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Wednesday, July 23, 1986

OPENING OF SESSION

At 9:49 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Jose B. Laurel, Jr.

Everybody remained standing for the Prayer.

PRAYER

MR. LAUREL: Almighty God, even as the eagle flies at will in the infinite reaches of the skies, so let our vision soar untrammelled as we seek that radiant future we hope to ensure for our people in the Constitution we are writing.

Let it be a future where all persons are born free, relishing their rights but always with deference to the rights of others and recognizing authority only as long as its highest commitment is to the strengthening and defense of liberty.

Grant that the spirit of freedom shall always reign in our land, touching one and all like a benediction and igniting that divine spark in every human being that can make him, indeed, slightly "lower than angels" in this imperfect world.

Grant us courage, that we may face up to the powerful and defend those who are weak and oppressed.

Grant us wisdom, that we may distinguish between what is right and what is just, for they are not always the same.

Grant us candor, that we may be true to ourselves and so not false to others.

Grant us strength when we are assailed by despair, or self-doubt, or temptation.

And finally, Lord, grant the new Constitution grace and beauty of language, so that generations from now, when all of us here are gone, our people will still be moving reverently to the cadence of its thoughts.

Bless us all, Eternal Spirit, and keep us free, forever and ever. Amen.

ROLL CALL

THE PRESIDENT: The Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Natividad Present

Alonto Present [*] Nieva Present [*]

Aquino Present [*] Nollado Present

Azcuna Present [*] Ople Present [*]

Bacani Present Padilla Present *

Bengzon Present Quesada Present

Bennagen Present Rama Present

Bernas Present [*] Regalado Present

Rosario Braid Present Reyes de los Present

Brocka Present [*] Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco

Present Rosales Present

Concepcion Present Sarmiento Present

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present [*] Tadeo Present [*]

Gascon Present Tan Present [*]

Guingona Present Tingson Present

Jamir Present Treñas Present

Laurel Present Uka Present

Lerum

Present [*] Villacorta Present

Maambong Present [*] Villegas Present

Monsod Present

The President is present.

The roll call shows 34 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of a quorum.

MR. CALDERON: Madam President, I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON: Madam President, I move for the approval of the Journal of the previous session.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. CALDERON: I move that we proceed to the Reference of Business.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

The Secretary General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Mr. Antonio A. dela Cruz, Captain, PA (Ret.), President, AFP, CDD, PERS Assn., Inc. addressed to the Honorable Teodulo Natividad, submitting some proposals for the upliftment of the disabled soldiers.

(Communication No. 280 — Constitutional Commission of 1986)

To the Committee on Social Justice. Letter from Mr. Nicanor B. Petalino of Concepcion, Batangas City, proposing the presidential form of government with a unicameral legislature, a change in the organizational setup of the barangay to a cooperative type to promote unity and cooperation and suggesting qualifications of candidates for the barangay council.

(Communication No. 281 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Blas S. Flores of Ilwas, Subic, Zambales, suggesting that former KBL officials be disqualified to run for public office in the forthcoming elections for two consecutive terms, and should the U.S. military bases be retained, American personnel, civilian or military, be required to dress properly when going off-base.

(Communication No. 282 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Alliance for Philippine Concerns, signed by Mr. Jorge A Emmanuel, Executive Secretary, and endorsed by the National Organization Against Nuclear Power and Weapons, submitting a proposal for a non-nuclear provision in the Philippine Constitution.

(Communication No. 283 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Mr. Abraham M. Aboga, Associate Professor of Finance and Banking, University of the East, submitting constitutional proposals on monetary and fiscal policy.

(Communication No. 284 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from the Integrated Bar of the Philippines, Zamboanga del Sur and Pagadian City Chapter, signed by its Chairman, Judge Manolo P. Reyes, and other members, expressing its stand on some of the emerging issues in the Constitutional Commission.

(Communication No. 285 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Salvador O. Oco of 13 Moonbeam St., Moonwalk Subd., Parañaque, Metro Manila, thru Minister Juan Ponce Enrile of the Ministry of National Defense, submitting constitutional proposals for consideration by the Constitutional Commission.

(Communication No. 286 — Constitutional Commission of 1986)

To the Steering Committee.

Petition from the Veterans Federation of the Philippines, Zamboanga del Sur Chapter, Pagadian City, signed by Mr. Eufemio C. Salera, Veterans District Commander, Zamboanga del Sur Chapter, proposing a presidential form of government with a unicameral legislature, among others.

(Communication No. 287 — Constitutional Commission of 1986)

To the Committee on the Executive.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I move that we close the period of sponsorship and debate on the Article on the Legislative so that we can proceed to the period of amendments.

THE PRESIDENT: I do not understand. Are we excluding the provision on the terms of office?

MR. RAMA: Yes. This will be taken up later in the period of amendments.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

CONSIDERATION OF C.R. NO. 22

(Article on the Legislative/National Assembly)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: Madam President, I move that we proceed to the period of amendments on the Article on the Legislative.

THE PRESIDENT: Is there any objection? What does the Chairman of the Committee on the Legislative say? Are we ready to proceed?

MR. DAVIDE: We are ready, Madam President.

THE PRESIDENT: So, may we call on the Chairman, Commissioner Davide, and the members of the Committee on the Legislative.

MR. RAMA: Madam President, I ask that Commissioner Colayco be recognized to present an amendment.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

I would like to propose an amendment on Section 19. Lines 2 up to 4 read as follows:

No Senator or Member of the House of Representatives shall appear as counsel before any court which is not of collegiate composition . . .

I would like to propose that the prohibition on the Senators and Members of the House of Representatives to appear as counsel before any court of justice be made absolute. My reason is that membership in the legislature necessarily carries with it a special prestige and, therefore, constitutes an unfair advantage over the other party. That is one reason. Second, because of the same prestige, there is always the fear and suspicion on the part of the public that they can easily influence the mind of the members of the court in framing their decisions.

We have decided in this Commission, especially in the Committee on the Judiciary, to frame a Constitution that will not only establish a system whereby the judiciary can really become independent from any pressure, but also will correct the impression among the people that it is subject to outside influence and to pressure from the government as well as from interested parties.

One of the most common complaints of lawyers appearing in court is that the appearance of a Member of the legislature constitutes an unfair advantage. It is, therefore, for these reasons that I propose that the first line of Section 19 read as follows: "No Senator or Member of the House of Representatives MAY appear as counsel before any court."

MR. DAVIDE: Madam President, the proposed amendment would, therefore, affect the succeeding lines where appearance would be allowed except in the cases therein provided. The Committee regrets that it cannot accept the proposal for the following reasons: First, insofar as influence by a Senator or a Member of the House of Representatives is concerned, the same can no longer obtain because firstly, under the proposed Article on the Judiciary, which was already approved on Third Reading, appointments to the judiciary will no longer be subject to confirmation by the Commission on Appointments. Besides, appointments to the judiciary will be initiated by the Judicial and Bar Council which will be responsible for submitting a list of at least three for any vacancy. So, no Senator or Member of the House of Representatives can unduly influence appointments to the judiciary. Secondly, we would be discouraging competent, highly qualified and capable lawyers to run for the position of Senator or Member of the Lower House. In short, we will be depriving both Houses of talents coming from the legal profession: lawmaking would really require talents from the legal profession.

And finally, the appearance here is limited only to courts of collegiate composition. Necessarily, these courts would mean a court with more than two justices. Therefore, any undue influence cannot be expected because a Senator or a Member of the House of Representatives cannot be expected to influence more than two justices in a given collegiate court.

MR. COLAYCO: I wish I could believe the sponsors. I have been in the judiciary for more than 15 years. Although I am glad to say that I was never subjected to pressures by luck or otherwise, I have seen it happened; and although I can say that the majority of the justices have been faithful to their duties, there have been cases.

It is true that under the new system of appointing the members of the judiciary, the influence of the Congress or the National Assembly, through the Commission on Appointments, is absent. But it cannot be denied that a legislator carries with him a certain aura of influence. He carries a certain clout whenever he appears before any government body which has any adjudicatory function at all. And members of the judiciary are very vulnerable to this insidious influence.

It may be argued that insofar as the Supreme Court is concerned, the danger may be minimal because they have nothing more to expect as far as promotion is concerned. But what about those below the Supreme Court? For instance, the members of the Intermediate Appellate Courts and the Sandiganbayan always hope that they will be promoted. And like good men, they do not want to have any negative factor that may be an obstacle to their promotion. Legislators are influential people whether they lift a finger or not. There is always that fear in the mind of the member of the collegiate court that sometime in the future, he may need the help of the legislative member appearing before them, although unsolicited.

In a collegiate court, there are at least three members but there is always the fear of backslapping. And given the usually supportive nature of our people, when they feel that there is apparently nothing improper, they would rather give their conformity in order to accommodate a member of the collegiate court.

These things have happened in the past and these may happen again. These are the reasons why I felt that to insulate our courts completely from any improper influence, the Members of the National Assembly, both of the Upper and the Lower House, should be forbidden to appear before courts of justice.

MR. ROMULO: Madam President, I would like to support the amendment. May I be recognized?

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Madam President, since I am practicing law, I do not want to be accused of trying to eliminate competition. But I do have the following observations. The Chairman of the Committee is correct when he said that we have insulated the judiciary from the more pernicious forms of political interference in the Article on the Judiciary, but the legislature still holds the power of the purse. So, that is one factor to consider. Secondly, the old Congress had such a bad image with regard to influence peddling. We would rather that they be paid a good salary and once they are elected, devote themselves to lawmaking and forget about court appearances. In any case, they would not be disqualified from being legal consultants. It is only court appearances that we wish to eliminate above all else in order to improve their image before the public because we must restore confidence in government. We have had the so-called revolution. It is time to change our habits. It is time for public servants to lead by example and to truly make sacrifices. I think, if we give them the right salary, it will not discourage good lawyers from running for public office. And finally, those of us who do practice, I think, support Commissioner Colayco. When one appears against a Senator, the latter has an advantage. That cannot be denied.

Thank you, Madam President.

MR. DAVIDE: Madam President, the Committee would like to reply. In the matter of promotion which was taken up by Commissioner Colayco, the umbilical cord of influence by the Members of Congress had been totally cut off by the approval of the Article on the Judiciary. All appointments to the judiciary will pass through the Judicial and Bar Council composed of seven members headed by the Chief Justice as ex officio chairman, a representative from the National Assembly and the Minister of Justice as ex officio members, and a nominee from the Integrated Bar of the Philippines, a law professor, a representative from the private sector and a retired Justice. They will submit a list of at least three for every vacancy. The President is to appoint only one from the three recommended and, therefore, the influence exerted by any Senator or Member would be all sound and theory. Secondly, the National Assembly would still hold the purse for appropriations. The Article on the Judiciary already grants the judiciary fiscal autonomy and releases are to be regularly and automatically made. And so, we cannot perceive an undue influence or pressure by the use of the appropriations authority of the legislature.

On the matter of service, supposedly a total commitment to public service, we provided here a continuing legislative organ allowing only a recess of 30 days between adjournment of a session and the commencement of

another regular session. Besides, the appearance will be limited merely to collegiate courts and, therefore, we believe that it will not really take much of the time of a lawyer since collegiate courts would have limited jurisdiction.

And finally, on the matter of adequate compensation, we believe that until it is approved, the aspect of adequate compensation has no factual and legal basis. As a matter of fact, probably, the compensation may not at all be adequate.

We would rather submit the matter to a vote by the body, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

May we address some questions to the distinguished proponent of the amendment?

MR. COLAYCO: Of course.

MR. SUAREZ: I heard the proponent mention that he has been serving the government, specifically the judiciary, for more than 15 years. His service has been very distinguished, I know that as a fact, having been in the practice of law, and I would like to respect his observations regarding this particular section. He is suggesting that after the word "court," add the words "OF JUSTICE" and then put a period (.) and delete the other provisions governing the disqualification to appear in civil and criminal cases. Is my understanding correct?

MR. COLAYCO: That is correct; Madam President.

MR. SUAREZ: The proponent is aware of the fact that there is now a provision proposed under the Article on the Legislative that instead of holding only sessions for 100 days as in the 1935 and 1973 Constitutions, it is contemplated that the Members of the Senate and the House of Representatives would have sessions the whole year until 30 days before the next regular session is called.

MR. COLAYCO: In other words, it would be a full-time job.

MR. SUAREZ: The proponent is aware of that situation now.

MR. COLAYCO: I think that would support my position.

MR. SUAREZ: Yes. And that is one of the reasons why probably, he is agitating for the amendment of Section 19.

MR. COLAYCO: That is correct.

MR. SUAREZ: There is a phrase here which reads: "shall appear as counsel." I suppose the proponent is referring to a personal appearance as counsel.

MR. COLAYCO: That is correct.

MR. SUAREZ: It would not preclude, for example, the law firm to which this Senator or Member of the House would be connected from appearing before any court?

MR. COLAYCO: I would include that in my prohibition.

MR. SUAREZ: In other words, the proponent would prohibit even the law firm to which he or she may be a partner from appearing before any court of justice.

MR. COLAYCO: That is correct, Madam President.

MR. SUAREZ: The other point which we would like to clear up is, this prohibition would be only effective during the term or tenure of the Senator or the Member of the House.

MR. COLAYCO: That is correct.

MR. SUAREZ: It would not preclude him or her from appearing in the courts after that.

MR. COLAYCO: That is correct.

MR. SUAREZ: Thank you.

MR. COLAYCO: Thank you, Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, I am against this proposed amendment because it would bar any member of the legislature from exercising his profession as a practicing lawyer for his appearance as counsel is already limited by the Constitution.

If the limitation be made absolute, I do not believe it will be conducive to even good practicing lawyers aspiring to receive popular support for their elevation by election to the House or to the Senate.

During my many years as Senator right after the 1957 election, I refused to be a member of the Commission on Appointments for the simple reason that I was in the private practice of law. Now, to bar a lawyer-legislator from any appearance in the courts is, I think, an undue limitation.

I heard Commissioner Romulo say that they should not appear but they can continue their consultancy work. In my opinion, there is absolutely no public policy to be enhanced by barring court appearances, even of Senators or Congressmen, provided they do not involve those cases that are presently prohibited in the Constitution. There is really no undue advantage of a practitioner-lawyer who is a Member of the legislature from appearing or even arguing in court. I think the more sinister influence of lawyers-legislators is when they use their influence behind the scenes, not in open court appearances. There are occasions when big law firms whose partners are of some renown do not personally appear, not even in oral arguments before the Supreme Court, much less in the Intermediate Appellate Court and in the lower trial courts. But if influence is used indirectly, without appearing in court but through other extrajudicial connections, such influence is much worse and that is an insidious practice that should be condemned. But when a lawyer-legislator who is in the practice of law appears as any other practicing lawyer, even when he personally appears in court or argues the merits of the case he is handling and personally presents evidence in these courts, I do not believe there is any undue advantage. In fact, most judges do not yield to any political influence. But the influence, if any, which I deny, does not arise from the personal appearance in the practice of law. What I would more abhor is the backstage or nonappearance influence by some elements of those who are practicing law who may be legislators, or even if they are not legislators, those who exercise some kind of sinister influence, other than personal appearance in court.

Thank you, Madam President.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: May the distinguished Commissioner Padilla yield to just one or two questions?

MR. PADILLA: Gladly.

MR. NATIVIDAD: In his long experience as a Member of the Senate, wherein the constitutional restrictions and

limitations in the practice of law have been present also, did the Commissioner have any feeling or perception that the other professions which are equally involved are not being equally restricted? I mean, in the Congress, there are many professions involved. There are certified public accountants, land-owners and businessmen who sit in the board of corporations and as legislators, they also sit in committees to draft the taxation measures. Why do we overly restrict the one old profession, the profession of law? I remember, in my first term in Congress, I wanted to file a resolution asking that all Members of Congress declare themselves free of other stocks and other possessions in order to be able to address the problems more objectively. But if we will restrict and absolutely prohibit the practice of one profession, should we not also do that as far as the other professions are concerned, because from the five terms that I served, there are many professions involved in the Congress and there was no limit to it. We cannot all stop them from practicing their profession. What is the Commissioner's opinion on that?

MR. PADILLA: That is why I am against an absolute prohibition of lawyers-legislators from allowing their personal appearance in the courts of justice, except those cases that are provided in the Constitution. I accept these exceptions but not an absolute bar. I think the Gentleman is right. Why impose the bar only on lawyers? Is it because the majority of the members of the legislature are lawyers? Even to put some limitations and even prohibitions on the other professions would be very difficult to accomplish. But the Commissioner is correct. As a matter of principle, if one prohibition is imposed on lawyers, a similar prohibition can be reasonably imposed on other professions.

MR. NATIVIDAD: If we speak of prestige and the influence of a Member of Congress and we allow a businessman-legislator to engage in business, that would be the equivalent of the same prestige that the lawyer enjoys. Does not the Commissioner think so?

MR. PADILLA: That is correct, Madam President.

MR. NATIVIDAD: I thank the Commissioner, thank you, Madam President.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: May I ask one question of Honorable Padilla please?

MR. PADILLA: Gladly.

MR. TINGSON: Madam President, anyone should be satisfied by the fact that he has been elected to the prestigious office in the Senate, with its honor, high dignity and bright future. So, acceding to the amendment that he bar himself from the practice of law at least while he is a Senator, would that not be a reasonable request?

MR. PADILLA: To be elected by the people, especially on a nationwide basis, in the Senate is indeed a gift from the people and a significant privilege and a distinct honor. But under the 1935 Constitution, the compensation of Senators was only P600 a month which was later increased to, I think, less than P2,000. Of course, a Member of the Congress was allotted sums appropriated for his staff and sometimes was given the so-called pork barrel privilege which was never reasonably accomplished. In other words, that so-called pork barrel was an allocation of certain public funds for some public projects all over the country in accordance with suggestions but, as I have mentioned in my first speech, we might say here, the situation has always been that there have been so many appropriations and less actual collections that the allocations by Congress in the budget were never implemented by the President, and it required the Members of Congress, the Congressmen especially, to request the President to give priority to their respective pork barrel allocations. That made the Member of Congress dependent on the President. That is why I suggested that we eliminate this former practice, or at least the future Congress should

eliminate the practice of over appropriating public funds when they are not available. The "colatilla" or excuse is "subject to availability of funds." But the funds are never available and, therefore, those suggestions or projects supported or encouraged or insinuated by the Members of Congress were never accomplished except at the discretion of the President who had more control over Congress.

MR. TINGSON: A Senator should be satisfied with the honor and the privilege of serving in that very high category of membership in the Senate.

MR. PADILLA: That is correct. I think that is a great honor, short only of being president or vice-president because they are elected nationwide. But a legislator cannot support his family and the education of his children with only a privilege or honor. If a Member of Congress has always been in the practice of law and that is his legitimate means of livelihood, as well as the source of legitimate income to give his family and his children the proper support and education, why should he be barred from the exercise of that profession, especially when the electorate knew that prior to his election and before he entered the field of politics and subjected himself to popular election, he has been a practicing lawyer and that the exercise of his profession is his legitimate means of income?

MR. TINGSON: Finally, could the Commissioner please comment on the observation that the Senate is supposed to be composed of members who have already come of age, so to speak, and in a sense they have already succeeded financially in life, for it is a fact that one cannot be elected to that body unless somehow he is already above average, financially speaking? I understand that when one becomes a Senator, all kinds of organizations' and business' managerial or directorship positions are given to him. Are those not enough?

MR. PADILLA: The latter portion of the statement would entail more expenses than income and I disagree with the common impression that one cannot be elected senator unless he is wealthy or he is rich. In fact, in the 1957 election, the light remark of some observers was that Rogelio de la Rosa was elected because he was a movie star; and that Ambrosio Padilla was also elected because he was a basketball star. And we were the only two among the eight good candidates of the Liberal Party to the Senate who survived. In the previous elections, as a matter of political history in the 1951, 1953 and 1955 elections, the Nacionalista Party succeeded in having its eight senatorial candidates win in said three successive national elections. As I said before, no Liberal candidate, who counted among the candidates who were very prominent, illustrious and competent, was elected. I do not know why; maybe temporary prejudice or some criticism against the Liberal Party then. But one cannot win a nationwide election only with money. In fact, many candidates have won despite the lack of money. That is a historical fact.

MR. TINGSON: Thank you.

MR. COLAYCO: Madam President.

THE PRESIDENT: Yes, Commissioner Colayco is recognized.

MR. COLAYCO: I would like to say a few words before submitting my proposals to the body for a vote. I am one of the many persons who have a very high respect for Commissioner Padilla. I am afraid I did not know that my proposal will be so unpopular especially with the lawyers who are Members of the legislature. As I said, the main thrust of my proposal is to avoid any unintended pressure which a Member of the legislature, probably without even any intention to do so, exerts on the judiciary, because everybody knows that he is influential. Everybody knows that he has a clout in many matters. Commissioner Padilla said that he is more against the practice of behind-the-scene pressures. This admission I think bolsters my main premise that there is always the threat, the danger that Members of the legislature may be tempted to pressure justices of the collegiate courts in the

formulation of their decisions. We require the members of our Cabinet to divest themselves of any connection or ownership in businesses Connected with or which may be influenced by the portfolio which they accept. And this is a rule in all government offices. Public office carries with it inhibitions. In the case, therefore, of Members of the legislature who happen to be lawyers, they have to choose, but they cannot have both, in the interest of the public. Members of the legislature are not popularly known to be receiving low salaries. Certainly, the occupation is not known to be impecunious. So, the fear that by depriving themselves of the practice of law when they become Members of the legislature is not as real as it is intended to be shown. And besides, no one is forced to run for Congress; so, if this prohibition is approved, we do not have to have lawyers in the legislature, and if they want to run for it, then they know that they cannot make use of any influence of their profession.

With this reply, I would like to ask that the proposal be submitted to a vote. I would like to read my proposal, Madam President.

THE PRESIDENT: Please proceed.

MR. COLAYCO: The amendment is on Section 19, page 6, lines 2 to 4. I would like to clarify that my proposal covers only the personal appearance of the Members of the House of Representatives and of the Senate.

THE PRESIDENT: So, how would the proposed amendment be?

MR. COLAYCO: It will read: "No Senator or Member of the House of Representatives MAY PERSONALLY appear as counsel before any court OF JUSTICE." With this prohibition, the subsequent lines will be covered already.

THE PRESIDENT: In other words, lines 4 to 17 will be covered?

