. That is why I was also happy to note that in the 1996 and 1997 budgets of both offices, P3 million for the Office of the Northern Cultural Communities and P4 million for the Office of the Southern Cultural Communities for 1996; P4 million for the north and P5 million for the south for 1997, were allocated for retirement purposes.

Senator Osmena. Thank you, Mr. President. As a matter of information, this representation was chairman of the Finance subcommittee last year which sponsored the 1996 budget for both offices, the Northern Cultural Communities and the Southern Cultural Communities.

We know that the northern and the southern offices of cultural communities even take care of those members of indigenous people's tribes that do not reside in their ancestral domain homelands. In other words, in Cebu or in Manila, there are enclaves of Muslims or other tribes from Mindanao or from the North, from Zambales, Nueva Ecija, or Isabela, and those are taken care of by those two existing offices.

Will the new commission continue to take care of these members of the cultural communities who are now outside their ancestral domain lands?

Senator Flavio. That is another good question, Mr.

President, in the light of its reality, and I will overanswer by saying that first, not only enclaves because of the peculiar development where there is some amount of dispersal.

Second, there are fortuitous incidents like calamities exemplified by the Aetas of Zambales displaced by the Mount Pinatubo disaster. Many of them have been dispersed and have established certain enclaves.

Yes, Mr. President, all of them will be taken care of specifically through the regional offices. At the present time, there are about nine regional offices, and we will reassess whether these should be expanded or contracted in the new NCIP or National Commission on Indigenous Peoples. But for a start, the areas to be specifically targeted by virtue of the higher or more evident presence of the indigenous peoples will be the five ethnographic regions which, by the way, is also the basis for the formation of the membership of the commissioners of the National Commission on Indigenous Peoples.

Senator Osmena. Mr. President, going back to the political formation of new barangays. If, for example, in Taguig, there is an enclave of, say, 1,000 Maranaws or Tausugs or Muslims, will they be allowed to form a new barangay in Taguig?

Senator Flavier. In the spirit of the bill and sanctioned by a provision of the Local Government Code, Mr. President, yes. However, in my mind, I would look at it more as a transitional arrangement because we will need additional legislation in the future to regularize this which, I think, is implicit in the gentleman's question.

Senator Osmena. Mr. President, it is also claimed that the indigenous cultural communities and the indigenous peoples have been responsible for the degradation of our forest land mainly due to slash-and-burn farming, otherwise known in the vernacular as *kaingin*.

With this bill, will we not be institutionalizing or promoting further destruction of our forests and watershed areas?

Senator Flavier. Mr. President, I think that is a very thoughtful question that needs to be addressed, especially because there is a mistaken notion about *kaingin*. *Kaingin* farming, known in the West as the "Swidean farming," is really an indigenous method of farming whereby use of the land is purposely interspersed with periods of nonuse or fallow of the land. This is done consciously by the indigenous peoples on the intricate knowledge of environment, wild life, animals, insects, climates and seasons.

Therefore, a typical *kaingin* farm looks like a regrowing forest with different layers of canopy and varying root depths. Multicropping is the rule and the combination of plants and trees comes from stories passed on by their forefathers.

What is very interesting, Mr. President, is that there is a claim that when the indigenous peoples burn certain lands for clearing, it causes forest fire. That is not true from the actual practice of indigenous people because they are very particular about the meticulous formation of what is called "fireline" with which delimit the area they want to clear. They actually clear that by hand and dig trenches of sorts to make sure that when that area is burned, the fire will not go uncontrolled beyond what they intended to really farm.

Let me also invoke a study that was made by a very famous anthropologist, Prof. Delbert Rice. "Among the *Ikalahan* or also known as *Kalangguya*, it was found that when the area was not under their protective health or coverage, the degradation occurred. But when it was put back to the effective control as ancestral domain of the *Ikalahan* or *Kalangguya*, the opposite occurred, and that is, it was regenerated because of their own primitive practices but very sustainable regenerative approach."

The former Secretary of the DENR, Prof. Angel C. Alcala, now Chairman of the Commission on Higher Education, says in one of his writings that the indigenous peoples are a source of many sound practices in the management and utilization of natural resources and the traditional *kaingin* system is an example of such practice, contrary to the popular perception it is responsible for the degradation of the forest.

In fact, the United Nations in its study and report, says the opposite of what is being claimed. The UN stated:

The indigenous people are the best stewards of the environment because of the fact that to the indigenous people, land is equal to life and therefore ancestral domain and land given to them is their land for education because that is where the learning process occurs. It is the land or the place of their religion because of the fact that the spirit that they worship and the ancestors that they have buried are there. It is also the land of their livelihood because hunting, fishing, and farming is done there.

That is my way of saying, Mr. President, that the indigenous people, being good stewards of the land, would be, by virtue of this, the most protective of the sustenance and sustainability of this area.

Senator Osmena. Mr. President, when we talk about ancestral domain, what does it include? Would the distinguished gentleman give the Chamber an idea what it encompasses?

For example, do we go back a thousand years? Can the Southern Cultural Communities claim all of Sulu, all of Tawi-Tawi, Basilan, Zamboanga del Sur, Zamboanga del Norte, Sultan Kudarat, Maguindanao, South Cotabato, Sarangani, Lanao del Norte,

Lanao del Sur, Misamis Occidental and Misamis Oriental?

Senator Flavio. Mr. President, that might sound like a hypothetical question but it is a very important question because by definition, ancestral domain comprises lands, inland waters, coastal seas, airspace, natural wind, all held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial. Therefore, it is important that we keep this in mind because the next question really is, what do we mean by time immemorial and how do we establish this concept of time?

According to the spirit of the bill, time immemorial will refer to the period of time, as far back as memory can go, when certain ICCs and IPs are known to have occupied, possessed and utilized, defined territory devolved to them by operation of customary law, or inherited from their ancestors in accordance with their customs and traditions.

However, the basic question germane to the gentleman's question, Mr. President, is: How can we prove time immemorial possession and occupation?

The bill refers to several methods for the provision of proof that can be submitted to prove time immemorial possession, and among them would be: testimony of elders, historical accounts, anthropological or ethnographic studies, names of places using the dialect or language of the indigenous peoples, genealogy, treaties or pacts between and among tribal peoples, and other populations.

An example was given to me by Datu Inda who says that one of the ancient treaties between his tribe and another refers to a tree, which tree still stands to date on the location mentioned in the treaty.

There are also certain rivers, Mr. President, that can be identified because of the names of these rivers that are synonymous or equivalent to local language or dialects of the indigenous people.

In this regard, they will have to be assisted by the commission in trying to establish this because on this hinges the whole concept of ancestral domain.

There is also an experience of the Manobos in Mount Apo where they can trace their genealogy up to the 15th century, where they can trace their roots and clans thereto.

By using a two or a combination of all these methods, we hope that we can establish ancestral domain, of course, with the help of the people through self-ascription and self-description and delineation. This is the experience to date of the DENR. They applied this particular process in the issuance of the Certificates of Ancestral Domain Claim to date.

Senator Osmeña. I will go back, Mr. President, if the gentleman will permit me, to my original question.

In the beginning of this world, there was nobody but Adam and Eve. So, if we had descendants here--I guess we are descendants of Adam and Eve--we can all claim the world as our ancestral domain.

But I would imagine, Mr. President, that 500,000 years ago, it was only a single tribe that occupied, say, all of a certain province as we know it today. Since then, there have been settlements or immigration to those provinces.

For example, in Sarangani, we have Christian settlers who were brought over from the Province of Cebu, and in South Cotabato from the provinces of Iloilo and Negros. This happened only fairly recently, perhaps in the 1920s and the 1930s.

