

R.C.C. NO. 97

VOL. V, October 01, 1986

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1d90ef01d3f0/>

Wednesday, October 1, 1986

OPENING OF SESSION

At 10:08 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 Hilario G. Davide, Jr.

Everybody remained standing for the Prayer.

PRAYER

MR. DAVIDE: Dear Lord, this is the third time in plenary session that I have been given the mission to pray for all of us and the Commission.

I am sure this will be my last, for before October 15 we will be through with our task in formulating the fundamental Charter which shall guide the destiny of a country so dear to You. This then will be my opportune time to thank You for all things sublime which You in Your limitless goodness gifted 47 minds of varied approaches.

We thank You for Your patience in staying with us even beyond our original timetable;

For the constancy of Your divine inspiration without which we would have weakened or faltered;

For Your divine light without which we would have walked in the dark;

For Your divine strength without which we would have cowed in fear, yielded to pressures or intimidations;

For Your divine love without which we could not have kept our togetherness in the search for ideals which shall bind our people in unity and understanding;

For Your divine wisdom without which we could not have adopted proposals reflective of the aspirations and dreams of our people, and assure them justice, freedom, equality and peace.

Definitely, our work does not end by our approval of the final draft. Our people will still render judgment on it.

We pray then, Dear Lord, that just as You have been very kind to us, You shower upon our people Your divine

inspiration, light, strength, love and wisdom so that they will overwhelmingly approve, love, treasure and cherish the new Constitution.

This we ask through Your Son, Jesus Christ our Lord, Who lives and reigns forever. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar

Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*

Alonto Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*

Aquino Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*

Azcuna Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*

Bacani Present Padilla Present

Bengzon Present Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present

Calderon Absent Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Absent

Davide Present Sarmiento Present

Foz Present Suarez Present

Garcia Present Sumulong Present

Gascon Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*

Guingona Present Tan Present

Jamir Present Tingson Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*

Laurel Absent Treñas Present

Lerum Present Uka Present

Maambong Present Villacorta Present

Monsod

Present

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

The President is present.

The roll call shows 35 Members responded to the call.

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

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 yesterday's session.

THE PRESIDENT: Is there any objection that we dispense with the reading of the Journal of yesterday's session? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

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

THE PRESIDENT: Is there any objection that we approve the Journal of yesterday's 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 Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from one Sol Rombuena, President, Parish Council, Immaculate Conception Cathedral Parish, Ozamiz City, seeking inclusion in the Constitution of a provision making religion a required subject in the public and private elementary and high schools.

(Communication No. 1028 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Ms. Arabella Alano of Maryknoll College Foundation, Inc., Katipunan Road, Loyola Heights, Quezon City, expressing doubts why until now the U.S. military bases in the Philippines have not been dismantled.

(Communication No. 1029 — Constitutional Commission of 1986)

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

Communication from one W. Lorenzo of 1763 Dumas St., Makati, Metro Manila, expressing opinion on the country's reported negative economic growth rate saying that "we are poor because . . . too much of our money and the jobs and industries it could have created were stolen from us."

(Communication No. 1030 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 531

(Article on General Provisions)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we resume consideration of Proposed Resolution No. 531 on the Article on General Provisions.

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

The honorable chairman and members of the Committee on General Provisions are requested to occupy the front table.

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

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Madam President, upon consultation with my co-sponsors, Commissioners Rigos, Aquino and Rosario Braid, we are withdrawing our proposed amendment to Section 13 on the understanding that the absence of a provision on population welfare and responsible parenthood will not prevent the government from proceeding with these programs, and further on the understanding that Section 3 (d) of the section on family rights would allow prospective parents, through their participation in planning and implementation of policies and programs that affect them, to acquaint themselves with their choices in this regard and thus arrive at an informed conscience.

Thank you, Madam President.

THE PRESIDENT: Thank you.

Let it be noted that said proposed amendment has been withdrawn.

MR. RAMA: Madam President, there is a last section in the Article on General Provisions.

THE PRESIDENT: We are still on the Armed Forces of the Philippines.

MR. RAMA: This is on the police force. There are no registered speakers on this particular section.

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Will it still be in order to ask a few questions of Commissioner Natividad before I introduce an intended amendment?

MR. NATIVIDAD: Gladly, Madam President.

MR. DE LOS REYES: As conceptualized, Section 22 means that the police force will be separated from the

Philippine Constabulary. Is that correct?

MR. NATIVIDAD: Yes, Madam President, because the Philippine Constabulary has a dual character. It is both the national police under a commonwealth act and a military force, being a major command of the armed forces.

Here in our draft Constitution, we have already made a constitutional postulate that the military cannot occupy any civil service position in Section 6 of the Article on the Civil Service. Therefore, in keeping with this and because of the universal acceptance that a police force is a civilian function, a public service, and should not be performed by military force, one of the basic reforms we are presenting here is that it should be separated from the military force which is the PC.

MR. DE LOS REYES: Will this mean that we will have two police forces then — the PC on one hand and the police force which we see in municipalities on the other?

MR. NATIVIDAD: No, Madam President. The provision says: "The State shall establish and maintain one police force." This country cannot afford two national police forces. It says that the police force is civilian in nature and national in scope and, therefore, what is envisioned is what was originally planned under the 1973 Constitution, Article XV, Section 12, which reads:

The State shall establish and maintain an integrated national police force whose organization, administration, and operation shall be provided for by law.

This was never accomplished in the past regime.

MR. DE LOS REYES: So, the PC will be absorbed by this national police force?

MR. NATIVIDAD: Yes. The concept is that there will be a civilian Philippine National Police, and the members of the constabulary will be given enough time, say, six months or one year. It is the intendment of the provision that the members of the PC either choose to join the civilian police force which is the PNP, or they can return to the ground force as part of the major military command of the armed forces. But we will have only one civilian professional police force for our country.

MR. DE LOS REYES: So, the Commissioner will recommend such a provision in the Transitory Provisions?

MR. NATIVIDAD: No. That should be provided by law already.

MR. DE LOS REYES: Provided by law.

MR. NATIVIDAD: Yes, that there should be only one police force, national in scope and civilian in nature.

MR. DE LOS REYES: What about the provincial guards? Are they included within this concept?

MR. NATIVIDAD: The provincial guards traditionally, even under the Integration Act of P.D. No. 765, are under the governor, as the keepers of the provincial jail. They are no part of the police; they have no police power. What are included in the term "Integrated National Police" are the local police forces, meaning, the town and city police forces, the jail personnel, and the fire services. The provincial guards of the governor, meaning, those who keep the provincial jail, are not included in the police forces of this country. They have no police powers.

MR. DE LOS REYES: In Section 22, it is stated that the national police shall be administered and controlled by a National Police Commission and, at the same time, local executives will be granted a certain amount of authority over the police units in their jurisdiction, as shall be provided by law. Will the Gentleman please explain to us how this will be operationalized?

MR. NATIVIDAD: By experience, it is not advisable to provide either in our Constitution or by law full control

of the police by the local chief executive and local executives, the mayors. By our experience, this has spawned warlordism, bossism and sanctuaries for vices and abuses. If the national government does not have a mechanism to supervise these 1,500 legally, technically separate police forces, plus 61 city police forces, fragmented police system, we will have a lot of difficulty in presenting a modern professional police force. So that a certain amount of supervision and control will have to be exercised by the national government.

For example, if a local government, a town, cannot handle its peace and order problems or police problems, such as riots, conflagration or organized crime, the national government may come in, especially if requested by the local executives. Under that situation, if they come in under such an extraordinary situation, they will be in control. But if the day-to-day business of police investigation of crime, crime prevention activities, traffic control is all lodged in the mayors, and if they are in complete operational control of the day-to-day business of police service, what the national government would control would be the administrative aspect. For example, the standardization of pay cannot be left to the mayors obviously because they cannot maintain adequate pay. The national government has to contribute as, in fact, it contributes now to the tune of almost P2 billion a year. And there must be standard pay, equal work for equal pay. The rural police must have a standard pay; the urban police forces must have standard pay. They must have standard weapons, standard equipage and standard training.

Today the national government maintains 13 academies and one Philippine National Police Academy which is a cadet system equal to that of the Philippine Military Academy, issuing at the end of a four-year training a bachelor's degree in public safety. This obviously cannot be supported by the local governments. In these areas the national government will be in control. In the day-to-day business of police service, the local mayors will be in control.

MR. DE LOS REYES: So the operational control on a day-to-day basis, meaning, the usual duties being performed by the ordinary policemen, will be under the supervision of the local executives?

MR. NATIVIDAD: Yes, Madam President.

MR. DE LOS REYES: But in exceptional cases, even the operational control can be taken over by the National Police Commission?

MR. NATIVIDAD: If the situation is beyond the capacity of the local governments.

MR. DE LOS REYES: What about the pay of the police? Will the local government take over the payment of the salaries of the local police? How will it be operationalized?

MR. NATIVIDAD: The pay is standardized by provision of law — how much will be paid to the rural police, how much will be paid to the urban police — and the appropriation, therefore, is provided by the national government, plus the contribution of the local governments. This is how the Integrated National Police is paid.

MR. DE LOS REYES: So the local government contributes so that there will be, more or less, uniform standardization of salaries.

MR. NATIVIDAD: Yes. In the history of our police force, there was a time when they were completely fragmented and there was no control by the national government. Police forces of small towns in the North, like Abra, are paid P20 a month and the chief of police, P60 a month, which was way below the minimum wage. So that the only way to give them a living wage is for the enactment of a law where they will be included in the appropriations act of the government. It is an important step because we should professionalize the police forces which are the first line of defense against crime.

While the committee would not like these police forces to be under the military, however, we want it to be

professionalized. The work of law enforcement or the knowledge about this is being taught in 42 colleges in our country, giving a bachelor's degree in police science or in criminology. This is a recognized profession in our country. There is a law creating a board of criminology in our country, and criminology or law enforcement is one of the 36 professions recognized in our country. This is why the committee would like to see it developed fully as a profession with all these human resources ready to implement a civilian police force for our country.

MR. DE LOS REYES: At present, are the police forces under the PC?

MR. NATIVIDAD: Yes, they are operationally controlled. The day-to-day business is controlled by the PC.

MR. DE LOS REYES: So, under Section 22, that will no longer be true?

MR. NATIVIDAD: Yes, the civilian police cannot blossom into full profession because most of the key positions are being occupied by the military. So, it is up to this Commission to remove the police from such a situation so that it can develop into a truly professional, civilian police. And that situation is difficult for the country because if there are human rights violations committed by the military, there is very little satisfaction that can be imbibed by our people because if the PC is accused of human rights violations, the police would be of very little help because they are under the PC. So, how can one expect them to conduct a full investigation when they themselves are sometimes victims of human rights violations?

THE PRESIDENT: Does Commissioner de los Reyes have other questions?

MR. DE LOS REYES: One last question, Madam President.

THE PRESIDENT: Commissioner Natividad, please try to be as brief as possible.

MR. NATIVIDAD: Yes, Madam President. I am just carried by my sincerity in the validity of these provisions.

MR. DE LOS REYES: I would like to support this provision with the answers of the Commissioner, but I would just like to clarify one point. In the second sentence of Section 22, it is stated that the authority of local executives over the police units in their jurisdiction shall be provided by law. Is there an existing law already to that effect? Or does this contemplate a future law?

MR. NATIVIDAD: No, there is already Executive Order 1012, as amended by Executive Order 1027.

MR. DE LOS REYES: Which in substance states what?

MR. NATIVIDAD: Which in substance states that they have the power of operational supervision and direction over their police forces on a day-to-day business. We are changing our concept in the committee; we are changing the word "direction" to "CONTROL." In other words, that would give more emphasis to the meaning of day-to-day business in police work.

MR. DE LOS REYES: Thank you, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: Commissioner Rama is recognized.

MR. RAMA: Will Commissioner Natividad yield to one or two questions?

MR. NATIVIDAD: Gladly, Madam President.

MR. RAMA: The Gentleman said that there are already existing laws defining the powers of the police force or the PC now or whatever and the local government.

MR. NATIVIDAD: Yes, Madam President.

MR. RAMA: Is the Gentleman satisfied with these laws?

MR. NATIVIDAD: No, Madam President. Let me explain. The basic tenet of a modern police organization is to remove it from the military.

MR. RAMA: Does the Commissioner anticipate a big problem here, a controversy, as to jurisdiction or powers of the police or as between the commission and the local authority?

MR. NATIVIDAD: No, I do not see anything that cannot be settled by legislation.

MR. RAMA: So the Gentleman does not think of just giving a guideline in the Constitution as to the separation of powers between the two?

MR. NATIVIDAD: Right now, we are including in the record our concept and I might be faulted for making lengthy explanations, but there is a paucity of explanations on this matter in our Commission. Therefore, I am giving a lengthy explanation in order to serve as guideline to the future legislative institution to indicate the intendment of this provision.

MR. RAMA: Madam President, may I ask the committee or Commissioner Natividad to restate or to read again the provision for voting purposes.

MR. NATIVIDAD: The provision, as being discussed now, is Section 22, which reads:

The State shall establish and maintain one police force which shall be national in scope and civilian in character to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Before we take a vote, I might just as well indicate for the record that this formulation carries the approval of Brigadier General Renato de Villa, the Chief of the Philippine Constabulary, who sent a communication to the committee. This provision had also been fully discussed by the following: The representative of the Ministry of Local Government, Deputy Minister Hjalmar Quintana, General Ahorro of the PC-INP; Colonels Aguirre, David and Cruz of the armed forces; Cicero Ocampo, chairman of the National Police Commission, and Commissioners Mateo and Go of the commission.

Finally, I would also like to indicate that the contributors from the Constitutional Commission in the formulation of this section are the following: Resolution Nos. 174 and 243, Honorable Natividad, de los Reyes, Maambong and Ople; Resolution No. 142, Honorable Davide; and Resolution No. 133, Honorable Guingona.

Thank you, Madam President.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: May I just ask a question. In cases of offenses, would it be the NAPOLCOM or the local authorities that will have jurisdiction?

MR. NATIVIDAD: In cases of minor offenses, as defined by law already, there is an exclusive jurisdiction of the mayors. They can impose up to 30 days suspension without pay. Beyond that, it is the National Police

Commission, the national organization. As to what are the definitions of a minor offense and a grave offense insofar as the police is concerned is provided in Executive Order 1012.

MR. GUINGONA: And that is what we are adopting?

MR. NATIVIDAD: Yes, we are adopting that definition of what is a minor offense and a grave offense.

MR. GUINGONA: Thank you very much.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

This provision will professionalize our police service. There will be two units carrying arms that are now divided. The two armed units are the armed forces and the police. As of now, the armed forces and the police are joined together and anybody, one strong enough in the armed forces or in the police, may topple our government by the use of these two units joined together with arms. But with this provision, it will separate the police from the armed forces, and it would be quite difficult for any one man to topple our government by the use of these two units.

I would like to recall the case of Indonesia when President Sukarno was toppled by the Suharto regime. The police and the armed forces were one; it is the same now in our country. When Suharto and his colleagues were able to capture the armed forces and the police, Sukarno found himself out of bed the following morning.

