

## R.C.C. NO. 30

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Tuesday, July 15, 1986

### OPENING OF SESSION

At 9:33 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 Minda Luz M. Quesada.

Everybody remained standing for the Prayer.

MS. QUESADA.: Before we say our regular prayer, may we all bow down our heads for a one-minute meditation for the eternal repose of the father of the Honorable Rene Sarmiento who passed away last night.

PRAYER

Our most gracious God Almighty, as we start another session today, help us to remember the bereaved, the homeless, the hungry, the sick, the landless, the dispossessed and all those suffering from all forms of deprivation. We pray, O Lord, for them even as we pray for mercy when we gloss over the sad realities of existence among many of our poor, deprived and oppressed people.

In their cries for food and shelter, we can hear, in the silent corners of our conscience, the appeal they make on us not only to pray, but to act, not only to work, but to struggle.

Our Heavenly Father, we who are so privileged as to have been chosen to draft the new fundamental law of the land, touch our hearts and minds that when we make vital decisions, we shall always keep the ideals, aspirations and interests of the majority poor and our country as our guiding principles.

Enlighten us as we struggle, as we now decide whether to give the people with less in life, more in our fundamental law or on the issue of opening our boundaries limitless to foreigners even to the detriment of our national identity and sovereignty.

Warm our hearts as to radiate goodness, and strengthen us, O Lord, that we remain physically and mentally healthy as we work hard to complete the enormous task given us.

All these we ask through Jesus Christ, the Great Physician, Teacher, Worker, Brother, Advocate and Redeemer. Amen.

## ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [\*] Monsod Present

Alonto Present [\*] Natividad Present [\*]

Aquino Present [\*] Nieva Present

Azcuna Present [\*] Nollado Present

Bacani Present [\*] Ople Present [\*]

Bengzon Present [\*] Padilla Present [\*]

Bennagen Present Quesada Present

Bernas Present Rama Present

Rosario Braid Present Regalado Present

Brocka Present [\*] Reyes de los Present [\*]

Calderon Absent Rigos Present

Castro de Present Rodrigo Present

Colayco Present [\*] Romulo Present

Concepcion Present Rosales Present

Davide Present Sarmiento Present

Foz Present Suarez Present

Garcia Present [\*] Sumulong Present

Gascon Present [\*] Tadeo Present

Guingona Present [\*] Tan Present

Jamir

Present Treñas Present

Laurel

Present [\*] Uka Present

Lerum Present [\*] Villacorta Present

Maambong Present

The Secretariat is in receipt of official advice of absence of Commissioner Tingson.

Commissioner Villegas is on official mission.

The President is present.

The roll call shows 28 Members responded to the call.

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

Proposed Resolution No. 499, entitled:

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA.: 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. RAMA.: Madam President, I move that we approve the Journal of the previous session.

THE PRESIDENT: Is there any objection to the motion that we approve the Journal of the previous session? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: Madam President, 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 Proposed Resolutions on First Reading, Communications and Committee Reports, the President making the corresponding references:

#### PROPOSED RESOLUTIONS ON FIRST READING

Proposed Resolution No. 497, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION FOR THE STATE TO PROVIDE ADEQUATE CARE, BENEFITS, AND PREFERENTIAL TREATMENT FOR WAR VETERANS AND GOVERNMENT RETIREES.

Introduced by Hon. de Castro and Nollado.

To the Committee on General Provisions.

Proposed Resolution No. 498, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION SECTION ONE OF THE DECLARATION OF PRINCIPLES OF THE 1973 CONSTITUTION WITH AN AMENDMENT TO QUALIFY THE ORIGIN OF THE SOVEREIGNTY OF THE PEOPLE.

Introduced by Hon. Villegas.

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

Proposed Resolution No. 499, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE 1986 CONSTITUTION A STATEMENT OF NATIONAL PURPOSE.

Introduced by Hon. Villegas.

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

Proposed Resolution No. 500, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION A SECTION ON THE FILIPINO COMMITMENT TO PEACE, BENEVOLENCE, AND RECONCILIATION.

Introduced by Hon. Villegas.

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

Proposed Resolution No. 501, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION A SECTION PROVIDING FOR THE DEFENSE OF THE NATION.

Introduced by Hon. Villegas.

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

Proposed Resolution No. 502, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION PROVISIONS FIXING THE INITIAL SALARIES OF THE PRESIDENT, VICE-PRESIDENT, SPEAKER, AND MEMBERS OF THE NATIONAL ASSEMBLY, AND THE CHIEF JUSTICE AND JUSTICES OF THE SUPREME COURT.

Introduced by Hon. Davide, Jr.

To the Committee on the Executive.

Proposed Resolution No. 503, entitled:

RESOLUTION TO INCORPORATE IN THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION MANDATING THE IMMEDIATE FILLING UP OF VACANCIES IN THE JUDICIARY.

Introduced by Hon. Davide, Jr.

To the Committee on Amendments and Transitory Provisions.

Proposed Resolution No. 504, entitled:

RESOLUTION TO ADOPT AS AMENDED ARTICLE II, SECTION 6 OF THE 1973 CONSTITUTION FOR INCORPORATION IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION.

Introduced by Hon. Villegas.

To the Committee on Social Justice.

Proposed Resolution No. 505, entitled:

RESOLUTION TO ADOPT AS AMENDED, TO FURTHER EMPHASIZE THE RIGHTS OF THE FAMILY, ARTICLE II, SECTION 4 OF THE 1973 CONSTITUTION FOR INCORPORATION IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION.

Introduced by Hon. Villegas.

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

Proposed Resolution No. 506, entitled:

RESOLUTION TO ADOPT AS AMENDED ARTICLE II, SECTION 5 OF THE 1973 CONSTITUTION FOR INCORPORATION IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION EMPHASIZING THE ROLE AND RIGHTS OF THE YOUTH.

Introduced by Hon. Villegas.

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

Proposed Resolution No. 507, entitled:

RESOLUTION TO INCORPORATE AS AMENDED IN THE NEW CONSTITUTION ARTICLE V, SECTION 1 OF THE 1973 CONSTITUTION UNDER THE ARTICLE ON THE DUTIES AND OBLIGATIONS OF CITIZENS.

Introduced by Hon. Villegas.

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Proposed Resolution No. 508, entitled:

RESOLUTION TO INCORPORATE AS AMENDED IN THE NEW CONSTITUTION ARTICLE V, SECTION 3 OF THE 1973 CONSTITUTION UNDER THE ARTICLE ON THE DUTIES AND OBLIGATIONS OF CITIZENS.

Introduced by Hon. Villegas.

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Proposed Resolution No. 509, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION REQUIRING THE SOCIAL SECURITY AGENCY TO PROVIDE COVERAGE TO ALL WORKERS WHO WORK FOR PRIVATE EMPLOYERS INCLUDING DOMESTIC HELPERS AND SELF-EMPLOYED INDIVIDUALS WHO VOLUNTARILY SUBMIT THEMSELVES FOR COVERAGE.

Introduced by Hon. Sarmiento and Quesada.

To the Committee on Social Justice

Proposed Resolution No. 510, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION TO MAKE ALL GOVERNMENT WORKERS AND EMPLOYEES SUBJECT TO CIVIL SERVICE RULES AS PERMANENT WORKERS AFTER RENDERING SIX MONTHS OF SERVICE.

Introduced by Hon. Sarmiento and Quesada.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 512, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION FOR THE HARMONIZATION OF THE INCONSISTENCIES BETWEEN CIVIL LAWS AND RELIGIOUS LAWS ON THE ANNULMENT OF MARRIAGES.

Introduced by Hon. Bacani.

To the Committee on General Provisions.

Proposed Resolution No. 513, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION MORE SPECIFIC PROVISIONS FOR PROMOTING AND PROTECTING THE RIGHTS OF LABOR.

Introduced by Hon. Garcia and Gascon.

To the Committee on Social Justice.

Proposed Resolution No. 514, entitled:

RESOLUTION INCORPORATING IN THE NEW CONSTITUTION A PROVISION TO REDUCE INEQUALITY AND THEREBY PROMOTE THE WIDEST PARTICIPATION OF CITIZENS IN NATIONAL DEVELOPMENT.

Introduced by Hon. Garcia and Gascon.

To the Committee on General Provisions.

Proposed Resolution No. 515, entitled:

RESOLUTION INCORPORATING IN THE NEW CONSTITUTION PROVISIONS TO REGULATE THE OWNERSHIP, USE AND DISTRIBUTION OF LAND.

Introduced by Hon. Garcia and Gascon.

To the Committee on Social Justice.

Proposed Resolution No. 516, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE TO PROVIDE FOR THE SUCCESSION TO THE PRESIDENCY AFTER THE EXPIRATION OF THE PERIOD OF EIGHT CONSECUTIVE YEARS IN CASE THE INCUMBENT PRESIDENT SHOULD RUN FOR REELECTION AND WINS.

Introduced by Hon. Guingona.

To the Committee on the Executive.

Proposed Resolution No. 518, entitled:

RESOLUTION INCORPORATING IN THE NEW CONSTITUTION A PROVISION FOR FREE EDUCATION.

Introduced by Hon. Sarmiento and Rosales.

To the Committee on Human Resources.

Proposed Resolution No. 519, entitled:

RESOLUTION INCORPORATING IN THE NEW CONSTITUTION A PROVISION MAKING THE STUDY OF THE ELECTORAL PROCESS A PART OF THE SCHOOL CURRICULUM.

Introduced by Hon. Sarmiento and Rosales.

To the Committee on Human Resources.

Proposed Resolution No. 520, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON AN EFFECTIVE HEALTH CARE DELIVERY SYSTEM, MAINTENANCE OF AN EFFECTIVE FOOD AND DRUG MONITORING BODY AND HEALTH MANPOWER DEVELOPMENT.

Introduced by Hon. Quesada, Bennagen, Brocka, Sarmiento and Suarez.

To the Committee on Social Justice.

#### COMMUNICATIONS

Letter from the Honorable Commissioner Ma. Teresa F. Nieva, presenting the preliminary and partial results of the consultations on the new Constitution initiated by the Bishops-Businessmen's Conference for Human Development.

(Communication No. 192 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from the women sector signed by Ms. Evelyn L. Rañises and 17 others of Gingoog City, proposing a presidential form of government with a bicameral legislature and provisions on the bill of rights, national economy, sovereignty and foreign relations, social services, among others.

(Communication No. 193 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Horacio V. Marasigan for Concerned Citizens of San Juan, Batangas, submitting a position paper on value system and attitudes.

(Communication No. 194 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from the Federation of Senior Citizens Association of the Philippines, San Jose, Occidental Mindoro, signed by Mr. Felix Gabriel, endorsing the proposal that citizens have the right to material assistance when they are old, sick or disabled.

(Communication No. 195 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from the Chamber of Commerce of the Philippines Foundation, Inc., signed by Ms. Lourdes L. Sanvictores, submitting the recommendation of its Constitutional Reforms Committee.

(Communication No. 196 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Andres Cristobal Cruz of the Ministry of Information, for the Kapisanan ng Balitaan sa Katimugang Tagalog (KABALIKAT), submitting proposals on the right to information and the right to have a family and duty to foster the planning of family size.

(Communication No. 197 — Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Mr. Francisco T. Arpon of Luz Village, Butuan City, suggesting that the Constitution center on economic benefits for the poorest sectors of the society.

(Communication No. 198 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Gabriel U. Iglesias of the College of Public Administration, University of the Philippines, submitting three documents: "Towards Decentralization Strategy Through Regional Government," "PSSC Resource Statement on the Form of Government: Presidential Form," and "PSSC Resource Statement on the Form of Government: Federal."

(Communication No. 199 — Constitutional Commission of 1986)

To the Committee on the Executive.

Letter from Mr. Anselmo S. Roque and four others representing provincial mediemen in Nueva Ecija, proposing media-related provisions.

(Communication No. 200 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Foundation for Active Christian Evangelization and Services, Inc., signed by Mr. Silvestre J. Acejas, submitting proposals on citizenship training, moral character development, and nonformal education, among others.

(Communication No. 201 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from the Trade Union Congress of the Philippines signed by Messrs. Jeremias U. Montemayor, Ernesto F. Herrera, and Democrito T. Mendoza submitting the first part of its "Position Paper on the Draft of the Philippine Constitution."

(Communication, No. 202 — Constitutional Commission of 1986)

To the Steering Committee.

#### COMMITTEE REPORTS

Committee Report No. 25 on Proposed Resolution No. 511, prepared by the Committee on Local Governments, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION ADDITIONAL PROVISIONS IN  
THE ARTICLE ON LOCAL GOVERNMENTS;

recommending its approval in substitution of Proposed Resolution Nos. 15, 17, 138, 176, 178, 247, 394, 409 and 414.

Sponsored by Hon. Nollado, Calderon, Tingson, Rosales, Alonto, de Castro, Bennagen, Rigos, Regalado, Jamir and Ople.

To the Steering Committee.

Committee Report No. 26 on Proposed Resolution No. 517, prepared by the Committee on the Executive, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE EXECUTIVE DEPARTMENT,

recommending its approval in substitution of Proposed Resolution Nos. 9, 55, 56, 59, 107, 118, 124, 128, 151, 152, 156, 158, 183, 197, 198, 234, 255, 257, 352, and 433.

Sponsored by Hon. Sumulong, Regalado, Alonto, Aquino, Bernas, Calderon, Concepcion, Davide, Jr., Foz, Jamir, Lerum, Maambong, Natividad, Rama and Sarmiento.

Cosponsored by Hon. de Castro, Ople, de los Reyes, Jr., Bengzon, Jr., Romulo, Azcuna, Nollado, Tingson and Guingona.

To the Steering Committee.

Committee Report No. 27 on Proposed Resolution No. 521, prepared by the Committee on Constitutional Commissions and Agencies, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON ELECTIONS,

recommending its approval in substitution of Proposed Resolution Nos. 57, 60, 62, 68, 110, 193, 195, 225, 244, 284, 305, 308, 312, 349, 350, 358, 380 and 410.

Sponsored by Hon. Foz, Monsod and de los Reyes, Jr.

To the Steering Committee.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 9:53 a. m.

RESUMPTION OF SESSION

At 10:01 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA.: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 469  
(Article on the Commission on Audit)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA.: I move that we consider Committee Report No. 20 on Proposed Resolution No. 469 as reported out by the Committee on Constitutional Commissions and Agencies.

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

Consideration of Proposed Resolution No. 469 is now in order. With the permission of the body, the Secretary General will read only the title of the proposed resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY GENERAL: Proposed Resolution No. 469, entitled:

RESOLUTION PROVIDING FOR THE PROVISIONS ON THE COMMISSION ON AUDIT IN THE NEW CONSTITUTION.

(The following is the whole text of the proposed resolution per CR. No. 20.)

COMMITTEE REPORT NO. 20

The Committee on Constitutional Commissions and Agencies, to which were referred Proposed Resolution No. 21, introduced by Hon. Jose Nollado, entitled:

RESOLUTION TO PROVIDE IN THE CONSTITUTION THAT NO TRANSACTION INVOLVING PUBLIC FUNDS WHETHER OF GOVERNMENT ENTITIES OR GOVERNMENT-OWNED OR CONTROLLED ENTERPRISES SHALL BE EXEMPT FROM AUDIT

and Proposed Resolution No. 282, introduced by Hon. Hilario Davide, Jr. entitled:

RESOLUTION AUTHORIZING APPEALS ON QUESTIONS OF FACT FROM DECISIONS, ORDERS OR RULINGS OF THE COMMISSION ON AUDIT

has considered the same and has the honor to report it back to the Constitutional Commission of 1986 with the recommendation that Proposed Resolution No. 469 prepared by the Committee, entitled:

RESOLUTION, PROVIDING FOR THE PROVISIONS ON THE COMMISSION ON AUDIT IN THE NEW CONSTITUTION

be approved in substitution for Proposed Resolution Nos. 21 and 282, with the Committee on Constitutional Commissions and Agencies and Hon. Nollado and Davide, Jr. as authors thereof.

(Sgd.) Vicente B. Foz

Chairman

Committee on Constitutional Commissions and Agencies

**PROPOSED RESOLUTION NO. 469**

RESOLUTION PROVIDING FOR THE PROVISIONS ON THE COMMISSION ON AUDIT IN THE NEW CONSTITUTION.

Be it resolved as it is hereby resolved, by the Constitutional Commission in session assembled to incorporate in Article XII of the new Constitution, the following provisions:

D. The Commission on Audit

SECTION 1. (1) There shall be an independent Commission on Audit composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines and, at the time of their appointments, at least thirty-five years of age, and certified public accountants with not less than ten years of auditing experience or members of the Philippine Bar for at least ten years. At no time shall all Members of the Commission belong to the same profession.

(2) The Chairman and the Commissioners shall be appointed by the President for a term of seven years without reappointment. Appointments to the Commission need no confirmation. Of those first appointed, the Chairman shall hold office for seven years, one Commissioner for five years, and the other Commissioner for three years without reappointment. Appointment to any vacancy thereafter shall be only for the unexpired portion of the term of the predecessor. In no case shall any Member be appointed in a temporary or acting capacity.

SECTION 2. (1) The Commission on Audit shall have the power and authority to examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the government, or any of its subdivisions, agencies or instrumentalities, including on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution, (b) autonomous educational institution (c) government-owned or controlled corporations and their subsidiaries, and (d) such non-governmental entities receiving subs or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution submit to such audit as a condition of subsidy or equity. It shall keep the general accounts of the government and, for the period may be provided by-law, preserve the vouchers pertaining thereto.

(2) The Commission shall have the exclusive authority, subject to the limitations in this Article, to define the scope and extent of its audit and examination, formulate and establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations including those for the prevention or disallowance of irregular, unnecessary, excessive extravagant expenditures or uses of government funds and properties.

SECTION 3. The Commission shall submit to the President and the Congress, within the time fixed by law, an annual report of the Government, its subdivisions, agencies, and instrumentalities, including government-owned or controlled corporations, and recommend measures necessary to improve their efficiency and effectiveness. It shall submit such other reports as may be required by law.

SECTION 4. The Commission shall perform such other duties and functions as may be prescribed by law.

MR. FOZ: Madam President, I ask that Commissioner Jamir be recognized to sponsor Committee Report No. 20.

THE PRESIDENT: Commissioner Jamir is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER JAMIR

MR. JAMIR: Thank you, Madam President.

To avoid a lengthy presentation of the Committee's proposal regarding the Commission on Audit, we shall merely touch on the differences between the proposed provisions and the provisions in the 1973 Constitution considering that the proposal is mainly based on the latter.

By the way, the provision in the 1973 Constitution together with the proposal of the UP Law Center, and the amendments thereto proposed by the Commission on Audit, were also considered by the Committee.

Under this proposal, we reduced the age qualification of the Commissioners from 40 to 35 years of age, because the Committee feels that 35 is the ripe age for members of the Commission to carry on their tasks.

We will recall that in the 1973 Constitution, the members of the COA are required to be certified public accountants or members of the Philippine Bar. With respect to the certified public accountants, the Committee has added the qualification that they must have auditing experience, because there was no such qualification in the 1973 Constitution and we feel that this is a very essential qualification for membership in the Commission on Audit.

In order to avoid the possibility, such as what exists at present, of having all the commissioners of the Commission on Audit picked from one profession, say, from the law profession or from the profession of certified public accountants, the Committee proposal provides that at no time should all the members of the Commission belong to one profession. Therefore, at one time, the Commission may either consist of one lawyer, two CPA's, or one CPA and two lawyers, in order that they would compose a well-rounded team of auditors.

We also propose that no commissioner shall be appointed on a temporary basis, whether acting or by designation, because we want to avoid the possibility of a commissioner being extended a designation and then afterwards given a permanent appointment, thereby exceeding his seven-year tenure.

With respect to the powers and duties of the Commission on Audit, its legal history shows that as early as the military government in the Philippines, there was already the Office of the Auditor created by an executive order of President McKinley. Following that order, the War Department issued an executive order on May 8, 1899, defining the duties of the Auditor. That duty has been progressively expanded from time to time, first, by Act No. 90 of the US-Philippine Commission, then by Act No. 1792 of the same Commission, after which came the Jones Law on August 29, 1916. But the Jones Law confined the effect of the decision of the Auditor to the executive branches of the government only. However, that limitation was later on taken away by the Philippine Legislature in Act No. 3066 in 1933 so that the decisions of the Auditor became effective to all the three branches of the government subject, of course, to the right of appeal.

When the 1935 Constitution was enacted, the auditing office was constitutionalized because of the increasing necessity of empowering the auditing office to withstand political pressure. Finding a single Auditor to be quite insufficient to withstand political pressure, the 1973 Constitution established the Commission consisting of three members — a chairman and two commissioners.

The powers of the COA under the present proposals practically remain the same, except in the inclusion under the aegis of the COA of the subsidiaries of government-owned or controlled corporations and the power to audit nongovernmental entities.

Under the proposal on audit, constitutional bodies with fiscal autonomy, autonomous educational institutions and government-owned and controlled corporations, including their subsidiaries, are subject to post-audit. Also nongovernmental enterprises are subject to postaudit, if they receive any subsidy or equity from the government, either directly or indirectly, and the right to audit them is one of the conditions stipulated in the grant of subsidy or equity.

Under the Committee's proposal, the power of the COA to define the scope of its audit is made exclusive in order to avoid any conflict. The power of the COA to promulgate rules and regulations has been extended by the Committee to include disallowance of irregular, unnecessary expenses and uses of government funds.

That concludes our presentation of the proposal on the Commission on Audit.

MR. FOZ: Thank you, Commissioner Jamir.

MR. RAMA.: Is the sponsor ready for interpellations?

MR. FOZ: Madam President, I suggest that the interpellations should be limited, first, to the provisions on civil service, including the common provisions for all the constitutional commissions; second, to the provisions concerning the Commission on Audit.

THE PRESIDENT: Just to clarify the situation, yesterday what we had was the sponsorship speech on Committee Report No. 19, regarding the common provisions and the Civil Service Commission. So, correct me if the interpellations should be made first on this particular report.

## CONSIDERATION OF PROPOSED RESOLUTION NO. 468

(Article on the Constitutional Commissions)

Continuation

## PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA.: Madam President, I move that we continue the consideration of Resolution No. 468. We are still in the period of debate.

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

MR. RAMA.: Madam President, I ask that Commissioner Nolledo be recognized to interpellate.

THE PRESIDENT: Commissioner Nolledo is recognized.

MR. NOLLEDO: Thank you, Madam President.

I would like to ask a couple of questions on the report of the Committee on the Civil Service. On page 2, number 2, that is a continuation of Section 3, does the word "subsidiaries" include privately-formed corporations?

MR. FOZ: Before we proceed, may I request Commissioner Nolledo to use the amended version of Resolution No. 468.

MR. NOLLEDO: Can I be furnished a copy please?

MR. FOZ: Madam President, the copies of the amended version were distributed yesterday.

MR. NOLLEDO: I am now getting a copy, Madam President.

The word "subsidiaries" appears on line 16.

THE PRESIDENT: Will Commissioner Nolledo please refer to the page. Let us first ask the basics.

MR. NOLLEDO: That is preparatory to the provisions on the civil service, because the President talked not only on civil service but on provisions applicable to all kinds of commissions. That will be on the first page, line 16. Does the word "subsidiaries" include corporations which can be considered privately organized under the Corporation Code because a government entity may organize a subsidiary — for example, the PNB may organize a subsidiary and its officers may be among the incorporators under the Corporation Code?

MR. FOZ: The way we understand, the term "subsidiaries" may refer to a corporation organized by the parent government-owned or controlled corporation under a special law or the general corporation law. That is the coverage of the term "subsidiaries."

MR. NOLLEDO: Going to the second question, may I refer the proponent to page 2, line 4 of Section 1 (1). It is stated here that the civil service shall include government-owned or controlled-corporations. I think the Gentleman is aware that the incumbent President last May 1 made an announcement that the provisions of the Labor Code should also apply to government- owned or controlled corporations, indicating that the employees of government-owned or controlled corporations may engage in concerted activities, as well as form unions.

The Committee seemingly adopted the provisions of the 1973 Constitution. I understand also that there are two kinds of government-owned or controlled corporations — those organized by special law and those organized under the private corporation law or the Corporation Code. It seems that the presidential order covers only government-owned or controlled corporations organized under the Corporation Code. Now, in the concept as reported by the Committee, what is the coverage of the term "government-owned or controlled corporations" with respect to civil service?

MR. FOZ: This provision on the scope of the civil service is meant to be a general description of the extent of what we know as civil service. Frankly, we did not go into a sophisticated delineation or definition of what a government-owned or controlled corporation is.

MR. NOLLEDO: That is why I suggest that the Committee study these aspects because I am very sure that the labor sector will object to the all-embracing meaning of the term "government-owned or controlled corporations," and I am very sure also that the workers in the government-owned or controlled corporations organized under the Corporation Code will, likewise, object, because they might claim some sort of inequality or denial of equal protection of the law.

MR. FOZ: We are not making any distinction. As I said, this is meant to be a general description of what constitutes the civil service. But we know very well that such a general definition or description of the extent or scope of the term "civil service" will have to admit exceptions which, within the parameters of Section 1, cannot be included.

MR. NOLLEDO: There may be some sort of delineations as to qualifications. Perhaps, the civil service can apply, but as to the right to form a union and to engage in concerted activities, perhaps, the law may allow them under the Labor Code.

MR. FOZ: That would be a matter of legislation.

MR. NOLLEDO: Is the Committee prepared to adopt that delineation I talked about, that as regards the qualifications for appointment in government-owned or controlled corporations, the civil service shall apply, but with respect to the right of the workers in those government-owned or controlled corporations to form unions and to engage in concerted activities, they are at par with other workers in the private sector?

Is the Committee prepared to adopt that view?

MR. FOZ: If that is the proposal of the Commissioner, the better course, I think, would be not to include such a distinction in the definition under Section 1, but perhaps in a later provision of this set of provisions.

MR. NOLLEDO: Section 1 (2) on page 2, lines 7 and 8 says:

Appointments in the civil service shall be made only according to merit and fitness to be determined as far as practicable by competitive examination.

I would like to be clarified on this because of the words "as far as practicable." Competitive examination is not the only means of determining merit and fitness. Am I correct?

MR. FOZ: That is right.

MR. NOLLEDO: Another important question. Does the Commissioner recall the exceptions with respect to positions that are policy-determining, primarily confidential and highly technical? They are found in the 1935 Constitution, and it seems to me that they are also found in the 1973 Constitution. Has the Committee deleted those exceptions?

MR. FOZ: The Commissioner is correct.

First of all, the intention here is to make a general statement as to the principle of the merit system. It is to be the general rule. Secondly, the phrase "policy-determining, primarily confidential, and highly technical" is no longer used in the existing law. The existing Civil Service Law, Presidential Decree No. 807, does not even mention all these terms, and even the last Reorganization Act does not use them but uses the terms "career and non-career service," so that if we continue perhaps to adopt these terms in our fundamental law, we may be behind the times. Since we are writing it at this point in time, we are given a chance to rewrite or revise our Constitution. Perhaps we have to adopt what is currently used by existing law to keep up with the times.

MR. NOLLEDO: I have only two more questions, Madam President.

May I refer the Gentleman to Section 2 (1) on page 2, line 19 specifically with reference to the word "preferably." Because of the use of the word "preferably," the meaning will be that the requirement of proven capacity for public administration will only be directory. Is the Committee willing to delete the word "preferably," and instead say emphatically "with proven capacity for public administration"?

MR. FOZ: Before we answer the question, Madam President, we would like to apologize for an oversight. We would like to request Commissioner de Castro to sit here with us as member of the panel.

MR. DE CASTRO: I would prefer to sit here because I have some questions and interpellations to be made to the Committee.

MR. FOZ: Madam President, that does not prevent anyone of those who are now sitting here to interpellate the Committee. But may we ask Commissioner de Castro to answer the question of Commissioner Nollado because it was Commissioner de Castro who proposed the phrase now being questioned by Commissioner Nollado.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

When we were discussing this in the Committee, I did not use the word "preferably." We were considering "public administration" then. but certainly I did not use the word "preferably". I am sorry, I cannot explain it.

MR. NOLLEDO: That must have been a typographical error, Madam President.

MR. FOZ: Madam President, may I request that Commissioner Rigos answer the question.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, it was I who suggested the phrase "preferably with proven capacity for public administration." I think the suggestion of Commissioner Nollado is a good one, and which the Committee would entertain during the period of amendments.

MR. NOLLEDO: The question sequent to that is, how does the Gentleman determine "proven capacity"?

REV. RIGOS: That will be the problem of the appointing power.

MR. NOLLEDO: Thank you.

Madam President, I would like to ask one question on Section 6, page 3, lines 13 to 16 which says:

No officer of the Armed Forces in the active service shall, at any time, be appointed or designated in a temporary or acting capacity to a civilian position in the government.

