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Wednesday, June 25, 1986

OPENING OF SESSION

At 5:14 p.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 Reverend Cirilo A. Rigos.

Everybody remained standing for the Prayer.

PRAYER

REV. RIGOS: Most loving and gracious God by Whose goodness we are gathered here today, we pause to invoke Thy blessings upon us.

Grant us the courage to change what can be changed, the humility to accept what cannot be changed and the wisdom to distinguish one from the other.

In Jesus' name, we pray. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present Concepcion Present

Alonto Present Davide Present

Aquino Present Foz Present

Azcuna Present Garcia Present

Bacani Present Gascon Present*

Bengzon Present[*] Guingona Present

Bennagen Present Jamir Present

Bernas Present Laurel Present

Rosario Braid Present Lerum Present

Brocka Present Maambong Present

Calderon Present Monsod Present

Castro de Present Natividad Present

Colayco Present Nieva Present

Nolledo Present Sarmiento Present

Ople Present[*] Suarez Present

Padilla Present Sumulong Present

Quesada Present Tadeo Present

Rama Present Tan Present

Regalado Present Tingson Present

Reyes de los Present Treñas Present

Rigos Present Uka Present

Rodrigo Present Villacorta Present

Romulo Present Villegas Present

Rosales Present

The President is present.

The roll call shows 43 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

APPROVAL OF JOURNAL

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

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

MR. CALDERON: 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 and Communications, the President making the corresponding references:

PROPOSED RESOLUTIONS ON FIRST READING

Proposed Resolution No. 256, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION INSTITUTIONALIZING THE PRINCIPLE OF PEOPLE POWER IN THE CONSTITUTIONAL PROCESS THROUGH THE METHOD OF INITIATIVE AND REFERENDUM.

Introduced by Hon. Garcia and Gascon.

To the Committee on the Legislative.

Proposed Resolution No. 257, entitled:

RESOLUTION PROVIDING IN THE NEW CONSTITUTION FOR A PRESIDENTIAL FORM OF GOVERNMENT SPECIFYING THEREIN THE TERM, QUALIFICATIONS AND MANNER OF ELECTION OF THE CHIEF EXECUTIVE.

Introduced by Hon. Tingson.

To the Committee on the Executive.

Proposed Resolution No. 258, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION SECTION TWENTY, ARTICLE FOUR, OF THE 1973 CONSTITUTION WITH MODIFICATION TO MAKE THE PROTECTION EFFECTIVE.

Introduced by Hon. Treñas.

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

Proposed Resolution No. 259, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION A PROVISION REQUIRING APPROVAL BY THE SUPREME COURT OF RULES CONCERNING PLEADING, PRACTICE AND PROCEDURE PROMULGATED BY QUASI-JUDICIAL BODIES BEFORE THESE RULES CAN BECOME EFFECTIVE.

Introduced by Hon. Treñas.

To the Committee on the Judiciary.

Proposed Resolution No. 260, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION A PROHIBITION AGAINST PUBLIC OFFICERS HOLDING TWO OR MORE PUBLIC OFFICES AT THE SAME TIME.

Introduced by Hon. Treñas.

To the Committee on General Provisions.

Proposed Resolution No. 261, entitled:

RESOLUTION STRENGTHENING THE LIBERTY OF ABODE AND TRAVEL PROVISION OF THE BILL OF RIGHTS.

Introduced by Hon. Natividad, de los Reyes, Jr., Maambong and Ople.

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

Proposed Resolution No. 262, entitled:

RESOLUTION PROVIDING FOR THE CONTINUOUS VALIDITY OF ALL EXISTING LAWS, PROCLAMATIONS, DECREES, ORDERS OR INSTRUCTIONS AND PROVIDING FOR THE EXERCISE AND TERMINATION OF THE LAW-MAKING POWERS OF THE INCUMBENT PRESIDENT.

Introduced by Hon. Maambong, de los Reyes, Jr., Natividad and Ople.

To the Committee on Amendments and Transitory Provisions.

Proposed Resolution No. 265, entitled:

RESOLUTION PROPOSING TO INCORPORATE THE STUDY OF THE LIFE AND WORKS OF OUR NATIONAL HERO, JOSE RIZAL, IN THE NEW CONSTITUTION.

Introduced by Hon. Tingson.

To the Committee on General Provisions.

Proposed Resolution No. 266, entitled:

RESOLUTION PROPOSING TO INCORPORATE THE STUDY OF THE CONSTITUTION IN THE NEW CHARTER.

Introduced by Hon. Tingson.

To the Committee on General Provisions.

Proposed Resolution No. 267, entitled:

RESOLUTION PROPOSING A PROVISION IN THE CONSTITUTION CREATING THE COUNCIL OF RELIGIOUS LEADERS TO BE APPOINTED BY THE PRESIDENT IN AN ADVISORY CAPACITY.

Introduced by Hon. Tingson.

To the Committee on General Provisions.

Proposed Resolution No. 268, entitled:

RESOLUTION PROPOSING THE RETENTION OF THE U.S. MILITARY BASES ON PHILIPPINE TERRITORY AS PART OF THE NATIONAL DEFENSE.

Introduced by Hon. Tingson.

To the Committee on General Provisions.

Proposed Resolution No. 269, entitled:

RESOLUTION PROPOSING TO INCLUDE IN THE DECLARATION OF PRINCIPLES OF THE CONSTITUTION A PROVISION ON MORAL COMMITMENT.

Introduced by Hon. Tingson.

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

Proposed Resolution No. 270, entitled:

RESOLUTION PROPOSING THE INCLUSION OF OPTIONAL RELIGIOUS INSTRUCTION IN PUBLIC SCHOOLS IN THE NEW CONSTITUTION.

Introduced by Hon. Tingson.

To the Committee on General Provisions.

Proposed Resolution No. 271, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION CALLING FOR THE DISMANTLING OF PRIVATE ARMIES AND THE CIVILIAN HOME DEFENSE FORCES (CHDF).

Introduced by Hon. Sarmiento and Nollado.

To the Committee on General Provisions.

Proposed Resolution No. 272, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF THE FAMILY.

Introduced by Hon. Nieva, Bacani, Muñoz Palma, Rigos, Gascon and Guingona.

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

COMMUNICATIONS

Communication from the Honorable Neptali A. Gonzales, Minister of Justice, referring a letter of Mr. O. L. dela Cuesta of Vancouver, B.C., Canada, requesting a dual citizenship provision in the Constitution.

(Communication No. 45 — Constitutional Commission of 1986)

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

Letter from the Financial Executives Institute of the Philippines signed by Mr. Ricardo G. Librea, submitting a paper proposing that the Central Bank be made a constitutional body.

(Communication No. 46 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Communication from Mr. Pablo B. David of Betis, Guagua, Pampanga, suggesting a form of government, the separation of church and state and social services provisions, among others.

(Communication No. 47 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Mr. Jose V. Macavinta of 2321-A Kusang Loob, Sta. Cruz, Manila, submitting proposals on the preamble, the national identity, the national flag and the national seal.

(Communication No. 48 — Constitutional Commission of 1986)

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

Communication from Mr. Fulgencio S. Factoran, Jr., Deputy Executive Secretary, transmitting proposals of Mr. Virgilio S. Omamalin of Dipolog City, nominee to the Constitutional Commission.

(Communication No. 49 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Mr. Fulgencio S. Factoran, Jr., Deputy Executive Secretary, transmitting a letter of Mr. Hipolito Montebon of Tuburan, Cebu, suggesting a presidential form of government, among others.