Thank you, Madam President.

MR. RAMA: Madam President, the body is ready to vote.

THE PRESIDENT: I think Commissioner Padilla desires to be recognized.

MR. PADILLA: Madam President, just one question of the honorable Commissioner Natividad.

MR. NATIVIDAD: Gladly, Madam President.

MR. PADILLA: I heard the Gentleman say that there is a distinction between a minor offense and a grave offense. Under the Penal Code, Article IX, the classification is grave felonies, less grave felonies and light felonies. These are classified in accordance with the penalties that may be imposed by law, which are classified into afflictive, correctional and life.

Does the word "minor" in the Penal Code mean light offense and the term "grave" includes grave felonies and less grave felonies?

MR. NATIVIDAD: No, Madam President, we are speaking here of administrative cases. This has nothing to do with criminal offenses. These are in Section 16 of Executive Order 1012, which is an enumeration of the administrative cases.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Just a few questions.

The President of the Philippines is the Commander-in-Chief of all the armed forces.

MR. NATIVIDAD: Yes, Madam President.

MR. RODRIGO: Since the national police is not integrated with the armed forces, I do not suppose they come under the Commander-in-Chief powers of the President of the Philippines.

MR. NATIVIDAD: They do, Madam President. By law they are under the supervision and control of the President of the Philippines.

MR. RODRIGO: Yes, but the President is not the Commander-in-Chief of the national police.

MR. NATIVIDAD: He is the President.

MR. RODRIGO: Yes, the Executive. But they do not come under that specific provision that the President is Commander-in-Chief of all the armed forces.

MR. NATIVIDAD: No, not under the Commander-in-Chief provision.

MR. RODRIGO: There are two other powers of the President. The President has control over ministries, bureaus and offices, and supervision over local governments. Under which does the police fall, under control or under supervision?

MR. NATIVIDAD: Both, Madam President.

MR. RODRIGO: Control and supervision.

MR. NATIVIDAD: Yes, in fact, the National Police Commission is under the Office of the President.

MR. RODRIGO: It is under the Office of the President.

MR. NATIVIDAD: Yes, Madam President.

MR. RODRIGO: Thank you very much.

MR. RAMA: The body is ready to vote, Madam President.

THE PRESIDENT: Will Commissioner Natividad please read once more Section 22.

MR. NATIVIDAD: Section 22 reads:

THE STATE SHALL ESTABLISH AND MAINTAIN ONE POLICE FORCE WHICH SHALL BE NATIONAL IN SCOPE AND CIVILIAN IN CHARACTER TO BE ADMINISTERED AND CONTROLLED BY A NATIONAL POLICE COMMISSION. THE AUTHORITY OF LOCAL EXECUTIVES OVER THE POLICE UNITS IN THEIR JURISDICTION SHALL BE PROVIDED BY LAW.

VOTING

THE PRESIDENT: As many as are in favor, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 36 votes in favor and none against; Section 22 is approved.

MR. NATIVIDAD: Thank you, Madam President.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Yes, the committee has mentioned that this is the first provision in the history of our

entire constitution-framing that has not been amended in any way. (Applause)

MR. RAMA: Congratulations.

Madam President, may I ask the committee chairman to read the last section under the proposed Transitory Provisions?

THE PRESIDENT: Those are lines 15 and 16.

MR. MAAMBONG: No, I will explain, Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: The last article which is supposed to be with the Transitory Provisions reads: "All armed groups and paramilitary forces now existing contrary to law shall be dismantled."

I would like to explain this a little bit.

In the committee level, the members were not unanimous on this. When this particular section was referred to the Committee on Amendments and Transitory Provisions of which I am a member, we discussed it in that committee and, with the indulgence of my chairman, Commissioner Suarez of the Committee on Transitory Provisions, I would like to read the reformulation which is now incorporated in Proposed Resolution No. 540, Committee Report No. 38 of the Committee on Amendments and Transitory Provisions. Section 9 of such report reads: "All armed groups and paramilitary forces now existing outside of the regular police and armed forces shall be dismantled."

This is now contained in the report of the Committee on Amendments and Transitory Provisions. With the indulgence of the other members of the committee, may I just suggest that we take this up when we take up the Article on Transitory Provisions.

MS. ROSARIO BRAID: Yes, we accept, Madam President. For the record, the Constitution of Egypt carries a provision in the body which states to the effect that no organization or group may establish military or paramilitary formations.

MR. RAMA: Madam President, there is just one provision which, according to Commissioner Davide, has been forgotten and which should be under the Article on General Provisions.

May I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

This is a provision which need not necessarily be the last for the Article on General Provisions but which the Style Committee may insert at any appropriate place in the General Provisions. It will read: "ALL PUBLIC OFFICERS AND EMPLOYEES SHALL TAKE AN OATH OR AFFIRMATION TO UPHOLD AND DEFEND THIS CONSTITUTION." This provision is present in the Article on General Provisions of the 1973 Constitution and this has not been reenshrined. I reviewed the Article on the Civil Service which could have been the proper place for this, but it is not also found there.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I will confirm the statement of Commissioner Davide that this provision really does not

appear in the provisions on the Civil Service Commission. However, in the Article on the Executive, we have such a provision. We also have such provision for the Armed Forces of the Philippines but we do not have this kind of provision for all other employees.

I just want to find out from Commissioner Davide if the phrase "PUBLIC OFFICERS" includes elective public officials.

MR. DAVIDE: Yes, Madam President.

MR. MAAMBONG: Personally, I have no objection to this provision but I would rather turn it over to our chairperson.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: This provision has been discussed with the proponent, and the committee accepts this.

THE PRESIDENT: Can this be included in the Article on General Provisions?

MR. DAVIDE: Yes, Madam President.

MS. ROSARIO BRAID: Yes, Madam President.

THE PRESIDENT: Will Commissioner Davide read his proposed amendment.

MR. DAVIDE: It will be a new section: "ALL PUBLIC OFFICERS AND EMPLOYEES SHALL TAKE AN OATH OR AFFIRMATION TO UPHOLD AND DEFEND THIS CONSTITUTION."

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

MR. RAMA: Madam President, subject to the reservations made, I ask that we close the period of amendments on the Article on General Provisions.

THE PRESIDENT: May we know what are those reservations? Have there been reservations?

MR. RAMA: Yes, there is a reservation by Commissioner Uka for a motion for reconsideration. I understand that is the only reservation.

THE PRESIDENT: Will the Floor Leader please check.

MR. MAAMBONG: Before that, Madam President, may I be recognized.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: It is the thinking of Commissioner Bernas that perhaps the first line of Section 17 should be transposed to the Article on the Declaration of Principles and State Policies. I wonder if Commissioner Bernas would like to explain that.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: It is really not just the first line but the first two sentences which say: "The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory." When this was being discussed, it was explained that it expresses the entire philosophy behind the armed forces and since in the Article on the Declaration of Principles and State Policies we

tried to put together those principles which expressed the philosophy that underlies this Constitution, it might be better to put this there. The fact that we placed it in the Article on the Declaration of Principles would add emphasis to what it says here.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Being the sponsor on the Armed Forces, I have no objection to the proposition of Commissioner Bernas, provided that what should be left now is Section 17 on the composition of our armed forces which I proposed.

FR. BERNAS: Yes, I would remove only the first two sentences, transfer them to the Declaration of Principles and, therefore, enhance the two sentences because of the position.

MR. DE CASTRO: I agree. Our Section 17, as formulated, will be the composition of the armed forces as approved yesterday.

MR. MAAMBONG: Madam President, my subcommittee has already finished the sequencing of the provisions of the Article on the Declaration of Principles and State Policies. I wonder if Commissioner Bernas could suggest whether I should place this particular section under Principles or under Policies. Just a recommendation so that I can be guided accordingly.

FR. BERNAS: It could probably be a basic policy, but I think the committee would be in a better position to suggest.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MR. MAAMBONG: Vice-President Padilla has suggested to our subcommittee that the maintenance of peace and order and the duty of the government to protect the people, which is also in the General Principles, should, in fact, be placed in the subject matter of General Principles. So these might go together.

FR. BERNAS: One possible suggestion I could give is that this be added to the general principle we have on civilian supremacy. This should follow the sentence: "Civilian supremacy shall at all times be maintained. The Armed Forces of the Philippines is the protector of the people . . ."

MR. MAAMBONG: Thank you.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Madam President, will Commissioner Bernas answer just a few questions.

Will he not be agreeable to the statement "Civilian authority is always supreme to the military"? That is one sentence, one section to impress.

FR. BERNAS: Yes.

MR. DE CASTRO: When we go to the transposition of the two sentences that the Commissioner said, does he not wish to have a new section for that in order to impress what our armed forces are like?

FR. BERNAS: We would have no problem, but this should immediately follow that.

MR. DE CASTRO: But of different sections.

FR. BERNAS: Yes.

MR. DE CASTRO: Thank you.

THE PRESIDENT: What is the pleasure of Commissioner Rosario Braid?

MS. ROSARIO BRAID: Madam President, I was going to suggest the same thing because we already have this provision on the supremacy of civilian authority. With this and the provision suggested by Commissioner Padilla, we have three relevant to the military in the Declaration of Principles.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: As chairman of the Committee on General Principles, I would say that those two suggested sections are welcome. There are only five sections under Principles, although there are already 24 under Policies. It is all right as far as our committee is concerned.

THE PRESIDENT: Will Commissioner Maambong please state what are the sections to be transposed to the Article on General Provisions so that we can submit the motion to a vote?

MR. MAAMBONG: Madam President, there was an agreement on the part of the Commission that whatever transposition will be made should be done by the Committees on Style and on Sponsorship, without taking it bodily from the provision itself. That was, in fact, the objection of Commissioner Azcuna when I asked for the bodily transposition of certain sections.

So can we leave it at that, Madam President; at least the sense of the Commission has already been understood; it is already on record. Then we will leave the Committee on Style and the Committee on Sponsorship to do their job.

THE PRESIDENT: All right. The Floor Leader is recognized.

MR. RAMA: There are no more amendments, Madam President. I ask that we close the period of amendments subject to the registered reservations on the Article on General Provisions.

THE PRESIDENT: We cannot dispose of those reservations. Everytime we have to close, there are always reservations, so everything is pending.

MR. RAMA: This is just one motion for reconsideration of a certain paragraph in the Article on General Provisions, which has been done before.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Since this is a very simple issue, may we not resolve it now so that we can proceed to another article.

THE PRESIDENT: That is what the Chair prefers.

SUSPENSION OF SESSION

MR. DE CASTRO: Madam President, may I request a suspension of the session.

THE PRESIDENT: The session is suspended.

It was 10:55 a.m.

RESUMPTION OF SESSION

At 11:09 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, yesterday in the consideration of the proposed Section 18 on the Armed Forces, we deleted paragraph (d), which reads:

The provisions of the existing laws on retirement of military officers shall be strictly adhered to.

I would like to ask for a reconsideration of the deletion in order to be able to introduce something else. This is in response to the reactions of military officers who feel that the present practice on retirement is demoralizing. The practice of extending officers is demoralizing the ranks and it seems that we should try to see what we can do to raise the morale of the military. So I would like to ask for a reconsideration of the deletion in order to be able to propose an amendment. I voted for the deletion.

THE PRESIDENT: Is there any objection to the motion of Commissioner Bernas to reconsider the decision of this body yesterday on subparagraph (d) of Section 18? (Silence) The Chair hears none; the motion is approved.

FR. BERNAS: May I propose a formulation.

THE PRESIDENT: The Gentleman may proceed.

FR. BERNAS: After consultation with Commissioner de Castro, the formulation would read: "ALL MILITARY OFFICERS SHALL BE RETIRED AT THE AGE OF FIFTY-SIX OR UPON COMPLETION OF THIRTY YEARS OF MILITARY SERVICE WHICHEVER IS EARLIER." Let me just say a few words. It is true that there is a detail here which specifies 56 and 30. This is not the first time we are doing this. We do have a 70-year age limit for the judiciary and since the object of this provision is precisely to make retirement compulsory, it seems to me that the only way of doing it is for the Constitution to be precise about when the retirement age is; otherwise, it will always depend on Congress.

The law now is to the effect that all military officers shall be retired at the age of 56 or after completion of 30 years of military service, whichever is earlier unless the President extends. So, the word "unless" gives a handle to the President for all these extensions. If we put this provision in, then neither the President nor Congress will be able to give the extension.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Yesterday we approved a provision regarding the tour of duty of the Chief of Staff. The word "Officers" in the proposal includes the Chief of Staff, does it not?

FR. BERNAS: It does, Madam President, but ending the tour of duty as Chief of Staff does not necessarily mean retirement from the military.

MR. DAVIDE: In other words, if it happens that the age of retirement of the Chief of Staff falls within his tour of duty of a maximum of three years, he should be retired?

FR. BERNAS: No, unless he wants to retire after finishing his tour of duty.

MR. DAVIDE: In other words, even if he has reached the compulsory age of 56, yet his tour of duty as Chief of Staff is still in progress . . .

FR. BERNAS: I misunderstood the Gentleman. In that sense, yes.

MR. DAVIDE: Nevertheless, for a Chief of Staff, we allow a possible extension in times of war or national emergency, as declared by Congress. Would we, in that particular respect, allow an extension to the Chief of Staff?

MR. DE CASTRO: May I answer that, Madam President, if the Honorable Bernas will allow me.

FR. BERNAS: I yield to Commissioner de Castro.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: We have so provided that the tour of duty of the Chief of Staff is for three years. Assuming that he is retireable at the age of 56, assuming that tomorrow he will be 56 and today he is appointed or designated Chief of Staff, then he will have to finish his tour of duty and to include the exception, the continuation under the national emergency. This is one officer who will have to be an exemption.

MR. DAVIDE: In that respect, I would propose an amendment to read: "OFFICERS OF THE MILITARY EXCEPT THE CHIEF OF STAFF . . ."

FR. BERNAS: That probably is not necessary because it is taken care of by the paragraph we approved yesterday.

MR. DAVIDE: That is correct.

FR. BERNAS: The understanding would be that the Chief of Staff must be allowed to finish his tour of duty even if his service goes beyond 30 years or his age beyond 56 years.

And perhaps, I should say something about 56. Why 56? What is so magical about 56? The age limit for entrance to the Philippine Military Academy is 22. The training in the military academy is four years. When we add 30 years of military service, everything adds up to 56.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I was about to ask Commissioner Bernas about that 56 because it could be 65, 70, 75. Anyway, it has been answered. But I just want to find out if there would be a difference in benefits for military officers if he retires at 56 or if he retires after completion of military service of 30 years.

FR. BERNAS: This provision does not touch on benefits.

MR. MAAMBONG: And the Gentleman is not in a position to answer the question?

FR. BERNAS: I am not in a position to answer that question. I think the matter of benefits is handled by statutory law.

MR. MAAMBONG: Thank you.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Will the distinguished proponent yield to a few questions.

FR. BERNAS: Very willingly, Madam President.

