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Saturday, September 20, 1986

CALL TO ORDER

At 9:59 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Jaime S. L. Tadeo, to wit:

Diyos ng kasaysayan, Diyos ng mga dukha at inaapi

Tunghayan Mo kami sa araw na ito

Nagsusumikap magbalangkas ng isang saligang batas

Na dapat kumatawan sa adhikain ng sambayanang Pilipino

Tinig ng bayan ay tinig Mo, laluna't tinig ng

nakararaming gutom at uhaw para sa katarungan at kalayaan.

Sana'y dinggin namin ang sigaw ng bayan,

Sa halip na pakinggan ang mga bulong ng mga

dayuha't mapang-api

Ikaw, Panginoon,

At ang bayan ang dapat naming tanging

Kilalaning panginoon sa aming ginagawa

Sana'y maging tapat kami sa bayan

Sa halip na maging sunud-sunuran sa ibang
panginoon.

Ikaw ay nagsasabing

Gagamitin ang katarungan ng mga mangmang

Upang mapahiya ang mayayabang na pantas

Hinihiling namin sa Iyo,

Sa darating na araw ng paghatol at pag-uusig
Punuan Mo ang aming pagkukulang
At patawarin ang aming pagtalikod sa Iyo,
at sa bayan.
Amen.

ROLL CALL

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

Bacani, T. C.
De Castro, C. M.
Bengzon, J. F. S.
Colayco, J. C.
Bennagen, P. L.
Davide, H. G.
Rosario Braid, F.
Gascon, J. L. M. C.
Calderon, J. D.
Guingona, S. V. C.
Jamir, A. M. K.
Rodrigo, F. A.
Lerum, E. R.
Romulo, R. J.
Monsod, C. S.
Suarez, J. E.
Nolledo, J. N.
Sumulong, L. M.
Padilla, A. B.
Tadeo, J. S. L.
Muñoz Palma, C.
Tan, C.
Rama, N. G.

Tingson, G. J.
Regalado, F. D.
Uka, L. L.
De los Reyes, R. F.
Villegas, B. M.
Rigos, C. A.

With 29 Members present, the Chair declared the presence of a quorum.
The following Members answered after the Roll Call.

A. M.

Abubakar , Y. R.
Nieva, M. T. F.
Aquino, F. S. Ople, B. F.
Azcuna, A. S. Quesada, Quesada, M. L. M
Bernas, J. G. Rosales, D. R.
Concepcion, R. R. Sarmiento, R. V.
Garcia, E. G. Treñas, E. B.
Maambong, R. E Villacorta, W. V
Natividad, T. C.

P. M

Alonto, A. D. Foz, V. B.

Mr. Laurel was absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 928 — Constitutional Commission of 1986

Letter from H. George Feliciano and Lydia Feliciano and Tito dela Cruz and Delia dela Cruz, convenor couples of the Citizens Alliance for the Constitutional Protection of the Unborn, submitting a compilation of position papers and summary of arguments favoring the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception

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

Communication No. 929 — Constitutional Commission of 1986

Communication from the National Council of Churches in the Philippines, signed by its General Secretary, La Verne D. Mercado, objecting strongly to the inclusion in the Constitution of a provision that would mandatorily allow the teaching of religion in the public elementary and high schools within regular class hours

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 930 — Constitutional Commission of 1986

Letter from Ms. Rosario A. Magnaye of Looc, Romblon, suggesting to the Constitutional Commission the development of Pilipino and English as the two national languages of the Philippines

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 931 — Constitutional Commission of 1986

Letter from Mr. Frank Y. Arcellana, President, N.O. Nukes, Philippine Social Science Center Building, Mariano Marcos Avenue, Quezon City, and fifty thousand seven hundred eleven (50,711) other signatories with their respective addresses, calling for nuclear-free provisions in the Constitution of the Republic of the Philippines

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

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 36 ON PROPOSED RESOLUTION NO. 537 ON THE ARTICLE ON DECLARATION OF PRINCIPLES

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 537 (Committee Report No. 36) on the Article on the Declaration of Principles, entitled:

Resolution to incorporate in the Constitution an Article on the Declaration of Principles.

Thereupon, the Chair requested the Chairman and Members of the Committee on Preamble, National Territory and Declaration of Principles to occupy the front table.

PROPOSED AMENDMENT OF MR. RIGOS

Mr. Rigos proposed on Section 9, page 3, lines 2 and 3, to delete the phrase "from the moment of conception" and to add CHILD after "unborn".

Mr. Villegas stated that the Committee could not accept the proposed amendment because the phrase is completely indispensable to the protection of the life of the unborn from its very beginning.

Mr. Rigos stated that many Members are unhappy about the phraseology and that giving protection to the life of the unborn is sufficient.

He requested that the Body vote on his proposed amendment.

INQUIRIES OF MR. NOLLEDO

In reply to Mr. Nollado's query whether there is life from the time of conception, Mr. Rigos stated that there is life even before the moment of conception. Specifically, on whether such life before conception is human life, Mr. Rigos answered in the affirmative, stating that the sperm and the egg cells have lives by themselves. However, as to whether it has personality, Mr. Rigos stated that the issue is debatable as there are those who believe that personality is acquired only two months after conception.

Mr. Nollado observed that from the legal perspective, a fetus is presumed to have acquired personality under Articles 40 and 41 of the Civil Code.

On whether putting an end to the life of a fetus should be considered abortion, Mr. Rigos replied that under the Revised Penal Code, it is intentional or unintentional murder.

Mr. Nollado invited attention to the fact that the Revised Penal Code defines it as abortion, to which Mr. Rigos replied that to a layman, it would be murder.

On the contention that the phrase should not be deleted to protect the human life inside the mother's womb, Mr. Rigos stated that the matter should be left to Congress to define since the provision is too specific.

Mr. Nollado opined that the Members should not deny themselves the opportunity to protect the fetus because Congress might adopt the ruling of the Supreme Court that life becomes viable only some time after conception, to which Mr. Rigos argued that he would not preempt the wisdom of Congress composed of representatives elected by the people.

On whether it is possible that Congress may reinstate the phrase, Mr. Rigos replied that Congress would probably listen to the sentiments of their constituents.

At this juncture, Mr. Nollado requested for a deferment of the voting until after the other Members have arrived considering that the proposed amendment involves a transcendental question, to which Mr. Rigos agreed.

INQUIRIES OF MR. DAVIDE

In reply to Mr. Davide's query whether life begins even before the moment of conception, Mr. Rigos replied in the affirmative.

On the commencement of human life, Mr. Rigos stated that the phrase is too specific for mere opinions. He reiterated that the matter should be left to Congress which would have ample time to consider more views on it.

Mr. Davide noted that the arguments of Mr. Rigos are contradictory, in reply to which the latter stressed that there

is life even before conception, and that his view is only one of the many views on the issue. He stated that he interviewed Dr. Gloria Enriquez, the head of the Zoology Department of the University of the Philippines, who confirmed his views.

On Mr. Davide's contention that before the moment of conception fertilization could not take place because there is no meeting of the sperm and the ovum, Mr. Rigos maintained that the sperm and the egg are alive.

Mr. Davide argued that life could not be considered without fertilization and there is no need to delete the phrase or leave the matter to Congress, to which Mr. Rigos stressed that the provision speaks of the unborn. He adverted to Mrs. Quesada's statement relative to cases when the life of the mother should be considered in the issue of abortion but Mr. Davide pointed out that the issue is the right of the mother and not the right of the unborn child from the moment of conception.

Mr. Rigos stated that the word "unborn" is sufficient for purposes of writing the Constitution without specifying "from the moment of conception".

Mr. Davide reiterated that science has determined that life begins from the moment of conception and that Congress might define life to begin from six months after fertilization, which he stressed is very dangerous. He, likewise, stressed that resolution of the doubt should not be left to Congress.

PROPOSED AMENDMENT OF MR. PADILLA

Mr. Padilla proposed to delete "the moment of" to preserve the sense of the Committee Report but Mr. Rigos stated that he would have to confer with Ms. Aquino whether to accept the proposal or not.

Mr. Villegas accepted Mr. Padilla's proposal on behalf of the Committee.

Mr. Tingson manifested that Mr. Bernas had, likewise, presented a proposal similar to that of Mr. Rigos for which he sought clarification.

Thereupon, Mr. Bernas explained that his proposed amendment would substitute the phrase with FROM ITS BEGINNING but that he would accept Mr. Padilla's reformulation.

REMARKS OF MS. AQUINO

In support of the proposed amendment of Mr. Rigos, Ms. Aquino stated that current laws and jurisprudence for the protection of the fetus are already sufficient, adverting to Articles 40 and 41 of the Civil Code. She stated that the issue is caused by the paranoia on the possibility of legalizing abortion but that, culturally, the Filipinos are not predisposed to legalizing it.

Reacting thereto, Mr. Villegas stated that the Committee's argument is based on the scientists' objective study that human life begins at conception. Adverting to Mr. Bacani's arguments, he stated that should there be any doubt about the existence of human life, the moral principle is "Don't kill", considering that there is always the attendant risk of taking the life of a human being.

Ms. Aquino pointed out that she does not question the fact that a fertilized ovum has life but that the deletion of the phrase would not give abortion a statutory fiat, in reply to which, Mr. Villegas stated that there are individuals who articulate American jurisprudence allowing the killing of a two or three-month old fetus to justify abortion.

Additionally, Mr. Nollado stated that although abortion is punishable under the Revised Penal Code, the law could be repealed anytime because it is merely a statutory enactment.

REMARKS OF MR. BACANI

In support of the retention of the phrase, Mr. Bacani appealed to the Members to be consistent in their pro-life stand. He stated that capital punishment was abolished in the same way that the Constitution is being formulated for the underprivileged and the defenseless. He stressed that nobody is as defenseless as the fetus in the womb of the mother and that this would be the privileged moment for setting a moral tone in the Constitution, as suggested by Mr. Ople.