(Communication No. 50 — Constitutional Commission of 1986)

To the Committee on the Executive.

Letter from Mr. Mariano Melendres, Jr., of 370 S. Antonio Avenue, Pasig, Metro Manila, submitting suggestions on the national territory and the declaration of principles, among others.

(Communication No. 51 — Constitutional Commission of 1986)

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

Letter from Mr. Delfin R. Manlapaz of 1707 E. Rodriguez, Sr. Avenue, Cubao, Quezon City, suggesting a provision creating an entity to serve as the main credit source for the people.

(Communication No. 52 — Constitutional Commission of 1986)

To the Committee on Social Justice and Social Services.

COMMITTEE REPORT

Committee Report No. 4 on Proposed Resolution No. 7, as reported out by the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON CITIZENSHIP, recommending its approval with amendments.

Sponsored by Hon. Laurel, Jr. and Davide, Jr.

To the Steering Committee.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 5:27 p.m.

RESUMPTION OF SESSION

At 5:28 p. m., the session was resumed with the Honorable Regalado E. Maambong presiding.

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

The Assistant Floor Leader is recognized.

MR. CALDERON: Mr. Presiding Officer, in addition to Commissioners Rama, Rodrigo and Jamir, may I request that the following Members of the Commission be made coauthors of Proposed Resolution No. 255 which was read on First Reading yesterday: (1) Ahmad Domocao Alonto; (2) Rustico F. de los Reyes, Jr.; (3) Jose N. Nollado; (4) Florenz D. Regalado; (5) Cirilo A. Rigos; (6) Ricardo J. Romulo; (7) Decoroso R. Rosales; (8) Gregorio J. Tingson; (9) Efrain B. Treñas; and (10) Lugum L. Uka.

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

The Assistant Floor Leader is recognized.

MR. CALDERON: Mr. Presiding Officer, I request that the Chair recognize Commissioner Nieva concerning her pending motion yesterday to change the name of her Committee.

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

MS. NIEVA: Yesterday, there was an objection raised to the changing of the name of the Committee on Social Justice and Social Services to COMMITTEE ON SOCIAL JUSTICE. The motion was made at the request of all the members of the Committee who felt that the phrase "social justice" necessarily encompasses "social services" and that, therefore, specifying social services would, in a way, restrict the scope of social justice.

The rationale behind the decision of the Committee on Social Justice and Social Services to change its name primarily lies in the perception and analysis of social justice as a general and broad concept which encompasses virtually every facet of life of the individual and of society. So, the Committee took as a working definition of "social justice" the definition of the Chairman of the Philippine Commission on Human Rights which says that:

Social Justice, for us Filipinos, means a coherent intelligible system of law, made known to us, enacted by a legitimate government freely chosen by us, and enforced fairly and equitably by a courageous, honest, impartial and competent police force, legal profession and judiciary that: (1) respects our rights and our freedoms, both as individuals and as a people; (2) seeks to repair the injustices that society has inflicted on the poor by eliminating — poverty as far as our resources and our ingenuity permit; (3) develops a self-directed and self-sustaining economy that distributes its benefits to meet, at first, the basic material needs for all, then to provide an improving standard of living for all, but particularly for the lower income groups, with time enough and space enough to allow them to take part in and to enjoy our cultures; (4) changes our institutions and structures, our way of doing things and relating to each other, so that whatever inequalities remain are not caused by these institutions or structures, unless inequality is needed temporarily to favor the least favored; (5) adopts means and processes that are capable of attaining these objectives.

And so, the Committee has agreed to work for a separate article on social justice which would necessarily encompass social services. With this broad and expanded notion of social justice, our Committee believes that as a bare minimum, social services are necessarily included. Therefore, our Committee has decided to concentrate on several areas of concern such as: agrarian reform, urban land reform, rural and urban community development, housing and shelter, labor, health, education and roles and rights of peoples' organizations.

We think that if we add the area of social services to social justice, we would then have to include also other areas that we are concerned with, like agrarian and urban land reform, or perhaps peoples' organizations. The Committee believes that the nomenclature "Committee on Social Justice" would be more expressive of its tasks and concerns.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I was the one who objected to the motion yesterday. After listening to the explanation given and in the light of the fact that it was the unanimous consensus of the members of the Committee to formulate a separate Article on Social Justice, including therein social services, I am withdrawing my objection.

THE PRESIDING OFFICER (Mr. Maambong): The Chair would like to thank Commissioner Davide.

Now, we would like to clarify the parliamentary situation. Since there is a withdrawal of the objection, may we request the movant to restate her motion so that we can act on it.

MS. NIEVA: I move that the name of our Committee be changed to the COMMITTEE ON SOCIAL JUSTICE.

THE PRESIDING OFFICER (Mr. Maambong): There is a motion to rename the "Committee on Social Justice and Social Services" to COMMITTEE ON SOCIAL JUSTICE.

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

The Assistant Floor Leader is recognized.

MR. CALDERON: In connection with our freewheeling discussions on citizenship, I request the Chair to recognize Commissioner Guingona.

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

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

With the permission of the Presiding Officer and the Members of this Commission, before I go into the explanation of my position, may I be allowed to make reference to an article which appeared in the June 21, 1986 issue of Midday Malaya.

For the information of the honorable Members of this Commission, a media representative approached me last Friday and requested a summary of the proposed budget for the Commission. Since I did not want to be misquoted, I wrote down the summary of the proposed budget with the corresponding tentative amounts. Afterwards, I showed the summary to our President who went over it and later gave me the approval to give the summary to the media representative.

Commissioner Foz was present and he also went over the summary. I would like to say that the media representative accurately gave the substance of what we gave her except for some typographical errors which I or the public relations office of this Commission would try to explain or correct.

An example is the reference to the per diems of the Commissioners in the amount of P2,250,000 for 90 days at the rate of P500 a day per Commissioner for actual attendance in sessions, committee meetings and public hearings. I took pains to put these figures down in writing, and I also gave an illustration. I said that if a Commissioner attended four or three committee meetings plus a session in one single day, that Commissioner would be entitled to P500 only and no more.

As a matter of fact, this amount P2,250,000 is now reduced because during the first weekend, we had no sessions, committee meetings and public hearings. Thus, no Commissioner received any per diem. So this is effectively reduced by P48,000.

But this news article, perhaps, due to a typographical error, states that the Commissioners' per diems would amount to P2,250,000 for 90 days work, not counting the P500, when, in fact, this P2,250,000 is precisely the total of what the commissioners will receive at the rate of P500 a day for actual attendance.

The other error is the statement that the Filipino people may end up paying at least P1,356,145 a day. If we multiply this amount with 90 days, that means we would need a total appropriation of more than P100 million for three months, when, in fact, we only have P20 million. I also told the media representative that we still expected to save P3 to P4 million from the P20 million. In my computation, our total expense for 90 days would be P14,143,110 based on the proposed budget which, if we divide by 90, would come out to about P157,000 a day and not P1,356,145 as reported. The third typographical error is the phrase "losing operations" which connotes that we are profit-making organization, when it should have been "Lounge Operations."

Thank you, Mr. Presiding Officer.

With the Chair's permission, I would like to give my remarks on the matter of citizenship.

THE PRESIDING OFFICER (Mr. Maambong): Before Commissioner Guingona makes his remark, the Chair takes note of his explanation and suggests that the Committee on Public Information should draft the proper communication to the paper referred to by Commissioner Guingona so that the date will be properly corrected.