MR. SUAREZ: I like the Gentleman's expression of 56 being a magical number and I would like to toy around with this number. I understand that when one applies for cadetship in the Philippine Military Academy, say, at the age of 17, that is already accounted in the accumulation of the years of service in the military?

FR. BERNAS: In our computation, the 30 years of service does not include cadetship.

MR. SUAREZ: That is not very clear from the way it is composed.

FR. BERNAS: That is why I was saying that if 22 is the maximum age for beginning, then we add four years of cadet training, then we add 30 years. That is how we arrived at the magic number.

MR. SUAREZ: I see. So, the Gentleman would not envision a situation where a cadet enters at the age of 18. The Gentleman, according to him, will exclude anyway his four years of cadetship.

FR. BERNAS: So if he enters at 18, plus four that would be 22, he would have to retire at 52.

MR. SUAREZ: I recall that a great supreme commander of the Allied Forces of the Pacific, a certain General Douglas MacArthur, was so appointed in his 60s. So, talented military Filipino generals will be precluded from continuing their service to the country and the people upon reaching the age 52?

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: With the permission of Honorable Bernas, may I answer the question.

FR. BERNAS: I need the Gentleman's help, Madam President.

MR. DE CASTRO: This is precisely our reason when we were moved during the old Congress to give us only 30 years military service for retirement. But the main reason for retirement after 30 years is that one is not as strong after 30 years of service as he was when he graduated from the PMA at the age of 21 or 22. We really need healthy officers in the military.

Now, the Gentleman cited General Douglas MacArthur. General Douglas MacArthur had been retired and had been recalled at the request of our President then, President Quezon. He was retired but was recalled by our President to active duty during World War II. Then he became the supreme commander in Japan and later, commander of the Korean War. He might have been about 60 years old but he had been retired.

I would like to tell the body that according to our statistics in the military, we have officers who retired at the age of 49, one of whom is General Tirso Fajardo, may his soul rest in peace. He retired at the age of 49. I also retired at the age of 49 because of this retirement law. The real reason is to keep the armed forces young; anyway, we have always enough officers who graduate from the Academy.

MR. SUAREZ: Thank you for the information.

Precisely, does the Gentleman not feel that because of this need for flexibility, we should leave to Congress to prescribe on the matter of retirement age, instead of straightjacketing ourselves by virtue of constitutional provision setting forth the years for retirement?

MR. DE CASTRO: The existing law now is retirement at the age of 56 or after completion of 30 years service, whichever is earlier. If the one which comes ahead is age 56, you are out; if the one which comes ahead is 30

years service, you are also out. However, the existing law provides for exceptional cases, like extension of service, which the President is exercising now and which President Marcos also did by extending all the officers from Ilocandia in the active service.

MR. SUAREZ: Thank you for the clarification.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: I have no serious objection with regard to the proposal of Commissioner Bernas. As a matter of fact, except for some changes as far as specifics are concerned, it is, more or less, the same proposal that I made yesterday. I would like to find out from the honorable Commissioner if this retirement provision he is now submitting would prohibit what was mentioned a while ago by Commissioner Castro about recall. In other words, would there be anything that will prevent the President, after retiring an officer, from recalling as was done in the case of General MacArthur?

MR. DE CASTRO: Nothing. The President can recall retired officers to active service. That is another portion of the law. This was exercised by Mr. Marcos when he recalled to active duty my classmate, General Mata, and made him Chief of Staff and later Secretary of National Defense. There is a law now which allows the President to call to active duty retired officers.

MR. GUINGONA: So that an officer can be retired today, and a week later can be recalled?

MR. DE CASTRO: Maybe, but the only case I know about recall to active duty exercised by Mr. Marcos is the case of General Mata.

MR. GUINGONA: The reason I am asking is that the Commissioner might want to consider the possibility of adding something to prevent a circumvention of the proposal that he has made. Because if an officer is retired and after a short while is recalled, then in effect that would be going around the provision, and that would make it ineffective.

FR. BERNAS: I think that would be a very funny situation because when a Chief of Staff is retired, usually a successor is appointed. That means a successor has three years. So the situation the Gentleman described would mean that the recently appointed successor would have to step down.

MR. GUINGONA: No, I am not talking of the Chief of Staff. I am talking of an ordinary officer who is retired.

FR. BERNAS: But the only case of recall, our expert on military law has cited, is recall of chiefs.

MR. GUINGONA: Yes, because there was no provision then which would prevent or prohibit the extension.

FR. BERNAS: Yes.

MR. GUINGONA: So there was no need of availing of recall. Anyway, I just mentioned this as a consideration for safeguarding the effectivity of the proposal.

The other thing I would like to find out is: When was this particular existing law which provides for 56 years of age and 30 years of service enacted?

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Madam President, when I retired sometime in 1964, the law considered our years in the academy as part of the 30 years. Later, after we were retired, there was another law passed where the Philippine Military Academy years were not counted in the 30 years. Later, the deposed President issued a presidential

decree — I do not know the number — on the age 56 or completion of 30 years of service. The reason is that we are producing officers as fast as we can but we do not have enough positions for them so they become demoralized at the lower level. So, the age 56 is computed from the oldest acceptance age in the academy of 22, plus 4, plus 30 years of service.

MR. GUINGONA: The reason I ask this is that it would appear that the determination of the age was done about 30 years ago. But there had been a lot of advances in medical science and there might be a need to reconsider the age limit. There may also be circumstances when we may not have as many officers who may be candidates for positions that are vacated in the future, because we are drafting a constitution not only for the immediate future.

MR. DE CASTRO: The age limit was determined by a presidential decree.

MR. GUINGONA: I think the proposal or the suggestion of the Honorable Suarez may be more practical because then we would allow for changes, but we would not allow any deviation from the rule. The idea there is to have a rule such as the one proposed by the Honorable Bernas, to which I said I have no serious objection. After a rule is promulgated or enacted, there could be no exception so that the President would not have the power to try and get the loyalty of the individuals.

THE PRESIDENT: What would be the proposal of Commissioner Guingona? We have a proposed amendment to the Bernas amendment.

MR. GUINGONA: Madam President, we will not set the age; we will say that once they are retireable under existing laws, whatever is the law at the time of their retirement, that would control. So if at the time of their retirement the law says it is 58 years, then let that be the retireable age, and the President cannot make an exception.

THE PRESIDENT: Is that acceptable, without stating the age?

FR. BERNAS: Madam President, let me explain. That does not solve the problem we are trying to solve. The problem we are trying to solve is precisely the demoralizing effect of extensions, and in order to prevent extensions, there should be a provision superior to the legislature and superior to the President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: If that is the problem, can we not just say that retirements of military officers under existing retirement law should not be subject to any extension? That will preclude us from putting the precise retirement age and it will not bind Congress in any way to change it, if circumstances so warrant. So that if one retires under existing laws, by the provision that it will not be extensible under the Constitution, I think that will solve the problem.

FR. BERNAS: As a matter of fact, that is one alternative I discussed with Commissioner de Castro. The general idea is that whatever retirement law may be passed by Congress, that retirement law should not allow for extension. And it is the Constitution which should dictate that there should be no extension because otherwise Congress can always allow for extension.

MR. MAAMBONG: In effect, the Commissioner is amenable to deleting the age, as long as the retirement of military officers under existing law is not extended.

FR. BERNAS: Yes, and with the further proviso that the formulation should be such that it sounds like a constitutional provision.

MR. MAAMBONG: I was thinking of a provision which I saw from Commissioner Davide. Does the

Commissioner still have that provision?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I am prepared to present a proposal which would, more or less, seek a happy compromise. The proposal reads: "NO LAW ON RETIREMENT OF MILITARY OFFICERS SHALL ALLOW EXTENSION OF THEIR SERVICE."

FR. BERNAS: That would be acceptable to me.

SUSPENSION OF SESSION

THE PRESIDENT: Commissioner Guingona had also a formulation yesterday.

The Chair suspends the session for a few minutes.

It was 11:31 a.m.

RESUMPTION OF SESSION

At 11:34 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Floor Leader is recognized.

MR. RAMA: We have reached a compromise agreement.

I would just like to inject, Madam President, the more fundamental reason why the military should be retired earlier. In our jurisdiction, they are retired earlier than the justices and other officials of the government.

Why should they be retired earlier? The more fundamental reason is not one stated by Commissioners de Castro and Bernas that officers of lower ranks are demoralized, but which is also a reason. I think the more basic reason is that it is a sound policy because if we allow the military officers to stay long in the armed forces, they tend to accumulate power and get entrenched. That is why in other countries, we can find the military strongman taking over the government because they do not have this short retirement law that would retire them earlier before they get entrenched in power. I think that should be the basic and the more fundamental reason why this provision or this amendment should be passed.

So may I call on Commissioner Davide to present the compromise provision.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

We have arrived at this compromise reformulated proposal jointly with Commissioners Bernas, Rama, Guingona and the members of the committee.

It reads: "NO LAW ON RETIREMENT OF MILITARY OFFICERS SHALL ALLOW EXTENSION OF THEIR SERVICE."

FR. BERNAS: Just one question, Madam President. Is it understood that upon the approval of this provision, upon the ratification of this Constitution, the exception made on the existing retirement law is automatically

repealed?

MR. DAVIDE: Yes, Madam President.

MR. GUINGONA: In other words, Madam President, this would mean that the extension is not necessarily an extension to be given by Congress, but also by the President.

MR. DAVIDE: No extension can be allowed by anyone.

MR. GUINGONA: Thank you.

MR. DAVIDE: And it is up for Congress to determine what would really be the retirement age, in terms of age or length of service.

BISHOP BACANI: Madam President, from the committee.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Would this affect immediately, for example, General Ramos?

MR. DAVIDE: General Ramos, if he is retireable now, will be affected by this. Of course, we consider in another section that, as Chief of Staff, we allow the President to grant an extension, but only in times of war or national emergency.

BISHOP BACANI: So, in the event that there is no war or national emergency, not even General Ramos would be provided for in the Article on General Provisions?

MR. DAVIDE: As explained earlier by Commissioner de Castro, he should be allowed to finish his tour of duty of three years.

BISHOP BACANI: Thank you very much.

MR. RAMA: The body is now ready to vote on the amendment.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, I am not agreeable to a reformulation that will start with "NO LAW" because that is not only negative but prohibitive. I think that starting a provision with "NO" is used in the Bill of Rights on basic fundamental rights of citizens or of persons, like "No person shall be deprived"; "No law shall be passed abridging freedom of the press." But while it is true that we should avoid demoralization among the officers of the armed forces, I do not believe we should rephrase or reformulate this provision in a negative and prohibitive "NO." Why not say "CONGRESS SHALL APPROVE A LAW ON RETIREMENT OF PUBLIC OFFICERS WHICH SHALL NOT PERMIT EXTENSION OF SERVICE"?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: We can accommodate Commissioner Padilla and reword it this way: "LAWS ON RETIREMENT OF MILITARY OFFICERS SHALL NOT ALLOW EXTENSION OF THEIR SERVICE."

BISHOP BACANI: Is the Commissioner agreeable to "ANY EXTENSION"?

MR. DAVIDE: Yes.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: The law on retirement now fixes two periods, 56 years of age or 30 years of service. That is provided in a presidential decree of the deposed President. Why should we not allow the Congress to pass or approve a retirement law? Why are we going to be bound by the practice which has been enshrined as a law during martial law and issued by the dictator fixing these years of 56 and then 30 years? I understand that the motive or the purpose of this proposed section is to avoid undue extensions of service of military officers that cause demoralization because the term of some generals has been extended and re-extended and the colonels have no opportunity to serve in that higher position of general. But I believe the Congress should be allowed the judgment and the opportunity to provide for a retirement law on the military officers. What we want to avoid is extension; we will say that the law on retirement will not allow or permit extensions.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

In answer to Commissioner Padilla's discussion on the matter, Congress passed a law on retirement but again, it has a provision authorizing the President to extend the service. President Marcos issued a degree stating 56 years of age or completion of 30 years service, again with an exception that he can extend, and this law is what we are using now. What we are thinking is how we can put a provision in the Constitution in order not to allow extension of these retireable officers.

MR. JAMIR: Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: I have one question for the proponent, Commissioner Davide. May I know whether under this formulation that the Gentleman has just stated, Congress will be thereafter prohibited from passing any law setting, for example, that the retirement age shall be 60?

MR. DAVIDE: No. Madam President, as a matter of fact, this is very flexible. Congress may provide that the retirement age is 60, provided one has served for 25 years, 30 years or 40 years, or it could even reduce the retirement age to 50 years. But in any of such cases, the law cannot provide an extension.

MR. JAMIR: Thank you.

MR. RAMA: Madam President, Commissioner Regalado would like to be recognized.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: I would like to propose a minor amendment. Instead of the phrase "MILITARY OFFICERS," we say "MILITARY PERSONNEL," so that all those in the military service are included.

MR. DE CASTRO: Madam President, may I answer the question, with the permission of the proponent?

MR. DAVIDE: Gladly.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: When we talk of "MILITARY PERSONNEL," the enlisted men are included. The enlisted man is by contract. Every three years, he is reenlisted. So after the termination of his enlistment, the AFP now has the authority to say: "We do not need you anymore for another term of enlistment." Also, the enlisted personnel

have their own retirement law and they can choose the kind of retirement they want or whether they would like to be reenlisted. So let us not include the enlisted personnel here because they are satisfied with what they have at present. The people not satisfied are the officers.

MR. REGALADO: In other words, does that mean to say that since there is a retirement law on enlisted personnel, there will also be exceptions, they should all be uniformly subjected to the same retirement law?

MR. DE CASTRO: No, they are not being extended; but every three years, their term of enlistment expires and they will have to be reenlisted to continue their service.

MR. REGALADO: That is correct, but they should not be permitted to reenlist when they have already reached their retirement age.

MR. DE CASTRO: That is a matter of policy in the armed forces which is acceptable and nobody has complained about. The complaint is about retirements in the officer corps.

MR. REGALADO: But what is wrong with having it for all personnel so that if after all there is a retirement law for both commissioned and noncommissioned officers or enlisted personnel, then there should be no deviation?

MR. DE CASTRO: How about the civilian clerks? They are also military personnel.

MR. REGALADO: No, civilian clerks are civilian employees. As a matter of fact, they are not even covered by the Articles of War.

MR. DE CASTRO: So, we will not accept the amendment.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: With the explanation of the sponsor of the amendment, I cannot accept the proposed amendment to include personnel.

MR. RAMA: Unless Commissioner Regalado insists on his amendment to the amendment, I would request Commissioner Davide to read his amendment for voting purposes.

MR. DE LOS REYES: Madam President, may I ask one question of Commissioner Davide.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Suppose the President, despite a law that does not grant extension, anyway grants extension to the general, does she commit culpable violation of the Constitution which is a ground for impeachment?

MR. DAVIDE: It relates to officers other than the Chief of Staff under which he may be allowed extension. Then that would be a violation of the Constitution.

MR. DE LOS REYES: Culpable?

MR. DAVIDE: It can be classified as culpable and, therefore, a ground for impeachment.