MR. COLAYCO: Up to line 10.

VOTING

THE PRESIDENT: Are we ready to vote?

As many as are in favor of the proposed amendment of Commissioner Colayco, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

The results show 25 votes in favor and 10 against; the amendment is approved.

MR. ROMULO: Madam President.

THE PRESIDENT: Yes, Commissioner Romulo is recognized.

MR. ROMULO: The next proponent of an amendment is Commissioner Regalado. Before I call on him, may I just make an announcement. I have so far 16 Members listed for amendments, and I propose that instead of going through this rigmarole of anterior amendments, when the Commissioner stands up to make an amendment, let him complete all of the amendments that he wants to make. Would the House favor that? I see that they are shaking their heads to indicate "yes."

So, may I ask that Commissioner Regalado be recognized, Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

My first proposed amendment is addressed to the Chairman and members of the Committee. It is on Section 19,

particularly the last sentence thereof, lines 15 to 17, which provides:

He shall not intervene in any matter before any office of the government for his pecuniary benefit.

I notice that this was taken from the 1973 Constitution. Yesterday, I took note of the comments of Commissioner Quesada regarding the possibility where a legislator-lawyer may be retained by a multinational firm and the element of pecuniary benefit there may be hard to prove and yet this same lawyer-legislator, to favor his retainer, may introduce bills in the Congress for the purpose. So, by way of an amendment by addition, I propose to have the following phrase added after "benefit": OR WHERE HE MAY BE CALLED UPON TO ACT ON ACCOUNT OF HIS OFFICE. This is also the exact wording in the 1935 Constitution, so much so that the entire sentence, with the proposed amendment, shall read: "He shall not intervene in any matter before any office of the government for his pecuniary benefit OR WHERE HE MAY BE CALLED UPON TO ACT ON ACCOUNT OF HIS OFFICE."

MR. DAVIDE: Madam President, the Committee happily accepts the proposed amendment.

THE PRESIDENT: Will Commissioner Regalado read the proposed amendment again?

MR. REGALADO: OR WHERE HE MAY BE CALLED UPON TO ACT ON ACCOUNT OF HIS OFFICE. I am using the constitutional provision in the 1935 Constitution for this purpose.

MR. SUAREZ: Madam President. may I be recognized for only one clarificatory question?

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

I am a little intrigued by the phrase "for his pecuniary benefit." This is an expression that may be misinterpreted and distorted. In other words, this practically assumes a situation where he can intervene if it is for the pecuniary benefit of one of his relatives, for example. Does the proponent envision a situation like that?

MR. REGALADO: That is the proposal of the Committee itself and which they took. I assume, from the 1973 Constitution.

MR. SUAREZ: No. I do not believe that this particular phrasing was taken from the 1973 Constitution. I take it that this is a new provision. But it may give the impression of allowing his relatives to benefit pecuniarily from his intervention. So, would the proponent consider this in his proposed amendment?

MR. REGALADO: May we hear from the Committee first because this is their original wording? I merely added that 1935 clause.

MR. SUAREZ: I am sorry. I will address this to the distinguished sponsor of the committee report.

THE PRESIDENT: Commissioner Davide may answer.

MR. DAVIDE: Yes, Madam President, the sentence "He shall not intervene in any matter before any office of the government for his pecuniary benefit" is taken from Section 11 of the 1973 Constitution. The qualification "pecuniary benefit" would either be direct or indirect.

MR. SUAREZ: With that clarification, I will not propose any amendment.

THE PRESIDENT: The proposed amendment of Commissioner Regalado has been accepted by the Committee.

Is there any objection?

Commissioner Bacani is recognized.

BISHOP BACANI: Yesterday, Madam President, when I stood up during the period of interpellations, I mentioned that at the proper time, I would move for the deletion of that phrase. The Committee members said that they were willing to consider that amendment.

MR. DAVIDE: That can be introduced as an amendment to the amendment, Madam President, but it was not touched by the amendment of Commissioner Regalado. He only added a clause.

BISHOP BACANI: Yes. So, at the proper times that can be reintroduced or can it be introduced now?

MR. REGALADO: I still have some other amendments. As stated by the Floor Leader, one proponent of amendments can state all of his proposed amendments on one occasion.

BISHOP BACANI: Yes, thank you.

THE PRESIDENT: Are we now ready to vote?

Is there any objection to the proposed amendment?

MR. ROMULO: They want the amendment to be read again.

MR. DAVIDE: May we request Commissioner Regalado to read again the amendment for the benefit of the Commissioners?

MR. REGALADO: The last sentence of Section 19, appearing on lines 15, 16 and 17, will now read: "He shall not intervene in any matter before any office of the government for his pecuniary benefit OR WHERE HE MAY BE CALLED UPON TO ACT ON ACCOUNT OF HIS OFFICE."

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: May I ask Commissioner Regalado to read that again because the sentence seems awkward at present?

THE PRESIDENT: Will Commissioner Regalado please read again.

MR. REGALADO: "He shall not intervene in any matter before any office of the government for his pecuniary benefit OR WHERE HE MAY BE CALLED UPON TO ACT ON ACCOUNT OF HIS OFFICE."

BISHOP BACANI: Does Commissioner Regalado mean that he may not intervene when he is called upon on account of his office?

MR. REGALADO: What it means is "or in any matter where he may be called upon to act on account of his office." That is the exact wording of the 1935 Constitution.

BISHOP BACANI: But the first words say: "He shall not intervene. . . "

MR. REGALADO: ". . . in any matter before any office of the government for his pecuniary benefit OR WHERE HE MAY BE CALLED UPON TO ACT ON ACCOUNT OF HIS OFFICE." And so, in repeating the phrase, there is a diæresis there but this refers to "matter" as the antecedent.

BISHOP BACANI: Thank you.

THE PRESIDENT: Is that clear? Is Commissioner Bacani satisfied?

Is there any objection to the proposed amendment of Commissioner Regalado which was accepted by the

Committee? (Silence) The Chair hears none; the amendment is approved.

MR. REGALADO: My second proposed amendment is with respect to Section 22, subsection (1), and the amendment that I propose is by way of deletion and transposition. This subsection (1) states that:

No treaty or international agreement shall be valid and effective unless concurred in by a majority of all the Members of the Senate and of the House of Representatives.

This would appear to be a duplication of exactly the same provision appearing in the proposed Article on the Executive, particularly Section 20 thereof.

In the 1935 Constitution, this particular provision was also placed under the Article on the Executive, Section 10, subparagraph (7) thereof; and, I think, logically, it should be there because it speaks of the treaty-making power of the President which, of course, is subject to legislative concurrence. And because of the bicameral form that we have adopted, we in the Committee on the Executive intend to have this concurrence raised to two-thirds vote of the Senate, as it was in the 1935 Constitution.

So, my proposal, therefore, is that subsection (1) of Section 22 be deleted and transposed, as we have provided, to the Article on the Executive because they are virtually of the same substance.

MR. DAVIDE: Madam President, the Committee agrees to its transfer to the Article on the Executive.

THE PRESIDENT: The Committee agrees?

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: Is there any other manifestation? Is there any objection to the proposed deletion of subparagraph (1) of Section 22 which was accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. REGALADO: On subsection (2), I have a proposal by way also of transposition. Subsection (2) reads:

The Congress, by a vote of two-thirds of the Members of each House, shall have the sole power to declare the existence of a state of war.

My proposal is that this should constitute the first sentence of Section 23, which starts with "In times of war or other national emergency, . . ." so that there is a more compact relation between the declaration of war as well as the powers that the President may be granted by the legislature in such a situation.

THE PRESIDENT: So, there will be no Section 22?

MR. REGALADO: I will now propose something for Section 22, as I have already told the Chairman of the Committee.

THE PRESIDENT: What does the Committee say?

MR. DAVIDE: We will seek for a clarification. In other words, under the proposal of the proponent, paragraph 2 of Section 22 will now become paragraph 1 of Section 23?

MR. REGALADO: Yes, Madam President.

MR. DAVIDE: And Section 23, beginning with the words "In times of war or other national emergency, . . ." will be considered as paragraph 2 of that particular section?

MR. REGALADO: That is correct, Madam President.

MR. DAVIDE: We have no objection, Madam President. However, we would suggest that what now appears to be Section 23 should be changed to Section 22.

MR. REGALADO: I am intending to propose an amendment which will become Section 22, if the Committee will accommodate me.

THE PRESIDENT: Can we hear the proposed Section 22?

MR. REGALADO: Yes, Madam President.

Before I state it, and I think the Chairman of the Committee will bear me out on this, during a meeting of the Committee on the Judiciary, we considered a prohibition against Congress overloading the Supreme Court by investing the Supreme Court with so many other cases to fall within its appellate jurisdiction as was explained to us by Chief Justice Teehankee. Batas Pambansa Blg. 129, without violating the Constitution, of course, because it was not a question of diminution of jurisdiction but an addition of jurisdiction, increased the appellate jurisdiction of the Supreme Court by requiring that all decisions from the National Labor Relations Commission, as well as the other offices like that of the Director of Labor Relations Commission, should be within the appellate jurisdiction of the Supreme Court exclusively. Also, the same Act further added exclusive appellate jurisdiction to the Supreme Court by requiring that all appeals from orders or awards of the Central Board of Assessment Appeals should also be directly and exclusively made to the Supreme Court. The net result was that the Supreme Court was unduly swamped with a number of cases for review as shown in the statistics submitted by Justice Teehankee.

In the present Constitution that we are framing, we have also saddled the Supreme Court with some additional functions and duties. So, my amendment would read as follows: NO LAW SHALL BE PASSED IN CREATING THE APPELLATE JURISDICTION OF THE SUPREME COURT AS PROVIDED IN THIS CONSTITUTION WITHOUT ITS ADVICE AND CONCURRENCE. That would be Section 22 in lieu of those that we have already transposed.

MR. DAVIDE: May we have it again, Madam President?

MR. REGALADO: It will read: NO LAW SHALL BE PASSED INCREASING THE APPELLATE JURISDICTION OF THE SUPREME COURT AS PROVIDED IN THIS CONSTITUTION WITHOUT ITS ADVICE AND CONCURRENCE. It will be noted that mention was made only of appellate jurisdiction because the original jurisdiction of the Supreme Court is not always exclusive; it is generally concurrent with the regional trial courts or the intermediate appellate courts.

THE PRESIDENT: Is this Section 22 accepted?

MR. DAVIDE: The Committee through Commissioner Aquino would seek some clarification before stating its position, Madam President.

THE PRESIDENT: Commissioner Aquino will please proceed.

MS. AQUINO: Thank you, Madam President.

I remember that in the interpellation on the Article on the Judiciary, I asked precisely on whether the legislature shall be empowered to increase or diminish the jurisdiction of the courts, and there was a categorical answer from Justice Concepcion that the provisions of the judiciary are full and plenary and that it shall not authorize in any way the legislature to alter the jurisdiction of the courts. I was wondering that in the light of this reply from the Committee on the Judiciary, the proposal might be an unnecessary surplusage on the Article on the Legislative.

MR. REGALADO: No, Madam President. Allow me to clarify that. If I recall correctly, what the Commissioner was discussing with Commissioner Concepcion was the matter of the rules to be adopted by the Supreme Court which, however, the legislature may repeal, alter or supplement. With respect to her observation, as formulated, the jurisdiction of the Supreme Court now is exactly the same as it was in the 1973 Constitution, which was a little of an improvement over that in the 1935 Constitution. Yet, one will note that in spite of the provisions of the 1973 Constitution enumerating the original and appellate jurisdiction of the Supreme Court, that did not prevent Congress from thereafter adopting the Judiciary Reorganization Act, Batas Pambansa Blg. 129 in 1980, adding more cases for the appellate jurisdiction or review of the Supreme Court. In other words, even standing as it is now on the matter of the jurisdiction of the Supreme Court in the Article on the Judiciary, there is still no prohibition against Congress throwing in so many more cases to an already overburdened Supreme Court with a reduced membership. That was one of the matters explained to us by Justice Teehankee when he cited figures on how Batas Pambansa Blg. 129 flooded them with labor cases which have been very well handled by the Intermediate Appellate Court.

MR. DAVIDE: Madam President, after the explanation and taking into account a recognition of the right or authority of the National Assembly to apportion the jurisdiction of the different courts which by the way was also deleted from the Article on the Judiciary because it is an inherent power, and realizing that there is really a need to restrict the authority of the National Assembly to increase the appellate jurisdiction of the Supreme Court, the Committee accepts the amendment.

THE PRESIDENT: We now have two proposed amendments, to delete and have a new Section 22.

MR. REGALADO: The original Section 22 was deleted and transposed. Section 22 will read: NO LAW SHALL BE PASSED INCREASING THE APPELLATE JURISDICTION OF THE SUPREME COURT AS PROVIDED IN THIS CONSTITUTION WITHOUT ITS ADVICE AND CONCURRENCE.

MR. DAVIDE: "ITS" would mean the Supreme Court.

MR. REGALADO: Yes.

THE PRESIDENT: Is there any objection to this proposed amendment of Commissioner Regalado which is a new provision of Section 22 and which has been accepted by the Committee on the Legislative?

MR. RODRIGO: May I just ask one question, Madam President?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: The prohibition is only against increasing; how about decreasing?

MR. REGALADO: Under the provisions of the Article on the Judiciary, since that jurisdiction is granted to the Supreme Court by constitutional fiat, to decrease that on the part of the legislature would be unconstitutional.

MR. RODRIGO: So, the legislature does not have the power anyway to decrease.

MR. REGALADO: It cannot decrease because it is a constitutional conferment.

MR. RODRIGO: So, the concern of the two amendments is only about increasing.

Thank you.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Madam President I would like to pose an inquiry to Commissioner Regalado.

THE PRESIDENT: Please proceed.

MR. NOLLEDO: What will happen now to the present laws authorizing appeal to the Supreme Court, like the Labor Code on decisions of the NLRC, P.D. No. 902A on jurisdiction over appeals from the decisions of the Securities and Exchange Commission? Do we understand it right that these laws shall exist until repealed?

MR. REGALADO: Yes, since this constitutional provision would not be self-executing, there must, of course, be an enabling law repealing Batas Pambansa Blg. 129 with respect to appeals from the NLRC and the CBAA. sia

MR. NOLLEDO: Thank you, Madam President.

THE PRESIDENT: Is there any other manifestation?

Commissioner Colayco is recognized.

MR. COLAYCO: I would like to suggest something, Madam President.

Under the Article on the Judiciary, Section 2, the Commission approved this provision: "The National Assembly shall have the power to define, prescribe and apportion the jurisdiction of the various courts, but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 7 hereof."

I feel that the proposed new section under the Article on the Legislative would fit here better than the proposed amendment of Commissioner Regalado.

MR. REGALADO: Unfortunately, the Article on the Judiciary was already approved on Third Reading.

Madam President, I have been asked by the Floor Leader to read this amendment all over again, which will now be Section 22.

THE PRESIDENT: The Gentleman will please proceed.

MR. REGALADO: It will read: NO LAW SHALL BE PASSED INCREASING THE APPELLATE JURISDICTION OF THE SUPREME COURT AS PROVIDED IN THIS CONSTITUTION WITHOUT ITS ADVICE AND CONCURRENCE.

THE PRESIDENT: Is there any other manifestation? Are we ready to vote now?

Is there any objection to this proposed amendment which would be Section 22 and which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

The next proposed amendment is on Section 23, transposing the second paragraph of the original Section 22 to be the first paragraph of Section 23 which has been accepted by the Committee.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. ROMULO: Madam President, I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, my first amendment is with respect to Section 20, page 6, lines 18 to 24, on the matter of Question Hour, which reads:

There shall be a Question Hour at least once a month or as often as the Rules of the Senate or the House of Representatives may provide, which shall be included in the agenda of each House, during which the Members of the Cabinet and their deputies may be required to appear and answer questions and interpellations by Members of the House.

My amendment is an amendment by addition. After the word "deputies," add the words UPON THEIR OWN INITIATIVE OR AS MAY BE REQUIRED BY THE MEMBERS OF EACH HOUSE, and then delete the words "by Members of the House" after "interpellations."

May I briefly explain, Madam President and members of the Committee?

It is possible that there are members of the Cabinet and their deputies who, imbued with a deep sense of patriotism and public service, want to appear before Congress without waiting to appear and answer questions and interpellations. So, that is why I proposed this amendment by addition. Is the Committee willing to accommodate my humble suggestion?

MR. DAVIDE: Before accommodating the proposed amendment, Commissioner Aquino would like to ask some clarificatory questions.

MR. SARMIENTO: Gladly.

MS. AQUINO: What are the conditions why the Commissioner suggested the phrase "UPON THEIR OWN INITIATIVE"? Will this be unqualified except their own voluntariness to participate?

MR. SARMIENTO: Yes.

MS. AQUINO: Does not the Commissioner anticipate the possibility of Cabinet members or their deputies just flooding the House of Representatives or the Senate just to ventilate their own petty or significant grievances and muddle with the proceedings of the House?

MR. SARMIENTO: The Members of the House or of the Senate will be there to check the ventilation of petty sentiments, and if they think that the sentiments that are being aired are petty, they can easily terminate the answers, not necessarily the interpellations.

MS. AQUINO: My personal concern is that this proposed amendment, being unqualified and unconditional, may destroy the essence of the Question Hour.

MR. SARMIENTO: I am willing to submit the matter.

MR. ROMULO: May I interrupt, Madam President? There are some Commissioners who will propose the deletion of Section 20. So, this is one time where I think the rule on anterior amendments applies.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 11:12 a.m.

RESUMPTION OF SESSION

At 11:32 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. ROMULO: Madam President, I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, I am withdrawing my amendment by addition but with reservations that should the amendment by deletion to be proposed by Commissioner Monsod be disapproved, then I will proceed with my amendment by substitution and addition.

THE PRESIDENT: The request is noted.

MR. ROMULO: I ask that Commissioner Monsod be recognized, Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, actually we were going to propose not a deletion but a substitution which would consolidate the proposals of several people including Commissioners Sarmiento and Suarez, but we will do that at the appropriate time. We just want to state some of the reasons we are proposing this change.

Due to the separation of powers between the executive and the legislative and the fact that the assemblymen or congressmen are not going to be members of the Cabinet, this procedure really would result in inequality between the two independent branches of government. The purpose of the Question Hour historically was really for Members of the legislature who are in the executive to answer to their peers and, therefore, the Question Hour is conducted on a peer basis. In a separation of powers between the executive and the legislative, the members of the Cabinet have to go through the Commission on Appointments in the first place and the legislative acts on development programs, tariffs, duties, and so on. The requirement where Cabinet members can be mandated to appear before the legislative and to account for their actions really puts them on unequal terms with the legislators. The Cabinet members are purely alter egos of the President. They are no longer Members of the legislature, and to do so would violate the separation of powers of the executive and the legislative branches. However, we recognize that there should be a mechanism by which the Cabinet members may be summoned and may, even on their own initiative, appear before the legislature because this would promote coordination without subordinating one body to another. That is why we are willing to suggest a substitute provision that would reflect these sentiments.

May I ask Commissioner Suarez to do it, Madam President?

THE PRESIDENT: Let us hear Commissioner Suarez.

MR. SUAREZ: Thank you, Madam President.

Here is the proposed amendment by substitution and this was taken verbatim from the provisions of Section 24, under the Article on the Legislature in the 1935 Constitution. So Section 20 as proposed to be amended would read as follows: THE HEADS OF DEPARTMENTS UPON THEIR OWN INITIATIVE OR UPON THE REQUEST OF EITHER HOUSE MAY APPEAR BEFORE AND BE HEARD BY SUCH HOUSE ON ANY MATTER PERTAINING TO THEIR DEPARTMENTS, UNLESS THE PUBLIC INTEREST SHALL REQUIRE OTHERWISE AND THE PRESIDENT SHALL SO STATE IN WRITING. WRITTEN QUESTIONS SHALL BE SUBMITTED TO THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AT LEAST THREE DAYS BEFORE A SCHEDULED APPEARANCE. INTERPELLATIONS SHALL NOT BE LIMITED TO WRITTEN QUESTIONS, BUT MAY COVER MATTERS RELATED THERETO. THE AGENDA SHALL SPECIFY THE SUBJECTS OF THE APPEARANCE. WHEN THE SECURITY OF THE STATE SO REQUIRES AND THE PRESIDENT SO STATES IN WRITING, THE APPEARANCE SHALL BE CONDUCTED IN EXECUTIVE SESSION.

That is the proposed amendment by substitution Section 20 of the proposed draft.

THE PRESIDENT: What does the Committee say?

MR. DAVIDE: Do we understand from the proponents that we will retain, therefore, the portion of the original Section 20, beginning with the sentence.

Written questions shall be submitted to the President of the Senate or the Speaker of the House of

Representatives . . .

et cetera, up to the end?

MR. SUAREZ: That is correct, except that we will delete the words "Question Hour" and change them with the word APPEARANCE as they appear on lines 27, 29 and 31, then we incorporate Section 24 of the 1935 Constitution, Article VI. It is a happy blending.

MR. DAVIDE: There is indeed a happy blending of the pertinent section of the 1935 Constitution and the section on the Question Hour of the 1973 Constitution. However, we would like to find out from the proponent if the appearance of the head of the department may be made mandatory.

MR. SUAREZ: No, that is why we are utilizing the wording of the 1935 Constitution which says: "may appear."

MR. DAVIDE: In other words, he cannot be required to appear, and if he will not appear, he cannot be compelled to do so?

MR. SUAREZ: That is correct.

MR. DAVIDE: So, on the other hand, if the minister or the head of the department at his own initiative would demand that he be allowed to appear, neither the Senate nor the House of Representatives can reject such a demand?

MR. SUAREZ: That is right; and the only qualification is if the President shall so state in writing that the public interest shall require otherwise; meaning, the nonappearance of the department head concerned.

MR. DAVIDE: That is exactly the point. If the minister would demand that he be allowed to appear, then he can compel either House.

MR. SUAREZ: No, I think the Commissioner did not get the point. It is only upon request.

MR. DAVIDE: Upon request?

MR. SUAREZ: That is right.

MR. DAVIDE: But if it is on the initiative of the head of the department; in other words, if he volunteers to appear, can he be refused by either House?

MR. SUAREZ: Yes.

MR. DAVIDE: Madam President, since the proposal is rather long, may we request that the same be typewritten and distributed to the Members for their study. In the meantime, probably we can proceed to the other sections sought to be amended.