DISCUSSION ON CITIZENSHIP

Continuation

MR. GUINGONA: Thank you, Mr. Presiding Officer. With the permission of the Chair, may I suggest that we secure the cooperation of our two liaison officers with media; namely, Commissioners Rama and Foz.

By way of clarification, I would like to assure our distinguished Vice-President that when I proposed the change of the phrase "Those whose fathers are citizens of the Philippines" to THOSE BORN OF FILIPINO FATHERS, there was no intention whatsoever to propose the application of the principle of jus soli in this jurisdiction.

As a matter of fact, the use of the words "of Filipino fathers" after the word "born" expressed my intention that the principle of jus sanguinis should apply. Of course, if the child is born abroad, say, in the United States, he may become a citizen thereof through the application of the principle of jus soli but such application would be effected by virtue of American law and not ours.

The provision contained in the proposed resolution of Commissioner Davide which says: "Those whose fathers are citizens of the Philippines" would make the citizenship of the child dependent upon the citizenship of the father at any time the question of citizenship is raised and not at the moment of his birth as we pointed out in the illustration we gave the last time we spoke. If the father should change his citizenship during the minority of the child, such child would cease to be a citizen of the Philippines. This situation, therefore, could result in confusion as to the question of his citizenship.

Mr. Presiding Officer, I would like to express my full conformity with the provision contained in the proposed resolution introduced by Commissioner Davide, which reads, and I quote:

. . . those who are naturalized in accordance with law; provided, however, that the naturalization of aliens under the decree of the previous regime shall be subject to judicial confirmation.

May I say that I find the use of the words "judicial confirmation" instead of "judicial review" to be fortunate. I recall that the expression "judicial review" was used during the interpellations, because "judicial review," in its strict sense, is the power of the court to pass upon the constitutionality of the acts of other departments of government and to declare null and void such of them as are in contravention of the constitution. Since the 1973 Constitution provides for naturalization in accordance with law and since Mr. Marcos exercised lawmaking powers, there might have been some difficulty in challenging the naturalization of aliens then by the Executive as being unconstitutional.

Mr. Presiding Officer, I am not speaking against the process of naturalization. I am aware that this process is widely accepted and presumably in force in most, if not all, the countries of the world. This process is not a novel concept — the Roman Law also provides for naturalization. But I would like to share the opinion of those who would caution us against liberalizing our naturalization process because such liberalization could have an adverse impact, not only on the welfare of our people, but also on the security of our country. The venerable former Chief Justice Roberto Concepcion, in a previous session, called the attention to what he says were the many irregularities attendant to the grant of Filipino citizenship by the Executive during the Marcos rule. If I recall correctly, there was no dissent or objection from the floor with regard to the assertion made by Commissioner Concepcion. Justice Concepcion also expressed the fear that if we open the door too widely to the entry of aliens into our body politic through naturalization, then there might come a day when there would be more naturalized than natural-born Filipinos.

I believe that the statement of Dean Regalado in the course of his interpolation that if there were many cases of grants of naturalization by the Executive during the time of Marcos, that such would result in the clogging of the

courts' dockets is valid. I believe that one possible remedy to this problem is to create some sort of a de facto court, not unlike the People's Court created after liberation, the sole jurisdiction of which would be to adjudicate cases of naturalization of aliens under a decree of the previous regime.

May I respectfully invite the attention of the Members of this honorable body to the fact that citizenship is membership in a political community with full, I repeat, full, civil and political privileges; Except in very rare instances, such as the election to the presidency or vice-presidency of the Philippines, a naturalized citizen would enjoy the same rights and privileges as a natural-born one. It may be asserted that they would have the right to acquire land of the public domain, to exploit natural resources and to operate public utilities.

May I underscore the fact that a foreigner who becomes a citizen through the process of naturalization becomes one of the sovereign people of this country. As Justice Marshall said in the case of *Osburn vs. U.S.*, a naturalized citizen becomes a member of the society possessing all the rights of a natural-born citizen and standing, in the view of the Constitution, on the same footing as a native. This is why, Mr. Presiding Officer, I am not in favor of liberalizing the naturalization of foreigners and this is also why I am in favor of Commissioner Davide's proviso which I had previously cited. This is why I favor another proviso, also contained in Commissioner Davide's proposed resolution, that admission to Filipino citizenship is a privilege which can be revoked any time in the manner and for cause provided by law.

Mr. Presiding Officer, there are two questions I would like to ask. The first is directed to Commissioner Davide: If the naturalization of aliens under the decree of the previous regime shall be established to be irregular because of fraud, bribery, or other illegal acts, would the nonconfirmation of such irregular naturalization have a retroactive effect? If so, what would be the effect on the citizenship of the minor child born after the irregular naturalization of the alien?

The second question is directed to both the Honorable Davide and the honorable Chairman of the Committee on Citizenship: Would the nonprohibition of Congress or the National Assembly to delegate or authorize the President to fix or lay down rules concerning the qualifications of aliens wishing to acquire Filipino citizenship and rules concerning proceedings for the acquisition thereof mean that the Congress or the National Assembly would have the power to delegate or authorize?

Thank you, Mr. Presiding Officer.

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: Mr. Presiding Officer, before the answers are given by those from whom Commissioner Guingona sought clarifications, I would like to correct his observation on the questions I raised when Commissioner Bernas was on the floor.

I did not say that if there would be judicial confirmation of those citizens naturalized under the decrees issued under the previous regime, there would be a clogging of dockets in the court. What I expressed on the floor was the concern of some Members that if the proposed judicial confirmation should be required, there would be (1) the possible clogging of the dockets of the courts, and (2) without the benefit of such judicial confirmation, there might be a problem of security.

I was referring to the statements of other Commissioners who made these observations. On that basis, I asked Commissioner Bernas whether or not his committee had ascertained the number of aliens granted Philippine citizenship under the liberalized procedure of the previous regime, for the obvious reason that the greater the

number of those who were so naturalized, the graver is our concern. But if there were only a few, then it would be of less concern for us. Let us say that there very only about fifty or sixty who were granted citizenship through legislative naturalization, then it would not pose a serious concern regarding the crowding of the court dockets or the threat to national security as when the total number were about 100,000.

Personally, I have made a statement elsewhere that I am in favor of the proposed judicial confirmation through a summary proceeding as may be authorized under conditions laid down by the legislature, instead of the process of denaturalization, so that in such proceeding, we can weed out those who were really not qualified but were granted Philippine citizenship through that liberalized legislative procedure. I recall that Commissioner Bernas said that from the records, I think, of the Office of either the Solicitor General or the Ministry of Justice, the number could be ascertained.

MR. CALDERON: Mr. Presiding Officer.

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

MR. CALDERON: We now start discussion on the National Territory provision, and the first speaker whom I would like to call upon and whom I would like the Chair to recognize is Commissioner Nollado.

MR. DAVIDE: Mr. Presiding Officer, parliamentary inquiry.

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

MR. DAVIDE: Commissioner Guingona posed two questions: one, to this Representation and the second, to both Commissioners Bernas and this Representation. Would it be proper to answer now or could the answer be deferred until we shall have discussed the report on citizenship?

THE PRESIDING OFFICER (Mr. Maambong): Mr. Assistant Floor Leader, the Chair heard distinctly Commissioner Guingona mention the name of Commissioner Davide. So, the Chair feels that it would be proper for Commissioner Davide to make the answer. But to keep everything in order, would it be possible for the Assistant Floor Leader to defer action on his motion to go to another topic?

SUSPENSION OF SESSION

MR. CALDERON: Mr. Presiding Officer, I move that we suspend the session for three minutes while this is being ironed out.

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

It was 5:57 p.m.