MR. DE LOS REYES: Thank you.

MR. RAMA: The body is ready to vote, Madam President.

THE PRESIDENT: How is the provision formulated now?

MR. DAVIDE: It will read as follows, subject to style by the Style Committee: "LAWS ON RETIREMENT OF

MILITARY OFFICERS SHALL NOT ALLOW EXTENSION OF THEIR SERVICE."

THE PRESIDENT: Are we ready to vote on that now?

MR. MAAMBONG: Yes.

VOTING

THE PRESIDENT: As many as are in favor, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 36 votes in favor and none against; the amendment is approved.

MR. DE CASTRO: Thank you, my colleagues.

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

THE PRESIDENT: Commissioner Uka is recognized.

MR. UKA: Last night I was again sleepless. I must explain. I was thinking of my motion for reconsideration of Section 11 with regard to the 70-30 equity ratio on advertising. I thought of making the equity ratio uniform for all fields, which is 60-40 and which we have already approved as a body. I said: "Why make advertising an exception?"

Then I also thought of what President Corazon Aquino said in her speech before the New York Economics Club, and I quote: "I invite you to join us. We have fair and clear guidelines about foreign investments. I am keen to encourage joint ventures because this seems to me the way to encourage the long-term acceptance of foreign investment." Those were her words.

Then I got worried, Madam President. I did not know exactly what I have to do. We might be sending the wrong signals to foreign investors by making the equity ratio 70-30 right away. Our voting, in fact, was so close. In fact, it was a tie to be broken by Madam President. So I was in a tight fix; I did not know exactly what to do. Be that as it may, I said to myself: "Why should we make an exception for advertising? All the other joint ventures we had approved had 60-40 equity ratio." And so I was in a tight situation, Madam President. This may be a big surprise to all, either pro or con, and that includes myself, Madam President.

In order to save time, considering that we have a time schedule, I thought that I must give way to this only exception for after all, all the other joint ventures have 60-40 equity ratio and as I have said time and again, what is one exception among friends? Long live our Filipino businessmen.

So, Madam President, I hereby withdraw my motion for reconsideration. (Applause)

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, just for the record, we are grateful to Commissioner Uka for making that statement, and also just for the record, since there was not enough discussion on advertising, and to justify the position taken by Commissioner Uka, let me just summarize a few facts to justify this provision.

Advertising is not capital-intensive. One can start an advertising agency with P50,000 and, therefore, we are not dependent on foreign technology or foreign expertise. Multinational agencies, although they constitute only 24 percent, get 54 percent of the profits because of unfair competition. We want to encourage local capability. Although we cannot be assured that we can have locally produced advertising that will meet our expectations

overnight, the local agencies are expected to be more responsive to our goals of cultural identity and value formation. This will discourage overloading by colonial advertising mostly produced abroad, carrying foreign symbols and lifestyles.

In the last 1973 Constitution, advertising was classified as mass media, which means 100-percent Filipino equity. This construction is entitled to great respect pursuant to ruling in *Bengzon vs. Secretary of Justice*. Under Article 68 of the Omnibus Investments Code, as amended, foreign investments are not allowed in enterprises already exploited by Filipinos. The advertising industry is one such industry.

Lastly, advertising whets the appetite for consumer goods. It creates a revolution of rising expectations and rising frustrations when wants are not met. So, we are very happy, Madam President, that we made an exception in the case of the advertising industry.

MR. PADILLA: Madam President, may I say a few words.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Section 11 (2) states:

No franchise, certificate or any other form of authorization for the operation of advertising and commercial telecommunication establishments . . .

This was intended to apply to commercial telecommunications. But correctly, it was excluded because that is already covered by other provisions. So, what was left was advertising which requires no franchise, no certificate or other form of authorization in its operation. The fact that advertising is not capital-intensive is an argument for not considering the continuance of Section 11(2) to apply exclusively on advertising. In fact, there are many other private activities that involve more essentially and substantially the common interest of the general welfare and are not subject to any constitutional provision.

Why constitutionalize a provision on advertising agency which is purely a private enterprise, not capital-intensive?

THE PRESIDENT: Yes. Mr. Vice-President, this Section 11 was already approved two days ago. We were just waiting for the reservation made by Commissioner Uka. No other Commissioner has made any reservation on this.

MR. RAMA: Madam President, I ask that we close the period of amendments on the Article on General Provisions.

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

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

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, we have finished the Article on General Provisions. May I inform the body that the Steering Committee suggests that in this afternoon's session, we move into the period of sponsorship and debate on the Article on Transitory Provisions.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

This is in connection with the sponsorship of the Article on Transitory Provisions. We have taken the initiative of mimeographing the sponsorship speech in support of the 12 sections in the article precisely in our desire to abbreviate the proceedings. So may we request that during the suspension of the session for lunch time, since copies had already been circulated and distributed, the Members make an effort to read them because we will not be repeating all of those arguments and sponsorships. And maybe we can move on quickly to the period of interpellations.

THE PRESIDENT: Does Commissioner Suarez have any suggestion as to how we will proceed this afternoon on this report?

MR. SUAREZ: Yes, Commissioner Monsod was suggesting that because the 12 sections are totally unrelated with one another, probably it might be more practical to subject each section to interpellation and then amend right there and finish each section before we move on to the other one. We find wisdom in the suggestion of Commissioner Monsod and, therefore, we respectfully adopt that suggestion for the consideration of the body.

Thank you, Madam President.

THE PRESIDENT: The Chair finds the suggestion also reasonable and therefore asks the Commissioners to please be guided by that so that during the suspension of the session we can study this proposed Article on Transitory Provisions.

SUSPENSION OF SESSION

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

It was 12:01 noon.

RESUMPTION OF SESSION

At 3:06 p.m., the session was resumed with the Honorable Serafin V. C. Guingona presiding.

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

The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 540
(Article on Transitory Provisions)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: I move that we consider Committee Report No. 38 on Proposed Resolution No. 540 as reported out by the Committee on Amendments and Transitory Provisions.

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

May we request the honorable chairman, Commissioner Suarez, and the honorable members of the committee, to come in front.

Consideration of Proposed Resolution No. 540 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. 540, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON TRANSITORY PROVISIONS.

(The following is the whole text of the proposed resolution per C.R. No. 38.)

COMMITTEE REPORT NO. 38

The Committee on Amendments and Transitory Provisions to which was referred Proposed Resolution No. 111, introduced by Hon. de los Reyes, Jr., entitled:

RESOLUTION SUBMITTING TO THE PEOPLE IN A PLEBISCITE THE QUESTION ON WHETHER TO HOLD AN ELECTION FOR PRESIDENT AND VICE-PRESIDENT WITHIN A FIX PERIOD AFTER THE RATIFICATION OF THE NEW CONSTITUTION

Proposed Resolution No. 120, introduced by Hon. de Castro, entitled:

RESOLUTION PROCLAIMING THE INCUMBENT PRESIDENT AND VICE-PRESIDENT AS THE DULY ELECTED PRESIDENT AND VICE-PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES DURING THE ELECTIONS OF FEBRUARY 7, 1986

Proposed Resolution No. 129, introduced by Hon. Ople, Natividad, de los Reyes, Jr. and Maambong, entitled:

RESOLUTION TO INCLUDE IN THE TRANSITORY PROVISIONS AN ARTICLE REVERTING TO THE COURTS THE POWER OF SEQUESTRATION PRESENTLY VESTED IN ANY GOVERNMENT ENTITY UPON THE RATIFICATION OF THE PROPOSED CONSTITUTION

Proposed Resolution No. 137, introduced by Hon. Nollado, entitled:

RESOLUTION TO PROVIDE IN THE TRANSITORY PROVISIONS THAT THE COMMISSIONS ON GOOD GOVERNMENT AND HUMAN RIGHTS BE GIVEN A PERIOD OF ONE YEAR FROM THE DATE OF RATIFICATION OF THE NEW CONSTITUTION TO FINISH THEIR ASSIGNED TASKS AND TO RATIFY ALL THE ACTS AND DECISIONS OF THESE COMMISSIONS

Proposed Resolution No. 149, introduced by Hon. Bengzon, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SECTION IN THE TRANSITORY PROVISION FIXING THE TERM OF THE INCUMBENT PRESIDENT AND VICE-PRESIDENT OF THE PHILIPPINES

Proposed Resolution No. 214, introduced by Hon. Tingson, Alonto, and Abubakar, entitled:

RESOLUTION PROPOSING TO ADOPT IN A CONSTITUTIONAL PROVISION THE POPULARLY ACCLAIMED RESULTS OF THE PRESIDENTIAL 'SNAP' ELECTION HELD ON FEBRUARY 7TH NINETEEN HUNDRED AND EIGHTY-SIX

Proposed Resolution No. 241, introduced by Hon. Ople, de los Reyes, Jr., Maambong and Natividad, entitled:

RESOLUTION PROPOSING THAT THE FIRST ELECTION OF MEMBERS OF THE NATIONAL LEGISLATURE AND ALL LOCAL GOVERNMENT OFFICIALS INCLUDING THOSE OF THE BARANGAY BE HELD ON MARCH 25, 1987 AFTER THE RATIFICATION OF THIS CONSTITUTION

Proposed Resolution No. 254, introduced by Hon. Calderon, entitled:

RESOLUTION PROVIDING FOR AN ORDINANCE APPENDED TO THE CONSTITUTION

DECLARING THAT ALL FILIPINOS WHO VOTE FOR THE APPROVAL OF THE CONSTITUTION, WHO SO DESIRE, SHALL BE CONSIDERED AS SIGNATORIES OF SAID CONSTITUTION WITH THE SAME HONOR AND DISTINCTION AS THE MEMBERS OF THE CONSTITUTIONAL COMMISSION THAT FRAMED IT, IF, AFTER VOTING FOR ITS APPROVAL, THEY AFFIX THEIR SIGNATURES ON SPECIAL SIGNATURE SHEETS PROVIDED FOR THE PURPOSE

Proposed Resolution No. 262, introduced by Hon. Maambong, de los Reyes, Jr., Natividad and Ople, entitled:

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

Proposed Resolution No. 285, introduced by Hon. Suarez and Jamir, entitled:

RESOLUTION TO PROHIBIT CERTAIN PUBLIC OFFICIALS FROM RUNNING IN THE FIRST NATIONAL AND LOCAL ELECTIONS AFTER THE RATIFICATION OF THE NEW CONSTITUTION

Proposed Resolution No. 294, introduced by Hon. Suarez and Jamir, entitled:

RESOLUTION PROVIDING IN THE CONSTITUTION DISQUALIFICATIONS TO RUN FOR ELECTIVE POSITION

Proposed Resolution No. 348, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION REPUDIATING FOREIGN LOANS CONTRACTED OR GUARANTEED BY THE PAST REGIME WHICH DID NOT BENEFIT PUBLIC INTEREST OR THE GENERAL WELFARE

Proposed Resolution No. 67, introduced by Hon. Nollado, entitled:

RESOLUTION TO DELETE FROM THE NEW CONSTITUTION THE PROVISION GRANTING PRESIDENTIAL IMMUNITY FROM SUITS AND TO PROVIDE IN THE TRANSITORY PROVISIONS THAT SUCH DELETION BE MADE RETROACTIVE

Proposed Resolution No. 362, introduced by Hon. Suarez and Jamir, entitled:

RESOLUTION TO INCLUDE A PROVISION IN THE NEW CONSTITUTION DECLARING THAT IT SHALL SUPERSEDE ALL PREVIOUS CONSTITUTIONS

Proposed Resolution No. 427, introduced by Hon. Suarez and de Castro, entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON TRANSITORY PROVISIONS A PROVISION FOR THE DEMONETIZATION OF ALL CURRENCY ISSUED UNDER THE PREVIOUS REGIME

Proposed Resolution No. 443, introduced by Hon. Guingona, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ALLOWING FOR THE RE-ELECTION OF THE INCUMBENT PRESIDENT AND VICE-PRESIDENT BUT DISALLOWING THEM TO SERVE FOR MORE THAN EIGHT CONSECUTIVE YEARS

Proposed Resolution No. 458, introduced by Hon. Ople, Maambong, Natividad, entitled:

RESOLUTION FIXING THE TERM OF THE INCUMBENT PRESIDENT AND VICE-PRESIDENT

Proposed Resolution No. 461, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION REPEALING ALL LAWS, DECREES, PROCLAMATIONS, ORDERS, INSTRUCTIONS, RULES OR REGULATIONS WHICH ARE INCONSISTENT WITH THE FREEDOM CONSTITUTION AND THE NEW CONSTITUTION

Proposed Resolution No. 462, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION MANDATING THE OBJECTIVES AND PARAMETERS OF GOVERNMENT REORGANIZATION

Proposed Resolution No. 463, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION ON URGENT MEASURES ON NATIONAL RECONSTRUCTION, RECOVERY AND RECONCILIATION TO WHICH THE FIRST NATIONAL ASSEMBLY MUST GIVE UTMOST PRIORITY

Proposed Resolution No. 464, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON TRANSITORY PROVISIONS OF THE NEW CONSTITUTION PROVISIONS FIXING LIMITATION TO THE PERIOD WITHIN WHICH GOVERNMENT OFFICIALS AND EMPLOYEES MAY BE SEPARATED FROM THE SERVICE DUE TO THE REORGANIZATION OF THE GOVERNMENT, PROVIDING THE RULE ON SEPARATION AND MANDATING THE BENEFITS AND PRIVILEGES OF SEPARATED EMPLOYEES

Proposed Resolution No. 473, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON THE TRANSITORY PROVISIONS A PROVISION AUTHORIZING THE PRESIDENT TO REVIEW ALL CONTRACTS, CONCESSIONS, PERMITS, OR OTHER FORM OF PRIVILEGES FOR THE EXPLORATION, DEVELOPMENT, EXPLOITATION OR UTILIZATION OF THE NATURAL RESOURCES ENTERED INTO, GRANTED, ISSUED OR ACQUIRED BEFORE THE EFFECTIVITY OF THE NEW CONSTITUTION, AND TO AMEND, MODIFY OR REVOKE THE SAME

Proposed Resolution No. 474, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION THAT UNTIL THE NATIONAL ASSEMBLY FIRST ELECTED UNDER THIS CONSTITUTION SHALL HAVE ELECTED THE SPEAKER, THE INCUMBENT VICE-PRESIDENT SHALL BE THE PRESIDING OFFICER THEREOF

Proposed Resolution No. 475, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON TRANSITORY PROVISIONS A PROVISION FIXING THE DATE OF EFFECTIVITY OF THE NEW CONSTITUTION AND ITS EFFECTS ON PREVIOUS CONSTITUTIONS

Proposed Resolution No. 476, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION ACCORDING RECOGNITION TO LAWS, PROCLAMATIONS, ORDERS, DECREES, INSTRUCTIONS OR ACTS NOT OTHERWISE INCONSISTENT WITH THE NEW CONSTITUTION, UNLESS THEY ARE MODIFIED OR REPEALED BY THE NATIONAL ASSEMBLY