INQUIRY OF MR. SARMIENTO

Mr. Sarmiento informed that according to the latest statistics, there are 20,000 abortions in Metro Manila; 500,000 abortions in the entire country; and 15,000,000 abortions worldwide in a year. He observed that there are two positions on the matter of abortion, namely: 1) that the right of the unborn begins from the moment of conception which view is held by Gaudi'um et Spes, Mater et Magistra, the Catholic Bishops' Conference of the Philippines, the Sacred Congregation for a Doctrine of Faith and Aposto 'cae Sedis issued by Pope Pius IX; and 2) a position being advanced by a priest of the Jesuit Order which postulates that there can be no mind before the organism is ready to carry one and no spirit before the mind is capable of receiving it, that there is no human soul, hence, no human person during the first few weeks of pregnancy as long as the embryo remains in the vegetative stage of its development. He queried, in view of these two contrasting positions, as to what would be the official position of the Church on abortion.

In reply thereto, Mr. Bacani stated that the Members of the Catholic Church do not agree on the issue of abortion. He noted that there is a consensus that abortion is wrong, that life should be protected from the moment of conception but that the argument really revolves on the "moment of ensoulment".

Thereafter, he read from an article entitled: "The Enduring Consensus" in Philip Keane's book, Sexual Morality: A Catholic Perspective, to wit:

"Perhaps one of the most significant facts about current Roman Catholic moral theology is that it has consistently insisted on the moral evil of abortion, in spite of the pluralism that has entered into so many other aspects of moral theology. The tradition of the right to life has been sacred in Western thought for centuries. Catholic moralists do not seem at all ready to abandon this tradition in the area of abortion. They are not ready, on any widespread basis to concede that the evil of abortion is an ontic but not a moral evil. Hence, the Church's stand on abortion remains basically a unified one. . ."

and also from the textbook written by Fr. Henry Peschke, S.V.D., to wit:

"On the background of these biblical doctrines and also influenced by the inheritance from Judaism, the young Christian Churches formulated the judgment on abortion. From the earliest times it was one of decided rejection. The condemnation developed in sharp opposition to the attitude of the Greco-Roman world, in which abortion and infanticide were not viewed as serious moral offenses.

"Throughout the centuries Christianity continued to consider abortion as a crime. Grave sanctions were issued by the Church against Christians who would dare to commit this sin in the first centuries. Vatican II once more takes a severe stand against it. It writes: 'From the moment of its conception, life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes. The intrinsic reasons for the abjectness of abortion are the same as those which militate against the crime of murder and the killing of an innocent in general.'"

which would assure the unity of the Church in the tradition of the right to life.

INQUIRY OF MR. BENNAGEN

Mr. Bennagen inquired on the criteria contemplated by the Committee as the basis of its decision on which life takes priority — the life of the mother or the life of the unborn.

In reply, Mr. Villegas stated that the moral principle involved is the principle of double effect. He pointed out that when there is a need to perform surgical operation on the mother, the direct intention would be to save the mother but if indirectly the child's life has to be sacrificed, this would not be abortion or killing. He noted that such situations are rare because of tremendous advances in medical science.

On whether the psychological status of the mother and the socioeconomic circumstances that surround her would also be taken into consideration, Mr. Villegas observed that there are thousands of ways to help the mother economically, psychologically and culturally. He added that this is the responsibility of society, of private individuals, of religious and charitable organizations and of the State.

INQUIRIES OF MR. SUAREZ

On Mr. Suarez' inquiry as to whether the provision would affect criminal and civil laws governing the rights of children, Mr. Nollado affirmed that such laws would apply, inasmuch as abortion is criminally punishable under the Revised Penal Code. He noted that under Article 40, in relation to Article 41 of the Civil Code, the unborn child is accorded a presumptive personality, subject to being born under conditions required by law.

On whether under criminal law, upon approval of the provision, the offense of abortion would be considered a crime of higher category like murder, Mr. Nollado stated that abortion can be categorized as murder because the child cannot defend itself.

As to whether the act of a mother in committing unintentional abortion can be considered infanticide or murder, Mr. Nollado replied that it would be abortion, subject to a mitigating circumstance which would lower the penalty if the mother kills the fetus in order to hide her dishonor. He added that in case of infanticide, the child is already born. He further affirmed that should the provision be approved, Congress may increase or decrease the penalty depending upon the circumstances and that Congress cannot abolish the laws against abortion.

As to whether the criminal liabilities of accomplices to abortion such as the attending physicians and midwives, as well as the pharmacists, would not be affected by the Constitutional provision inasmuch as their crimes are already covered by the Revised Penal Code, Mr. Nollado replied in the affirmative.

On the civil aspects, Mr. Suarez inquired whether it is the birth of the child which gives it legal personality, in reply to which, Mr. Nollado stated that the matter is expressly provided in Article 40 of the Civil Code. Mr. Nollado also affirmed that birth would refer to the moment the child leaves its mother's womb and the umbilical cord is cut. He explained that the Civil Code already gives right to the unborn child and that the Constitutional provision would give protection against ending the life of the child. He added that the civil aspects would not be affected in any way especially the provisions on legitimacy, succession and hereditary rights.

INQUIRY OF MRS. QUESADA

On Mrs. Quesada's inquiry relative to certain contraceptive methods which are considered abortifacient and on whether these shall be banned upon approval of the Constitutional provision, Mr. Nollado replied that "protection to life" does not refer to preventive pregnancy. He noted that preventive pregnancy would be covered by "population control policy" but stressed that the moment there is life, that life must be protected.

Mrs. Quesada observed that Mr. Villegas' presentation and the information contained in documents provided the

Members showed some methods which are abortifacient in nature since fertilization had already taken place, although it is the implantation of the fertilized ovum that is prevented by the use of such contraceptive methods.

Mr. Villegas, in reply thereto, clarified that if it can be scientifically proven that some contraceptive methods are abortifacients and actually kill the fertilized ovum, then such contraceptives could be prohibited once the specific provision is approved. Mr. Villegas affirmed that this would mean that practitioners — whether government or private — and sellers of such abortifacient contraceptives would be held liable.

INQUIRY OF MR. BENGZON

Apropos the interpellation of Mrs. Quesada, Mr. Bengzon inquired whether prosecution and liability would follow once it is proven that certain acts were deliberately done, to which Mr. Villegas replied in the affirmative.

On the liability of the health or social worker who is unaware that his patient is pregnant, Mr. Villegas replied that there is no liability, although, he pointed out that inasmuch as there would be information campaigns, the workers should be aware of the patient's condition.

INQUIRIES OF MR. MAAMBONG

Mr. Maambong manifested that he is in favor of the provision, although as a lawyer, he stated that in a case against a perpetrator of an alleged abortion, he would have to present proof to the judge, one proof being that the woman is, in fact, pregnant.

Mr. Maambong inquired as to when a doctor can certify that a woman is, in fact, pregnant. He noted that there are varying answers to the question, some saying that medical science has advanced to such an extent that a doctor can certify that a woman is pregnant two weeks after the moment of conception; others maintaining that it would be two months after and that there are also tests to prove pregnancy.

Replying thereto, Mr. Villegas pointed out that manuals on pregnancy stated that normally, the woman realizes she is pregnant when she misses her period, at which time, the human life in her womb would have been present approximately two weeks.

On whether a doctor, after proper medical tests, could certify that a woman is pregnant two weeks after fertilization, Mr. Villegas replied that it would depend on the doctor's expertise and the medical equipment used to determine pregnancy. He opined that under the present state of medicine, the doctor or hospital can give such a certification.

On whether Mr. Villegas' answer is documented by facts inasmuch as pregnancy tests are usually given two months after fertilization, Mr. Villegas stressed that statements on the manuals on pregnancy are made by medical experts based on scientific evidence. He stated that the details as to when such a certification can be made is a matter which Congress should determine.

REMARKS OF MR. COLAYCO

Mr. Colayco opined that the problem presented by Mr. Maambong involves legal evidence. He noted that Mr. Villegas had tried to prove that his conclusions are supported by available scientific data. He opined that the question on whether there is already life when the attempted abortion is made, involves a question of evidence.

Mr. Maambong observed that lawyers who go to court on such cases are asked by the judge to present a certification that the woman is pregnant. He noted that it is two months after fertilization that a woman can be proven pregnant. He stated that it is for this reason that he asked Mr. Villegas if the country has medical facilities

with which to ascertain that a woman is pregnant two weeks after fertilization.

Mr. Colayco stressed that what is established in the section is a principle.

REMARKS OF MS. AQUINO

Ms. Aquino expressed her apprehension that once the provision is adopted, further study on this complex issue would be stopped even before it has begun. She observed that the issue has elicited diverse and complex responses which could be better addressed by the Legislature.

INQUIRIES OF MESSRS. GASCON, REGALADO AND BACANI

Upon inquiry of Mr. Gascon, the Chair clarified that the Body shall vote on Mr. Rigos' amendment to delete "from the moment of conception" without prejudice to Mr. Padilla's proposed amendment to delete "the moment of".

The Chair affirmed, moreover, upon inquiry of Mr. Regalado, that approval of the motion to delete would be without prejudice to the filing of amendments to the remaining portion of the provision.

On further inquiry of Mr. Bacani, the Chair reiterated that the Body would be voting on the motion to delete the phrase "from the moment of conception" in Section 9, lines 2 and 3. The Chair also clarified that a Yes vote would delete the phrase and a No vote would retain it in the provision.

NOMINAL VOTING ON MR. RIGOS' AMENDMENT

On motion of Mr. Bacani, there being no objection, the Chair directed the Secretary-General to call the Roll for nominal voting. Thereafter, a second Roll Call was made.