Is it possible for these settlers and their descendants--because most of the original settlers have long since passed away--to now be removed or dislocated from the land which they have been their residence for the past 70 to 80 years?

Senator Flavio. Mr. President, that is another sensitive angle which was also implicit in an earlier citation I made on the property rights. It is not the intent of this particular bill to commit injustice to those who have legally acquired the property. I think the gentleman is particularly referring to the big chunk of migrants. When he said Mindanao, I am almost sure that he is referring to a sizable number from Cebu who are there. The sense of this bill is that the rights of the migrants shall be respected.

Senator Osmeña. I am relieved to hear that, Mr. President.

One last question, Mr. President. This problem has been obtaining for several decades now. I was wondering what has the DENR or the government done about this problem of the ancestral domains of indigenous people since the time it was first brought into the active political consciousness of the body politic. What have they been doing since 1960 about this?

Senator Flavio. Mr. President, again the question is very relevant. Earlier, the whole concept of legality was the name of the game. From as far back as Cariño doctrine, there were a lot of legal maneuverings, resulting in the loss of the case by the Cariños. When this was appealed to the Supreme Court of the Philippines, they also lost. But when this was elevated to the United States Supreme Court--the lawyers here will have to forgive and correct me if I am wrong--Oliver Wendell Holmes, that very literary master of language and law, established the legality of the claims which was the basic reference for the citations made to justify them. However, these particular maneuverings have come and gone, complicating the situation.

This decision by Oliver Wendell Holmes was made in 1909. Since then, governments have come and gone. But the big difference is that, in the 1987 Constitution there was a very specific provision for the promotion and recognition of the ancestral domain.

As far as what was done earlier than that, there were no organized steps, although earlier there was also a series of what the officials called unnumbered surveys, the most famous of which was a series issued out in Baguio which became the basis for the Igorot claims. These Igorot claims were part of what had happened during that time.

But to answer the gentleman directly: most of the positive gains and actions by the government actually happened in 1992 by virtue of the Constitution and the creation of a process that was made through the DENR issuing Administrative Order No. 2, series of 1993. Since then, it has actively identified and delineated ancestral domain claims. That is the basis for the 69 certificates of ancestral domain claims I alluded to earlier covering 982,000 hectares.

The intention of this bill--and I know I am overanswering the gentleman--is to institutionalize what DENR has done through what, I think, should be the proper government agency. But I will also make sure that the technological capability now enjoyed by the DENR will still continue through a memorandum of agreement, with specific mandate that within years after the creation of the NCIP, the Department of Environment and Natural Resources, as well as other equally capable private survey teams, will help delineate the ancestral domains. But after that, the technology and the capability will be transferred to the NCIP, so that the ability to do the surveys and delineation will finally be in the proper office.

The point of the story being that, since the capability is with the DENR now, we are giving it three years to transfer this capability to the NCIP.

I am happy to report that there are some CACD holders in the gallery today. They are here to show their support for this bill, Mr. President, in the anticipation that with it, their certificates of ancestral domain claims will be converted, without having to go through the process, to certificates of ancestral domain.

Senator Osmena. Mr. President, it is the NCIP that will delineate these lands to what they will be. Now, what is the countervailing power then? Who can challenge? Will it be a private citizen with appeals to the courts, both lower and higher courts, or will there be a presidential agency, or will it be the DENR that will be able to, say, adjudicate or to mediate, or to arbitrate?

We can foresee, Mr. President, that there is going to be some problems there as to overlapping claims.

Senator Flavier. Yes, Mr. President. That is another very important point.

Let me complete or overanswer by saying that the groups will be encouraged to use the local judiciary system which is really a tribal conflict resolution process exemplified by the *Budongs* of the Cordilleras and *Tampudas* of the *Manobos* in Mindanao. I am just showing these people here that what they taught me is still in the computer. This will then be processed.

However, it is possible, Mr. President, that the case will not be resolved. This is where, I hope, the national commission, through its legal department, can help. But if a resolution is made through a decision--that is the reason one of our committee amendments is to change the word "adjudication" to QUASIJUDICIAL POWERS--we would like it to be equivalent to a court decision to minimize the court litigations and have it there.

However, Mr. President, the point of the question of the gentleman, I think, is, what other recourse there is afterwards, when the NCIP decision is not satisfactory? We have made a very specific provision that this can be brought to the Court of Appeals following the provisions of Rule 65 of the Rules of Court. Tama po ba iyon, Senator Drilon?

Here is the specific provision, Mr. President:

Section 72. Appeal to the Court of Appeals.  
Decisions of the NCIP shall be appealable to--

Unfortunately, it says here, Supreme Court. That is a typographical error and we will be amending that. It should read:

--appealable to the Court of Appeals by way of application for review on certiorari--

I do not know what that means.

--pursuant to Rule 65 of the Rules of Court.

Senator Osmena. Mr. President, I would like to sincerely thank the distinguished sponsor of this bill for his patience in having answered our questions today.

But more especially, I would like to commend him for having come up with a measure that will really finally begin to help the indigenous peoples in this country. We have met several of them over the course of decades; we know that that problem has been obtaining for such a long, long time, and finally, because of the distinguished giant from the Cordilleras, Senator Flavier, the

indigenous people, the cultural communities of this country will finally find some justice.

I hope that in the coming elections, their six million votes will vote solidly for Senator Flavier. [Applause]

Thank you very much, Mr. President. The Presiding Officer (Sen. Mercado). Please refrain from applauding even if we want to.

Senator Flavier. I apologize for the overenthusiasm of my *chuwawa*, Mr. President.

The Presiding Officer (Sen. Mercado). But the same enthusiasm can be manifested in the ballots.

Senator Flavier. Yes. I assume that all those who will vote for this bill, Mr. President, will benefit from that kind of enthusiasm.

I want to thank also the good Senator from Cebu for his very many thoughtful questions that I feel very good about, because they are very germane, and I equate it with the fact that he is going to support this bill. In fact, he is already campaigning at the back, Mr. President.

The Presiding Officer (Sen. Mercado). The Majority Leader is recognized.

Senator Tatad. Mr. President, we thank the distinguished gentleman from Cebu for his intervention.

#### SUSPENSION OF SESSION

We have been meeting for the past two hours, Mr. President, I move that we suspend of the session for ten minutes.

The Presiding Officer (Sen. Mercado). Is there any objection? [Silence] There being none, the Chair declares a ten-minute suspension of the session.

*It was 4:57, p.m.*

#### RESUMPTION OF SESSION

*At 5:24 p.m., the session was resumed.*

The Presiding Officer (Sen. Mercado). The session is resumed.

Senator Tatad. Mr. President.

The Presiding Officer (Sen. Mercado). The Majority Leader is recognized.

Senator Tatad. Mr. President, to take advantage of the presence of the members of the cultural communities from Zambales, I ask that the distinguished gentleman from Zambales, Sen. Ramon Magsaysay Jr., be recognized.

The Presiding Officer (Sen. Mercado). The Chair recognizes Senator Magsaysay.

Senator Magsaysay. Thank you, Mr. President. It is a pleasure to know that my constituents from Botolan, and San Marcelino, Zambales, and even the Pampanga area, are well represented tonight to listen to our important landmark bill which slept for so many years. It is so controversial and so vital that it took the medical senator, a very strong friend of the minorities, Senator Flavier of the Cordilleras, to start this bill rolling which would give justice, fairness and a better life our minorities, numbering about two million families, all over the country. They will finally achieve, therefore, what they are hoping for.

Mr. President, I have a couple of questions here on matters that will determine how effective this bill will be to protect the interests of our minority brothers.