If we equate this with other provisions, we cannot prevent the President from appointing the officer to a double position not necessarily in a temporary capacity, if the law allows it because the Constitution does not prohibit double position, it only prohibits double compensation. So with the term "temporary or acting capacity," the purpose behind this provision may be negated, if there is a law allowing a member of the Armed Forces to hold, concurrently, a civilian position. So, why does the Committee not say "can- not be designated in any capacity to a civilian position in the government" because there is a possibility that there may be a law allowing double position? In fact, even double-compensation may be allowed, if the law so specifically states. Considering that the proponent's prohibition is with respect only to temporary or acting capacity, would it not be gratuitous on my part to recommend to the Committee to change the expression "temporary or acting capacity" to "in any capacity"?

MR. FOZ: But the Committee believes that as presently worded, Section 6, page 3, would already bar the

appointment of any officer in the active service of the Armed Forces of the Philippines from being appointed in any capacity. The phraseology is so encompassing as to really prohibit even the Legislature from passing a law that would go against the grain of such a provision.

It says here, "appointed or designated in a temporary or acting capacity." What situation would still be left out, if this provision were approved?

MR. NOLLEDO: Thank you, Commissioner Foz.

Thank you, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:29 a.m.

RESUMPTION OF SESSION

At 10:40 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

To clarify certain matters, we have several documents here now on our tables, such as the basic document that was presented yesterday, and copies of the common provisions which we amended by substitution. So, please be guided by these particular documents where the lines are numbered on the left margin.

MR. RAMA.: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA.: I ask that Commissioner Quesada be recognized.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA.: Madam President, I would like to follow up the interpellation of Commissioner Nolleto in connection with Section 1 (1) on the phrase "including government-owned or controlled corporations." The Gentleman has already argued for the removal of this phrase which might eventually run in conflict with certain provisions in the Bill of Rights, such as the granting of the right of workers in both government and private institutions, including these government-owned or controlled corporations. But, anyhow, I would like to find out, if the Committee is "willing to die" for the inclusion or the retention of this particular phrase so that when the time comes, we know what the stand of the Committee is. Is it that important for the Committee to retain this particular phrase for which many government workers are "willing to put their lives on"?

MR. FOZ The Committee is amenable to any reasonable amendments at the proper time.

MS. QUESADA. Thank you.

Secondly, I would like to address the issue here as provided in Section 1 (4), line 12, and I quote: "No officer or employee in the civil service shall engage, directly or indirectly, in any partisan political activity." This is almost the same provision as in the 1973 Constitution. However, we in the government service have actually experienced how this provision has been violated by the direct or indirect partisan political activities of many government officials.

So, is the Committee willing to include certain clauses that would make this provision more strict, and which would deter its violation?

MR. FOZ Madam President, the existing Civil Service Law and the implementing rules on the matter are more than exhaustive enough to really prevent officers and employees in the public service from engaging in any form of partisan political activity. But the problem really lies in implementation because, if the head of a ministry, and even the superior officers of offices and agencies of government will themselves violate the constitutional injunction against partisan political activity, then no string of words that we may add to what is now here in this draft will really implement the constitutional intent against partisan political activity. But just the same, the Committee is amenable to any suggestion that the Commissioner or others believe will improve the phraseology of this existing provision.

MS. QUESADA. Thank you.

Another point I would like to raise is on page 2, Section 3, line 36. This is about the functions of the Civil Service Commission as the central personnel agency of the government, specifically those of "personnel actions, classifying positions, prescribing conditions of employment except as to compensation and other monetary benefits." What is the Committee's intention here for the Civil Service Commission to cover the functions exercised right now by the Office of Compensation and Position Classification under the Office of Budget and Management?

MR. FOZ: Right now under the existing law and procedures, we concede that this function of classifying positions in the government service is being performed by the Office of Budget and Management. But that does not preclude, right now under existing law, the Civil Service Commission from doing certain classification of positions. But, of course, when it comes to salary scales and rates, the Commission has to coordinate with the OBM. The Committee would be amenable to suggestions or amendments that would clarify this function that we are assigning to the Civil Service Commission.

MS. QUESADA. Thank you, Madam President.

At the appropriate time, I shall introduce some amendments.

MR. FOZ Thank you.

MR. RAMA Madam President, I ask that Commissioner de Castro be recognized.

THE PRESIDENT Commissioner de Castro is recognized.

MR. DE CASTRO Thank you, Madam President.

I am a member of the Committee on Constitutional Commissions and Agencies but I have certain inquiries to make. Records will- show that I have never been absent in their proceedings and I am always the one ahead of anybody in the Committee. I regret that I have to make certain clarifications on this matter.

On Section 1, page 1, the sponsor stated that the Constitutional Commissions shall be the Civil Service Commission, the Commission on Elections and the Commission on Audit. Since there are other proposed resolutions for other agencies to be made constitutional bodies, will this statement not prevent any of those proposed constitutional bodies to be included in the event that the resolutions shall be approved by this body? For example, the National Police Commission, the Human Rights Commission, the National Pollution Control Commission and the Good Government Commission are the proposed constitutional bodies. In the event that the proposals will be approved by the body, will the Committee be willing to make additional sentences to Section 1 ?

MR. FOZ Yes, Madam President. When Proposed Resolution No. 468 was drafted, the other proposals on the creation of other constitutional bodies and commissions had not been disposed of by the Committee on Constitutional Commissions and Agencies, so the way is still open for inclusion of other bodies in this section

once the Committee has acted on the other proposals for constitutional bodies.

MR. DE CASTRO Thank you.

On Section 2, page 1, lines 6 and 7, the salary of the Chairman is P120,000, and each Commissioner, P100,000. How was this arrived at, considering that in the 1973 Constitution, the salary of the President is only P100,000?

MR. FOZ During our deliberations, we sought data on the salaries of the members of the Supreme Court, as well as those of the Intermediate Appellate Court. We were informed that in the case of the members of the Supreme Court, the salary of the Chief Justice, for instance, is around — I cannot cite the exact figure now — P130,000; in the case of an associate member or Justice of the Supreme Court, it was, of course, much lower; in the case of the members of the Intermediate Appellate Court —

I cannot remember the exact figure now — but the salary range is something below what we cite here in Section 2.

So, the proposal here is to fix the minimum salaries of the members of the commissions at something between the scale of the Supreme Court and that of the Intermediate Appellate Court.

MR. DE CASTRO Would the sponsor consider suggestions when the time comes, or to have this portion for salaries amended?

MR. FOZ Would the Gentleman propose an increase a further increase in the salaries of commissioners?

MR. DE CASTRO I do not know whether it would be a further increase or decrease, but when the time comes would the sponsor consider?

MR. FOZ As long as it would increase salaries, I think the Committee would be amenable.

MR. DE CASTRO Thank you.

Section 3, page 1, lines 9, 10, and 11 says: "No member of a Constitutional Commission shall, during his tenure, engage in the practice of any profession . . ."

Is teaching considered the practice of a profession? I am asking this because I would like to put on record my perceptions on this, which I failed to do during our committee hearings. Is teaching, for example, the teaching of law, a practice of a profession?

MR. FOZ: We did not reach any decision on this matter. There were views to the effect that teaching should be considered as practice of a profession, but there were opposite views, and so, on the suggestion of some members, we dropped the subject on that point.

MR. DE CASTRO: During the discussions, a certain jurisprudent — I do not know who brought it up — was cited as stating that teaching is not a practice of a profession. I said there is no better practice of a profession than teaching. If you teach, you study, you research and you teach, so you are practicing your profession.

When the time comes, will the sponsor be amenable to certain amendments on this matter?

MR. FOZ: The Gentleman would specify that teaching is not practicing?

MR. DE CASTRO: To my perception, yes. Would the sponsor, at an appropriate time, accept certain amendments on this?

MR. FOZ: We will consider, but we cannot promise.

MR. DE CASTRO: Section 4, line 17, page 1, says: "The Commissions shall enjoy fiscal autonomy." What does

the Committee mean by "fiscal autonomy" here?

MR. FOZ: The term is explained by the second sentence of the provision which states, and I quote: "Appropriations for the Commissions once approved shall be automatically released."

MR. DE CASTRO: So, "fiscal autonomy" only refers to automatic releases? Do I get it that way?

MR. FOZ: As presently worded, that seems to be the intention.

MR. DE CASTRO: When we say a Commission has fiscal autonomy, is it just the automatic release of its appropriations?

MR. FOZ: We know that "fiscal autonomy" as a term would encompass a broader field, but I think it was the feeling of the Committee that it should be narrowed down to automatic release of funds once appropriated and approved by the legislature.

MR. DE CASTRO: Thank you.

On page 2, Section 2 (2), lines 31 to 32 says: "In no case shall any member be appointed in a temporary or acting capacity." Does the word "member" here include the Chairman?

MR. FOZ: The word "member" is inclusive of the Chairman.

MR. DE CASTRO: Does it include the Chairman and all the members?

MR. FOZ: It includes the Chairman because "member" is a generic term.

MR. DE CASTRO: I noticed that we have been using the word "Chairman" in Section 2 (1) — "the Chairman and two Commissioners" — but in the last sentence of Section 2 (2) the word "member" is used that is why I am asking whether this includes the Chairman and all the commissioners thereof.

MR. FOZ: "Member" would include the Chairman.

MR. DE CASTRO: Thank you.

MR. RAMA: Madam President

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Bernas be recognized.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Just a few clarificatory questions, Madam President. Section 5, line 23 of the Common Provisions says: ". . . any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party. . ." Do we mean by this that the only ground for bringing it to the Supreme Court is grave abuse of discretion? I say this because the phrase "may be brought to the Supreme Court" is exactly the same as the phrase in the old Constitution, particularly in the provisions on the Commission on Elections, and our Supreme Court has already held:

We hold, therefore, that under this provision the certiorari jurisdiction of the Supreme Court over orders, rulings and decisions of the COMELEC in this instance should be confined to instances of grave abuse of discretion amounting to patent and substantial denial of due process.

MR. FOZ: May we request Commissioner Regalado to respond to the question?

MR. REGALADO: Yes, that case cited by Commissioner Bernas was the wording of Justice Barredo with respect to the decisions or orders of the COMELEC. But this provision here contemplates a petition for review by certiorari under Rule XLV of the Rules of Court and that includes as grounds grave abuse of discretion, lack of jurisdiction and excess of jurisdiction.

FR. BERNAS: The decision I cited was precisely an interpretation of the clause in the provisions on the, COMELEC which says: "Any decision, order, or ruling of the Commission may be brought to the Supreme Court on certiorari . . ." In interpreting that provision in the case of Aratuc, the Supreme Court said:

We hold, therefore, that under the existing constitutional and statutory provisions, the certiorari jurisdiction of the Court over orders, rulings and decisions of the Comelec is not as broad as it used to be and should be confined to instances of grave abuse of discretion amounting to patent and substantial denial of due process.

Does that express the sense of the Committee?

MR. REGALADO: That was the view of Justice Barredo in the Aratuc case while he was the ponente, but I do not have the citations at hand. In subsequent decisions wherein Chief Justice Teehankee concurred, he believed that the mode of review on certiorari under Rule XLV is to be understood as including acts of the Constitutional Commissions, without jurisdiction or acting in excess of jurisdiction.

FR. BERNAS: This seems to me the same thing. If it is without jurisdiction or in excess of jurisdiction, there is grave abuse of discretion.

MR. REGALADO: No, Commissioner. Grave abuse of discretion may be equivalent to lack of jurisdiction, if it was done in a capricious or whimsical manner. But excess of jurisdiction is a little different, meaning, that the Supreme Court had jurisdiction but it overstepped the bounds of jurisdiction in the exercise thereof. That is what Justice Teehankee also pointed out. Grave abuse of discretion, I agree, results in lack of jurisdiction, but excess of jurisdiction presupposes that the Court, while with jurisdiction, just overstepped the permissible bounds in the exercise thereof.

FR. BERNAS: So, for purposes of the record now, what is the intention of the Committee? What are the grounds for certiorari?

MR. REGALADO: The Committee which refers specifically to a technical term of review by certiorari would be relying on the provisions of Rule XLV of the Rules of Court that laid down the three grounds.

FR. BERNAS: My next question is on the Civil Service Commission — Section 1 (2) on page 2. This, to some extent, has already been brought up by Commissioner Nollado. And I also notice that the old phrase "policy-determining, primarily confidential and highly technical" has been eliminated. Does this mean that such classification no longer exists? It seems to me that even within the classifications of career and noncareer service, we can still have subclassifications of highly technical, policy-determining and primarily confidential appointments which are the bases for the distinction between competitive and noncompetitive appointments. In other words, the way I understand the old law, appointments to the civil service were always according to merit and fitness. But merit and fitness were determined in some cases by competitive examination. In the cases of policy-determining, primarily confidential and highly technical positions, merit and fitness are not determined by competitive examination.

MR. FOZ: As I mentioned in my reply to Commissioner Nollado, the phrase "policy-determining, primarily confidential and highly technical in nature" is no longer being used. As a matter of fact, in the Civil Service Law or P.D. No. 807 and the implementing rules promulgated pursuant thereto, the phrase is no longer used and instead the classification of positions in the civil service has been under two broad categories; namely, career and

noncareer service.

FR. BERNAS: I quite realize that there is such a distinction, but under "career and noncareer service" there is still a subclassification of policy-determining, primarily confidential and highly technical positions, but I think we can . . .

MR. FOZ: I do not recall reading those terms, as far as the Civil Service Law is concerned.

FR. BERNAS: At any rate, perhaps we could come back to that during the period of amendments.

I have another question on Section 1 (3), lines 9 to 11 which says:

No member of the Civil Service shall be removed, suspended or otherwise disciplined except for just causes as may be provided by law.

Does the phrase "as may be provided by law" refer merely to the procedure or also to the cause? In other words, does this mean that it is not enough that the procedure of law be followed but that the causes must themselves be specified by law?

MR. FOZ: In both cases, Madam President — procedural and substantive.

FR. BERNAS: On page 3, Section 4, line 5, the provision begins with the phrase "Unless otherwise provided by law" which does not exist in the 1973 Constitution. This was inserted in a 1981 amendment. We know the reason why this was put in here. It practically renders the provision useless because the whole matter becomes discretionary with the legislature. It is one of those instances in the 1973 Constitution, as amended and constantly reamended, where they throw in the phrase "Unless otherwise provided by law" precisely to give the President a free hand in his decree-making power.

MR. FOZ: The original provision in our draft actually adopted the provision in the 1973 Constitution. In other words, it was without that phrase "Unless otherwise provided by law" but the Committee thought that should be included.

FR. BERNAS: So that ultimately it depends on the legislature.

MR. FOZ: As presently worded now, the provision would allow the legislature to really provide otherwise, meaning, to allow an elective official to be appointed to an executive office.

FR. BERNAS: Thank you.

MR. RAMA: Madam President, I ask that Commissioner Maambong be recognized.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Thank you, Madam President and members of the Committee.

I understand that the reason for the creation of constitutional commissions is to give these bodies independence, and it goes with the terms "nonpartisan" and "impartial." But the fact remains that the people who are appointed to these commissions are still presidential appointees, in accordance with the provisions. The Committee even suggested that the appointments would no longer require confirmation, which means that these do not have to pass through the Commission on Appointments or any such body and these could be considered purely a presidential act.

This is the reason we should try to put in some checks and balances inside the commissions. In fact, I filed Proposed Resolution No. 460, which, unfortunately, has not been referred to in any way in the report, and I take it

to mean that it has not been considered. In my proposal, I said:

The Constitutional Commissions shall be the Civil Service Commission, the Commission on Elections and the Commission on Audit. One-third of the composition of each shall be appointed from a list of competent persons recommended by opposition parties, to provide some checks and balances.

However, upon discussing this matter with one of the members, Honorable Jamir, to be specific, I agree with his thinking that Proposed Resolution No. 460 should not apply really to the Civil Service Commission and the Commission on Audit because these are professionalized bodies. But Commissioner Jamir was thinking — and I hope I got him correctly — that probably this should apply more to the COMELEC. I recall — of course, this has been denied — that former Commissioner Felipe, now Chairman of the COMELEC, was supposed to have been appointed, according to the newspapers, on account of the fact that he was with the opposition. But, of course, that has been denied by Chairman Felipe.

In the case, for example, of the other members of the Commission on Elections, if we have to talk about former Dean Bacungan, he had no political party whatsoever. He was appointed because of his competency, his knowledge of the law, and so on. But I am toying with this idea, and I am asking the Committee if we could probably talk about it and decide whether we are going to push Proposed Resolution No. 460 through, which provides that, in the COMELEC at least, there should be appointed from a list of competent persons those recommended by the opposition parties.

How does the Commission feel about this?

MR. FOZ: The Committee will be ready to discuss it at the proper time.

MR. MAAMBONG: Thank you.

I will go to another point because I have been given only very few minutes.

I am worried about Section 5, page 3, lines 9 to 12 which says:

No candidate who has lost in an election shall, within one year after such election, be appointed to any office in the government, or any government-owned or controlled corporation or in any of its subsidiaries.

It is an all-embracing prohibition. I have been going over the books on constitutional law, including the book of Father Bernas, and I cannot seem to find any justification for this provision. I was going over our present Constitution and may I refer the Committee to Article V, Section 3 which says:

It shall be the duty of every citizen to engage in gainful work to assure himself and his family a life worthy of human dignity.

Here is a man who tries to serve the public by presenting himself as a candidate. He may have all the qualifications in the world but he happens to be a very bad politician and he lost in the elections. And because of that we punish him. We do not give him a job even though he is qualified, and so, he is now a lame duck because he cannot find gainful employment. What is he supposed to do?

If somebody could please give me the rationale for this provision, perhaps we could understand this better. Is there any particular reason why we are retaining this provision from the 1973 Constitution?

MR. FOZ: Yes, the Commissioner is right that this is just a reenactment of an existing provision in the 1973 Constitution, with the difference that in our proposed provision now there is the addition of the phrase "or in any of its subsidiaries," referring to government-owned or controlled corporations.

MR. MAAMBONG: This makes the prohibition worse, because it now covers any of its subsidiaries.

MR. FOZ: As explained by Commissioner Bernas in his book on the 1973 Constitution, this provision attacks the evil practice of rewarding political lame ducks with appointments in government positions. That is the statement of Father Bernas. And we subscribe to the proposition that the practice of appointing lame ducks is an evil political practice.

MR. MAAMBONG: I regret that I have not read that portion of the book of Father Bernas, the big one, the big book . . .

MR. FOZ.: It is the green book.

MR. MAAMBONG: It is the green book which is rather expensive. I was reading actually the book of the wife of former Chief Justice Fernando and other books. But even with that explanation, I still could not get it, but perhaps we can talk about it when it comes to that particular provision so that we will not delay the discussions.

We have another point here regarding this statement made yesterday by the proponent on the tripod of the civil service system when he said that we have the merit system, the principle of neutrality and security of tenure. I can understand both the merit system and the security of tenure, but I do not understand neutrality. What is this? Does it have something to do with the US bases or something?

MR. FOZ: I know that the Commissioner is just being funny about this, but I know he is familiar with the principle of political neutrality in the civil service.

MR. MAAMBONG: I really am not, I am sorry.

MR. FOZ: It means that the professional body of men and women who are in the public service must not involve themselves — at least not overly involve themselves — in political activities because the purpose of the civil service is efficiency in the delivery of services to its clients, which refers to the people at large. The belief is that, if members of the civil service engage in partisan political activity, they may be distracted from their original and essential goal or objective of performing their jobs in the public service efficiently. That is the main idea.

MR. MAAMBONG: I understand it now. Just one point on that Section 5, Madam President. In the 1973 Constitution as amended in 1984, elective officials can hold other positions in government under two instances: One, if he is a Cabinet member, and, two, if it is so provided by law. This provision has now been deleted in the present configuration of the proposed provision. I would like to know whether or not with the deletion of that provision in the Constitution, elective officials can already hold other positions in government considering that the original provision was a prohibitory provision with an exception.

What is the position of the Committee on that now?

MR. FOZ: Is the Gentleman referring to Section 4?

MR. MAAMBONG: I am referring to Section 5, and this section was lifted from the 1973 Constitution, but as that Constitution was amended in 1984, there was a general prohibition against elective officials holding other offices. However, there were two exceptions: he can hold on to another office as a member of the Cabinet, or as provided for by law.

I want to know whether or not that prohibition still applies because it was deleted from this proposal.

MR. FOZ: First of all, Madam President, I think the Gentleman is referring to Section 4, page 3, starting on line 5. It is not Section 5 but Section 4.

MR. MAAMBONG: In other words, that prohibition before is now covered by Section 4.

MR. FOZ: Yes, it is Section 4 in our draft.

MR. MAAMBONG: Thank you, Madam President.

Just one more statement.

MR. FOZ: I have not answered the Gentleman's question. I was just trying to correct the reference to Section 5; it is Section 4 in our draft.

MR. MAAMBONG: Madam President, I think it answers my question, because if that provision was dropped and this new provision is under Section 4, that could solve the problem one way or the other

I just want to make a final statement regarding the statement of Commissioner de Castro about the teaching of law as a profession. I do not know if there are new decisions now — because I taught legal ethics a long time ago — but if I recall, the Supreme Court was very specific in saying that when a lawyer practices as a notary public, he is, in effect, practicing law. But I have not seen any decision of the Supreme Court as of the moment, which says that when a lawyer teaches law, he is practicing a profession.

That is just my impression; I have not read any such decision. Probably there is a decision which I do not know of.

Thank you, Madam President.

MR. RAMA: Madam President, I ask that Commissioner Tan be recognized.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Madam President and Members of this body, I refer to Section 4, page 3, lines 5. I was wondering if the Committee would consider Proposed Resolution No. 54 of Commissioner Davide which cites "that many public officers have become the 'property' of many politicians or a piece of inheritance of many families." Commissioner Davide also states that many officials "devote most of their time preparing themselves for reelection or for the election of a wife, a son, a son-in-law . . ."

Would the Committee consider adding something like this, after Section 4 or whatever section it could be added to: WITHIN TWO YEARS FOLLOWING THE EXPIRATION OF THE TERM OF AN ELECTIVE OFFICIAL, NO SPOUSE OR RELATIVE BY CONSANGUINITY OR AFFINITY WITHIN THE THIRD CIVIL DEGREE OF SUCH OFFICIAL SHALL BE ELIGIBLE FOR ELECTION TO THE OFFICE TO BE VACATED BY THE LATTER.

Would the Commissioner consider this amendment as out of the question?

MR. FOZ: The Committee, I think, will consider that. I remember, Madam President, that a similar provision is now part of the draft on the executive department. I recall a similar provision on a similar ban which was approved by the Committee on 6e Executive. But the Committee would be willing to entertain such an amendment.

SR. TAN: Thank you very much.

MR. RAMA: Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

Will the sponsor yield to some questions?

MR. FOZ: Gladly, Madam President.

MR. DAVIDE: I will begin with the Constitutional Commissions based on the amended draft.

On Section 3, on the matter of the prohibition, it is not very clear here whether the member of a constitutional commission shall also be prohibited from holding any other public office or employment in the government or any of its subdivision, instrumentality or agency. Would it not be appropriate, to be consistent with the policy of the government now, that members of the Commission should also be prohibited from holding any public office or employment?

MR. FOZ: Does the Commissioner refer to a provision in the Article on the Legislative which prohibits members of the legislature from holding any other position or employment in the government?

MR. DAVIDE: Yes.

Another point, Madam President. As to the computation of the period within which a commission shall decide a matter or a case pending before it which states: "sixty days from the date of its submission for resolution," how would the sponsor determine the exact date when the matter is deemed submitted for resolution?

MR. FOZ: I think Commissioner Davide is referring to Section 5.

MR. DAVIDE: Yes.

MR. FOZ: This is on line 20, page 1, of our amended draft which reads:

Each Commission shall decide by a majority vote of all its members any case brought before it within sixty days from the date of its submission for resolution.

The question of the Commissioner is how to determine the date of submission for resolution.

MR. DAVIDE: Yes, Madam President. Would it not be best to apply the rule just approved by the Commission in the matter relating to the Judiciary?

MR. FOZ: May I know the rule, Madam President?

MR. DAVIDE: For instance, we can state here that a case or matter is deemed submitted for decision or resolution "upon the filing of the last pleading, brief or memorandum required by the rules of the Commission or by the Commission itself."

MR. FOZ: That proposal would advance the date from which to compute the period.

MR. DAVIDE: When is the matter deemed submitted for decision?

MR. FOZ: Of course, by saying that from the date of the last pleading . . .

MR. DAVIDE: Yes, almost similar to the approved section of the Article on the Judiciary.

MR. FOZ: But after the date of the last pleading, there would still be some proceedings, for instance, for oral arguments.

MR. DAVIDE: That is why we indicate here "upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself," because we authorize a commission to promulgate its own rules.

MR. FOZ: Would that not put the commission in great difficulty?

MR. DAVIDE: It would not because the period of 60 days computed from the date of submission would be sufficient.

The idea here is only to provide a rule requiring the Commission to decide a particular matter or a case within a definite period, so that it will not actually put any matter subject to its whims and caprices.

On another matter, Section 5, lines 27 and 28, states that the decisions of the Commission on Elections on municipal and barangay officials shall be final, inappealable and executory as recommended. Would it cover all kinds of issues affecting municipal and barangay officials or would it refer only to contests relating to the election, returns and qualifications of such officials?

MR. FOZ: This refers only to electoral contests.

MR. DAVIDE: So, at the appropriate time, is the sponsor willing to accept an amendment specifying the area relating to municipal and barangay official?

MR. FOZ: There was really an oversight here, and we are willing to entertain an amendment to clarify this.

MR. DAVIDE: I will bring the sponsor's attention to page 2, on the Civil Service Commission proper, more particularly on the prohibitions against partisan political activity. The present provision of the 1973 Constitution provides further: "or take part in any election except to vote." I notice, however, that in this draft, that particular clause has been deleted. May we know the philosophy for its deletion.

MR. FOZ: . The last clause which states: "or take part in any election except to vote" was deleted to remove any confusion or ambiguity of words in the implementation of this provision.

MR. DAVIDE: Would the deletion not amount to a denial of the right to vote, because voting is a partisan political activity?

MR. FOZ: No, we are not saying that public officials and employees are barred from voting.

MR. DAVIDE: Yes. To be very safe about it, would the sponsor not grant the need for the restatement or restoration of the phrase "or take part in any election except to vote"?

MR. MONSOD: Madam President, we are willing to entertain a clarification, but the philosophy behind it is that the previous provision seemed to indicate that the only two types of activities are voting and partisan political activity. As a matter of act, the only non partisan political activity done can engage in as a citizen is voting.

MR. DAVIDE: Yes, that is why I intend to amend this by retaining the original words "or take part in any election except to vote," but we should allow the public officer or employee to participate in any other manner of voting which is not partisan like in a plebiscite, referendum or initiative proceedings. Probably, we could add "participation in any plebiscite, referendum or initiative proceedings shall not be considered partisan."

MR. MONSOD: Perhaps, Madam President, we could also add the phrase "that would allow civil service servants to engage in nonpartisan political activities such as poll watch and safeguarding the polls as citizens."

MR. DAVIDE: Anyway, we have allowed accreditation of the citizens arm in the provision on the COMELEC, so that would really be considered as an exception.

Let us proceed to the Commission on Audit.

THE PRESIDENT: The Chair would like to remind Commissioner Davide that the Commission on Audit will be

taken up later. Upon request of the Chairman of the Committee on Constitutional Commissions and Agencies, Commissioner Foz, we are concentrating our interpellation on the Common Provisions of the Article on Constitutional Commissions.

MR. DAVIDE: Thank you, Madam President.

I reserve my right to interpellate the sponsors on the Commission on Audit at the proper time.

MR. RAMA: Madam President, I ask that Commissioner Ople be recognized.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

Will the sponsor yield to a few questions?

MR. FOZ: Willingly, Madam President.

MR. OPLE: Thank you.

I refer to Section 1 (1) of this Article on the Civil Service which states: "The Civil Service embraces all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations."

May I know from the Committee and its Chairman, who has written copiously on labor law and workers' rights, whether this definition of the scope of the civil service denies the right to self-organization and collective bargaining of all those embraced in this definition.

MR. FOZ: We are not making any such declaration Madam President.

MR. OPLE: I would like to call the attention of the Committee to this prolonged legal stalemate or constitutional stalemate between the labor and civil service provisions of the 1973 Constitution, specifically Article II, Section 9, which extends to workers and employees, regardless of whether they are in the private sector or in the public sector, the right to self-organization and collective bargaining. However, there is a dispute pertaining to the Article of the Civil Service of the 1973 Constitution, because the general presumption of at least the executive branch of government is that the guarantee to self-organization in Article II, Section 9, extends only to the employees of the private sector, and in some cases, also to those of government-owned and controlled corporations with original charter. I think this Commission ought not to shrink from the duty of finally clarifying what I just called a constitutional stalemate between one article of the Constitution and another. Therefore, I anticipate the presentation of an amendment during the period of amendments, probably an additional section, which more or less will read as follows: "Notwithstanding any provision of this Article, the right to self-organization and collective bargaining shall not be denied to government employees unless otherwise provided by law." I suppose the legislative body would want to exempt the armed forces and the police forces and other employees in analogous positions who exercise very essential security functions from the coverage of this proposed section.