EXPLANATION OF VOTE OF MR. TINGSON

Mr. Tingson explained his affirmative vote by stating that the matter should be left to the Legislature.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Aquino Quesada Tadeo

Bennagen Rigos Tingson

Garcia Suarez

Against:

Azcuna

Concepcion

Regalado

Bacani

Davide

De los Reyes

Bengzon

Gascon

Natividad

Bernas

Guingona

Nieva

Rosario Braid

Jamir

Nolledo

Calderon

Lerum

Padilla

De Castro

Maambong

Muñoz Palma

Colayco

Monsod

Rama

Rodrigo

Sarmiento

Uka

Romulo

Sumulong

Villegas

Rosales

Tan

With 8 Members voting in favor and 32 against, the amendment was lost.

AMENDMENT OF MR. PADILLA

Mr. Padilla proposed to delete the words "the moment of" on Section 9, page 3, lines 2 and 3.

Mr. Villegas accepted the amendment.

Submitted to a vote, and with 33 Members voting in favor, 3 against and 4 abstentions, the amendment was approved by the Body.

PROPOSED AMENDMENT OF MR. DAVIDE

On Section 9, page 2, line 29, Mr. Davide proposed to add the words AND MARRIED after "family".

Mr. Aquino did not accept the amendment on the ground that family life is premised on married life.

Thereupon, Mr. Davide did not insist on his amendment.

In reply to Mr. Bennagen's query, Ms. Aquino affirmed that "family life" would also include instances where there is no marriage but there is family life.

AMENDMENT OF MR. MONSOD

Mr. Monsod proposed on Section 9, page 3, line 3, to add the words AND PRIMARY after "natural".

Ms. Aquino accepted the amendment on behalf of the Committee.

MR. COLAYCO'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Colayco proposed an amendment to the amendment by inserting the word PRIMARY before "duty" on line 3.

Mr. Monsod, however, did not accept the amendment on the ground that the word "primary" would denote the superior right of the parents as against the State.

Thereupon, Mr. Colayco did not insist on his amendment.

AMENDMENT OF MR. GASCON

Mr. Gascon proposed to delete on line 5 the words "aid and".

Mr. Tingson accepted the amendment on behalf of the Committee.

INQUIRY OF MR. BACANI

In reply to Mr. Bacani's query, Mr. Bennagen stated that his earlier query contemplated the possibility of consenting adults and their children living a family life by mutual and stable compact.

RESTATEMENT OF SECTION 9, AS AMENDED

Thereafter, Mr. Tingson restated Section 9, as amended, to wit:

SEC. 6. THE STATE RECOGNIZES THE SANCTITY OF FAMILY LIFE AND SHALL PROTECT AND STRENGTHEN THE FAMILY AS A BASIC SOCIAL INSTITUTION. IT SHALL ACCORD EQUAL PROTECTION TO LIFE OF THE MOTHER AND THE LIFE OF THE UNBORN FROM CONCEPTION. THE

NATURAL AND PRIMARY RIGHT AND DUTY OF PARENTS IN THE REARING OF THE YOUTH FOR CIVIC EFFICIENCY AND THE DEVELOPMENT OF MORAL CHARACTER SHALL RECEIVE THE SUPPORT OF THE GOVERNMENT.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's observation that the phrase "development of moral character" seems to limit the right and duty of parents to the just development of their children's moral character, Mr. Tingson stated that the right and duty of parents extend not only to the development of moral character but also to the whole plethora of the child's personality, however, the Committee felt that the development of moral character is of primary importance.

At this juncture, upon request of Mr. Regalado, Mr. Tingson restated the second sentence of Section 9, to wit:

IT SHALL EQUALLY PROTECT THE LIFE OF THE MOTHER AND THE LIFE OF THE UNBORN FROM CONCEPTION.

Mr. Tingson apologized for misreading the sentence earlier.

INQUIRY OF MS. TAN

In reply to Ms. Tan's query on how the government could support the effort to improve the moral character of the families in Tondo, Ms. Aquino stated that the forms and modalities of State support are varied and may take the form of welfare and social services in the field of education, like scholarships and other incentives, which could reinforce the spiritual and moral formation of the citizens.

On the contention that one could not preach God to a hungry stomach without saying anything about material help, Ms. Aquino pointed out that over and above the other provisions of the Article on State support, material support is already included and that it is the sense of the Committee that complete development of moral character must be complemented by material support from the State.

INQUIRY OF MR. TINGSON

On Mr. Tingson's observation that in the United States and other places, there have been sympathy towards defining family to include an effeminate man living with another man, Mr. Villegas agreed that both natural law and religious values affirm that the normal family relationship is between man and woman.

APPROVAL OF SECTION 9, AS AMENDED

Thereafter, the Chair submitted Section 9 to a vote. With 34 Members voting in favor, none against and 4 abstentions, Section 9, as amended, was approved by the Body.

RESTATEMENT OF SECTION 3

On motion of Mr. Rama, Mr. Tingson restated the formulation of Section 3, to wit:

THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY. WHEN ENTERING INTO A TREATY, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY, NATIONAL INTEREST AND THE RIGHT TO SELF-DETERMINATION.

INQUIRY OF MR. SARMIENTO

Mr. Sarmiento recalled that in the previous session, Mr. Romulo stated that military bases agreement or any treaty concerning military bases would be excluded from the concept of treaty, but after that was clarified, Mr. Bacani, likewise, stated that it was his intent that the concept of treaty would cover agreements or treaties governing military bases. He then requested for clarification.

Responding thereto, Mr. Romulo stated that his intention is to exclude treaties regarding foreign bases because the Transitory Provisions exclude the concept of foreign bases other than the U.S. Military Bases Agreement.

Mr. Bacani, on the other hand, stated that when the State enters into agreement, treaties and other international agreements, the paramount considerations are those mentioned in the provision. He pointed out that whether the Body intends to exclude the foreign bases from this treaty is another question, but regardless of whether they are included or excluded, treaties made with any other nation must have these conditions.

INQUIRY OF MS. AQUINO

In reply to Ms. Aquino's queries, Mr. Romulo affirmed that the interpretation which dovetailed with the provision that has been approved for the Transitory Provisions is that any and all treaty arrangements on foreign bases would no longer be allowed except those pertaining to the RP-US Military Bases Agreement in the Transitory Provisions, in effect, reserving for the Americans the use of the national territory for any kind of foreign bases only if the Executive and Congress decide to enter into a new treaty. Mr. Romulo stated that his real intent is to discard the U.S. bases as soon as possible and not to allow any other bases.

INQUIRY OF MR. BENNAGEN

In reply to Mr. Bennagen's query on how national sovereignty, territorial integrity, national interest and right to self-determination may be determined in deciding an international treaty, Mr. Romulo stated that the Executive and Congress, in entering into these agreements, should try as realistically as possible to uphold the interest and rights of the State on a truly mutual, beneficial and reciprocal basis and that no part of the territory, particularly as regards the national territory and national interest would be compromised. He opined, however, that the provision would also include consultation with a broad sector of the Philippine population as well as referenda and plebiscites, although he would rather leave such matter to either the Congress or the President.

INQUIRY OF MRS. QUESADA

Mrs. Quesada stated that under the Transitory Provisions, the treaty is transient, and that whatever principle is placed therein would not actually be operational until after it would have been implemented. She pointed out that a statement in the Declaration of Principles would guide the government in future decisions, but in the matter of foreign bases, an exception is provided for the U.S. Military Bases in the country.

In reply thereto, Mr. Monsod, as one of the proponents of the amendment, stated that the U.S. Military Bases is covered by the Transitory Provisions not only because it is transient but also because it could also be contingent. With respect to the principle of foreign policy, he adverted to Mr. Romulo's remarks entered into the record that treaties on any foreign base other than those treated in the Transitory Provisions are not contemplated as within the areas that could be entered into. He pointed out that the government could not enter into any treaty on foreign bases except in the contingent and transitory possibility after 1991 covered by the Transitory Provisions and should other treaties be allowed, then the principle on sovereignty, territorial integrity, national interest and self-determination would apply.

PROPOSED AMENDMENT OF MR. AZCUNA

In order to reconcile the different views previously expressed, Mr. Azcuna proposed to substitute the words "when entering into treaty" with the phrase IN OUR RELATIONS WITH OTHER STATES so that as amended, it would read: IN OUR RELATIONS WITH OTHER STATES, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY, NATIONAL INTEREST AND THE RIGHT TO SELF-DETERMINATION.

Mr. Romulo accepted Mr. Azcuna's amendment.

INQUIRY OF MR. GASCON

In reply to Mr. Gascon's inquiry, Mr. Azcuna affirmed that the amendment would include all Philippine relations with other states including that which is already stipulated in the Transitory Provisions.

AMENDMENT OF MR. REGALADO

As proposed by Mr. Regalado, Mr. Azcuna accepted the amendment to change the word "our" to ITS.

RESTATEMENT AND APPROVAL OF SECTION 3, AS AMENDED

Mr. Azcuna restated Section 3, as amended, to wit:

SECTION 3. THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY. IN ITS RELATIONS WITH OTHER STATES, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY, NATIONAL INTEREST AND THE RIGHT TO SELF-DETERMINATION.

Submitted to a vote, and with 33 Members voting in favor, one against and three abstentions, the Body approved Section 3, as amended.

(At this juncture, the President relinquished the Chair to the Honorable Regalado E. Maambong.)

PROPOSED AMENDMENT OF MR. MONSOD

Considering the approval of the provisions to protect the life of the unborn and the abolition of the death penalty subject to certain exceptions, Mr. Monsod stated that he would present an amendment to Section 4 as a continuation of the Commission's affirmation and commitment to life of all the people free from the scourge of nuclear weapons. He further stated that with the decision to give some options on the question of foreign military bases, with more reason that the Commission would have to affirm its sense and commitment with respect to nuclear weapons.