Proposed Resolution No. 483, introduced by Hon. Bernas and Aquino, entitled:

RESOLUTION TO ADOPT A SECTION IN THE TRANSITORY PROVISIONS FREEZING ALL SEQUESTRATION ORDERS ISSUED BY VIRTUE OF PROCLAMATION NO. 3 ON MARCH 25, 1986 UPON THE ADOPTION OF THIS CONSTITUTION UNTIL JUDICIAL CONFIRMATION

Proposed Resolution No. 484, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE TRANSITORY PROVISIONS A PROVISION REQUIRING ALL OFFICIALS AND EMPLOYEES OF THE GOVERNMENT, INCLUDING THOSE IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THE OFFICERS AND MEMBERS OF THE ARMED FORCES OF THE PHILIPPINES TO TAKE AN OATH TO SUPPORT, PROTECT, PRESERVE, AND DEFEND THE NEW CONSTITUTION

Proposed Resolution No. 485, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION REQUIRING THE SUBMISSION OF ALL TREATIES OR INTERNATIONAL AGREEMENTS WHICH WERE NOT RATIFIED BY THE PREVIOUS LEGISLATURES TO THE NATIONAL ASSEMBLY FOR APPROPRIATE ACTION

Proposed Resolution No. 487, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION MANDATING THE TRANSFER OF ALL RECORDS, EQUIPMENT, BUILDINGS, FACILITIES, AND OTHER PROPERTIES OF ANY OFFICE OR BODY ABOLISHED OR REORGANIZED UNDER THIS CONSTITUTION TO THE OFFICE OR BODY TO WHICH ITS POWERS, FUNCTIONS, AND RESPONSIBILITIES SUBSTANTIALLY PERTAIN

Proposed Resolution No. 490, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION RECOGNIZING THE AUTHORITY AND JURISDICTION OF EXISTING COURTS, MANDATING THE DETERMINATION OF PENDING CASES IN ACCORDANCE WITH THE LAWS THEN IN FORCE, UPHOLDING THE PROVISIONS OF THE EXISTING RULES OF COURT, PROVIDING FOR THE CONTINUANCE OF INCUMBENT MEMBERS OF THE JUDICIARY AND THEIR REMOVAL ONLY FOR CAUSE, AND REQUIRING SPECIAL COURTS AND QUASI-JUDICIAL BODIES TO SUBMIT THEIR RULES OF PROCEDURE FOR APPROVAL BY THE SUPREME COURT

Proposed Resolution No. 492, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION AUTHORIZING THE PRESIDENT TO REVIEW CONTRACTS ENTERED INTO BY THE PREVIOUS GOVERNMENT OR ANY SUBDIVISION, AGENCY OR INSTRUMENTALITY THEREOF, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND TO REVOKE, MODIFY OR AMEND THE SAME WHEN THE NATIONAL INTEREST, OR WELFARE SO REQUIRES

Proposed Resolution No. 494, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION MANDATING THE GRANT OF SEPARATION PAY AND OTHER BENEFITS TO CIVIL SERVICE ELIGIBLES WHO WERE SEPARATED FROM THE SERVICE FROM FEBRUARY TWENTY-SIX 1986

Proposed Resolution No. 503, introduced by Hon. Davide, Jr., entitled:

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

Proposed Resolution No. 527, introduced by Hon. Guingona, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE PROVIDING FOR NATIONAL/LOCAL ELECTIONS IN 1987

and Proposed Resolution No. 529, introduced by Hon. Guingona, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE RATIFICATION OF THE DRAFT CONSTITUTION

has considered the same and has the honor to report them back to the Constitutional Commission of 1986 with the recommendation that Proposed Resolution No. 540 prepared by the committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON TRANSITORY PROVISIONS

be approved in substitution of Proposed Resolution Nos. 111, 120, 129, 137, 149, 214, 241, 254, 262, 285, 294, 348, 67, 362, 427, 443, 458, 461, 462, 463, 464, 473, 474, 475, 476, 483, 484, 485, 487, 490, 492, 494, 503, 527 and 529 with the Hon. Foz, Suarez, Ople, Padilla, de Castro, Maambong, de los Reyes, Jr., Tingson, Sarmiento, Lerum and Tan as authors and Hon. Natividad, Jamir and Davide, Jr. as coauthors thereof.

(Sgd.) Jose E. Suarez

Chairman

Committee on Amendments

and Transitory Provisions

(Sgd.) Blas F. Ople ^{*}

(Sgd.) Ambrosio B. Padilla

Vice Chairman

(Sgd.) Crispino M. de Castro

(Sgd.) Vicente B. Foz

(Sgd.) Rustico F. de los Reyes, Jr. ^{*}

(Sgd.) Regalado E. Maambong

(Sgd.) Gregorio J. Tingson

(Sgd.) Eulogio R. Lerum

with reservation

(Sgd.) Christine Tan

(Sgd.) Rene V. Sarmiento

PROPOSED RESOLUTION NO. 540

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON TRANSITORY PROVISIONS

Be it resolved as it is hereby resolved, by the Constitutional Commission in session assembled, To incorporate and provide in the New Constitution the following article:

ARTICLE _____

TRANSITORY PROVISIONS

SECTION 1. The first election of members of the Senate and the House of Representatives shall be held no sooner than sixty days nor later than one hundred twenty days after the ratification of this Constitution.

SECTION 2. The incumbent President shall continue to exercise legislative power until the convening of Congress.

SECTION 3. All existing laws, decrees, executive orders, proclamations, letters of instructions and other executive issuances not inconsistent with this Constitution shall remain operative until amended, modified or repealed by Congress.

SECTION 4. All courts existing at the time of the ratification of this Constitution shall continue to exercise their jurisdiction, until otherwise provided by law in accordance with this Constitution, and all cases pending in said courts shall be heard, tried, and determined under the laws then in force. The provisions of the existing Rules of Court not inconsistent with this Constitution shall remain operative unless amended, modified or repealed by the Supreme Court or Congress.

SECTION 5. The Supreme Court must, within six months after the ratification of this Constitution, adopt a systematic plan to expedite the decision or resolution of the entire backlog of cases or matters filed with the Supreme Court or the lower courts prior to the effectivity of this Constitution.

SECTION 6. The incumbent members of the judiciary shall continue in office until they reach the age of seventy years or removed for cause.

SECTION 7. The incumbent President and Vice-President shall hold office for a term of six years starting at noon of February 25, 1986 until noon of February 25, 1992. [**]

SECTION 8. Any writ of sequestration, freeze, search and seizure order issued or which may be issued in relation to the recovery of ill-gotten wealth shall continue to be operative within six months after the convening of the first Congress; provided that Congress, in the national interest, as certified by the President, may extend said period.

SECTION 9. All armed groups and paramilitary forces now existing outside of the regular police and armed forces shall be dismantled.

SECTION 10. Civil service employees who may be separated from the service as a result of the reorganization pursuant to the provisions of Article III of Proclamation No. 3 issued on March 25, 1986 and the reorganization following the ratification of this Constitution shall enjoy priority for employment in the government or be entitled to a separation pay, in addition to retirement and other benefits accruing to him under the laws then in force at the time of his separation.

SECTION 11. All records, equipment, buildings, facilities and other properties of the Office of the Prime Minister

and the defunct Batasang Pambansa and Interim Batasang Pambansa are hereby transferred to Congress.

SECTION 12. This Constitution shall take effect immediately upon its ratification by a majority of the votes cast in a plebiscite called for the purpose and shall supersede all previous Constitutions.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: As agreed upon this morning, there will be a slight revision of the Rules. Immediately after interpellation, amendments would be proposed and we go section by section.

THE PRESIDING OFFICER (Mr. Guingona): May the Chair inquire if this has already been resolved or if the Floor Leader is proposing this?

MR. RAMA: This was proposed this morning by the chairman of the Committee on Transitory Provisions, and it was accepted by the body.

THE PRESIDING OFFICER (Mr. Guingona): I see. So, in accordance with the consensus reached this morning, after the sponsorship by the chairman and the honorable members of the Committee on Transitory Provisions, we shall go into the period of interpellations and then the period of amendments section by section.

MR. RAMA: May I ask that the chairman of the committee be recognized.

THE PRESIDING OFFICER (Mr. Guingona): The honorable Commissioner Suarez is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER SUAREZ

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

Good afternoon, ladies and gentleman of the Commission.

We have caused to be circulated three papers, one is the sponsorship speech in support of the Article on Transitory Provisions; second is the addendum that we prepared because of resolutions that came up for consideration before the committee after we had prepared the 12 sections composing the Article on Transitory Provisions; and third is the abstract of the various resolutions presented before the committee.

Mr. Presiding Officer, the Committee on Amendments and Transitory Provisions proposes a relatively brief Article on Transitory Provisions. It originally consists of 12 sections, four sections less than that of the 1973 Constitution. The transitory provisions in a constitution are intended principally to cover the transition from the old to the new government in order to pave the way for an orderly change. By their very nature and characteristics, transitory provisions have temporary or transient application. They are of a passing nature, designed at times to qualify permanent provisions or to limit their operation to a specific period. They do not possess permanent or enduring quality.

The Committee on Amendments and Transitory Provisions, by necessity, has become the receptacle of a number of provisions totally unrelated to each other. We thus offer a mixed bag of constitutional provisions. In drafting the article, a number of suggestions both from the Members of the Commission and from private citizens were considered by the committee. They were mostly sound and reasonable proposals. Unfortunately, not all of them can be accommodated under the Article on Transitory Provisions. Indeed, some of them can properly be taken care of by Congress in due time.

The members of the committee felt that the Article on Transitory Provisions should consist only of provisions that

are necessary to ease the transition from the provisional Freedom Constitution which replaced the repudiated 1973 Constitution to the new Constitution that this Commission is drafting. The proposed article is a mixture of standard transitory provisions and provisions borne of necessity. The social and political ferment which brought about this Commission also brought about a situation that required the imposition of provisional measures. The transitory provisions linked up with these provisional measures would facilitate the stabilization of the political structure.

Inasmuch as the committee had already distributed copies of the sponsorship speech on the 12 sections composing the Article on Transitory Provisions, with the permission of the Chair and the members of the committee, we will dispense with the reading of the sponsorship speech and instead we request that our sponsorship speech supportive of the 12 sections in the article be inserted in the record. Thereafter, it is proposed that we move on to the period of interpellations.

We would hasten to add, however, that when we submitted the addendum, we overlooked a section governing the requirement to set up a scaling of salaries of the top officials of the land as in the case of the President of the Philippines, the Vice-President of the Philippines, the Chief Justice of the Supreme Court, the associate justices of the Supreme Court, the members of the three constitutional commissions, including the Ombudsman.

So with that reservation, Mr. Presiding Officer, may we move on to the period of interpellations.

THE PRESIDING OFFICER (Mr. Guingona): In accordance with the manifestation made by the honorable Chairman, the Secretary-General is requested to kindly include in the record the portions of the sponsorship speech that have not been read by the honorable chairman.[*]

The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Nolledo be recognized to interpellate on Section 1.

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

MR. RAMA: All interpellations now would concentrate first on Section 1 and then proceed immediately to the amendments.

THE PRESIDING OFFICER (Mr. Guingona): So we are now on Section 1.

MR. NOLLEDO: Mr. Presiding Officer, I understand that I can ask questions also on the other sections. With the kindest indulgence of the chairman and members of the committee, I have prepared some questions on the other provisions.

THE PRESIDING OFFICER (Mr. Guingona): If I understood correctly the Floor Leader, we are going section by section and, therefore, for the moment we will only be taking Section 1. We will limit our interpellations and amendments to Section 1.

MR. NOLLEDO: I was made to understand that I could ask questions on the other sections. May I ask the chairman and members of the committee to permit me to ask questions on the other sections at the same time so that I will not ask questions anymore on them later.

MR. SUAREZ: No, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): The chairman of the Committee on Transitory Provisions, Commissioner Suarez, is recognized.

MR. SUAREZ: Thank you.

This morning the parliamentary procedure regarding the debate, discussions and amendments on the Article on Transitory Provisions was agreed upon. There was already a ruling on the part of the Chair to the effect that we will limit the discussion section by section because all of the 12 sections are rather unrelated to one another. So the practicality of this parliamentary step was realized and recognized.

In other words, we get through with Section 1 first including its amendments, if necessary, before we move on to a discussion of Section 2. So a Commissioner may stand up 12 times, if necessary, to either interpellate or submit the proper amendments.

MR. NOLLEDO: In that case, I will accede to the chairman of the committee, and I would like to make my reservations with the Floor Leader a continuing one.

Thank you.

THE PRESIDING OFFICER (Mr. Guingona): The reservation is noted.

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

MR. NOLLEDO: Before I proceed, I would like to commend the committee for their well-worded and appropriately prepared report.

With respect to Section 1 of the Article on Transitory Provisions, it is provided that the first election of the Members of the Senate and the House of Representatives shall be held no sooner than 60 days nor later than 120 days after the ratification of this Constitution.

I have read the other provisions of the Transitory Provisions as recommended by the committee but the election of local officials is not provided. What is the sense of the committee in this regard?

MR. SUAREZ: Deliberately, the committee refrained from making a recommendation regarding the holding of the local elections because under Proclamation No. 3, Article VI, it is therein provided in Section 1 that the national elections shall be vested in the Constitutional Commission or in accordance with the new Constitution that may be promulgated.

Section 2 specifically provides that the local elections shall be called by the President of the Philippines. So we limited the application of Section 1 of the Article on Transitory Provisions to the holding of national elections as mandated under Proclamation No. 3.

MR. NOLLEDO: Would it not be practicable that there should also be a provision with respect to local elections in the Transitory Provisions perhaps, embodying the provisions of Proclamation No. 3?

MR. SUAREZ: We do realize the merit of the position of the Commissioner that is why we volunteered the observation that in the Article on the Legislative, the report of the committee chaired by the Honorable Davide, there is a provision transitory in character that the first local and national elections should be held on the second Monday of May, 1987. So probably we can tie up the two together.

MR. NOLLEDO: Would it not be possible that we should proceed first with the election of the Members of the Senate and the House of Representatives fixing the same as it is now fixed in the report, and then later on, we leave it to Congress to determine when local elections shall be fixed, and perhaps, Congress may consider also the passage of a revised Election Code?

MR. SUAREZ: That may be correct, Mr. Presiding Officer. What we are only concerned about here is the determination of the period when the national elections should be held. If we are going to harmonize it with the suggestion of the Committee on the Legislative, the 60-120 day period here embraces that second Monday of

May, 1987 from the time of the ratification of the Constitution, assuming, of course, that the plebiscite would be held on the 19th of January, 1987.

MR. NOLLEDO: I understand that the members of the Commission on Elections appeared before the committee very recently, and they recommended that the election of local officials should be apart and separate from the election of national officials.

MR. SUAREZ: Actually, they did not make that recommendation, but they were suggesting that if the elections are held simultaneously, the government will spend only about P670 million. But if they will be held separately, we have to add P190 million.