The first question is: What happens to the mining permits that are already issued? What will happen to the future applications of mine permits? How will this affect and how will this influence the objectives of this bill?

Senator Flavier. Thank you very much, Mr. President. Before I reply to that very thoughtful question, may I manifest for the record that Senator Osmena and Senator Romulo are coauthors of the ancestral domain bill. Therefore, the following are now coauthors of this bill: Senators Macapagal, Mercado, Flavier, Enrile, Honasan, Tatad, Alvarez, Magsaysay, Revilla, Osmena, and Romulo. There is already a quorum.

The question of the distinguished Senator from Zambales is pertinent especially in the light of already existing mining permits. It is the sense of this bill that if the mining permit is within the ancestral domain, that particular permit or license will be allowed to remain in force and will be recognized and respected until it expires.

It is the sense of this bill that upon expiration, they can no longer be renewed without the written consent of the indigenous peoples and without prejudice to cancellation due to violations of terms and conditions of the permit.

Also, permits will be issued in the future not only with the written consent but also with the informed consent of the indigenous peoples.

Therefore, it is very clear that these rights include the right of these people to participate in the use, management and

conservation of these resources, the right to subsurface natural resource, to participate in the benefits of the exploitation of the resource and to receive fair compensation for any damages they may sustain as a result of the activity, which in this case will be the future mining permits.

Senator Magsaysay. Thank you, Mr. President.

I am looking at these two million families consisting of about 12 million of our population. The gentleman is also looking at the area of 30 million hectares. Is this correct?

Senator Flavier. Mr. President, the 30 million hectares is for the whole country.

Senator Magsaysay. Is the gentleman looking at 10%?

Senator Flavier. Yes, 10% or three million hectares is what is anticipated to be involved.

However, it is also our sense that not all of this will qualify, and I would make the rough estimate that maybe about-- and this is a guess estimate--one million will easily qualify for the ancestral domain in various parts of the country.

Senator Magsaysay. In other words, Mr. President, out of three million hectares, only one million hectares will be set aside? Will this be individual title or will this be a communal sort of arrangement?

Senator Flavier. That is an important point, Mr. President. Inherent in the concept of ancestral domain is the notion of communal ownership. However, I must quickly add that there are certain tribes, particularly in Ifugao and Kiangnan, Bontoc which recognize both communal and individual ownership of land.

However, even individual ownership, Mr. President, is governed by the tribal practice customary in the area and this will be governed by almost the same rules covering the communal ownership in the ancestral domain. Therefore, areas within the ancestral domains, whether delineated or not, shall be presumed to be community-held, provided that communal rights under this Act shall not be construed as co-ownership as provided in Republic Act No. 386, otherwise known as the New Civil Code. However, the provision shall not apply to indigenous cultural communities and indigenous peoples which recognize individual property rights, as I earlier mentioned.

Senator Magsaysay. Are we saying, Mr. President, that of the 160 or so identified tribes so far, many of them practice communal kind of living, and there are also those who practice noncommunal, meaning they are nomadic or they would prefer to be assimilated into the social mainstream?

Senator Flavier. The classification, Mr. President, is more

in terms of the communal versus the individual. But I will hazard the guess--because we do not have the exact figures--that the vast majority would be communal in nature, and a rather small exception exemplified by those three tribes would be individual.

Now, in terms of the displaced, this would be a special situation because they may be resettled in enclaves. Also in the context of the distinguished gentleman's own constituency in Zambales, the Mt. Pinatubo displaced Aetas are being resettled in various places and they will be entitled to their original lands that they used to occupy. By definition, the continuity of their stay in the area or in the ancestral domain is an important requirement for recognition as ancestral domain, except if the continuity is cut by virtue of war or calamities like the Mt. Pinatubo eruption.

Having said that, the people who are resettled, if they can no longer go back, are entitled to certain permanent tenurial rights, and other forms of assistance by the government. Even those so-called "nomadic tribes" are really groups that have their own areas they call ancestral domain. They travel around, but they have a home base, so to speak, Mr. President. This concept provides that when return is not possible, the people should be provided, in all possible cases, with lands of quality and legal status, at least equal to the lands that they have lost. These lands should be suitable to their present needs and future development. I am quoting from Section 6, "Rights to Ancestral Domain and Lands," because of the fact that this refers specifically to the special situation of the Aetas in the constituency of the distinguished gentleman.

Senator Magsaysay. Thank you, Mr. President.

During the 1960s, I remember that there was an office named Commission on National Integration. Can the distinguished gentleman tell me if this commission is still existing and how is this related to the Commission on Indigenous Cultural Communities? Is there any similarity, or is there a bigger, broader scope of authority of the present commission that we are talking about?

Senator Flavio. Yes, Mr. President, that is an interesting question that is related to the historical evolution of the various government agencies working to help the indigenous people.

Actually, it started with the agency that the gentleman mentioned. I am very impressed that the memory of the distinguished gentleman goes that far back. In time immemorial, we had the Commission on National Integration. This was tried out for several years and later converted to what was known as the PANAMIN or the Presidential Assistance on National Minorities. But the word "minority" was later on questioned because of the fact that it includes enclaves of other citizens.

The Chinese can be called minorities, but they wanted to be more specific. Therefore they created an office called the Office of Muslim Affairs and Cultural Communities in 1984 to cater to the needs of all cultural communities. But later on, this was again reorganized and divided into one for the north, called the Office of Northern Cultural Communities, and another for the south, which is the Office of Southern Cultural Communities.

Senator Magsaysay. Mr. President, I was leading to this question because during the 1960s, I think it was the late Sen. Mamintal Tamano who was very active in the CNI or the Commission on National Integration.

Is it one of the objectives of this bill, which is very laudable, to continue the enclave, the community of these 160 ethnic minority groups or brothers? Or is it also the country's objective that they are finally going to be integrated into our social mainstream? As long as they are not assimilated or absorbed into our mainstream, it will be very difficult for them to get adjusted to the development that is happening over the country, which is becoming more international and global. In fact, they will continue to lag behind the rest of society.

What I am driving at is, we are giving a good opportunity for them to help their own little acre or God's Little Acre, the three million or so hectares for the two million families.

But does this bill address the intention that eventually, the cultural minorities and indigenous peoples will be assimilated into the social mainstream so that they will be able to partake of all the developments, improvements, and progress of our society? Or is it the intention to keep on having them separated from the mainstream?

Senator Flavio. Mr. President, I am very impressed with that question because it demonstrates a deep philosophical drift, and the sensitivity of my friend to the needs of the cultural communities. Historically, this was the notion behind the Commission on National Integration.

Unfortunately, there was a philosophical angle that we had to grapple with, and that is the concept of self-determination.

The United Nations, through its International Labor Organization Convention 169 which superseded the International Labor Organization Convention 109, made the whole concept of self-determination as its centerpiece. Meaning, that while the government will do everything to help the cultural communities develop, the question of when they finally are integrated is something that must not be imposed on them, but something that they will decide on their own.

In this regard, I must emphasize the fact that part of the spirit of this bill is to enable the office to help those

communities to meet the basic needs of health, education, livelihood, and others so that they will progress. Because implicit in their own aspirations is not to be preserved just so they can be kept in enclaves and stared at for out of curiosity, as in a zoo.

It is their hope that in time, there will be integration within the society. But I must emphasize that the decision to be integrated must be a matter of deliberate decision or self-determination by these cultural communities, Mr. President.

Senator Magsaysay. Mr. President, my asking this question might be seemingly insensitive. But I know for a fact that a lot of the younger members of the ethnic minorities are, in fact, already assimilated. They are also doing their bid to help develop the country.