In view thereof, Mr. Monsod, with Mr. Azcuna as the principal author, proposed the reformulation Section 4 to read as follows:

SECTION 4. THE PHILIPPINES SHALL, CONSISTENT WITH CONSIDERATIONS SOLELY OF NATIONAL INTEREST, PURSUE A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY.

Mr. Monsod manifested for the record that the amendment was coauthored by Messrs. Rigos, Romulo, Colayco, Rama, Regalado, Tingson, Davide, Villegas, Gascon, Bernas, Concepcion, Sumulong, Bacani, Sarmiento, Calderon, President Muñoz Palma, Messrs. Tadeo, Ople, Natividad, Mrs. Nieva, Messrs. Rosales, Maambong, Ms. Tan, Mrs. Quesada, Messrs. Bengzon, Treñas, Foz, Uka, de los Reyes, Guingona, Rodrigo, Jamir, Suarez,

Mrs. Rosario Braid, Mr. Nollado, Ms. Aquino and Mr. de Castro.

The Committee accepted the amendment.

INQUIRY/PROPOSED AMENDMENT OF MS. AQUINO

Ms. Aquino sought clarification as to how would the term "solely" would operationalize on the basis of national interest, to which Mr. Monsod explained that the amendment, as formulated, would merely assert that the national interest is paramount and at the same time adopts the nonabsolutist character of the principle as defined by Mr. Azcuna. He stated that the definition of the term "national interest" should be left to the Executive and the Legislative and that the proposal would only be a declaration that this is a policy of the State and it must be consistent with national interest. He pointed out that any by-product or other interests that may arise would only be incidental and secondary, and unless the national interest is served first, then there would not be any modification or exception.

Ms. Aquino noted some kind of an inconsistency between cognition and the formulation of the provision in the sense that the term "solely" as used on the basis of national interest seems to convey the idea that it is the exclusive ground upon which the State would adopt this kind of a policy and, on the other hand, as articulated by Mr. Monsod, it would seem to approximate the idea that it is the primary concern. In view thereof, she proposed the deletion of the word "solely".

Replying thereto, Mr. Monsod explained that the intent of the provision is that unless the national interest is served, there should be no other benefits that may arise that would come as a by-product but what is important is that the decision should be based solely on national interest.

Upon inquiry by the Chair, Mr. Tingson stated that he was accepting the amendment on behalf of the majority of the members of the Committee.

REMARKS OF MR. GUINGONA

Mr. Guingona, as one of the proponents of the amendment, stated that the proposal is an indication that all the proponents are in favor of this anti-nuclear stand which should be declared as a policy rather than one that should be immediately implemented. With respect to Ms. Aquino's inquiry, he stressed that the national interest could still be the sole consideration even if other secondary and incidental interests are observed. He stated that national interest includes national security and the very existence of the State.

REMARKS OF MR. GARCIA

Mr. Garcia welcomed the overwhelming support which the Members had given to the nuclear weapons-free provision in Section 4. He opined that this would mean that the Commission is against the presence of nuclear weapons in the country, including the entry and transit of nuclear armed and nuclear-capable vessels and aircraft and the dumping of nuclear waste, all of which present clear danger to the survival of the people.

REMARKS OF MR. MONSOD

Mr. Monsod stressed that the amendment, as formulated, is focused on nuclear weapons and not on nuclear medicine uses or nuclear plants and at the same time, the amendment adopted Mr. Azcuna's explanations with respect to docking ships. He stated that the proponents of the amendment are not agreeable to an amplification beyond the intent and letter of the proposal.

Mr. Garcia pointed out that if nuclear weapons are not allowed in the country, the government must have a system of verification to ensure that no nuclear-armed vessels or aircraft with nuclear weapons in their possession are allowed in Philippine territory.

Mr. Monsod agreed and asked Mr. Azcuna to explain the various circumstances that would not come within the strict definition and intent of the provision. He stated that the proposal adopted the sponsorship speech of Mr. Azcuna which should be the interpretation of the amendment.

On the Chair's query whether he was objecting to the wording of the amendment, Mr. Garcia stated that he was not and that he was just trying to seek more clarification. He stressed the importance of providing for methods of verification in the future to be determined by the government to make sure that these nuclear weapons are not present, considering that some of the superpowers neither confirm nor deny their existence. Relative to this, Mr. Garcia recalled that former President Marcos was once asked on these nuclear weapons and he stated that the government had not been consulted and therefore there were no nuclear weapons. Furthermore, Mr. Garcia stated that on the same question, General Ver said that the Philippines had an agreement with the United States to report any entry of nuclear weapons into Clark Air Base or Subic Naval Base, however, the United States sometimes failed to comply with said agreement. For this reason, Mr. Garcia stated, it is up to the Philippine Government to make sure that no nuclear weapons are present in the country.

INQUIRY OF MR. DE CASTRO

In reply to Mr. de Castro's inquiry, Mr. Monsod affirmed that the term "national interest" includes national defense and security.

REMARKS OF MR. GASCON

In the light of Ms. Aquino's observation that the word "solely" would seem to imply that national interest would be the only consideration for the Philippines to pursue a policy of freedom from nuclear weapons, Mr. Gascon added that it should not only be national interest but also the country's commitment to world peace. In view thereof, he expressed support for Ms. Aquino's proposal to delete the word "solely".

Mr. Monsod stated that he would be amenable to the proposal.

The Committee, in turn, accepted the amendment to delete the word "solely".

REMARKS OF MS. TAN

Ms. Tan insisted that it should be placed on record that the amendment would include vessels of any kind that carry nuclear weapons and the dumping of nuclear waste.

Mr. Monsod stated that Mr. Azcuna's various interpretations had been exhaustively expounded in his sponsorship speech.

INQUIRIES OF MR. OPLE

In reply to Mr. Ople's inquiries, Mr. Azcuna affirmed that the amendment contemplates a mandate on the Philippine Government to insist that the pursuit of the policy of freedom from nuclear weapons be a controlling guideline if there is a new negotiation with the United States concerning the military bases. He further affirmed that the negotiations should establish the process of verification as part of the treaty.

On whether the Philippines could be a host to bases of a regional character, Mr. Azcuna explained that the

interpretation is not to allow even ASEAN military bases in Philippine territory within the context of the provisions as worded.

On whether the interpretation would foreclose the possibility that the Philippines, upon becoming a signatory to a neutrality treaty, may enforce a Covenant that may call for stationing joint facilities in any part of the region, Mr. de Castro stated that the provisions already approved do not contain the concept of neutrality.

Mr. Ople clarified that he was just raising some hypothetical questions in the light of the declaration the ASEAN countries that they would someday establish a zone of peace, neutrality and freedom in this part of the world. With the observation that this is not related to Section 3 or even Section 4, Mr. Ople stated that he just wanted to put on record that the ASEAN is not a military pact.

REMARKS OF MS. AQUINO

Ms. Aquino clarified that consistent with the intent of Section 3, it is possible that the Philippines may become a signatory to any kind of collective security arrangement in the ASEAN region, however, conformably with the interpretation of Mr. Romulo, foreign military facilities or any foreign enclave would not be allowed within the national territory.

REMARKS OF MR. DE CASTRO

Mr. de Castro stated that his interpretation of the proviso sought to be placed in the Transitory Provisions is that the Philippines would allow the renegotiation of the bases agreement should the President, who is already given the option, decide to do so, but in the event the President decides otherwise, then, no foreign military bases could be accepted in the country. He concurred with Ms. Aquino's interpretation that on the country's relations with other states, the government may sign a treaty concerning collective security based on national sovereignty, territorial integrity, national interest and the right to self-determination.

MR. PADILLA'S PROPOSED AMENDMENT TO THE SUBSTITUTE AMENDMENT

On the substitute amendment to Section 4, Mr. Padilla proposed to change the phrase "consistent with consideration of national interest" to CONSISTENT WITH THE NATIONAL INTEREST, so that the sentence would read: THE PHILIPPINES SHALL, CONSISTENT WITH THE NATIONAL INTEREST, PURSUE A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY.

Mr. Azcuna pointed out that, as he had stated in his sponsorship speech, the Committee intends to provide in Section 4 a basic orientation and direction in the Constitution against the storage of nuclear weapons in Philippine territory, which means, as practiced by other states, that the prohibition includes not only the possession, control and manufacture of nuclear weapons but also nuclear tests and dumping of radioactive wastes in Philippine territory.

He stated, however, that under the Treaty of Tlatelolco and the Treaty of Rarotonga, the passage of ships, whether nuclear-powered or nuclear-arms-bearing, is left to the determination of every state on a case-to-case basis. He underscored that it is precisely this constitutional provision that would be the policy of the Philippines, and exceptions to such policy would have to be justified based on national interest.

PROPOSED AMENDMENTS OF MR. DAVIDE TO THE SUBSTITUTE AMENDMENT

Mr. Davide also proposed to delete the word "shall" after "Philippines"; and to change "pursue" to ADOPTS AND PURSUES, SO that the sentence would read: THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY.

The Sponsor accepted the amendment to the substitute amendment.

INQUIRIES OF MR. VILLACORTA

In reply to Mr. Villacorta's query, Mr. Azcuna stated that the proposed Section 4 would prohibit nuclear-bearing ships from passing Philippine territorial seas but would not ban ships that are capable of carrying nuclear weapons because all ships are capable of carrying nuclear weapons. He pointed out that in Japan, a ship is only allowed to enter its territory when said ship leaves the nuclear weapons in another place.

On Mr. Villacorta's contention that not all ships are capable of carrying nuclear weapons, Mr. Azcuna stated that even a tugboat can carry nuclear weapons and that if all ships capable of carrying such weapons are banned, then no ship would probably enter Philippine territorial waters.