MR. NOLLEDO: My last question, Mr. Presiding Officer, with respect to Section 1 of the report is: What is the exact stand of the committee, especially the stand of the chairman, between two alternatives: first, that we leave to the President the fixing of the local elections, or second, we leave it to Congress to determine when local elections shall be fixed?

Through the courtesy of Commissioner Calderon, together with his wife who is an incumbent governor, I was made to understand by the League of Governors and City Mayors that they wanted that their elections be deferred and that as much as possible it should be Congress that shall determine the date of the election of local officials. May we know the stand of the committee in this regard?

MR. SUAREZ: Were it not for the fact that there exists the Freedom Constitution, Proclamation No. 3, the committee could very well agree with the suggestion of the Gentleman that Congress should be the one to fix the date for the local elections. But under Proclamation No. 3, the only limitation for the President to call the local elections would be that it should not be held earlier than the date of the plebiscite. So as the situation from the constitutional and legal standpoint stands, it is in the hands of the President.

MR. NOLLEDO: But would the Gentleman agree with me that this Constitutional Commission has the power to qualify the provisions of Proclamation No. 3?

MR. SUAREZ: Definitely, it has the plenary power to do so.

MR. NOLLEDO: Has the committee decided this question between the two alternatives that I have presented?

MR. SUAREZ: I am sorry we did not dwell into that. We did not vote on it, as a matter of fact.

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

MR. SUAREZ: Thank you.

MR. OPLE: Mr. Presiding Officer, would the Honorable Nollado yield to just one question?

MR. ABUBAKAR: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Commissioner Ople, Commissioner Abubakar was ahead, if the Commissioner pleases.

MR. OPLE: Thank you.

THE PRESIDING OFFICER (Mr. Guingona): The Chair recognizes Commissioner Abubakar.

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

Section 7 is a very important provision. It states:

The incumbent President and Vice-President shall hold office for a term of six years starting at noon of February 25, 1986 until noon of February 25, 1992.

Since the President is the highest constitutional officer, I would propose after the discussion . . .

THE PRESIDING OFFICER (Mr. Guingona): With due respect to the Commissioner, we are now discussing only Section 1, the section which reads:

The first election of Members of the Senate and the House of Representatives shall be held no sooner than sixty days nor later than one hundred twenty days after the ratification of this Constitution.

We are limiting the debate and the interpellation and proposals for amendments to this section only, per agreement this morning and which, I understand, was confirmed by a ruling by our President.

MR. ABUBAKAR: In that case, I withdraw my proposal. Then let the debate continue in accordance with the explanation of the Chair.

Thank you.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

MR. OPLE: Will Commissioner Nollado yield to just one question, Mr. Presiding Officer?

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

MR. OPLE: I wanted to ask the good Commissioner whether he is aware of various declarations made in the United States by the President of the Philippines to the effect that she looks forward to the first local and national elections early next year and that she also looks forward to a plebiscite on this Constitution before the end of this year.

MR. NOLLEDO: Yes, Mr. Presiding Officer, I am aware, based on reports of the press. And it seems to me that the President relies on the Members of the Constitutional Commission to fix the date of the local and national elections based on our pronouncements.

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

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

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

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

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

MR. RODRIGO: Will the committee yield to a few questions.

MR. SUAREZ: Very gladly, Mr. Presiding Officer.

MR. RODRIGO: Section 1 states that the election shall be held not later than 120 days after the ratification of the Constitution. What specific event or happening will determine the exact date of the ratification of this Constitution?

MR. SUAREZ: When we were discussing the matter yesterday with the members of the Commission on Elections, there were a number of steps suggested. The first one is with reference to the setting up of a schedule for the general registration on the theory that it is necessary that the voters list should be, at first instance, cleansed, and they were thinking in terms of holding the general registration before and not after the plebiscite. If

the registration is held after the plebiscite, then it may not be so meaningful. So as programmed by the COMELEC, they could probably hold the general registration in the last two days of November and the first two days of December. In other words, four days of general registration. After that the plebiscite could very well be held, but they still need time for the printing and the preparation of the ballots and the shipments and deliveries of all of these printing paraphernalia.

MR. RODRIGO: That is not my question. My question is: In order to implement Section 1, we should be able to determine the exact date of ratification of the Constitution so that we can determine when the 120 days and the 60 days start. What particular event or happening will determine the exact date when the Constitution is ratified?

MR. SUAREZ: No significant date is in mind but we were working on January 19 which is a very comfortable date, according to the COMELEC, for them to go through with all the preparations.

MR. RODRIGO: It does not answer my question. Let us say that the plebiscite is held, the people vote, the returns are tabulated, then the newspapers publish that the "yes" votes have won, but there is no official announcement yet by any governmental body. May I be specific. Will there be need for an official statement by the COMELEC saying, "As of today, we announce that the Constitution has been ratified."

MR. SUAREZ: We get the point, Mr. Presiding Officer. If we go by precedents as in the case of Mr. Marcos, whenever there was a plebiscite he usually came up with a proclamation saying that the proposed amendments had already been ratified by the people in the plebiscite held on such and such a date. I suppose the Commissioner has that in mind.

MR. RODRIGO: Yes. I will use the phrase whispered to me by Commissioner Aquino. What is the "operative act"? Will it be a declaration by the President or a declaration by the COMELEC?

MR. SUAREZ: It is the proclamation by the President. That is the standard way of doing it.

MR. RODRIGO: So the Constitution shall have been ratified when it is proclaimed by the President.

MR. SUAREZ: As certified by the COMELEC.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: Again, as stated by our chairman, based on precedents, when it comes to plebiscite, the canvassing body is the COMELEC. Once they have tabulated the returns, the results of the plebiscite will be given to the President and the President normally issues the proclamation and the date of the proclamation is the operative act — to borrow the words of Commissioner Aquino — in the computation of the provision which we are now talking about.

MR. RODRIGO: Does not the Gentleman believe that we should spell this out in this constitutional provision?

MR. MAAMBONG: I do not think we have to because we just have to rely on the usual precedents on this matter. That would be clearly understood because that is the normal procedure.

MR. RODRIGO: And it is enough that in the record the operative act is the proclamation by the President.

MR. MAAMBONG: The date of the proclamation, Mr. Presiding Officer.

MR. RODRIGO: Who will determine whether it should be 60 days or 70 days, or 90 days or 120 days after the ratification? In other words, who will determine the date of the first election of the Members of the Senate and the House?

MR. SUAREZ: The President will be the instrument for setting up those periods.

MR. RODRIGO: Not the COMELEC?

MR. SUAREZ: Not the COMELEC, Mr. Presiding Officer.

MR. RODRIGO: Just one last question. Twenty-four senators will be elected and I think it is the sense of this body that it will be a continuing Senate. There will be 12 Senators who will serve for three years and 12 Senators who will serve for six years.

MR. SUAREZ: I think that is in connection with the second term.

MR. RODRIGO: No, the term of the Senator is six years.

MR. SUAREZ: Yes.

MR. RODRIGO: But I think the consensus is that it should be a continuing Senate. While the 24 Senators in the first election will be elected all at the same time, one-half of them or 12 will serve for only three years; and the other half will serve for six years. So every three years there will be an election of 12 Senators. Should it not be spelled out and determined in this section who will serve for only three years and who will serve for the whole term of six years?

MR. SUAREZ: I think there is merit in the observation of the Commissioner because we were laboring under the impression that what he is saying will not apply to the First Congress. In other words, as far as the First Congress is concerned, the 24 Senators who would be elected would not serve for the full six years; after that, in the elections to be conducted in 1992, that is when the adjustment would have to be made. That is our impression of the Article on the Legislative that was passed.

THE PRESIDING OFFICER (Mr. Guingona): With due respect to the honorable Commissioner, the Chair has been flexible about the time. Does the Commissioner have any other question?

MR. RODRIGO: A parliamentary inquiry, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): What is the parliamentary inquiry?

MR. RODRIGO: This is the period of general debate and interpellations. I do not think we follow the three-minute or five-minute rule during the period of general debate. It is only during the period of amendments that we follow the three-minute or the five-minute rule. I would like to make that clear. I am through but for the sake of the others who will take the floor, I think that during the period of general debate, we have no three-minute limit.

THE PRESIDING OFFICER (Mr. Guingona): The reason why the consideration of time was made was the fact that we have combined, we have added the period of amendments to this period of debate. However, we have not been restricting but we have been told by Mr. Nazareno that normally the three-minute rule is supposed to be followed. But in view of that manifestation, the Chair now will manifest that it will not follow the three-minute rule.

MR. RODRIGO: Another parliamentary inquiry, Mr. Presiding Officer. Are we now also in the period of amendments, section by section?

THE PRESIDING OFFICER (Mr. Guingona): Yes, that was the arrangement. Does the Commissioner have any amendments?

MR. RODRIGO: Is that the understanding?

MR. SUAREZ: No, we shall have the period of interpellations first, then we move on to the period of amendments on Section 1.

MR. RODRIGO: But we are not yet in the period of amendments on Section 1.

MR. SUAREZ: No, Mr. Presiding Officer. May the Chair clear up the situation regarding the inquiry of Commissioner Rodrigo?

THE PRESIDING OFFICER (Mr. Guingona): May we ask the honorable Floor Leader to please explain the parliamentary situation?

Are we going first into the period of debate and interpellations and then invite amendments or do we combine all of these three together at the same time when a Commissioner stands up to speak?

MR. RAMA: We have to finish first the period of interpellations or debate before we come up with the amendments, so we will hear everybody who wishes to say something.

THE PRESIDING OFFICER (Mr. Guingona): In other words, the Chair cannot accept any amendments?

MR. RAMA: Not in the meantime, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

Since this is not the period of amendments, we are not following the three-minute rule.

MR. COLAYCO: For clarification, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Yes, Commissioner Colayco is recognized.

MR. COLAYCO: Mention was made here that there is no time limit for speeches on debate. Section 33 of our Rules says:

No Member shall occupy more than fifteen minutes in debate on any question or speak more than once on any question without leave of the Constitutional Commission, except as hereinafter provided.

If I am not wrong, by agreement in caucus, we reduced the 15 to 10 minutes. So that I do not think it is correct to say that we have no time limit for debate.

THE PRESIDING OFFICER (Mr. Guingona): I was referring to the three-minute time limit. The Commissioner is correct that as far as this portion of our deliberation is concerned, we would be following the 10-minute rule.

MR. SUAREZ: Mr. Presiding Officer, may I be recognized.

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

MR. SUAREZ: In connection with the inquiry of the Honorable Rodrigo, may we read this unnumbered section that is being proposed under Resolution No. 544 by the Honorable Davide in connection with the legislative power of the Senators elected in the election of 1992: "THE FIRST TWELVE OBTAINING THE HIGHEST NUMBER OF VOTES SHALL SERVE FOR SIX YEARS AND THE REMAINING TWELVE FOR THREE YEARS." That is why we were saying that it would apply to the elections in 1992.

Thank you.

THE PRESIDING OFFICER (Mr. Guingona): I thank the Commissioner.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: I might as well add — this might address also the question of Commissioner Nollado — that in the same addendum, an unnumbered section of Resolution No. 544, Commissioner Davide also proposed a section which would read: "THE FIRST ELECTION UNDER THIS CONSTITUTION FOR THE MEMBERS OF CONGRESS AND FOR PROVINCIAL, CITY AND MUNICIPAL ELECTIVE OFFICIALS SHALL BE ON THE SECOND MONDAY OF MAY, 1987."

As a matter of fact, under Resolution No. 241, introduced by Commissioners Ople, Natividad, de los Reyes and Maambong, we also address this particular point and I hope that we will discuss this at the proper time.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

The Floor Leader is recognized.

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

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

MR. DAVIDE: Are we now in the period of amendments for Section 1?

PERIOD OF AMENDMENTS

MR. RAMA: Mr. Presiding Officer, there are no more registered speakers to interpellate. I move that we proceed to the period of amendments.

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

We are now in the period of amendments and, therefore, we will now follow the three-minute rule.

MR. DAVIDE: I would propose, Mr. Presiding Officer, to reformulate Section 1 to read as follows: "THE FIRST ELECTIONS UNDER THIS CONSTITUTION OF MEMBERS OF THE CONGRESS, AND UNLESS OTHERWISE FIXED BY THE INCUMBENT PRESIDENT, OF ELECTIVE PROVINCIAL, CITY AND MUNICIPAL OFFICIALS SHALL BE HELD ON THE SECOND MONDAY OF MAY, 1987."

This is not similar to the one I proposed, which I changed to what I have just read, in view of the statement of the chairman of the Committee on Transitory Provisions that in the matter of the local elective officials, the incumbent President under Proclamation No. 3 is vested the authority to fix the date of the election for local officials.

So, under my proposal now, in the light of the observation of the chairman of the Committee on Transitory Provisions under Proclamation No. 3, unless the President fixes another date for local elections, the same must be simultaneous with the parliamentary election on the second Monday of May, 1987.

MR. AZCUNA: Mr. Presiding Officer, I would like to ask a question of Commissioner Davide.

THE PRESIDING OFFICER (Mr. Guingona): May we hear first the reaction of the committee.

MR. NOLLEDO: Mr. Presiding Officer, before the committee decides, I have also another amendment. I think it would be better if I also present my amendment with this antithesis to the amendment of Commissioner Davide so that the committee may be given a chance to determine which amendment is acceptable to them.

THE PRESIDING OFFICER (Mr. Guingona): The Chair would like to find out if Commissioner Azcuna is also

proposing another amendment or an amendment to the amendment.

MR. AZCUNA: No, Mr. Presiding Officer. I just want to ask a question of the proponent, Commissioner Davide.

MR. DAVIDE: I am very willing to yield.

THE PRESIDING OFFICER (Mr. Guingona): All right, since the committee is not yet prepared to react, Commissioner Azcuna is recognized.

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

Under the proposal of the Gentleman, the matter of whether or not the local elections will be held simultaneously with the national elections is left to the President. Or is the Gentleman also leaving to the incumbent President the right to change the date for both?

MR. DAVIDE: No, it will refer exclusively to the local elections. Insofar as the Members of Congress are concerned, the election date is fixed on the second Monday of May, 1987.

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

MR. MAAMBONG: Mr. Presiding Officer.

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

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

Actually, this is not an amendment to the amendment of Commissioner Davide because I am very sure that Commissioner Davide will not accept the same.

MR. DAVIDE: I might accept the amendment.

MR. NOLLEDO: But my purpose is for the chairman and the members of the committee to take note of this amendment. My amendment is to maintain the provisions as reported by the committee and after the word "Constitution" at the last, add the following sentence: "CONGRESS SHALL BY LAW AND WITHIN A PERIOD OF ONE YEAR FROM ITS ORGANIZATION FIX THE ELECTIONS FOR ALL LOCAL OFFICIALS."