THE PRESIDENT: Let copies of the proposed amendment be made.

MR. ROMULO: I ask that Commissioner Sarmiento be recognized to continue his proposed amendment.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: My second amendment is with respect to Section 10, lines 9 to 11, which states:

However, it may be called to session at any time by the President to consider such subjects or legislation as he may designate.

After the word "designate," I propose the inclusion of the following additional words: OR BY TWENTY-FIVE

PERCENT OF THE MEMBERS OF CONGRESS; so that it will not only be the President who will have the authority to call the Congress to session, but also 25 percent of the Members of Congress. It could be 25 or 30 percent.

MR. DAVIDE: Would that be on line 10?

MR. SARMIENTO: Lines 10 to 11 of Section 10.

MR. DAVIDE: We feel that it might not be necessary, since under our proposed draft, the sessions of both Houses will be continuous until about 30 days before the convening of the second or the following regular session. It is up for the House to determine how long will be its sessions.

MR. SARMIENTO: So, with that manifestation, I withdraw my amendment by addition.

One last point and this is in connection with Section 9. The old draft includes the phrase "to serve the unexpired term."

May I suggest, if this was omitted yesterday, that the last line, line 3, should include TO SERVE THE UNEXPIRED TERM after as the case may be."

MR. DAVIDE: We are glad that matter is pointed out because that was really deleted by inadvertence. Madam President, we will also propose to include in that particular amendment, if it would be accepted by Commissioner Sarmiento, to delete the "s" in the words "Senators" and "Members" on line 2; and then on line 3, between the word "be and the phrase "TO SERVE THE UNEXPIRED TERM," we insert a comma (,).

MR. SARMIENTO: Gladly accepted.

THE PRESIDENT: What does the Committee say?

MR. DAVIDE: We accept the amendment, amended, Madam President.

THE PRESIDENT: The Committee has accepted the amendment on lines 2 and 3 of page 3.

Will the sponsor please read the provision as amended?

MR. DAVIDE: So, the two lines, as amended, will now read: ". . . vacancy occurs to elect the Senator or Member of the House of Representatives, as the case may be, TO SERVE THE UNEXPIRED TERM."

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. ROMULO: I ask that Commissioner Bernas be recognized, Madam President.

FR. BERNAS: Madam President, the amendment I propose to offer will be on page 9, Section 27, paragraph 1, lines 21 to 23. The sentence there reads:

The President shall act on every bill passed by the Congress within thirty days after the date of receipt thereof; otherwise, it shall become a law as if he had signed it.

Under this provision, it is very difficult or almost impossible to verify whether or not the President has acted on the bill within 30 days. What I propose to do is to change the language so that there will be a mechanism for verifying whether or not the President has acted on the bill within the prescribed period. So, I propose to delete the phrase "act on every bill passed by the Congress" and in lieu thereof insert the phrase COMMUNICATE HIS VETO OF ANY BILL TO THE HOUSE WHERE IT ORIGINATED, so, the sentence now will read: "The President shall COMMUNICATE HIS VETO OF ANY BILL TO THE HOUSE WHERE IT ORIGINATED within thirty days after the date of receipt thereof; otherwise, it shall become a law as if he had signed it."

THE PRESIDENT: Is this acceptable?

MR. DAVIDE: Madam President, before accepting or rejecting the proposal, Commissioner Guingona would like to propound a question.

THE PRESIDENT: The Commissioner may proceed.

MR. GUINGONA: I presume that when Commissioner Bernas talks of communication, he is referring to notification in writing.

FR. BERNAS: Yes.

MR. GUINGONA: Not oral?

FR. BERNAS: I refer to notification or communication in writing.

MR. GUINGONA: But if the effect of that non communication is that the bill shall become a law as if he had signed it, is there need for the President to communicate his veto?

FR. BERNAS: Precisely, unless we have this, the President could sit on that bill for a hundred days and then when we ask him, "What have you done with it? " he could very well say, "I vetoed it ten days after you gave it to me," and he presents us a bill that is vetoed only on that day itself but dated so many months ago.

MR. GUINGONA: I see, thank you.

MR. SUAREZ: Madam President, may I be recognized to ask a few questions of the distinguished proponent?

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

In the second sentence of this particular section, there is a statement here which reads:

If he approves the same, he shall sign it, otherwise, he shall veto it and return the same with his objections to the NATIONAL ASSEMBLY . . ."

That is a situation different from the one the Commissioner seeks to amend because what he seeks to amend has something to do with nonaction rather than a positive action like a veto. Would not his proposed amendment be more relevant to the vetoing situation?

FR. BERNAS: If we put in there that he must veto a bill within 30 days and if he does not, that means he accepted it, then it would have the same effect.

MR. SUAREZ: That is exactly what I am trying to point out. Can we reword it the way the Commissioner and I are thinking about this?

FR. BERNAS: We can reword it especially if it is acceptable to the Committee. But the idea is there that if he is going to veto the bill, he must veto it within 30 days.

MR. SUAREZ: Yes, I agree to that.

FR. BERNAS: And there must be a way of verifying whether he vetoed it or not.

MR. SUAREZ: Thank you.

MR. GUINGONA: Instead of just referring to the veto, why not refer to the action whether it is a veto or approval? The President has to communicate in writing his action on the bill.

FR. BERNAS: That would also be acceptable.

MR. DAVIDE: Madam President, the Committee accepts the proposed amendment.

FR. BERNAS: With rewording?

THE PRESIDENT: How is it reworded now?

FR. BERNAS: We have not formulated it yet.

MR. DAVIDE: Madam President, I understand that the proper place for the amendment would really be at the place indicated by the main proponent because this will now control the veto in paragraph 1 of Section 27. It provides the limit. That is the thinking of the Committee.

FR. BERNAS: So, the sponsor is accepting my amendment?

MR. DAVIDE: Yes, Madam President, because we really believe that the amendment should be in this Section 27 since it provides for the limitation of the period within which a veto must have to be communicated by the President.

MR. ROMULO: Will the proponent read the amendment, please?

FR. BERNAS: After consultation with representatives of the Committee, the proposal now reads: "The President shall act on every bill passed by the Congress AND COMMUNICATE HIS ACTION TO THE HOUSE WHERE IT ORIGINATED within thirty days after the date of receipt thereof; otherwise, it shall BE CONSIDERED AS SIGNED INTO LAW."

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: It seems that the first wording which refers to veto is better because if he signs it, it will be awkward to say "otherwise, it shall become a law."

FR. BERNAS: Under the second wording we have to modify the final clause.

MR. RODRIGO: But under the first wording where the Commissioner used "veto," we do not have to change "otherwise."

THE PRESIDENT: Can we have it now as finally reworded?

FR. BERNAS: The amendment reads: "The President shall COMMUNICATE HIS VETO OF ANY BILL TO THE HOUSE WHERE IT ORIGINATED within thirty days after the date of receipt thereof; otherwise, it shall become a law as if he had signed it."

The sense is all there and the rest could be just a matter of style.

MR. DAVIDE: The Committee accepts.

THE PRESIDENT: The Committee has accepted the amendment.

Is there any Objection? (Silence) The Chair hears none; the amendment is approved.

MR. ROMULO: I ask that Commissioner Rigos be recognized.

MR. MAAMBONG: Just a moment. Madam President.

I would like the complete reading of the amendment as already approved because I really got lost in all these discussions. I have been following up one sentence after another and I could not get myself through.

THE PRESIDENT: Can we ask the Secretary-General to read the amendment to see whether it is correct?

THE SECRETARY-GENERAL: The amendment on lines 21 to 23 of page 9 reads: "The President shall COMMUNICATE HIS VETO OF ANY BILL TO THE HOUSE WHERE IT ORIGINATED within thirty days after the date of receipt thereof; otherwise, it shall become a law as if he had signed it."

THE PRESIDENT: Is that clear now?

MR. ROMULO: I ask that Commissioner Rigos be recognized.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, on page sentence which begins on line 4 reads:

Each legislative district shall comprise, as far as practicable, contiguous, compact and adjacent territory, provided, however, that each city with a population of more than two hundred thousand, or each province, shall have at least one representative.

My proposed amendment is to reword lines 6 and 7 to read: ". . . provided, however, that each city OR PROVINCE with a MINIMUM population of two hundred thousand, shall have at least one representative."

THE PRESIDENT: Does the Committee accept?

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: In one of the committee meetings, I called attention to the fact that if we adopt a minimum population for provinces, we will be depriving a province that now exists of its one representative, and that is Batanes.

Under the present provision of the Constitution, every province, regardless of the population, is entitled to at least one representative. And so Batanes, although its population is less than even 50,000, has one representative. So if we apply the minimum of 200,000 population, both in cities and provinces, we will be depriving Batanes of a representative.

REV. RIGOS: That is correct. At any rate, Madam President, my concern at the moment is with the sentence construction-"provided that each city OR PROVINCE . . ." I think that is acceptable to the Committee.

Regarding the point raised by Commissioner Rodrigo, that can be a subject of another amendment, but do I get it that my proposed amendment has been accepted by the Committee?

MS. AQUINO: The Committee accepts the proposed amendment with a little modification if the proponent would be amenable to it.

REV. RIGOS: Yes.

MS. AQUINO: The amendments are as follows: On line 5, instead of a comma (,) after the word "territory," put a period (.); then on line 6, delete these three words "provided, however, that " and capitalize "e" in "each" such that the phrase would read: "Each city with a population of AT LEAST." Then we delete "more than."

REV. RIGOS: The essence is the same.

MS. AQUINO: Yes. The proposed amendment should now read: "Each city with a population of AT LEAST two hundred thousand, or each province, shall have at least one representative."

REV. RIGOS: So, under that proposition, the concern raised by Commissioner Rodrigo will be accommodated. I accept the suggestion.

MS. AQUINO: That has been adjusted accordingly. Yes, we accept it as amended.

THE PRESIDENT: Will the proponent kindly read again the whole paragraph starting with line 4?

MS. AQUINO: Madam President, the paragraph would now read: "Each legislative district shall comprise, as far as practicable, contiguous, compact and adjacent territory. Each city with a population of AT LEAST two hundred thousand, or each province, shall have at least one representative."

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

The concern of Commissioner Rodrigo is the province. My concern now is the city. Palayan City in Nueva Ecija has hardly 5,000 inhabitants. I was even joking when it was made a city because then there were only three houses and two shades for cows. So, I agree with Commissioner Rodrigo that the population should not be the gauge for each city and province which shall have at least one representative each.

MR. DAVIDE: Madam President.

THE PRESIDENT: What does the Committee say?

MR. DAVIDE: We are sorry we cannot accept the proposal for the following reasons: First, we will increase the composition of the Lower House. There are many cities with less than 150,000 population.

Under the 1984 apportionment, we classified cities into highly urbanized and component cities. Component cities are cities with a population of less than 150,000 and an income of less than P30 million. Being component cities, they were included in the province. So, we now seek to limit separate representation for a city if that particular city will have a population of at least 200,000. But Palayan City will not have to worry; it will become a part of a district in that province. It will not really be without representation because it shall be within a certain territory — compact, contiguous and adjacent — consisting of municipalities on that particular province.

MR. DE CASTRO: I ask so because the sentence here refers to each city.

MR. DAVIDE: Yes, with a population of at least 200,000. Then a province is without qualification because it certainly is much bigger than a city. If we do not allow representation to a province which is isolated or not a part of a mainland like Camiguin, Batanes or Siquijors then they will be without representation.

MR. DE CASTRO: Perhaps, we should say that those cities and provinces which do not have a population of at least 200,000 shall be included in a nearby legislative district, so as not to disenfranchise the inhabitants of those provinces and cities. Let us take the case of Batanes. This province is not contiguous with any district and its population is less than 200,000. What happens?

MR. DAVIDE: It will be entitled to one representation because it is an entire province, even if its population is less than 200,000.

MR. DE CASTRO: Then we have to reword this amendment.

MR. DAVIDE: There is no need because we precisely separated the city with a population of at least 200,000 from the province by a comma (.). So, the 200-thousand requirement will apply only to the city and not to the province. That was the concern of Commissioner Rodrigo.

MR. DE CASTRO: Then the city shall be a part of a legislative district?

MR. DAVIDE: If its population is less than 200,000 then, it would only be a component of a district. Certainly, it will not be without representation.

MR. DE CASTRO: Allow me to write our amendment on this matter.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: May I address a point of clarification to the Committee?

THE PRESIDENT: The Commissioner may proceed.

MR. MAAMBONG: Madam President, I understand that the proposed amendment of Commissioner Rodrigo as modified by the Committee would allow representation of a province regardless of population requirement.

MR. DAVIDE: Correct.

MR. MAAMBONG: Has the Committee considered the logic of this requirement? Let us take the case of Batanes. Batanes has seven municipalities with something like 25,000 to 30,000 inhabitants. In our allocation of seats, we are guided by two things: contiguous territory grouped together and the minimum number of inhabitants which is 200,000. Another case is Siquijor which has only around 50,000 to 60,000 inhabitants.

I wonder if the Committee has taken this matter into consideration, because if we are saying that we cannot tack a province onto an existing legislative district, I think this can be resolved quite easily. An example is Siquijor which had always been a part of Negros Oriental before, but which all of a sudden became a province. What I am trying to say is that if we have a city which is not a component city with something like 195,000 population, we cannot even allow it to have its own legislative district, in spite of the fact that it is only 5,000 less than the minimum requirement of 200,000. But we have a province with only 25,000 voters and just because it is a province, we give it legislative representation. Can the Committee not consider tacking this onto a bigger government unit?

MS. AQUINO: I shall attempt to answer in behalf of the Committee. The provisions of Section 5 proceed from the general principle that representation is based on population not territory such that a constitutional provision which would grant a province one representative regardless of population requirement is a mere exception to the general rule of apportionment. Other wise, we might be facing problems such as fractional representation.

MR. MAAMBONG: That is precisely the point. If the main basis of giving representation to an identified area of this country is population, a representative is supposed to represent at least 200,000 inhabitants. But this exception, which I think is the intention of the Committee, is preposterous. Twenty-five thousand people to be represented by one representative?

I have nothing against these provinces. As a matter of fact I have no relations whatsoever with them but I am trying to visualize the situation where we have to be logical in our basis of representation. I am trying to discuss this problem on the basis of logic and nothing more. I was wondering if the Committee has considered this thoroughly. If the Committee says so then that would be perfectly all right with me. I will not go further so that we will not waste our time.

MS. AQUINO: We have considered this thoroughly. The absurd situation is that if we apply the rule of apportionment on the basis of population absolutely and unqualifiedly, then provinces with small populations will have fractional representation. That would even do more injustice than justice.

MR. MAAMBONG: What I was actually suggesting, if it is at all possible, is that we try to look at these isolated provinces in the context of the nearest area onto which-it can be tacked. Siquijor could be tacked very well to Negros Oriental. I do not know the nearest province where Batanes can be tacked onto. But that is just a suggestion in order not to be incongruous in our representation. I think it is a little bit incongruous if we have representatives each representing only 25,000 people whereas the rest represent 200,000 people each or more. If this can at all be done, I suggest that the small provinces should be tacked onto an existing government unit so that the whole population of these units will be divided equally.

Thank you.

MS. AQUINO: Thank you.

THE PRESIDENT: Commissioner Maambong is not proposing any amendment, is he?

MR. MAAMBONG: No, I am not proposing an amendment. I am just calling the attention of the Committee that perhaps, it could consider tacking these provinces onto existing government units.

THE PRESIDENT: We still have before us the proposed amendment of Commissioner Rigos.

Does Commissioner de Castro want to talk about the proposed amendment of Commissioner Rigos?

MR. DE CASTRO: I would like to introduce an amendment on lines 6 and 7.

THE PRESIDENT: Shall we first dispose of the amendment of Commissioner Rigos?

REV. RIGOS: I will yield to Commissioner de Castro because I am through with that section, Madam President.

MR. DE CASTRO: Madam President, we now move to page 2, Section 5, lines 4 up to 8.

MR. SARMIENTO: Point of order, Madam President. I think we had an agreement this morning that the Commissioner proposing amendments should be allowed to finish all his amendments first before another Commissioner can propose his.

MR. DE CASTRO: I propose to enter my amendment here because we are already on the same section. I do not like to go back to it.

THE PRESIDENT: The Chair would like to be clarified. Is the proposed amendment of Commissioner de Castro, which he is stating now, an amendment to the proposed amendment of Commissioner Rigos or not?

MR. DE CASTRO: It is an amendment on lines 6 to 8 not on the amendment of Commissioner Rigos.

THE PRESIDENT: Then, just to clarify, let us first approve the proposed amendment of Commissioner Rigos which has been accepted by the Committee.

Is there any objection to that proposed amendment of Commissioner Rigos which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

Commissioner de Castro is recognized.

MR. ROMULO: Madam President, Commissioner de Castro is listed as No. 6. Could we ask that he wait for his turn because Commissioners Bacani and Bengzon are ahead of him?

MR. DE CASTRO: I happen to interfere only because we are talking of the same subject matter already.

Thank you. I will wait for my turn.

MR. ROMULO: Thank you.

REV. RIGOS: I have one more amendment.

There are two small items on page 4, Section 13. The first amendment is to reword the Section to partially read: "THERE shall be a Commission on Appointments consisting of THE SENATE PRESIDENT, WHO SHALL BE THE EX-OFFICIO CHAIRMAN"; then delete the sentence on line 21. The idea here is to enable the reader to understand right away that the Senate President is a member of the Commission. Is that acceptable to the Committee?

THE PRESIDENT: May we hear from Chairman Davide?

MR. DAVIDE: Madam President, the amendment on line 18 consists of the insertion of the words "THE SENATE PRESIDENT, WHO SHALL BE THE EX-OFFICIO CHAIRMAN."

REV. RIGOS: That should be followed by: "twelve Senators and twelve Members of the House of Representatives, . . ." Then the second sentence will be: THE CHAIRMAN SHALL NOT VOTE EXCEPT IN CASE OF TIE.

MR. DAVIDE: We will agree, Madam President, but at this instance, we will also propose this amendment in order to complete Section 13: Number 12 in figure preceding "Senator" and "Members" should be in words.

REV. RIGOS: It is already indicated in words in our copies.

MR. DAVIDE: I am sorry. Anyway, we accept that particular amendment with the last sentence now reading as follows: "THE CHAIRMAN SHALL NOT VOTE EXCEPT IN CASE OF TIE."

MR. SARMIENTO: Can we just reword "Senate President" to PRESIDENT OF THE SENATE?

REV. RIGOS: I accept the amendment.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the amendment is approved.

REV. RIGOS: The second amendment, Madam President, is to reduce the membership of the Commission from 25 as originally proposed to 13-six Senators, six Members of the House of Representatives plus the Senate President. To me 25 is too big a group. An appointee will have too many people to deal with and quorum is very hard to get if we have 25 people in the Commission

THE PRESIDENT: What does the Committee say?

MR. DAVIDE: Madam President, we appreciate the concern of Commissioner Rigos, but we do not want to break a tradition. The reincorporation of the Commission on Appointments was motivated precisely by the sound objective of the existence of this Commission and the restoration of its tradition being composed of 24 members and a chairman. We would rather throw it to the floor.

REV. RIGOS: On the other hand, our experience also tells us that the number seems a little too large, and so, I would like to get the decision of the body on this proposal, Madam President.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: May I speak in favor of the amendment of Commissioner Rigos?

THE PRESIDENT: The Commissioner may proceed.

MR. DE CASTRO: Thank you, Madam President.

When my time comes, it is also my perception to recommend six Senators and six Congressmen, the same as Commissioner Rigos' amendment for the reason that these 25 members of the Commission will be quite unwieldy and will make Congress appear like a political market. I know this because I used to carry the roster of the Armed Forces in the Congress for confirmation and we had to meet and talk with so many people. I believe that 13 members can work better than 25 just as we reduced the membership in the judiciary or in the Supreme Court, because according to the present Chief Justice, they can better work and there will be better harmony if they have a lesser number. So, I am in favor of the amendment of Commissioner Rigos.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I just want to call attention to the fact that the members of the Commission on Appointments will be selected on the basis of proportional representation from the political parties or sectors represented therein. In this Constitution we are abandoning the two-party system by means of election inspectors. So, in all probability, there will be many parties. Hence, if we have only six, it might be difficult to apportion the members among the different parties.

THE PRESIDENT: Are we ready to vote now? The proposed amendment has not been accepted by the Committee. Does Commissioner Rigos insist on his proposed amendment?

REV. RIGOS: Yes, Madam President.

VOTING

THE PRESIDENT: Those in favor of the proposed amendment of Commissioner Rigos changing the number 12 to 6 on line 18, will please raise their hand. (Few Members raised their hand.)

Those against the amendment will please raise their hand. (Several Members raised their hand.)

The results show 15 votes in favor and 20 against; the amendment is lost.

MR. ROMULO: Madam President, may I ask that Commissioner Bacani be recognized.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Before I propose my amendment, may I ask the members of the Committee a question? Yesterday, Commissioner Monsod explained that the sectors could have entry into the Congress through the party list system. Does the sponsor have the same understanding as that of Commissioner Monsod?

MR. DAVIDE: That was the explanation of Commissioner Monsod.

BISHOP BACANI: Yes. Does Commissioner Davide agree with it?

MR. DAVIDE: Before agreeing to that, I would like to inquire from Commissioner Monsod if his position carries the sense of the last stand-of Commissioner Villacorta on sectoral representation.

MR. MONSOD: Madam President, as a matter of fact, I was going to propose an amendment coauthored by Commissioner Villacorta in order to clarify that point on sectoral representation. But I am still four places away.

BISHOP BACANI: My understanding is according to Commissioner Monsod's understanding. I would like to suggest that on page 1, line 29, we delete the word "sectors," and the wordings on the last line should simply read: ". . . shall be elected from the party list."

THE PRESIDENT: Will the Commissioner please repeat the section where the amendment by deletion will be made?

BISHOP BACANI: It should be on Section 5. The amended section will now read: "The House of Representatives shall be composed of not more than two hundred and fifty members who shall be elected from legislative districts apportioned among the provinces and cities in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected from the party list."

THE PRESIDENT: Does the Commissioner eliminate the word "sectors"?

BISHOP BACANI: Yes, Madam President.