May I know how the Committee will revise this provision when this amendment is presented?

MR. FOZ: We would like to respond to the statement of Commissioner Ople.

We really believe that the Declaration of Principles, which is Article II as mentioned by the Commissioner, does not make any distinction when it says that the State shall assure the right of workers to self-organization and collective bargaining. It does not say this right extends only to those in private employment. It is a general

statement that obviously applies to all our workers.

The provision on the Article on the Civil Service in the 1973 Constitution which specifically mentions that government-owned or controlled corporations are within the ambit of the civil service does not also state that those employed in government-owned or controlled corporations are deprived of their right to self-organization and collective bargaining.

MR. OPLE: Madam President, I am very delighted to hear this response.

MR. FOZ: I think there was a misunderstanding when this provision was discussed in the 1971 Constitutional Convention. There was the apprehension of labor representatives to that convention that if the phrase "government-owned or controlled corporations" was included in the definition of "civil service," then the consequence was that employees in those government-owned or controlled corporations would be deprived of their right to self-organization and collective bargaining. But as I see it now, and even at the time when this provision was being discussed in the convention, there is really nothing here that seeks to deprive the workers of any right granted in the Declaration of Principles.

MR. OPLE: I fully subscribe to this interpretation of the provisions of the 1973 Constitution, and I will certainly be even more delighted if the Committee will, at the proper time, entertain an amendment that will make this protection for 1,200,000 employees of the government an explicit right.

Just one more question.

MR. FOZ: Before the Commissioner proceeds, we understand that in another proposed Article in the new Constitution, this right to self-organization and collective bargaining is sought to be embodied. I just cannot recall which Article or which committee now is involved.

MR. OPLE: It is probably the Committee on Social Justice, but we will look into the relevance of that provision later.

Madam President, my next question has to do with new species of government-owned or controlled corporations which do not seem to fit any category in the Constitution. I refer to firms that have been sequestered by the Presidential Commission on Good Government (PCGG) and now actually under the supervision, if not under the control, of various task forces that owe their appointments to the PCGG. Two most outstanding examples are the San Miguel Corporation and the United Coconut Planters Bank, the majority shares of which have been sequestered by the PCGG. And on the basis of a recent memorandum by the President empowering these task forces to vote the shares, they have actually done so and nominated what appears to be the majority directors of the boards of these corporations. Does any provision in this proposed Article contemplate this new type of government-owned and controlled corporations and how they are regulated?

I think there are basically two groups of government employees, those belonging to the civil service and those outside the civil service. Does the Civil Service Commission have anything to do with this new type of government-owned and controlled corporation, Madam President? And if they have not been anatomized yet in this Article with respect to their proper category, then what sort of legal status may be assigned to them for purposes of clarity?

MR. FOZ: There is an existing law, Madam President, that defines government-owned or controlled corporations which is P.D. No. 2029. Under this law, the so-called acquired assets corporation or affiliate corporations are not considered government-owned or controlled corporations. So in the case of the San Miguel Corporation, even if the majority of its shares of stock had been acquired by the government through sequestration, it still remains a

private corporation and not a government-owned or controlled corporation.

MR. OPLE: So that, in effect, Madam President, Commissioner Foz is assigning them to a kind of legal limbo under the heading of "The Acquired Assets Department" of the government?

MR. FOZ: San Miguel, for instance, remains a private corporation.

MR. OPLE: Thank you, Madam President. Just one final question which has to do with Section 1 (4) on page 2, line 28, which states:

No officer or employee in the civil service shall engage, directly or indirectly, in any partisan political activity.

What may be denominated as nonpartisan political activity which presumably is not covered by this prohibition? Will belonging to NAMFREL, for example, be an exception to this prohibition?

MR. FOZ: Since NAMFREL is nonpartisan in character, it is not supposed to side with any political party for political causes. So, engagement in NAMFREL activities is not covered by the prohibition, Madam President.

MR. OPLE: Thank you, Madam President.

But with respect to this, I think we have noted controversies concerning the nonpartisan character of the NAMFREL, an impression which has hardly been mitigated by the appointment following the elections of some leaders of NAMFREL to some Cabinet positions in the government of President Aquino. I am not raising this as a valid conclusion to show that the NAMFREL is not nonpartisan, but we can have in the future controversies concerning this presumption of nonpartisanship of the NAMFREL. The Committee, however, is saying that as part of their intent this prohibition on partisan political activity will not extend to government employees who will work for the NAMFREL in the coming elections. And I suppose the Committee has already ratified the fact that the NAMFREL is indeed nonpartisan.

MR. FOZ: We never took it up in the Committee. What I said was a personal statement. But in that connection, I think NAMFREL, as organized, is really nonpartisan. But if some government employees or officers join in its activities and engage in some partisan activities, then the blame should not be laid at the door of NAMFREL as an institution or organization, but on the particular government officers or employees who did engage in partisan activities.

MR. OPLE: I can accept that. I have nothing against the NAMFREL because we worked together very well in the Province of Bulacan in the previous elections. What I am trying to point out, Madam President, is that in many localities in the country, government employees who would like to seek cover for partisan activity would be strongly tempted to apply to the NAMFREL for volunteer work so that under the cover of a noble and idealistic organization, they will proceed to take sides in the local elections. And so, I just want to input these into the Committee on perceptions of what should be the law.

Thank you very much, Madam President.

MR. MONSOD: Madam President, since the idea and the subject matter has been inputted, I will gladly discuss this more fully with the honorable Commissioner at some other time and place. I just want to say that regarding these accusations about the partisanship of NAMFREL, many observers also say that those who claim that NAMFREL was partisan were those who wanted to cheat. And with respect to the appointment of NAMFREL people in government, I think civic-minded people who are qualified to hold government positions are not disqualified for having participated in a nonpartisan organization like NAMFREL.

Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, may I be allowed to ask two clarificatory questions?

Section 5, lines 26 to 29 reads:

. . . However, final decisions, orders or rulings of the Commission on Elections on municipal and barangay officials shall be final, inappealable and executory.

My question is: Why do we limit finality of decisions to cases of municipal and barangay officials? Why do we exclude city and provincial officials? Are we not discriminating against city and provincial officials? What is the explanation, Madam President?

MR. FOZ: Under existing law, the decisions of the municipal courts as regards barangay election contests are final.

MR. SARMIENTO: What about municipal officials? What makes them different from city officials?

MR. FOZ: Let me finish my reply.

MR. SARMIENTO: Thank you.

MR. FOZ: But in the case of electoral contests involving municipal officials, the decisions of the municipal court are appealable to the Regional Trial Court at present. So under this provision the decisions of the Commission on Elections would also be final in the case of municipal and barangay officials.

In the case of city and provincial officials, I cannot recall the existing law. But, I have the idea that they can be tried by the Regional Trial Court, and its decisions are appealable to the Intermediate Appellate Court.

MR. SARMIENTO: Will the sponsor agree with the possible inclusion of city officials in the finality of decisions of the Commission on Elections?

MR. FOZ: We have no basic objection to that, but this may raise some kind of a howl from those who are involved.

MR. SARMIENTO: May I proceed to my next question, Madam President.

Section 5, line 25 reads: "certiorari by the aggrieved party thirty days from receipt." Is the Committee contemplating a period within 30 days from receipt of a copy thereof?

MR. FOZ: I am sorry, Madam President. There was really an omission here. There should be the word "within" to precede "thirty days."

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

MR. RAMA: Madam President, I ask that Commissioner Tadeo be recognized.

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Madam President, bilang paglilinaw lang po. Section 1 (3), lines 9 to 11 of the provisions on the Civil Service Commission, states:

No member of the civil service shall be removed, suspended or otherwise disciplined except for just causes as may be provided by law.

Ginamit po natin dito ay plural, "just causes." Does this mean that the ground to remove, suspend or discipline must be at least more than one cause? Hindi ba sapat na iyong isa o kinakailangang higit sa isa?

MR. FOZ: Just one cause, of course, may be sufficient. This is really a misprint again. It should be only in the singular, "just cause."

MR. TADEO: Another point, Section 1 (4), lines 12 to 14 states:

No officer or employee in the civil service shall engage, directly or indirectly, in any partisan political activity.

Doon po sa 1973 Constitution, Section 5 of the provisions on the Civil Service Commission, ang nakasaad ay ito: "including members of the Armed Forces." Batay sa ating karanasan, kahit nakalagay na roon iyong tungkol sa members of the Armed Forces, naging partisan pa rin sila. Bakit natin inalis ngayon?

MR. FOZ: In reply to that, the same was formulated in coordination with the Committee on General Provisions, which has specific provisions regarding the members of the Armed Forces. And one of the specific provisions approved by the Committee on General Provisions is precisely the one which prohibits members of the Armed Forces of the Philippines from engaging in partisan political activity. That is the reason.

MR. MONSOD: Madam President, may I add to that. It is also our understanding that the military is not part of the civil service and, therefore, must be dealt with in another section of the Constitution.

MR. TADEO: Section 4, page 3, lines 5 to 8, states:

Unless otherwise provided by law, no elective official shall be eligible for appointment or designation in a temporary or acting capacity to any public office or position during his term.

Doon po sa 1973 Constitution, Section 1 of the provisions on the Civil Service Commission, ang nakasaad ay "to any office," hindi po kasama ang "public." Bakit nilagyan natin ngayon ng "public"? Hindi ba ito magiging isang butas? Halimbawa mayroong isang magaling na mayor. Dahil sa ang kanyang Vice-Mayor ay ating kamag-anak, puwede nating ilagay iyong Mayor sa isang office na hindi public para mailagay iyong ating kamag-anak na Vice-Mayor bilang Mayor. Doon sa 1973 Constitution ang nakasaad ay "any office," pero itong ating Constitution ay "any public office." Ano po ang dahilan at nilagyan natin ng "public"?

MR. FOZ: The basic idea really is to prevent a situation where a local elective official will work for his appointment in an executive position in government, and thus neglect his constituents. But the Commissioner's question is on the addition of the word "public" to describe "office or position." I think there was no basic difference intended in the previous provision which did not have the word "public." A government office was what was really meant.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Floor Leader is recognized.

MR. RAMA: For the last interpellator, I ask that Commissioner Suarez be recognized.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

These are only clarificatory questions, Madam President. May I call the sponsor's attention, first of all, to Section

2 (2) on the Civil Service Commission wherein it is stated: "In no case shall any Member be appointed in a temporary or acting capacity." I detect in the Committee's proposed resolutions a constitutional hangover, if I may use the term, from the past administration. Am I correct in concluding that the reason the Committee introduced this particular provision is to avoid an incident similar to the case of the Honorable Francisco Tantuico who was appointed in an acting capacity as Chairman of the Commission on Audit for about 5 years from 1975 until 1980, and then in 1980, was appointed as Chairman with a tenure of another 7 years. So, if we follow that appointment to logical conclusion, he occupied that position for about 12 years in violation of the Constitution?

MR. FOZ: It is only one of the considerations. Another is really to make sure that any member who is appointed to any of the commissions does not serve beyond 7 years.

MR. SUAREZ: So an identical provision governing the three constitutional commissions would be included in the sponsor's proposed draft.

MR. FOZ: This would be a common sentence or provision for all the three constitutional commissions, Madam President.

MR. SUAREZ: Thank you.

Let me call the sponsor's attention to Section 4, page 3 of the proposed draft, particularly lines 5 to 8. Commissioner Tadeo already asked the sponsor about the insertion of the word "public" to define the word "office." My question is this: We will recall that under the 1973 Constitution, Article 12 (B), Section 4 (1) it was expressly provided in no uncertain terms that no elective official shall be eligible for appointment to any office or position during his term of office. However, again, this is one of the hangovers from the past regime. Certain elective officials were appointed to multifarious positions in the government, the most outstanding example of which is my "kabalen" who was at that time not only governor but was also the Minister of Justice and Solicitor-General. Did the sponsor have these officials in mind in proposing the provision which reads:

Unless otherwise provided by law, no elective official shall be eligible for appointment or designation in a temporary or acting capacity to any public office or position during his term?

MR. FOZ: Of course, we did not have in mind the Commissioner's "kabalen." But I filed a resolution which adopted the original provision of the 1973 Constitution, but in our committee deliberations, it was the consensus to add that clause: "Unless otherwise provided by law," so I was overruled.

MR. SUAREZ: No, Madam President, because a provision was contained in Resolution No. 110 that was submitted in a plebiscite on January 27, 1984 which would substantiate the sponsor's proposed amendment because in that plebiscite this provision was approved, which reads:

Unless otherwise provided by law, no elective official shall be eligible for appointment to any office or position during his tenure except as Member of the Cabinet,

taking into consideration the semi-parliamentary system of government that was established during the Marcos administration. Is it the intention of the sponsor to adopt the amended provision that was introduced in the plebiscite held on January 27, 1984? Is my understanding correct, Madam President?

MR. FOZ: No, Madam President, because as presently worded in our draft, the phraseology of this provision does not mention exceptions which were provided in the 1973 Constitution. We do not have these in the draft of the provision.

MR. SUAREZ: But when we use the phrase "temporary or acting capacity," this might give the impression that an elective official may be eligible for appointment or designation in a permanent capacity.

MR. MONSOD: Madam President, I believe the intent of the Committee by the phrase "for appointment or designation" is this: "appointment" refers to a permanent capacity and "designation" to a temporary or acting capacity. However, to clarify the intent of the Committee, we are willing to entertain an amendment.

MR. SUAREZ: Thank you.

The last point is with respect to Section 6, page 3, lines 13 to 16 where mention is made about civilian positions in the government. Again, I refer the sponsor back to the past regime. Does the sponsor mean that "civilian positions" refer to positions in the Bureau of Customs, Land Transportation Commission, Veterans Administration and Manila International Airport where army officers were appointed to during the past regime? Is my understanding correct, Madam President?

MR. FOZ: We are not referring to a particular office but we have been prompted to draft this provision to forestall the general practice in the last few years of appointing military men in the active service to purely civilian positions. We do not see any reasonable basis for such practice.

MR. SUAREZ: Does "civilian positions" include those positions, whether permanent or temporary, in institutions like the Jacinto Steel Mills and the MERALCO?

MR. FOZ: Those corporations mentioned by the Commissioner are under some kind of government control.

MR. SUAREZ: Not in the case of MERALCO and the Jacinto Steel Mills; those are purely a private concern.

MR. FOZ: In the case of the Jacinto Steel Mills, I understand it has been foreclosed by government institutions.

MR. SUAREZ: Yes, it may have been foreclosed by the government but, nonetheless, it is still a private corporation.

MR. FOZ: Yes.

MR. SUAREZ: So, the Committee would not prohibit the appointment, temporary or otherwise, of members of the Armed Forces in the active service to positions like officer-in-charge of the MERALCO or of the Jacinto Steel Mills?

MR. FOZ: That would come within the spirit of our proposed provision.

MR. SUAREZ: I see.

Thank you, Madam President.

MR. RAMA: Madam President, there are no more speakers who wish to interpellate, therefore, I move that we close the period of sponsorship and debate on Committee Report No. 19 on the Civil Service Commission.

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

SUSPENSION OF SESSION

MR. RAMA: Madam President, I move for a suspension of the session until two-thirty in the afternoon.

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

It was 12:11 p.m.

RESUMPTION OF SESSION

At 2:42 p.m., the session was resumed with the Honorable Efrain B. Treñas presiding.

THE PRESIDING OFFICER (Mr. Treñas): The session is resumed.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: Before we proceed to the period of amendments, I move that we take up the additional Reference of Business.

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

The Secretary-General will read the additional Reference of Business.

#### ADDITIONAL REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolution on First Reading, Communication and Committee Report, the Presiding Officer making the corresponding references:

#### PROPOSED RESOLUTION ON FIRST READING

Proposed Resolution No. 523, entitled:

RESOLUTION EXPRESSING THE SINCERE CONDOLENCE OF THE CONSTITUTIONAL COMMISSION OF 1986 ON THE DEATH OF THE FATHER OF THE HONORABLE RENE V. SARMIENTO.

Sponsored by Hon. Quesada.

To the Steering Committee.

#### COMMUNICATION

Communication from the Civic Assembly of Women of the Philippines (CAWP), National Council of Women, proposing provisions on the declaration of principles and state policies, citizenship, suffrage, constitutional commissions and general provisions.

(Communication No. 203 — Constitutional Commission of 1986)

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

#### COMMITTEE REPORT

Committee Report No. 28 on Proposed Resolution No. 522, prepared by the Committee on Preamble, National Territory, and Declaration of Principles, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION ARTICLES ON THE DECLARATION OF PRINCIPLES,

recommending its approval in substitution of Proposed Resolution Nos. 3, 64, 86, 190, 231, 295, 302, 372, 383, 393 and 437.

Sponsored by Hon. Davide, Jr., Nollado, Bengzon, Jr., de Castro, Villacorta, Rama, Calderon, Sarmiento, Tingson, Rosales, Aquino, Azcuna, Rosario Braid, Foz, Garcia, Quesada and Villegas.

To the Steering Committee.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

#### PERIOD OF AMENDMENTS

MR. RAMA: I move that we proceed to the period of amendments on Committee Report No. 19 of the Committee on Constitutional Commissions and Agencies.

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

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Colayco be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Colayco is recognized.

MR. COLAYCO: Mr. Presiding Officer, will the sponsor answer a clarificatory question?

THE PRESIDING OFFICER (Mr. Treñas): Will the sponsor yield?

MR. FOZ: Gladly, Mr. Presiding Officer.

MR. COLAYCO: I am referring to Section 4 of the proposed Article XII, which reads:

Unless otherwise provided by law, no elective official shall be eligible for appointment or designation in a temporary or acting capacity to any public office or position during his term.

The way I understand this is that we are giving the legislature the power to authorize the appointment or designation in a temporary or acting capacity of an elective official to any public office or position during his term. Am I right?

MR. FOZ: If a law is passed regarding this matter, then such law may reverse this provision as worded, but we have said earlier that we will entertain suggestions from the floor.

MR. COLAYCO: Personally, I find the policy established in this provision meritorious. To make it a firm policy, I suggest that we delete the prefatory phrase "unless otherwise provided by law."

MR. FOZ: We agree with the Commissioner.

MR. COLAYCO: Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

At this juncture, I would like to find out if the basis for our amendments will be the amended draft Article on the Constitutional Commissions and Agencies, copies of which were distributed yesterday.

MR. FOZ: This is the same amended draft, copies of which were distributed yesterday.

MR. DAVIDE: Yes, the amended draft which already contains the proposed amendments of the Committee.

MR. FOZ: That is right, Mr. Presiding Officer.

MR. DAVIDE: But there is nothing in the record to show that the basis now would be the amended draft. So, I move that for purposes of the deliberations of the Commission . . .

MR. FOZ: Before the Commissioner proceeds with his motion, I would like to inform him that before copies of

this amended draft were circulated to the Members of the Commission, there was a previous paper which contains the committee amendments, copies of which were also distributed yesterday.

MR. DAVIDE: That is correct, but before a committee amendment may be admitted, the same must be introduced in plenary session. However, I understand that the committee amendments are now incorporated in the amended draft.

MR. FOZ: That is right.

MR. DAVIDE: So I now move that the amended draft Article of the Committee be considered the basis of presenting the individual amendments.

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

MR. DAVIDE: So on the basis of the amended draft, I would like to introduce the following amendments on page 1, Section 2, which will affect lines 5, 6 and 8.

MR. FOZ: Commissioner Davide may please proceed.

MR. DAVIDE: On Section 2, page 1, line 5, on Common Provisions of the amended draft, insert between the words "receive" and "annual" the article AN. On line 6, change "salaries" to SALARY, and on line 8, delete the words "or increased" so that the entire section will now read as follows: "Until otherwise provided by law, the Chairman and each of the Commissioners shall receive AN annual SALARY of one hundred twenty thousand pesos and one hundred ten thousand pesos, respectively, which shall not be decreased during their tenure."

MR. FOZ: What is the purpose of the proposed amendment, Mr. Presiding Officer?

MR. DAVIDE: Mr. Presiding Officer, first of all, insofar as annual salaries are concerned, it should be in the singular because the Committee refers to the annual salary of the chairman and that of each of the commissioners. And in the matter of decrease or increase, to be consistent with the other provisions of the Constitution, the restriction should be on the decrease not on the increase. We prevent the legislature from decreasing the annual salary but not from increasing it, so it must be flexible depending on the economic conditions of the country.

MR. FOZ: But, on the other hand, Mr. Presiding Officer, there is the possibility that the national leadership may increase the salary of the Chairman or the members of a commission to influence their action on cases pending before them, and thus impair the independence that we would like to assure them under this new Constitution.

MR. DAVIDE: In the matter of increase, Mr. Presiding Officer, the independence of the commission will never be impaired. As a matter of fact, it would enhance its independence because it will be adequately compensated. Suppose the exchange rate, two or four years from now, is P50 to a dollar, if we do not allow any increase during their tenure which is seven years, what will happen to their compensation? It cannot be increased anytime within seven years, which is even very dangerous.

MR. FOZ: We accept the amendment, Mr. Presiding Officer.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

MR. ROMULO: Mr. Presiding Officer, I remember yesterday that the Chairman was doubtful about the amount of compensation. If we approve this now, it is going to be fixed. So I would like to ask the Chairman whether he likes to leave this out in the meantime.

MR. FOZ: If the Commissioner will recall, during the sponsorship of this committee report I made the statement

that personally, this amount that we have fixed in this Section 2 was even inadequate. So, I am amenable to the Commissioner's suggestion, Mr. Presiding Officer.

MR. ROMULO: So will Commissioner Davide accept an amendment to temporarily leave out the amount of compensation indicated in line with the Chairman's views?

MR. -DAVIDE: I willingly accept. In other words, we just leave it blank.

MR. ROMULO: That is correct.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Ople is recognized.

MR. OPLE: Just a follow up on this subject at hand. May I ask Commissioner Davide whether or not he is in favor of formulating a general principle out of this compensation rate for the constitutional commissions?

MR. DAVIDE: I think that would be the effect of the proposal of Commissioner Romulo — to leave it blank in the meantime.

MR. OPLE: Yes, but I mean more than that, Mr. Presiding Officer. I think Commissioner Davide is right in pointing out that this is an era of high volatility in currency values, exchange rates, and so on. The peso, Mr. Presiding Officer, of 1978 in real terms is now only 28 centavos. We may say in a constitution that the salary of a justice of the Supreme Court is so much and may not be diminished, but the truth is, our peso is eroding day by day because of inflation. Fortunately, the inflation now has been placed under control, but there were years when, as in November 1984, the inflation rate jumped to 64 percent. And that diminished the salary of a justice or a member of a constitutional commission in spite of a constitutional guarantee.

When I speak of raising this to the level of a general principle, I mean that perhaps the salary or the compensation to be fixed in this Constitution which is written for posterity, as well as for the present generation, ought to have some flexibility. The compensation is fixed in the constitutional provision, but can we not say "or as provided by law" later on?

MR. DAVIDE: Actually, Mr. Presiding Officer, the first portion of Section 2 already provides "Until otherwise provided by law."

MR. OPLE: Then, that is the flexibility I am looking for.

Thank you, Mr. Presiding Officer.

MR. FOZ: Before we proceed, may we request permission for the other members of the Committee like Commissioners Rodrigo, Regalado, de Castro, Concepcion, Abubakar, Guingona and Rosales to join us here in front so that we can sit as a panel and consult each other whenever amendments are submitted for our acceptance.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Vice-President is recognized.

MR. PADILLA: May I just make an observation to the suggestion or amendment of Commissioner Romulo which was accepted by Commissioner Davide to leave the amount blank in the meantime.

We talk about inflation. Naturally, if the rate of inflation rises, even if we fix the amount which is based, say, on today's exchange rate or valuation, the purchasing power of the peso will be reduced. But we should also consider that if we have a good government, less corruption and more productivity, there may be a deflation. That means

that the exchange rate of the peso may lower-and its purchasing power may correspondingly increase.

Sometimes, it is dangerous to fix the amount today based on our present exchange rate or the purchasing power of the peso, because that will bind us for many years. In other words, I only want to make of record that while we are always afraid of inflation, because that is really a very bad economic factor that destroys the economic order, we are hoping that in better days we will have a decline in inflation which will increase the purchasing power of the peso.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

#### SUSPENSION OF SESSION

MR. RAMA: There are a number of Commissioners who desire to amend the proposal. So, I move that we suspend the session for ten minutes to enable them to confer with the Committee.

THE PRESIDING OFFICER (Mr. Treñas): The session is suspended.

It was 3:01 p.m.

#### RESUMPTION OF SESSION

At 3:14 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas): The session is resumed.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

The proposed amendments to Section 2 of the amended draft are as follows: On line 5, insert the word AN between the words "receive" and "annual." On line 6, change "salaries" to SALARY. Still on line 6, pursuant to the amendment of the Honorable Romulo delete momentarily the words "one hundred twenty thousand pesos" and also the word "one" at the end of the line. On line 7, delete the words "hundred ten thousand pesos"; on line 8, delete the words "or increased."

MR. ROMULO: Mr. Presiding Officer, may I introduce an amendment to Commissioner Davide's amendment?

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Romulo is recognized.

MR. ROMULO: Is Commissioner Davide willing to change "Until" on line 4 of Section 2 to UNLESS, because "until" connotes a point in time and it seems that only the forthcoming legislature can change the law, whereas if we say "unless otherwise provided by law," all future legislatures can?

MR. DAVIDE: I willingly accept the proposal. It will be consistent with the proposal under the Judiciary and also as recommended in the Legislative, as well as in the Executive.

MR. ROMULO: Thank you.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: An amendment to the amendment which is a matter of form: after deleting "one hundred twenty thousand pesos" and "hundred ten thousand pesos," put blanks in their stead.

MR. DAVIDE: I thank Commissioner Rodrigo for that. It should be blank in the meantime.

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Davide now read his proposed amendment?

MR. DAVIDE: As amended, Section 2 will now read as follows: "UNLESS otherwise provided by law, the Chairman and each of the Commissioners shall receive AN annual SALARY of \_\_\_\_and\_\_\_\_, respectively, which shall not be decreased during their tenure."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say on the proposed amendment as amended?

MR. FOZ: The amendment is accepted.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the amendment, as amended, is approved.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Aquino be recognized for an anterior amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino is recognized.

MS. AQUINO: Mr. Presiding Officer, I would rather request Commissioner Bernas to introduce the anterior amendment because we have previously conferred on it.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Bernas is recognized.

FR. BERNAS: I wanted to give way to beauty, Mr. Presiding Officer.

MS. AQUINO: I always believe that age takes primacy over beauty. (Laughter)

FR. BERNAS: The proposed amendment is on page 2, Section 1(2).

MR. DAVIDE: Anterior amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: This is still on the Common Provisions. On Section 3, line 10, between "tenure" and "engage" insert HOLD ANY OTHER OFFICE OR EMPLOYMENT, OR so that the entire line 10 of Section 3 will read as follows: "shall, during his tenure, HOLD ANY OTHER OFFICE OR EMPLOYMENT, OR engage in the practice of any."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: The Committee accepts the amendment.

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

MR. DAVIDE: On Section 3, line 11, insert GOVERNANCE OR between "the" and "managements," so it will read: "profession or in the GOVERNANCE OR management of any business." It refers to the membership of a member of a constitutional commission in the board of directors of any other corporations, and so on.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say on the proposed amendment?

MR. FOZ: Will the Commissioner restate the amendment?

MR. DAVIDE: The amendment is just the insertion of the words GOVERNANCE OR between the words "the" and "management" on line 11, so that the entire line will read: "profession or in the GOVERNANCE OR

management of any business, or be."

MR. FOZ: Just one question. What is the difference between governance and management?

MR. DAVIDE: In management, a person is involved in the management aspect, like if one is a manager, and so on. In governance, mere membership in the board of directors is enough. The board of directors of a corporation is the governing body, not necessarily the managing body.

MR. FOZ: Does that prohibit a member of the commission from engaging in business?

MR. DAVIDE: That will be entirely different because as proposed here, what is prohibited is engagement in the practice of any profession or in the management of any business. But if he is a member of the board of directors of any corporation, he is actually in business.

MR. MONSOD: Is it all right with the Commissioner if we place on record that by management, we mean not only the presidency or the day-to-day management, but also membership in the board because, actually, the board of directors of a company is in charge of the overall management of a company?

MR. DAVIDE: Yes, but there is really a distinction. When we come to the General Provisions; say, in telecommunications and public utilities, a distinction is made between the governing board and the managing board. However, if that is the sense of the term "management," to include the governing activity of the commissioner, then I have no objection. But let it be clearly understood that the prohibition in the management of any business would also mean a prohibition in the membership of the board of directors of any firm, business, or entity.

MR. FOZ: Just for clarity, Mr. Presiding Officer, does it not prohibit a member from being in business?