RESUMPTION OF SESSION

At 6:11 p.m., the session was resumed.

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

The Assistant Floor Leader is recognized.

MR. CALDERON: Mr. Presiding Officer, may I withdraw my previous manifestation that we proceed to the discussions on the National Territory.

THE PRESIDING OFFICER (Mr. Maambong): The manifestation is withdrawn.

MR. CALDERON: Mr. Presiding Officer, I would like Commissioner Davide to be given the floor.

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

MR. DAVIDE: Thank you, Mr. Presiding Officer. I wonder if it would be appropriate at this time to answer the queries presented by Commissioner Guingona.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Davide may proceed.

MR. DAVIDE: Mr. Presiding Officer, the answer to the first question is that if the court, after a judicial confirmation or nonconfirmation, shall decide on the latter — that is, nonconfirmation of the citizenship granted pursuant to a decree — then necessarily the nonconfirmation would have a retroactive effect. It relates back to the moment of the grant of the citizenship by decree. Necessarily, children of said naturalized Filipino citizen who may have obtained Filipino citizenship by virtue of the decreed naturalization will, in effect, lose that citizenship. Properties acquired by the so-called naturalized citizen will have to be escheated in favor of the state. That is a settled doctrine in denaturalization. As a matter of fact, in one case, in the Go Bon Lee case, the Solicitor General had already began reacquiring the properties acquired by Mr. Go Bon Lee although his citizenship had not yet been withdrawn by denaturalization.

As to the second question, the answer is yes, because naturalization must be in accordance with law and, therefore, prescribed by law.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Thank you, Commissioner Davide.

The Assistant Floor Leader is recognized.

MR. CALDERON: Mr. Presiding Officer, I move that the Chair recognize Commissioner Bengzon.

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

MR. BENGZON: Mr. Presiding Officer and honorable Chairman of the Steering Committee:

It has been my observation that we have had more than enough freewheeling discussions on the Article on Citizenship and, therefore, I would like to move for a special order from this body that we take up Committee Report No. 4, the report of the Committee on Citizenship, and move to its Second Reading, have it sponsored on the floor, subject to interpellations only without proceeding to the consideration of amendments. The amendments will come after July 7 as agreed upon.

THE PRESIDING OFFICER (Mr. Maambong): Is that the motion, Commissioner Bengzon?

MR. BENGZON: That is my motion, Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: Before we act on the motion, I would like to ask some clarifications. Are we through with the Unfinished Business for today?

MR. BENGZON: The Unfinished Business is the freewheeling discussion on citizenship.

MR. DAVIDE: Yes. But I did not hear any motion to terminate the Unfinished Business. I do not think we can proceed to resolving the motion on a special order because under the Rules, paragraph (a) of Section 18, it is stated:

Unfinished Business — Business being considered by the Commission at the time of adjournment of its preceding session. Its consideration shall be resumed until such Unfinished Business is disposed of. Thereafter,

the President shall call for the Business for the Day.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): With the indulgence of the two Gentlemen on the floor, the Chair declares a suspension of session.

It was 6:17 p.m.

RESUMPTION OF SESSION

At 6:20 p.m., the session was resumed.

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

Before the Chair suspended the session, there were two Gentlemen on the floor — Commissioner Bengzon Chairman of the Steering Committee and Commissioner Davide.

What is the pleasure of Commissioner Bengzon?

MR. BENGZON: In order to avoid any problems on technicality, may I, therefore, move that we first terminate the freewheeling discussion on Committee Report No. 4 on citizenship.

THE PRESIDING OFFICER (Mr. Maambong): There is a motion to terminate the Unfinished Business, which is the freewheeling discussion on citizenship.

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

CONSIDERATION OF PROPOSED

RESOLUTION NO. 7

(Article on Citizenship)

PERIOD OF SPONSORSHIP AND DEBATE

MR. BENGZON: Madam President, I move that we consider Committee Report No. 4 on Proposed Resolution No. 7, as reported out by the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

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

Consideration of Proposed Resolution No. 7 is now in order. With the permission of the body, the Secretary-General will read only the title of the resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Resolution No. entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON CITIZENSHIP.

(The following is the whole text of the resolution with amendments per C.R. No. 4.)

COMMITTEE REPORT NO. 4

The Committee on Citizenship, Bill of Rights, Political Right and Obligations and Human Rights, to which was referred Proposed Resolution No. 7, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON CITIZENSHIP,
has considered the same and has the honor to report it back to the Constitutional Commission of 1986 with the recommendation that the resolution be approved with the following amendments: On page 2 of the Proposed

Resolution,

- Line 7, put a period after the word "law."
 - Delete the rest of paragraph 4 starting from the semicolon (;) on line 7 up to and including line 15.
 - Lines 16 to 20, delete Section 2 and in lieu thereof insert the following section: SEC. 2. CITIZENS OF THE PHILIPPINES WHO MARRY ALIENS SHALL RETAIN THEIR CITIZENSHIP, UNLESS BY THEIR ACT OR OMISSION THEY ARE DEEMED, UNDER THE LAW, TO HAVE RENOUNCED THEIR CITIZENSHIP.
 - Line 23, delete "A" and capitalize the first letter of the word "natural."
 - On the same line, add the letter S to the word "citizen" and change the words "is one" to ARE THOSE.
 - Line 24, change the words "is a" to ARE and add the letter S to the word "citizen."
 - Line 26, change the word "his" to THEIR.
 - On the same line, change the period (.) after the word citizenship to a semicolon (;) and insert the following: PROVIDED, THAT THOSE WHO ELECT PHILIPPINE CITIZENSHIP IN ACCORDANCE WITH SECTION 1 PARAGRAPH 3 ABOVE SHALL ALSO BE DEEMED NATURAL-BORN CITIZENS,
- with Honorable Davide, Jr. as author thereof.

(Sgd.) Jose B. Laurel, Jr.

Chairman

Committee on Citizenship, Bill of Rights,
Political Rights and Obligations
and Human Rights

(Sgd.) Joaquin C. Bernas

(Sgd.) Christine A. Tan

Vice-Chairman

Member

(Sgd.) Yusup R. Abubakar

(Sgd.) Jose C. Colayco

Member

Member

(Sgd.) Rene V. Sarmiento

(Sgd.) Jaime S.L. Tadeo

Member

Member

(Sgd.) Edmundo G. Garcia

(Sgd.) Bernardo M. Villegas

Member

Member

(Sgd.) Francisco A. Rodrigo

(Sgd.) Ponciano L. Bennagen

Member

Member

(Sgd.) Eulogio R. Lerum

(Sgd.) Teodoro C. Bacani

Member

Member

(Sgd.) Ambrosio B. Padilla

(Sgd.) Teodulo C. Natividad

Member

Member

PROPOSED RESOLUTION NO. 7

(As amended by the Committee)

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON CITIZENSHIP.

WHEREAS, an article on Citizenship is mandatory in a Constitution;

WHEREAS, the new Constitution must have an article on Citizenship,

WHEREAS, under the unlamented Marcos regime, Filipino citizenship could be acquired administratively pursuant to a decree; many unqualified aliens became Filipino citizens under said decree; there is a need to purge the ranks of such unqualified aliens who now claim themselves as Filipinos;

WHEREAS, there is likewise a need to clarify the citizenship of a Filipino woman who marries an alien. The provision of the 1973 Constitution in this respect needs revision. Now, therefore, be it

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled, To incorporate in the new Constitution the following article on Citizenship:

ARTICLE ____

CITIZENSHIP

SECTION 1. The following are citizens of the Philippines:

- (1) Those who are citizens of the Philippines at the time of the ratification of this Constitution;
- (2) Those whose fathers or mothers are citizens of the Philippines;
- (3) Those who elect Philippine citizenship pursuant to the provisions of the Constitution of nineteen hundred and thirty-five;
- (4) Those who are naturalized in accordance with law.