My point is: Can we not hasten this so that they will also be exposed and at the same time, give them access to opportunities that are developing all over the country, like jobs or training programs, et cetera? Because if they were on an enclave approach, and we depend on their own time to be assimilated, as they wish, it will be very difficult to help them and make them more productive members of our society.

My point, Mr. President, is that, there must be some kind of dynamics to encourage them to be assimilated, say, some kind of long-term program starting from education and social orientation that eventually, within the next two decades or so, the younger people, those who are from 35 on down, will finally become true and active members of our social mainstream.

Senator Flavio. Mr. President, I share 100 percent the concern and aspiration of the good senator, and I subscribe to the idea that if they will, in time, become part of the country, there will really be that kind of oneness that we all aspire for.

It is not the aim of this bill to build a wall around the indigenous people and leave them to their own fate in isolated reservations. We must ensure--and this is the point of the bill--that these brothers and sisters of ours are on equal footing with everybody else so that they have a better chance for the developmental assimilation. The gentleman and I agree on this.

I also agree with the gentleman that education must be a very important thrust in this endeavor. It is my fervent hope that through the Commission on Indigenous Cultural Communities, that special concern can be made real in terms of the privileges of free education, even higher education, and health. However, as a minimum requirement, it is the thought of this enactment that we should give them the rights to achieve that through a series of activities that the commission can do.

Senator Magsaysay. My final question is about the provision on appropriation. This is Section 84, page 39. It says here:

For purposes of organizing and constituting the NCIP, and carrying out the provisions of this Act, the appropriations of the abolished agencies as aforesated for the current fiscal year shall be transferred to the NCIP.

Will the gentleman please tell us how this will be done? What appropriation and how much are we talking about? Where will this be allocated in terms of the objectives of this bill soon to be a law?

Senator Flavier. Yes, Mr. President. Since the National Commission on Cultural Communities will take on the functions of the Office for Northern Cultural Communities and the Office for Southern Cultural Communities, it specifically provides that the budget of these two offices will be put together. Therefore, it is my expectation that since the budget allocated for the northern office is P110 million and the budget allocated for the southern office is P124 million, the total budget, to begin with, will be P234 million. They are given a period of six months to implement that particular phase.

Senator Magsaysay. Mr. President, we do not want to appear like a party popper. The amount that the gentleman mentioned looks very lean in the face of the very noble objectives of this bill.

When we are identifying the three million hectares all over the country, we are looking at a very expensive proposition of defining the boundaries. We might even have to access to what they call geosatellite imaging so that there will be no duplications or overlapping of boundaries.

How does the gentleman from the Cordilleras try to solve this issue? If the meager budget from the two former offices will be put together, most of this budget will be going to payrolls and overhead and not to defining the boundaries of these vast areas of land.

Senator Flavier. Mr. President, the question shows the deep perception of the gentleman. His point is very well-taken.

For the first year, I am not that anxious about the funding yet because I think there will be a lot of organizational activities and also some displacements and recruitments that will be done. However, precisely because of the fact that in the first year we may still need additional funds for the very formidable task of delineation and surveying, and also compensation for certain lands that may be questioned, and because due process will dictate that if this will be reverted, that due payments must be made, we have provided for a so-called "ancestral domain fund" in the amount of P130 million.

We have stated through consultation that P50 million will

come from the Pagcor and P10 million from the travel tax through the Philippine Tourism Authority, of which the gentleman is very familiar with because he used to be the chairman of the Committee on Tourism.

The legitimate question is: Why should these two contribute to this particular fund? The very logical answer is that, tourism and also the Pagcor have really enjoyed the benefits of the cultural communities. Tourism, by way of tourists who come to see the wonders of the rice terraces of Banawe and the rich cultural heritage of the south; Pagcor, because of those who come for gaming also, tourists who enjoy the benefit of the sights and the people of cultural communities. So that will total P60 million. There will also be P70 million from the Social Reform Council.

In view of the fact that this is an interesting footnote that will make me overanswer a little, in the dialogues for the National Commission on Unity, they found out that the single biggest issue in the nonattainment of peace in those areas was a question of land and ancestral domain. So this will be an important contribution.

In the social reform agenda, it was specifically singled out as the one important issue that has to be taken care of in terms of the social reform agenda. This lasting and true peace that we hope we can achieve through this process, I think is what motivated or impelled the President to look at the social reform agenda and decide to certify this as priority bill of the administration. Because, in achieving this, we will be able to achieve a very important dimension of the social reform agenda and also contribute to the consuming passion of the President for peace and development in the country, Mr. President.

Senator Magsaysay. Thank you, Mr. President.

Lastly, Mr. President, I wish to state here that I am very supportive of this bill. We will certainly have the other senators support this.

We have to look beyond this bill, in the sense that there are already quite a lot of educated Filipinos among our minorities. The important issue is how to identify those educated ones who will man the new Commission and who will also be involved in nongovernmental activities that will improve the lot of the ordinary minorities. That is only fair, as part of the social justice mentioned by the President and by the gentleman from the Cordilleras. It is part of the social reform agenda.

We hope that whoever will be leading this Commission will have the morality, the competence and the integrity needed in the next few years so that it will not become just like another government bureaucracy, but, in fact, will be the leading edge in making our brothers in the minorities real part of our country and productive part of the citizenry.

Thank you, Mr. President.

Senator Flavier. Thank you, Mr. President. I am very happy with the concluding remarks because certainly, social justice is the humanization of laws and the equalization of socioeconomic steps. As part of this effort, I am happy to share with the distinguished Senator from Zambales that in the formation of this Commission, distinct advantage or preference will be given to these qualified and educated cultural communities for purposes of giving them a headstart in this very, very important endeavor.

Thank you, Senator Magsaysay.

The Presiding Officer (Sen. Mercado). The Majority Leader is recognized.

Senator Tatad. Mr. President, I ask that the distinguished gentleman from Quezon City, Tarlac and Bulacan, the Honorable Alberto Romulo, be recognized.

The Presiding Officer (Sen. Mercado). Senator Romulo is recognized.

Senator Romulo. Mr. President, will our distinguished colleague, principal sponsor of this landmark legislation yield for a few questions?

Senator Flavier. With pleasure, to the gentleman who is known nationwide as "Mr. Accountability."

Senator Romulo. Well, only second to the distinguished sponsor.

Mr. President, let me start from where our distinguished colleague from Zambales and Bataan left off, and that is the appropriation. I would just like to clarify, in my own mind, certain points that may or may not have been taken.

As I understand it, Mr. President, a total of P230 million--to be precise, P234 million--is earmarked for the offices of the Northern Cultural Communities and the Southern Cultural Communities for 1997. Is that correct?

Senator Flavier. Before I reply, may I manifest, for the record, that Sen. Leticia Ramos-Shahani is a coauthor of this ancestral domain bill.

Mr. President, that is correct. The total initial budget for the National Commission on Cultural Communities will be P234 million, which is a simple summation of the individual budgets of the north and south cultural community offices.

Senator Romulo. Once this bill is signed into law by the President, the provision of this bill, the budget for the

northern cultural communities and the southern cultural communities would then be transferred to the new office of NCIP. Is that correct?

Senator Flavier. That is correct, Mr. President. Of course, with the caveat that it will depend on when this bill will be signed by the President. I have high hopes that we can have it approved soon so that when the budget call is made early next year, we will properly indicate that the budget will go to the NCIP.

Senator Romulo. In addition to the P234 million, do I take it that there is an additional P130 million specifically coming from Pagcor, P50 million; travel tax, P10 million; and Social Reform Council, P75 million. If this is in addition, then the total budget for 1997 is--P234 million plus P130 million--P364 million. Is that correct, Mr. President?