Mr. Villacorta maintained that it is not just a matter of carrying nuclear weapons but ships should have the technological safeguards to carry them. He disclosed that U.S. ships carrying nuclear weapons were able to enter Japan by transferring the weapons from one ship to another without the knowledge of the Japanese Government.

He opined that like New Zealand, the Philippines should be strict in banning ships and airplanes that are capable of bearing nuclear weapons from entering its territory.

Mr. Azcuna explained that the general policy on nuclear-bearing ships would be enforced on a case-to-case basis, and it would be difficult to ban ships that are only capable of carrying nuclear weapons especially when they observe our policy. He stated, however, that if they enter the Philippines pretending that they are not carrying any nuclear weapons but actually are bearing them, then they would be covered by the prohibition.

On why should ships capable of carrying nuclear weapons enter the Philippines without carrying any nuclear weapons, Mr. Azcuna pointed out that they would probably undergo repair.

On whether ships were dumping nuclear waste into Philippine waters, Mr. Azcuna stated that even ordinary ships were able to dump nuclear wastes by putting them in barrels with radioactive markers. He stated that the provision would prohibit the actual dumping of nuclear wastes but not the entry of ships that are capable of dumping nuclear wastes.

On whether the Philippines has the necessary technology to detect nuclear weapons in ships or planes that enter the country, Mr. Azcuna admitted that although the country does not have it at present, it can be developed within the next few years, and other countries could probably extend some technical help for such purpose.

On whether with the acquisition of the necessary technology, surveillance and ocular inspection of the military bases, ships and airplanes would be allowed to determine the presence of nuclear weapons, Mr. Azcuna pointed out that as early as 1976, the Philippine panel had demanded that no nuclear weapons should be stored in U.S. Military Bases and that there would be verification procedures. He affirmed, however, that although such demand was not accepted, it could be renegotiated.

On whether the proposed Section 4 would only be valid after 1991 considering that the Military Bases Agreement did not provide for a nuclear-free provision, Mr. Azcuna explained that there is a provision in said agreement for a

review of the terms even before 1991, and the demand that there should be no nuclear weapons in the bases would be reinforced by this Constitutional provision.

Mr. Azcuna further stated that even if the Americans do not agree to such demand when the Agreement is renegotiated in 1988, the constitutional provision would not necessarily be an empty provision because the policy would still exist, but such contingency would be an exception considering the present treaty commitments. He explained that when the agreement was entered into, there was still no policy on the prohibition of nuclear weapons, and should the Americans reject such new policy, the case could be brought to the International Court of Justice and the Philippines could argue on the doctrine of *rebus sic stantibus*. He opined, however, that it is not correct to presume that the Americans would not agree with such policy.

On whether the Philippines would have a fair chance in the International Court of Justice considering its composition, Mr. Azcuna pointed out that if Nicaragua was able to win its case against the United States on the planting of mines in the Nicaraguan harbor, the Philippines could also win in that forum.

Mr. Villacorta stated that although the case of the Philippines involves a blatant violation of international law, the International Court of Justice may adopt the principle of *pacta sunt servanda*, in reply to which, Mr. Azcuna underscored that the doctrine of precedence does not apply in international law.

Mr. Azcuna opined that the Philippines would not be at the losing end, especially if it would be a question of the applicability of the Constitution in Philippine territory.

MR. NOLLEDO'S POINT OF INFORMATION

At this juncture, Mr. Nollado pointed out that considering the charter of the International Court of Justice which requires the consent of both parties before a case may be brought before it, it would be difficult for the Philippines to elevate the case to said Court if the United States would not agree, and moreover, it would be useless to present the case if the United States would not abide by its decision.

REMARKS OF MR. AZCUNA

Mr. Azcuna reiterated that it is incorrect to presume that the United States would not agree to the demands, because they already agreed that there would be no nuclear weapons to be stationed in Spain. He added that if the Americans would not agree, the case could be brought to the International Court of Justice considering that both the Philippines and the United States are signatories to the jurisdiction of said court, and the only question would be whether the Philippines will win the case, although Nicaragua had recently won its case against the United States.

On the contention that the International Court of Justice had decided in favor of the principle of *pacta sunt servanda* as against the *rebus sic stantibus* doctrine, Mr. Azcuna explained that it was because the former is the rule while the latter is an exception. He stated that in this case, the Philippines could ask for an exception to the rule that "treaties should be honored", because of the basic change in the situation (*rebus sic stantibus*), and not on the ground that the Constitution is against a treaty obligation.

He explained, however, that as he was saying the Philippines would have a slim chance in such case because treaties and international customs are the rules applied by the International Court of Justice. He said that all he was pointing out was the possibility that the United States would be convinced not to station nuclear weapons in the Philippines considering that the United States agreed in the case of Spain.

Reacting thereto, Mr. Villacorta pointed out that the United States would fight for the retention of its bases in the

country.

Mr. Azcuna maintained that the Body is discussing nuclear weapons in the bases and not the bases per se, to which Mr. Villacorta asked what would be the use of the bases which are the biggest outside the United States, if they do not have nuclear weapons. He then queried whether the intent of the Committee, if the constitutional provision banning nuclear weapons would be approved, could be summarized as follows: 1) the Philippine government would demand from the United States the right to have or to undertake ocular inspection of the military and naval bases as well as ships and other vessels that come into Philippine territory; and 2) aside from demanding this right the Philippine Government would also insist on a nonnuclear provision and the planes ships or vessels entering the Philippine territory.

In reply thereto, Mr. Azcuna stated that the details could be left to the President and the foreign relations-conducting bodies of the country.

Mr. Villacorta, however, insisted that such fundamental questions should not be left entirely to the decision of the President and the Body should know the Committee's intent. Mr. Azcuna, however; maintained that the Commission should not dictate on the President or to the bodies in charge of foreign relations in the country.

In reply to Mr. Villacorta's query on the use of a constitutional provision banning nuclear weapons if the same could not be implemented, Mr. Azcuna stated that this particular policy should not be mandated upon the implementing bodies, although the constitutional provision, in effect, could also be considered as one of the ways of mandating the government.

PROPOSED AMENDMENT OF MR. BENNAGEN

Mr. Bennagen proposed to amend Mr. Davide's proposed amendment by inserting the phrase GOAL OF GLOBAL PEACE AND HUMAN SURVIVAL after "interest".

Mr. Tingson, however, requested for suspension of session.

Mr. Monsod, being one of the 38 other cosponsors of the proposal, appealed to the Committee to consider it very seriously because it involves national survival and interest. He then requested the Committee to consult these authors on whatever action it may take relative thereto.

At this juncture, the Chair endorsed Mr. Monsod's suggestion, stating that the Committee and the proponents could study the proposal together. The Chair also requested the other Members to submit their proposals to the Committee for consideration.

Mr. Bennagen appealed to the Committee to include his proposed amendment.

SUSPENSION OF SESSION

On motion of Mr. Rama, the Chair suspended the session.

It was 12:36 p.m.

RESUMPTION OF SESSION

At 2:59 p.m., the session was resumed.

AMENDMENT OF MR. MONSOD AS MODIFIED BY MESSRS. DAVIDE AND PADILLA

Upon resumption, Mr. Monsod restated his proposed amendment, as amended by Messrs. Davide and Padilla, as

follows: THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM SUCH NUCLEAR WEAPONS IN ITS TERRITORY.

PROPOSED AMENDMENT OF MR. BENNAGEN

Thereafter, Mr. Bennagen proposed to amend the proposal by inserting THE GOALS OF GLOBAL PEACE AND HUMAN SURVIVAL after "interest".

Mr. Tingson did not accept Mr. Bennagen's proposal.

Explaining the reason therefor, Mr. Azcuna stated that Mr. Bennagen's proposal is deemed embraced in the concept of "national interest".

Mr. Bennagen, however, insisted on his proposal and explained that the issue of nuclear weapons is a global one. He pointed out that in the event of a nuclear war and the consequent effects of a nuclear winter, all the nations of the world, including the neutrals and the belligerents, would perish. Hence, he stressed that while the issue of nuclear weapons is of immediate concern to the country, it is a global concern as well. He added that his proposal would then mandate the country, as a nation, to take a more active role in the movement towards the attainment of global peace and ultimately of survival.

Mr. Tingson then asked for a vote.

In reply to Mr. Davide's query whether the phrase "global peace" is different from the peace mentioned in Section 1 of the Article which the Body approved during the previous session, Mr. Bennagen stated that perhaps it is included in the general statement of peace although there is a need to underscore the connection of nuclear weapons with global peace.

On whether the phrase "human survival" is also deemed included in the principle enunciated in Section 5, Mr. Bennagen stated that he is not sure whether the Committee has contemplated that Section 5 would also cover human survival which is threatened by a nuclear war.

Thereafter, Mr. Davide opined that Mr. Bennagen's proposal is already covered by the different principles stated in the Declaration of Principles.

Mr. Bacani pointed out that Mr. Bennagen's proposal may weaken the thrust of the original proposed amendment since what the proponents would want to emphasize is the importance of national interest.

On the contrary, Mr. Bennagen stated that his amendment would, in fact, strengthen the original proposed amendment since it takes into account the national interest as part of the global concern for peace and disarmament. He pointed out that the country could not simply isolate itself from other countries of the world in search for peace in the face of a nuclear war.

Mr. Bacani maintained that it is precisely in that context that the country asserts its national interest. He added that; as pointed out by Mr. Davide, the proposal is already contained in the preceding sections of the Article.

Mr. Bennagen opined that it would be better if the provision is already self-contained in the sense that it would already assert the concern for global peace and human survival in relation to nuclear weapons.

Thereupon, Mr. Monsod manifested his concurrence with the Committee's view that Mr. Bennagen's proposed amendment is not necessary.

Thereafter, Mr. Bennagen's proposal was submitted to a vote and with 9 Members voting in favor and 19 against, the same was lost.