MR. DAVIDE: There is already a general prohibition. He cannot engage in the management of business.

MR. FOZ: But what about the situation in which the commissioner, the owner of the business, does not participate in management and is not a member of the board of directors?

MR. DAVIDE: He can be allowed to own a business.

MR. FOZ: The amendment is accepted, Mr. Presiding Officer.

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

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. FOZ: Just a clarification. Is the word proposed by Commissioner Davide and which we have accepted "governance"?

MR. DAVIDE: Yes. I do not know whether there is a more appropriate word than that.

MR. MONSOD: Mr. Presiding Officer, just a point of clarification. I was made to understand that the proponent was willing not to put the amendment if we accept the interpretation that the word "management" includes membership in the board of directors.

MR. DAVIDE: That is correct, Mr. Presiding Officer.

MR. MONSOD: The Committee accepts that interpretation.

MR. DAVIDE: So, with the acceptance of that interpretation to this particular section regarding the prohibition imposed on the commissioners to engage in the management of any business, I now withdraw my amendment.

THE PRESIDING OFFICER (Mr. Treñas): We shall reconsider the approval of the amendment.

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

The proposed amendment is withdrawn.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Maambong be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, I am particularly concerned about this Section 3. Earlier I sent a note to the Committee suggesting that we sit down and align these provisions with the provisions on the Executive which contain practically the same words only framed in another way, because I am afraid that with the formulation of the prohibition against the President which is indicated now in Committee Report No. 9, there will be no symmetry between the two provisions. And the second which I really fear most is that there are more prohibitory provisions in the case of the President, the Vice-President and the members of the Cabinet than in that of the members of the constitutional commissions. I would like to point out, for example, that we mentioned here in the original Section 3, the prohibition in the management of any business. When it comes to the President, the Vice-President and the members of the Cabinet, there is the prohibition in participating directly or indirectly in any business. Then we also have this prohibition of the President, the Vice-President and the members of the Cabinet: that they shall strictly avoid any conflict of interest in the conduct of their offices. What I really mean is that if we do not align the provisions on prohibition against the members of the constitutional commissions with that directed against the President, the Vice-President and the members of the Cabinet, we will have a lopsided Article. That is why I suggested earlier that perhaps in a few minutes' time we should align these in order to have symmetry and to achieve the purpose for which these are intended.

MR. FOZ: But, Mr. Presiding Officer, I think we have to look at it this way. We actually have to be stricter with the President and the members of the Cabinet because they exercise more powers and, therefore, more checks and restraints on them are called for because there is more possibility of abuse in their case. Let us say in the case of the members of the constitutional commissions, the competence and the jurisdiction are very much less compared with those of the President, the Vice-President and the members of the Cabinet. So I think there is a justification for such an arrangement whereby the top executive leaders or officials of government are subjected to more restraints.

MR. MAAMBONG: I think I have already taken much of the time of the Commission, so we agreed on a general principle that the prohibition against the President, the Vice-President and the members of the Cabinet should be stricter than that of the members of the constitutional commissions, considering that the newspapers abound with statements that ours is a constitution based on hate against the former President. If we are agreed on that proposition, I will now sit down. But I think we should think it over first so that we can really align these provisions with that on the Executive. The Committee on Style will not have a hard time because only some substantive provisions might not be aligned with the prohibitions in all these offices. I just want to put that issue clearly on the floor.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: The Committee, in the first place, has nothing to do with those provisions which were adopted in the Committee on the Executive. So, we are not in a position to make any pronouncement, declaration or stand at this point. The individual members of the Committee will pass judgment on those proposed provisions at the proper time.

MR. MAAMBONG: Shall we leave this point, therefore, with an open statement that this is subject to consultations between the Chairmen of this Committee and the Committee on the Executive, and that in the final draft of the Constitution this will be looked into again more closely, Mr. Presiding Officer?

MR. FOZ: I think so, Mr. Presiding Officer.

MR. MAAMBONG: Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner de Castro be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

Section 3, lines 10 and 11 states: "engage in the practice of any profession." I would like to put on record that this phrase includes teaching. If the Committee agrees on that, I will not introduce any amendment on this.

MR. FOZ: We said before, when the Commission broached the matter during our sponsorship of the draft, that we would consider it, but at this point, I would like to throw the matter on the floor.

MR. DE CASTRO: All right.

MR. FOZ: What is the amendment of the Commissioner?

MR. DE CASTRO: I have no amendment. I would like only to put on record, with the concurrence of the Committee, that the phrase "engage in the practice of any profession" include teaching, because as the Commissioner will recall, when we were talking with the representative of the Commission on Audit, he stated that he was a lawyer, but when he was appointed Commissioner, he ceased to teach law. However, he said other Commissioners were teaching law on the ground that teaching was not a practice of the profession. I always say that teaching is a practice of the profession, that is why I would like the Committee to put on record that the phrase "engage in the practice of any profession" includes teaching.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to state that if we put that on record, we will be stricter with the members of the constitutional commissions than with those of the Supreme Court. Many members of the Supreme Court teach part-time because it refreshes their minds on legal provisions. So, if members of the Commission on Elections teach part-time in the evening to refresh their legal knowledge, I do not think that that is prohibited by these provisions.

MR. REGALADO: Mr. Presiding Officer, may I add to that?

MR. DE CASTRO: Mr. Presiding Officer, may I ask Commissioner Rodrigo a question on his comments?

MR. RODRIGO: Yes.

MR. DE CASTRO: Do I understand that when we put here "that it is prohibited to engage in the practice of any profession," a member of the Commission on Elections can teach law?

MR. RODRIGO: Yes, part-time.

MR. DE CASTRO: Then, let us delete this phrase "engage in the practice of any profession," because if one is a lawyer and he teaches law, he is in reality practicing his profession. One cannot teach law even if he is a lawyer unless he studies everything on jurisprudence. To me, that is the actual practice of law; it is more than making pleadings.

So, if we allow members of the Supreme Court or any other justice to teach part-time to refresh their minds or for other purposes, that is exactly the practice of the law profession.

MR. RODRIGO: Mr. Presiding Officer, the way I understand the paragraph, it refers to the handling of cases, not to teaching; like the practice of medicine is treating patients, but not teaching, let us say, Anatomy.

MR. DE CASTRO: I put this question on the floor: Does the phrase "engage in the practice of any profession" include teaching?

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Regalado is recognized.

MR. REGALADO: Teaching as a profession presupposes, in effect, tenure. There are some teachers who are actually given tenure and do teaching as a full-time or a part-time occupation. In the matter of part-time teaching, the members of the Judiciary are merely required to get a permit to teach. In the law office where I work, there are many Justices of the Supreme Court and of the Intermediate Appellate Court who get their permit to teach from the Supreme Court and from the Presiding Justice, respectively. The officers of the Armed Forces get their permit to teach from the Office of the President. This permit to teach part-time is subject to certain conditions, such as the number of hours, and these part-time teachers shall not in any way have any hand in the management of any educational institution.

Teaching law is not considered a profession because it is not the advocacy or the handling of a case in court or a legal work or business for which they are compensated. It is actually imparting to the students what they know about the law. Just like doctors of medicine, when they teach medicine, they are not practicing medicine. They do not give curative, palliative or any other treatment.

MR. DE CASTRO: Mr. Presiding Officer, we are not talking here of permit by higher authority for one to teach law or his profession, but of prohibiting any commissioner of any constitutional commission to engage in the practice of any profession. The point here is: Does engaging in the practice of any profession include teaching? The Honorable Regalado talked about medicine. He is not actually practicing medicine, but he is teaching his students medicine. Is that not a practice? As I said, when a lawyer practices law, he does research and teach jurisprudence. When he makes pleadings, he also does research and studies jurisprudence. Where is the practice and the nonpractice? So, I ask that this question be put to the floor to cut the proceedings: Does "engage in the practice of any profession" include teaching?

MR. NOLLEDO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Nolleto is recognized.

MR. NOLLEDO: I would like to ask Commissioner de Castro only one question.

Is it not true that the practice of law involves an attorney-client relationship? It seems to me that in teaching, there is no attorney-client relations.

MR. DE CASTRO: When a lawyer appears before the Supreme Court as an amicus curiae, he is practicing law; he has no client.

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Foz is recognized.

MR. FOZ: We would like to submit the question to the body.

MR. MONSOD: Mr. Presiding Officer, the position of the Committee is that teaching is not prohibited under this provision.

MR. DE CASTRO: It is not a practice of the profession?

MR. MONSOD: It is not included among the prohibitions.

MR. DE CASTRO: No. Is it a practice of the profession?

MR. MONSOD: It is not a practice of the profession.

MR. DE CASTRO: I beg to disagree with that provision of law.

THE PRESIDING OFFICER (Mr. Treñas): I think the matter brought up by Commissioner de Castro has been sufficiently discussed. The Commissioner has inquired from the Committee what is its interpretation of the practice of law, and the Committee gave it. If the Commissioner is not satisfied, he can introduce an amendment during the period of amendments.

MR. DE CASTRO: I would just like to put on record that the practice of any profession includes the teaching of that profession.

THE PRESIDING OFFICER (Mr. Treñas): The Chair suggests that the Commissioner present his amendment to the specific Article now being considered.

MR. DE CASTRO: I will go back to that, Mr. Presiding Officer. Please give me a little time because I have another amendment. So, we will hold it back until I put up the right words to include teaching in the practice of any profession.

THE PRESIDING OFFICER (Mr. Treñas): On Section 3, is there any anterior amendment?

The Vice-President is recognized.

MR. PADILLA: The clause "or in the management of any business" which appears on Section 3, page 1, line 11 of our draft was taken from Section 3 of the Article on the Constitutional Commissions of the 1973 Constitution. I notice that the only common provision in the 1935 Constitution has a qualification which states "private enterprise which in any way may be affected by the functions of their office." My amendment is to qualify this term "in the management of any business," by inserting after "business": WHICH, IN ANY WAY, MAY BE AFFECTED BY THE FUNCTIONS OF HIS OFFICE. May I just say in less than one minute the reason for this proposed amendment.

THE PRESIDING OFFICER (Mr. Treñas): The Commissioner will please proceed.

MR. PADILLA: I believe that the provision in the 1935 Constitution is better in the sense that the prohibition or

the inhibition in the management of any private enterprise is limited to those that may be affected by the functions of the concerned. If we make this absolutely general and comprehensive, it may discourage good people who may want to serve and who are fully qualified in the different constitutional commissions, for example, a member may be in the "balut" business which has no relation whatever to the function of being a commissioner of a constitutional commission. Not only that, it will eliminate a member who has some kind of legitimate business which may not in anyway interfere with or affect the discharge of his public functions. If we insist on this, it may discourage some deserving public servants, who have private businesses, for appointment. Otherwise, we may have members of a constitutional commission who have no other source of income. And this might be a temptation for them to utilize the functions of their office for additional extraneous means. So, my amendment is to qualify the term "in the management of any business" by adopting the provision of the 1935 Constitution.

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: To the proponent of the amendment, just what will be the effect of his amendment on the rest of the provision?

MR. PADILLA: There is none because in the 1935 Constitution, it continues: "nor shall they, directly or indirectly, be financially interested in any contract"; it is the same.

MR. FOZ: Under the Commissioner's amendment, he would allow a member of a constitutional commission to be in any kind of business as long as it is not affected by the functioning of his office.

MR. PADILLA: Correct, Mr. Presiding Officer.

MR. FOZ: In other words, the Commissioner is trying to avoid a conflict of interests.

MR. PADILLA: Correct.

MR. FOZ: But in the following portions of the provision, the objective is not exactly to avoid a conflict of interest, because it says there that the member of the commission is prohibited from being interested in any kind of contract with the government. It extends beyond a business in which he has a conflict of interests in the performance of his duties.

MR. PADILLA: No, on line 13, when we say "contract with the government," that is something else; it is not a private business. When the Constitution refers to franchise or privilege granted by the government, I agree that he should not have any interest, direct or indirect, in any contract, franchise or any other privilege. But the reference to private business or private enterprise is all-comprehensive. Thus, the shoe industry in Marikina, well, I do not know what connection it can have with, for example, this Constitutional Commission. So, if we retain this very general statement, I believe we are going too far; we are discouraging good people to engage in legitimate, honest business and preventing them from rendering service, if qualified, in any of these constitutional commissions.

MR. FOZ: Let us give an example, Mr. Presiding Officer, of somebody who is in the manufacture of paper, to make it more practical. Would a member of a commission who is engaged in the business of manufacturing paper be prohibited from engaging in such kind of business?

MR. PADILLA: I think he should be prohibited or inhibited in the COMELEC because the COMELEC has plenty of contracts with regard to the manufacture of paper and the printing establishments. And that would be included in an enterprise which, according to the 1935 Constitution, may be affected by the functions of his office. So, in the sponsor's example, if he is going to be appointed Commissioner of COMELEC and he has a printing press or is engaged in the manufacture of paper, I think he would fall under the prohibition, because that will affect the

function of his office.

MR. FOZ: But in the last portion of the provision, if he does not enter into any contract with the COMELEC, being a printer in itself, should he be prohibited?

MR. PADILLA: Yes, but that is something else. Clearly, if he enters into a contract, it is prohibited. If he is a grantee of a franchise or any privilege, that is covered by the provision. But with regard to private business, I believe it should be limited to businesses which will, in any way, affect the function of his office.

MR. FOZ: In the case of a printer, if he is in the printing business but he does not do any business with the COMELEC, would the Commissioner still prohibit him to engage in that kind of business?

MR. PADILLA: It would be the sponsor's interpretation and mine because the 1935 Constitution was quite strict on this for it says "private enterprise which in any way may be affected by the functions of their office." So, it is not necessary that he be directly involved already, even if it may affect the function. He should not be in that kind of business.

MR. FOZ: The mere possibility then of being affected by the function of his office would be sufficient to bar him from being a member of the commission.

MR. PADILLA: I would not say "possibility," maybe "probability." The chances are that it will in a way affect the function of his office.

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Padilla state his amendment so that the Committee can either accept or not accept it.

MR. FOZ: The Committee accepts the amendment, Mr. Presiding Officer.

MR. PADILLA.: Thank you.

MR. DAVIDE: Mr. Presiding Officer, I would object.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized first.

MR. DAVIDE: May I be allowed to explain my objection?

THE PRESIDING OFFICER (Mr. Treñas): Yes.

MR. DAVIDE: The prohibition, as worded now, is in the engagement in the management of a business. It is not prohibiting a commissioner from engaging in business, because if he manages that business, it would interfere with his functions as a commissioner. He might spend more time in the management of the business. In short, I would like to repeat, the proposed prohibition is only in engaging in the management of a business. It is not a prohibition to engage in business. He can have some businesses but he should not manage them. So, if we accept the proposal, we will really destroy the very important and critical element of the function of a commission. He will lose time because he will be allowed to manage a business.

THE PRESIDING OFFICER (Mr. Treñas): May we hear from Commissioner de Castro?

MR. FOZ: Can we just say "act"?

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de Castro is recognized.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Just a minute. Commissioner de Castro was first.

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

A while ago, the sponsor wanted me to put my amendment of my favorite phrase "engage in the practice of any profession."

THE PRESIDING OFFICER (Mr. Treñas): Just a minute, we have a pending amendment. Is the Commissioner proposing an amendment?

MR. DE CASTRO: This is the period of amendments, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): No, precisely, there is a pending amendment by Commissioner Padilla.

MR. DE CASTRO: I am willing to wait, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): It is all right.

Will Commissioner Padilla restate his amendment?

MR. PADILLA: I was just going to state, in reference to the observation of Commissioner Davide, that the 1935 Constitution already mentioned "in the management or control of any private enterprise which in any way may be affected by the functions of their office." My amendment is on line 11; after the phrase "in the management of any business," add WHICH IN ANY WAY MAY BE AFFECTED BY THE FUNCTIONS OF HIS OFFICE.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

#### SUSPENSION OF SESSION

MR. MONSOD: Mr. Presiding Officer, may we just have a one-minute suspension in order that we could sit down with the proponent?

THE PRESIDING OFFICER (Mr. Treñas): The session is suspended for one minute.

It was 3:54 p.m.

#### RESUMPTION OF SESSION

At 4:06 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas): The session is resumed.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: Mr. Presiding Officer, I objected to the proposed amendment of Commissioner Padilla because I believe that the provision now, as worded, which is in line with the wording of the 1973 Constitution, is very adequate. The prohibition, as I said, relates only to the management of any business. If we follow the Padilla proposal, it would mean that a commissioner may be allowed to manage a business provided that that business would not in any way be affected by the functions of his office. But that is very dangerous because we will have a situation where a commissioner may devote most of his time as a manager of a particular business, to the damage, prejudice and detriment of public service. This is a constitutional commission and, therefore, we should never

allow such a situation where we give a chance or an opportunity for a member of the commission to actively manage a business and devote most of his time in his business.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Just a minute. Commissioner Rodrigo is recognized for a parliamentary inquiry.

MR. RODRIGO: Yes. Commissioner Davide says that the present provision refers only to management. If I remember right, he introduced an amendment to include "governance." What happened? Was that approved so that now it reads: "governance and management"?

THE PRESIDING OFFICER (Mr. Treñas): According to the record, it was withdrawn.

MR. RODRIGO: Thank you.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Padilla is recognized.

MR. PADILLA: If this word "management," Mr. Presiding Officer, were interpreted to refer to the general manager who will stay in the office of his business most of the time, then I would probably agree. But the word "management" is very broad. A person is, say, a member of a board or even its chairman, but is not the general manager; maybe he does not actually administer and manage the business, yet that is considered as top management. That is the problem.

How do we interpret this term "management"? If the interpretation is that he will be the general manager and he has to devote the hours of work in his business, then I agree. He should not be considered as a member of any constitutional commission. But as I said before, the 1935 Constitution mentioned management as control of private enterprise, and it disqualified only those whose duty may be affected by the functions of their office.

So, my proposal is not to make this prohibition or this disqualification too broad and comprehensive, otherwise we may have men in the commissions who have no business connection whatsoever and who probably have no source of independent income. I think, so long as he is qualified and he wants to serve, whatever secondary or tertiary business he has or whatever small investments he may have which will not in any way affect the functions of his office, should not disqualify him. And so, my amendment again is: on line 11, after the words "profession or in the management of any business," add WHICH IN ANY WAY MAY BE AFFECTED BY THE FUNCTIONS OF HIS OFFICE.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say on the proposed amendment of Commissioner Padilla?

MR. FOZ: Mr. Presiding Officer, we throw question to the floor.

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Regalado is recognized.

MR. REGALADO: May I propose an amendment to the amendment of Commissioner Padilla because of his apprehension about a person who is chairman and so forth, but not actually managing a business. Would that situation be solved by stating it as follows: "profession or in the ACTIVE management of any business WHICH IN ANY WAY MAY BE AFFECTED BY THE FUNCTIONS OF HIS OFFICE."

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Padilla say?

MR. REGALADO: In other words, what we propose is "ACTIVE management."

MR. PADILLA: I accept the amendment to my amendment, by inserting the word "ACTIVE" to qualify "management."

MR. FOZ: Mr. Presiding Officer, I submit the question to the floor.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): As many as are in favor of the proposed amendment, 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 15 votes in favor and 7 against; the amendment, as amended, is approved.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner de Castro be recognized for his amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

I am still on my favorite phrase, "engage in the practice of any profession." Between the words "profession" and "or," add the phrase WHICH INCLUDES THE TEACHING THEREOF. As it is, Section 3 will read: "No member of a constitutional commission shall, during his tenure, engage in the practice of any profession WHICH INCLUDES THE TEACHING THEREOF, or . . ." and so on.

It is my stand that teaching is a practice of the profession. And I think if we say that it is not, I do not know how the teaching profession can be practiced.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say on the proposed amendment?

MR. FOZ: Mr. Presiding Officer, we throw the question to the floor.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): 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 21 against; the amendment is lost.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner de los Reyes be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Mr. Presiding Officer, on line 16 of page 1, I propose that we add an S to "corporation," and to delete the words "any of its" and instead substitute the word THEIR. Moreover, on line 15, delete the article "a" between "including" and "government" so it will read: "including government-owned or controlled-CORPORATIONS or THEIR subsidiaries."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: The Committee accepts the amendment.

MR. DE LOS REYES: Thank you.

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

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Davide be recognized for an anterior amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

This is just a consequence of the Padilla amendment. On line 11, Section 3, after the word "management," insert the words OR CONTROL.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: We accept the amendment.

MR. DAVIDE: Thank you.

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

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner de Castro be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

This morning, I asked the proponent of this resolution what is included in the term "fiscal autonomy." The answer I got is that it is for the automatic release of the budget. I propose that the sentence "The Commissions shall enjoy fiscal autonomy" be deleted but the second sentence shall remain. The reason is that it is already redundant. Fiscal autonomy means the automatic release of appropriations.

MR. MONSOD: Mr. Presiding Officer, may we answer the honorable Commissioner.

I think the answer of the Chairman of our Committee this morning was that it would involve the automatic and regular release of the funds once approved. In addition, we are suggesting that fiscal autonomy include the nonimposition of any other procedures, for example, a preaudit system in the commissions or bodies that enjoy fiscal autonomy. So, actually, the definition of fiscal autonomy would be a bit broader than just the automatic release.

MR. DE CASTRO: Does the Commissioner mean that these commissions will not be subjected to preaudit?

MR. MONSOD: Our proposal actually in the provisions on the Commission on Audit is that they be subjected to comprehensive postaudit procedures and where their internal control system is inadequate, in the opinion of the Commission on Audit, then the commission may also take such measures as are necessary to correct the inadequacies which might include special preaudit systems.

THE PRESIDING OFFICER (Mr. Treñas): The Chair understands, therefore, that the proposed amendment of Commissioner de Castro is not acceptable to the Committee?

MR. DE CASTRO: Not yet, Mr. Presiding Officer, because we are still on the answer to me this morning, which stated — the record will bear me out — that fiscal autonomy means the automatic release of appropriations. It means the automatic release and nothing more. We were in the same Committee and when we asked the COA about this, they insisted that there must be preaudit. If fiscal autonomy means that there will be no preaudit, I do not know what will happen to this.

THE PRESIDING OFFICER (Mr. Treñas): So, what is the stand of the Committee insofar as the proposed amendment of Commissioner de Castro is concerned?

MR. DE CASTRO: May I just say one sentence, Mr. Presiding Officer? If the Committee's stand is that fiscal autonomy means the automatic release of the appropriations, then I say that the first sentence — "The Commissions shall enjoy fiscal autonomy" — should be deleted because it is a repetition of the second sentence.

Thank you.

MR. MONSOD: Mr. Presiding Officer, the position of the Committee is that fiscal autonomy may include other things than just the automatic and regular release of the funds.

THE PRESIDING OFFICER (Mr. Treñas): With that explanation, what is the pleasure of Commissioner de Castro? Does he insist on his amendment?

MR. DE CASTRO: Is the Chairman changing his answer from this morning's question? If he does, I will ask some more questions about fiscal autonomy.

MR. MONSOD: Mr. Presiding Officer, I think at the beginning of this exchange, we already told the honorable Commissioner that the Chairman of the Committee had not meant to make it an all-inclusive definition. And if he was misled into thinking of another meaning, we apologize for it. But our position is that fiscal autonomy would include other rights than just merely automatic and regular disbursement.

MR. DE CASTRO: Does it include exception from preaudit?

MR. MONSOD: Yes, it would include the imposition; of certain preaudit requirements for release, because if the preaudit requirements are inserted into the process of release, it would defeat the objective of automatic and regular release.

MR. DE CASTRO: When we talk of preaudit, we are not talking of release; we are talking of preaudit of a certain project or a certain matter for which the budget may be used. That is the preaudit system. But for the release from the Budget Commissioner, there is no preaudit.

MR. MONSOD: Mr. Presiding Officer, the preaudit procedures include the right to disallow any expenditures which, in the opinion of the auditor, is not consistent with what is proper.

MR. DE CASTRO: Yes.

MR. MONSOD: And, therefore, the preaudit procedures include the right to stop disbursement.

MR. DE CASTRO: Yes, but not the release, because the release that we are talking about here is the release from the Budget Commissioner, not the release of the funds for which it may be used for the project.

Mr. Presiding Officer, I am willing to keep these two sentences as of now until we come to the Commission on Audit on preaudit. Then, we will understand it better; and from then on, I will make my appropriate amendment

on this common provision.

THE PRESIDING OFFICER (Mr. Treñas): So, do we understand from Commissioner de Castro that he is for the moment withdrawing his proposed amendment?

MR. DE CASTRO: Yes, Mr. Presiding Officer, until we reach the portions on the Commission on Audit where we will explain what is a preaudit.

THE PRESIDING OFFICER (Mr. Treñas): Then we shall proceed.

MR. MONSOD: Mr. Presiding Officer, just for a point of clarification. When we say "release the funds," it is the other side of disbursing to the appropriate commission. So that if a preaudit procedure is exercised and there is a prohibition of disallowance, the release cannot be made and, therefore, the disbursement cannot be made.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. DE CASTRO: Just one sentence, Mr. Presiding Officer. When we talk of "appropriations for the Commissions, once approved, shall be automatically released," is this not directed to the Budget Commission to release the funds of the Commission or is this for the procurement by the Commission of certain matters which need preaudit?

MR. MONSOD: Under the preaudit procedures, if the COA auditor does not allow the expenditure, then the Ministry of the Budget cannot release those funds. And, therefore, the Commission or any agency cannot disburse it for the expenditures for which it was budgeted.

MR. DE CASTRO: Let us read: "Appropriations for the Commissions once approved shall be automatically released."

Who will release?

MR. MONSOD: The Ministry of the Budget will release such funds to the Commission.

MR. DE CASTRO: Does it need preaudit before it is released?

MR. MONSOD: The way the procedures operate is that the expenditures are first presented to the COA, and while this may be two separate acts at any time, the process is such that when there is a stop order, the particular appropriation is not released by the Office of Budget and Management.

MR. DE CASTRO: So, if the COA, in its preaudit, finds that it is not necessary at this time, no automatic release by the Budget Minister can be made?

MR. MONSOD: That is the implication, if there is no fiscal autonomy.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de Castro is recognized.

MR. DE CASTRO: We will take that up when we go to the Commission on Audit because they were precisely cross-examining the Commission on Audit on preaudit.

Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: On the same Section 4, I ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

The amendments will be on lines 17, 18 and 19. After the period (.) following "autonomy" on line 17, add the following: THE APPROVED ANNUAL; on line 18, the capital "A" in "Appropriations" must be in the lower case, then delete the words "once approved"; on line 19, insert between "automatically" and "released" the words AND REGULARLY. So that the entire section will read: "Sec. 4. The Commissions shall enjoy fiscal autonomy. THE APPROVED ANNUAL appropriations for the Commissions shall be automatically AND REGULARLY released."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: We accept the amendments, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the amendments are approved.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Rosario Braid be recognized for an amendment to the same section.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Mr. Presiding Officer, Commissioner Davide has introduced the amendment that I was going to suggest.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Regalado be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Regalado is recognized.

MR. REGALADO: Mr. Presiding Officer, I address this to the sponsor, although I am a member of the Committee. I am asking this question just for clarification not only for myself but also for the other Members of the Commission. But first, before I state the question, I would like to bring to his attention what appears to be a typographical error on line 25: after the words "certiorari by the aggrieved party," insert WITHIN.

For clarification and for the benefit of all, my question is: What is the reason of the Committee in adopting the last sentence of Section 5, lines 26 to 29, declaring final and executory "decisions or orders of the Commission on Elections with respect to municipal and barangay officials"?

MR. FOZ: In Committee Report No. 27 on Proposed Resolution No. 521, copies of which have been distributed to all the Members, there is a provision among the powers and functions of the Commission on Elections which would vest the Commission with the power of being the sole judge of all contests relating to the elections, returns and qualifications of all elective provincial, city, municipal and barangay officials.

MR. REGALADO: But my question is: Does this mean that with respect to decisions, final orders or rulings of the Commission on Elections not involving municipal and barangay officials, the same will not be immediately executory or final but would still be appealable? We seem to have made a distinction here.

MR. FOZ: Yes, Mr. Presiding Officer. In the case of electoral contests involving, let us say, city and provincial officials, the decision of the Commission on Elections will not be final and still be appealable to the higher courts.

MR. REGALADO: With respect, however, to the wordings "barangay officials" on line 28, parenthetically, Commissioner Nollado, I understand, in the Committee on Local Governments, wants a return to the term "barrio" instead of "barangay." At any rate, it says here that final decisions, orders or rulings with respect to municipal and barangay officials shall be "final, inappealable and executory." May I propose an amendment to delete the word "inappealable"? In the first place, this should read "unappealable." Line 28 should read: ". . . barangay officials shall be final and IMMEDIATELY executory."

MR. FOZ: So, the amendment is to delete the word "inappealable."

MR. REGALADO: Before that, on page 26, line 26, we should have a transposition because decisions are always final, as distinguished from interlocutory orders. So, it should read: "However, decisions, final orders or rulings," to distinguish them from interlocutory orders, ". . . of the Commission on Elections on municipal and barangay officials shall be final and IMMEDIATELY executory."