Senator Flavier. The addition of our distinguished colleague is correct, with the additional information that the P130 million or P135 million is really meant as a one-shot deal, as a beginning ancestral domain fund. Later, we will make an assessment to find out if that is sufficient or if adjustments should be made. I hope the distinguished gentleman will support this.

Senator Romulo. Precisely, the purpose of this additional P130 million is to underwrite delineation activities and payment of compensation in cases where such is appropriate. That is the purpose of this special fund.

Senator Flavier. Yes, Mr. President. I would just want to make sure. The gentleman's first point was delineation, meaning the surveying?

Senator Romulo. Yes. It says here, "For the purpose of underwriting delineation activities and payment of compensation in cases where such is appropriate." In other words, this would constitute what is called the "Ancestral Domain Fund."

Senator Flavier. That is correct, Mr. President. Just to volunteer the information, the Social Reform Council source money is also the same money that the DENR is using for the same purpose of delineation and surveying.

Senator Romulo. The Pagcor fund is quite clear to me. In other words, we do not have to appropriate this amount. It will be taken from the Pagcor funds. The travel tax, perhaps, would be taken off from the total travel tax collection.

What I am asking is, are any of these funds to be appropriated in the forthcoming 1997 budget or would they be taken off from each of the existing funds by operation of law?

Senator Flavier. It is my impression, Mr. President, that

they will accrue to the NCIP by operation of law, except that we went out of our way to meet with all those agencies to make sure that the amounts are acceptable and available so that we can access to them without any problem when this bill is enacted into law.

Senator Romulo. If the bill becomes a law, that is a compulsion. It is mandatory on these agencies. But our distinguished sponsor has already discussed this with these agencies like Pagcor, and Pagcor would be very happy to set aside the amount of P50 million for 1997. I suppose, the travel tax would be from the Department of Tourism. Is this under Director Ed Joaquin?

Senator Flavier. Yes. The Philippine Tourism Authority. That is a correct statement, Mr. President.

Senator Romulo. Where will the Social Reform Council get the fund?

Senator Flavier. It has a special appropriation. In terms of the ongoing summit meetings, it has identified the ancestral domain issue as its number one priority as far as the indigenous peoples are concerned.

Senator Romulo. And so, as far as our distinguished sponsor is concerned, only the P234 million allocated or allotted for the Northern Cultural Communities Office and the Southern Cultural Communities Office will have to come from the General Appropriations Act which we will be discussing in a week or two.

Senator Flavier. That is correct, Mr. President.

Senator Romulo. So that is settled, the P130 million has been specially allocated from the special funds.

As far as the P234 million is concerned, is that amount now in House Bill No. 8033, the 1997 General Appropriations Bill, as approved by the House on Third Reading?

Senator Flavier. Yes, Mr. President. In fact, by coincidence, the budgets of the Office for Northern Cultural Communities and the Office for Southern Cultural Communities were heard by Senator Fernan this morning.

Senator Romulo. I see. As far as the gentleman knows, the budget for the Northern Cultural Communities Office and the Southern Cultural Communities Office will not suffer any diminution or any realignment out of these funds, but will be preserved intact by the Senate for approval on second and third readings.

Senator Flavier. On the basis of the hearing this morning, it is my impression that the figure that I quoted will be retained.

Senator Romulo. On the other hand, the gentleman also feels that the budgets that are being requested, both through the General Appropriations Bill, and the special appropriations of P130 million would suffice for the requirements and needs of the new NCIP office, as well as the functions and activities that it is geared to for 1997.

The gentleman feels that these amounts would be adequate and sufficient to carry out the functions, responsibilities and activities of the new office.

Senator Flavio. Mr. President, let me answer that in two ways. As far as the continuing appropriation is concerned--that is to say the P234 million--I am confident that, at least, for 1997, this will be adequate. Beyond that, depending on how vigorously we will take on certain activities, there might be a need for adjustment, but that will be in 1998.

For the ancestral domain fund of P130 million, I would have preferred a slightly bigger amount. However, during the negotiation with the Pagcor, the PTA and our own group in that bicameral meeting, we agreed on these figures that the gentleman has now quoted. And since we cannot yet foretell how much we will need for compensation and how much more we will need for surveying, I agreed.

However, for the surveying part, Mr. President, it was based on the actual surveying and delineating activities of the DENR. The figure is adopted from their actual operations for this year and last year. Of course, it goes without saying that in the future, if we will need more, I hope that the gentleman will be supportive because this is a very important breakthrough for the cause of our indigenous peoples.

Senator Romulo. Mr. President, I hope our distinguished sponsor will forgive me for dwelling at length on the budget. Because in my own experience and in my own sense, legislation without the budget is hollow legislation. Of course, there are legislations that did not have budget. But most of the legislations, particularly when we are dealing with certain activities and functions, require legislation. Otherwise, without the funding, that is just a motherhood statement, and we are not going anywhere.

That is the reason, Mr. President. So I will ask the gentleman to consider my questions because, in order for this office to move, we need funding and resources. That is why I am dwelling at it at some length.

Senator Flavio. I welcome it very much, Mr. President. It will enable me to state that the reason why I did not opt for additional continuing budget beyond the P234 million is that, I would rather have a sure P234 million already available than a bigger one that may not be forthcoming. Corollarily, in terms of

the ancestral domain fund, I would have preferred a higher amount, but I settled for something that the agencies and I agreed on. And that would be the better part of judgment because it is already agreed upon.

May I also add that under this bill, the NCIP is also allowed to receive donations and grants from local and foreign organizations. We hope that in the future, if the need arises, we can access to this particular venue. Therefore, yes is my answer to the gentleman's question, Mr. President.

Also, I am informed that some NGOs and FOs or people's organization do contribute the delineation cost of ancestral domain. I think this is something we should encourage--the people's organization and the nongovernmental organizations.

Senator Romulo. Mr. President, this is the budget for 1997. It is understandable, of course, that under our Constitution and the laws of the land, we are only authorized to appropriate annually. Of course, there are those who are saying that because of the complexities of development, perhaps there should come a time when we should appropriate beyond one year or, at least, two years. That, of course, is something that we, in the budgetary process, should look ahead. But under the Constitution, we are only authorized to appropriate annually.

But there is also such a thing as the medium-term development plan. Mr. President, since we are talking here of a new office and since we are talking here of activities and functions, entailing no less than ancient native titles, and considering that in the prefatory note of the bill it is mentioned that up to three or five million hectares of land, out of the 30 million hectares, will have to undergo some kind of review and survey, my question is: What is the medium-term development plan in terms of the budget? Medium term is generally five years, in terms of the next five years, including, of course, 1997, wherein the gentleman has already stated the proposed budget of P234 million.

What is the projected budget for the medium-term development plan, which is about four to five years?

Senator Flavio. Mr. President, I am not familiar with the exact figure as far as the five-year medium-term development plan is concerned. What I am definitely aware of is that the activity is consistent with the plans and programs of the social reform agenda. But I am not aware of the exact figures, especially if projected in terms of five years. I will certainly try to secure it between now and tomorrow.

Senator Romulo. Since I heard from the previous interpellation that this is one of the pillars of the social reform program, it seems to me, Mr. President, that during the summit on social reform program, this must have been discussed. In fact, we were just discussing the 15 to 20-year AFP

Modernization Program of P164 billion to P331 billion, or the P50 billion for the first five years.

The social reform summit would have discussed what the budgetary resource requirement is for the first five years. Since this is especially one of its pillars, we look ahead to know the amount of resources that we need so we can plan now where to source those funds. Perhaps the staff would be familiar with an amount that has been discussed during the social reform summit.