FURTHER INQUIRIES OF MR. NOLLEDO

In reply to Mr. Nollado's query whether Section 4 is self-implementing, Mr. Azcuna stated that there is no need for a statute to implement it, although Congress is not precluded from enacting one. He added that if there is no congressional action on the matter, the Executive could implement the provision by providing for the mechanism under which the goal contemplated in the proposal may be attained.

Mr. Azcuna agreed with Mr. Nollado's observation that the Philippine Government could ask the United States to remove the nuclear weapons, if there are any, from the bases once the Constitution is ratified by the people. He also agreed that the lands occupied by the bases are still within Philippine jurisdiction and in view of this the government could demand the right of ocular inspection through diplomatic channels and other peaceful methods which could be resorted to under the UN Charter.

On whether a foreign vessel carrying nuclear weapons which enter Philippine territory could be considered an extension of the country which owns such vessel, Mr. Azcuna replied in the affirmative if it is a warship but not if it is a private vessel.

On whether a warship of the Seventh Fleet carrying nuclear weapons which enters Philippine waters could invoke international law by claiming that it is not bound by the country's Constitution because it is an extension of the territory of the United States, Mr. Azcuna replied that although the Philippines cannot have jurisdiction over it on that ground, it can, under international law, request that the warship dock somewhere else.

INQUIRY OF MR. GARCIA

In reply to Mr. Garcia's query whether the promotion of the principle of nuclear disarmament in the region and in the world is also deemed included in the proposal in the light of the provisions of Section 2, Mr. Azcuna replied in the affirmative.

Mr Garcia then opined that Mr. Bennagen's proposal, in a sense, is already included in the proposal, to which Mr. Azcuna agreed.

INQUIRY OF MS. AQUINO

On Ms. Aquino's query whether the ban on nuclear weapons would include a ban on nuclear communication notes such as C3-I and other derivatives that would direct warheads to their targets, Mr. Azcuna explained that under the treaties the means of delivery of nuclear weapons are not included under the term "nuclear devices", nuclear weapons or parts thereof unless they cannot be separated from the nuclear weapons themselves. He added that these are the terminologies used in the practice of nuclear weapons free zones.

On whether this interpretation would hold notwithstanding his answer to Mr. Garcia's query on nuclear disarmament, Mr. Azcuna replied that what he meant covered by nuclear disarmament are the nuclear weapons themselves since the nuclear free zone concept per se applies only to nuclear weapons and their devices.

APPROVAL OF SECTION 4, AS AMENDED

Thereafter, Mr. Tingson read the whole of Section 4 as amended by Messrs. Monsod and Davide, to wit:

SECTION 4. THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY.

Submitted to a vote, and with 26 Members voting in favor, and none against, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. RAMA

Thereupon, Mr. Rama proposed, on Section 5, page 2, line 9 to insert CITIZENS before "social". Mr. Tingson accepted the amendment of Mr. Rama on behalf of the Committee.

ANTERIOR AMENDMENT OF MR. BACANI

At this juncture, however, Mr. Bacani proposed an anterior amendment on Section 5, page 2, line 7 to substitute ; "the" with EVERY and to insert the phrase AT ANY STAGE OF THIS PERSON'S DEVELOPMENT, between "rights" and "and" on line 8.

The Chair suggested that Mr. Bacani's proposed amendments be considered one at a time. On the word EVERY, Ms. Aquino accepted the substitution on behalf of the Committee.

In reply to Mr. Bacani's query whether it has to be voted upon, Mr. Tingson stated that it has been accepted by the Committee. The Chair, added that it could be voted upon at a later time, to which Mr. Bacani agreed.

On Mr. Bacani's second proposal Ms. Aquino inquired how it would be operationalized, in reply to which, Mr. Bacani explained that the law will define the word "person" to make sure that at each stage his rights will be respected.

Ms. Aquino commented that Mr. Bacani's concern is already covered by the draft presented by the Committee for which reason, Mr. Bacani's second proposed amendment could not be accepted.

Mr. Bacani suggested that his proposed amendments be submitted to a vote one after the other, which suggestion was noted by Chair.

SUSPENSION OF SESSION

At this juncture, however, the Chair suspended the session.

It was 3:33 p.m.

RESUMPTION OF SESSION

At 3:39 p.m., the session was resumed.

MANIFESTATION OF MR. RAMA

Upon resumption of the session, Mr. Rama manifested that the proponents of amendments on Section 5 and the Committee had agreed that the Section should be devoted solely to human rights and human dignity to distinguish and emphasize these rights and to stress the value and need of human rights.

INQUIRY OF MR. BACANI

On Mr. Bacani's query whether the State would guarantee full respect for human rights from the time one becomes a person until he dies, Ms. Aquino answered in the affirmative for which reason, Mr. Bacani withdrew his second proposed amendment.

INQUIRY OF THE CHAIR

In reply to the Chair's query whether the reformulation by Messrs. Davide, Bacani Monsod and Mrs. Nieva to be presented was the result of the conference, Mr. Tingson confirmed the same.

Upon direction of the Chair, Mr. Tingson read the reformulated provision as follows: THE STATE VALUES THE DIGNITY OF EVERY HUMAN PERSON AND GUARANTEES FULL RESPECT FOR HUMAN RIGHTS.

APPROVAL OF SECTION 5, AS AMENDED

Submitted to a vote, and with 28 Members voting in favor and none against, the Body approved Section 5 as amended.

PROPOSED AMENDMENT OF MR. RAMA

On Section 6, page 2, line 11, Mr. Rama proposed to transpose "and" after "protect", to add FREE after it and also to add FROM MASS POVERTY after "people", stating that the Section is inspired by Resolution No. 302 which he filed. He stated that his Resolution invited attention to an anachronism which existed in the 1935 and 1973 Constitutions which, he said, is a simplistic and mistaken provision. He stated that the provision gives an exaggerated importance on the defense of the State and twisted the idea about the primary duty of the citizen.

He stated that he had made a research on the provision and that the same had been lifted from the Spanish Constitution. He underscored the fact that no other constitution contains such provision.

He further stated that the provision arouses one's curiosity because the first duty that the government should undertake is to solve the problem of mass poverty which, he said, is the oldest, most brutalizing and most dehumanizing problem of the country, for which he opined that it should be included in Section 6.

He stated that the Spanish Government was justified in giving priority to the defense of the state because making war, at that time, was the favorite sport in the Western world, especially of the Spaniards whose colonies were being coveted and invaded by other world powers.

He stressed that the careless adoption of the theory in the Constitution embraced the anachronism that adds insult to injury.

He stated that the first and most urgent responsibility of the government is to defend the fundamental rights of the people to a decent level of living and to their basic freedom.

He pointed out that the lopsided provision was taken advantage of by many dictators like Mr. Marcos to justify their military regimes, and a refinement of the principle was the bloating of the national defense budget, postponing the economic redemption of the people, and the writing of the National Service Law which makes it mandatory for all students and the youth to render military service. In effect, he stated that Mr. Marcos made the Philippines a colony of its own government through the use of his armed forces which should have been confined to a lower rating in the order of priorities.

Finally, Mr. Rama stressed that there is no need to define such duty in the Constitution because self-defense is part of the universal law of self-preservation which is inherent in any government or entity.

Mr. Tingson accepted Mr. Rama's amendment but suggested that it be incorporated in Section 7 instead of Section 6 because Section 6 speaks of the collective duty of the people and the government in times of war or emergency, while Section 7 speaks of prime concern of the State for the promotion and establishment of the socio-political

and economic system.

REMARKS AND PROPOSED AMENDMENT OF MR. PADILLA

Mr. Padilla stated that he agrees with the proposition that the State exists for the individual and not the individual for the State, but could not agree with Mr. Rama's observation that it is the duty of the State to save the people from mass poverty because it will run counter to the principle of private free enterprise for agricultural productivity, industrial development and other progressive methods of producing wealth for the people.

On the second sentence of Section 6, he proposed that the sentence should read: THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW TO RENDER PERSONAL MILITARY OR CIVIL SERVICE. He stated that he advocates the deletion of the phrase "with due regard to objections of conscience" on page 2, lines 13 and 14.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 3:56 p.m.

RESUMPTION OF SESSION

At 4:05 p.m. the session was resumed.

Upon resumption of session, Mr. Rama withdrew his amendment on the understanding that his proposal will be inserted in Section 7.

Mr. Padilla, thereafter, restated his amendment.

Upon inquiry by the Chair if Mr. Padilla's amendment was included in the Committee's reformulation, Ms. Aquino informed that the Committee had accepted the first part of the amendment, to wit: "The government may call upon the people to defend the State and in the fulfillment thereof all citizens may be required by law" but that the Committee had not accepted the deletion of the clause "with due regard to objections of conscience" which it would like to submit to the Body for a vote.

Upon direction of the Chair, Ms. Aquino read Section 6, as amended, to wit:

THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT THE PEOPLE. THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE AND IN THE FULFILLMENT THEREOF ALL CITIZENS MAY BE REQUIRED BY LAW WITH DUE REGARD TO OBJECTIONS OF CONSCIENCE, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE.

Mr. Padilla accepted the formulation of the second sentence with the understanding that the Body would vote on the proposal to delete the phrase "with due regard to objections of conscience".

REMARKS OF MR. DE CASTRO

Mr. de Castro informed that he agrees with the formulation and expressed his support of Mr. Padilla's proposed amendment; He pointed out that should no one come to the defense of the State, all provisions in the Constitution would be useless. He argued that the deletion of the phrase would mean that every citizen has the prime duty to defend the State, to defend his honor and dignity. By allowing the phrase to remain he stated that anyone could

claim that it is against his conscience to bear arms. While the individual's strong convictions may prevent him from taking arms, Mr. de Castro noted that even those assigned to noncombatant duties may be attacked and they would be forced to take up arms and defend themselves and the State.