That would be my proposed amendment.

MR. FOZ: Accepted, Mr. Presiding Officer.

MR. REGALADO: It is understood, however, that while these decisions with respect to barangay and municipal officials are final and immediately executory and, therefore, not appealable, that does not rule out the possibility of an original special civil action for certiorari, prohibition, or mandamus, as the case may be, under Rule 65 of the Rules of Court.

MR. FOZ: That is understood, Mr. Presiding Officer.

MR. REGALADO: At least it is on record.

Thank you, Mr. Presiding Officer.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): What is the pleasure of the Commissioner?

MR. RODRIGO: I was planning to introduce an amendment to the amendment, however, I would like to ask a question before I do so.

In a previous interpellation, I remember that the Committee said that this sentence applies to election cases involving municipal officials. Am I right?

MR. FOZ: That is right, Mr. Presiding Officer.

MR. RODRIGO: Will the Gentleman then accept this amendment to the amendment? On line 27, between the words "on" and "municipal," add the words ELECTION CASES INVOLVING so that the sentence will read: "However, final decisions, orders or rulings of the Commission on Elections ON ELECTION CASES INVOLVING municipal and barangay officials . . ."

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: Would Commissioner Rodrigo accept an amendment to the amendment in order to attain a symmetry with the wordings on the subdivision relating to the Commission on Elections?

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Rodrigo say?

MR. RODRIGO: I would like to hear the amendment to the amendment.

MR. DAVIDE: The amendment would consist in the insertion between the words "on" and "municipal" on line 27 of the following: CONTESTS RELATING TO THE ELECTIONS, RETURNS, AND QUALIFICATIONS OF.

MR. RODRIGO: I accept.

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Regalado say insofar as the proposed amendment of Commissioner Rodrigo is concerned?

MR. REGALADO: May I have the amendment again because I was talking with Commissioner Bernas.

MR. DAVIDE: The amendment is on line 27; between the words "on" and "municipal," insert the following: CONTESTS RELATING TO THE ELECTIONS, RETURNS, AND QUALIFICATIONS OF.

MR. REGALADO: That would be acceptable because that is uniform with our own provisions in the Committees on the Legislative and the Executive.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say on the proposed amendment?

MR. FOZ: The amendment is accepted.

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

MR. RAMA: I ask that Commissioner Padilla be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Padilla is recognized.

MR. PADILLA: On this last sentence that has specific reference to the Commission on Elections, will the Committee agree to have this transferred to the Commission on Elections? I understand that it was inserted here for fear of the general rule that every final order or decision is subject to appeal by certiorari within 30 days. But it seems a little awkward that in the Common Provisions, we have specific provisions; however, that has particular reference to the Commission on Elections. My suggestion is to transfer this last sentence to the Commission on Elections so that there will be no fear that when there is a general provision and a specific provision, it is always the specific provision that governs or prevails. It is a matter of form.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Maambong is recognized.

MR. MAAMBONG: In line with the suggestion of Commissioner Padilla, with which I concur, I would like to call the attention of the Committee that we have Committee Report No. 27, and Section 10, page 4 of this committee report specifically states: "final decisions, orders or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, inappealable and executory." In effect, it is only a repetition of what is already contained now in the provisions on Common Provisions, so I suggest we take seriously the suggestion of Commissioner Padilla

Thank you, Mr. Presiding Officer.

MR. FOZ: The Committee is amenable to a transposition of this last sentence. Anyway, Section 10 of Proposed Resolution No. 521 already contains the same provision, but still unamended. So, the Committee is agreeable to having this last sentence transposed, as amended, to Section 10 of Proposed Resolution No. 521 on the

Commission on Elections.

THE PRESIDING OFFICER (Mr. Treñas): So, the proposed amendment is to delete the last portion of Section 10 and transpose it to the provision on the Commission on Elections.

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

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. RODRIGO: Anterior amendment. As a consequence of that removal of the sentence, I propose the following amendment: lines 22 and 23 will read: "Unless otherwise provided by THIS CONSTITUTION OR by law, any decision. . ." so that it will be very clear.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: Accepted, Mr. Presiding Officer.

MR. RODRIGO: Thank you.

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

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

The proposed amendments will be on Section 5. On line 20, after the word "Commission," put a comma (,) and insert the following: OR A DIVISION THEREOF WHENEVER AUTHORIZED UNDER THIS ARTICLE, then put a comma (,).

On line 21, between the words "case" and "brought," insert OR MATTER.

On line 22, between the words "for" and "resolution," insert the words DECISION OR; and after the period (.), following "resolution," add the following new sentence: A CASE OR MATTER IS DEEMED SUBMITTED FOR DECISION OR RESOLUTION UPON THE FILING OF THE LAST PLEADING, BRIEF, OR MEMORANDUM REQUIRED BY THE RULES OF THE COMMISSION OR BY THE COMMISSION ITSELF. So that the first two sentences of Section 5 will now read as follows: "Each Commission OR A DIVISION THEREOF WHENEVER AUTHORIZED UNDER THIS ARTICLE, shall decide by a majority vote of all its members any case OR MATTER brought before it within sixty days from the date of its submission for DECISION OR resolution. A CASE OR MATTER IS DEEMED SUBMITTED FOR DECISION OR RESOLUTION UPON THE FILING OF THE LAST PLEADING, BRIEF, OR MEMORANDUM REQUIRED BY THE RULES OF THE COMMISSION OR BY THE COMMISSION ITSELF."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: Mr. Presiding Officer, on the first proposed amendment we wanted to give the COMELEC the flexibility to promulgate its own rules with respect to decisions by division. Among the commissions, it is only the COMELEC that meets by division, and they wanted that flexibility because there may be instances where they may say that they may require more than a majority, or a unanimous vote according to their own rules and regulations. So, we want to be silent on that in this section.

MR. DAVIDE: With that interpretation, I would not insist on the proposed amendment on line 20. So the rest of the proposed amendments would stay.

MR. MONSOD: Just a point of clarification. Is the sentence that the Commissioner read with the phrase "is deemed submitted," similar to the one in the Judiciary?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. MONSOD: We accept the amendments.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the amendments are approved.

MR. DAVIDE: If there are no anterior amendments, I would propose an amendment after Section 5. It would be an entirely new section to be denominated later on as SECTION 6. It reads: SECTION 6. EACH COMMISSION MAY PROMULGATE ITS OWN RULES CONCERNING PLEADINGS AND PRACTICE BEFORE IT OR BEFORE ANY OF ITS OFFICES. SUCH RULES HOWEVER SHALL NOT DIMINISH, INCREASE OR MODIFY SUBSTANTIVE RIGHTS.

THE PRESIDING OFFICER: What does the Committee say on the proposed amendment?

MR. FOZ: One observation, Mr. Presiding Officer. As a quasi-judicial body, each commission has the inherent authority to promulgate its own rules.

MR. DAVIDE: Mr. Presiding Officer, I noticed that in the subdivision for the COMELEC, it has that provision. But in the Commission on Audit and the Civil Service Commission, there is no corresponding provision regarding the rules.

MR. FOZ: Commissioner Concepcion is recognized.

MR. CONCEPCION: We do not prefer that the rules be approved by the entire commission so that the rules in each commission would be uniform.

MR. DAVIDE: That is the reason why we would like to insert in the Article on Common Provisions the authority of the commission itself to promulgate its own rules.

MR. CONCEPCION: Yes. But a commission consists of several divisions.

MR. DAVIDE: Then, for instance, with respect to the COMELEC, which is the only commission authorized to sit in division, that Commission itself may promulgate its own rules.

MR. CONCEPCION: It is all right. Perhaps, the Commissioner had better clarify when he says "Each Commission," because that might be understood, at least in actual practice, that every division is a commission itself.

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. CONCEPCION: I would prefer a modification of the language, to require the commission en banc, the full commission.

MR. DAVIDE: As worded, it reads only EACH COMMISSION MAY PROMULGATE ITS OWN RULES.

MR. CONCEPCION: That is the problem, although it may be construed as each division of the Commission.

MR. DAVIDE: Then, I will modify: EACH COMMISSION EN BANC MAY PROMULGATE ITS OWN RULES, then put a period (.) and cancel the rest.

MR. CONCEPCION: That is right. That is acceptable.

THE PRESIDING OFFICER (Mr. Treñas): The Committee has accepted the proposed amendment.

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

MR. RAMA: Mr. Presiding Officer, for the last amendment.

MR. DAVIDE: I still have another amendment, Mr. Presiding Officer.

MR. CONCEPCION: If the Commissioner has something else, perhaps he will consider the fact that these rules of the commission are subject to the approval of the Supreme Court.

MR. DAVIDE: We already have the provision in the Article on the Judiciary.

MR. CONCEPCION: That is right. So, it is with that understanding that the rules shall be subject to subsequent approval by the Supreme Court.

MR. DAVIDE: Presiding Officer.

I have another proposal, which is the insertion of another section to follow what has been approved. It may be denominated as the new Section 7. It reads: EACH COMMISSION SHALL PERFORM SUCH OTHER FUNCTIONS AS MAY BE PROVIDED BY LAW.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: There is a similar provision.

MR. DAVIDE: For only one commission, not for the others.

MR. FOZ: For instance, in the case of the Civil Service Commission, there is on page 3, lines 3 and 4, a phrase which says: "and perform such other functions as may be provided by law."

MR. DAVIDE: That is correct. But in order to authorize all commissions under the Common Provisions, it may be best to set it here under Common Provisions.

MR. FOZ: And in the case of the Commission on Elections, per Proposed Resolution No. 521, the last item in the enumeration of powers and functions, it says: "performs such other functions as may be provided by law."

MR. DAVIDE: We can probably shorten the entire Article on the commissions by only providing one section in the matter of the performance of other functions as may be provided by law. We can reduce by two other sections, if we approve this Article on Common Provisions.

MR. FOZ: We accept, Mr. Presiding Officer.

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

MR. RAMA: Mr. Presiding Officer, for the last amendment, I ask that Commissioner Ople be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Ople is recognized.

MR. RODRIGO: As a consequence, I wish to present the following amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: On line 30, Section 6 should be made to read as SECTION 8.

THE PRESIDING OFFICER (Mr. Treñas): Will the Commissioner please clarify?

MR. RODRIGO: Because two sections were added, Section 6 and 7. So, "Sec. 6" on line 30 should be changed to SECTION 8.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: Accepted, Mr. Presiding Officer.

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

Commissioner Ople is recognized.

MR. OPLE: Thank you, Mr. Presiding Officer.

We have a proposed amendment by addition of a new section, perhaps to be known now as SECTION 9, is that correct? I speak for several colleagues on the floor — Commissioners Christine Tan, Minda Luz Quesada, Jaime Tadeo, Eulogio Lerum and myself. A new SECTION 9 is, therefore, added and it will read as follows: NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE, THE RIGHT TO SELF-ORGANIZATION SHALL NOT BE DENIED TO GOVERNMENT EMPLOYEES.

May I explain the reason for this proposed amendment?

THE PRESIDING OFFICER (Mr. Treñas): Please proceed.

MR. OPLE: In the course of the general debate this morning, the Chairman of the Committee was kind enough to grant that Section 9, Article II in the 1973 Constitution, which provided guarantees for the right of self-organization and collective bargaining for workers and employees, pertains to government employees as well as private sector employees and workers. Unfortunately, the tendency of the government has been to interpret or to apply this provision of Article II, Section 9, very restrictively and, therefore, to this day, because of the Article on the Civil Service Commission in the Constitution of 1973, the presumption is that about 1,200,000 government employees had been taken out of the effective coverage of the right to self-organization in Article II, Section 9 of the 1973 Constitution. To remove what appears to be a developing constitutional stalemate between Article II, Section 9, the guarantee on self-organization, and the civil service provision of the Constitution, we propose that this amendment be considered by the Committee and the Commission, especially since President Aquino recently, on May 1, 1986, expressly assured the right to self-organization and collective bargaining for government workers and employees.

I was given the impression that we are already talking about the civil service provisions. My agreement with the Floor Leader is that we would be called towards the end of the period of amendments on the Civil Service Commission. But I did not think that I wasted the time of the Commission and of the President, considering that this input will not be lost when this proposed amendment is finally presented at the right time.

So, thank you very much, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Thank you also.

MR. RAMA: Mr. Presiding Officer, we are now in the period of amendments on the Article on Civil Service. So, I ask that Commissioner Blas Ople continue his amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Ople may proceed.

MR. OPLE: Mr. Presiding Officer, the only possible objection that I can imagine to this amendment is that it rightfully belongs to another section of the Constitution. And I think I should make public what Commissioner Monsod has just told me. His impression is that a provision on self-organization and collective bargaining is contemplated to be included in the report of the Committee on Social Justice. Does this make this provision redundant, superfluous, unnecessary? I do not think so. The proper place for this guarantee should be in the Article on the Civil Service Commission.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: Mr. Presiding Officer, we have no objection to the proposed section. We just wanted to make it of record that in the event the sponsorship committee, for example, looks at the total Constitution and it will find that it properly belongs to somewhere else, then we will yield to such decision. But we have no objection to putting it now in the civil service section.

MR. OPLE: We will welcome this action of the Committee, of course, without yielding the principle that the nexus to freedom of association ought to be located for government employees in this specific Article that deals with them as members of the civil service of the Philippines.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The post amendment has been accepted by the Committee.

FR. BERNAS: Mr. Presiding Officer, just one manifestation in relation to the amendment of Commissioner Ople.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Bernas is recognized.

FR. BERNAS: A similar provision is contained in the Bill of Rights upon the recommendation of Commissioner Lerum, which is exactly the same as in the report on the Bill of Rights.

MR. OPLE: They will then happily reinforce each other in the section where they belong.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Maambong is recognized.

MR. MAAMBONG: Just a point of parliamentary inquiry: Does that mean that the approved amendment by adding a new section would be designated as Section 8 (b) of the Civil Service Commission on page 3?

THE PRESIDING OFFICER (Mr. Treñas): It is not yet approved.

MR. MAAMBONG: Once approved, it should be an additional section. That is the parliamentary inquiry.

MR. MONSOD: Mr. Presiding Officer, this is one of the questions we have for Commissioner Ople. He is proposing this amendment. Where does he propose to put this amendment, in the Common Provisions or in the Civil Service Commission?

MR. OPLE: In the Civil Service Commission, Mr. Presiding Officer.

MR. MONSOD: So, we will accordingly adjust at that time.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Padilla is recognized.

MR. PADILLA: According to Commissioner Ople as the proponent, is the proposed insertion of a section based on Article II, Section 9 of the 1973 Constitution? I notice that Article II, Section 9 is mainly addressed to workers; that is, to ensure equal work, regulate relations between workers and employers, the rights of workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work. If we extend this to government employees, especially those in the civil service who, I believe, are not exactly workers in relation to employers — the government employs personnel in the performance of public functions — I have hesitation, if not opposition, to extending the labor-employer relation to employees in government because they are in a different category. I do not believe they are identical. Moreover, when there is, for example, a declaration of strike by reason of an unfair labor practice or some alleged violation of a provision in the collective bargaining agreement, strikes should not be fomented but restricted except for good substantial reasons as the last resort. To extend this to the government and apply it to the Civil Service Commission — we can apply it to the entire governmental machinery—there may come a time that a strike would paralyze the public service. A strike in one factory or plant or store may only affect the particular interest of those concerned in that particular segment or industry or commerce or business, but to extend this right not only for self-organization and collective bargaining to government employees, which may entail, as a necessary consequence, the right to strike, I think, is of far-reaching significance, because it would mean that the employees themselves can strike against the government itself and jeopardize public service.

So, Mr. Presiding Officer, I would not accept just unhesitatingly and without material consideration the possible adverse effects against the public service, and I think there should be, for example, no strike against public service. If in very vital industries the government may even interfere, I believe with more reason in the performance of public functions this situation of a particular relation between some workers and their employer should not apply to government itself in relation to its public officers.

So, I would request without hesitation for a reconsideration of the acceptance by the Committee of this proposed amendment.

MR. OPLE: May I be allowed to say something on the points raised by Commissioner Padilla?

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Ople is recognized.

MR. OPLE: Yes, I think Commissioner Padilla's interpretation of the right to self-organization for the public service is based on nonexaggerated fear of a potentially unsettling influence through public service units which is what is formed when employees of the government do decide to exercise the right to self-organization. I think that this is not a mandate for government employees to go on strike. The government is in a sense the repository of the national sovereignty and, in that respect, it must be held in reverence if not in awe. It symbolizes the unity of the nation, but it does perform a mundane task as well. It is an employer in every sense of the word except that terms and conditions of work are set forth through a Civil Service Commission. The government is the biggest employer in the Philippines. There is an employer-employee relationship and we all know that the accumulated grievances of several decades are now beginning to explode in our faces among government workers who feel that the rights afforded by the Labor Code, for example, to workers in the private sector have been effectively denied to workers in government in what looks like a grotesque, a caricature of the equal protection of the laws. For example, I still remember that there were many occasions under the old government when wages and cost of living allowances were granted to workers in the private sector but denied to workers in the government for some reason or another, and the government did not even state the reasons why. The government employees were being discriminated against. As a rule, the majority of the world's countries now entertain public service unions. What they really add up to is that the employees of the government form their own associations. Generally, they do not bargain for wages because these are fixed in the budget but they do acquire a forum where, among other things, professional

and self-development is promoted and encouraged. They also act as watchdogs of their own bosses so that when graft and corruption is committed, generally, it is the unions who are no longer afraid by virtue of the armor of self-organization that become the public's own allies for detecting graft and corruption and for exposing it. And so, I still maintain on behalf of the proponents: Sister Christine Tan, Minda Luz Quesada, Jaime Tadeo, Eulogio Lerum and myself, that this is an amendment that the Committee should consider and that the Commission should approve.

Thank you very much.

MR. NOLLEDO: Will the Gentleman yield to some questions, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Ople yield?

MR. OPLE: Very gladly.

MR. NOLLEDO: Mr. Presiding Officer, I understand that in the government, there are two basic functions involved: the sovereign or governmental functions and the proprietary functions, because one cannot deny that the government also engages in proprietary functions. And the Commissioner has said that government employees, notwithstanding the provisions of the Constitution on civil service, should be given their right to self-organization. Does the Commissioner agree with me that the right to self-organization includes not only the right to form unions but also the right to engage in concerted activities like strike or picketing? Does he mean to say that the right to self-organization should apply to both governmental and proprietary functions?

MR. OPLE: Yes, but I distinguish between the right to self-organization and collective bargaining and the right to self-organization only. And the original version — collective bargaining — was incorporated into this provision.

MR. NOLLEDO: I understand that the settled rule in the United States and even in the Philippines at present is that with respect to governmental functions, government employees cannot engage in concerted activities, because if all of them will go on strike at the same time, the government will be completely paralyzed; and, therefore, the national interest may be adversely affected, as observed by Senator Padilla.

MR. OPLE: In the United States today, as the Commissioner knows, especially under state governments, there are many states where the right to self-organization for the public service is fully recognized. In Japan, this is a right fully recognized. The strongest unions in Japan are the public service unions. In Malaysia, they reorganized the Malaysian Trade Union Congress recently and the public service unions became the dominant component of the MTUC. One does not hear of government employees striking in Japan or in Malaysia or in the United States, except in Japan, the so-called "spring offensives," when the National Railways System — it is a government-controlled corporation — generally goes on strike for a new bonus.

That is about all. But I think we should not exaggerate the potential for disaster in public service unions because the world's experience so far shows we can trust our own people in the government to be responsible.

MR. NOLLEDO: Would not the Commissioner be satisfied, if we state that with respect to governmental functions, government employees will form associations for their mutual benefit and then take advantage of the provision in the Bill of Rights, that they can present to the government petitions for redress of grievances, instead of allowing them to strike, which may take a lot of time resulting in a stalemate, and in paralyzation of government activities?

MR. OPLE: I will not expect any strike in government as a result of this. The arbitration powers of the state remains intact.

MR. NOLLEDO: I hope Commissioner Ople will not mind, because when he was the incumbent Minister of

Labor, he kept on saying that government employees, in the exercise of governmental functions, have no right to strike but only to petition for redress of grievances. Am I right?

MR. OPLE: Yes, because at that time, the climate for policy reforms in labor was rather limited. But now, if one does not entertain this amendment, we are, in effect, reducing the benefits of labor, and because President Aquino had already announced that public service employees should have the right to self-organization.

MR. NOLLEDO: And if my memory serves me right, without disparaging my worthy colleague, he said that if government employees exercising governmental functions should be allowed to strike, the facilities of the government are not sufficient to meet the exigencies that may result from such strike.

MR. OPLE: Yes.

MR. NOLLEDO: I thank Commissioner Ople.

MR. OPLE: In principle, government employees can simultaneously walk out. Even now, without this amendment, which the teachers have been happily doing, and I want to give the information to the Commission that in the Ministry of Labor and Employment right now, they are registering public service unions and nothing catastrophic has followed as a consequence. As a matter of fact, they hold weekly forums in that ministry where employees have already organized the first public service unions. And they talk of how to cooperate with the leadership. And now I am just told that another sponsor of this amendment would like to share my time, which I now willingly relinquish, with the leave of the Presiding Officer, to Commissioner Lerum.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. MONSOD: Mr. Presiding Officer, may I just interpose a note here before Commissioner Lerum is recognized, because the Honorable Padilla, in his statement, I think, suggested that the Committee has agreed without reflection. We just wanted to say that this matter has been thoroughly discussed in many forums including the Bishops-Businessmen's Conference and our consultation with labor that this very same Constitutional Commission conducted at the Executive Building in Manila, and our agreement to the proposed new section was based on the wording on the right to self-organization. Perhaps, the honorable Commissioners Padilla and Nollado are reading too much into the section. As a matter of fact, during the consultations with labor, the Industrial Relations Department of the University of the Philippines suggested that with self-organization, it is perfectly possible to have what we call "collective negotiations" rather than collective bargaining.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Lerum be recognized for three minutes.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Lerum is recognized for three minutes.

MR. LERUM: I think what I will try to say will not take that long. When we proposed this amendment providing for self-organization of government employees, it does not mean that because they have the right to organize, they also have the right to strike. That is a different matter. We are only talking about organizing, uniting as a union. With regard to the right to strike, everyone will remember that in the Bill of Rights, there is a provision that the right to form associations or societies whose purpose is not contrary to law shall not be abridged. Now then, if the purpose of the state is to prohibit the strikes coming from employees exercising government functions, that could be done because the moment that is prohibited, then the union which will go on strike will be an illegal union.

And that provision is carried in Republic Act 875. In Republic Act 875, workers, including those from the government-owned and controlled corporations, are allowed to organize but they are prohibited from striking. So, the fear of our honorable Vice-President is unfounded. It does not mean that because we approve this resolution, it carries with it the right to strike. That is a different matter. As a matter of fact that subject is now being discussed in the Committee on Social Justice because we are trying to find a solution to this problem. We know that this problem exists; that the moment we allow anybody in the government to strike, then what will happen if the members of the Armed Forces will go on strike? What will happen to those people trying to protect us? So that is a matter of discussion in the Committee on Social Justice. But, I repeat, the right to form an organization does not carry with it the right to strike.

THE PRESIDING OFFICER (Mr. Treñas): Notwithstanding the fact that the proposed amendment of Commissioner Ople has been accepted by the Committee, nevertheless, it appears that there is an objection on the part of Commissioner Padilla. We shall vote on the proposed amendment.

MR. RAMA: Mr. Presiding Officer, before the vote, may I ask that Commissioner Quesada be recognized for one minute on the same subject.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Quesada is recognized.

MS. QUESADA: Yes, I would like to support the position already expressed by two of the sponsors, and that is for the Commissioners to give more respect and faith in the government workers. We need this particular civil service provision expressed explicitly. As a government employee for the past 26 years, I have experienced harassment and intimidation even in the effort to organize, not for the purpose of any collective bargaining. Just the mere fact of organizing in a government institution somehow received repressive actions from the authorities. So, we believe that we need this particular provision for the protection of government workers who remain one of the most exploited, underpaid and overworked sectors in our country.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: For an orderly procedure, in what part of the Civil Service Commission is this amendment going to be placed? It will be the last section. Yes, because the last section, as it is now, is Section 7; so, this will be Section 8 of the Civil Service Commission.

MR. PADILLA: Mr. Presiding Officer, may I say a few words.

THE PRESIDING OFFICER (Mr. Treñas): Two minutes.

MR. PADILLA: Yes, Mr. Presiding Officer. Commissioners Lerum and Quesada say that this is limited to self-organization, and it does not include the right to strike. But Commissioner Ople says not only self-organization but collective bargaining. And not only that, he can also justify a strike. So, if it is only to form an association, that is provided for in the Bill of Rights — the right to form an association for purposes not prohibited by law. There is no need for a specific provision regarding employees in the government service. Commissioner Ople mentions civil service unions. I do not exactly know what is meant by "public service unions." We had the Public Service Commission which is now the Land Transportation Commission, which has jurisdiction over public utilities as a transportation company, which is industrial or commercial. But because of its public interest, it is called a public service company subject then to the Public Service Commission. So, when mention is made of civil service unions, I believe it will apply to private industry that is engaged in some sort of public service like the public utilities, including the very vital function of transportation. If it is only self-organizations probably, there can be no disagreement because that is already provided for in the Bill of Rights.

THE PRESIDING OFFICER (Mr. Treñas): I regret that the time of Commissioner Padilla is up.

MR. PADILLA: Thank you.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): Shall we vote? I think the matter has been sufficiently discussed.

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

As many as are against, please raise their hand. (One Member raised his hand.)

MR. PADILLA: Mr. Presiding Officer, I am not really informed about the exact amendment. Is it only purely self-organization without collective bargaining? If so, I should not have spoken too long.

MR. MONSOD: Mr. Presiding Officer, maybe we should read the proposed amendment.

THE PRESIDING OFFICER (Mr. Treñas): Yes.

MR. MONSOD: It says: NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE, THE RIGHT TO SELF-ORGANIZATION SHALL NOT BE DENIED TO GOVERNMENT EMPLOYEES.

THE PRESIDING OFFICER (Mr. Treñas): Can we now have the results?

The results show 33 votes in favor and one against; the proposed amendment is approved.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Aquino be recognized to amend Section 1 on the civil service proposal.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino is recognized.

MS. AQUINO: Mr. Presiding Officer, I will have to yield in favor of Commissioner Bernas. We have agreed on the proposed amendment to Section 1 (2).

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Bernas is recognized.

FR. BERNAS: I thank Commissioner Aquino.

On page 2, line 7 (2), I propose to insert a comma (,) between the words "determined" and "as." On line 8 between the words "practicable" and "by," we insert the phrase AND EXCEPT TO THOSE WHICH ARE POLICY-DETERMINING, PRIMARILY CONFIDENTIAL AND HIGHLY TECHNICAL and a comma (,) after it.

In other words, the idea of the amendment is to restore the concept of policy-determining, primarily confidential, and highly technical positions, because no matter what we may say about these, these categories still exist. As the Supreme Court has constantly said, what determines whether a position is policy determining, primarily confidential, or highly technical is the actual nature of the position, not the title. The only purpose of this classification is to exempt these categories from competitive examination as a means for determining merit and fitness.

We will notice that there has been a transposition of the phrase covering these three categories from the old system because the old phrasing, I think, was misleading; it tended to mislead to the conclusion that these positions are not covered by security of tenure. The initial decisions of the Supreme Court said that these positions were not covered by security of tenure. However, subsequent decisions clarified that these positions are covered by security of tenure but are only exempting from competitive examination as a means for determining merit and

fitness.

The reason for this is, for instance, that a highly technical position is defined as something which requires more than just ordinary professionalism. For instance, an atomic scientist would be a highly technical professional; so, if we have somebody to be appointed to the Atomic Energy Commission, any scientist worth his salt would not want to submit to a competitive examination in order to qualify for this position. That is the only objective of the exceptions.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Suarez is recognized.

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

FR. BERNAS: Very willingly.

MR. SUAREZ: I take it that under this particular section there will be only one level for the career civil service men and that is those who have passed the competitive examinations. The Commissioner is proposing that we reincorporate the existing provisions under the 1973 Constitution with reference to those three classifications already mentioned which are noncompetitive in character, such as: (1) policy-determining; (2) primarily confidential; and (3) highly technical in nature.

FR. BERNAS: These are noncompetitive in the sense that they do not have to undergo competitive examinations for purposes of determining merit and fitness.

MR. SUAREZ: That is right, but, nonetheless, they would satisfy the requirement of merit and fitness.

FR. BERNAS: Yes, but there has to be some other way of determining their merit and fitness, not by competitive examination.

MR. SUAREZ: Therefore, the Commissioner would want to substantially reincorporate in this section the provision under the 1973 Constitution?

FR. BERNAS: Yes, but the position of the phrase has been changed for purposes of clarity, because the original phraseology of the 1973 Constitution, which was a copy of the 1935 Constitution, led to the conclusion that these positions are not covered by security of tenure. There was a decision of the Supreme Court to that effect, which subsequently was changed by that body, saying that the only thing they are exempted from is competitive examination.