MR. DAVIDE: Madam President, may we request that consideration of this proposed amendment be deferred until we shall have heard the proposal of Commissioner Monsod? I understand that he and Commissioner Villacorta will also propose an amendment on this line.

BISHOP BACANI: Yes.

THE PRESIDENT: We will defer this proposed amendment to give the parties time to confer with each other.

BISHOP BACANI: I submit, Madam President. I now go to page 6, line 16, Section 19. I begin with line 15: ". . . He shall not intervene in any matter before any office of the government for his pecuniary benefit." I move for the deletion of the words "for his pecuniary benefit" because it will not be so easy to establish the evidence for this.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: There was already an amendment proposed by Commissioner Regalado, duly elected by the Committee and voted favorably by the body which starts after the word "benefit." The added approved amendment reads: "or where he may be called upon to act on account of his office." I understand that this will now be an all-encompassing prohibition either for pecuniary benefit or for any other purpose whatsoever. So, we feel that the proposal would have been all right were the Regalado amendment defeated but it was accepted.

BISHOP BACANI: With that understanding, I would not press anymore for the amendment.

I now go to page 6, Section 20, line 22.

THE PRESIDENT: There is a pending proposed amendment of Commissioner Monsod on Section 20.

MR. DAVIDE: Yes, it is by substitution.

BISHOP BACANI: Therefore, I will defer my amendment.

Thank you.

MR. ROMULO: As a last proponent of the amendment, I ask that Commissioner Bengzon be recognized. We will schedule the rest of the proponents after lunch.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Thank you, Madam President.

My amendment is on page 10, line 9 of Section 28.

I propose to add NON-PROFIT after the word "OR" at the end of the line. So, the paragraph will read: "Charitable institutions, churches, and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable, or NON-PROFIT educational purposes shall be exempt from taxation."

This means that educational institutions which are established for profit are not included in the exemption.

THE PRESIDENT: Is this accepted by the Committee?

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: What is meant by nonprofit private educational institution? Does this mean no tuition fees, no dividends, no nothing?

MR. BENGZON: No dividends. In other words, none of the net income of the institution is for the benefit of any stockholder.

MR. RODRIGO: I think we should define that because profits might be derived by educational institutions only they do not declare dividends. So, I think we should define that very well, that it refers only to those educational institutions which declare profit dividends to the stockholders.

MR. BENGZON: There is already a legal meaning to the word "nonprofit" and that is, there is no profit or even if the institution profits from its operation it is not used for the benefit of any of the members or stockholders. But just the same, for the record, we could use NON-PROFIT and NON-STOCK. In other words, the sense is that none of the profits or revenues of that educational institution or school would redound to the benefit of any member in case the institution is a nonstock corporation, or to any stockholder if it is a stock corporation.

MR. RODRIGO: With that in the record, it is all right.

MR. BENGZON: Perhaps the Committee on Style can prepare the wording.

MR. DAVIDE: Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended until two-thirty in the afternoon.

It was 12:29 p.m.

RESUMPTION OF SESSION

At 2:48 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. ROMULO: Madam "resident, I ask that Commissioner de Castro be recognized.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

Yesterday, I talked about Section 13 on page 4 — the Commission on Appointments. As I stated, I have proposed

Resolution No. 330, recommending the substitution of a Committee on Appointments, instead of the Commission on Appointments. According to the computer, this resolution was sent to the Committee on Constitutional Commissions and Agencies, and I think we do not have enough time, as of now, to deal with that resolution. Instead of that resolution I will propose to make amendments to Section 13 of the Article on the Legislative on page 4. It will be an amendment by addition. After the word "tie" on line 23, add the following: THE COMMISSION SHALL ACT ON ALL APPOINTMENTS SUBMITTED TO IT WITHIN TEN SESSION DAYS.

The reason for this is that one of the 25 Members can keep the papers of an appointee and forever that will be frozen. So that if we place here THE COMMISSION SHALL ACT ON ALL APPOINTMENTS SUBMITTED TO IT WITHIN TEN SESSION DAYS, then there is a time limit within which it can act. Sometimes, it acts on an appointment after seven years depending on the temperament of the one holding the papers.

Madam President, I will continue: WHEN OFFICERS OF THE ARMED FORCES OF THE PHILIPPINES ARE TO BE CONSIDERED BY THE COMMISSION, A RETIRED CHIEF OF STAFF DESIGNATED BY THE CHAIRMAN SHALL SIT AS AN EX-OFFICIO MEMBER THEREOF WITHOUT RIGHT TO VOTE.

The reason here is that the chief of staff, retired as he may be, knows most, if not all, of the officers particularly from the rank of full colonel up and his will be a wise advice to the Commission. As I said last time, we had a case of a lieutenant colonel who was not recommended by the Board of Promotions and yet, by the insistence of the Chairman of the Commission on Appointments, that man was put in the list and became a full colonel. Later on, he became a general, but was not given a command. So that when a retired chief of staff sits with the Commission, then he will be able to give advice to the Commission as to the officers so qualified to become as such.

Then the next sentence is: THE COMMISSION SHALL RULE ON MAJORITY VOTE.

Again, the reason is, of the 25 members, one who will not agree will really put out the appointment of a certain person. I will cite the case of a Member here, Commissioner de los Reyes. He should have been an Appellate Court Justice now if he was confirmed as fiscal then. But because one member of the Commission had refused to approve his- appointment, the position was lost.

So, in short, the amendment is by addition. After the word "tie," we add the following: THE COMMISSION SHALL ACT ON ALL APPOINTMENTS SUBMITTED TO IT WITHIN TEN SESSION DAYS. WHEN OFFICERS OF THE ARMED FORCES OF THE PHILIPPINES ARE TO BE CONSIDERED BY THE COMMISSION, A RETIRED CHIEF OF STAFF, DESIGNATED BY THE CHAIRMAN, SHALL SIT AS AN EX-OFFICIO MEMBER THEREOF WITHOUT RIGHT TO VOTE. THE COMMISSION SHALL RULE ON MAJORITY VOTE.

THE PRESIDENT: What does the Committee say?

MR. RODRIGO: Madam President, I am a member of the Committee but I am acting on my own.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, I was a member of the Commission on Appointments for 10 years, from 1957 to 1967, and I am sure that the rule in the then Commission on Appointments was not to have a unanimous vote in the confirmation of appointments. It was by majority vote. Secondly, the proposal says that the Commission shall act within 10 session days. The Commission on Appointments, in my time, did not meet everyday. As a matter of fact, it met only about five, seven times during the regular session. At that time, of course, there was a limit on our

regular sessions — 100 days exclusive of Sundays. We were swamped with many, many appointments and we had committees acting on different appointments. We had the Committee on the Armed Forces, Committee on the Judiciary, and a committee on different departments.

Ten days is really too short. I would also like to ask what happens if the Commission on Appointments fails to act on an appointment within 10 days? The rule at that time when I was a member of the Commission on Appointments was that if the Commission failed to act on an appointment after the adjournment of the session, then the appointment was deemed rejected; but the President could reappoint the rejected appointee in an acting capacity until the next session and in the next meeting of the Commission on Appointments, the appointment was again submitted to the Commission.

The recommendations to the Commission on Appointments are passed upon by the incumbent chief of staff. Perhaps there might be occasions when the Commission on Appointments might invite a retired chief of staff. But to make it compulsory on the Commission on Appointments to have an ex-chief of staff as ex officio member when appointments to the armed forces are being considered is, I think, awkward. The Commission on Appointments is composed of all elected members and to have an ex officio member who is not an elective official looks awkward, Madam President. Not only that, there might be several ex-chiefs of staff. At present, I know at least three former chiefs of staff. Who will then decide which ex-chief of staff would be the ex officio member?

In closing I would like to state that I do not know why there seems to be a prejudice against the Commission on Appointments. As I said, I was a member of the Commission on Appointments for over 10 years. It is true that there were a few black sheep and we know them and we call their attention but the majority of the members acted in a way that cannot be criticized. That is all, Madam President.

MR. DE CASTRO: If the Chair pleases, may I be allowed to refute the statements of the Honorable Rodrigo?

THE PRESIDENT: The Gentleman may proceed.

MR. DE CASTRO: The doings of the Commission on Appointments are not unknown to us. A book on the Commission on Appointments states that the Philippine experience offers a contrast which is impossible to exhaust. This is comparing the Commission on Appointments with that in the United States. The book further states that the appointment of Guianson, Quirino's Justice Secretary, was bypassed for years. The nomination of Ernesto Mata, President Marcos' Defense Secretary, was never formally received by the Commission on Appointments. For the information of the body, General Mata was my classmate in the PMA. We knew that his appointment was received in the Commission on Appointments, and yet they refused to accept that they received it. The book further continues that the appointments of Claudio Teehankee and Vicente Abad Santos, the Justice Secretary of the Marcos administration, were bitterly questioned as that of Rufino Hechanova, Macapagal's Executive Secretary. In 1955 when Manuel Manahan had seemed discourteous to one or two members of the Commission, Chairman Rodriguez asked for a recess, sent for Manahan, who shook hands with the members concerned, then resumed the session. Manahan's appointment was confirmed. We can see the actions here.

On the statement of the Honorable Rodrigo on the majority rule that I am recommending, maybe the rules state that it is a majority rule to pass an appointment. But it is not so in actual practice. One man can dissent and your appointment is bypassed.

On the number of session days, I am agreeable to any number of session days provided that all appointments shall be submitted to the whole Commission and not one member keeping the appointment, and only those appointments that are there be considered by the Commission. I have no qualms about the number of session days

provided that all appointments are in the Commission.

On the matter of the chief of staff and there are about three now, that will depend on the Chairman. This man is an ex officio member without the right to vote. I know that he cannot have the right to vote because he is not among the elected officials of our country but his advice will be very, very important. For example, last time there were appointments for the general's rank, and particularly during the last regime, one can ask every member of the Armed Forces for the qualification of the man so appointed. A retired chief of staff, without the right to vote, will be a good adviser to the Commission.

I then ask the Committee to accept the amendments in order to negate the different acts, sometimes scandalous, of the members of the Commission on Appointments. Our honorable Member here, Mr. de los Reyes, should have been a justice of the appellate court had his appointment not been frozen by one member of the Commission on Appointments.

THE PRESIDENT: May we have the position of the Committee on this matter?

MR. DAVIDE: Madam President, there are three concepts in the proposed amendment. We would like that a voting be made on each of the concepts because they can be treated separately from each other. As to the first, we will have no objection provided the period should be, say, 30 session days.

MR. DE CASTRO: I have no qualms about it, Madam President.

MR. DAVIDE: So, if the proponent agrees to fix it to a period of 30 session days instead of 10, the Committee is inclined to accept the first.

MR. DE CASTRO: Yes, I agree.

MR. RODRIGO: I have no objection. I just want to make something clear.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: This refers to the session days of Congress, not of the Commission on Appointments.

THE PRESIDENT: Is that acceptable, 30 session days of Congress?

MR. DE CASTRO: It is acceptable, Madam President.

THE PRESIDENT: Shall we put that first to a vote, Mr. Chairman?

MR. DAVIDE: Madam President, as worded, it will read: "THE COMMISSION SHALL ACT ON ALL APPOINTMENTS SUBMITTED TO IT WITHIN THIRTY SESSION DAYS OF CONGRESS FROM THEIR SUBMISSION."

THE PRESIDENT: Is there any objection to this particular amendment? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: On the second concept regarding the appointments to the military with the chief of staff as ex officio member, we would rather leave it to the body.

MR. DE CASTRO: To be designated by the Chairman; meaning, if there are three retired chiefs of staff, the Chairman can select who among the three he wants to be his adviser in the Commission on Appointments.

MR. DAVIDE: We would rather leave it to the body to decide, Madam President.

MR. DE CASTRO: We submit, Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Yes, Commissioner Bennagen is recognized.

MR. BENNAGEN: Yes, may I say something, partly in support of the proposed amendment with respect to seeking the advice of the retired chief of staff.

THE PRESIDENT: The Gentleman may proceed.

MR. BENNAGEN: I like the idea in terms of seeking the advice of a concerned ministry or agency, but I do not understand why it should be limited to the military. I think the idea is for the Commission on Appointments to seek the advice of concerned ministries or agencies, not only of the military. I do not know how it should be worded but that is basically the concept.

Thank you, Madam President.

THE PRESIDENT: Is that accepted by Commissioner de Castro?

MR. DE CASTRO: Before I accept or reject the suggestion, may I know the Gentleman's recommended rewording?

SUSPENSION OF SESSION

MR. BENNAGEN: May I ask for a suspension of the session?

THE PRESIDENT: The session is suspended for a few minutes.

It was 3:06 p.m.

RESUMPTION OF SESSION

At 3:13 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Acting Floor Leader is recognized.

MR. ROMULO: Commissioner Bennagen has withdrawn his amendment, Madam President.

THE PRESIDENT: The amendment is withdrawn. What is the second portion of the amendment now?

MR. DE CASTRO: The second portion of my amendment reads: WHEN OFFICERS OF THE ARMED FORCES OF THE PHILIPPINES ARE TO BE CONSIDERED BY THE COMMISSION, A RETIRED CHIEF OF STAFF, DESIGNATED BY THE CHAIRMAN, SHALL SIT AS AN EX-OFFICIO MEMBER THEREOF WITHOUT RIGHT TO VOTE.

MR. DAVIDE: Madam President.

THE PRESIDENT: Yes, Commissioner Davide is recognized.

MR. DAVIDE: The Committee declines to accept the amendment because first, it will clutter the Commission on Appointments with parties who are not to be considered anymore as government officials. Besides, other organs of the government or other appointments affecting other branches of the government may also demand for a representation by way of consultancy. So, we would open the floodgates to a dilution of the prestige of the Commission on Appointments.

THE PRESIDENT: This matter has been sufficiently explained by Commissioner de Castro. So, I think we are ready to vote on this particular amendment.

MR. DE CASTRO: May I just explain with a few sentences?

THE PRESIDENT: The Gentleman may proceed.

MR. DE CASTRO: The rank of general officers in the Armed Forces is very, very important. There was even a time when the aide-de-camp of a President submitted to the President the name of a colonel who was promoted to general and the President signed it. This is also necessary because under the National Defense Act, the percentage of general officers is only 1.2 percent and if there will be many general officers submitted to the Commission without the appropriate advice, it is possible that the rate of the number of generals will exceed the requirement in the National Defense Act. I submit to the body, Madam President.

VOTING

THE PRESIDENT: Thank you.

As many as are in favor of the proposed amendment of Commissioner de Castro, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

The results show 3 votes in favor and 15 against; the proposed amendment is lost.

MR. DE CASTRO: Thank you, Madam President.

THE PRESIDENT: We shall go now to the third portion of the amendment.

MR. DE CASTRO: The third portion of the amendment is: THE COMMISSION SHALL RULE ON A MAJORITY VOTE OF ALL ITS MEMBERS.

THE PRESIDENT: Is this acceptable to the Committee?

MR. DAVIDE: We seek the recognition of Commissioner Rodrigo on the matter.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: It is the rule of the Commission on Appointments that a decision is made by majority vote. Also, the Commission on Appointments will be composed of elective members, 12 of them elected nationally by the people and 12 elected by districts or by party list.

Madam President, I think a commission such as this should be given the discretion to promulgate its own rules like other commissions are allowed to promulgate their own rules. We should not also impose a rule by constitutional mandate.

MR. DE CASTRO: The sad experiences of the past have compelled me to recommend this amendment because while the rule in the Commission on Appointments is for a majority vote, as stated by the Honorable Rodrigo, yet the sad experience is that they seek the unanimity of all its members before an appointment can push through. This is the reason I have to put this amendment, Madam President.

MR. DAVIDE: Madam President, the Committee adopts the position of Commissioner Rodrigo, he being a member of the Committee, and would rather throw the matter to a vote by the House.

MR. COLAYCO: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: I am constrained to let this body in on the unofficial rules governing the operation of the

Commission on Appointments. I am speaking of my own case. I am sure that Commissioner Rodrigo, who must have known me in 1965, did not even know that the Chairman on the Judiciary of the then Congress had sat on my appointment in the three or four times that the Commission met to approve the appointments submitted by the President.

On the last day of the meeting of the Commission on Appointments, I heard that Congressman Crisologo had again decided not to submit my name. Fortunately I met one of the Senators who knew me, and who asked me what I was doing there; I told him my problem. Right there and then when Congressman Crisologo who was called to submit the last names for approval, left the podium and said, "That is all, Mr. President," this Senator rushed towards Congressman Crisologo and practically bodily brought him back. It was only then that Congressman Crisologo read my name.

I know as a fact that others had to pass through this exclusive club. The members of the Commission act like some kind of secret association that when any member gives the black ball, everybody else gives the same. Much as I respect the opinion of Commissioner Rodrigo, I am afraid there were some goings-on that he was not even aware were taking place.

For this reason, therefore, I am in favor of the proposal of Commissioner de Castro.

MR. DE CASTRO: Thank you.

May I have another word, Madam President, because to me this is very important.

THE PRESIDENT: The Gentleman may proceed.

MR. DE CASTRO: The honorable Chairman of the Committee on the Legislative also has sad experiences on this matter. With regard to the appointments in Cebu, for example, unless they go to one Senator who is a member of the Commission on Appointments, these appointments can never be approved; they will never pass in the Commission. I think he is a living witness to this. He is telling me his story about this.

So, while the rule speaks of majority vote, one member can hold all the appointments in one province and bypass them. I, therefore, reiterate my amendment that the Commission shall rule on a majority vote of all its members. I beg the Chairman to accept my amendment.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Reference was made to me as a living witness. On the occasions that I had a chance to talk with Commissioner de Castro on this, I said that I heard about it but I never was a living witness. I was never appointed to any position on an appointment which required the consent of the Commission on Appointments.

But I sincerely believe that the experiences related by the Gentleman and the Honorable Colayco referred specifically to the nonsubmission of the appointment and not necessarily on the requirement of a majority. So, the rules would stand, an approval by a mere majority.

All I would like to impress upon the Commission is that all the sad experiences related referred to the non-submission of an appointment. Let us consider the fact that at that time, the Senate and the House of Representatives met for only 100 days in a year and, therefore, there really was the risk of nonsubmission because of the adjournment of Congress. But under our proposal, the body will be a continuing body; it will continue to meet until 30 days before the opening of the regular session of the next Congress. So, there is no danger of nonsubmission because the appointment will be immediately known.

We now throw the matter to a vote by the House, Madam President.

THE PRESIDENT: Is the amendment clear to the Members? Will the Gentleman please read again his proposed amendment?

MR. DE CASTRO: The third amendment reads: THE COMMISSION SHALL RULE ON A MAJORITY VOTE OF ALL ITS MEMBERS.

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment of Commissioner de Castro, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

The results show 32 votes in favor and 10 against; the amendment is approved. (Applause)

MR. DE CASTRO: Thank you, Madam President. I also thank the Chairman of the Legislative Committee.

May I propose another amendment? (Laughter)

MR. ROMULO: That is what we get for encouraging him.

MR. DE CASTRO: On page 1, Section 2 states: "The Senate shall be composed of twenty-four Senators. . ."

This provision was in the 1935 Constitution, and at that time in 1935, we had only about 25 million or less population. We are again proposing for 24 Senators when we now have approximately 54 million people.

May I inquire whether the number of Senators is based on population or just on the territorial area of the Philippines?

MR. DAVIDE: Madam President, in fixing the composition of the Senate at 24, we did not consider its proportion to the number of population. The Senate was restored when the body voted on a bicameral system on a very slim majority of only one vote. So, we read into the approval the restoration of the Senate with the composition of practically the same number of members.

In short, we actually look upon the Senate as the second level to that of the President and the Vice-President. Therefore, population was not in our mind. Just like the President and the Vice-President, we do not consider the total number of population to be represented by a President or so much of the population to be represented by the President.

Since the grounds for the restoration of the Senate were those stated on record by the proponents for bicameralism, we believe that the composition of 24 would be sufficient in order, first, to at least attain economy; and if the idea is quality legislation, we submit that a Senate with only 24 may be able to achieve quality legislation, instead of again putting more in the Senate. It may be just another body similar to the Lower House.

So, if we want to have some degree of hierarchical values, perhaps the Senate should have a lower number and we believe that 24 is sufficient.

MR. DE CASTRO: So, the number is not based on the population but rather on the entirety of the whole Republic; am I correct?

MR. DAVIDE: Yes, Madam President.

MR. DE CASTRO: Then, I withdraw my proposed amendment on Section 2.

May I propose an amendment on Section 5. (Laughter)

On Section 5, line 25, the Committee report states that there shall be 250 Members of Congress. On line 28, it is stated:

. . . and those who, as provided by law, shall be elected from the sectors and party list.

This will, therefore, be more than 250.

MR. DAVIDE: No, Madam President. The sectoral and party list representatives will only comprise 20 percent of the total membership of 250.

MR. DE CASTRO: That is 50.

MR. DAVIDE: So, it means the sectoral representatives and party list representatives could be only 50. The regular members to be elected from the legislative district will be a maximum of 200.

MR. DE CASTRO: But the wording confuses me because it states:

The House of Representatives shall be composed of not more than two hundred and fifty members who shall be elected from legislative districts . . .

Then, on line 28, it is stated that those as provided by law shall be elected from the sectors and party list. The wording confuses me but with the explanation of the Gentleman, I will be satisfied, it will only be 250.

MR. DAVIDE: Yes, Madam President.

MR. DE CASTRO: On page 2, lines 4 to 8 state:

Each legislative district shall comprise, as far as practicable, contiguous, compact and adjacent territory.

After the word "territory," there is a period (.) by virtue of an amendment a while ago.

My proposed amendment, however, is to put a comma (,) after "territory" and insert the words: PROVIDED THAT EACH PROVINCE OR CITY SHALL HAVE AT LEAST ONE REPRESENTATIVE. I am thinking of Batanes, Palayan City, Siquijor and all other areas which, as provinces or cities, should have at least one representative each and not based on population.

MR. DAVIDE: Per the Rigos amendment this morning, as amended by Commissioner Aquino, lines 6 to 8, after the period (.) following "territory," read: "Each city with a population of at least two hundred thousand, or each province, shall have at least one representative."

So, I think the problem of the Gentleman has been solved, except for the city.

MR. DE CASTRO: No, but it says "of at least two hundred thousand."

MR. DAVIDE: That refers to the city, Madam President. Regarding the province, there is no requirement as to population.

MR. DE CASTRO: But the City of Palayan has not even 100,000.