Senator Flavio. Mr. President, I promised the gentleman I will get it before tomorrow. But here I have it. That is how good my staff here is. If my answers are good, it is because I am good; and if my answers are bad, it is because of them. [Laughter]

The breakdown, according to that particular summit that the gentleman has referred to, Mr. President, can be looked up in two ways. One is to look at it from the point of view of the survey cost per hectare. I am told that this is somewhere in the order of about P250 per hectare. On the basis of one million hectares that will be P250 million. If we multiply that by five years, then we would have the order of P1.2 billion for five years.

However, there is also a projection that has been made more comprehensive which includes the projected needs for organizational survey, delineation and developmental activities, and other activities on the basic needs of the area itself. The very rough projection is that we would need about P364 million for the first year and then about P500 million for the succeeding years. All told, it will be in the order of about P1.864 billion for five years.

Senator Romulo. If we are talking of a five-year program, if it is P364 million for the first year and P500 million for the succeeding years, therefore, P500 million will be times four or P2 billion plus P364 million, it would be somewhere near P2.364 billion. Is that correct?

Senator Flavio. Mr. President, the addition of the distinguished Senator is more accurate than the addition of my staff.

Senator Romulo. Mr. President, it is always with trepidation when my distinguished colleague speaks of my arithmetic, because I would not want to be embarrassed before our people that I have reached this far, having been Budget Minister, and yet, he will tell me that I do not know how to add. At least, in terms of my addition, my arithmetic, the distinguished sponsor has done me a great honor by vindicating my ability to add figures.

Senator Flavio. I wish to affirm that honor, Mr. President.

Senator Romulo. That is very clear to us that this is the dimension and the amount that we would need. This is, of course, based on the five million hectares with a minimum of P250 per hectare.

Senator Flavier. Yes, Mr. President. Although I was advised by the DENR that out of the five million hectares, they have already given CADCs or Certificate of Ancestral Domain Claims to about a million, to be very exact, 982,000. Therefore, we should subtract that properly. But there are a lot of estimates in this particular exercise. As a starting point for the discussion, I would accept the figures of the gentleman.

Senator Romulo. Are we saying at this point then, Mr. President, that the five million is the uppermost, the maximum figure of the number of hectares? Does the sponsor not foresee that the five million hectares would perhaps go higher to six, seven, eight or whatever million, but that he sees that the upper limit would be no more than five million hectares?

Senator Flavier. Yes, Mr. President. In fact, the going estimate is three to five million especially if we factor in the provision, which is Section 61, which says that "all property rights within the ancestral domain in existence at the time of the approval of this bill will be recognized and respected." That means that it will probably go further down.

Senator Romulo. That is right. I was going to take that up on another matter, but since the sponsor had mentioned the property rights, perhaps this is the time to take it up.

Under Section 61, property rights within the ancestral domain at the time this bill would be approved and signed into law would be respected and recognized as belonging to the existing owners.

Senator Flavier. That is correct, except in cases where these lands were reacquired illegally and by stealth, especially if they capitalized on the ignorance and lack of education of the indigenous peoples. But my answer is yes, Mr. President.

Senator Romulo. Mr. President, under the Torrens Title Law--if I remember my Land Registration Law--at a certain point, the title is consolidated in the buyer. So if we are talking of the exception--under stealth or under...

Senator Flavier. The word "stealth" is in the bill, Mr. President, but I editorialized by saying, if they take advantage of the ignorance and the lack of education of the indigenous peoples as a basis for the acquisition, this will be subject to question and will not be included in that statement I made.

Senator Romulo. Yes. I am asking for clarification because if under the Torrens system there have been transfers from one to the other and assuming, for the sake of argument, that advantage

was taken of or under stealth, say, 150 years ago or 100 years ago, which is the time really when lands in Mindanao or in Cordilleras were acquired, and there have been subsequent transfers thereafter, how would that square with the Torrens Title Law which is supposed to provide stability on ownership of property? Can the sponsor enlighten this Chamber so that we know properly what we are discussing?

Senator Flavio. Mr. President, as a matter of general statement, the Torrens title will be respected. In terms of what I mentioned earlier, implicit in the bill is that it does not desire to do an injustice to third-party buyers who, at a latter time and date, acquired certain properties in good faith, especially if the preceding transactions were legal and aboveboard. Therefore, one of the possible fine aspects of the bill that the commission will have to look into will be the practical question of someone saying, "One hundred years ago, you know, somebody did this to me." That would complicate it, but I do not foresee that as something that will prosper because of the time element.

However, because, as I said, the whole concept is "time immemorial," we will factor that in. But for the present, especially in the spirit of the concerns expressed by my own friends in Baguio, I have assured them that legitimate third-party buyers will be protected because it is not the intention of the bill to do injustice to them.

But the point the gentleman is making--I hope this does not sound that I am evading--is the very ticklish issue of the illegality which, I hope, the commission and the due process of our courts can take care of.

Senator Romulo. That is correct. Of course, the response of our distinguished sponsor is very important because we have to confront the reality that at certain periods of our history, many of these lands belonged to the indigenous people. That is a point of reference that is important in relation to this law.

Of course, there had been what we might call "voluntary transfers of ownership" even within the indigenous peoples. We must also remember that there had also been forcible transfers where property was acquired either by force, by stealth, or by undue advantage. That is why it is important that the doctrine here and the applicable laws must be clearly stated so that all parties concerned will know exactly what this bill is all about.

It is also important, Mr. President, that we do not exacerbate certain fears in certain areas and we should not raise false hopes among the indigenous people. It works both ways. I am sure that in the subsequent interpellations, this issue will also be raised. But I am raising it now because I would like to be enlightened in order to clear the doubts, to ascertain and assure all our people that this is the kind of law that we are

considering and will eventually pass in the Senate and in Congress to be signed by the President.

I hope the gentleman will understand my concern.

Senator Flavier. I do, Mr. President, and I appreciate it because it is a recurring concern of many people who hear about this.

But to be very candid with the gentleman, during the very frank, friendly but direct dialogue with some of the indigenous peoples, I was guided by something that Prof. Delbert Rice wrote about, and he said:

Let us not clutter the horizon by unduly raising false hopes but be very clear in our minds that clearly, where people have already owned the land, let us not be greedy to the point that we will claim them but concentrate on the available lands still existing. Then we will be able to do justice to the indigenous peoples without also doing injustice to those that have earlier gotten hold of this land in good faith.

Therefore, with that kind of agreement among the indigenous peoples--which, by the way, Mr. President, underwent one of the most extensive consultations I know involving almost all the indigenous peoples of the country at various levels and involving majority of the nongovernmental organizations in this particular endeavor--the prevailing spirit is one exemplified by Prof. Delbert Rice.

Senator Romulo. Mr. President, I think the statement of the distinguished sponsor reassures our people, particularly the question that I raised which he has answered, that we do not want to raise false hopes in this bill. That is very important because that would be the seed of possible future troubles if we raise false hopes and expectations that are not really there, and I welcome the statement of our distinguished sponsor.

Our distinguished sponsor has already clearly stated, without any equivocation, first, that this bill does not contemplate on lands beyond five million hectares. In fact, it is much lesser than that, perhaps closer to three million hectares.

Senator Flavier. That is correct, Mr. President.

Senator Romulo. Therefore, we know exactly where we are. Out of the 30 million hectares, we are just speaking of a possible potential three million hectares at most?

Senator Flavier. If not lower.

Senator Romulo. If not lower. I think it is important that we lay stress on that.

Let us go to Baguio, for instance, because our distinguished sponsor, who comes from, the Cordilleras and Baguio, has stated, that he has discussed this with the people of Baguio. I understand, Mr. President, that in the greater Baguio area, we are speaking of not more than--is it 130 or 135 hectares that are the possible potential for this delineation?