REMARKS OF MR. GARCIA

Mr. Garcia summarized the arguments of the Committee in proposing to retain the phrase, as follows: (1) there are many ways of defending one's country other than taking up arms, such as helping the sick and wounded, providing many other services; (2) the refusal to bear arms based on conscientious objection or religious beliefs must be considered with due regard and not the only factor; (3) it would not prohibit anyone from helping out in state services; (4) the exceptions shall be verified on a case-to-case basis as this will not be a general rule; and (5) an army composed of individuals who, in their conscience refuse to serve with arms, would be an ineffective army.

REMARKS OF MR. REGALADO

Mr. Regalado observed that the bone of contention revolves on the phrase "with due regard to objections of conscience". He pointed out that there may be a syntax error inasmuch as "conscientious objection" cannot be raised with respect to civil service since it is affected by the present position of the phrase which appears to modify both military and civil services.

Mr. Regalado stated that he agrees with the deletion of the phrase which can be replaced with the phrase UNDER CONDITIONS PROVIDED BY LAW. The second sentence would then read: "The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens may be required UNDER CONDITIONS PROVIDED BY LAW to render personal military or civil service".

As formulated, he observed that it would not preempt Congress from providing for various situations such as the age, nature of duty and duration of military service. He recalled that pursuant to the 1935 Constitutional provision? Commonwealth Act No. 1 or the National Defense Act was passed to implement the said provision.

He stated that under the phrase UNDER CONDITIONS PROVIDED BY LAW, Congress may copy the provisions of the National Defense Act or expand it or Congress may also consider the possibility of conscientious objection and determine the basis thereof. He observed that this would give flexibility to Congress, in much the same way as the 1935 Constitution did, resulting in Commonwealth Act No. 1.

REMARKS OF MR. RIGOS

Mr. Rigos observed that in the light of Mr. Regalado's statement, his objections would become academic especially if the Body considers it an amendment to the amendment.

The Chair informed that Mr. Regalado did not propose an amendment but manifested an intention to introduce an amendment by insertion.

Mr. Regalado opined that in parliamentary practice, a simple motion to delete takes precedence over a motion to insert. He stressed that in the event the motion to delete is granted, he would introduce his own proposal.

Mr. Rigos inquired, in the event the Body approve the deletion of the phrase "with due regard to objections of conscience", whether it would be possible that the law itself, in requiring the citizens to defend the State, shall give due regard to objections of conscience.

Ms. Aquino replied that jurisprudence on the matter is clear that conscientious objection is given due course. As

to whether the deletion of the phrase would allow Congress to put it back, Ms. Aquino replied that it is the Committee's intention to make that explicit in the provision.

REMARKS OF MR. DE CASTRO

Mr. de Castro informed that after consultation with Mr. Padilla, they agreed to the insertion of the phrase "under conditions required by law" which should be placed at the end of the sentence. Thereupon, he asked for a vote on the motion to delete the phrase "with due regard to objections of conscience".

INQUIRY OF MR. BACANI

On Mr. Bacani's query whether "personal military service" would necessarily refer to combatant service, Mr. Tingson replied that this may refer to combatant and noncombatant military service.

Mr. Bacani stated that he favors retaining the phrase as there are cases where people really believe that their country is engaged in an unjust war of aggression which is bound to happen more often than objections based on religious belief.

Mr. de Castro pointed out that the provision speaks of defense of the State and not of an act of aggression.

PROPOSED AMENDMENT OF MR. GUINGONA

On Section 6, page 2, line 14, Mr. Guingona proposed that the word "civil" be changed to CIVIC so as not to confuse it with civil service as used in the section on the Civil Service Commission.

Mr. de Castro objected by pointing out that civil service refers to such services as putting out fires, serving as janitors in hospitals or medical stations during war.

In view thereof, Mr. Guingona withdrew his amendment.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed a compromise, to wit: THE GOVERNMENT EXISTS TO SERVE AND PROTECT THE PEOPLE. IT IS ITS DUTY TO DEFEND THE STATE AND IN THE FULFILLMENT THEREOF ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS REQUIRED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE. He informed that the amendment contains Mr. Regalado's proposal.

Upon inquiry of the Chair, Ms. Aquino informed that the amendment of Mr. Padilla on the recasting of the second sentence has been accepted by the Committee; and that the Body would vote on the motion to delete "with due regard to objections of conscience" as suggested by Messrs. de Castro, Padilla and Regalado.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 4:27 p.m.

RESUMPTION OF SESSION

At 4:32 p.m., the session was resumed.

Upon resumption of session, the Chair stated that there was a pending motion of Messrs. Padilla and de Castro to delete the words "with due regard to objections of conscience" which the Body should act upon before the

Committee could entertain further amendments to Section 6. The Chair then asked the Committee to restate the reformulated Section 6.

RESTATEMENT OF SECTION 6, AS AMENDED

Thereupon, Ms. Aquino read Section 6 with the amendment of Mr. Padilla incorporated therein, to wit:

THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT THE PEOPLE. THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW, WITH DUE REGARD TO OBJECTIONS OF CONSCIENCE, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE.

APPROVAL OF THE AMENDMENT OF MESSRS. PADILLA AND DE CASTRO

Submitted to a vote, and with 22 Members voting in favor, 5 Members voting against and one abstention, the Body approved the amendment to delete the words "with due regard to objections of conscience" on lines 13 and 14.

AMENDMENT OF MR. REGALADO

As proposed by Mr. Regalado, the Committee accepted the amendment to insert between the words "required" and "by" a comma (,) and the words UNDER CONDITIONS PROVIDED.

REFORMULATION OF SECTION 6

Mr. Tingson read the reformulated Section 6 with the amendments of Messrs. Padilla, Davide and Regalado incorporated therein, to wit:

THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE. IT IS ITS PRIME DUTY TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE.

Mr. Rama asked for the deletion of the word "prime".

Mr. de Castro pointed out, however, that Mr. Davide, the proponent of the new formulation, had accepted his suggestion to retain the word "prime", to which Mr. Davide offered a compromise so that the second sentence would start IT IS A PRIME DUTY . . .

Mr. de Castro maintained that the prime duty of the government is the defense of the State, otherwise, the whole gamut of the Constitution would be lost and it is for this reason, he stated, that the word "prime" should be retained.

AMENDMENT OF MR. PADILLA

Mr. Padilla expressed preference for the original draft of the first sentence of Section 6 because it stresses the duty of the government to serve and protect the people and in return, the government may call upon the people to render personal military or civil service.

On the Chair's query whether he would be satisfied with the new formulation which reads THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE, Mr. Padilla stated that he would have no objection if it is worded TO SERVE AND PROTECT THE PEOPLE and not "to protect and serve the people".

The Committee accepted Mr. Padilla's proposal.

On Mr. de Castro's suggestion that the first sentence should read THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT ITS PEOPLE, Mr. Padilla stated that that was not his suggestion but Mr. Davide's. He stated that he would prefer the retention of the first sentence as originally formulated in the Committee Report.

Mr. Davide agreed.

Mr. Rama asked that the Body vote on the first sentence.

Mr. Tingson agreed that the Body vote on Mr. Padilla's proposal to revert to the original formulation of the first sentence.

Ms. Aquino suggested that the Body vote on two alternatives, namely, 1) on Mr. Padilla's proposal to revert to the original Committee formulation; and 2) on Mr. Davide's amendment, to which the Chair replied that it has to present only one formulation, otherwise it would be more difficult.

WITHDRAWAL OF MR. DAVIDE'S AMENDMENT

Mr. Davide withdrew his proposed amendment on the first sentence.

RESTATEMENT OF SECTION 6, AS AMENDED

Mr. Tingson restated Section 6, as amended, to wit:

THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT THE PEOPLE. IT IS ITS DUTY TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE.

Mr. Padilla observed that if the first sentence is retained, the second sentence as proposed by Mr. Davide would not seem to be in harmony. He opined that the second sentence, as amended and approved, would be in better harmony.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:48 p.m.

RESUMPTION OF SESSION

At 4:53 p.m., the session was resumed.

RESTATEMENT OF SECTION 6, AS AMENDED

Ms. Aquino read Section 6 with Mr. Padilla's amendment incorporated therein:

THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT THE PEOPLE. THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE.

Mr. de Castro proposed to insert the word ALL between the words "upon" and "the", explaining that the State call upon all the people for its defense.

On Mr. Rama's observation that with the amendment, even the handicapped people would be included, Mr. de Castro argued that everybody should be called upon because what would be at stake is the defense of the State.

Ms. Aquino stated that the sense of Mr. de Castro's proposal is already covered by the phrase "all citizens may be required".

In view thereof, Mr. de Castro did not insist on his proposal.

Relative to the phrase "call upon the people", in reply to Mr. Guingona's query as to what the word "people" would refer, Ms. Aquino stated that it would refer to citizens only.

Mr. Bacani noted that the second sentence needs some charges which the Committee on Style should take note.

APPROVAL OF SECTION 6, AS AMENDED

There being no objection, the Chair declared Section 6, as amended, approved by the Body.

MANIFESTATIONS OF MESSRS. GARCIA AND NOLLEDO

Messrs. Garcia and Nollado manifested for the record that they abstained from voting on the amendment.

PROPOSED AMENDMENT OF MR. RAMA

On Section 7, page 2, Mr. Rama proposed the following amendments:

- 1) on line 15, change "prime" to PRIMARY;
- 2) on line 17, between the words "the" and "independence", insert the words PROSPERITY AND; delete the word "aims" and in lieu thereof insert the words TO THIS END, IT SHALL ENDEAVOR TO FREE THE PEOPLE FROM MASS POVERTY and a comma (,); and
- 3) on line 18, delete the words "for the people" and insert the word THEM,

so that Section 7 would read:

THE PRIMARY CONCERN OF THE STATE IS THE PROMOTION AND ESTABLISHMENT OF A SOCIO POLITICAL AND ECONOMIC SYSTEM THAT WILL ENSURE THE PROSPERITY AND INDEPENDENCE OF THE NATION AND TO THIS END, IT SHALL ENDEAVOR TO FREE THE PEOPLE FROM MASS POVERTY, TO SECURE THEM THE BENEFITS OF FULL EMPLOYMENT, A HIGH STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES, SECURITY IN OLD AGE, AND OTHER BASIC HUMAN RIGHTS.