MR. DAVIDE: We answered this morning that the City of Palayan will not be without representation because it will be within another territory composed of the City of Palayan and other adjacent municipalities.

Thank you, Madam President.

THE PRESIDENT: Thank you.

The Acting Floor Leader is recognized.

MR. ROMULO: Madam President, the amendment of Commissioners Suarez and Monsod on Section 20 is ready. So, may I ask that Commissioner Suarez be recognized.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

This is the amendment by substitution to Section 20 and copies have already been furnished the Commissioners. This amendment by substitution is the collective thinking of the following Commissioners: Commissioners Monsod, Rodrigo, Sarmiento, Rosales and Quesada. The amendment reads: THE HEADS OF MINISTRIES, UPON THEIR OWN INITIATIVE, OR UPON THE REQUEST OF EITHER HOUSE, AS THE RULES OF SUCH HOUSE SHALL PROVIDE, MAY, WITH THE CONSENT OF THE PRESIDENT, APPEAR BEFORE AND BE HEARD BY SUCH HOUSE ON ANY MATTER PERTAINING TO THEIR MINISTRIES. WRITTEN QUESTIONS SHALL BE SUBMITTED TO THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AT LEAST THREE (3) DAYS BEFORE THE SCHEDULED APPEARANCE. INTERPELLATIONS SHALL NOT BE LIMITED TO WRITTEN QUESTIONS, BUT MAY COVER MATTERS RELATED THERETO. THE AGENDA SHALL SPECIFY THE SUBJECTS OF THE APPEARANCE. WHEN THE SECURITY OF THE STATE OR THE PUBLIC INTEREST SO REQUIRES AND THE PRESIDENT, SO STATES IN WRITING, THE APPEARANCE SHALL BE CONDUCTED IN EXECUTIVE SESSION.

May we know if the proposed amendment by substitution is accepted by the distinguished sponsors?

THE PRESIDENT: What does the Committee say?

MR. DAVIDE: Madam President, the proposed amendment actually weakens the institution known as the Question Hour but also the concept embodied in Section 24, Article VI of the 1935 Constitution. Under the latter, we have the following wordings:

The heads of departments upon their own initiative or upon the request of either House may appear before and be heard by such House on any matter pertaining to their departments, unless the public interest shall require otherwise and the President shall so state in writing.

Under this particular Section 24, the consent of the President was not even necessary; under the proposal now the consent of the President is necessary. In short, we even destroy the original concept of a nonrequirement of a presidential consent. The only authority of the President under Section 24 of the 1935 Constitution is in the matter of a determination of the necessity of a matter involving public interest; in which case, the President would have a very limited say on the appearance of the head of a department:

Finally, as explained this morning, the appearance of the head of the ministry would not be mandatory. Upon the other hand, if the minister on his own initiative wants to appear before the National Assembly, it would be mandatory upon the National Assembly to accept and receive him. In short, a Cabinet member makes his own terms of appearance before the National Assembly. Therefore, it will more than rebut the desired objective of allowing the National Assembly to check on the members of the Cabinet.

It is, therefore, with deep regret that the Committee cannot accept the proposed amendment.

MR. SUAREZ: Is the Committee disposed to accept the wording of this particular provision as reflected in Section 24, Article VI of the 1935 Constitution? In other words, would the Committee accept the insertion of the following phrase after the word "ministries": UNLESS THE PUBLIC INTEREST SHALL REQUIRE

OTHERWISE AND THE PRESIDENT SHALL SO STATE IN WRITING?

MR. DAVIDE: The Committee feels that somehow, if there should be a blending of the 1935 concept and the proposed amendment which is basically in the 1973 Constitution, it is submitted that the one read this morning after the amendment of Commissioner Sarmiento would achieve a happy blending. Of course, the Committee will have to make some comments on it.

MR. SUAREZ: Madam President, may we request a suspension of the session?

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended for a few minutes.

It was 3:41 p.m.

RESUMPTION OF SESSION

At 3:44 p.m., the session was resumed.

THE PRESIDENT The session is resumed.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: After consultations with the members of the Committee, we have decided to submit this amendment by substitution to read as follows:

SECTION 20. THE HEADS OF MINISTRIES MAY, UPON THEIR OWN INITIATIVE WITH THE CONSENT OF THE PRESIDENT, OR UPON THE REQUEST OF EITHER HOUSE APPEAR BEFORE AND BE HEARD BY SUCH HOUSE ON ANY MATTER PERTAINING TO THEIR MINISTRIES. WRITTEN QUESTIONS SHALL BE SUBMITTED TO THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AT LEAST THREE DAYS BEFORE A SCHEDULED APPEARANCE. INTERPELLATIONS SHALL NOT BE LIMITED TO WRITTEN QUESTIONS, BUT MAY COVER MATTERS RELATED THERETO. THE AGENDA SHALL SPECIFY THE SUBJECTS OF THE APPEARANCE. WHEN THE SECURITY OF THE STATE OR THE PUBLIC INTEREST SO REQUIRES AND THE PRESIDENT SO STATES IN WRITING THE APPEARANCE SHALL BE CONDUCTED IN EXECUTIVE SESSION.

We submit this for the appreciation of the members of the Committee.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Just for some clarification. Did we hear it correctly that there will be a comma (,) after "MAY"?

MR. SUAREZ: Yes.

MR. DAVIDE: Madam President, we would suggest that the comma (,) after "MAY" be deleted. Then after "INITIATIVE," insert a comma (,) before and after the words "WITH THE CONSENT OF THE PRESIDENT." We would also propose to put a comma (,) after "HOUSE." So, the amendment will read: "THE HEADS OF MINISTRIES MAY UPON THEIR OWN INITIATIVE, WITH THE CONSENT OF THE PRESIDENT, OR UPON THE REQUEST OF EITHER HOUSE, AS THE RULES OF EACH HOUSE WILL PRESCRIBE, APPEAR BEFORE AND BE HEARD . . ."

MR. SUAREZ: We accept the proposed amendment on the understanding that the utilization of the word "MAY" with or without the comma (,) connotes a directory character.

MR. DAVIDE: Subject to the Rules of the House.

MR. SUAREZ: Yes, we will accept that also.

MR. DAVIDE: So, it is clearly understood that it should be subject to the Rules of each House.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Will the distinguished proponent answer a clarificatory question in the penultimate sentence of the proposed amendment which reads: "THE AGENDA SHALL SPECIFY THE SUBJECTS OF THE APPEARANCE." Will the Gentleman please explain the meaning of this sentence? What exactly is the meaning of "SUBJECTS OF THE APPEARANCE"?

MR. SUAREZ: "SUBJECTS OF THE APPEARANCE" could mean two things: One, the reason for the appearance; and second, what would be taken up in connection with the proposed appearance.

MR. MAAMBONG: I would suggest a rewording of this, Madam President, so that the intent is clearly indicated. If I recall correctly, in the Regular Batasang Pambansa, it is the question sent in advance to a Cabinet Minister which is classified by subject. So that in the presentation on the floor, the Cabinet minister appearing before the body will answer in a systematic manner by the subject of the questions. That is the procedure adopted in the First Regular Batasang Pambansa. So, perhaps a rewording is in order, Madam President.

MR. SUAREZ: Would changing the word "APPEARANCE" to INTERPELLATIONS satisfy the observations made by the Gentleman because we should benefit from his experience in a parliament. We have not had that kind of experience. In other words, the sentence should read: THE AGENDA SHALL SPECIFY THE SUBJECTS OF THE INTERPELLATIONS.

MR. DE LOS REYES: Madam President, point of information.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Section 12 of the 1973 Constitution states: "The agenda shall specify the subjects of the Question Hour."

MR. SUAREZ: That is why we changed "Question Hour" to APPEARANCE.

MR. DE LOS REYES: "SHALL SPECIFY THE SUBJECTS OF THE INTERPELLATIONS."

MR. SUAREZ: That is what we were suggesting to Honorable Maambong, if it would satisfy his pertinent observations.

MR. MAAMBONG: May we hear from Commissioner de los Reyes the formulation of the sentence so that we can talk about it before we present it to the Committee? How would it read now?

MR. DE LOS REYES: "THE AGENDA SHALL SPECIFY THE SUBJECTS OF THE INTERPELLATIONS."

MR. MAAMBONG: I think that is alright.

MR. SUAREZ: We will accept that.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: The Committee has accepted the proposal. So, may we be allowed to comment on the proposed amendment.

The interpellations, Madam President, cannot be the subject of the agenda because we do not know yet what would be the agenda. So, what should really be the subject of the agenda would be the Question Hour and, in lieu thereof, the appearance. What should be taken up during the appearance of the Cabinet minister is what is meant in the provision. Thus, the Committee requests that the original wording of the proposal no longer be changed or altered.

MR. SUAREZ: I think there are a number of experienced parliamentarians here who participated in the parliament established during the past administration. We would certainly appreciate their comments on whether we should use the word "interpellations" or appearance."

MR. DAVIDE: The Committee, Madam President, would propose APPEARANCE instead of "interpellations" because we would not know what would be the interpellations of the Members of the National Assembly. The paragraph preceding it is: "INTERPELLATIONS SHALL NOT BE LIMITED TO WRITTEN QUESTIONS, BUT MAY COVER MATTERS RELATED THERETO." That is broad enough; what should be the subject of the agenda is the appearance itself.

MR. MAAMBONG: Madam President, why do we not just delete the sentence? The whole Article causes confusion. It does not seem to belong there in the first place. We have already clarified in the previous sentences what is supposed to be the nature, the presence of the minister.

MR. SUAREZ: Personally, we have no objection to this. This was drafted and worded by the Committee.

THE PRESIDENT: What does the Committee say with respect to the deletion?

MR. DAVIDE: We agree to the deletion.

MR. SUAREZ: Thank you.

MR. DAVIDE: Anyway, it is very clear that the matter of the appearance or, shall we say, the Question Hour, would be subject to the rules to be prescribed by each House of the legislature.

MR. SUAREZ: After all, the sentence prior to that reads: "INTERPELLATIONS SHALL NOT BE LIMITED TO WRITTEN QUESTIONS, BUT MAY COVER MATTERS RELATED THERETO. " I think that is broad enough. We agree to the suggestion of the Honorable Maambong, as confirmed by the members of the Committee.

THE PRESIDENT: May we now have the wording of Section 20 so that we can submit the amendment to a vote?

MR. DE LOS REYES: Madam President, may we ask Commissioner Suarez a few clarificatory questions?

MR. SUAREZ: Yes, willingly.

THE PRESIDENT: The Gentleman may proceed.

MR. DE LOS REYES: Do I understand that it is only when the appearance of the heads of the ministries is on their initiative that they need the consent of the President?

MR. SUAREZ: That is right.

MR. DE LOS REYES: But if it is upon the request of either House, they need not secure the consent of the

President, and that even if the President objects to their appearance, they still have to appear?

MR. SUAREZ: That is right. The only qualification being that it must be in accordance with the rules that each House may provide for the purpose. But we used the directory word "may." In other words, that Gentleman has the right to refuse.

MR. DE LOS REYES: The next question is: Why did the Committee change "departments," as provided in the 1935 Constitution to "ministries" when we are already adopting the presidential system? I thought ministries only refer to a parliamentary system because we have a deputy minister; but when we adopt the presidential system, it is departments. Also, we call the members of the Cabinet secretaries and no longer ministers.

MR. SUAREZ: Thank you for the observation. We will leave that to the committee headed by the distinguished Senator Rodrigo, the Committee on Style.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized

MR. REGALADO: I propose a very simple amendment to the amendment but before I do that, may I seek clarification from the Chairman of the Committee? Did I hear him right that insofar as the appearance of a Cabinet minister on his own initiative is concerned, that is purely optional on his part, but that if he does make that indication of his desire to appear, it shall be mandatory for the House to permit him to make his appearance? Did I get that correctly?

MR. DAVIDE: That was not the Committee's interpretation. That was the answer of the main proponent to questions by the Committee. That is why the Committee insisted on the insertion of the words "AS THE RULES OF EACH HOUSE MAY PROVIDE."

MR. REGALADO: I think it was the sense of the Committee that the moment a minister wants to appear before the House, then the House shall authorize his appearance, not the House to refuse.

MR. DAVIDE: That was the answer to the question of the Committee but the Committee did not want it to be because of the extent and the scope and the meaning. Otherwise, we will have a minister commanding the National Assembly. So, it will now be left to the rules of each House.

THE PRESIDENT: Is the body ready to vote?

MR. MAAMBONG: Madam President, just one more point. In the second sentence, it already says, "WITH THE CONSENT OF THE PRESIDENT." The last phrase of the sentence reads, "UNLESS THE PUBLIC INTEREST SHALL REQUIRE OTHERWISE, AND THE PRESIDENT SO STATES IN WRITING." If the President does not consent, we do not need the last phrase. The phrase "WITH THE CONSENT OF THE PRESIDENT" is all-embracing. How many consent do we need anyway?

MR. SUAREZ: No, Madam President. The situation is different in the last sentence because this has reference to the security of the state or the public interest and the only condition here is that the appearance shall be conducted in an executive session instead of a public session, for example, or a session before either of the Houses.

MR. MAAMBONG: No, Madam President. I am not referring to the last sentence. I am referring to the first sentence. The first sentence on the appearance of the heads of ministries upon their own initiative with the consent of the President is very clear. In other words, they cannot appear without the consent of the President. But in the last phrase of the first sentence, we repeat the phrase "UNLESS THE PUBLIC INTEREST SHALL REQUIRE OTHERWISE, AND THE PRESIDENT SO STATES IN WRITING."

MR. SUAREZ: No, may I interrupt, Madam President. That portion is already deleted. It is not included in our proposed amendment.

MR. MAAMBONG: In other words, the period (.) would be after the phrase "OR ANY MATTER PERTAINING TO THEIR MINISTRIES."

MR. SUAREZ: That is right, Madam President.

MR. MAAMBONG: Thank you.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Suarez yield to just one question?

MR. SUAREZ: Yes, Madam President.

MR. OPLE: It has happened before, and it will likely happen again, that a President has invoked the mantle of executive privilege in order to prevent a member of the Cabinet from appearing in the Senate or in the House of Representatives on call of either House under this proposed provision. What will happen then? Will a dead lock arise? And is this now not the moment to anticipate such possibilities that can develop into a crisis between two branches of the government? Suppose the President invokes the mantle of executive privilege so that a Cabinet minister summoned to the Question Hour is unable to appear, what does the proponent think of that?

MR. SUAREZ: Madam President, that situation has happened time and again in the past, and that is in pursuit of the doctrine of separation of powers. So, in a situation like that, it is the privilege of the President to seek recourse under the mantle of executive privilege. In other words, he may instruct his Cabinet member not to respond to the summons or the invitation extended by the Congress.

MR. OPLE: This will not be deemed a violation of this constitutional provision, simply because a sitting President has invoked the mantle of executive privilege?

MR. SUAREZ: I do not believe it is a violation of this particular provision, Madam President.

MR. OPLE: Thank you very much, Madam President.

MR. SUAREZ: Thank you.

THE PRESIDENT: Is the body ready to vote now? Will Commissioner Suarez now read Section 20, as corrected and revised?

MR. SUAREZ: "THE HEADS OF MINISTRIES MAY UPON THEIR OWN INITIATIVE . . ."

THE PRESIDENT: Ministries or departments?

MR. SUAREZ: It depends on the Committee on Style but I might as well use departments.

So, the amendment, as amended, is as follows: THE HEADS OF DEPARTMENTS MAY UPON THEIR OWN INITIATIVE, WITH THE CONSENT OF THE PRESIDENT, OR UPON THE REQUEST OF EITHER HOUSE, AS THE RULES OF EACH HOUSE SHALL PROVIDE, APPEAR BEFORE AND BE HEARD BY SUCH HOUSE ON ANY MATTER PERTAINING TO THEIR DEPARTMENTS. WRITTEN QUESTIONS SHALL BE SUBMITTED TO THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AT LEAST THREE DAYS BEFORE HIS SCHEDULED APPEARANCE. INTERPELLATIONS SHALL NOT BE LIMITED TO WRITTEN QUESTIONS, BUT MAY COVER

MATTERS RELATED THERETO. WHEN THE SECURITY OF THE STATE OR THE PUBLIC INTEREST SO REQUIRES AND THE PRESIDENT SO STATES IN WRITING, THE APPEARANCE SHALL BE CONDUCTED IN EXECUTIVE SESSION.

THE PRESIDENT: The amendment, as amended, has been accepted by the Committee.

Is there any objection to the proposed amendment to Section 20? (Silence) The Chair hears none; the amendment, as amended, is approved.

MR. ROMULO: I ask that Commissioner Quesada be recognized, Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Madam President, Chairman and members of the Committee, I would like to propose an amendment by addition to Section 19, page 6. This morning we already approved the following on line 3: "No Senator or Member of the House of Representatives may appear as counsel before any court of justice." I propose that a comma (,) be placed after "justice" and after "Electoral Tribunals" the following phrase be inserted: QUASI-JUDICIAL AND ADMINISTRATIVE BODIES. I think the omission of these bodies is very significant because these are areas or bodies where a Senator or Member of the House can wield or exert undue influence or pressure. It is actually a transposition of line 9 with the addition of the word "QUASI-JUDICIAL." This would include such bodies as the Securities and Exchange Commission, the Civil Service Commission and other quasi-judicial bodies as well as administrative bodies like ministries where a solon can exercise some of his power and authority.

THE PRESIDENT: Will the Commissioner please repeat the amendment?

MS. QUESADA: After "court of justice" insert a comma (,); then after "Electoral Tribunals," insert QUASI-JUDICIAL.

THE PRESIDENT: What is the pleasure of the Committee?

MR. DAVIDE: Madam President, we would rather request the following amendment: After the comma (,) following "justice," insert OR BEFORE THE. Then after the comma (,) following "Tribunals" insert OR QUASI-JUDICIAL OR ADMINISTRATIVE BODIES. Is that the exact wording?

MS. QUESADA: Yes.

MR. DAVIDE: Such that it would read: "Before any court of justice, OR BEFORE THE Electoral Tribunals, OR QUASI-JUDICIAL AND OTHER ADMINISTRATIVE BODIES."

MS. QUESADA: I accept the amendment to the amendment.

MR. DAVIDE: The Committee accepts the amendment. Madam President, because that was actually the original concept in Section 19 before the amendment of Commissioner Colayco.

MS. QUESADA: May I propose my second amendment?

THE PRESIDENT: Let us first dispose of this one. Is there any objection to this particular amendment?

MR. PADILLA: Madam President.

THE PRESIDENT: Yes, the Vice-President is recognized.

MR. PADILLA: I am constrained to voice my opposition to this further expansion of the prohibition for a lawyer-member of Congress to appear as counsel. In fact, I think it is unfortunate that the Colayco amendment

was approved without the concurrence of some of the Members who were then absent when the votes were taken. The amendment would mean that a practicing lawyer, who aspires to be a Member of the House or of the Senate, will be precluded or prohibited from total exercise of his profession as lawyer. Madam President, a practicing lawyer elected to the House is usually approached by his constituents to appear and defend their rights or to redress their grievances but the lawyer-congressman will be prohibited by this new provision in the Constitution to appear and protect the interest of his constituents. If we further expand by mentioning Electoral Tribunals, COMELEC, quasi-judicial and administrative bodies, that means the lawyer-congressman cannot practice law at all. I am afraid that such total ban will discourage young promising lawyers who can be elected to the Congress from even aspiring to be a candidate because the moment he is elected, he is barred as a counsel. This new idea, Madam President, that a Member of Congress because of his position as such will influence the members of the judiciary or other electoral tribunals, quasijudicial and administrative bodies has no factual basis and is more apparent than real. I have appeared before municipal and trial court judges and personally argued cases supported by law and jurisprudence. The trial judges had denied those motions which compelled me to go to the appellate courts and for the appellate courts to reverse the erroneous decisions of the trial judges. What I believe we should avoid is not the appearance in court where the lawyer-congressman is arguing or showing the merits of his position and the demerits of the opposition. As I stated earlier this morning, what we should provide against are the possible influences behind the scenes or in chambers or in private consultations but not in public appearances before the courts or before quasijudicial bodies.

Madam President, I am in favor of the present provision in our Constitution to limit in certain cases the appearance as counsel of the Members of Congress but never to deny in absolute terms and impose an all-extensive prohibition for the exercise of the law profession.

Thank you, Madam President.

THE PRESIDENT: Yes, Commissioner Quesada is recognized.

MS. QUESADA: I would like to submit this to the body.

MR. COLAYCO: Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: If courts of justice whose members have security of tenure must be protected against political pressure, the more reason for quasijudicial bodies and administrative bodies because they do not have any security of tenure. Second, the fact alone that there is a prohibition for Members of Congress to appear in certain judicial or quasijudicial bodies is proof that there is risk of influencing the decision of judicial bodies when Members of the legislature appear before them. If this body approves the bigger prohibition, I cannot understand how we can fail to approve a more dangerous situation such as when Members of Congress appear before quasijudicial bodies or administrative bodies.

THE PRESIDENT: Are we ready to vote now?

Will Commissioner Quesada please read again the insertion desired?

MS. QUESADA: "No Senator or Member of the House of Representatives MAY PERSONALLY appear as counsel before any court of justice, OR BEFORE THE electoral tribunals OR BEFORE ANY QUASI-JUDICIAL AND ADMINISTRATIVE BODIES."

THE PRESIDENT: Has this been accepted by the Committee?

MR. DAVIDE: Yes, Madam President.

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment of Commissioner Quesada which has been accepted by the Committee, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

The results show 25 votes in favor and 8 against; the amendment is approved.

MS. QUESADA: Madam President, my second proposed amendment is on line 11, Section 19. The proposal is to delete or strike out the term "financially" from the phrase "in any contract with, or in any franchise or special privilege granted by the government, or any subdivision, agency, or instrumentality thereof. . ."

THE PRESIDENT: Is the proposal to eliminate or delete the word "financially"?

MS. QUESADA: Yes, Madam President, and I would like to explain this.

This constitutional provision, which appears in the 1935 and 1973 Constitutions, has been cleverly interpreted by solons in the past to serve their interest, permitting them or their clients or cronies to borrow multimillion-peso loans from government financial institutions, like the GSIS, the DBP or the SSS. The interpretation has run thus: Lending institutions make money by charging interest on loans. Therefore, when a solon borrows big loans from government lending companies, it is these companies that profit by the transaction, not he. Interpreted thus, the provision cannot be invoked against solons whose claim is that the real beneficiaries are the lending companies, and that they personally do not have any financial interest in the transaction.