In other words, I am overriding the provision of Proclamation No. 3 with respect to the presidential power to call for local elections because I feel that the Members of Congress should be elected first. I know there are many loopholes in the present Election Code and Congress may determine whether there is a need to amend the Election Code which was passed by the Batasang Pambansa and then later on, fix the election for local officials. This suggestion is in accord with the request of the League of Governors and City Mayors presented to me when I met them in Quezon City, although this may go against the pronouncement the President made in the United States, as mentioned by Commissioner Ople.

THE PRESIDING OFFICER (Mr. Guingona): There is an amendment proposed by Commissioner Davide, and I understand Commissioner Nolleto is not presenting any amendment to that amendment. We are now prepared to hear from the committee as to their reaction to the proposed amendment.

What is the pleasure of Commissioner Ople?

MR. OPLE: Mr. Presiding Officer, before the committee reacts, will Commissioner Davide yield to just a few questions?

MR. DAVIDE: Very gladly, Mr. Presiding Officer.

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

MR. OPLE: Is Commissioner Davide's basis for calling for simultaneous local and national elections related to the statement made several times by President Aquino in the United States, including her speech before the Congress of the United States, that within one year, approximately one year from the installation of a revolutionary government, the Philippines would move swiftly to full constitutional government through the adoption of a new constitution and the holding of elections for local and national offices early next year?

MR. DAVIDE: I agree with the position of Commissioner Ople and that is why, taking into account Proclamation No. 3, I am proposing for, first, simultaneous election, leaving, however, to the incumbent President to exercise her authority under Proclamation No. 3 to fix a different date for the local elections; and unless she exercises that authority, it will be a simultaneous election on the second Monday of May, 1987.

MR. OPLE: We are not called upon to defer to the wishes of any officer but only to law. I presume that under Proclamation No. 3, President Aquino is vested with law-making power and according to one of the transitory provisions, she will continue to exercise this power until a new Congress is convened.

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

MR. OPLE: Therefore, instead of saying "unless the President otherwise" which is giving a public officer a superior position relative to the Constitution may I know if Commissioner Davide will consider saying "unless A SPECIAL LAW decides otherwise"?

MR. DAVIDE: My original proposal, as a matter of fact, was "simultaneous" but I started to reassess my position in the light of the stand of the committee that the Freedom Constitution provides for a local election as may be mandated by the incumbent President. So to have some degree of flexibility and at the same time accord a degree of utmost respect to the Freedom Constitution which is the source of the Constitutional Commission, I prepared a sort of a compromise. We mandate that it should be simultaneous, yet we accord the President under Proclamation No. 3 an opportunity to fix a different date for the local election. Since according to the Gentleman it was the pronouncement of the President while in the United States, that the election for the local executives or local officials will be within one year, then I expect that the local elections, if the incumbent President fixes a different date, will still be held in 1987.

MR. OPLE: Mr. Presiding Officer, my last question.

THE PRESIDING OFFICER (Mr. Guingona): The Gentleman may proceed.

MR. OPLE: Regarding the rationale for holding local and national elections — and I do recall that Proclamation No. 9 also speaks of the first national and local elections — meaning, seen in a perspective as though there is no other contemplation except that they are to be held together simultaneously, does Commissioner Davide, when he makes this proposal, take into account the prevailing perception that the political stability of our countryside will remain doubtful until the issue of who should be governors and mayors duly elected by the people will have been resolved?

MR. DAVIDE: That is one of the considerations I took into account. That is why my original proposal really was simultaneous national and local elections on the second Monday of May, 1987. However, as I said earlier, my attention was called to the position of the committee regarding Proclamation No. 3. It should also be stated that under Proclamation No. 9, it is mandated that the local elections may be held not earlier than the plebiscite.

MR. OPLE: Yes, which fixes it in the immediate vicinity of a plebiscite, which shall be held not later than 60 days from the conclusion of the work of the Constitutional Commission. Would that be right?

THE PRESIDING OFFICER (Mr. Guingona): Does Commissioner Ople wish to ask for an extension because his three minutes are up?

MR. OPLE: Just one more minute, Mr. Presiding Officer, to allow Commissioner Davide to reply to my question.

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

MR. DAVIDE: Yes, Mr. Presiding Officer, and I have here a copy of the Freedom Constitution. Article VI with the heading "HOLDING OF ELECTIONS" states:

SECTION 1. National elections shall be held as may be provided by the New Constitution.

SECTION 2. Local elections shall be held on a date to be determined by the President which shall not be earlier than the date of the plebiscite for the ratification of the New Constitution.

So in my proposal we are not actually trying to impair the authority vested in the President.

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

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

MS. AQUINO: Just some clarifications, Mr. Presiding Officer. In the proposal of Commissioner Davide, when he said that he is not impairing the authority of the President to set the date for the elections of the local elective officials, he, of course, is not precluding also the authority of this Commission to fix the date. It may also be simultaneous with the national elections.

MR. DAVIDE: Logically, I would say that we are not precluded from fixing the date because once approved, this new Constitution will supplant the Freedom Constitution.

MS. AQUINO: But the Commissioner is not challenging the authority of this Commission to fix the date for the elections of the local elective officials.

MR. DAVIDE: I am not. That is the reason we allow the widest room possible for the President to exercise her authority under the Freedom Constitution.

MS. AQUINO: Another query, Mr. Presiding Officer. If this Commission adopts the Commissioner's amendment and the President so exercises her prerogative under this amendment to set a date for the elections of local elective officials, in effect, by the time the national elections are called for, the OICs are still in place.

MR. DAVIDE: They are still in place.

MS. AQUINO: Because it may present some serious implications in real politics. This would put the majority party at a decided advantage against the other political parties contesting in that election. I was only trying to volunteer that observation.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: It would appear that there are two authorities we are talking about. In the case of national elections, the time when we are to hold national elections will be fixed by the new Constitution.

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. MAAMBONG: That is within the authority of the Constitutional Commission?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. MAAMBONG: On the other hand, as far as local elections are concerned, it is to be held on the date to be determined by the President.

MR. DAVIDE: Yes, Mr. Presiding Officer. And if the President does not so determine, then it will be simultaneous with the parliamentary election.

MR. MAAMBONG: Article VI of Proclamation No. 3 does not say so. It only says that local elections shall be held on a date to be determined by the President, with a colatilla that it should not be earlier than the date of the plebiscite.

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

MR. MAAMBONG: In other words, there is nothing in our authority and in the Freedom Constitution which says that the elections will be held simultaneously or not simultaneously.

MR. DAVIDE: It is within our authority.

MR. MAAMBONG: Thank you.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: I would like to respond to the argument of Commissioner Ople and Commissioner Aquino that if we allow the President to determine the date of the local election, first, it may appear that the President is superior to the Constitutional Commission.

According to Commissioner Aquino, it may appear that we are abdicating our right to set the date of the elections. I think there are reasons of practicality that are involved here. It is not the legalistic reasons of whether the President is superior to the Commission which in the first place, was appointed and created by her, or whether we have abdicated our right. The practical reason is that we do not really know what will happen several months from today. Whether it is necessary for simultaneous election or the election at the local level should be moved further, depending upon certain circumstances, we do not know. Therefore, for practical reasons, somebody should determine that, and the President seems to be the right person to determine it. I think, for that reason, we should allow the President to determine although I am in favor of simultaneous elections.

MR. ABUBAKAR: Mr. Presiding Officer.

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

MR. ABUBAKAR: We in the Constitutional Commission are not familiar with the situation in the provinces for the provincial election. For example, in Mindanao, peace and order there is not well-established and in many parts of Luzon, the same situation obtains.

For us to legislate on the time of the election would be presumptuous on our part, not knowing whether the situation prevailing all over the country is appropriate for the holding of an election.

Since the President, considering her record and from her statements, is for the interest of the nation, I would rather entrust to her the choice of the date upon the recommendation of the Constitutional Commission. She has affirmed that she is under the Constitution; there is no proviso for her reelection for the present. So, her whole actuation was premised on the interest of the nation. If peace and order, as she sees it, is not well-established in the provinces, there is no sense of holding provincial elections. I have seen that when peace and order does not

prevail, guns and goons prevail. So, why should we have that kind of an election?

Therefore, I would suggest that instead of appropriating to ourselves the right to determine local or national elections since the President is not eligible for reelection and I consider that her determination is motivated only by the interest of the nation, I would say that we should set the date but let the President propose the date and the Congress can set the terms and the date of this election.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: Mr. Presiding Officer, the Vice-President would like to be recognized.

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

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

The Freedom Constitution, Proclamation No. 3, provides under Article V, Section 5, the holding of a plebiscite for the ratification or rejection of the new Constitution. It says that the President shall fix the date of the holding of a plebiscite. But I believe that Section 1 of the committee report provides for the submission of the new Constitution to the people in a plebiscite on a certain date. Article VI distinguishes between the holding of national elections in Section 1, which shall be held as may be provided by the new Constitution, and the holding of local elections in Section 2, which shall be held on a date to be determined by the President, which shall not be earlier than the date of the plebiscite for the ratification of the Constitution.

So, I agree with the substance of the proposed amendment of Commissioner Davide but I would prefer the suggestion of Commissioner Nollado that there be two sentences, first, adopt Section 1 of the committee report and then add another sentence for the holding of local elections. In other words, instead of one sentence, as proposed by Commissioner Davide, we should have two sentences under Section 1.

THE PRESIDING OFFICER (Mr. Guingona): Is the Vice-President presenting an amendment to the amendment of Commissioner Davide?

MR. PADILLA: I do not know exactly the amendment read by Commissioner Davide but I would agree with him provided that the local election is mentioned in a subsequent sentence rather than having both incorporated in one sentence.

THE PRESIDING OFFICER (Mr. Guingona): Before the Chair asks the committee if they accept the amendment, may we ask Commissioner Davide to please restate his proposed amendments

SUSPENSION OF SESSION

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: To expedite the matter, may I ask for a suspension of session for a few minutes so we can consolidate.

THE PRESIDING OFFICER (Mr. Guingona): The Chair suspends the session:

It was 4:03 p.m.

RESUMPTION OF SESSION

At 4:09 p.m., the session was resumed.

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

Commissioner Suarez is recognized.

MR. SUAREZ: May we request that Commissioner Davide be recognized.

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

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

In consultation with the committee and following the agreement, we propose the following new Section 1, with Commissioners Padilla, Nollado, Ople, Rama and Bernas as coauthors. It reads: "The FIRST ELECTION UNDER THIS CONSTITUTION of Members of THE CONGRESS shall BE held ON THE SECOND MONDAY OF MAY, 1987.

THE FIRST LOCAL ELECTIONS SHALL BE HELD ON THE SAME DATE UNLESS OTHERWISE FIXED BY THE PRESIDENT."

THE PRESIDING OFFICER (Mr. Guingona): May we hear the reaction of the committee?

MR. SUAREZ: There is only one clarification.

MR. MONSOD: Mr. Presiding Officer.

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

MR. SUAREZ: Why do we not just say that the local elections shall be on the date fixed by the President?

MR. DAVIDE: May I answer the question, Mr. Presiding Officer.

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

MR. DAVIDE: Frankly, the idea is simultaneous. However, taking into account the provision of the Freedom Constitution, we allow the President to exercise her right thereunder and to fix a date different from the date intended for a simultaneous election. So very likely, the President will only agree to have simultaneous elections or if she will not, then she will take into account the fullness of her authority in the light of her pronouncements to the public only insofar as local elections are concerned.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: Mr. Presiding Officer, from a practical point of view, we know that holding national elections and local elections at the same time is very difficult because of the number of names that will be on the ballot. There will be at least 43 to 45 names on the ballot and if we decide that the Congressmen will be elected on a provincial or city basis, there could be as many as 50. Therefore, from that point of view, they should not really be held simultaneously. The presumption should not be that they are held simultaneously but that they can be held separately. If I read the proclamation correctly, it said that the holding of local elections will be determined by the President. So if we just repeat that section and say that local elections shall be determined by the President, the Gentleman can add: "THAT WHICH MAY BE SIMULTANEOUS WITH THE NATIONAL ELECTIONS." We are putting it the other way rather than us making a decision on it ourselves and making the presidential

determination an exception.

MR. DAVIDE: Mr. Presiding Officer, this is giving full accord to the authority of the President. In effect it would be merely recommendatory; however, I would not agree that no simultaneous election can be had because simultaneous elections simply mean that elections are held in one day even if they are separate. There may be a separate ballot for local elections; there may be a separate ballot for national elections but they are held simultaneously insofar as the date is concerned.

Frankly speaking, we have certain remedies in holding simultaneous elections as against the contention that there are many names to be written on the ballot. One, for instance, is a proposal that we limit the number of voters for a given voting center. Right now, I understand that a voting center is allowed 300 voters. If we reduce the number of voters for every voting center to only 100 then we can finish the voting in one day regardless of the number of candidates to be voted for any particular office.

MR. MONSOD: I do not think that is practicable. There are about 87,000 precincts and there will be three public school teachers in each precinct. If we divide that into two and make it 150 voters per precinct, we are really talking about 87,000 times 6 teachers. There are not enough public school teachers to split it. Furthermore, we are doubling the cost because we have to have twice the number of ballot boxes; we have to pay twice the number of inspectors and so on; we have to consider the operational aspects of that. What I am saying is that maybe we should say: "THE LOCAL ELECTIONS WILL BE HELD ON A DATE DETERMINED BY THE PRESIDENT WHICH MAY BE SIMULTANEOUS WITH THE NATIONAL ELECTIONS." There is an acknowledged general rule that the President would set the date for the local elections.

THE PRESIDING OFFICER (Mr. Guingona): Would Commissioner Davide wish to react?

MR. DAVIDE: Yes, Mr. Presiding Officer.

It would really make no difference; however, it should be worded. The fact is that we will allow simultaneous elections on the second Monday of May, 1987 providing, however, flexibility to the President to fix another date for the local elections.

MR. RODRIGO: Mr. Presiding Officer.

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

MR. RODRIGO: I think there is a substantial difference between stating in the provision that there shall be simultaneous elections on a certain date except if the President sets another date for the local election, and saying that the President shall set both the national and the local elections. The first formulation presumes that there is a consensus in this Constitutional Commission that we should have simultaneous elections of national and local officials. I do not think there is such a consensus. I personally am not in favor of simultaneous elections for local and national candidates not only because of the practical difficulties but because of the issues involved. The issues in a local election are very different from the issues in a national election, especially if it coincides with senatorial, presidential and vice-presidential elections.

Secondly, the practice before was to separate the local election from the national election. So I would rather that the wording leaves to the President the decision on when to hold the local election.

THE PRESIDING OFFICER (Mr. Guingona): Mr. Floor Leader, do we have other registered speakers?

MR. RAMA: There are no more registered speakers. So, I would ask Commissioner Davide if he accepts the amendment.

MR. DAVIDE: To expedite the proceedings, Mr. Presiding Officer, may we vote first on the first sentence.

THE PRESIDING OFFICER (Mr. Guingona): Will Commissioner Davide restate the first portion.

MR. DAVIDE: I propose and formally move that the Commission act first on the first sentence.

THE PRESIDING OFFICER (Mr. Guingona): Will the Gentleman restate the first sentence?