SECTION 2. Citizens of the Philippines who marry aliens shall retain their citizenship, unless by their act or omission they are deemed, under the law, to have renounced their citizenship.

SECTION 3. Philippine citizenship may be lost or reacquired in the manner provided by law.

SECTION 4. Natural-born citizens are those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship; Provided, That those who elect Philippine citizenship in accordance with Section 1, Paragraph 3 above shall also be deemed natural-born citizens.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: May I now request that Commissioner Bernas be recognized to sponsor the committee report, which will thereafter be subject to interpellations.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bernas is recognized to sponsor Committee Report No. 4.

SPONSORSHIP SPEECH
OF COMMISSIONER BERNAS

FR. BERNAS: The honorable Members of the Commission:

Let me say that the greater part of my sponsorship has already been done. So, I would like to refer to my previous remarks as part of my sponsorship. What I would like to do today is just to touch on matters which I had not touched on yet in my past appearances. I did not touch on Section 2 and I did not touch on Section 3. Section 2 is simply a slight modification of the 1973 provision and the modification simply consists in desexing the provision.

The 1973 provision states that a female citizen of the Philippines who marries an alien shall retain her Philippine citizenship unless by act or omission, as defined and determined by law, she is deemed to have renounced her Philippine citizenship.

In our report, we have omitted any mention of sex, and we just say:

Citizens of the Philippines who marry aliens shall retain their citizenship unless by their act or omission, they are deemed under the law to have renounced their citizenship.

With respect to Section 3f there is no change made from the 1935 and 1973 provisions.

With respect to Section 4, the difference is in the number of the nouns and, therefore, also of the corresponding verbs. In the 1973 provision, a natural-born citizen is one who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship.

In our proposal, natural-born citizens are those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship. We have also added a proviso which I already explained in my previous appearance. With these remarks, I am ready to answer whatever questions may be raised.

MR. AZCUNA: Mr. Presiding Officer.

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

MR. AZCUNA: Will the sponsor yield to a few clarificatory questions?

THE PRESIDING OFFICER (Mr. Maambong): He may yield, if he so desires.

FR. BERNAS: Willingly, yes.

MR. AZCUNA: With respect to the proviso in Section 4, would this refer only to those who elect Philippine citizenship after the effectivity of the 1973 Constitution or ,would it also cover those who elected it under the 1935 Constitution?

FR. BERNAS: It would apply to anybody who elected Philippine citizenship by virtue of the provision of the 1935 Constitution, whether the election was done before or after January 17, 1973.

MR. AZCUNA: Thank you.

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: Will the sponsor yield to a question with respect to the change in Section 2?

THE PRESIDING OFFICER (Mr. Maambong): The distinguished sponsor may yield, if he so desires.

FR. BERNAS. Yes, Mr. Presiding Officer.

MR. REGALADO: The provisions of the 1973 Constitution under consideration were specifically with respect to a Philippine female citizen who married an alien, and as a consequence, lost her Philippine citizenship, subject to the conditions therein.

FR. BERNAS: Yes.

MR. REGALADO: Whereas, under the proposed amendment to Section 2, however, there is no distinction between male or female citizens of the Philippines who marry aliens. What would be the situation or contingency envisioned here then since said Section 2 under the 1973 Constitution was with respect to a female citizen marrying an alien?

FR. BERNAS: Yes. This provision was placed here to cover any possibility that there might be a country by whose laws anybody who marries its citizen acquires that country's citizenship. I am not aware of any country which has that law, but, just in case . . . this is also to protect the males.

MR. REGALADO: Thank you.

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

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

I was reading the Gentleman's proposal on citizenship. May I call his attention to paragraph 1. I noticed he employed the term "ratification" rather than the term "adoption" as used in both the 1935 and the 1973 Constitutions. Is there any substantial difference between "ratification" and "adoption"?

FR. BERNAS: Yes. The same question was asked the first time I stood up on this topic and my answer was that the Constitution, at any rate, is adopted upon ratification, so there is no change in meaning. But I would not be willing to die for the word "ratification" if the Gentleman insists on changing it.

MR. SUAREZ: So, would the Gentleman not feel more comfortable if none of us would die for one point just for the sake of changing? Going back to the word employed under the 1973 Constitution . . .

FR. BERNAS: For me it could be either way.

MR. SUAREZ: Thank you.

FR. BERNAS: Either way, but since the Committee left it this way, I would not tamper with it now, but we can change it later, if necessary.

MR. SUAREZ: Thank you.

I will go back to my question regarding the implications of paragraph 3, Section I on those who elect Philippine citizenship pursuant to the provisions of the 1935 Constitution. This would specifically refer to those whose mothers are citizens of the Philippines, and upon reaching the age of majority, elect Philippine citizenship. Is my understanding correct?

FR. BERNAS: Yes.

MR. SUAREZ: Would the Gentleman limit the applicability of this paragraph 3 to those born before the adoption of the 1973 Constitution?

FR. BERNAS: Yes.

MR. SUAREZ: Would not the Gentleman extend the operation of this provision to those born after 1973?

FR. BERNAS: No, I would not because as I said, those born after the ratification of the 1973 Constitution could come under paragraph 2.

MR. SUAREZ: I notice that in the case of paragraph 4 of Section I, Article IV on Citizenship under the 1935 Constitution, there is no such circumscribing period.

FR. BERNAS: I am not sure I get the question.

MR. SUAREZ: The provision is very simple and it says:

Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.

There is no specific period stating that this ought to be applicable only to those born before the adoption of the 1935 Constitution in the same manner that paragraph 3 Section 1 of Article III on Citizenship under the 1973 Constitution does not contain that period limitation.

FR. BERNAS: The period is necessarily implied. If I understand the Gentleman's question right, the situation, as I see it, is something like this: Under the 1935 Constitution, if the mother is a Filipino and the father is an alien, the child is not born a Filipino. But upon reaching the age of majority, the child may elect Philippine citizenship.

MR. SUAREZ: That is right.

FR. BERNAS: Those born under the 1973 Constitution, whose mother is a Filipino, even if the father is an alien, the child is a Filipino at birth and, therefore, does not have to elect Philippine citizenship. It is for that reason that I say paragraph 3 has applicability only to those who were born prior to January 17, 1973 because they are the only ones who would need to elect.

MR. SUAREZ: Under the theory that those born after 1973 would fall under the category specified in paragraph 2.

FR. BERNAS: Yes.

MR. SUAREZ: That is to say, those whose fathers or mothers are citizens of the Philippines.

FR. BERNAS: Yes.

MR. SUAREZ: If that is the intention of the Committee, should it not be clearly stated in the proposed paragraph 2 that this should apply only to those born before 1973?

FR. BERNAS: I do not follow.

MR. SUAREZ: Excuse me. The Gentleman is saying that under paragraph 3, those who elect Philippine citizenship pursuant to the provisions of the 1935 Constitution ought to be limited only to those born prior to 1973.

FR. BERNAS: Yes. It was only prior to 1973 that the 1935 Constitution was in effect.

MR. SUAREZ: So, what I am suggesting is: Should we not spell that out in black and white to reflect the thinking of the Committee members so there will be no further doubt as to the restrictive application of paragraph 3, Section 1?