MR. SUAREZ: When the Commissioner speaks about the Supreme Court decision, is he referring to holding the position at the pleasure of the appointing power?

FR. BERNAS: No.

MR. SUAREZ: I am referring only to those falling within the three categories mentioned by the Commissioner. Do I take it that, as proposed by the Commissioner, these career or civil service eligibles, in spite of the fact that they did not pass any competitive examinations, would, nonetheless, enjoy security of tenure?

FR. BERNAS: Yes.

MR. SUAREZ: And they should not be holding their offices at the pleasure or displeasure of the appointing power?

FR. BERNAS: Yes.

MR. SUAREZ: Thank you.

FR. BERNAS: The only thing which can confuse here is regarding the positions that are primarily confidential. If a person occupies such a position and he has lost the confidence of his superior, then his position is terminated. However, the Supreme Court has always said that termination is not equivalent to removal but rather the end of his term, because it is coterminous with confidence.

MR. SUAREZ: So that is the only exception.

FR. BERNAS: Yes.

MR. SUAREZ: With respect to the two other classifications, the policy-determining and the highly technical positions, should they enjoy that measure of security of tenure?

FR. BERNAS: Yes.

MR. SUAREZ: Thank you.

MR. FOZ: I have a question, Commissioner Bernas.

What about positions that are considered policy-determining in nature? Does an occupant of this position have the right to security of tenure?

FR. BERNAS: He can be given the right to security. In other words, this classification has nothing to do with security of tenure but only with determining merit and fitness. The matter of security of tenure is handled differently: the employee might or might not be given security of tenure, or an office might be created for them, but that office is removable at will.

The whole range of decisions in the Supreme Court on this is: This classification has nothing to do with security of tenure but only with determination of merit and fitness.

MR. FOZ: Which department of government has the power or authority to determine whether a position is policy-determining or primarily confidential or highly technical?

FR. BERNAS: The initial decision is made by the legislative body or by the executive department, but the final decision is done by the court. The Supreme Court has constantly held that whether or not a position is policy-determining, primarily confidential or highly technical, it is determined not by the title but by the nature of the task that is entrusted to it. For instance, we might have a case where a position is created requiring that the holder of that position should be a member of the Bar and the law classifies this position as highly technical. However, the Supreme Court has said before that a position which requires mere membership in the Bar is not a highly technical position. Since the term "highly technical" means something beyond the ordinary requirements of the profession, it is always a question of fact.

MR. FOZ: Does not Commissioner Bernas agree that the general rule should be that the merit system or the competitive system should be upheld?

FR. BERNAS: I agree that that should be the general rule; that is why we are putting this as an exception.

MR. FOZ: The declaration that certain positions are policy-determining, primarily confidential or highly technical has been the source of practices which amount to the spoils system.

FR. BERNAS: The Supreme Court has always said that, but if the law of the administrative agency says that a position is primarily confidential when in fact it is not, we can always challenge that in court. It is not enough that the law call it primarily confidential to make it such; it is the nature of the duties which makes a position primarily

confidential.

MR. FOZ: The effect of a declaration that a position is policy-determining, primarily confidential or highly technical — as an exception — is to take it away from the usual rules and provisions of the Civil Service Law and to place it in a class by itself so that it can avail itself of certain privileges not available to the ordinary run of government employees and officers.

FR. BERNAS: As I have already said, this classification does not do away with the requirement of merit and fitness. All it says is that there are certain positions which should not be determined by competitive examination.

For instance, I have just mentioned a position in the Atomic Energy Commission. Shall we require a physicist to undergo a competitive examination before appointment? Or a confidential secretary or any position in policy-determining administrative bodies, for that matter? There are other ways of determining merit and fitness than competitive examination. This is not a denial of the requirement of merit and fitness.

MR. FOZ: But experience has shown that these matters have been the source of abuse. One of the effects of such a declaration is to remove it from the general run of government employees. Therefore, holders of these positions enjoy better rates of pay and compensation.

FR. BERNAS: Mr. Presiding Officer, I have said everything I want to say, so I submit it to a vote.

THE PRESIDING OFFICER (Mr. Treñas): Is the proposed amendment acceptable to the Committee?

MR. FOZ: The Committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: I move that Commissioner Aquino be recognized for another amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino may now proceed.

MS. AQUINO: Mr. Presiding Officer, the proposed amendment will be on page 2, Section 4, line 13.

MR. PADILLA: Prior amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Padilla is recognized.

MR. PADILLA: This is on page 2, Section 1, paragraph 3, lines 9 to 11. I notice that this section mentions the phrase "removed, suspended or otherwise disciplined." The 1935 Constitution used the phrase "removed or suspended" while the 1973 Constitution used the phrase "suspended or dismissed." The word "discipline" is a new insertion. I also notice that while the former Constitution spoke of "for cause provided by law," this committee report qualifies "cause" with the word "just" and adds the phrase "as may be provided by law."

Will the Committee consider more or less the restoration of certain phrases in the relevant provisions of the 1935 and 1973 Constitutions and the exclusion of discipline which may not amount to any suspension, removal or dismissal? Why should we say "just cause as may be provided by law"? There may be a subsequent law that may provide additional cause for suspension or dismissal, and definitely it cannot be given any retroactive effect. Why not use the phrase "for cause provided by law" as stated in the former Constitutions?

MR. FOZ: What is the Commissioner's amendment?

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Padilla please restate his amendment?

MR. PADILLA: I propose to reword Section 1, paragraph 3, lines 9 to 12 on page 2 by deleting "otherwise disciplined," the word "just" and the phrase "as may be," such that it would read: "No Member of the civil service shall be removed or suspended except for cause provided by law."

MR. FOZ: What is the difference as far as the clause "as may be provided by law" is concerned?

MR. PADILLA: The fear I entertain is that when a civil service employee has done an act which may be a cause for his suspension or removal as provided by law, that may be all right. But a subsequent law may add additional causes, and his act may be anterior to that, so that subsequent law should not be given any retroactive effect. The phrase "as provided by law" is all right, but the former phrase "as may be provided by law" might entertain the idea of a subsequent law being enlarged or additional causes being included therein. The fear is that it might be justified by this phrase "as may be," instead of the old text "as provided by law."

MR. FOZ: But what about his proposal to delete the word "just" before "cause"?

MR. PADILLA: I propose to delete the word "just" because the law has already provided the causes. If there is a cause provided by law which will justify an employee's suspension or dismissal, well and good. However, others might say: "That cause is not just." So it will give rise to some unholy discussions and court proceedings to determine whether the cause already provided by law is just or unjust. In other words, I do not see any improvement by the addition of these words over the two similar provisions in both Constitutions except the words "removed" in one and "dismissed" in the other, which mean the same thing, which were already provided in the previous Constitutions. However, if we do not intend to make any substantive change, we might as well adopt the former text, because that has already been recognized and has probably received judicial interpretation.

MR. FOZ: On the proposition that the term "for cause" has acquired a definite meaning in law and for the reason stated by the proponent regarding the last clause, the Committee accepts the amendment.

MR. PADILLA: Thank you.

THE PRESIDING OFFICER (Mr. Treñas): The Committee has accepted the amendment.

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

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: May I ask that Commissioner Aquino be recognized to propose her amendments.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino is recognized.

MS. AQUINO: Mr. Presiding Officer, my proposed amendment is on page 2, Section 1, subparagraph 4, lines 13 and 14. On line 13, between the words "any" and "partisan," add the phrase ELECTIONEERING AND OTHER; and on line 14, delete the word "activity" and in lieu thereof substitute the word CAMPAIGN.

May I be allowed to explain my proposed amendment?

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino may proceed.

MS. AQUINO: The draft as presented by the Committee deleted the phrase "except to vote" which was adopted in both the 1935 and 1973 Constitutions. The phrase "except to vote" was not intended as a guarantee to the right to vote but as a qualification of the general prohibition against taking part in elections.

Voting is a partisan political activity. Unless it is explicitly provided for as an exception to this prohibition, it will amount to disenfranchisement. We know that suffrage, although plenary, is not an unconditional right. In other words, the Legislature can always pass a statute which can withhold from any class the right to vote in an election, if public interest so required. I would only like to reinstate the qualification by specifying the prohibited acts so that those who may want to vote but who are likewise prohibited from participating in partisan political campaigns or electioneering may vote.

MR. FOZ: There is really no quarrel over this point, but please understand that there was no intention on the part of the Committee to disenfranchise any government official or employee. The elimination of the last clause of this provision was precisely intended to protect the members of the civil service in the sense that they are not being deprived of the freedom of expression in a political contest. The last phrase or clause might have given the impression that a government employee or worker has no right whatsoever in an election campaign except to vote, which is not the case. They are still free to express their views although the intention is not really to allow them to take part actively in a political campaign.

MS. AQUINO: Mr. Presiding Officer, the point of the Chairman of the Committee is well-taken, but I believe his fear is more apparent than real. In fact, the explicit proviso "except to vote," is, in effect, a definitive qualification of that general prohibition against participation in partisan political activity, because it is axiomatic that voting is a partisan political activity. In other words, the fear expressed by Commissioner Foz may be off-tangent.

MR. FOZ: We accept the amendment with that clarification.

MS. AQUINO: I thank Commissioner Foz; and I also thank the Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Committee has accepted the amendment.

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

MR. DAVIDE: Mr. Presiding Officer, I seek recognition of Commissioner Suarez for his amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Suarez is recognized.

MR. SUAREZ: Mr. Presiding Officer, I have the same amendment similar to or identical with the amendment just approved now.

MR. DAVIDE: I seek the recognition of Commissioner Romulo for some clarificatory questions before we go to other amendments.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Romulo is recognized.

MR. ROMULO: Can we go back to Section 3 of the Common Provisions, lines 15 and 16. It involves the phrase "including government-owned or controlled corporations or THEIR subsidiaries." Does it mean that the Philippine Airlines, which is owned or controlled by the government, will be run according to Civil Service rules?

MR. FOZ: No, the inclusion here of "government-owned or controlled corporations or their subsidiaries" has to do with the franchise or privilege granted by such government corporations or their subsidiaries. It has nothing to do with the management.

MR. ROMULO: Yes, thank you.

MR. DAVIDE: Mr. Presiding Officer, I understand that Commissioner Aquino has a proposed amendment on Section 2.

MR. FOZ: It is not here.

MR. DAVIDE: Then, may I seek the recognition of Commissioner Maambong for paragraph 2 of Section 2?

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, on page 2, Section 2, paragraph 2, line 24, after the word "President," I propose to insert the phrase WITH THE CONSENT OF THE COMMISSION ON APPOINTMENTS. On line 25, delete the entire sentence "Appointments to the Commission need no confirmation."

May I explain for just a few seconds, Mr. Presiding Officer?

I agree that the constitutional commissions should be independent. I think when we cause the appointment of the chairmen and commissioners thereof without the necessity of confirmation of the Commission on Appointments, it would be carrying our independence a bit too far. I submit, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: We would like to be informed, if the proposal to reestablish the Commission on Appointments in the legislative department is already assured of approval.

MR. MAAMBONG: I specifically asked Commissioner Davide, the Chairman of the Committee on the Legislative, and he assured me that the reinstallation of the Commission on Appointments is almost a certainty, so with his assurance, I think we will have a Commission on Appointments.

MR. FOZ: With that information and the expectation that such a constitutional body will be established and approved by the Commission, then the Committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Treñas): The Committee has accepted the amendment.

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

MR. MAAMBONG: Mr. Presiding Officer, I am not going to propose any other amendment. I will just make a reservation to make a similar amendment to the other constitutional bodies.

Thank you.

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Foz is recognized.

MR. FOZ: There has been a disagreement in the Committee as to the last proposal or amendment. May I move for a reconsideration of the approval of the last amendment proposed by Commissioner Maambong?

THE PRESIDING OFFICER (Mr. Treñas). Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: I seek the recognition of Commissioner Quesada for an anterior amendment on Section 1.

MR. FOZ: There is a pending matter.

MR. DAVIDE: I am sorry.

MR. MONSOD: Mr. Presiding Officer, may we explain our reason and then leave it up to the body. The reason the Committee thought about not subjecting the appointments to the Commission on Appointments is the desire

not to introduce partisan politics into these constitutional commissions. It is our understanding that the composition of the Commission on Appointments would be something similar to the old Commission on Appointments.

We were a little concerned that, for example, the Commissioners of the Commission on Elections would now be the subject of haggling and horse trading such that the list would now be composed of nominees of political parties. We were afraid that this would hurt the integrity of the electoral process.

In the case of the Judiciary, which is allowed to have appointments, there is a Judicial and Bar Council. However, it is our contention that in the case of the Judiciary, judges are appointed for life; whereas, in the case of the constitutional commissions, there is a natural stopper because the terms of the commissioners will in no case exceed seven years.

So this was some sort of a trade-off here and we wanted to insulate these constitutional commissions from politics. That was the reason for that provision.

MR. MAAMBONG: Mr. Presiding Officer, before we put the issue to a vote, may I be allowed to put in a few words?

THE PRESIDING OFFICER (Mr. Treñas): The Commissioner has two minutes.

MR. MAAMBONG: I sympathize with the concern of the Committee regarding the appointments of the members of the commission through the Commission on Appointments, but I would like the Committee to understand that if the appointments will not go through the process of being gone over by the members of the Commission on Appointments, then the logical conclusion is that it would only be the President, himself a politician, who will decide.

Second, Mr. Presiding Officer, historically in the 1935 Constitution, members of the constitutional commissions went through the Commission on Appointments. The only reason this was deleted in the 1973 Constitution was there was no more Commission on Appointments. As stated by Commissioner Monsod, in the case of the members of the Judiciary, we do have a Judicial and Bar Council that can go over their qualifications.

I feel very strongly that we should put the members of the constitutional commissions through a process of screening by the Commission on Appointments as far as their qualifications are concerned.

FR. BERNAS: Mr. Presiding Officer.

MR. MONSOD: May I just have a minute? I just want to say that in drafting the provision, we took into consideration the staggered terms of the Commissioners so that not at any one time will they be beholden to one President.

As a matter of fact, the appointment provision as now drafted says that even when an appointee takes the unexpired term of one commissioner, he cannot be reappointed. Moreover, we feel that there are safeguards in the system that would prevent one person from dominating the commissions.

FR. BERNAS: Mr. Presiding Officer, just one word in support of the amendment of Commissioner Maambong.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Bernas is recognized.

FR. BERNAS: I sympathize with the intention of the Committee to insulate the Civil Service Commission against politics, but as Commissioner Maambong said, the President is as much a political animal as the members of Congress.

Moreover, in response to the argument that after all the terms are staggered, we should remember that the first appointees will be appointed by the same President. One principal complaint we had against the past administration was that the power of appointment became subject to abuse because it was not subject to any check.

The proposal of Commissioner Maambong is precisely to put a check on the appointing authority, and that would be in the interest of insulating all these commissions against politics.

MR. DAVIDE: Mr. Presiding Officer, Commissioner de Castro would like to add a little on this issue. May I seek for his recognition?

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

I am a member of the Committee, and when we were discussing this matter a while ago, we were concerned about the statements made by Commissioner Monsod on insulating these members of the constitutional commissions from partisan politics. I accepted that position on condition that my Resolution No. 330, substituting a Committee on Appointments in lieu of the Commission on Appointments, will be approved by the Committee on the Legislative. I submitted this resolution in view of our very bad experience with the Commission on Appointments, whose members numbered 25 including the ex-officio Chairman, the Senate President. One member alone could table an appointment if the appointee would not approach that member. That appointment would remain hidden in the drawer of his table and he would be bypassed for several years, as I was bypassed for seven years because someone hid my appointment papers and did not release them before the Commission on Appointments.

And so, if a Committee on Appointments instead of a Commission On Appointments will be passed by the Committee on the Legislative, then I would agree that the commissioners of the constitutional commissions pass through the Committee on Appointments.

Thank you, Mr. Presiding Officer.

MR. DAVIDE: The issue has been sufficiently discussed I move for a vote on the proposed amendments.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): Those in favor of the proposed amendment will please raise their hand. (Several Members raised their hand.)

All those against will please raise their hand. (Few Members raised their hand.)

The results show 21 votes in favor and 7 against; the amendment is approved.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Davide is recognized.

MR. DAVIDE: I move for the recognition of Commissioner Quesada for an anterior amendment on Section 1.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Quesada is recognized.

MS. QUESADA: Mr. President, I would like to introduce an additional paragraph to Section I and this would be paragraph 5. This is in reference to a resolution introduced by Honorable Sarmiento and myself which seeks to make all government workers and employees permanent workers after rendering six months of service subject to civil service rules.

I believe there are thousands of workers and employees who have been in the government service for more than five years but have not enjoyed many of the rights other workers have enjoyed such as the right to security of tenure and the right to self-organization.

This particular group of workers is not protected by the government. As a matter of fact, the government is the number one exploiter of labor especially the manual workers. If we want to improve government service, then they should now enjoy some protection by the law. It was claimed earlier by some of the members of the Committee that this should be subject to legislation. But for many years casual workers in the government have pleaded to have that kind of protection since their counterparts in the private sector have been protected by the Labor Code. This Code has a parallel provision that would make the workers who have rendered six months of service permanent. But employees in the government sector remain casuals even up to the time they retire.

So, there are thousands of workers who are willing to lay their life on this particular provision because it is very vital. This is often the cry of the government workers in our public hearings and consultations and even before the convening of this Constitutional Commission. I would particularly bring out the issue of government health workers who have oftentimes expressed this problem and they are clamoring now for this constitutional body to redress the injustice that was committed against them.

So, I propose to add a new paragraph to follow paragraph 4. This is a good provision that will refer to government servants.

MR. FOZ: Mr. Presiding Officer, what is the exact amendment?

MS. QUESADA: The proposed amendment is to insert, as the last paragraph of Section 1, the following: GOVERNMENT WORKERS SHALL BE GRANTED PERMANENT STATUS AFTER RENDERING SIX MONTHS OF SATISFACTORY AND ESSENTIAL SERVICE. So, I have added here the words SATISFACTORY and ESSENTIAL, meaning, that their services are vital for the continuity of government service.

MR. FOZ: I am sorry I did not get the amendment.

MR. DAVIDE: For clarification, Mr. Presiding Officer. That proposed amendment would be a new paragraph on Section 1, and it should be placed between lines 14 and 15.

MS. QUESADA: Yes, it is a new insertion.

MR. FOZ: Mr. Presiding Officer, we would like to hear the amendment again.

MS. QUESADA: The new amendment reads: GOVERNMENT WORKERS SHALL BE GRANTED PERMANENT STATUS AFTER RENDERING SIX MONTHS OF SATISFACTORY AND ESSENTIAL SERVICE, meaning, that their services are needed to continue the service of that particular institution.

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: May I ask the proponent some questions?

MS. QUESADA: Gladly.

MR. DE LOS REYES: Does this contemplate a worker who has rendered continuous service?

MS. QUESADA: Yes.

MR. DE LOS REYES: Let us take the case of a worker who was employed for one month; then later on was laid off. He was again employed, then later on laid off. Even if the accumulated period of his service amounted to six months, he would not be entitled to be a permanent employee.

MS. QUESADA: I have in mind those workers who have rendered continuous service which is important to the organization.

MR. DE LOS REYES: With that provision, that fate will be suffered by these employees. That is what the appointing power will do: not to allow the employee to render service continuously so that he cannot avail of permanent status.

Thank you.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: May I ask some questions? Does this jibe with the provision of Section 1 under the Civil Service Commission, subsection 2 which reads:

Appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable and except to those which are policy-determining, primarily confidential and highly technical, by competitive examination.

Many casual employees who have no eligibility did not undergo any competitive examination. Is there no inconsistency between that policy enunciated in Section 1, subparagraph 2 and this proposal making them permanent employees even if they are not civil service eligibles merely because they have already served for six months?

MS. QUESADA: When we say "practicable . . . by competitive examination," this is not the only way by which we can judge the merit and fitness of a government employee.

MR. RODRIGO: So, the Commissioner would make this an exception to that general rule. Does she also say that this comes under those who would not be compelled to take this competitive examination because it is not practicable?

MS. QUESADA: No. My concern mainly is the status of being temporary or permanent accorded to workers who have rendered services although I believe that casual public or civil servants could and should also go through the requirement of merit and fitness.

MR. RODRIGO: The Commissioner also states in that amendment that the service must be "SATISFACTORY AND ESSENTIAL." Is that right?

MS. QUESADA: Yes.

MR. RODRIGO: Who will judge whether the service is satisfactory? I suppose it is the chief.

MS. QUESADA: That is supposed to be the function of the supervisor or the officer-in-charge.

MR. RODRIGO: But suppose the officer-in-charge says: "No, your service has not been satisfactory," what is the recourse of the casual employee?

MS. QUESADA: He could raise this issue with the grievance machinery.

MR. RODRIGO: What is this grievance machinery?

MS. QUESADA: The Civil Service Law provides that a grievance machinery be created to which workers can

seek redress for any injustice.

MR. RODRIGO: Will this be a quasi-judicial body which can render decisions?

MS. QUESADA: Yes, the Civil Service Commission also provides for promotion boards or grievance committees within the organization. But I am really referring to workers who do not enjoy any kind of protection. They cannot even seek redress from grievance committees precisely because they are considered casuals.

MR. RODRIGO: Who would decide the other determinant, that the service is essential?

MS. QUESADA: I think the management of any office would be able to certify that their services are necessary for the functioning of that particular institution.

MR. RODRIGO: If the officer-in-charge says: "No, this is not an essential service; this is not indispensable to the service," should they go to the grievance committee?

MS. QUESADA: I think that there are other mechanisms through which this particular group of workers could seek some redress.

MR. RODRIGO: We are going into a lot of details. Would the Commissioner not want to leave this to legislative action? Would she want a constitutional mandate on this?

MS. QUESADA: Yes, because for many years, many government workers have not been protected at all by law. It appears that politicians would much rather have workers remain as casuals so that they can be part of the spoils system.

MR. RODRIGO: What is the basis of setting six months and not one year?

MS. QUESADA: The private sector has this provision in the Labor Code.

MR. RODRIGO: But that is an ordinary legislation.

MS. QUESADA: Yes, but government workers do not have anything to appeal to because there is no such law at all that protects them from this situation.

MR. RODRIGO: This is a follow-up to the point raised by Commissioner de los Reyes.

Suppose in order to evade this constitutional provision, the officer-in-charge dismisses the casual employee five days before the six-month period elapses and then hires him again after five days. We get into details here. Sometimes there are matters which are better left to ordinary legislation.

MS. QUESADA: I think the principle that has to be constitutionalized is the need to protect government workers who are not enjoying certain rights like the right to self-organization and the right to security of tenure which are enjoyed by other workers.

FR. BERNAS: Mr. Presiding Officer, just one clarificatory question.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Bernas is recognized.

FR. BERNAS: Just one question.

Under the present jurisprudence, an appointment or a commission which in its term says it is temporary never ripens into a permanent appointment. Under the Commissioner's proposed amendment, will an expressly temporary appointment automatically ripen into a permanent appointment after six months?

MS. QUESADA: That is the intention.

MR. DAVIDE. Mr. Presiding Officer, I move for the recognition of Commissioner Regalado on the same subject matter after which the Commission may be prepared to vote.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Regalado is recognized.

MR. REGALADO: Mr. Presiding Officer, I am one of the members of the Committee who were approached by Commissioner Quesada regarding this problem. She expressed it correctly that there appears to have been no constitutional mandate for the grant of security of tenure to government employees who are still on temporary or casual status. I answered her that it would be best left to ordinary legislation with the corresponding constitutional mandate for that purpose. She mentioned the Labor Code and the six-month period therein for private workers. But then, perhaps, three months, six months, or even one year under a merit system would not be encompassed by that provision. There may be some government workers who, by reason of meritorious conduct and performance, could possibly be made permanent employees after a continued service of merely three months, but if there is a six-month period in the Constitution, then the Legislature would not be that flexible. So, instead of putting a constitutional provision limiting the period strictly to six months, and give the Legislature a little more room for making adjustments on the different contingencies and different classifications, I am proposing a substitute amendment to Commissioner Quesada's on Section 1 (3), line 9, so that the paragraph reads: "No member of the Civil Service shall be removed, suspended, or otherwise disciplined except for cause AND SHALL ENJOY SECURITY OF TENURE AS provided by law."

MR. DAVIDE: Mr. Presiding Officer, the said paragraph has already been amended by Commissioner Padilla.

MR. REGALADO: Portion of Commissioner Padilla's amendment reads: "... except for cause provided by law." I propose to amend it to read: "otherwise disciplined except for cause AND SHALL ENJOY SECURITY OF TENURE AS provided by law." This amendment sets forth a constitutional mandate, but leaving it to ordinary legislation to make the corresponding adjustments.

MS. QUESADA: Yes, but then the employee concerned here is not yet a member of the civil service because the status of his appointment is "casual." So, what we are proposing is for temporary workers to enjoy the right of becoming permanent and be called a civil servant.

THE PRESIDING OFFICER (Mr. Treñas): So the proposed amendment of Commissioner Regalado is not accepted?

MS. QUESADA: It does not really capture the spirit or the intention of my proposal.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Acting Floor Leader is recognized.

MR. DAVIDE: If Commissioner Regalado will not insist on his amendment to the amendment, I think the main amendment is now ready for voting.

MR. DE CASTRO: Mr. Presiding Officer, just one word.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

Commissioner Quesada speaks of temporary appointees and casuals. When a temporary appointment is made, I understand from the rules of the civil service that the temporary appointee does not possess the right civil service eligibility for the position he is holding, and such temporary appointment shall last for six months only. After six months he will occupy the position on permanent status even without the appropriate civil service eligibility, I

understand, because there are applicable civil service eligibilities for various positions, such as for supervisors and clerks. In this case, after six months, the employee becomes permanent even though he does not possess the appropriate civil service eligibility. Thus, the whole gamut of the merit system of the Civil Service Commission is destroyed.

I understand that these casuals are removable at any time because they do not have the appropriate civil service eligibilities and there are no positions for them, except that at the time of need there was so much work that had to be accomplished. They are usually laid off after their work is finished. If the work lasts for six months and these casuals have no appropriate civil service eligibilities, there are no actual positions — except that they will have to finish the work — to absorb them, it will put to naught all this merit system in the Civil Service.

Thank you.

MS. QUESADA: I refer to workers who are actually essential to the smooth operation of any government entity and who perform certain functions described by the Civil Service Commission. I can cite many of these government workers with job descriptions spelled out as essential services.

MR. OPLE: Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Acting Floor Leader is recognized.

MR. DAVIDE: I think the issue has been sufficiently discussed.

MR. OPLE: Mr. Presiding Officer, may I ask for just a minute because I think I have a very important question to raise before this matter is submitted to a vote. I would like to request Commissioner Quesada to answer a question.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Ople is given one minute.

MR. OPLE: The Commissioner, having worked for the government once, realizes that the security of employment of thousands of casuals in the government is largely dependent on fluctuating budgetary outlays of different agencies. In other words, we saw what happened recently when many thousands of temporary employees were laid off because there was no money to support their continuation in office. The Commissioner, of course, will concede that the security of employment of casuals in the government is sometimes a function of policy; many other times it really depends on fluctuations of budgets.

Therefore, will the Commissioner consider an amendment to her amendment, which merely reads as follows: TEMPORARY EMPLOYEES OF THE GOVERNMENT SHALL ENJOY SECURITY OF TENURE AS MAY BE PROVIDED BY LAW, which means a mandate to the Legislature to determine the terms and conditions of employment of these government casuals and to endeavor to give them security of tenure consistent with the financial configuration of the government at any given time. Will Commissioner Quesada welcome that reformulation?

MS. QUESADA: I accept.

MR. OPLE: Yes; so if the Chair is ready, then as reformulated the following is the amendment that will be put to a vote: TEMPORARY EMPLOYEES OF THE GOVERNMENT SHALL ENJOY SECURITY OF TENURE AS MAY BE PROVIDED BY LAW.

MS. QUESADA: Could the Commissioner include, however, AFTER HAVING RENDERED A NUMBER OF MONTHS?

MR. OPLE: The law will take care of that and it will provide more than that.

MS. QUESADA: I accept.

MR. OPLE: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say on the proposed amendment of Commissioner Ople?

MR. FOZ: We would like to hear the amendment again; I would like to be clear about it.

MR. OPLE: The amendment reads: TEMPORARY EMPLOYEES OF THE GOVERNMENT SHALL ENJOY SECURITY OF TENURE AS MAY BE PROVIDED BY LAW.

MR. FOZ: May we ask the Commissioner if the words "temporary" and "security of tenure" are not inconsistent.