This shrewd circumvention of the provision has worked against legitimate, deserving businessmen or entrepreneurs. Because of built-in advantages inherent in his position, a solon can easily obtain big loans at the expense of highly deserving businessmen with more feasible business projects.

So, I propose the deletion of the word "financially."

THE PRESIDENT: May we hear from the Committee?

MR. DAVIDE: Madam President, the present provision is taken from the original 1973 Constitution and partly from the 1935 Constitution. The particular proposal is in respect to any contract but that is already qualified by "directly or indirectly" — as the wording goes — which means that we cannot perceive an interest, whether direct or indirect. unless it is financial, because it has reference to any contract, a franchise or special privilege granted by the government or any subdivision, agency or instrumentality thereof, including any government-owned or controlled corporation during his term. The concern of the Commissioner had already been remedied, in effect, rather in a very explicit way by the Regalado amendment this morning which amended the last sentence of this section and which now reads as follows: "He shall not intervene in any matter before any office of the government for his pecuniary benefit, or where he may be called upon to act on account of his office."

So, we believe that, as worded, the provision is so all-encompassing and all-embracing that we will have a Senator or a Member of the House who cannot even practice his legal profession, nor be interested in any contract for that matter, nor can he even intervene in any cause or matter before any office for his pecuniary benefit or otherwise, where he may be called upon to act on account of his office. We have installed or enthroned a Senator or a Member of the legislature whom we can consider to be perhaps, like Caesar's wife, always above suspicion.

MS. QUESADA: Madam President, I withdraw the amendment.

THE PRESIDENT: The proposed amendment has been withdrawn.

MR. ROMULO: I ask that Commissioner Tingson be recognized.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Thank you, Madam President.

My first amendment will affect Section 4 on page 1, which reads:

No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.

Madam President, members of the Committee, I propose to change "thirty-five" years of age to FORTY years of age so that the phrase will read "at least FORTY years of age."

May I reason out briefly, Madam President?

THE PRESIDENT: Please proceed. The Gentleman has five minutes.

MR. TINGSON: Personally, the reason why I opted for an Upper Chamber in the legislature is that we shall be able to develop future chief executives of the land. The Senators will, therefore, be looked upon as elder statesmen like leaders-in-waiting. In other words, I am referring, Madam President and members of the Committee, to political maturity. It is at this juncture that I would like to make my point in stressing why we should make the minimum age requirement of our Senators to be 40 years. In the oriental milieu, 40 is the age of maturity. Such age is when a man begins to be more dignified and also experienced. While there are exceptional individuals, most of our leaders attain full maturity at this age when they have already exposed themselves to the many challenges, even frustrations and defeats. To be a leader, therefore, of national stature requires a personality that has already been mellowed with experience; a personality that has already been tested by time. I think, we have heard this refrain: "Life begins at 40."

If we look at the age requirement of the President in the 1973 Constitution and now in the proposed Constitution, the suggestion is he should be at least 40 years of age; so are the justices of the Supreme Court. Our Senator should be of the same prime age so that almost immediately, if necessary, and if he succeeds in doing it, he could jump into the high executive office of the land. In other words, I am talking of the impulsive youth or the impulsive temperament of youth against the considered temper of matured men; the indecisiveness of the young versus the definitive wisdom of their respective older mentors; I am talking of political maturity of men, men of experience against the developing mental capacities of the rising generation. I know that there were exceptions in the past. Ninoy Aquino was below 40 when he became a charismatic figure of the Philippines. Our own Jose Rizal was only 35 when he said, "I would die," and he did die for the Filipino people at Bagumbayan Field. My "tokayo," Gregorio del Pilar, was only 30 years old when he defended Tirad Pass; General Carlos P. Romulo, the father of our own Commissioner Romulo, was only 24 when Manuel Quezon discovered him and became editor of The Herald newspaper; the Man from Nazareth was only 33 when he walked by the shores of Galilee.

Madam President, I know that we are talking of practical, pragmatic and political considerations here. And so, I would like the Committee to accept my amendment and make it FORTY instead of "thirty-five."

MR. SARMIENTO: Madam President.

THE PRESIDENT: Yes, Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I interpose my objection to the proposal made by Commissioner Tingson? He says that at the age of 35, one is politically immature. He said that one acquires personality only after reaching the age of 40, that one who is below 40 is immature, has not bloomed politically.

Madam President, I personally believe that if one has suffered enough, if one has exposed himself to political realities, one has interacted with the people throughout the land, one who has been educated in the hard knocks of life, even if a person is 35 years old, he can be considered politically mature. We have instances in our history, examples of young men who, at the age of 30, 35, have contributed a lot to our political, cultural and social development: We have Aguinaldo; we have Emilio Jacinto, who at the tender age of 20 or 21 was already the editor of a revolutionary paper; we have Alexander the Great who at the tender age of 20, before 30, had conquered a great portion of the world. We have Ninoy Aquino who, at the age of 35, had shown his political maturity in the halls of the Senate and had exposed many maladies in our society. And we have Rizal who, at the age of 30, before reaching the age of 35, had written many books that exposed the ills of the Spanish regime.

So, I humbly submit, Madam President, that even at the age of 35, before reaching the age of 40, one can be politically mature; one can be an asset of our society and country.

MR. GASCON: Madam President.

MR. TINGSON: Madam President, may I answer that inasmuch as he was referring to me?

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Madam President, I would vigorously like to object to the statements made by Commissioner Tingson and support the statements made by Commissioner Sarmiento.

The issue here is statesmanship and it seems that the implication is that age is the basis for statesmanship. I feel that age is not the primary factor for statesmanship. As Commissioner Sarmiento has already expressed very clearly, it is one's commitment to the Filipino people; it is his continued struggle for national sovereignty, for truth, for justice, for democracy that defines one's responsibility to history. The issue that the youth are impulsive, indecisive and politically immature is something that we, the students and the youth, have continually rejected. We have shown in the past and we shall continue to show that the youth and students will assert their role in Philippine society. We have a responsibility to history and we call on our elders to encourage the youth to become active participants in the political sphere.

As we have already expressed, some of our greatest leaders and those who have provided inspiration to the struggle for national independence were very young. Even Commissioner Tingson himself has expressed that Dr. Jose Rizal, Emilio Jacinto, Aguinaldo, Benigno Aquino, and many others were very young. Therefore, I believe, it is not age which defines statesmanship; it is commitment to the aspirations of the Filipino people.

Therefore, I object to this proposal and I suggest that we put it to a vote.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: I expected this strong opposition from our young handsome men and I was not talking indeed of immaturity on their part. May I repeat what I said — political maturity of men of experience against the developing mental capacities of the rising generation. We are talking of men who could immediately become President of the country and the age that we require of the President is at least 40 years.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Tingson yield to a question?

MR. TINGSON: Gladly so, Madam President.

MR. OPLE: The Gentleman himself cited the examples of the founding fathers of this country, none of whom exceeded the age of 35 at the time of the full flowering of their talents and genius and their service to the fatherland. Does not Commissioner Tingson recall that President Aguinaldo was 27 years old when he presided over the Malolos Republic; Apolinario Mabini at the time he was at the zenith of his political career as Prime Minister of the War Cabinet of Aguinaldo was 35; Andres Bonifacio was 29; Emilio Jacinto was only 19 when he wrote the cartilla of the Katipunan. I am afraid that if we set the age limit for the Senate at 40, if we assume that all the founding fathers of the Philippines as a modern nation had been resurrected in our time and place, none of them would qualify to be a candidate for Senator of the Philippines. Does Commissioner Tingson agree?

MR. TINGSON: Madam President, that is precisely why I took the initiative before somebody else mentioned it of Ninoy Aquino, Rizal, Gregorio del Pilar and others because in the case of General Aguinaldo, there was a dearth of leadership among men who were available at an age more than what he was then, in the case of Mabini, in the case of Rizal. But now, Madam President, I am not referring anymore to scarcity or dearth of men at that particular age and it seems to me that the younger men — I am not certainly saying here that younger men, like the two honorable young Commissioners who spoke a while ago so passionately, defending, of course, what they think should be defended — should not be given the fullest opportunity to rise. What I am saying is, "Time in God's hand is no delay."

MR. OPLE: Yes. There is, of course, a reverse standard with respect to age. In the American campuses of the 1960s, the motto was: If you are over 30, we do not trust you. In effect, Commissioner Tingson is saying: If you are under 40, we do not trust you.

MR. TINGSON: I do not say that and I did not mean that.

MR. OPLE: In terms of developing the age qualification for a Member of the Senate, under the provision that is under discussion we all know that the velocity of information has greatly accelerated since those days of the founding fathers.

Today, it is said that a high school student of mathematics and of physics would likely know more than the sum total of what, let us say, Galileo and Copernicus knew in their time, and that it is possible because of these factors — the knowledge explosion, the velocity of information — that at a lower age in our own society one can possess the kind of knowledge that can equip him far better to perform the functions of a member of the legislature than, let us say, his own counterpart of several generations ago. Therefore, the 1935 Constitution set an age floor of 35 for the Senate, 25 for the House of Representatives, 40 for the President and the Vice-President. I thought this three-layered kind of age qualification responded precisely to what Commissioner Tingson calls the maturity needs for each category: 25 for the House, 35 for the Senate, and 40 for the President and the Vice-President.

Will Commissioner Tingson still insist in the face of this evidence that we should set the age floor of the Senate at 40?

THE PRESIDENT: What does Commissioner Tingson say?

MR. TINGSON: I would like to leave that to the Commission if the Committee does not accept it.

MR. OPLE: Thank you.

MR. TINGSON: Madam President, may I have one more word. In this day and age of possibilities of nuclear annihilation, the leadership of the nation should as much as possible be given to those with political maturity and allow the younger men to assist them and develop while awaiting the time when they will have their own chance

at leadership.

MR. BROCKA: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Brocka is recognized.

MR. BROCKA: It seems from the arguments of Commissioner Tingson that he equates political maturity with age. It is the consensus all over the world that a child of five years now knows more about things and of life than the children of yesteryears, for the simple reason that he is exposed to more modern technological advances. The Commissioner probably meant that at the age of 40, one tends to be more careful and more cautious. It is about time that we give a chance to the younger people. I am no longer 35 but some of the best movies that I did were done when I was 30. And somehow I could never recapture the feeling that I was on top of the world at that time and at that particular age.

I think that thinking of equating political maturity with age is being narrow-minded. The Commissioner speaks about the impulsiveness of youth. On the other hand, he should also speak about the idealism of youth at that particular age, who are not yet jaded by experiences. It is at that moment when one feels strongly that he could achieve great things.

So may I make an amendment to that and probably make the age limit at 30.

Thank you.

MR. UKA: Madam President.

THE PRESIDENT: The Chair thinks much has sufficiently been said on this matter. Is there anything new?

MR. ROMULO: Commissioner Uka would like to be heard on so ageless a problem.

THE PRESIDENT: Commissioner Uka is recognized.

MR. UKA: Madam President, I do not belong to either party because I am neither young nor old. So I would like to make these few comments before we vote on this matter.

THE PRESIDENT: The Gentleman will please proceed.

MR. UKA: The young ones should be kind to the young once upon a time and they should understand each other. They say life begins at 40. Age really depends upon the mind. In fact our Bible says: "As a man thinketh in his mind, so is he." Old age, after all, a great man once said, is a relative term and I think that his progeny here with us can testify to this. He said age does not matter as long as the matter does not age. (Laughter) So it depends upon the mind. I am not thinking of what the parties are thinking. I know that both parties, the young and the old, will realize this and say they should be kind to each other. I say this so that we can all vote properly on this matter.

Thank you very much.

MR. TINGSON: Madam President, I will save the Committee from arguing on that. I wanted to propose this amendment, knowing that I would elicit strong reactions and I wanted to hear the eloquence of the young men. and I am proud that they lived up to our expectations.

THE PRESIDENT: We will proceed to a vote. Is the Gentleman withdrawing?

MR. TINGSON: I am withdrawing, Madam President. (Applause)

THE PRESIDENT: Thank you.

MR. TINGSON: I have another amendment, Madam President. This is not a matter of age anymore. The amendment is on Section 10, page 3, lines 9, 10, 11 and 12:

However, it may be called to session at any time by the President to consider such subjects or legislation as he may designate.

I was wondering whether in a sense we should make it more in consonance with the enshrining of the people's power in our new Charter. My amendment would read: ". . . However, it may be called to session at any time by the President OR BY CONGRESS ITSELF UPON REPRESENTATION OF THE MAJORITY OF THE MEMBERS OF BOTH CHAMBERS AND consider such subjects or legislation as THE MAJORITY OF CONGRESS MEMBERS may designate."

Madam President and members of the Committee, it would seem that it is only the Chief Executive who has the prerogative to convene Congress to a special session. If Congress is given a concurring authority and some powers of the President, like his treaty powers, perhaps Congress, too, can convene in special session by urging the majority of its members when necessary to have a session. I say "majority," in order to have an outright quorum. And this prerogative will be adopted or resorted to by Congress to consider such subjects that need legislation.

MR. DAVIDE: May we have again the very specific amendment?

MR. TINGSON: From line 9 of Section 10: ". . . However, it may be called to session at any time by the President OR BY CONGRESS ITSELF UPON REPRESENTATION OF THE MAJORITY OF THE MEMBERS OF BOTH CHAMBERS AND consider such subjects or legislation as THE MAJORITY OF THE MEMBERS OF CONGRESS may designate."

MR. DAVIDE: Madam President, under Section 10, if the Gentleman would consider the first sentence, he will notice that we have a working Congress:

The Congress shall convene once every year on the fourth Monday of July for its regular session, unless a different date is fixed by law, and shall continue to be in session for such number of days as it may determine until thirty days before the opening of its next regular session, exclusive of Saturdays, Sundays and legal holidays.

We say that it is a working Congress because actually the regular adjournment is only for a 30-day period; that is, the end of one session and the commencement of the next regular session. In between, from the fourth Monday of July up to 30 days before the beginning of the next session, we have the Congress working unless by law, enacted by itself, it will determine the length of its sessions and the length of its recesses.

And so, we feel that the proposal is not necessary anymore.

MR. TINGSON: Madam President, compared to the Constitution that we did help write in 1973, would Congress under our new Charter meet in session much longer?

MR. DAVIDE: This is practically a restatement of the 1973 Constitution, as compared to that of the 1935 Constitution which limited the session to only 100 days a year. Hence, the proposal of the Gentleman would have been acceptable if we limited the session to only 100 days a year.

MR. TINGSON: I am satisfied then, if that is the explanation.

Thank you.

MR. ROMULO: Madam President, I ask that Commissioner Foz be recognized.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I have only three little amendments. On page 5, Section 18, line 27, after the word "shall," put a comma (,) and then insert the words WITHOUT FORFEITING HIS SEAT, then, comma (,). On line 30, same section, same page, delete the comma (,) after the word "corporations" and add the words AND THEIR SUBSIDIARIES, then put a period (.) but delete the words "during his tenure."

These twin amendments will only reflect the intent of the Committee as stated by the Chairman during interpellations yesterday. This will provide that the disqualification of a Member of Congress from holding any other office or employment in government is not absolute. This means that if he accepts an appointment outside Congress, he forfeits his membership in the legislature. That is the explanation, Madam President.

MR. AZCUNA: With respect to the first part regarding forfeiture, it is already there because it says "during his tenure." So, if he accepts it, he will have to relinquish his position as Member of Congress. "Tenure" in law means the actual occupancy of the office. However, with respect to the government-owned or controlled corporations, does the Gentleman propose to add "AND THEIR SUBSIDIARIES"? Is that correct?

MR. FOZ: Yes, Madam President.

MR. AZCUNA: That is acceptable to us. So, the forfeiture really is there and it is a matter of style whether the Gentleman wants to say "WITHOUT FORFEITING HIS SEAT" and then exclude "during his tenure."

MR. FOZ: Madam President, I agree that we can do without the first amendment.

As amended, the first sentence of Section 18 will now read: "No Senator or Member of the House of Representatives shall hold any other office or employment in the government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations OR THEIR SUBSIDIARIES, during his tenure."

That is the provision as amended, Madam President.

MR. AZCUNA: We accept, Madam President.

THE PRESIDENT: Is there any objection to this proposed amendment on Section 18 which the Committee has accepted? (Silence) The Chair hears none; the amendment is approved.

MR. FOZ: The second amendment, Madam President, has to do with page 6, Section 19, line 15. I propose to substitute the words "term of office" with TENURE. May I explain?

What is forbidden is financial interest in any contract or in any franchise or special privilege granted by government. It would be unreasonable, a little unjust for us to maintain the prohibition if the Member of Congress is no longer in office. If he has left the office, then I think the prohibition of financial interest should no longer apply. And, therefore, that is the reason for the proposal to change "term of office" to TENURE.

THE PRESIDENT: Is the amendment accepted?

MR. AZCUNA: The committee declines the proposed amendment, Madam President, because we feel that the Member might resign after using his position in order to get a financial interest or privilege availed of. So we would like to continue the prohibition during the term for which he was elected so that it will apply even if he resigns.

MR. FOZ: That would be quite unfair. The reason for the prohibition against financial interest is precisely to avoid a situation where a Member of Congress will be able to use his influence in order to push through, for

instance, a contract with the government, and also to acquire a franchise or special privilege granted by government, not only for himself but on behalf of others, perhaps his clients. But when he is no longer a Member of Congress, he loses the same influence which he would otherwise wield if he were a Member of Congress. So it would be quite unjust for the prohibition to follow him even if he is no longer a Member of Congress.

MR. AZCUNA: We would like to submit this to the Commission, Madam President.

MR. FOZ: It is just a matter of justice, I suppose.

MR. AZCUNA: I somehow feel that the dangers are still there, that it could easily be circumvented, that this could be quid pro quo, given the possibilities . . .

MR. FOZ: Under ordinary circumstances, a Member would not just resign his position. He would stick to his position. Could the Commissioner think of a situation where a Member would resign just to be able to push through a contract with government? It is quite unlikely.

MR. AZCUNA: In the United States, Madam President, it often happens that a member of Congress resigns and becomes engaged in a private company that does business with the government. At least he should wait for the end of his term.

MR. FOZ: I submit, Madam President.

VOTING

THE PRESIDENT: Commissioner Foz would like the body to vote on his amendment changing the word "term" online 15 of Section 19 to "TENURE."

As many as are in favor of the proposed amendment of Commissioner Foz, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

The results show 8 votes in favor and 17 against; the amendment is lost.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 4:56 p.m.

RESUMPTION OF SESSION

At 5:22 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. ROMULO: Madam President, we have 12 more people who will present amendments, so, in order to save time, may I propose that we have a recess after which I would ask each proponent to come up one by one to the Chairman and discuss his proposal in the following order as listed in my calendar: Commissioner Rama is first . . .

MR. DAVIDE: Commissioner Rama's proposal has already been entered in to the draft and discussed by the Committee.

MR. ROMULO: Thank you.

Commissioner Monsod would be next, followed by Commissioners Nollado, Aquino, Rodrigo, Ople, Natividad, Lerum, Maambong, Padilla, Tadeo, Romulo and Bengzon.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 5:24 p.m.

RESUMPTION OF SESSION

At 6:28 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. DAVIDE: Madam President.

THE PRESIDENT: Yes, Commissioner Davide is recognized.

MR. DAVIDE: During the recess, there were several amendments proposed by the Commissioners which the Committee accepted. There were others which the Committee did not accept. So, may we be allowed to state for the record the amendments the Committee accepted.

THE PRESIDENT: The Gentleman will please proceed.

MR. DAVIDE: After this, only those to be explained and thrown to the floor will be taken up after the approved amendments.

We will begin with Section 5 on page 2, line 8. The amendment is to add a new sentence after the period (.) following "representative," to read as follows: "WHERE A CITY IS ENTITLED TO MORE THAN ONE REPRESENTATIVE THEY SHALL BE ELECTED AT LARGE." This is the amendment of Commissioner Rama. In other words, a city will not be physically districted since a city is usually small.

THE PRESIDENT: Is there any objection?

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, under this amendment the six Representatives from Manila will now be elected at large; and in Quezon City, four will be elected at large, though in the previous elections, there were already districts in these cities.

MR. DAVIDE: Madam President, in the 1984 election, there were no districts; they were elected at large.

MR. MONSOD: That is why in Manila and Quezon City, there are already set districts. I think the problem is Cebu City should not be projected to all the cities in the Philippines. Cebu City does not have a delineation of two districts, but I think we are trying to make a general rule out of one problem.

MR. DAVIDE: May we request Commissioner Rama to explain his proposal.

MR. RAMA: This proposal refers to most of the cities in the Philippines. Almost all the cities of the Philippines cover very small areas, and there is no point in subdividing the cities into legislative or congressional districts. Perhaps we can make an exception with respect to Manila. But in the last election, the people were quite happy with the setup where all congressional candidates had to be elected at large within the city. I do not see why it is going to be objectionable now.

MR. MONSOD: Madam President, perhaps we can make an exception of Manila and Quezon City.

MR. RAMA: Yes, because these are really specially big cities.

MR. MONSOD: And they have a large number of voters there. One has 1.2 or one million, and the other one has 800,000 or 900,000.

MR. RAMA: I would accept an amendment to that effect.

MR. DAVIDE: How should the amendment be placed on the main amendment?

MR. RAMA: Except Manila and Quezon City.

MR. MONSOD: Are we saying, Madam President, that the situation would only arise in Manila and Quezon City? Are there no others in the Philippines?

MR. RAMA: None other.

MR. MONSOD: How about Caloocan?

MR. RAMA: It is very small.

MR. OPLE: Madam President, please.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: There are no representatives in this Commission from other significant cities, like Davao City, Cagayan de Oro, Bacolod, Iloilo, Baguio, Dagupan. Zamboanga I think, is represented by Commissioner Azcuna. I wonder if by generalizing from the specific and possibly unique situation of the City of Cebu, we might in fact be meeting the criteria for all the other cities.

MR. RAMA: I can think of only three big cities among all the cities in the Philippines, and these are: Manila, Quezon City and Davao City. At any rate, in the last election, that was the setup where all the congressional candidates or the candidates to the Batasang Pambansa were elected at large in the city. There is merit there, Madam-President, because it would be good for the political health and the political education of the people for all the candidates to cover the whole city and explain their positions and discuss national issues. I do not think there is any harmful effect on the people, even in Manila where all the candidates are supposed to be elected at large.