Can the distinguished sponsor enlighten this Chamber, Mr. President, on how many hectares, may be the subject of this in the greater Baguio area?

Senator Flavier. Yes, Mr. President, that is an interesting point because, indeed, some friends in Baguio have raised that concern in view of the earlier point raised by the distinguished gentleman about people having bought in good faith and finding that they have lost the land by virtue of this bill.

So I assured them that, one, under Section 61, property rights will be respected and recognized.

Two, I reassured them also that in terms of ancestral domain per se, there is only one ancestral domain in question in Baguio and that is an area beyond Camp John Hay. It is really a ravine of sorts where a tribe has been living since time immemorial and it involves about 123 hectares.

There is, however, reasons for this alarm. First, a certain Judge Pio Marcos--I think he is related to the late President--had issued so-called PSU (Public Survey Unnumbered), now called Igorot claims. I was told that many of these are really within that same area called "Happy Hollow," I think in reference to the book on Rip Van Winkle and Happy Hollow.

Second, some of the so-called Igorot claims, Mr. President, are really individual family claims that are not covered by this particular endeavor. In fact, many of these are subject to question because of the questionable way the claims were produced through this judge that I mentioned.

In addition, there are also claims that go way back called the Cariño Claim. I was told that these are grasslands that are really in Benguet and therefore do not endanger the claims within Baguio. The example they gave me is very interesting. By virtue of this, they might now claim Session Road and Burnham Park as ancestral domain. I told them, "No," because the issue in the Cariño claim is really not that." Also, by virtue of Section 61, that is already settled as far as I am concerned.

Senator Romulo. The first question, Mr. President, is on literature. Is it "Happy Hollow" or "Sleepy Hollow"?

Senator Flavier. I must admit that it is "Sleep Hollow," but the phrase they used was "Happy Hollow" because they are not sleepy but happy. However, the distinguished gentleman is right

that in literature, it was "Sleepy Hollow." I am familiar with the place. I know that it was from that book. But how it became happy rather than sleepy, I am not sure.

Senator Romulo. Of course, I am not as keen in being vindicated in literature as I was earlier in arithmetic.

Seriously, therefore, as the distinguished gentleman had stated, no more than 123 hectares in the Happy Hollow side at the back of Camp John Hay may be the potential property that could be considered under this bill?

Senator Flavier. That is right, Mr. President.

Senator Romulo. And that the Cariño's claim on property is outside the greater Baguio area; in fact, it is in Benguet?

Senator Flavier. That is right, Mr. President.

Senator Romulo. One of the Cariños became mayor of Baguio City, is that correct?

Senator Flavier. I think the history of the distinguished gentleman is also excellent.

Senator Romulo. I would like to thank the gentleman for giving me passing marks so far. Since we are speaking of Baguio, we must also be concerned of Benguet and the Cordilleras. As far as the distinguished gentleman knows, it is only the Cariño's claim on property that is a possible subject matter to be considered under this bill, under the ancestral property domain, is that correct?

Senator Flavier. As far as I know, yes, Mr. President. However, when it comes to whether there are other claimants within Benguet, I am not that sure anymore.

Senator Romulo. That is precisely the purpose of this office--to be able to take up all these claims and happily reconcile all of these to the greater interest of the entire community.

Senator Flavier. That is correct, Mr. President.

Senator Romulo. The other area which probably should be a concern of ours is in the Mindanao area. In fact, the gentleman mentioned in his prefatory statement that this was precisely the bone of contention that led the Bangsa Moro to make certain claim.

May the gentleman enlighten us on this as well as the possible areas where certain ancestral claims may be laid in Mindanao, particularly in the SPCPD area which is composed of 14 or 15 provinces?

Senator Flavier. Yes, Mr. President. That is a very interesting question. Let me preface my preface by saying that the National Unification Commission held a peace consultation there. Interestingly, the lack of peace in many regions in the Philippines was ascribed to poverty and landlessness. Among the indigenous people, it was really the issue of ancestral domains. The indigenous peoples, including the Bangsa Moro, have long suffered from this kind of neglect. The passage of this bill will signal to these brothers and sisters of ours our seriousness in trying to right a wrong.

Massive migration of nonindigenous populations into their domains have shrunk their territory, and many of the tribal Filipinos have been pushed into the hinterlands.

This was part of the interpellation of my friend, Senator Osmeña: for example, Cebuanos having gone to Mindanao, having proclaimed it as the "Land of Promise", and encouraging them, in fact, to migrate.

This unbridled intrusion into ancestral domain has marginalized indigenous people, and has rendered them dispossessed, disenfranchised, and dissident.

Consequently, this administration is designing the social reform agenda and the poverty alleviation program to address landlessness and poverty as a key to ensuring true lasting peace.

This bill, therefore, will specially provide for the identification, recognition and protection of the rights of indigenous people to their ancestral domains, lands. And the convergence of government services to the sectoral population will operationalize and institutionalize the Executive commitments under the social reform agenda, Mr. President.

Senator Romulo. Mr. President, after listening to the litany of this content, it seems to me that we may be speaking here of a vaster area than the 123 hectares of Happy Hollow in Baguio. Am I correct?

Senator Flavier. That is correct, Mr. President. In fact, I would hazard the guess that Baguio will not be the problem. The problem will probably be more outside of Baguio defined as the Cordilleras, and certain areas in Mindanao, specifically, for example, the terrorized dwellers of some of the mountains.

Senator Romulo. What provinces are those?

Senator Flavier. These will be the provinces of Cotabato and Maguindanao where the best estimate would put the number of hectares being claimed as ancestral domain to be in the order of 150,000 hectares, more or less.

Senator Romulo. If we are speaking of approximately three million hectares, Mr. President, how many hectares--if the

gentleman has the figure or estimate--would pertain, say, to Mindanao, particularly the provinces that he had just mentioned and the other provinces in the SPCPD area?

Senator Flavier. I am not too sure, nor do I have the complete data, but the one I am holding says that for Luzon--this is not complete, Mr. President--it is estimated at around 300,000 hectares. Meaning, really mostly CAR and Regions IV and V.

Roughly, Mr. President, in terms of Regions VI to VIII, which are really the Visayas, it would be around another 30,000 hectares.

Having said that, I must annotate that there are areas that have not fully enjoyed the benefit of census. But they would be in Northern Luzon, Central Luzon, and Southern Luzon.

The point of my story is that, there are island structures that would include Mindoro, Palawan, and Panay.

In Mindanao, Mr. President, this would include a bigger chunk, according to the estimate, and would probably be about three million hectares, more or less, using the reference we made earlier of three to five million hectares.

Senator Romulo. Of course, these are all estimates. But even in this rough estimate, the bulk really would be situated in Mindanao. In fact, almost three million rough estimate, ballpark figure, would be coming from Mindanao.

Would it be safe to say that this bulk would be coming principally from the SPCPD area?

Senator Flavier. My staff here says no, Mr. President. They will be in Mindanao, but not necessarily in the SPCPD area.

Senator Romulo. In other words, in all of Mindanao. Not only the 15 provinces and so many cities, but in all of Mindanao.

Senator Flavier. Yes, Mr. President.

Senator Romulo. Is it safe to say that it is precisely the function and activity of this new office to identify and segregate where these possible areas of conflict or ancestral domain may be found?

Senator Flavier. That is correct, Mr. President.

Senator Romulo. We do not have any partial inventory of the potential ancestral domain areas constituting these three million hectares. Do we have any partial or estimated inventory?

Senator Flavier. Mr. President, the most accurate one that I have gotten hold of is the actual delineation made by the DENR by virtue of its Administrative Order No. 2. This is the basis

of the 982,000 hectares which were given to 69 tribes or ancestral domain units.