MR. OPLE: There need be no inconsistency in the sense that they are temporary now. As Commissioner Bernas said this is a class of employees that would include those holding temporary appointments, and as Commissioner Quesada said, this would include all of these many thousands of casuals in the government. So, that is the scope of this amendment: that they shall enjoy security of tenure as may be provided by law. However, if that amendment still jars the sensibilities of the members of the Committee, I now reword it to read: TEMPORARY EMPLOYEES OF THE GOVERNMENT SHALL BE ENTITLED TO SECURITY OF TENURE AS MAY BE PROVIDED BY LAW.

If Commissioner Quesada now agrees with me on the basis of the kibitzers and supporters around her, I now propose the following: TEMPORARY EMPLOYEES SHALL ENJOY THE PROTECTION OF LAW, THE INTENT BEING THAT THEY SHALL BE ENTITLED TO SECURITY OF TENURE AS MUCH AS POSSIBLE AS MAY BE PROVIDED BY LAW.

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Quesada say?

MS. QUESADA: Could the Commissioner include TEMPORARY APPOINTMENT SHALL RIPEN INTO PERMANENT APPOINTMENT AS MAY BE PROVIDED BY LAW?

MR. OPLE: That looks like a legislation.

SUSPENSION OF SESSION

MS. QUESADA: May I request a one-minute suspension of the session.

MR. DAVIDE: May I request two minutes.

THE PRESIDING OFFICER (Mr. Treñas): The session is suspended for two minutes.

It was 6:33 p.m.

RESUMPTION OF SESSION

At 6:40 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas): The session is resumed.

MR. DAVIDE: Mr. Presiding Officer, may I seek for the recognition of Commissioner Quesada for the modified amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Quesada is recognized.

MS. QUESADA: We are happy to report to the Chair the final formulation of an accepted amendment to read:

TEMPORARY EMPLOYEES OF THE GOVERNMENT SHALL ENJOY THE PROTECTION OF LAW.  
TUESDAY.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: The Committee accepts.

MS. QUESADA: Thank you.

THE PRESIDING OFFICER (Mr. Treñas): The Committee has accepted the new amendment.

Is there any objection?

MR. DAVIDE: Commissioner Maambong seeks to be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, this is just a point of information. I was a member of the Committee on Civil Service of the last Regular Batasang Pambansa, and I would like to inform the body that before we were dissolved we were precisely working on that kind of formulation to give permanent status to temporary employees of the government. So I favor that provision in the Constitution. The future Batasang Pambansa, at least, will be made aware that there is really that intent of giving protection to temporary employees.

Thank you.

THE PRESIDING OFFICER (Mr. Treñas): Thank you.

MR. DAVIDE: Mr. Presiding Officer, there are still amendments to Section 2. May I propose the recognition of the following Commissioners in the order they are named: Commissioners de los Reyes, Regalado, Aquino and de Castro.

THE PRESIDING OFFICER (Mr. Treñas): Will they speak on the amendments?

MR. DAVIDE: Yes, on amendments to Section 2.

THE PRESIDING OFFICER (Mr. Treñas): There is a pending amendment now.

MR. DAVIDE: I thought it was approved already.

THE PRESIDING OFFICER (Mr. Treñas): No, Commissioner de Castro has just stood up. May the Chair inquire from Commissioner de Castro if he is objecting to the amendment?

MR. DE CASTRO: I object to the amendment. There are three kinds of appointments in the Civil Service Commission: (1) a permanent appointment which is usually extended when the employee has appropriate civil service eligibility for the position he is holding; (2) a provisional appointment when the civil service eligibility of the employee is not appropriate for the position he is holding. An employee with a provisional appointment is usually given six months which is renewable for another six months unless he acquires the appropriate civil service eligibility for his position; and (3) a temporary appointment is when the employee has no eligibility whatsoever. Even if we put the phrase "as provided for by law," this employee who has no eligibility whatsoever should take the Civil Service Commission's examination any time it will be given so that he can acquire the appropriate civil service eligibility.

I object to the amendment because the whole gamut of the merit system of the Civil Service Commission will be destroyed, if we accept and give security of tenure to temporary employees.

Thank you.

MR. DAVIDE: I move for a vote on the amendment.

MR. PADILLA: Mr. Presiding Officer, the proposed amendment, as I heard it, reads: TEMPORARY EMPLOYEES SHALL ENJOY THE PROTECTION OF THE LAW. I do not know what protection of the law actually exists for these temporary employees. Once an employee is temporary or casual, he has no permanent status; hence, he has no right to security of tenure. I wonder what is meant by "SHALL ENJOY THE PROTECTION OF THE LAW." I think it should be worded differently because, as I see it, there is no protection to temporary employees who have rendered service for six months or more, and that is the complaint of the proponent. But now we are saying that temporary employees shall enjoy the protection of the law. There is absence of protection.

THE PRESIDING OFFICER (Mr. Treñas): The Chair believes this matter has been thoroughly discussed. Are we ready to vote or will Commissioner Quesada entertain amendments or clarifications?

MR. NATIVIDAD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Natividad is recognized.

MR. NATIVIDAD: Thank you.

I was also thinking about that because these workers with temporary appointments, under the present law, can be dismissed with or without cause. However, the provisional appointee cannot be dismissed except for cause. That is the situation.

Commissioner Padilla commented on what protection the law can give temporary employees under the present amendment. Maybe the amendment should sound something like this: TEMPORARY EMPLOYEES SHALL BE ACCORDED PERMANENT STATUS AFTER A PERIOD OF TIME AS PROVIDED BY LAW.

I think that is what the proponent is asking. After a period of time, a temporary worker should be made permanent. In the government at present, these temporary workers are given the so-called unassembled eligibility after five years, not six months. I think they cannot prove that they have rendered essential work after only six months. They have to be on the job for five years, after which they may be considered eligibles. So, they cannot be removed anymore even though they have no eligibility, for they need not take a competitive examination. I have my doubts though about this six-month period.

THE PRESIDING OFFICER (Mr. Treñas): Is Commissioner Natividad proposing an amendment at this stage?

MR. NATIVIDAD: I am suggesting an amendment to the amendment.

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Quesada say?

MS. QUESADA: What is the amendment?

MR. NATIVIDAD: I am just suggesting to provide the exact help that we would like to give the temporary employees, in this way: TEMPORARY EMPLOYEES SHALL BE ACCORDED PERMANENT STATUS AFTER A PERIOD OF TIME AS PROVIDED BY LAW.

MS. QUESADA: That was the original intention, so I accept.

THE PRESIDING OFFICER (Mr. Treñas): Shall we vote on that already?

MS. QUESADA: I think it is more in the spirit in which the proposal was made by Commissioner Sarmiento and

myself.

MR. MONSOD: Mr. Presiding Officer, may we know the parliamentary status? The proposal of Commissioner Quesada was accepted by the Committee. What is the parliamentary status of the amendment of Commissioner Natividad? Should it not be propounded to the Committee?

THE PRESIDING OFFICER (Mr. Treñas): Precisely. Does the Committee accept?

MR. FOZ: The Committee accepts.

MS. QUESADA: Thank you.

MR. FOZ: We would like to be clear about the amendment to the amendment as proposed by Commissioner Natividad.

MR. NATIVIDAD: We are not taking it now as six months. The help that we want to extend to temporary employees is already clear in this amendment. We want them to be permanent after a period of time which is to be set by law.

MR. FOZ: So how will the statement now read?

MR. NATIVIDAD: It should read: TEMPORARY EMPLOYEES SHALL BE ACCORDED PERMANENT STATUS AFTER A PERIOD OF TIME AS PROVIDED BY LAW.

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, Commissioner Foz is recognized.

SUSPENSION OF SESSION

MR. FOZ: I would like to ask for a suspension of the session.

THE PRESIDING OFFICER (Mr. Treñas): The session is suspended.

It was 6:50 p.m.

RESUMPTION OF SESSION

At 6:56 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas): The session is resumed.

MR. DAVIDE: May I request for the recognition again of Commissioner Quesada for the final modified amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Quesada is recognized.

MS. QUESADA: I would like to withdraw all amendments introduced on the floor and submit the following final provisions.

THE PRESIDING OFFICER (Mr. Treñas): All amendments have been withdrawn.

MS. QUESADA: The final amendment should read: TEMPORARY EMPLOYEES OF THE GOVERNMENT SHALL BE GIVEN SUCH PROTECTION AS MAY BE PROVIDED BY LAW.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: The Committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Treñas): The Committee has accepted the amendment.

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

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Bengzon is recognized.

MR. BENGZON: I just want to seek clarification on the actual meaning of the amended provision. There are two facets here: protection as a laborer or protection as a civil servant. I ask because if a temporary employee has no civil service eligibility and his position ripens into permanent without a civil service eligibility, it is the same thing; we will wreck the whole civil service merit system.

MR. FOZ: If I may be allowed to respond, that is a question that should be addressed to the Legislature.

MR. BENGZON: No, that is an interpretation of that provision. We would like to know the sense of the proponent. If the intention in that amendment is to make that temporary appointment ripen into permanency without the employee becoming a civil service eligible, it is the same thing as wrecking the whole civil service merit system.

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Quesada explain?

MS. QUESADA: The final proposal is going to set the opening for legislation that will provide protection to casual and temporary employees who are not enjoying any such protection.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Monsod is recognized.

MR. MONSOD: Since the Committee has some suggestions as to the framing of that provision, may we say that it is our understanding that it is possible for the law under that provision to impose certain conditions for the conversion into permanent status.

MS. QUESADA: Yes.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de Castro is recognized.

MR. DE CASTRO: May I ask the honorable Commissioner Quesada a question?

MS. QUESADA: Willingly.

MR. DE CASTRO: What protection do we expect from the law when we say "TEMPORARY EMPLOYEES OF THE GOVERNMENT SHALL BE GIVEN SUCH PROTECTION AS MAY BE PROVIDED BY LAW."

MS. QUESADA: We will leave that to the Legislature.

MR. DE CASTRO: Is it a protection to be permanent in his position or what?

MS. QUESADA: As may be provided by law, it is the right to security of tenure.

MR. DE CASTRO: This will still lead to the wrecking of the whole merit system in the Civil Service Commission.

Thank you.

MR. DAVIDE: The issue is now ready for a vote.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): All those in favor of the proposed amendment, please raise their hand. (Several Members raised their hand.)

All those against, please raise their hand. (Few Members raised their hand.)

The results show 25 votes in favor and 5 against; the amendment is approved.

MR. DAVIDE: I seek recognition of Commissioner Romulo for a parliamentary inquiry on Section 1.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Romulo is recognized.

MR. ROMULO: I beg the indulgence of the Committee. I was reading the wrong provision.

I refer to Section 1, subparagraph 1 which reads:

The Civil Service embraces all branches, subdivisions, instrumentalities and agencies of the government, including government-owned or controlled corporations.

My query: Is Philippine Airlines covered by this provision?

MR. FOZ: Will the Commissioner please state his previous question?

MR. ROMULO: The phrase on line 4 of Section 1, subparagraph 1, under the Civil Service Commission, says, "including government-owned or controlled corporations." Does that include a corporation, like the Philippine Airlines which is government-owned or controlled?

MR. FOZ: I would like to throw a question to the Commissioner. Is the Philippine Airlines controlled by the government in the sense that the majority of stocks are owned by the government?

MR. ROMULO: It is owned by the GSIS. So, this is what we might call a tertiary corporation. The GSIS is owned by the government. Would this be covered because the provision says "including government-owned or controlled corporations."

MR. FOZ: The Philippine Airlines was established as a private corporation. Later on, the government, through the GSIS, acquired the controlling stocks. Is that not the correct situation?

MR. ROMULO: That is true as Commissioner Ople is about to explain. There was apparently a Supreme Court decision that destroyed that distinction between a government-owned corporation created under the Corporation Law and a government-owned corporation created by its own charter.

MR. FOZ: Yes, we recall the Supreme Court decision in the case of NHA vs. Juco to the effect that all government corporations irrespective of the manner of creation, whether by special charter or by the private Corporation Law, are deemed to be covered by the civil service because of the wide-embracing definition made in this section of the existing 1973 Constitution. But we recall the response to the question of Commissioner Ople that our intentment in this provision is just to give a general description of the civil service. We are not here to make any declaration as to whether employees of government-owned or controlled corporations are barred from the operation of laws, such as the Labor Code of the Philippines.

MR. ROMULO: Yes.

MR. OPLE: May I be recognized, Mr. Presiding Officer, since my name has been mentioned by both sides.

MR. ROMULO: I yield part of my time.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Ople is recognized.

MR. OPLE: In connection with the coverage of the Civil Service Law in Section 1 (1), may I volunteer some information that may be helpful both to the interpellator and to the Committee. Following the proclamation of martial law on September 21, 1972, this issue of the coverage of the Labor Code of the Philippines and of the Civil Service Law almost immediately arose. I am, in particular, referring to the period following the coming into force and effect of the Constitution of 1973, where the Article on the Civil Service was supposed to take immediate force and effect. In the case of LUZTEVECO, there was a strike at the time. This was a government-controlled and government-owned corporation. I think it was owned by the PNOC with just the minuscule private shares left. So, the Secretary of Justice at that time, Secretary Abad Santos, and myself sat down, and the result of that meeting was an opinion of the Secretary of Justice — which became binding immediately on the government — that government corporations with original charters, such as the GSIS, were covered by the Civil Service Law and corporations spun off from the GSIS, which we called second-generation corporations functioning as private subsidiaries, were covered by the Labor Code. Samples of such second-generation corporations were the Philippine Airlines, the Manila Hotel and the Hyatt. And that demarcation worked very well. In fact, all of these companies I have mentioned as examples, except for the Manila Hotel, had collective bargaining agreements. In the Philippine Airlines, there were, in fact, three collective bargaining agreements; one, for the ground people or the PALIA; one, for the flight attendants or the PASAC; and one for the pilots of the ALPAC. How then could a corporation like that be covered by the Civil Service Law? But, as the Chairman of the Committee pointed out, the Supreme Court decision in the case of NHA vs. Juco unrobed the whole thing. Accordingly, the Philippine Airlines, the Manila Hotel and the Hyatt are now considered under that decision covered by the Civil Service Law. I also recall that in the emergency meeting of the Cabinet convened for this purpose at the initiative of the Chairman of the Reorganization Commission, Armand Fabella, they agreed to allow the CBAs to lapse before applying the full force and effect of the Supreme Court decision. So, we were in that awkward situation when the new government took over. I can agree with Commissioner Romulo when he said that this is a problem which I am not exactly sure we should address in the deliberations on the Civil Service Law or whether we should be content with what the Chairman said — that Section 1 (1) of the Article on the Civil Service is just a general description of the coverage of the Civil Service and no more.

Thank you, Mr. Presiding Officer.

MR. ROMULO: Mr. Presiding Officer, for the moment, I would be satisfied if the Committee puts on record that it is not their intent by this provision and the phrase "including government-owned or controlled corporations" to cover such companies as the Philippine Airlines.

MR. FOZ: Personally, that is my view. As a matter of fact, when this draft was made, my proposal was really to eliminate, to drop from the provision, the phrase "including government-owned or controlled corporations."

MR. ROMULO: Would the Committee indicate that that is the intent of this provision?

MR. MONSOD: Mr. Presiding Officer, I do not think the Committee can make such a statement in the face of an absolute exclusion of government-owned or controlled corporations. However, this does not preclude the Civil Service Law to prescribe different rules and procedures, including emoluments for employees of proprietary corporations, taking into consideration the nature of their operations. So, it is a general coverage but it does not preclude a distinction of the rules between the two types of enterprises.

MR. FOZ: In other words, it is something that should be left to the legislature to decide. As I said before, this is

just a general description and we are not making any declaration whatsoever.

MR. MONSOD: Perhaps if Commissioner Romulo would like a definitive understanding of the coverage and the Gentleman wants to exclude government-owned or controlled corporations like Philippine Airlines, then the recourse is to offer an amendment as to the coverage, if the Commissioner does not accept the explanation that there could be a distinction of the rules, including salaries and emoluments.

MR. ROMULO: So as not to delay the proceedings, I will reserve my right to submit such an amendment.

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Regalado is recognized.

MR. REGALADO: First, a brief parliamentary inquiry with respect to page 2, line 19. Did the Commission agree to delete the word "preferably" there? It reads: "appointment, at least 35 years of age, preferably with." I remember there were some discussions about the deletion of the word "preferably." Was that approved by the body?

REV. RIGOS: Mr. Presiding Officer, may I answer that?

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rigos is recognized.

REV. RIGOS: Mr. Presiding Officer, this was suggested this morning by Commissioner Nollado but there has been no formal motion to delete the word "preferably." I would like to add that the reason the Committee used this word or agreed to use this word in the phrase "preferably with proven capacity for public administration" is that the Committee is not totally excluding other people with expertise in other fields, like lawyers.

MR. REGALADO: I move that the word "preferably" be deleted because even with such a deletion, it will not exclude lawyers with proven capacity for public administration.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: We accept the amendment.

MR. DAVIDE: May I seek the recognition of Commissioner Aquino for an amendment on Section 2?

THE PRESIDING OFFICER (Mr. Treñas): Let us first dispose of the amendment proposed by Commissioner Regalado.

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

MR. ROMULO: I have an anterior amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Romulo is recognized.

MR. ROMULO: On page 2, line 5, I suggest the following amendment after "corporations": Add a comma(,) and the phrase EXCEPT THOSE EXERCISING PROPRIETARY FUNCTIONS.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

SUSPENSION OF SESSION

MR. MONSOD: May we have a suspension of the session?

THE PRESIDING OFFICER (Mr. Treñas): The session is suspended.

It was 7:16 p.m.

## RESUMPTION OF SESSION

At 7:21 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas): The session is resumed.

Commissioner Romulo is recognized.

MR. ROMULO: Mr. Presiding Officer, I am amending my original proposed amendment to now read as follows: "including government-owned or controlled corporations WITH ORIGINAL CHARTERS." The purpose of this amendment is to indicate that government corporations such as the GSIS and SSS, which have original charters, fall within the ambit of the civil service. However, corporations which are subsidiaries of these chartered agencies such as the Philippine Airlines, Manila Hotel and Hyatt are excluded from the coverage of the civil service.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: Just one question, Mr. Presiding Officer. By the term "original charters," what exactly do we mean?

MR. ROMULO: We mean that they were created by law, by an act of Congress, or by special law.

MR. FOZ: And not under the general corporation

MR. ROMULO: That is correct, Mr. Presiding Officer.

MR. FOZ: With that understanding and clarification, the Committee accepts the amendment.

MR. NATIVIDAD: Mr. Presiding Officer, so those created by the general corporation law are out.

MR. ROMULO: That is correct.

THE PRESIDING OFFICER (Mr. Treñas): The amendment has been accepted by the Committee.

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

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Acting Floor Leader is recognized.

MR. DAVIDE: I move for the recognition of Commissioner Aquino for her amendment on Section 2.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino is recognized.

MS. AQUINO: Thank you, Mr. Presiding Officer.

May I call the attention of the Committee members to Section 2 (2) beginning on line 23. The intention on line 23 is to provide for staggering appointment such that under ordinary circumstances, no President would have an occasion to appoint more than one commissioner during his term of six years, except for the first one; am I correct?

MR. FOZ: That is right. But another purpose is to have a continuing body so that, even if some members or one member of the commission retires, there are surely at least two left behind.

MS. AQUINO: So, it is clear that the intent is to provide for a self-perpetuating commission that is likewise insulated from the influence of the President and the Executive. The way the provision was designed would seem to presume that the term of the President is six years. What if the Commission decides on a four-year term? In which case, with a four-year term for the President, the President will be appointing all of the three commissioners. Would this be flexible to accommodate changes in case we decide on a four-year term for the

President?

MR. FOZ: What is the Gentlewoman's proposal?

MS. AQUINO: I would propose for an alternative provision subject to whatever is the decision of the body on the term of the President, if we are to conform with the desired objective in the staggering of appointment.

MR. MONSOD: We have considered that possibility and realized that in order to get beyond the possible eight years of the President elect, then the term must be nine years or longer. On the other hand, we also realize that if a President has a fresh mandate from the people after four years, the intendment of the people is to indirectly give the President the right to appoint the officers for positions vacant during the period. However, having said that, if the Executive does provide a different term than what we had assumed, we are open to a reconsideration and discussion at the time in order to see if we can synchronize these things better.

MS. AQUINO: Which means in the alternative, it might mean a tenure of nine, six and three years, respectively.

MR. MONSOD: May we reserve our discussions when the occasion arises, Mr. Presiding Officer.

MS. AQUINO: Thank you.

In the same paragraph, I would propose an amendment by addition on page 2, line 31. Between the period(.) after the word "predecessor" and the sentence which begins with "In no case," insert THE APPOINTEE SHALL IN NO CASE SERVE AN AGGREGATE PERIOD OF MORE THAN SEVEN YEARS. I was thinking that this may approximate the situation wherein a commissioner is first appointed as an ordinary commissioner and later on appointed as chairman. I am willing to withdraw that amendment if there is representation on the part of the Committee that this provision contemplates that kind of situation and that there is an implicit intention to prohibit a term that in the aggregate will exceed more than seven years. If that is the intention, I am willing to withdraw my amendment.

MR. MONSOD: If the Gentleman will read the whole Article, she will notice that there is no reappointment of any kind and, therefore, as a whole there is no way that somebody can serve for more than seven years. The purpose of the last sentence is to make sure that this does not happen by including in the appointment both temporary and acting capacities.

MS. AQUINO: Yes. Reappointment is fine; that is accounted for and appointment of a temporary or acting capacity is also accounted for. But I was thinking of a situation wherein a commissioner is upgraded to a position of chairman. But if this provision is intended to cover that kind of situation, then I am willing to withdraw my amendment.

MR. MONSOD: It is covered.

MR. FOZ: There is a provision on line 29 precisely to cover that situation. It states: "Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor." In other words, if there is upgrading of position from commissioner to chairman, the appointee can only serve the unexpired portion of the term of the predecessor.

MS. AQUINO: But we have to be very specific about it; the provision does not still account for that kind of a situation because, in effect, it might even shorten the term because he serves only the unexpired portion of the vacant position.

MR. FOZ: He takes it at his own risk. He knows that he will only have to serve the unexpired portion of the term of the predecessor.

MS. AQUINO: Regardless of that, my question is: Will this provision apply likewise to that kind of a situation? In other words, I am only asking for an assurance that the safety valve applies to this situation.

MR. FOZ: The provision does take care of that situation.

MS. AQUINO: Thank you.

MR. DAVIDE: Mr. Presiding Officer, I move for the recognition of Commissioner de los Reyes for an amendment on Section 2.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: On line 32, between the words "appointed" and "in," I propose to insert the words OR DESIGNATED so that the whole sentence will read: "In no case shall any Member be appointed OR DESIGNATED in a temporary or acting capacity."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: But it changes the meaning of this sentence. The sentence reads: "In no case shall any Member be appointed in a temporary or acting capacity."

MR. DE LOS REYES: Mr. Presiding Officer, the reason for this amendment is that some lawyers make a distinction between an appointment and a designation. The Gentleman will recall that in the case of Commissioner on Audit Tantuico, I think his term exceeded the constitutional limit but the Minister of Justice opined that it did not because he was only designated during the time that he acted as Commissioner on Audit. So, in order to erase that distinction between appointment and designation, we should specifically place the word so that there will be no more ambiguity. "In no case shall any Member be appointed OR DESIGNATED in a temporary or acting capacity."

MR. FOZ: The amendment is accepted, Mr. Presiding Officer.

Thank you.

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

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Acting Floor Leader is recognized.

MR. DAVIDE: There are some amendments on Section 3. I request the recognition of Commissioner Aquino to propose her amendment on Section 3.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino is recognized.

MS. AQUINO: Thank you, Mr. Presiding Officer.

I am about to introduce massive revisions on Section 3 in terms of restructuring and the introduction of new concepts. I was wondering if the Commission is inclined to continue the session.

MR. FOZ: We would like to hear the Commissioner's proposal.

MS. AQUINO: After the word "service" and the comma(,), delete the phrase "promulgate and enforce policies on" and the subsequent sentences until line 1 of page 3 inclusive. In substitution, I would propose the following which we have previously discussed to facilitate the discussion: AND ADOPT MEASURES TO PROMOTE

THE MORALE, EFFICIENCY AND INTEGRITY IN THE CIVIL SERVICE. IT SHALL STRENGTHEN THE MERIT AND REWARD SYSTEM, INTEGRATE ALL HUMAN RESOURCES DEVELOPMENT PROGRAMS FOR ALL LEVELS AND RANKS, INSTITUTIONALIZE A MANAGEMENT CLIMATE CONDUCIVE TO PUBLIC ACCOUNTABILITY, AND INCREASE INCENTIVES TO PROMOTE HONESTY, RESPONSIVENESS, PROGRESSIVENESS AND COURTESY IN THE PUBLIC SERVICE.

This proposal is intended to, first, amplify the new concept of which "central personnel agency of the government" was adopted in the committee report.

I am proposing to delete the phrase "promulgate and enforce policies on" on line 35 and the subsequent phrases on the ground that these are unnecessary repetitions and definitions of the concept of central personnel agency. Instead of that I am proposing the inclusion of concepts which would redefine and realign the thrust and focus of the Civil Service Commission.

MR. FOZ: Since the proposed amendment is a little bit long — although I have seen it and some of the members of the Committee have read it — perhaps it is best for the proponent to write it down and copies be made for distribution to all the Members of the Commission.

MS. AQUINO: I would be more than willing to do that. In the meantime, I will just reserve my turn while the other proponents are introducing their amendments.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Acting Floor Leader is recognized.

MR. DAVIDE: With the expressed reservation that that amendment is to be taken up later, I move for the recognition of Commissioner Regalado.

MR. REGALADO: Anterior amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Regalado is recognized.

MR. REGALADO: Mr. Presiding Officer, while Commissioner Aquino is making out her amendment, I would propose an amendment on page 3, line 3 after the phrase "and the Congress an annual report on its personnel programs." Delete the comma(,) and the rest of the sentence because they were already included in the Common Provisions.

MR. DAVIDE: May I request a deferment of the consideration of that proposal because it may be embodied in the Aquino proposal.

MR. REGALADO: May I go now to Section 4, unless there is an anterior amendment. On line 7, delete the phrase "a temporary or acting" and insert ANY such that the sentence will read: "Unless otherwise provided by law, no elective official shall be eligible for appointment or designation in ANY capacity to any public office or position during his term." If we specify "temporary or acting," it may imply that a permanent appointment may be possible. Hence the phrase "ANY capacity."

MR. FOZ: We accept the amendment.

MR. REGALADO: Thank you.

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

MR. DAVIDE: May I seek the recognition of Commissioner Rodrigo for his amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: I was going to present the same amendment but as a consequence of that, I think, Commissioner Regalado should amend Section 6 accordingly.

MR. REGALADO: I was thinking there might be an anterior amendment. On Section 6, line 15, substitute ANY for "a temporary or acting" such that the provision will read: "No officer of the Armed Forces in the active service shall, at any time, be appointed or designated in ANY capacity to a civilian position in the Government."

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Ople is recognized.

MR. OPLE: Will the proponent consider an amendment to his amendment?

MR. REGALADO: Gladly.

MR. OPLE: I think this is a good provision. It responds to some real problems we are familiar with. There must be no leeway for members of the armed forces to preempt service opportunities in the civilian government from the civil servants in the government. However, we are writing a constitution not only for now but for the future, and we live in a volatile political era. It may be necessary for the President of the Philippines on occasion — and I am not speaking of a period of emergency formally declared as such but of vicissitudes in our national lives — to cause the designation on a temporary basis of, let us say, some officers of the armed forces with exceptional technical skills to positions in the government.

Therefore, to allow for such contingencies, will the proponent and the Committee agree to the addition of a clause which states EXCEPT AS MAY BE DIRECTED BY THE PRESIDENT OF THE PHILIPPINES? At that level, it is supremely difficult to get a designation. But the President is also the Commander-in-Chief of the armed forces and the point is that he/she will use this power only when in his/her view it is necessary for public interest. What we want to prevent are, let us say, political interventions such as Ministers and Deputy Ministers asking the Minister of National Defense to detail certain officers to the Bureau of Customs, to the Philippine Coconut Authority or to the Ministry of Public Works and Highways. But should the President require the temporary presence of certain officers with exceptional technical skills in government service, I do not think that that should be prescribed in advance by this Constitution. That is why I have proposed that amendment to the amendment of Commissioner Regalado.

MR. REGALADO: Before I comment on that proposed amendment to the amendment, could Commissioner Ople give us by way of illustration the technical requirements which can be filled only by military officers and not by civilians otherwise equally prepared?

MR. OPLE: Let me begin with a foreign example, and then I will cull from local examples.

In the United States, it is very rare that an officer gets extension beyond his retirement. But once in 50 years, the President of the United States finds it necessary to extend such an officer because of strategic requirements of that country, such as Admiral Rickover whose knowledge and skills in submarine technology were considered so indispensable that they made an exception of him. I am not saying that this situation will repeat itself in the Philippines, but let us say that there are in the Armed Forces of the Philippines brilliant engineers who may be required in an emergency and because of the relationship between the civilian and the military, it may be necessary to designate them temporarily in the Ministry of Public Works in order to complete a strategic construction necessary to national security.