MR. OPLE: Madam President, I really wish that the sponsors in the Committee could develop a general principle for universal application instead of making exceptions. For example, making an exception of the cities and the component municipalities of Metro Manila might lead to the impression that this is a very formidable exception. It covers a population of about eight million. Can we not, therefore, develop a general principle from the model of Metro Manila which is very substantial with a population of 8 million and, perhaps, make an exception of the City of Cebu?

MR. RAMA: That is not really an exception, Madam President. If the Commissioner can recall, in 1978, 21 candidates had to be elected by all the people of Metro Manila. If it was all right then, why should it not be all right now? In the 1984 election, I think that was the same situation, was it not?

MR. OPLE: No, it was somewhat different.

MR. RAMA: It was a little different in 1984, but in 1978, it was all right.

THE PRESIDENT: Can we defer this in view of the conflicting views on the matter? May we proceed to the next amendment to which there may be no objection?

MR. RAMA: Madam President, I have another amendment to Section 1.

MR. DAVIDE: Madam President, all amendments which the Committee did not accept will be taken up later. So, we request the Commissioner to defer his proposed amendment to Section 1.

MR. RAMA: Madam President, I think the amendment to Section I has been accepted. My amendment was to delete the last phrase on lines 8 and 9. May I read the entire Section I.

The Legislative power shall be vested in a Congress of the Philippines which shall consist of a Senate or a House of Representatives, except to the extent reserved to the people by the provision of initiative and referendum.

The phrase "except to the extent reserved to the people by the provision of initiative and referendum" is unnecessary. I propose that the entire phrase, from the word "except to the last word "referendum" be deleted. It is not necessary because this provision on the right of the people to exercise initiative and referendum is already defined in Section 31 and in other articles of the Constitution that we are drafting. Second, it is not tidily worded; and third, it does not answer this morning's prayer of Commissioner Laurel who prayed that our Constitution would have the grace and beauty of language so that our people would move to its melodious cadence.

THE PRESIDENT: This amendment has been accepted by the Committee?

MR. DAVIDE: Madam President, we would rather yield to the wisdom of the Commission and submit the matter to a vote.

MR. RAMA: I would submit to a vote but I thought this was a little unnecessary and a surplusage which would only affect the beauty of the language used in Section 1.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, may I speak against the proposed amendment to delete?

THE PRESIDENT: The Gentleman will please proceed.

MR. RODRIGO: Madam President, should we not defer this also?

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: The section speaks of where we vest the legislative power. We are precisely stating that the legislative power is vested in the following: in the Senate, the House of Representatives and directly in the people by the provisions on initiative and referendum. In the Article on the Legislature in Article IV of the Constitution of California, for example, Section 1 states:

The legislative power of this State is vested in the California Legislature which consists of the Senate and the Assembly but the people reserve to themselves the powers of initiative and referendum.

In other words, although it is covered in the last section of this Article, we give emphasis to the fact that we recognize the power of the people to legislate under the concept of initiative and referendum. Considering that these are new concepts, they must be placed in Section 1 to show the importance given to the people in amending our Constitution

MR. RAMA: Madam President.

THE PRESIDENT: Commissioner Rama is recognized.

MR. RAMA: It is even presumptuous for us to say that legislative power is vested in the people. Everybody knows that the people are the fountainhead of all government power. It is not necessary to say that this power is

reserved for the people because it is the people who are the fountain of power, and everybody knows that. So, it is not necessary to make such an emphasis which means nothing and which only clutters up the Constitution. We should have an elegant Constitution without too much clutter of words. On both scores, it is a redundancy; we cannot invest people with legislative power because they are the fountainhead of power. We should not include this phrase.

VOTING

THE PRESIDENT: We shall now vote on Commissioner Rama's amendment to delete.

As many as are in favor of the proposed amendment, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

The results show 14 votes in favor and 21 against; the amendment is lost.

MR. DAVIDE: Madam President, the amendment of Commissioners Rodrigo and Rosales are on Section 9, page 2, beginning from line 29. The entire section should be rewritten to read as follows: "IN CASE OF VACANCY IN THE SENATE OR IN THE HOUSE OF REPRESENTATIVES, A SPECIAL ELECTION MAY BE CALLED TO FILL SUCH VACANCY IN THE MANNER PRESCRIBED BY LAW, BUT THE SENATOR OR MEMBER OF THE HOUSE OF REPRESENTATIVES THUS ELECTED SHALL SERVE ONLY FOR THE UNEXPIRED TERM."

THE PRESIDENT: Is this amendment accepted by the Committee?

MR. DAVIDE: It is accepted, Madam President.

THE PRESIDENT: Is there need to explain to the Members?

MR. DAVIDE: I request that Commissioner Rodrigo be recognized to make the explanation. This is just a restatement of the provision of the 1935 Constitution.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Section 9 states that in case of vacancy in the Senate or in the House of Representatives, the Commission on Elections shall call a special election to be held within 60 days after the vacancy occurs. It is all right for the House of Representatives to call a special election because it would be held only in one district. But if one Senator should die and a special election will be called for the vacant seat of that Senator, the election will be nationwide — in the whole country — and imagine the expense that will be incurred.

During my time in the Senate, Senator Kangleon died and the special election was held in the subsequent regular election. So, instead of eight candidates for the Senate, there were nine candidates and the ninth was the one who was to fill the unexpired term of Senator Kangleon. However, if the Constitution provides that the election shall be held within 60 days, then there is no discretion to hold the special election in the coming regular election, thereby making it very expensive to have a special election nationwide for just one Senator.

The amendment is a restatement of the 1935 provision on this matter.

MR. DAVIDE: The Committee has accepted the amendment, Madam President.

THE PRESIDENT: Is there any objection to this particular amendment proposed by Commissioners Rodrigo and Rosales and accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: Madam President, on page 3, Section 10, lines 10 and 11, Commissioner Rodrigo's amendment is to insert the word "SPECIAL" between the words "to" and "session." Then after the word "President," place a

period (.); then delete all that follow beginning with the word "to" up to the period (.) at the end of line 11. The entire sentence beginning on line 9 will now read as follows: "However, it may be called to SPECIAL session at any time by the President."

The Committee has accepted this amendment, Madam President.

THE PRESIDENT: Is there any objection to this proposed amendment? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: The next amendment is on page 5, Section 15. We accepted the proposal of Commissioner Monsod with the explanation that the portion regarding the compensation of the first Senators and Members of the House of Representatives shall be taken up under the Article on Transitory Provisions. Commissioner Monsod's proposal is as follows: On line 1, insert between the article "The" at the beginning of the sentence and the word "Senators" the words "SALARIES OF"; on line 2, delete the comma (,) after the word "Representatives" and after the word "shall," delete the comma (,) and insert the phrase "BE DETERMINED BY LAW. Then delete the following words: "unless otherwise provided by law, receive an annual compensation of thousand pesos each." Then on lines 7 to 10, delete the last sentence starting with "Until otherwise provided by law," so that Section 15 will only read as follows: "The SALARIES OF Senators and tie Members of the House of Representatives shall BE DETERMINED BY LAW. No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase." The phrase "Until otherwise provided by law" will now be transferred to the Article on the Transitory Provisions.

The Committee has approved these amendments, Madam President.

MR. RODRIGO: Will Commissioner Davide please read the first sentence again from "The."

MR. DAVIDE: The first sentence will read: "The SALARIES OF Senators and the Members of the House of Representatives shall BE DETERMINED BY LAW."

MR. RODRIGO: So they themselves will determine.

MR. DAVIDE: However, we have the second sentence which reads:

No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase.

MR. RODRIGO: So if there is a long debate and it takes about a month before they can pass the law, they receive no salary yet.

MR. DAVIDE: No, because in the Transitory Provisions, there is initial compensation.

MR. RODRIGO: That is in the Transitory Provisions.

MR. DAVIDE: Yes, that is why as I said the last sentence will be transferred to the Transitory Provisions.

THE PRESIDENT: Is there any objection?

MR. MONSOD: Madam President.

THE PRESIDENT: Yes, Commissioner Monsod is recognized.

MR. MONSOD: I just want to make a manifestation that the Committee should really take into consideration changing all of the relevant provisions in the Constitution that specify compensation, because we know that after three or five years, that compensation is already an obsolete figure. So, we might as well leave it to legislation and

just provide the initial compensation in the Transitory Provisions.

THE PRESIDENT: Are we now ready to vote?

Is there any objection to the proposed amendment of Commissioner Monsod? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: Madam President, on Section 16, the same page 5, we have the amendments of Commissioner Romulo which the Committee has accepted. On line 12 between the words "be" and "open" insert the following words: PRESERVED AND; on line 14, delete the article "the" between "annually" and "itemized" and substitute it with AN, and also the word "expenditures" and substitute it with the following LIST OF AMOUNTS PAID TO AND EXPENSES INCURRED, so that the entire Section 16 will now read as follows: "The records and books of accounts of Congress shall be PRESERVED AND opened to the public in accordance with law, and such books shall be audited by the Commission on Audit which shall publish annually AN itemized LIST OF AMOUNTS PAID TO AND EXPENSES INCURRED for each Member."

MR. ROMULO: Madam President, the intention here is to prevent the recurrence of abuses of congressional allowances that occurred in the past. May I just cite the reason for this. When we tried to bring the matter to the Supreme Court, we could not gather any evidence because the reason given was that in the practice of the old Congress these amounts were deemed expended and, therefore, no books of accounts were kept. But the Supreme Court then ordered the COA to investigate. There was no itemized list and it was a lump sum simply given to the Speaker of the House. We could not subpoena the Speaker of the House because of the separation of powers. So this is meant to correct that situation.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: This is a matter of obsenation of the language here: "The records and books of accounts of Congress shall be PRESERVED AND opened. . ."

MR. DAVIDE: "PRESERVED AND opened to the public. . ."

MR. OPLE: We may have to add another BE because the phrase "shall be PRESERVED AND opened . . ." just does not sound smooth.

MR. ROMULO: It is accepted.

MR. DAVIDE: May we have again the amendment to the amendment?

MR. OPLE: Lines 11 to 12 will now read: "The records and books of accounts of Congress shall BE PRESERVED AND BE opened to the public. . ."

MR. DAVIDE: It is just an insertion of BE.

MR. OPLE: Yes. Thank you, Madam President.

MR. DAVIDE: The Committee also accepts.

THE PRESIDENT: Is there any objection to this proposed amendment of Section 16 as amended? (Silence) The Chair hears none; the amendment, as amended, is approved.

MR. DAVIDE: On Section 18, Madam President, we have the amendments of Commissioner Aquino which, the Committee has also accepted.

On line 26, delete the letter "a" before "Member."

On line 27, substitute the word "shall" after the word "Representatives" with the word "MAY."

On line 30, delete the word "tenure" and substitute it with the word "TERM" and add the following: "WITHOUT FORFEITING HIS SEAT."

I will continue so we can have the full picture of Section 18 after these amendments.

On line 31, delete the clause "during the term for which he was elected" and the comma (,).

On page 6, line 1, delete the phrase "while he was a Member of Congress" and substitute it with the following: "DURING THE TERM FOR WHICH HE WAS ELECTED."

So the entire Section 18 will now read as follows: "No Senator or Member of the House of Representatives MAY hold any other office or employment in the government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations, during his TERM WITHOUT FORFEITING HIS SEAT. Neither shall he be appointed to any office which may have been created or the emoluments thereof increased DURING THE TERM FOR WHICH HE WAS ELECTED."

MR. SARMIENTO: Point of clarification, Madam President.

May I know from the proponent why the word "MAY" was substituted for the word "shall"?

MS. AQUINO: It was substituted on the condition that the phrase "WITHOUT FORFEITING HIS SEAT" is accommodated, if only to underscore the fact that the effect of noncompliance of Section 18 is the automatic forfeiture of the position. Because as originally formulated, Section 18 would seem to be vague on the effect of noncompliance. For example, would this mean that one is automatically deemed to have vacated his position or does it need the majority vote of the House to declare that his position is vacated?

MR. RODRIGO: Madam President, may I ask a question for clarification?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Lines 29 and 30, as amended read: ". . . including government-owned or controlled corporation, during his TERM WITHOUT FORFEITING HIS SEAT." Suppose a Member of Congress resigns, may he then hold any other office?

MS. AQUINO: Yes.

MR. RODRIGO: After his resignation, may he be appointed?

MS. AQUINO: Yes, Madam President.

MR. RODRIGO: Then why did the Commissioner change "tenure" "TERM"?

MS. AQUINO: The reason is that we are referring to the entire term of four years.

MR. RODRIGO: Yes. If the prohibition is for the whole term, then even if he resigns, he is still disqualified to hold any office.

MR. DAVIDE: Madam President, if he resigns from his office, he himself has forfeited his seat.

MR. RODRIGO: Yes.

MR. DAVIDE: So he can still accept any office because he, by his voluntary action, forfeits his seat.

MR. RODRIGO: Yes. But his term is not yet over.

MR. DAVIDE: Yes, his term is not yet over, but he already forfeited his seat.

MR. RODRIGO: But then why was the word "tenure" changed to "TERM"?

MR. DAVIDE: Precisely to emphasize the forfeiture of the seat. That was the original proposal of Commissioner Foz, but we interpreted it to mean that it was not also necessary to forfeit his seat because his tenure has ended.

MR. RODRIGO: But even if his term has not yet ended and he resigns from his once, he may be appointed?

MR. DAVIDE: Yes, because as I said, if he accepts a position without first resigning, he is deemed to have forfeited his seat; but if he voluntarily resigns, he himself by his voluntary act forfeits his seat.

MR. RODRIGO: He ended his tenure but not yet his term?

MR. DAVIDE: The tenure is up to the time that he forfeits his seat or he resigns from office because tenure is actual occupancy of the position.

MR. RODRIGO: Anyway, I think the Committee on Style can take care of this.

MR. DAVIDE: The Committee on Style will really repolish the language.

THE PRESIDENT: Are there any other manifestations? Are we now ready to vote?

Is there any objection to the proposed amendments of Commissioner Aquino on Section 18 which have been accepted by the Committee? (Silence) The Chair hears none; the amendments are approved.

MR. DAVIDE: On Section 29 (1), Madam President, we have two amendments which the Committee has accepted. The first is the amendment of Commissioner Monsod which is on line 25 consisting of the insertion of the phrase "EXPENDITURES AND SOURCES OF FINANCING, INCLUDING" before "receipts" and the deletion of the phrase "based on" and its substitution with the word "FROM." On the same line 27, after the word "measures," put a period (.) and delete the word "and." On line 28, delete the words "of expenditures," so that Section 25 (1) will now read as follows: "The President shall submit to the Congress within thirty days from the opening of each regular session, as the basis of the general appropriation bill, a budget of EXPENDTURES AND SOURCES OF FINANCING, INCLUDING receipts FROM existing and proposed revenue measures."

May we request Commissioner Monsod to explain this for purposes of interpretation later.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, in the period of interpellations yesterday, we tried to bring out the fact that there are many ways of financing expenditures other than revenue measures, and what we want to only confirm or highlight here is that the government should not be unduly restricted by the Constitution in the ways to finance the budget.

That is all, Madam President.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Monsod yield to just one question?

MR. MONSOD: Yes, gladly.

MR. OPLE: Recently, a portion of the economic support fund from the United States was converted into a budgetary measure, presumably to help bridge the expected budgetary deficit which I understand is rather acute. This was a very exceptional accommodation granted to the Philippine government by the United States.

When the Commissioner speaks of a budget of expenditures and sources of financing outside the receipts from existing and proposed revenue measures, does he contemplate this as one of the sources of financing?

MR. MONSOD: Yes, Madam President, that would be one of the ways to finance the expenditures because that would be an expansionary but not necessarily an inflationary form of financing.

MR. OPLE: And this would also include, let us say, portions of the commodity loans from Japan where arrangements are made to convert them into a component of the budget?

MR. MONSOD: I am not sure about those parts of the budget because usually these would refer to assistance or what we call program loans that go through the budget. But if it is a commodity loan, it may not really be part of the budget of expenditures on the expenditure side.

MR. OPLE: With respect to the expenditure side, this would include equity contributions of the Philippine government to government corporations, such as the Philippine National Bank, the Development Bank of the Philippines and other such financial institutions, which I understand have now risen to about P 19 billion.

MR. MONSOD: Yes, the budget would have several components, and one of them would be equity contributions to such institutions, Madam President.

MR. OPLE: That is very enlightening.

Thank you, Madam President.

THE PRESIDENT: Is there any objection to these proposed amendments on Section 25 of Commissioner Monsod? (Silence) The Chair hears none; the amendments are approved.

MR. DAVIDE: Madam President, this is the amendment of Commissioner Natividad which the Committee has accepted. On the same Section 25 (1) after Commissioner Monsod's amendment, add a new sentence to read as follows: "THE CONGRESS MAY NOT INCREASE THE APPROPRIATIONS RECOMMENDED BY THE PRESIDENT FOR THE OPERATION OF THE GOVERNMENT AS SPECIFIED IN THE BUDGET."

I do not think this would require any explanation because this is in the 1935 Constitution.

THE PRESIDENT: Will the sponsor restate the proposed amendment?

MR. DAVIDE: It reads: "THE CONGRESS MAY NOT INCREASE THE APPROPRIATIONS RECOMMENDED BY THE PRESIDENT FOR THE OPERATION OF THE GOVERNMENT AS SPECIFIED IN THE BUDGET."

THE PRESIDENT: Is there any objection to this proposed amendment of Commissioner Natividad which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: This is an amendment of Commissioners Nollado, Sarmiento and Guingona. Insert a new paragraph on page 8, between lines 20 and 21 to read as follows: "(6) DISCRETIONARY FUNDS APPROPRIATED FOR PARTICULAR OFFICIALS SHALL BE DISBURSED ONLY FOR PUBLIC PURPOSES TO BE SUPPORTED BY APPROPRIATE VOUCHERS AND SUBJECT TO SUCH GUIDELINES AS MAY BE PRESCRIBED BY LAW."

MR. NOLLEDO: I would like to explain the amendment, Madam President.

THE PRESIDENT: Commissioner Nollado will please proceed.

MR. NOLLEDO: The purpose is not to destroy but merely to regulate the disbursements to avoid abuse of discretion in the use of discretionary funds.

According to the findings of the Commission on Audit, Mr. Marcos was granted by the Batasang Pambansa large amounts of discretionary funds allegedly for the insurgency problem, but which were spent for the personal aggrandizement of the First Family and some of their cronies. Even existing laws, like the National Internal Revenue Code, provide for discretionary funds for the Office of the President and other executive offices.

The word "discretionary" in relation to public funds is an anathema to the public, and it is high time that this Constitutional Commission adopt a rule that will effectively regulate the disbursements of discretionary funds.

Government officials who discharge their duties upon the tinkle of silver or the dazzle of gold have subtle ways of stealing the people's money. And one of these ways is through the so-called discretionary funds. So let this Constitutional Commission take a bold stand on this question and, to my mind, our proposed amendment is a step in the right direction.

Thank you, Madam President.

THE PRESIDENT: Is there any objection to this proposed amendment of Commissioners Nollado, Sarmiento and Guingona which has been accepted by the Committee inserting a new paragraph after Section 25 (5)? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: Madam President, on line 21, the subparagraph should now be numbered 7 instead of "6" as a consequence.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: Madam President, we beg permission to go back to page 6.

THE PRESIDENT: The sponsor will please proceed.

MR. DAVIDE: On page 6, between lines 17 and 18, insert a new section to be denominated as SECTION 20. The Committee on Style will do the resectioning later.

This is the amendment of Commissioner Ople which the Committee has also accepted, which reads: "SECTION 20. ALL MEMBERS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES SHALL, UPON ASSUMPTION OF OFFICE, MAKE A FULL DISCLOSURE OF THEIR FINANCIAL AND BUSINESS INTERESTS. THEY SHALL NOTIFY THE HOUSE CONCERNED OF A POTENTIAL CONFLICT OF INTEREST THAT MAY ARISE FROM THE FILING OF A PROPOSED LEGISLATION."

MR OPLE: Madam President, just a word of explanation.

THE PRESIDENT: Commissioner Ople will please proceed.

MR. OPLE: This proposed amendment seeks to build a policy of full disclosure of the affairs of future Members of Congress. Some members of the Committee, during the consultation, actually proposed that the policy of full disclosure should not be restricted only to Members of the legislature. And in the spirit of that advice, we hope that in the General Provisions or in the Declaration of Principles, some such principles can be established to guide the conduct of all officials and employees of the government.

Thank you, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I am in favor of the first sentence of this Section 20 regarding full disclosure by Members of the legislature of their financial and business interests, but not with regard to the second sentence because it speaks of proposed legislation.

May we have the second sentence again.

MR. AZCUNA: The second sentence reads: "THEY SHALL NOTIFY THE HOUSE CONCERNED OF A POTENTIAL CONFLICT OF INTEREST THAT MAY ARISE FROM THE FILING OF A PROPOSED LEGISLATION."

MR. PADILLA: I would like to delete that second sentence because it is rather difficult, if not impossible, to know what are the proposed measures that will be filed either in the House of Representatives or in the Senate. I think it is enough that there be a full disclosure.

MR. OPLE: Madam President, the second sentence really completes the intended sense for the entire section.

There is such a rule in the British Parliament, I understand — I say I understand because I have not seen the same rule with respect to the members of Congress in the United States—to establish an obligation so that a member of Congress authoring or sponsoring some legislations which involve, precisely, the financial and business interests they had disclosed could just make a manifestation. Among scientists, this is known as confessing one's bias right at the start, so that his peers in the community of scholars will know he has a valued judgment, that he is exonerated from any cheating because he confessed it from the start. And, therefore, he adheres to a standard of purity in scholarship. After that they will appreciate what he says because he has admitted some valued judgment at the start.

This amendment is not a bar really to a Member of Congress later on to sponsor a bill that may actually pertain, in a larger sense, to the business interest that he has disclosed. A good example is: Let us say I am a coconut king and I became a Member of the Senate. And I now sponsor a bill creating a levy, the proceeds of which will be used to establish a bank. Then under this provision, I am obliged to say that I am a coconut king but I am filing the bill, not so much to aggrandize me but the 1,400,000 small coconut farmers. And, therefore, I can proceed to sponsor that bill. In the full light of the knowledge of all my colleagues that my biases have been discounted, they could better appreciate the kernel of my logic or the intrinsic merit of my proposal. It is a means of building an atmosphere of candor and honesty in a legislative body.