I am told that for Mindanao, this will be mostly in Palawan, Zamboanga Peninsula, Davao del Sur, Sarangani, South Cotabato, Cotabato Province, Sultan Kudarat, and the SPCPD affected areas.

Senator Romulo. Did the gentleman say, Palawan, Davao del Sur, Sarangani, South Cotabato, and Cotabato Province? Did I miss any province?

Senator Flavier. Sultan Kudarat, Zamboanga Peninsula, and the SPCPD affected areas.

May I be corrected, Mr. President. This is only for the SPCPD affected areas. These ones that I enumerated.

Senator Romulo. But as stated earlier by the distinguished sponsor, the areas are not limited to the SPCPD areas, but could extend beyond.

Senator Flavier. Yes, Mr. President.

Senator Romulo. It would probably be safe to say that the bulk of these three million hectares would be found in the SPCPD area.

Senator Flavier. Earlier, my staff said that the answer is no. But let me check again, Mr. President.

Senator Romulo. Yes, Mr. President.

Senator Flavier. Earlier, in reply to the question of the gentleman, I said no, and my staff is confirming that the answer is no. The bulk of the ancestral domain is not within the SPCPD area. However, within the SPCPD, the affected areas in varying orders of hectareage are in the list which I gave the gentleman.

Senator Romulo. That is right, Mr. President. That leads us to the possibility that the ancestral domains which are not in the SPCPD area seem to indicate that the ancestral areas in the SPCPD area have been subsequently displaced because most of the indigenous people are now in the SPCPD area. Is that a correct statement?

Senator Flavier. That is a possibility, but I am not sure, Mr. President. I am told that indeed some of them would be under the category of this place mentioned by the gentleman.

Senator Romulo. Mr. President, here, we are really talking about areas that still have possible ancestral domain that can be delineated. Therefore, this would mean that 14 provinces and nine cities may have it including non-SPCPD which would be mostly in Agusan, Surigao, Bukidnon, and Misamis Occidental. Of course, there are also in the zone of peace and development, but we are

not sure because we have not made a good inventory.

Senator Flavio. Earlier, Mr. President, in reply to the interpellations of my friend, Senator Osmena, I made the confession that, I am told, the last census for indigenous peoples was done in 1985; therefore, most of these are really guesstimates. But we are basing these on the data at hand. We will make sure, as a mandate, that in the future censuses, the specific identification of indigenous peoples will be considered because in the last census they were not included as specific indigenous peoples.

Senator Romulo. Mr. President, I have brought out this matter and requested these data because on such an important bill as this bill, these are very basic and fundamental data.

For instance, Mr. President, I was of the initial impression that if we were talking of three million or so hectares, more or less, that this would be found mainly or principally--or at least over 50%--in the SPCPD zone of peace area. But it is certainly a revelation to me that that is not so; that the bulk of it would be found outside the SPCPD. That certainly is an information that corrects, in my mind, what initially I thought: that all the three million would be found in the SPCPD area, or at the very least, majority, say, at least 1.5 million to 1.8 million. But it seems to me that this is not so.

Therefore, the updating of the data is, to me, essential in this matter, Mr. President.

Senator Flavio. I agree, Mr. President, and because of that, I will make sure that at least by tomorrow, we shall have data that will give us a more precise estimate per province so that we can answer the gentleman's questions more accurately.

I also congratulate the Gentleman for his abilities in geography.

Senator Romulo. Yes, Mr. President. That is another subject matter I took a lot of interest in when I was in grade school. Perhaps it is helping me a bit.

Mr. President, the gentleman mentioned about Palawan. Mayor Hagedorn told me that right now 5% of the Muslims are in Palawan. And yet the gentleman mentioned Palawan as one of the areas in the SPCPD where there are possible ancestral domain.

Senator Flavio. It is indeed, Mr. President, part of the SPCPD, but as to the extent or numbers, I am not sure. That is part of what we will try to get by tomorrow, except to say that in terms of the traditional presence they always say, island structures of Mindoro, Palawan and Panay as areas of indigenous peoples.

Senator Romulo. Of course, when we are talking of other

parts of the southern region, there is also Sulu and Basilan.

Senator Flavier. Yes. But there are four areas where they are supposed to be found; in the north, then south of Mindanao, and also east and west. But these are in the fringes, Mr. President.

But again, I am treading on for which I do not have the exact figures. By tomorrow, I will produce a province-by-province identification of number. But here is another figure that was given to me: about 50% of all the indigenous peoples are in Mindanao; 40% in Luzon; and about 10% in the island groups I referred to as Mindoro, Palawan, and Panay.

Senator Romulo. How about in the Visayas, Mr. President?

Senator Flavier. That would be included in the Panay group.

Senator Romulo. Would the gentleman say then that almost every province in Southern Philippines area has, more or less, these indigenous peoples?

Senator Flavier. I would hazard a guess. Yes, the figure I have, Mr. President, is that there are supposed to be indigenous peoples in 61 provinces out of the 77 provinces.

Senator Romulo. That statistics is interesting in that indigenous people are almost everywhere--61 provinces out of 77. So there are only 15 provinces without any indigenous people.

I know, of course, that in Tarlac where I come from there are indigenous peoples. It certainly means that we can easily identify the 15 provinces where there are none.

#### SUSPENSION OF SESSION

At any rate, Mr. President, may I ask for a brief suspension of the session.

The Presiding Officer (Sen. Mercado). Is there any objection? [*Silence*] There being none, the Chair declares a brief suspension of the session.

*It was 6:58 p.m.*

#### RESUMPTION OF SESSION

*At 6:58 p.m., the session was resumed.*

The Presiding Officer (Sen. Mercado). The session is resumed.

The Majority Leader is recognized.

#### SUSPENSION OF CONSIDERATION OF S. NO.1728

Senator Tatad. Mr. President, I move to suspend consideration of Senate Bill No. 1728 under Committee Report No. 236.

The Presiding Officer (Sen. Mercado). Is there any objection? [*Silence*] There being none, the motion is approved.

CONFERENCE COMMITTEE ON S. NO. 844/H. NO. \_\_\_\_\_  
(Constitution of the Senate Panel  
Bicameral Conference Committee)

Senator Tatad. Mr. President, I move that we constitute the Senate panel to the Conference Committee on the disagreeing provisions of Senate Bill No. 844 and its House counterpart bill. This is the Sandiganbayan Act.

I hereby nominate the following: Senators Fernan, Angara, Drilon, and Enrile. For the Minority: Senators Romulo and Roco.

The Presiding Officer [Sen. Mercado]. Is there any objection? [*Silence*] There being none, the motion is approved.

Senator Tatad. Mr. President, tomorrow, Thursday, the last session day before the APEC holidays, we intend to take up the Berne Convention on Literary and Artistic Works, as well as a number of local bills.

We are also hoping that the Bicameral Conference Committee on House Bill No. 7198 on the excise tax will be able to conclude its business today so that by tomorrow, we would be ready with the conference committee report.

We are informed that the conference committee on the disagreeing provisions on the Passport Act has concluded its business and is ready to refer the report to the two Chambers. We intend to take that up tomorrow also. If we are able to do this, then that clears the way for the signing of these two bills into law probably by Friday or, at the latest, on Saturday prior to our hosting the APEC summit.

I relay this information for the guidance of our colleagues so that we would be numerous than usual on a Thursday.

SUSPENSION OF SESSION

Mr. President, I move that we suspend the session until ten o'clock tomorrow morning.

The Presiding Officer [Sen. Mercado]. Is there any objection? [*Silence*] There being none, the session is suspended until ten o'clock tomorrow morning.

*It was 7:02 p.m.*