Will we prevent the President from designating such officers for that purpose?

MR. REGALADO: Under such an extreme situation, which the Gentleman himself agrees is a very rare and isolated contingency, would it not be within the power of the President to assign these military officers with such indispensable capabilities to work under the command of a civilian authority?

MR. OPLE: Yes.

MR. REGALADO: By making them head in the office by themselves.

MR. OPLE: Without the need of a designation.

MR. REGALADO: They can be assigned there under a civilian authority and the military could always be called upon to assist without being designated to that civilian office or position.

MR. OPLE: Yes, for me this is a bearable loss of presidential prerogatives, especially since I represent an opposition to the incumbent President, at least outside the Constitutional Commission. But I do care about the future. I said that we live in a volatile era, and if the Committee, however, is insistent on denying this flexibility to the President and future presidents, I will not press my amendment.

MR. FOZ: The Committee has accepted the amendment of Commissioner Regalado.

THE PRESIDING OFFICER (Mr. Treñas): How about the proposed amendment of Commissioner Ople?

MR. FOZ: He has withdrawn it.

MR. REGALADO: His amendment was withdrawn, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): So the proposed amendment of Commissioner Regalado on Sections 4 and 6 is accepted by the Committee.

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

MR. DAVIDE: There is a proposed amendment on Sections 6 and 7 by Commissioner Aquino. I pray for her recognition.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino is recognized.

MS. AQUINO: Thank you, Mr. Presiding Officer. I would like to introduce an amendment on Section 7, line 19, page 3.

MR. FOZ: Before the Commissioner proceeds, if I may be allowed, I remember that this Section 7 is already included in the General Provisions approved by the Committee on General Provisions, so I would see no need to have this amended.

MS. AQUINO: Unless the Gentleman's idea is just to transfer this to the General Provisions because the way the General Provisions was approved in that Committee, there is a substantial difference.

MR. FOZ: We would like to request the Chairman of the Committee on General Provisions to enlighten us on this matter.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, for the information of the body, it is indeed true as stated by Commissioner Foz that there is a parallel provision of Section 7 in the General Provisions with slight difference. I would like to read the exact configuration of this provision as the Committee on General Provisions has approved it. It reads:

No elective or appointive public officer or employee shall receive additional, double or indirect compensation, except pensions or gratuities, unless specifically authorized by law, nor accept, without the consent of the National Assembly, any present, emolument, office or title of any kind from any foreign state.

The only correction or amendment was by Commissioner Aquino, the deletion of the phrase "unless specifically authorized by law." Considering the statement of Commissioner Foz that we might have to transfer this provision to the General Provisions, our job then as far as this Committee is concerned will be much simpler. We do not have to talk about it as of this moment.

MR. FOZ: We would like to defer to the Committee on General Provisions.

MR. MAAMBONG: All right. In that case, I understand that there was already a Section 8 by Commissioner Ople. That Section 8 would probably become Section 7 now.

MR. FOZ: Yes, Mr. Presiding Officer.

MR. DAVIDE: If there are no other amendments, we can go back to Section 3 on the Aquino amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Anterior amendment. I missed this Section 6. A clarificatory question to the Committee.

On Section 6, line 13, it is stated: "No officer of the Armed Forces. . ."

Is there any reason why we did not include member or personnel? Would the Gentleman accept an amendment like "no personnel or no member of the Armed Forces"?

MR. FOZ: What is the difference? What is the amendment the Commissioner is proposing?

MS. ROSARIO BRAID: Change "officer" to MEMBER such that it will read: "No MEMBER of the Armed Forces in the active service."

MR. FOZ: What is the difference?

MS. ROSARIO BRAID: Some are not officers; they may be sergeants or noncommissioned officers or enlisted men.

MR. FOZ: We would be amenable to such an amendment.

MS. ROSARIO BRAID: Thank you.

MR. FOZ: What is the amendment? Will the Commissioner state the amendment?

THE PRESIDING OFFICER (Mr. Treñas): Will the Commissioner please restate her amendment?

MS. ROSARIO BRAID: "No MEMBER of the Armed Forces in the active service."

MR. FOZ: We accept the amendment, Mr. Presiding Officer.

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

MR. DAVIDE: We are awaiting the proposed amendment to Section 3. In the meantime, this Representation would propose some perfecting amendments.

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. DAVIDE: We will avail of the time.

On page 2, line 9, Section 1 (3), substitute the word "member" with OFFICER OR EMPLOYEE to be consistent with paragraph 4 of the same section. So, the provision will read: "No OFFICER OR EMPLOYEE of the Civil Service shall be removed . . ."

MR. FOZ: We accept the amendment.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE. On line 17, Section 2 (1), substitute the word "are" between "who" and "natural-born" with the words SHALL BE for symmetry with the other provisions.

MR. FOZ: We accept the amendment.

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

MR. DAVIDE: On line 19, substitute the figure "35" with THIRTY-FIVE.

MR. FOZ: We accept the amendment.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: On the same line, after the comma(,) following the word "age," insert the following words: HOLDERS OF A COLLEGE DEGREE.

MR. FOZ: In other words, the Gentleman is reverting to the . . .

MR. DAVIDE: Yes, because as worded now, for as long as one has some proven capacity for public administration, he can be a commissioner. He does not have to be a college graduate. So, we have to upgrade the qualification.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rigos is recognized.

REV. RIGOS: That is right. One does not have to be a college graduate as long as he has the capacity for public administration. That is the intendment of the Committee.

MR. DAVIDE: That would be a very specific expertise in public administration.

REV. RIGOS: That is right.

MR. DAVIDE: Whereas if one is a college degree holder, his orientation is much broader, and then he still has the qualification of having expertise in public administration .

REV. RIGOS: Probably, in the majority of cases that will be true, but not always. There must be some instances in which a person does not possess a college diploma, yet with some proven capacity for public administration.

MR. DAVIDE: My main objective here is to at least put on the same category the qualifications of members of the commission because the public may not have due regard for a commission with a high school graduate commissioner, although he may have some special training in public administration. We already have so many college degree holders, and it would be an insult to the dignity of the commission if he is not a college degree holder.

REV. RIGOS: The appointing power probably will consider that. And if the choice is between one who has a college degree and one who does not have the degree but with a capacity for public administration, probably he or she will prefer the one without a college degree.

MR. DAVIDE: But it would be best if we require him to be with proven capacity in public administration: at least he must also be a college degree holder.

I ask for a vote. I would only like to emphasize in the voting that, in effect, we might be degrading the sanctity of a constitutional commission.

### VOTING

THE PRESIDING OFFICER (Mr. Treñas): Those in favor of the amendment, please raise their hand. (Few Members raised their hand.

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

The results show 12 votes in favor and 14 against; the amendment is lost.

MR. DAVIDE: I propose another perfecting amendment on line 29, Section 2 (2). It consists in the deletion of the comma(,) after "years" and the words "without reappointment."

MR. FOZ: In other words, the Gentleman is going to allow reappointment in this case.

MR. DAVIDE: No, because on line 25 there is already the phrase "without reappointment."

MR. FOZ: Yes, but in the past, that was a source of controversy. That was one of the points raised in one of the controversies in the Supreme Court.

MR. DAVIDE: There would be no area of controversy because it is very clear:

The Chairman and the Commissioners shall be appointed by the President for a term of seven years without reappointment.

So, it would even apply to the first set of three commissioners.

MR. FOZ: But there is the argument made in the concurring opinion of Justice Angelo Bautista in the case of Vizcarra vs. Miraflor, to the effect that the prohibition on reappointment applies only when the term or the tenure is for seven years. But in cases where the appointee serves only for less than seven years, he would be entitled to reappointment. Unless we put the qualifying words "without reappointment" in the case of those appointed, then it is possible that an interpretation could be made later on that in their case, they can still be reappointed to serve for a total of seven years.

Precisely, we are foreclosing that possibility by making it very clear that even in the case of those first appointed under this Constitution, no reappointment can be had.

MR. DAVIDE: Can it not be done by a mere interpretation because it would really appear to be repetitious? The wording itself on the first set of commissioners would clearly indicate that their term is really for seven years, but their tenure is staggered. So, we have to distinguish between term and tenure because the general term is really seven years. But of the first three to be appointed, the tenure of one is seven; the tenure of the second is five; and the tenure of the third is three. But technically, the term for which they are appointed is seven years.

MR. FOZ: The Committee regrets to say that we cannot accept the amendment.

MR. DAVIDE: May I submit it to a vote, Mr. Presiding Officer.

### VOTING

THE PRESIDING OFFICER (Mr. Treñas): Those in favor of the amendment, please raise their hand. (Few Members raised their hand.)

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

The results show 2 votes in favor and 21 against the amendment is lost.

MR. DAVIDE: On Section 4, page 3, line 8, I propose for the substitution of the word "term" with TENURE.

MR. FOZ: The effect of the proposed amendment is to make possible for one to resign from his position.

MR. DAVIDE: Yes, we should allow that prerogative.

MR. FOZ: Resign from his position to accept an executive position.

MR. DAVIDE: Besides, it may turn out in a given case that because of, say, incapacity, he may leave the service, but if he is prohibited from being appointed within the term for which he was elected, we may be depriving the government of the needed expertise of an individual.

MR. FOZ: We accept the amendment.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Maambong is recognized.

MR. MAAMBONG: I am not proposing an amendment to Section 4, but in order that there will be no two similar provisions in the Constitution, I just want to put on notice that the Committee on General Provisions has an equivalent provision, which has already been approved and which reads:

No elective or appointive public officer or employee should hold any office or employment in the government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations.

Thank you.

MR. DAVIDE: Mr. Presiding Officer, on line 16, Section 6, after "Government," insert a comma(,) and the following: INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS.

MR. FOZ: We accept the amendment.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: If the copies of the proposed amendment to Section 3 by Honorable Aquino have already been distributed, I pray for the recognition of Commissioner Aquino to introduce the amendment.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino is recognized.

MR. DE LOS REYES: Parliamentary inquiry.

THE PRESIDING OFFICER (Mr. Treñas): What is the inquiry of commissioner de los Reyes?

MR. DE LOS REYES: With the acceptance of the Davide amendment which includes government-owned or controlled corporations, is the provision again limited only to those corporations with original charter?

MR. DAVIDE: Yes, because that was the amendment to Section 1 by Commissioner Romulo.

THE PRESIDING OFFICER (Mr. Treñas): Is the Gentleman satisfied?

MR. DE LOS REYES: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Aquino may proceed.

MS. AQUINO: The proposed amendment to Section 3 is a revised and amended version of Resolution No. 240 filed by Commissioner Davide.

MR. FOZ: I would like to ask some questions on the proposed amendment.

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. FOZ: Will the amendment reduce the powers and functions of the Civil Service, as embodied in our original draft?

MS. AQUINO: No, it will not. The proposed deletion of lines 35 to 40 of page 2 until line 1 of page 3 would not in any way minimize the powers of the Civil Service because they are deemed implicitly included in the all-embracing definition and concept of "central personal agency of the government." I believe that the lines we have mentioned are but redundant articulation of that same concept, unnecessary surplusage.

MR. FOZ: For instance, will the power or function to promulgate policies on personnel actions be encompassed by the Commissioner's amendment?

MS. AQUINO: It is not an amendment because I am retaining lines 33 to 35. I proposed an amendment after the words "career service." I am only doing away with unnecessary redundancy.

MR. FOZ: Can we say that all of the powers enumerated in the original provision are still being granted by the Civil Service Commission despite the elimination of the listing of these powers and functions?

MS. AQUINO: Yes, Mr. Presiding Officer, in the nature of a central personnel agency, it would have to necessarily execute all of these functions.

MR. FOZ: And will the elimination of all these specific functions be a source of ambiguity and controversies later on as to the extent of the powers and functions of the commission?

MS. AQUINO: I submit that this would not be susceptible of ambiguity because the concept of a central personnel agency is a generally accepted concept and as experience would bear out, this function is actually being carried out already by the Civil Service Commission, except that we are integrating this concept. I do not think it would be susceptible of any ambiguity.

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Regalado is recognized.

MR. REGALADO: This is more for clarification.

The original Section 3 states, among others, the functions of the Civil Service Commission — to promulgate and enforce policies on personnel actions. Will Commissioner Aquino kindly indicate to us the corresponding provisions and her proposed amendment which would encompass the powers to promulgate and enforce policies

on personnel actions?

MS. AQUINO: It is my submission that the same functions are already subsumed under the concept of a central personnel agency.

MR. REGALADO: In other words, all those functions enumerated from line 35 on page 2 to line 1 of page 3, inclusive, are understood to be encompassed in the phrase "central personnel agency of the government."

MS. AQUINO: Yes, Mr. Presiding Officer, except that on line 40 of page 2 and line 1 of the subsequent page, it was only subjected to a little modification.

MR. REGALADO: May we, therefore, make it of record that the phrase ". . . promulgate and enforce policies on personnel actions, classify positions, prescribe conditions of employment except as to compensation and other monetary benefits which shall be provided by law" is understood to be subsumed under and included in the concept of a central personnel agency.

MS. AQUINO: I would have no objection to that.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Bengzon is recognized.

MR. BENGZON: This is just for clarification.

The Commissioner's amendment includes the phrase "IT SHALL STRENGTHEN THE MERIT AND REWARD SYSTEM." Does the Gentlewoman not contemplate that the merit and reward system under this proposals is weakened by the accepted amendment of Commissioner Quesada?

MS. AQUINO: I do not believe so; it is not weakened.

MR. BENGZON: Stated otherwise, the entire Article on the Civil Service Commission by the adoption of this proposal is anchored on the merit and reward system. Is that correct?

MS. AQUINO: Yes, Mr. Presiding Officer.

MR. BENGZON: Continuing further, "INTEGRATE ALL HUMAN RESOURCES," is it a typographical error that no comma (,) was placed after "RESOURCES"?

MS. AQUINO: No, it is human resources development program, as one integral concept.

MR. BENGZON: A human resources development program, that is just one concept?

MS. AQUINO: Yes, it is a concept.

MR. BENGZON: Thank you.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Monsod is recognized.

MR. MONSOD: May I just have another clarification, Commissioner Aquino.

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. MONSOD: When the functions were read by Commissioner Regalado, is it understood that the classification of positions would be subject to existing regulations or laws as to the right of the Office of Budget and Management? The amendment now would have eliminated the whole section. I wanted to clarify that because that

could be a problem, if we say that classification of positions is purely the function of the Civil Service Commission.

MS. AQUINO: I have no objection to that.

MR. REGALADO: Mr. Presiding Officer, just one more clarification.

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Regalado may proceed.

MR. REGALADO: May I know from Commissioner Aquino whether the deletions in Section 3 will be from line 35 and all the way to line 40 including line 1 of page 3?

MS. AQUINO: Yes, Mr. Presiding Officer. But I would explain the deletion of line 40 and line 1 of page 3. These lines were just subjected to some modifications in terms of literary semantics.

MR. REGALADO: In other words, line 35 to line 1 of page 3 inclusive were substituted by this amendment.

MS. AQUINO: Yes, Mr. Presiding Officer.

MR. REGALADO: Therefore, going back to my original proposal, the words "and perform such other functions as may be provided by law" should be deleted because they have already been transferred to the Common Provisions on page 1. The provision will then read: "It shall submit to the President and the Congress an annual report on its personnel programs."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. FOZ: I would like to offer an amendment to the proposal of Commissioner Aquino.

The amendment is to put a comma(,) after the word "RANKS" and insert the word AND. After "ACCOUNTABILITY," put a period(.) and delete the rest of the sentence because the clause "AND INCREASE INCENTIVES TO PROMOTE HONESTY, RESPONSIVENESS, PROGRESSIVENESS AND COURTESY IN THE PUBLIC SERVICE is a redundancy when compared with the first sentence which already states the goals of the measures to be adopted, which are to promote the morale, efficiency and integrity in the civil service. On the clause "INCREASE INCENTIVES," this is already covered by the merit and reward system.

MS. AQUINO: On that proposed amendment, I would be willing to delete the portion indicated by Commissioner Foz but, together with Commissioners Bennagen and Davide; we propose to transpose the concepts responsiveness, progressiveness and courtesy on line 3.

MR. FOZ: I agree, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): For clarification, will the Commissioner please read the proposed amendment.

MS. AQUINO: The first line would read: "THE CIVIL SERVICE COMMISSION AS THE CENTRAL PERSONNEL AGENCY OF THE GOVERNMENT, SHALL ESTABLISH A CAREER SERVICE AND ADOPT MEASURES TO PROMOTE THE MORALE, EFFICIENCY, INTEGRITY, RESPONSIVENESS, PROGRESSIVENESS, AND COURTESY IN THE CIVIL SERVICE."

In other words, we will just transpose the concepts which are being deleted.

MR. FOZ: How does the second sentence read now?

MS. AQUINO: The second sentence reads: "IT SHALL STRENGTHEN THE MERIT AND REWARD SYSTEM, INTEGRATE ALL HUMAN RESOURCES DEVELOPMENT PROGRAMS FOR ALL LEVELS

AND RANKS, AND INSTITUTIONALIZE A MANAGEMENT CLIMATE CONDUCIVE TO PUBLIC ACCOUNTABILITY. "

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Vice-President, Commissioner Padilla, is recognized. Is this still in connection with this proposed amendment?

MR. PADILLA: Yes. May we not just say: "IT SHALL STRENGTHEN THE MERIT AND REWARD SYSTEM CONDUCIVE TO PUBLIC ACCOUNTABILITY." Let us make the provision simple and clear. It still says here: "INTEGRATE ALL HUMAN RESOURCES DEVELOPMENT PROGRAMS FOR ALL LEVELS AND RANKS, INSTITUTIONALIZE A MANAGEMENT CLIMATE." Could this not be eliminated and simply state: MERIT AND REWARD SYSTEM CONDUCIVE TO PUBLIC ACCOUNTABILITY?

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Aquino say?

MS. AQUINO: If we admit that amendment to the amendment, it would do away with the concept of public accountability which I think is very vital. The idea behind the amendment is to define the new thrust of the Civil Service Commission, a case of learning from our experience of the past.

MR. PADILLA: Precisely, I am stressing that. The provision should simply state: "MERIT AND REWARD SYSTEM CONDUCIVE TO PUBLIC ACCOUNTABILITY."

MS. AQUINO: I am sorry; I thought the Commissioner wanted to delete that, too.

MR. FOZ: Mr. Presiding Officer, I would oppose the deletion of the clause "INTEGRATE ALL HUMAN RESOURCES DEVELOPMENT PROGRAMS FOR ALL LEVELS AND RANKS" because this is an integral function of the Civil Service Commission and this should emphasize the role of the Commission in this respect.

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Aquino say on the proposed amendment?

MS. AQUINO: I would conform with the position of Commissioner Foz. In other words, I do not accept the proposed deletion by Commissioner Padilla.

THE PRESIDING OFFICER (Mr. Treñas): What is the stand of the Committee?

MR. FOZ: I think the proposal has been withdrawn, Mr. Presiding Officer.

MR. DAVIDE: So, I understand the Committee has already accepted the amendment.

MR. FOZ: With all the clarifications, inclusions and intentions of the proposal or amendment including the enumeration of the functions and powers in the draft, the Committee accepts the amendment of Commissioner Aquino.

MS. ROSARIO BRAID: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Will Commissioner Aquino clarify the phrase "INTEGRATE HUMAN RESOURCES DEVELOPMENT PROGRAMS FOR ALL LEVELS AND RANKS?" Human resources development programs would mean, of course, professional or training programs. Are these also within the civil service?

MS. AQUINO: The point is this: The Civil Service Commission is authorized by law to initiate development

programs. The concept of integration is that it will have to go beyond the programs that the Commission has initiated in coordination with the other programs pertinent to their function.

MS. ROSARIO BRAID: That is exactly my question because the Commission has its own Civil Service Academy but coordinates with other human resource development programs. So, I propose to change the word "INTEGRATE" with COORDINATE.

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Aquino say?

MS. AQUINO: Mr. Presiding Officer, it is not just a matter of words.

MR. FOZ: Since the Committee has always accepted the amendment, it is for the Committee now to respond.

MS. AQUINO: Coordination and integration are different concepts.

MR. FOZ: We would insist on the word "INTEGRATE" because "coordinate" is a weaker word.

THE PRESIDING OFFICER (Mr. Treñas): Shall we vote on the amendment?

MS. ROSARIO BRAID: No, I withdraw the amendment.

THE PRESIDING OFFICER (Mr. Treñas): What is the pleasure of the Vice-President?

MR. PADILLA: I was trying to simplify, but the Chairman of the Committee objects to simplification and insists on the phrase "INTEGRATE ALL HUMAN RESOURCES DEVELOPMENT PROGRAMS FOR ALL LEVELS AND RANKS, AND INSTITUTIONALIZE A MANAGEMENT CLIMATE." To me, these are all good words but very hard to understand or implement.

THE PRESIDING OFFICER (Mr. Treñas): The Chair believes this matter has been sufficiently discussed.

MR. REGALADO: May we ask Commissioner Aquino to please read the whole thing before we vote.

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Aquino read the proposed amendment?

MS. AQUINO: The section, as amended, would now read: "THE CIVIL SERVICE COMMISSION AS THE CENTRAL PERSONNEL AGENCY OF THE GOVERNMENT, SHALL ESTABLISH A CAREER SERVICE AND ADOPT MEASURES TO PROMOTE THE MORALE, EFFICIENCY, INTEGRITY, RESPONSIVENESS, PROGRESSIVENESS, AND COURTESY IN THE CIVIL SERVICE. IT SHALL STRENGTHEN THE MERIT AND REWARD SYSTEM, INTEGRATE ALL HUMAN RESOURCES DEVELOPMENT PROGRAMS FOR ALL LEVELS AND RANKS, AND INSTITUTIONALIZE A MANAGEMENT CLIMATE CONDUCIVE TO PUBLIC ACCOUNTABILITY."

THE PRESIDING OFFICER (Mr. Treñas): Does the Committee accept the amendment?

MR. FOZ: The amendment is accepted.

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

MR. DAVIDE: There is one final proposed amendment. I seek the recognition of Commissioner de los Reyes.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Before I propose my amendment, I would like to ask the Committee why it did not include among its proposals Section 6, Article XII of the 1973 Constitution which reads:

The Batasang Pambansa shall provide for the standardization of compensation of government officials and employees, including those in government-owned or controlled corporations, taking into account the nature of the responsibilities pertaining to, and the qualifications required for, the positions concerned.

THE PRESIDING OFFICER (Mr. Treñas): Will the Committee answer the query?

MR. DE LOS REYES: Because if there is no reason for the deletion or for the noninclusion of that section which used to be part of the 1973 Constitution, I would like to propose that the same be included to read as follows: THE NATIONAL ASSEMBLY OR THE LEGISLATURE SHALL PROVIDE FOR THE STANDARDIZATION OF COMPENSATION OF GOVERNMENT OFFICIALS AND EMPLOYEES, INCLUDING THOSE IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, TAKING INTO ACCOUNT THE NATURE OF THE RESPONSIBILITIES PERTAINING TO, AND THE QUALIFICATIONS REQUIRED FOR, THE POSITIONS CONCERNED.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say on the proposed amendment?

MR. FOZ: This is somewhat of a surplusage. I am sorry to make that description. But Congress or the Legislature is really expected to make such an undertaking. But, of course, we can always say that this is a mandate for the Legislature to do. But Congress should not wait for a provision like that in the Constitution to do its job.

MR. DE LOS REYES: I asked that question because in the same manner we accepted an amendment by Commissioner Quesada that Congress should give protection to temporary employees, the Congress is also duty bound to give protection to all kinds of employees; nonetheless, we placed that provision. And I see if that provision is placed in the Constitution, I think there is no reason to place the same provision for the purpose of standardizing compensation of government officials and employees.

MR. FOZ: With the explanation and good intention of the Gentleman, the Committee accepts the amendment.

MR. DE LOS REYES: Thank you.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: Mr. Presiding Officer, I understand Commissioner Lerum objects to that amendment.

THE PRESIDING OFFICER (Mr. Treñas): The ruling has been reconsidered.

MR. LERUM: With the permission of the Chair, I am objecting to that amendment because that has been used for depriving government workers of their right to organize and to ask for concessions. I object to that amendment.

MR. FOZ: On the other hand, I think we have accepted the Ople amendment that government employees-workers have the right to organize.

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Lerum insist on his objection?

MR. LERUM: I withdraw my objection after the explanation of the Commissioner.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: Commissioner de los Reyes still has another last amendment.

MR. DE LOS REYES: Yes, this will follow the Ople amendment. In the provision on constitutional commissions, I propose to reproduce Section 6, Article XV on General Provisions of the 1973 Constitution. I think this is the

proper place to put it. It states: NO SALARY OR ANY FORM OF EMOLUMENT OF ANY PUBLIC OFFICER OR EMPLOYEE, INCLUDING CONSTITUTIONAL OFFICERS, SHALL BE EXEMPT FROM PAYMENT OF INCOME TAX.

MR. DAVIDE: Mr. Presiding Officer, may I request Commissioner de los Reyes to defer consideration of that amendment because I understand there is a report of another committee, I believe it is the Committee on General Provisions.

MR. DE LOS REYES: The request is granted, Mr. Presiding Officer.

MR. DAVIDE: There are no more registered proponents for any amendment. May I request from the Committee, if it would now want a voting on Second Reading on the Article on Common Provisions and on the Article on the Civil Service Commission; or shall we defer the voting on Second Reading after we shall have discussed the other constitutional commissions?

The Committee would want a vote on Second Reading on the Article on Common Provisions and on the Article on the Civil Service Commission.

I believe the body is now ready to vote. Before we vote on this, I move to close the period of individual amendments.

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

## **APPROVAL OF PROPOSED RESOLUTION NO. 468**

### **ON SECOND READING**

(Article on the Constitutional Commissions)

MR. DAVIDE: I move for a vote on the Article on the Constitutional Commissions relating to Common Provisions and the Civil Service Commission.

THE PRESIDING OFFICER (Mr. Treñas): We will now proceed to a vote on Proposed Resolution No. 468. Those in favor of Proposed Resolution No. 468, as amended, please raise their hand. (Several Members raised their hand.)

Those against the resolution, please raise their hand. (No Member raised his hand.)

The results show 25 votes in favor and none against.

Proposed Resolution No. 468, as amended, is approved on Second Reading.

MR. DAVIDE. Mr. Presiding Officer, I move for the recognition of the Chairman of the Steering Committee.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Bengzon is recognized.

## **CONSIDERATION OF PROPOSED**

### **RESOLUTION NO. 523**

(Expressing the Sincere Condolence of the Con-Com

on the Death of Ret. Fiscal Juan A. Sarmiento)

MR. BENGZON: Mr. Presiding Officer, we are all aware that the father of Commissioner Renato V. Sarmiento passed away last night after a sudden heart attack. We have Proposed Resolution No. 523 introduced by Honorable Minda Luz M. Quesada, which expresses the sincere condolence of the Constitutional Commission of 1986 on the death of the father of the Honorable Sarmiento.

I move that we consider Proposed Resolution No. 523.

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

Consideration of Proposed Resolution No. 523 is now in order. The Chairman of the Steering Committee will please proceed to read the title and text of the resolution.

MR. BENGZON: Proposed Resolution No. 523, entitled:

**RESOLUTION EXPRESSING THE SINCERE CONDOLENCE OF THE CONSTITUTIONAL COMMISSION OF 1986 ON THE DEATH OF THE FATHER OF THE HONORABLE RENE V. SARMIENTO.**

WHEREAS, retired Fiscal Juan A. Sarmiento, Sr., father of the Honorable Rene V. Sarmiento, Member of the Constitutional Commission of 1986, died on July 14, 1986: Now, therefore, be it

Resolved by the Constitutional Commission of 1986, To express, as it hereby expresses, deep sorrow and sympathy, over the passing of retired Fiscal Juan A. Sarmiento, Sr., father of the Honorable Rene V. Sarmiento, Member of the Constitutional Commission of 1986.

Resolved, further, To furnish and transmit to the bereaved family of the deceased, a copy of the Resolution upon its adoption.

### **ADOPTION OF PROPOSED RESOLUTION NO. 523**

(Expressing the Sincere Condolence of the Con-Com

on the Death of Ret. Fiscal Juan A. Sarmiento)

MR. BENGZON: I move that Proposed Resolution No. 523 be adopted in toto.

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

Proposed Resolution No. 523 is adopted in toto.

MR. BENGZON: The body is lying in state at the Arlington Funeral Homes on Araneta Avenue, and I think the funeral is on Friday.

MR. DAVIDE: Mr. Presiding Officer, I move to close the period of sponsorship and debate on the Commission on Audit.

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

### **ADJOURNMENT OF SESSION**

MR. DAVIDE: Mr. Presiding Officer, I move to adjourn until nine-thirty tomorrow morning to consider the amendments on the Commission on Audit.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the session is

adjourned until tomorrow at nine-thirty in the morning.

It was 8:34 p.m.

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[\*] Appeared after the roll call.

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