FR. BERNAS: I do not have any doubt but if the body insists on the need for further clarification, I certainly would entertain that.

MR. SUAREZ: The next question has something to do with Section 2 because this was a derivation or partial derivation from Section 2 of the 1973 Constitution which specified categorically that it is applicable only to female citizens.

FR. BERNAS: Yes.

MR. SUAREZ: Is the Gentleman aware of any instance where a male citizen of any foreign country who marries a Filipino loses his citizenship?

FR. BERNAS: I am not aware of any now. We put it in as a cautionary clause to protect the males, as I said .

MR. SUAREZ: Thank you.

MR. NOLLEDO: Mr. Presiding Officer.

MR. NOLLEDO: I will yield to them.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Guingona?

MR. GUINGONA: I will yield.

MR. RODRIGO: I will yield.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Nollado is recognized because the other Commissioners who made reservations to interpellate have yielded the floor.

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

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

MR. NOLLEDO: Thank you.

Will Commissioner Bernas yield to interpellations?

FR. BERNAS: Certainly.

THE PRESIDING OFFICER (Mr. Maambong): The sponsor may yield, if he so desires.

MR. NOLLEDO: Commissioner Bernas, under Section 2 it is stated:

A female citizen of the Philippines who marries an alien shall retain her Philippine citizenship, unless by her act or omission as defined and determined by law, she is deemed to have renounced her Philippine citizenship.

I think the Gentleman will agree with me that this is a new provision which supersedes the previous rule as far as the 1973 Constitution is concerned — that a Filipino woman who marries an alien followed the citizenship of the latter, if by the law of her husband she acquired by marriage his citizenship. That was the old rule in marriage citizenship.

FR. BERNAS: That was the old rule until January 17, 1973.

MR. NOLLEDO: Then the present rule which the Gentleman has adopted is that a Filipina who marries an alien remains a Filipina irrespective of what the law of the husband's country provides.

FR. BERNAS: Yes, that was adopted by the 1973 Constitution.

MR. NOLLEDO: And this is consistent?

MR. NOLLEDO: Yes. This is also consistent with the provision of paragraph 2, Section 1 that children born of Filipino mothers are citizens of the Philippines, an adherence to the jus sanguinis rule and one of the egalitarian principles now enshrined in the Freedom Constitution.

FR. BERNAS: Yes. It is an adherence to jus sanguinis.

MR. NOLLEDO: The law and the Committee's recommendation state that — and I read only a portion of Section 2 — unless by her act or omission she is deemed, under the law, to have renounced her citizenship, with special emphasis on the words "under the law. "

FR. BERNAS: Yes.

MR. NOLLEDO: In other words, is it correct to say that the expression, "unless by her act or omission she is deemed . . ." is not self-executing; meaning, there must be an implementing statute? Am I correct?

FR. BERNAS: If her citizenship is questioned in any proceeding, then the implicit or explicit renunciation can be cited. In other words, this does not automatically take place but it is a question of fact whether in truth she did make a renunciation.

MR. NOLLEDO: Commissioner Bernas, since the 1973 Constitution was adopted, I am not aware of any implementing statute or any law that implements Section 2.

FR. BERNAS: I am not aware of anything explicit, but I think it has been understood that if a person performs a pledge of allegiance to another country, that is implicit renunciation of her citizenship here.

MR. NOLLEDO: Therefore, there is no need of any law before we may apply Section 2.

FR. BERNAS: There is no need.

MR. NOLLEDO: Thank you very much.

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

MR. RODRIGO: Under Section 2, if a Filipino citizen marries an alien, he or she retains Philippine citizenship. If, according to the law of the husband, the wife automatically becomes a citizen of the country of the husband, we will have a case of dual citizenship.

FR. BERNAS: Yes.

MR. RODRIGO: And we will allow this as long as the Filipino or the Filipina does not commit any act or Omission which would make her lose his or her citizenship.

FR. BERNAS: Yes, or unless our naturalization law prescribes that at a certain point the Filipino who has dual citizenship must make an election.

MR. RODRIGO: Then I come back to that question of mine. The age of majority in making an election is, as the Gentleman said, 21 years.

FR. BERNAS: Yes. This was taken from the 1935 Constitution; and under that Constitution the age of majority for this purpose was 21 years.

MR. RODRIGO: The Gentleman said that according to jurisprudence this must be exercised within three years . . .

FR. BERNAS: Within a reasonable time upon reaching the age of majority.

MR. RODRIGO: The Gentleman mentioned three years.

FR. BERNAS: I am aware of one occasion where a person under this situation was allowed to make an election three years after he reached the age of majority. And the condition was this: He was a person who all the time believed that he was a citizen of the Philippines and because of that even served in the Armed Forces. In recognition of this, the Supreme Court ruled that three years was not unreasonable.

MR. RODRIGO: Let us say that somebody was born before 1973, so he is covered by the provision that he must elect Philippine citizenship upon reaching the age of 21.

FR. BERNAS: Born under the 1935 Constitution.

MR. RODRIGO: Yes under the 1935 Constitution. Let us say that this man has not elected Philippine citizenship but all of a sudden he wants to be a candidate for Congress. The law says he must be at least 25 years of age. So, six months before reaching the age of 25 he decides to elect Philippine citizenship; that is, three-and-a-half years after he reached the age of majority. Would he still be allowed to elect Philippine citizenship?

FR. BERNAS: It would depend on the circumstances; it would depend on the reasons why he did not make the election earlier. If all along he knew that he had to make an election and he did not, then three years would be considered unreasonable. As I said, in the case which I cited, the Supreme Court considered three years reasonable because the person thought he did not have to elect and, second, the person thought he was a Filipino all along and under that belief he served in the Armed Forces.

As with everything in law, the word "reasonable" is something that is rather flexible. We have to examine the factual circumstances of every case to determine whether indeed in this particular case three years would be reasonable or unreasonable. In some instances, one year may be reasonable or already unreasonable, depending on the circumstances.

MR. RODRIGO: But this provision becomes very, very important because his election of Philippine citizenship makes him not only a Filipino citizen but a natural-born Filipino citizen, entitling him to run for Congress, to be a Justice of the Supreme Court . . .

FR. BERNAS: Correct. We are quite aware of that, and for that reason we will leave to the body whether to approve that proviso on Section 4.

MR. RODRIGO: I think there is a good basis for the proviso, because it strikes me as unfair that the Filipino who

was born a day before January 17, 1973 cannot be a Filipino citizen or a natural-born Filipino citizen, while another one born the day after is a natural-born citizen.

FR. BERNAS: It could only be an hour later.

MR. RODRIGO: An hour later, yes. For example, One born at 11:30 p.m. of the previous day, and another at 12:10 a.m. of the succeeding day.

FR. BERNAS: Yes.

MR. RODRIGO: But the thing is, since they are given the rights of natural-born citizens, does the Gentleman not think we should be more specific on when, within what time, they should elect Philippine citizenship?

FR. BERNAS: I am sure the Committee will entertain concrete proposals along that line.

MR. RODRIGO: Thank you very much.

THE PRESIDING OFFICER (Mr. Maambong): The Vice-President, Commissioner Padilla, is recognized.

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

I notice that we are referring to Proposed Resolution No. 7, as modified by Committee Report No. 4.

FR. BERNAS: Yes.

MR. PADILLA: It is quite difficult to be going from one page to another. For example, the resolution says: "Delete Section 2," and the report says, "Insert this section. "

For immediate reference, why can we not place these different sections under "Citizenship" on a more or less final form, as recommended by the Committee? The insertion recommended by the Committee should be incorporated in capital letters and the old provision that is intended to be deleted may be enclosed in parentheses. That was a practice in the Senate and in the Congress. That would make it easier, I think, for all the Members of this Commission.