He explained that the nation cannot be independent unless it is prosperous, adding that the Constitution must also address the problem of mass poverty which is the oldest and most painful problem of the country for centuries, hence, the insertion of the phrase "and to this end, it shall endeavor to free the people from mass poverty".

The Sponsor accepted and modified Mr. Rama's proposed amendment, so that Section 7 would read:

IT SHALL BE THE PRIME CONCERN OF THE STATE TO ESTABLISH, PROMOTE, AND MAINTAIN A SOCIO-POLITICAL AND ECONOMIC SYSTEM THAT WILL ENSURE THE INDEPENDENCE AND PROSPERITY OF THE NATION. TO THIS END, IT SHALL ENDEAVOR TO FREE THE PEOPLE FROM

MASS POVERTY, SECURE FOR THE PEOPLE THE BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES, SECURITY IN OLD AGE, AND OTHER BASIC HUMAN RIGHTS.

Mr. Rama, in turn, accepted the Committee's modification.

MR. BACANI'S PROPOSED AMENDMENT TO THE AMENDMENT

Thereupon, Mr. Bacani, likewise, proposed to amend Section 7 to read as follows:

THE PRIMARY CONCERN OF THE STATE IS THE ESTABLISHMENT AND PROMOTION OF A DYNAMIC SOCIAL ORDER THAT WILL PROMOTE THE DIGNITY OF EACH PERSON AND THE COMMON GOOD OF ALL.

SUSPENSION OF SESSION

At this juncture, the Chair suggested that the proponents confer with the Committee to consolidate their amendments on Section 7.

The Chair suspended the session.

It was 5:02 p.m.

RESUMPTION OF SESSION

At 6:38 p.m., the session was resumed.

Upon resumption of session, Mr. Rama manifested that a reformulation had been agreed upon by the Members.

Thereupon, he asked that Mr. Tingson be recognized.

REFORMULATION OF THE AMENDMENTS OF MESSRS. BACANI AND RAMA

Mr. Tingson read the reformulated amendments of Messrs. Bacani and Rama as follows:

THE PRIME CONCERN OF THE STATE IS TO BUILD AND SUSTAIN A DYNAMIC SOCIAL ORDER THAT WILL FREE THE PEOPLE FROM POVERTY PROTECT THE DIGNITY OF EVERY PERSON AND ENHANCE THE QUALITY OF LIFE FOR ALL.

AMENDMENT OF MR. MONSOD

Mr. Monsod proposed to substitute "will" between "that" and "free" with CAN which the Committee accepted.

REMARKS OF MR. PADILLA

In reply to Mr. Padilla's query on the verbs used, the Chair stated that "build" and "sustain" are the verbs used.

Mr. Padilla remarked that to build and to sustain would be very difficult if not impossible and suggested that the following formulation be considered: THE CONCERN OF THE STATE IS FOR A SOCIAL ORDER THAT WILL ENDEAVOR TO MAINTAIN THE DIGNITY OF MAN. . . .

Reacting thereto, Mrs. Rosario Braid stated that the provision is an aspiration and a declaration of the vision desired, in reply to which, Mr. Padilla stated that the vision is addressed to the phrase "dynamic social order".

In reply to Mr. Padilla's query on who shall "build and sustain", Mrs. Rosario Braid stated that the State and the people shall be the ones to "build and sustain".

Mr. Padilla opined that the provision might give the impression that the State or the government is the cure-all remedy for all the evils and problems despite the word "concern".

Mrs. Rosario Braid replied that the intent is misconstrued as the spirit of the provision is to make the government a facilitator of the climate that would build and sustain a new social order and it would not preclude the people from working together with the State.

Mr. Padilla opined that it should be the people who should primarily build and sustain a dynamic social order with the least restraints, interference and control by the State through free enterprise and that progress and prosperity is not the duty of the State but the result of the efforts, initiative and sacrifice of the people under a regime of justice and freedom.

Mrs. Rosario Braid stated that she does not disagree with Mr. Padilla's observations but that the State should orchestrate the efforts of the people.

Mr. Monsod proposed to substitute "build and sustain" with PROMOTE stating that the State, the sectors and all elements of society would be assisting each other in this endeavor.

Mr. Tingson accepted the proposed amendment on behalf of the Committee, so that the provision would read: THE PRIME CONCERN OF THE STATE IS TO PROMOTE A DYNAMIC ORDER.

PROPOSED AMENDMENT OF MRS. NIEVA

Mrs. Nieva proposed to insert JUST SOCIAL between "dynamic" and "order" stating that "dynamic" has a different meaning, to which Mr. Bacani replied that the idea of social order already implies justice, balance and harmony.

In reply to the Chair's query whether the Committee accepts Mrs. Nieva's proposed amendment, Mr. Tingson answered in the negative.

In reply to Mrs. Nieva's query on whether there is no social order that is unjust, Mr. Bacani explained that if it is not just, there is no social order to speak of, for which reason Mrs. Nieva desisted from proposing her amendment.

AMENDMENT OF MR. DE CASTRO

Mr. de Castro proposed to delete "prime" stating that Sections 6 and 7 already start with the word "prime", which proposal was accepted by the Committee.

Mr. Rama stated, however, that the original formulation was "primary", to which Mr. de Castro replied that the deletion would be for aesthetic purposes.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 5:48 p.m.

RESUMPTION OF SESSION

At 5:49 p.m., the session was resumed.

Upon resumption of session, Mr. Rama manifested the new formulation proposed by Mrs. Nieva and Mr. Rigos, to wit:

SECTION 7. THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT CAN FREE THE PEOPLE FROM POVERTY, PROTECT THE DIGNITY OF EVERY PERSON AND ENHANCE THE QUALITY OF LIFE FOR ALL.

MODIFICATION BY MR. DAVIDE

Mr. Davide proposed to delete the phrase "protect the dignity of every person" stating that the sense is already covered by a separate provision which was introduced by Mr. Bacani.

Mr. Tingson accepted Mr. Davide's proposal, so that Section 7 would read:

THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT CAN FREE THE PEOPLE FROM POVERTY AND ENHANCE THE QUALITY OF LIFE FOR ALL.

Mr. Padilla stated, however, that he feels antagonistic to provisions starting with "The State shall" because of too much imposition of obligations and duties on the State.

In reply to the Chair's query whether a proposal is being offered, Mr. Padilla replied in the affirmative, but that a careful study would be required.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 5:54 p.m.

RESUMPTION OF SESSION

At 5:55 p.m., the session was resumed.

Upon resumption of session, Mr. Tingson reiterated the Committee's suggestion that the reformulated section be submitted to a vote.

PROPOSED AMENDMENT OF MR. DE LOS REYES

Mr. de los Reyes objected to the use of the word "poverty" stating that it sounds like demagoguery and that it is not inspiring to include the word in the Declaration of Principles and State Policies. He opined that the original formulation of the Committee was better with the changes already effected by some Members.

He proposed to reword the Section to read:

THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT SECURES FOR THE PEOPLE THE BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE.

Mr. Rama stressed that the word "poverty" must be included as there are efforts to solve this number one problem by properly identifying it. He noted that Mr. de los Reyes may not understand this probably because he is wealthy.

Thereupon, he asked for a vote on Mr. de los Reyes' amendment.

In reply thereto, Mr. de los Reyes stressed that he is not wealthy which fact could be attested to by his provincemates. He admitted that there is indeed a problem of poverty in the country, but he does not see the point of including it in the Declaration of Principles which would be an inspiring article in the Constitution. He stated that he was amenable to submitting his amendments to a vote.

The Chair explained the parliamentary situation by stating that Mr. de los Reyes' amendment would restore the words "benefit of full employment, rise in standard of living, equality in economic opportunities, quality of life".

In reply to the Chair's query, Mr. Tingson stated that the Committee does not accept the proposed amendment and would prefer that the Body decide on the matter.

Mr. de los Reyes insisted on his amendment.

Submitted to a vote, and with 13 Members voting in favor, 9 against and 1 abstention, the amendment of Mr. de los Reyes was approved by the Body.

Thereupon, the Chair requested the Committee to reformulate the provision to include the words proposed by Mr. de los Reyes.

Mr. Monsod stated that he is confused inasmuch as the Section states "freedom from poverty" and in the next breadth "promote full employment" which he stated is not properly sequenced. He noted that Mr. de los Reyes' manifestation was to delete the reference to poverty.

Mr. de los Reyes affirmed that it was his intention.

The Chair stated that it was precisely the reason why before voting, it clarified the situation, and that Mr. de los Reyes agreed that the intention was to insert the words mentioned by the Chair.

Reacting thereto, Mr. de los Reyes observed that even before the voting, he was arguing on the premise that it would not be good for the Declaration of Principles to state "poverty" which amounts to hair-splitting technicalities.

Thereupon, the Chair referred the matter to the Committee for reformulation.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 6:04 p.m.

RESUMPTION OF SESSION

At 6:08 p.m. the session was resumed.

Upon resumption of session, Mr. Rama moved to adjourn the session.

At this juncture, in reply to the Chair's query, Mr. Tingson stated that the Committee would consider Mr. de los Reyes' proposal in the next session.

ADJOURNMENT OF SESSION

On motion of Mr. Rama, there being no objection, the Chair declared the session adjourned until nine o'clock in the morning of the following day.

It was 6:09 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO
Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on September 20, 1986

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