So I hope Commissioner Padilla will allow the Committee to retain the second sentence.

MR. BENGZON: Madam President, will the Gentleman from Bulacan yield to some questions?

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. OPLE: Very gladly, to the Gentleman from Manila and Pangasinan.

MR. BENGZON: Under that example of Commissioner Ople of the coconut king, why does he still have to say that he is a coconut king when he has already disclosed at the time he took his oath or assumed office that he has, in fact, such coconut interests? He has put the House and the whole country on notice before he even filed this bill on coconut levy.

MR. OPLE: Madam President, just to be congruent with his own disclosure, I believe.

MR. BENGZON: How about a situation where we have a Member of the House of Representatives or the Senate who, at the beginning of his term or upon assumption of his office, is not engaged, for example, in the manufacture of hog or poultry feeds, but during his term he files a bill that has something to do with feeds with the intention thereafter of getting into that business, would he be prohibited in any way? Or would he have to disclose beforehand that the reason he is filing this bill is that he intends to get into that business?

MR. OPLE: Is this a start-up business or is he merely thinking of engaging in that?

MR. BENGZON: No, at the beginning of his term he is not engaged in the feed mill business. So he files a bill that would benefit tie feed mill industry because he has the intention of getting into the business if and when this bill is passed. Would he be under obligation to disclose his intention at the time he files his bill?

MR. OPLE: I think the principle of proximate and remote cause can be made to apply to situations of this nature, Madam President. In this case, there are no proximate relationships. What we have is a rather remote potential reality that has yet to unfold in the future, and at least speaking of my own standard of rigor with respect to the second sentence, I do not think he will be covered. But as soon as he starts up his business, he ought to be covered.

MR. BENGZON: Then he will have to disclose as soon as he gets into that business.

MR. OPLE: Yes, Madam President, that is my own view.

MR. BENGZON: Thank you, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Will the Gentleman from Bulacan yield to a few questions from the Gentleman from Pampanga?

MR. OPLE: Very gladly, Madam President.

MR. SUAREZ: Thank you, Madam President.

Like Commissioner Padilla, I find wisdom in the first sentence of the amendment. The burdensome portion is the second sentence, especially as it employs ambiguous terms like "POTENTIAL CONFLICT" and "PROPOSED LEGISLATION." It speaks of the future or of anticipatory statements, coupled with the Commissioner's admission, which is very nice of him to say that when one makes a confession, he gets a prior absolution. In other words, irrespective of whether or not there is conflict of interest later on since he has already made the confession, he is absolved. He can go ahead with his project with impunity. Will the Commissioner kindly tell us — I heard about his observation of the British Parliament about this — why he finds absolute necessity of coupling the first sentence with the second sentence, Madam President?

MR. OPLE: Yes, in order to build a genuine, meaningful and operational policy of full disclosure, I think the second sentence has to be retained.

MR. SUAREZ: Notwithstanding the fact that it speaks of something in the future because of the employment of the words "POTENTIAL" and "PROPOSED"?

MR. OPLE: The potential conflict of interest is precisely the basis for the Member of Congress notifying his colleagues that in view of his prior disclosure of financial and business interests, he could not be accused of aggrandizing himself through a bill. Incidentally, the "proposed legislation" there really means nothing more than a bill or a resolution. And the situation in a Congress is really dynamic. A colleague could be held to account by

his own colleagues in the Senate or in the House of Representatives on a test of intellectual honesty.

I would like to invite the Commissioner from Pampanga to visualize the situation in a Senate where there are 24 Members belonging to maybe more than two parties, each jealous of the prerogative to guard the integrity of the Senate and each determined to scrutinize the motives of a colleague especially when there is prior evidence of a potential conflict of interest. So in this example of a dynamic multiparty Senate, it is necessary that we retain the second sentence because the other Members will take the initiative to check the veracity and the honesty of a colleague sponsoring a bill that has from the start the color of self-aggrandizement.

I think it is also necessary in building into the section the moral suasion so that the Members that I alluded to would not in a brazen and barefaced manner author bills designed directly to aggrandize their own business and financial interests. However, there is nothing here that prevents them from doing so, but we are preparing the way, at least for the moral censure of his colleagues, if he persists in using his office to aggrandize his own family fortunes or his own business or financial interest.

MR. SUAREZ: Thank you.

Will the Commissioner object to splitting his amendment into two, so that we vote on these two sentences separately?

MR. OPLE: To accommodate the genial Commissioner from Pampanga, which is the closest neighbor of the Province of Bulacan, I yield to that very unusual approach, Madam President.

MR. SUAREZ: Thank you, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Yes, Commissioner Padilla is recognized.

MR. PADILLA: Before we split the two sentences, may I ask the distinguished proponent whether the second sentence will only apply to a bill that is personally sponsored or filed by a Member of Congress.

MR. OPLE: Yes, Madam President.

MR. PADILLA: Suppose the bill is filed by a colleague who is a coauthor of it, will that also apply?

MR. OPLE: Then he must share equal responsibility like a comaker in a bank.

MR. PADILLA: Suppose he is not a coauthor, but during the deliberations, he supports the bill. He also makes a confession by way of amnesty of a possible conflict of this proposed bill or legislation.

MR. OPLE: Madam President, what makes this second sentence really unobjectionable is that it lays the burden, the onus or responsibility, on the Member of the Senate or of the House of Representatives. It does not really restrain him of his liberty of action or his freedom to act, but what it merely means is that there is a kind of accountability to his colleagues, to the integrity of the Senate and to the trust of the people, that is built into this. To a large extent, the Senator and his colleagues will themselves determine what standards of rigor to pursue in the implementation of the second provision. To a large extent, it is the individual Senator who must assume the burden of living up to the standards established in the second sentence, as well as in the first sentence, Madam President.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: On behalf of the Committee, I think I shall attempt to crystallize the fear and apprehension of the Members of the Commission pertaining to the second sentence. And if I get it correctly, I think their apprehension is on the effect of the second sentence. Does this in effect immunize the proponent of that legislation, precisely, from any liability or accountability because he has, in the first place, already notified the world of a potential conflict of interest with that proposed legislation? Does this give him license to proceed on notwithstanding potential conflict of interest?

MR. OPLE: No, I do not think so. But the Senate and the House of Representatives — thanks to the wisdom of the Committee on the Legislative — have precisely been reserved a large area of autonomy when they write the Rules. And in the example that has been cited, I do not think any Member of the Senate immunizes himself from conflict of interest simply by admitting a bias at the beginning. But having served notice on his colleagues about the honesty of his intentions, he forwards his own interest. And if there is any attempt later on by opposition members, let us say in that Senate, directed to a member of the majority party to raise a conflict of interest, I think there will be a presumption in favor of the Senator because he has the courage and the honesty to admit his own biases at the start of the proceedings.

Thank you, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: The Chairman of the Committee on the Legislative is recognized.

MR. DAVIDE: In view of the proposal of Commissioner Suarez, the Committee proposes and, therefore, formally moves that the voting be separate for the two sentences.

THE PRESIDENT: Can we restate the first sentence?

MR. DAVIDE: The first sentence would read: "ALL MEMBERS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES SHALL, UPON ASSUMPTION OF OFFICE, MAKE A FULL. DISCLOSURE OF THEIR FINANCIAL AND BUSINESS INTERESTS."

THE PRESIDENT: Is there any objection to this particular proposed amendment of Commissioner Ople? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: The second sentence would read: "THEY SHALL NOTIFY THE HOUSE CONCERNED OF A POTENTIAL CONFLICT OF INTEREST THAT MAY ARISE FROM THE FILING OF A PROPOSED LEGISLATION."

VOTING

THE PRESIDENT: Those in favor of the second sentence of the amendment of Commissioner Ople, please raise their hand. (Several Members raised their hand.)

Those against, please raise their hand. (Few Members raised their hand.)

The results show 20 votes in favor and 14 against; the proposed amendment is approved.

MR. DAVIDE: Madam President, we have another proposal of Commissioner Ople which the Committee has accepted.

MR. MONSOD: Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD: May I introduce an amendment to that approved amendment.

THE PRESIDENT: Is the Commissioner proposing an amendment to the new Section 20?

MR. MONSOD: Yes, I just want to add the phrase OF WHICH HE IS AN AUTHOR after "legislation."

MR. OPLE: Although the Committee has now complete charge, my opinion is that this is an eminently acceptable amendment.

MR. DAVIDE: The Committee accepts.

THE PRESIDENT: The Committee has accepted the amendment. Is there any objection to the proposed amendment of Commissioner Monsod to Section 20? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: Madam President, the other amendment of Commissioner Ople that the Committee has accepted would be on page 7, line 10 of Section 22 (2), which is to delete the phrase "each House" and to substitute it with the following: "BOTH HOUSES IN JOINT SESSION ASSEMBLED," so that the entire paragraph will now read as follows: "The Congress, by a vote of two-thirds of the Members of BOTH HOUSES IN JOINT SESSION ASSEMBLED, shall have the sole power to declare the existence of a state of war."

MR. RODRIGO: What is meant by "two-thirds of the Members of BOTH HOUSES"? The Senators are outnumbered more than 3 to 1 by the Members of the House of Representatives. How should it be of each House voting separately?

MR. DAVIDE: This is two-thirds vote of the Members of both Houses in a joint session, but the counting, I guess, will be separate.

MR. RODRIGO: That must be clarified, not of both Houses but of each House voting separately.

MR. OPLE: Madam President, the intent of the proponent, as well as of the Committee, is that there is a joint session assembled but the voting will be separate.

MR. DAVIDE: So in other words, before "shall" we insert VOTING SEPARATELY, so lines 9 to 11 would now read: "The Congress, by a vote of two-thirds of the Members of BOTH HOUSES IN JOINT SESSION ASSEMBLED, VOTING SEPARATELY, shall have the sole power to declare the existence of a state of war."

MR. SUAREZ: Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ: I may not press the amendment in connection with the approved section, but I will get the desired clarification from the sponsors because the phrase used here is "to declare the existence of a state of war." In the 1935 Constitution, the phrase used is "sole power to declare war." Will the sponsor be kind enough to tell us the difference between "to declare the existence of a state of war" and "the sole power to declare war"?

MR. DAVIDE: Commissioner Azcuna will answer for the Committee.

MR. AZCUNA: The change, Madam President, from "sole power to declare war" to "to declare the existence of a state of war" is in line with the renunciation of war by the Philippines, so that we will not start a war, but if war is started on us, then we can declare that it exists. This is the wording of the 1973 Constitution which departed from the 1935 Constitution in order to emphasize that what we renounce is an instrument of national policy.

MR. SUAREZ: So it is a defensive characteristic.

MR. AZCUNA: Yes, it is defensive.

MR. SUAREZ: The "existence of a state of war" means we are invaded, not us invading some other country.

MR. AZCUNA: Yes.

MR. SUAREZ: Thank you, I will not press the amendment.

MR. NOLLEDO: Madam President, I would like to pose an important query to any member of the Committee

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Where does the sponsor base the two-thirds vote of the House? What does he mean by "of the House"? Is it two-thirds vote of the entire membership of each House or two-thirds vote of the quorum?

MR. DAVIDE: It means two-thirds vote of all the Members of each House, but in a joint session.

MR. NOLLEDO: Thank you.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I wonder whether the Committee could favor us with a very short definition of what it means by "war" here, because I understand there are two different meanings of war. Considering that Commissioner Azcuna is a professor of international law, probably he could enlighten us as to the exact meaning of "war" as used in this particular section.

MR. DAVIDE: Commissioner Azcuna will answer for the Committee.

MR. AZCUNA: War is armed hostilities between two states.

MR. DAVIDE: Madam President, we have another amendment which the Committee has accepted, and that is on page 9, Section 27 (2).

THE PRESIDENT: Have we approved it?

MR. DAVIDE: May we request then for a vote on the Ople amendment as amended by Commissioner Rodrigo? The Monsod amendment is also subject to a vote.

THE PRESIDENT: Will the sponsor please clarify?

MR. DAVIDE: The amendments of Commissioners Ople and Rodrigo were on page 7, Section 22 (2), such that Section 22 (2), lines 9 to 11, will now read as follows: "The Congress, by a vote of two-thirds of the Members of BOTH HOUSES IN JOINT SESSION ASSEMBLED, VOTING SEPARATELY, shall have the sole power to declare the existence of a state of war."

THE PRESIDENT: Is there any objection to these proposed amendments? (Silence) The Chair hears none; the amendments are approved.

MR. MAAMBONG: Madam President, I just want this clarified. I understand early this morning the second paragraph of Section 22 was transferred to Section 23, which was done upon motion of Commissioner de los Reyes. I just want to find out if there have been changes on that.

MR. DAVIDE: The observation, Madam President, is correct. The second paragraph amended by Commissioners Ople and Rodrigo has, per the amendment this morning, become paragraph I of Section 23 as a consequence of the Regalado amendments.

MR. REGALADO: Madam President, at any rate, we will remember the sections again because of the addition of another Section 20. Section 20 becomes Section 21 and so on. So it is just a matter of renumbering.

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: May we have the next amendment?

MR. DAVIDE: The next amendment that the Committee has accepted is by Commissioner Monsod on page 9, line 27, affecting, therefore, the second paragraph of Section 27. This consists in the insertion of the following phrase between "but" and "bill ": "EXCEPT APPROPRIATIONS OF CONSTITUTIONAL BODIES GRANTED FISCAL AUTONOMY UNDER THIS CONSTITUTION" and in the addition of a comma (,) after it.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will the proponent of the amendment, Commissioner Monsod, yield to a question?

MR. MONSOD: Yes, Madam President.

MR. OPLE: The exercise of the veto power by the President or by the Prime Minister, under most Constitutions that have come to my knowledge, is subject to no restrictions except to the right and the power of the legislature to override that veto by a two-thirds vote in jurisdictions like the United States and the Philippines prior to the 1973 Constitution, and even under the 1973 Constitution, through the several permutations in the office of the head of government from Prime Minister to President, etc. Will this make this Constitution truly unique in the sense that we are restricting the veto power of the President of the Philippines so that there are areas of the budget that he cannot have access to? Whereas, normally, the procedure would be for the House of Representatives and the Senate, acting upon their perceptions that the budgets of the constitutional commissions ought not to be diminished in any manner, to proceed to override the veto of the President, here the veto of one part of the budget does not mean a veto of the whole budget? Does Commissioner Monsod contemplate that situation where there will be sacrosanct areas of the budget, inaccessible to the veto power of the President, the logic of which is that that veto power can be overturned by a majority or by two-thirds vote of the Congress where they believe that the budget of the constitutional commissions ought not to be diminished in any way?

MR. MONSOD: The Commissioner will recall that when the provision giving fiscal autonomy to the judiciary was presented to the body, we were the ones who denied to it the percentage of the budget because, precisely, we wanted the judiciary to go through the process of budget-making to justify its budget and to go through the legislature for that justification. But we also said that after having gone through this process, it should have fiscal autonomy so that there will be an automatic and regular release of such funds. The whole purpose of that provision is to protect the independence of the judiciary while at the same time not giving the judiciary what we call a position of privilege by an automatic percentage. However, Madam President, the General Appropriations Bill is passed only on the basis of a majority vote. And if the President has the power to veto the appropriation for, say, the judiciary, then it is a way to destroy, to postpone or to intimidate the judiciary from its independent role. And what we are saying is it may be true that it may be overcome by a two-thirds vote of the Members but that is a very significant difference in the amount of the vote required. And the veto of the President would only happen, precisely, in those instances where he wants to get back at the judiciary. Therefore, there would be politics involved in the passage of the bill in overriding the veto. So my proposed amendment seeks merely to give the intent of this body full expression so that it is not frustrated by a veto of the President.

MR. OPLE: Thank you, Madam President. There is a maxim to which I subscribe: Independence without interdependence can become a tyranny, although we are familiar with the executive tyranny, there are other forms of potential tyranny that can take the form of a legislative or a judicial tyranny. I believe in strengthening the independence of the judiciary. I do not believe in converting it into an island of privilege in the sense that it be

spared the equal risks with others in terms of the exercise of the presidential veto. So, Madam President, I just want to bring forth these necessary observations and to manifest my intention that I would like to vote against this amendment if presented to the floor.

Thank you very much.

MR. DAVIDE: Madam President.

THE PRESIDENT: Yes, the Chairman of the Legislative Committee is recognized.

MR. DAVIDE: The Committee would also like to emphasize that the budget is prepared by the President himself. So he allocates already the operating expenses for the government including those for the constitutional commissions. And as a consequence of the Natividad amendment, the Congress cannot increase what is appropriated by the Office of the President for the operation of the government as specified in the budget. So, necessarily, we feel that there is no sense for the President to veto a particular item for the judiciary or the constitutional commissions which have been granted fiscal autonomy when he, himself, is the original proponent of the budget for these entities.

MR. OPLE: If the possibility of veto is so remote and so absurd, why do we have to provide this provision in the Constitution?

Thank you, Madam President.

MR. DAVIDE: We have to, because there may be some other items in the appropriations as approved. Perhaps, these may be decreased by the legislature, and the President may not agree to a decrease in the appropriations for certain items regarding the operation of the government.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I support fiscal autonomy for the courts and for the constitutional bodies so I voted in favor of fiscal autonomy. But my understanding of fiscal autonomy is that there is an automatic release of the funds but not insofar as the appropriation of the funds is concerned. I would like to ask the sponsor a question. It is true that the President recommends the line-item budget, but is it possible for the legislature to increase the appropriation for, let us say, the Commission on Elections or the Commission on Audit?

MR. DAVIDE: Under the Natividad amendment, any appropriation embodied in the budget for the general operation of the government may not be increased by the Congress, which is a restriction also embodied in the 1935 Constitution.

MR. RODRIGO: Is this only for the executive department?

MR. DAVIDE: No, for the operation of the government.

MR. RODRIGO: So the items are recommended by the President for the operation of the government.

MR. DAVIDE: Yes, for the operation of the government. This would refer, therefore, to the current operating expenditures of the government, if I am correct.

MR. RODRIGO: It might not be increased.

MR. DAVIDE: It cannot be increased.

MR. RODRIGO: Can the items be changed without increasing the amount? Let us say, one item is divided into

two or three or two items are merged by the Congress.

MR. DAVIDE: That can be done by the Congress.

MR. RODRIGO: That can be done. Suppose the President does not like what the Congress did, can the President not veto? Shall we deprive the President? I just want to add that I think due to an overreaction to what Marcos did, we are emasculating too much the power of the President whom we will elect in the future. Let us remember that we are for a presidential system of government because we believe also in sufficient powers given to the President. We do not want to give him too much powers which he can abuse, but let us not emasculate his powers, otherwise, he will be ineffective.

MR. DAVIDE: In view of the objections, Madam President, we request that the matter be voted by the Commission.

THE PRESIDENT: Will the sponsor please repeat the words to be inserted?

MR. DAVIDE: The words to be inserted between the words "but" and "bill" on line 27, page 9, are the following: "EXCEPT APPROPRIATIONS OF CONSTITUTIONAL BODIES GRANTED FISCAL AUTONOMY UNDER THIS CONSTITUTION."

VOTING

THE PRESIDENT: Those in favor of the proposed amendment of Commissioner Monsod which has been accepted by the Committee, please raise their hand. (Few Members raised their hand.)

Those against, please raise their hand. (Several Members raised their hand.)

The results show 10 votes in favor and 18 against; the amendment is lost.

MR. DAVIDE: There is one final amendment that has been accepted by the Committee, Madam President, which is on page 9, line 30, Section 28 (1). After the period (.) following the word "equitable" insert the following sentence that was recommended by Commissioner Ople: "THE LOCAL GOVERNMENTS, IN THE EXERCISE OF THEIR TAXATION POWER, SHALL CONFORM TO THIS STANDARD." So that the entire Section 28 (1) will now read as follows: "The rule of taxation shall be uniform and equitable. THE LOCAL GOVERNMENTS, IN THE EXERCISE OF THEIR TAXATION POWER, SHALL CONFORM TO THIS STANDARD The Congress shall evolve a progressive system of taxation."

THE PRESIDENT: Is there any objection to this proposed amendment?

MR. RODRIGO: Madam President, I just want to ask a question.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: This is a chapter on the legislature. Is this amendment about the power of a local government? Is this not better transposed to the Article on Local Governments?

MR. DAVIDE: We would like to hear from Commissioners Ople and Nollado, the Chairman of the Committee on Local Governments.

MR. NOLLEDO: I agree with Commissioner Rodrigo.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: If there is a joint guarantee of both Gentlemen, Commissioners Nollado and Rodrigo, that they will

extend the hospitality of the local government's article to this concept, I would release the Committee from its previous acceptance of the amendment.

Thank you very much, Madam President.

THE PRESIDENT: Is this an amendment of Commissioner Ople?

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: I am sorry, I thought it was Commissioner Romulo's.

MR. OPLE: Yes. Just a word, Madam President, before we leave this subject, with the leave of the Committee. There is an urgent reason for building this into the rule on uniform and equitable taxation. The Supreme Court is cluttered with many cases from the provinces and cities, because in using their taxation function now under the Local Autonomy Act, they are accused of not conforming to the constitutional standard of uniform and equitable taxation. As a result, the revenue position is very much impaired and, there fore, a clarification by the simple sentence in the Constitution that they shall conform to this standard of uniform and equitable taxation will, I think, eliminate a lot of confusion.

Thank you, Madam President.

THE PRESIDENT: Let us dispose of this first.

So, as we understand it, the proposed amendment of Commissioner Ople is withdrawn.

MR. ROMULO: Yes.

MR. DAVIDE: It is withdrawn.

THE PRESIDENT: On the understanding that it will be transposed to the Article on Local Governments.

MR. DAVIDE: To the Article on Local Governments, yes.

THE PRESIDENT: The Acting Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. ROMULO: In view of the hour, Madam President, and of the fact that the other amendments are not acceptable to the Committee. I move that we adjourn until tomorrow at nine-thirty in the morning. sia

THE PRESIDENT: The session is adjourned until tomorrow at nine-thirty in the morning.

It was 8:02 p.m.

[*] Appeared after the roll call.

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