FR. BERNAS: I recognize that it could have been done better that way, but I think the provision is sufficiently short so that it is possible to make references.

MR. PADILLA: In Commonwealth Act No. 63 — How Citizenship May be Lost — Section I provides for seven causes, and the last one, before subsequent amendments, reads:

In the case of a woman, upon her marriage to a foreigner if, by virtue of the law in force in her husband's country, she acquires his nationality.

So, a Filipino citizen who marries a foreigner whose country's law provides that she acquire her husband's nationality, loses her Filipino citizenship and acquires the citizenship of her husband.

FR. BERNAS: That was the law prior to January 17, 1973.

MR. PADILLA: Yes, Commonwealth Act No. 63 is an old law. The same CA No. 63 provides for reacquisition of Philippine citizenship — it may be lost or reacquired in the manner provided by law. I suppose that said law has reference to Commonwealth Act No. 63.

FR. BERNAS: Yes, but that Commonwealth Act was repealed on January 17, 1973 by Section 2.

MR. PADILLA: I will go to that later on. The proposed replacement of Section 2 reads: "CITIZENS OF THE PHILIPPINES WHO MARRY ALIENS SHALL RETAIN THEIR CITIZENSHIP, UNLESS BY THEIR ACT

OR OMISSION THEY ARE DEEMED, UNDER THE LAW, TO HAVE RENOUNCED THEIR CITIZENSHIP.
"

It again makes reference to the law. According to Commonwealth Act No. 63, one of the grounds for losing a citizenship is by express renunciation of citizenship.

FR. BERNAS: Yes.

MR. PADILLA: Of course, it also provides for other acts, like subscribing to the oath of allegiance to support a foreign government, rendering service or accepting commission from a foreign country, etc. There are seven causes, including a cancellation of certificate of naturalization or having been declared a deserter in the Philippine Armed Forces.

There is no other law that I know that mentions renunciation except this provision "by express renunciation of citizenship"? in paragraph 2, Section I of Commonwealth Act No. 63. So that when the law mentions "express renunciation" and at the same time "renounced" is mentioned "by their act of omission," they are not very clear, if not confusing. Does not the Gentleman feel that we should clarify this? We do not know exactly what law it is referring to except Commonwealth Act No. 63.

FR. BERNAS: My understanding of this provision as it has existed since 1973 is that the use of the word "renounced" in Section 2 is not qualified by the adjective "express." In other words, what this means is that the word "renounced" under Section 2 could either be "express" or "implied."

Paragraph 1 of the section cited by the Vice-President from Commonwealth Act No. 63 speaks of "express renunciation." But I think the other sections can be interpreted as "implied renunciation." And that is covered by the word "renounced" in Section 2, which is not qualified by the adjective "express."

MR. PADILLA: Why do we not make it clearer by just saying "express" or "implied" renunciation under the law?

FR. BERNAS: I would be willing to entertain such amendment at the proper time.

MR. PADILLA: Thank you, Commissioner Bernas.

The last portion of the committee report says:

. . . That those who elect Philippine citizenship in accordance with Section 1, Paragraph 3 above shall also be deemed natural-born citizens.

I agree to consider as natural-born citizens children whose fathers and mothers are citizens. But when the word "elect" in paragraph 3, Section I, is repeated in the proviso of the last section, that election is provided in Commonwealth Act No. 625. Now, as I mentioned in my remark before, it would be a little strange if we place in paragraph 3 of Section 1, the word "elect" and again repeat it in the last paragraph or last proviso of Section 4. The 1973 Constitution does not provide for election because the 1971 Constitutional Convention merged Sections 2 and 3 of the 1935 Constitution into one provision: "Those whose fathers or mothers are citizens of the Philippines."

I expressed the view before that I was subscribing to the view of Commissioner Concepcion, that probably it would be better to retain the two classifications in the 1935 Constitution. Would the Gentleman have serious or underlying objections?

FR. BERNAS: Precisely, the Committee subscribes to the change made by the 1973 Constitution that in order for a child to be a Filipino, it is not necessary that both the father and the mother be Filipino. It is enough that the mother be a Filipino. And this report reflects our subscription to the change made in 1973.

MR. PADILLA: With due respect, we feel that there is a real distinction between a child born of a Filipino father married to an alien and a child born of a Filipino mother with a foreigner husband.

FR. BERNAS: The Committee will entertain an amendment which seeks to revert to the 1935 rule.

MR. PADILLA: Thank you very much.

I was going to suggest, if I may, just for the sake of further consideration, to add the phrase AND ARE BORN IN THE PHILIPPINES immediately after the phrase "citizens of the Philippines" in paragraph 4, Section 1 of the 1935 Constitution.

FR. BERNAS: That matter can also be taken up in the period of amendments.

MR. PADILLA: Thank you very much.

FR. BERNAS: Thank you very much.

MR. CALDERON: Mr. Presiding Officer.

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

MR. CALDERON: I move that the Chair recognize Commissioner Guingona, and after Commissioner Guingona, Commissioner Ople; and with your kind indulgence, I would like to move for adjournment after Commissioner Concepcion is recognized. So, it will be Commissioners Guingona, Ople, Concepcion, after which it is my intention to make a motion for adjournment.

THE PRESIDING OFFICER (Mr. Maambong): Thank you, Mr. Assistant Floor Leader.

Commissioner Guingona is recognized.

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

I just have one question.

THE PRESIDING OFFICER (Mr. Maambong): The intention is also noted.

MR. GUINGONA: As pointed out by Commissioner Rodrigo, a citizen of the Philippines who marries an alien and who, therefore, retains his or her citizenship, may acquire the citizenship of the alien's spouse, if, according to the laws of the country of that spouse he or she acquires such citizenship. I am not aware of the consensus in the Gentleman's Committee about the matter of dual citizenship.

FR. BERNAS: The feeling of the Committee, if I may attempt to reflect it, is that the question of dual citizenship can be dealt with in ordinary legislation.

MR. GUINGONA: I see. I felt that perhaps even in the Constitution itself, there could be some attempts to discourage dual citizenship. My question is: Has the Committee considered the possibility of requiring this Filipino citizen who has now a dual citizenship on account of marriage to renounce the citizenship of the spouse within a specified period?

FR. BERNAS: We did not because we feel that is better left to ordinary legislation.

MR. CALDERON: Mr. Presiding Officer, I request that Commissioner Ople be given the floor.

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

MR. OPLE: Mr. Presiding Officer, will the sponsor yield to a few questions?

THE PRESIDING OFFICER (Mr. Maambong): He may yield, if he so desires.

MR. OPLE: Thank you very much.

I find myself in a position of having to echo my distinguished predecessor on the floor concerning a matter that preoccupied this Commission during the freewheeling debate on citizenship. A significant number of Commissioners expressed their concern about dual citizenship in the sense that it implies a double allegiance under a double sovereignty which some of us who spoke then in a freewheeling debate thought would be repugnant to the sovereignty which pervades the Constitution and to citizenship itself which implies a uniqueness and which elsewhere in the Constitution is defined in terms of rights and obligations exclusive to that citizenship including, of course, the obligation to rise to the defense of the State when it is threatened, and back of this, Commissioner Bernas, is, of course, the concern for national security. In the course of those debates, I think some noted the fact that as a result of the wave of naturalizations since the decision to establish diplomatic relations with the People's Republic of China was made in 1975, a good number of these naturalized Filipinos still routinely go to Taipei every October 10; and it is asserted that some of them do renew their oath of allegiance to a foreign government maybe just to enter into the spirit of the occasion when the anniversary of the Sun Yat-Sen Republic is commemorated. And so, I have detected a genuine and deep concern about double citizenship, with its attendant risk of double allegiance which is repugnant to our sovereignty and national security. I appreciate what the Committee said that this could be left to the determination of a future legislature. But considering the scale of the problem, the real impact on the security of this country, arising from, let us say, potentially great numbers of double citizens professing double allegiance, will the Committee entertain a proposed amendment at the proper time that will prohibit, in effect, or regulate double citizenship?

FR. BERNAS: While the Committee prefers to leave this matter to ordinary legislation, should the body prefer to settle the question on dual citizenship in the Constitution itself, I am, sure the Committee will not be unduly dismayed by that.

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

MR. CALDERON: Mr. Presiding Officer.

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

MR. CALDERON: I move that Commissioner Concepcion be recognized.

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

MR. CONCEPCION: Commissioner Bernas, has the Committee, in adopting its report, considered the question of whether or not the Constitutional Commission is likely to adopt the nationalistic spirit of the 1935 and 1973 Constitutions in connection with the conservation and utilization of our natural resources and the operation of public utilities? On the surface, there might seem to be no connection between citizenship and the conservation of natural resources and the operation of public utilities. However, the delegates to the Constitutional Convention of 1935 felt that aliens have consistently expanded their influence over our finances. Many of these aliens were old residents of the Philippines but they did not feel inclined to apply for naturalization.

It is significant that among those who favor reversion to the policy of the 1935 Constitution are two Commissioners in this Assembly, Commissioner Padilla, as former Solicitor General and myself, who as former members of the Bureau of Justice, have handled hundreds of naturalization cases. Beyond doubt, the only motive of the applicants for naturalization is the opportunity to participate in the utilization of our natural resources and the operation of public utilities.

I repeat, my question boils down to whether the sponsoring Committee has considered the probability that the Constitutional Commission might maintain that policy of protection of our natural resources and the operation of public utilities.

FR. BERNAS: The Committee did not explicitly discuss this. It may be true that, in fact, there were aliens who acquired citizenship simply for purposes of exploitation of the natural resources, but as pointed out the other day, perhaps at this stage, as far as they are concerned, it would be trying to close the barn after the horses have left. At any rate, the Constitution does have a provision which says that "Philippine citizenship may be lost or reacquired in the manner provided by law." And the Constitution also authorizes the legislature to pass naturalization laws. A lot of these problems, I think, can be dealt with in ordinary legislation.

MR. CONCEPCION: But would the Gentleman consider that the liberalization of naturalization proceedings would affect considerably the efficacy of the constitutional policy on conservation and utilization of natural resources and the operation of public utilities?

FR. BERNAS: Definitely, liberalization of the naturalization law would have that effect but there is nothing in this proposal which liberalizes the naturalization law. It leaves the matter of naturalization law to the legislature.

MR. CONCEPCION: I spoke of liberalization because the point of reference of the Committee seems to be the 1973 Constitution. But the 1973 Constitution liberalized naturalization in contrast to the provisions of the 1935 Constitution.

FR. BERNAS: I would disagree that the 1973 Constitution liberalized the naturalization law. The 1973 Constitution did not touch the naturalization law except on that point of the woman who loses her citizenship upon marriage to an alien. There is nothing here which liberalizes the naturalization law.

MR. CONCEPCION: But that is not the point. Many Chinese retailers, for instance, have married Filipinas apparently to avoid the limitations to the operation of retail stores. And there is a most glaring example; the thousands of naturalization cases when the Philippines was going to withdraw its recognition of the government of Taiwan and extend recognition to the People's Republic of China.

Thank you.

FR. BERNAS: I quite agree, but again, if there was liberalization there, it was not effected by the Constitution.

MR. CONCEPCION: But just the same, liberalization effects the conservation of natural resources.

FR. BERNAS: I have no disagreement with that. The only thing I am disagreeing with is that the liberalization was affected by the Constitution. It was not. It was affected by the liberal policies of Marcos in the naturalization law but not by the Constitution.

MR. CONCEPCION: I beg the Gentleman's attention to the fact that the 1973 Constitution was made by Marcos. Even in 1971, it had been said that there was a strong lobby for the liberalization of the provisions of the Constitution relative to citizenship. I would suggest consideration of the fact that there is a great likelihood that the Commission may wish to adopt the policy, the restrictive policy, in the exploitation and utilization of natural resources as well as in the operation of public utilities.

The effect of the different constitutions, particularly the 1973 Constitution, is to allow more people to become or to claim Philippine citizenship without filing applications for naturalization. Even the procedure for the acquisition of citizenship by naturalization had been amplified, I mean, liberalized. I would suggest the importance of our constitution stating something to indicate our policy on the matter of citizenship and that we now adopt a more restrictive policy. It is bad enough that our old policy thereon had adverse effects. It would be

worse to continue adhering to that policy.

On paper we may have appeared to be nationalistic. In actual practice, however, we really are not. The assembly may have had the excuse that the Constitution had imposed no explicit restrictions, so we should leave no doubts that hereafter we are opposed to any form of liberalization. Of course the members of the assembly know the reason better than I do, but on that basis, I would suggest consideration of the effect of the proposal of the Committee upon the provisions on the enjoyment of our natural resources and the operation of public utilities. We should maintain the present safeguards regarding said resources and public utilities. Moreover, we must control the immigration of foreigners, considering our big population, which admittedly demands control.

Those who advocate the proposed constitutional amendment argue that the same has no adverse effects upon us. The fact is that those who were naturalized by election, upon reaching the age of majority, shall be considered as natural-born citizens. This is one form of liberalization of the pertinent provision. If we adopt the amendments proposed by the Committee, a child born an alien can eventually become President of the Philippines or Speaker of the House of Representatives, or Chief Justice of the Supreme Court. I think that each Member of the Commission should consult his conscience on this point.

From the viewpoint of law, logic and experience, when a Filipina marries a foreigner, she expresses her willingness to be of one flesh with the foreigner for life. Why should we then assume that she married the foreigner without the intention of following his citizenship? I am more inclined to assume that she is willing to follow the citizenship of her husband. Instead of requiring her to declare that she does not wish to remain a Filipino, she should, perhaps, be required to state, at the time of the wedding, that she prefers to retain her Filipino citizenship.

Although the honorable Commissioner has already expressed his views on the matter of the citizenship of a child born of a Filipino mother and an alien father, my thinking, from the viewpoint of logic and experience, is that the child generally looks up to the father, particularly during infancy. In short, the assumption should be that, if the child could express his choice, he would prefer to follow the citizenship of the father, although upon reaching the age of majority, he may elect to follow the citizenship of the Filipino mother.

Thank you, Father Bernas, for your patience.

SUSPENSION OF CONSIDERATION
OF PROPOSED RESOLUTION NO. 7
(Article on Citizenship)

MR. CALDERON: Mr. Presiding Officer, I move that we continue the sponsorship and debate on Proposed Resolution No. 7 tomorrow afternoon.

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

ADJOURNMENT OF SESSION

MR. CALDERON: I move that we adjourn the session until tomorrow at five o'clock in the afternoon.

THE PRESIDING OFFICER (Mr. Maambong): The session is adjourned until tomorrow at five o'clock in the afternoon.

It was 7:22 p. m.

[*] Appeared after the Roll Call.

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