MR. DAVIDE: The first sentence of Section 1 reads: "The FIRST election UNDER THIS CONSTITUTION of MEMBERS of THE CONGRESS SHALL BE HELD ON THE SECOND MONDAY OF MAY, 1987.

THE PRESIDING OFFICER (Mr. Guingona): May we hear the reaction of the committee.

MR. SUAREZ: The committee accepts the proposal.

MR. RAMA: Mr. Presiding Officer, we are ready to vote.

VOTING

THE PRESIDING OFFICER (Mr. Guingona): The body is now ready to vote on the amendment.

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

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 24 votes in favor and none against; the first sentence, as proposed, is approved.

MR. OPLE: Mr. Presiding Officer, before Commissioner Davide proceeds to the next sentence of his proposed amendment, since we are dealing with the fixing of both local and national elections in Section 1, may I manifest my desire and submit a reservation to take up the issue of elections this time at presidential level when we come to Section 7. That is just a reservation, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): The Chair notes and accepts the reservation.

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

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

MR. DAVIDE: The second sentence, Mr. Presiding Officer, for Section 1 which should now appear as a second paragraph thereof reads: "THE FIRST LOCAL ELECTION SHALL BE HELD ON THE SAME DATE, UNLESS OTHERWISE FIXED BY THE PRESIDENT."

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

MR. MONSOD: I would like to propose an amendment, Mr. Presiding Officer. It reads: "THE FIRST LOCAL ELECTIONS SHALL BE HELD ON A DATE TO BE DETERMINED BY THE PRESIDENT WHICH MAY BE SIMULTANEOUS WITH THE ELECTION OF THE MEMBERS OF CONGRESS."

THE PRESIDING OFFICER (Mr. Guingona): Is it an amendment by substitution, or is that an amendment to the amendment of Commissioner Davide?

MR. MONSOD: It is an amendment to the amendment.

THE PRESIDING OFFICER (Mr. Guingona): In which case, we will ask Commissioner Davide if he accepts the proposed amendment to his amendment.

MR. DAVIDE: Personally, I am prepared to accept. But since we were many who worked on this, may I request a

suspension of the session.

SUSPENSION OF SESSION

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

It was 4:01 p.m.

RESUMPTION OF SESSION

At 4:03 p.m., the session was resumed.

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

The Floor Leader is recognized.

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

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

MR. DAVIDE: Mr. Presiding Officer, after the conference, we are prepared to accept the amendment to the second sentence of Section 1. May I request the main proponent of the amendment, Commissioner Monsod, to be recognized.

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

MR. MONSOD: Just to restate the amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): The Gentleman may proceed.

MR. MONSOD: "THE FIRST LOCAL ELECTIONS SHALL BE HELD ON A DATE TO BE DETERMINED BY THE PRESIDENT WHICH MAY BE SIMULTANEOUS WITH THE ELECTION OF THE MEMBERS OF CONGRESS."

MR. NOLLEDO: Mr. Presiding Officer.

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

MR. NOLLEDO: May I pose some queries to Commissioner Monsod.

MR. MONSOD: Gladly.

MR. NOLLEDO: Under the Gentleman's amendment, it is possible for the incumbent President to call local elections even before the elections on the second Monday of May, 1987.

MR. MONSOD: Yes, Mr. Presiding Officer, the only limitation is that the President cannot call it earlier than the date of the plebiscite.

MR. NOLLEDO: So I understand it right that the amendment does not, in any way, amend Section 2, Article VI of the Freedom Constitution.

MR. MONSOD: Yes, Mr. Presiding Officer.

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

THE PRESIDING OFFICER (Mr. Guingona): Are we ready to vote?

MR. RAMA: The body is ready to vote.

THE PRESIDING OFFICER (Mr. Guingona): May we hear first the committee's reaction? Does the committee accept the proposed amendment, as read by Commissioner Monsod?

MR. SUAREZ: Before the committee announces its decision, may we just clear up one point with Commissioner Monsod. When he speaks of local elections, is he including also the barangay elections?

MR. MONSOD: No, Mr. Presiding Officer. Only the provincial, city and municipal elections.

MR. SUAREZ: Thank you.

Since the committee is divided in its opinion, may we request that the matter be submitted to the body for consideration.

VOTING

THE PRESIDING OFFICER (Mr. Guingona): We shall now vote on the proposed amendment, as read by Commissioner Monsod.

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

As many as are against, please raise their hand. (No Member raised his hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 33 votes in favor, none against and 1 abstention; the amendment is approved.

The Floor Leader is recognized.

MR. RAMA: There are no proponents of amendments or speakers on Section 2. May I ask that the committee read it in order to be considered for voting.

THE PRESIDING OFFICER (Mr. Guingona): If the Chair may interrupt, may we have the entire first section read and approved by the body.

MR. SUAREZ: The whole section now reads: "The FIRST election UNDER THIS CONSTITUTION OF MEMBERS OF THE CONGRESS SHALL be HELD ON THE SECOND MONDAY OF MAY, 1987.

The FIRST LOCAL ELECTIONS shall BE held ON A DATE TO BE DETERMINED BY THE PRESIDENT WHICH MAY BE SIMULTANEOUS WITH THE ELECTION OF THE MEMBERS OF CONGRESS."

VOTING

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

We are now ready to vote on the entire first section of the Article on Transitory Provisions.

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

As many as are against, please raise their hand. (One Member raised his hand.)

The results show 34 votes in favor and 1 against; Section 1 is approved.

SR. TAN: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): The Commissioner may proceed.

SR. TAN: Did the committee consider when the barangay elections would be?

MR. SUAREZ: That is exactly what we are trying to find out from Commissioner Monsod. I suppose that will be "as may be provided by law," unless Commissioner Monsod has a different interpretation.

THE PRESIDING OFFICER (Mr. Guingona): Would Commissioner Monsod like to respond?

MR. MONSOD: I believe that the term of the incumbent barangay captains will end in 1988, according to the local government elections in 1982, for a six-year term. So unless Congress changes that date, which it can do, the next elections for barangay officials will be in 1988.

SR. TAN: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Villacorta be recognized.

MR. FOZ: Mr. Presiding Officer.

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

MR. FOZ: In connection with the election of local officials that we speak of in this provision, just who are the elective officials who are going to be involved in this election?

MR. SUAREZ: The provincial governor, the provincial vice-governor and eight members of the board; the city officials would then be the city mayor, the city vice-mayor and eight sangguniang panlungsod members, in the municipal level, the municipal mayor, the municipal vice-mayor and the eight members of the sangguniang bayan.

MR. FOZ: Is there an existing law which provides for the positions of local elective officials?

MR. SUAREZ: Yes, the Local Government Code.

MR. FOZ: What about the manner of their election? Does the same Local Government Code also provide for the manner of their election?

MR. SUAREZ: Yes, the Local Government Code provides for the manner of their election.

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

MR. SUAREZ: It is also covered by the Omnibus Election Code.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: To complete the lineup of officials, I might just mention that under B.P. Blg. 337, Local Government Code, we still have the existence of subprovinces. However, in the same Local Government Code, the subprovinces are now in transitory existence. In other words, they are given 10 years within which to decide whether they will qualify as a province, and if they will not qualify within that period of time, then they will revert back to the mother province to which each of them belongs. However, until such time, I would assume that local officials would also mean officials of the subprovinces under the Local Government Code, unless in the interim, the President in her authority right now would choose to eliminate the subprovinces altogether. That is no longer our concern.

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

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

I would like to ask some clarificatory questions of the chairman of the committee. Does he consider the possibility that the officials he enumerated might be changed by Congress if the President calls for local elections after the congressional elections?

MR. SUAREZ: That is theoretically possible, Mr. Presiding Officer.

MR. NOLLEDO: It may turn out that the President decides to call local elections much later than the second Monday of May, 1987 and the Congress may amend the Local Government Code and provide for new sets of officials.

MR. SUAREZ: Greater participation, for example, in the city council level.

MR. NOLLEDO: Yes, Mr. Presiding Officer.

Thank you.

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

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

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

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

I propose to insert a new section following the approved Section 1. It reads: "THE INCUMBENT PRESIDENT SHALL PRESIDE AT THE JOINT INAUGURAL SESSION OF CONGRESS."

THE PRESIDING OFFICER (Mr. Guingona): May we hear from the committee.

MR. SUAREZ: Is this a new section altogether?

MR. DAVIDE: Yes, it is a new section altogether.

MR. SUAREZ: May we have it read again.

MR. DAVIDE: "THE INCUMBENT PRESIDENT SHALL PRESIDE AT THE JOINT INAUGURAL SESSION OF CONGRESS."

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: Will Commissioner Davide yield?

MR. DAVIDE: Willingly, Mr. Presiding Officer.

MR. OPLE: Is this provision necessary?

MR. DAVIDE: I believe it is necessary because this will be the First Congress and they have not by then elected the officers who will preside for both Houses. So for purposes merely of the inaugural session, just like in our case, although in Proclamation No. 9, it is the incumbent Vice-President who was mandated to preside the opening of the Constitutional Commission, we now will have somebody to preside the formal inauguration of both Houses of Congress.

MR. OPLE: Since this is a transitory provision, I think it might be justified.

Thank you.

MR. DAVIDE: So to make it very clear as transitory, I am even willing to insert the words "FIRST CONGRESS."
"THE INCUMBENT PRESIDENT SHALL PRESIDE AT THE JOINT INAUGURAL SESSION OF THE FIRST CONGRESS."

MR. NATIVIDAD: Mr. Presiding Officer.

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

MR. NATIVIDAD: Will the Gentleman yield to just a few questions?

MR. DAVIDE: Gladly.

MR. NATIVIDAD: The incumbent President presided over the Batasang Pambansa, if you will recall. I was also a Member of the interim Batasang Pambansa because the concept at that time was that it was a parliamentary or a semi-parliamentary system of government but I think we have opted for a presidential type of government. During our time in Congress, if no Speaker has been elected yet, we merely elect the Secretary who presides. There is a separation of a coequal and coordinate power in this setup. Why should we require the President to preside over Congress? This is not a parliamentary government.

MR. DAVIDE: This is merely ceremonial.

MR. NATIVIDAD: Even then, Mr. Presiding Officer.

MR. DAVIDE: I would even presume that upon the opening, the President will be invited.

MR. NATIVIDAD: Yes, she is invited to address the Congress, but this work was given to the Secretary only during the previous Congress.

MR. DAVIDE: I am open for any possible amendment, Mr. Presiding Officer. But the idea is to let us decide who will preside at the opening ceremonies.

MR. NATIVIDAD: During the old Congress, a new Congress convenes; we merely elect a new Secretary, and then the Secretary presides until the new Speaker is elected. Of course, when the Speaker is elected and the Congress is in official session, that is the time when the President is invited to address the Congress.

MR. DAVIDE: That may be true in the old Congress, because there was practically a continuity in the old Congress. We are now talking of the First Congress under the new Constitution and upon its opening, we cannot even speak of a Secretary because the Secretary can only be elected after the convening of the First Congress.

MR. NATIVIDAD: It seems to me that we are going to somehow beg the President to perform the work of the Secretary. That is my worry, Mr. Presiding Officer. It seems that there is separation of power here.

MR. DAVIDE: I am open to any possible suggestion.

FR. BERNAS: Mr. Presiding Officer.

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

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

FR. BERNAS: Mr. Presiding Officer, although the President of the Constitutional Commission is volunteering to preside, may I offer the amendment that the oldest Member of the newly elected Senate will preside.

THE PRESIDING OFFICER (Mr. Guingona): Is that an amendment to the proposed section?

FR. BERNAS: An amendment to the amendment — instead of the President, we designate "THE OLDEST SENATOR-ELECT."

THE PRESIDING OFFICER (Mr. Guingona): May we hear from Commissioner Davide as to his reaction to the proposed amendment of Commissioner Bernas?

MR. DAVIDE: I would only invite the attention of Commissioner Bernas that this presupposes a joint inaugural session.

FR. BERNAS: Yes.

MR. DAVIDE: I accept the proposal.

THE PRESIDING OFFICER (Mr. Guingona): Is there any other comment.

MR. NOLLEDO: May I pose a query to Commissioner Bernas, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): I think the Vice-President was ahead. Could we give the floor to the Vice-President, then Commissioner Nollado?

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

I do not believe a provision like this is necessary. First of all, it is not always necessary that a Secretary of a Chamber preside because there may be no Secretary yet. But usually, they just choose among them a temporary chairman to preside. After the election of the Speaker of the House or the President of the Senate, then the person elected assumes office as Presiding Officer. So, I do not believe this is necessary.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Does Commissioner Davide wish to react to that?

MR. DAVIDE: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): The Gentleman may proceed.

MR. DAVIDE: In view of the fact that the Senators-elect and the Congressmen-elect are already fighting as to who will preside, I withdraw the amendment.

MR. SUAREZ: Thank you.

THE PRESIDING OFFICER (Mr. Guingona): The amendment is withdrawn.

The Floor Leader is recognized.

MR. RAMA: I ask that the committee read the second section.

THE PRESIDING OFFICER (Mr. Guingona): May we request Commissioner Suarez, the chairman, to please read the second section.

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

May we request the Honorable Maambong to take over in connection with Section 2.

MR. MAAMBONG: Section 2 of the Transitory Provisions reads: "The incumbent President shall continue to exercise legislative power until the convening of Congress." This formulation was based on Proposed Resolution

No. 262 filed by this Representation, together with Commissioners Ople, de los Reyes and Natividad. Actually, we only copied and restated what is found in Section 1, Article II of Proclamation No. 3, the Freedom Constitution, which provides:

Until a legislature is elected and convened under a new Constitution, the President shall continue to exercise legislative power.

It is practically a recopy, therefore, of this section in the Freedom Constitution.

MR. RAMA: Mr. Presiding Officer, there are no registered speakers on this particular section, so I ask that we take a vote on this noncontroversial section.

THE PRESIDING OFFICER (Mr. Guingona): We shall now take a vote on this noncontroversial section.

What is the pleasure of Commissioner Ople?

MR. OPLE: Mr. Presiding Officer, before we vote, I have just one question which I hope the committee will be able to answer.

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

MR. OPLE: Section 2 says that the incumbent President shall continue to exercise legislative power until the convening of Congress. Between the convening of Congress and the adoption of this Constitution, let us say on January 19, will be several months. During that period it is possible that treaties and international agreements may come up for consideration. Do I take it that the intent of the committee is under Section 2? Is the treaty-ratifying power part of the legislative power indicated in this section?

MR. SUAREZ: Is the Gentleman referring to treaties?

MR. OPLE: Yes.

MR. SUAREZ: Not executive agreements.

MR. OPLE: Treaties and international agreements which can include executive agreements.

MR. SUAREZ: In the case of the treaties, it might necessitate a blending of the two powers. In other words, both executive and legislative powers, since under this Section 2, it is envisioned that the President shall continue to exercise legislative power within that period. It may be theoretically possible that the President may enter into treaties, both in his capacity as President and as one exercising legislative power, although it is a little unusual, and may not be accepted by the other signatory nation.

MR. OPLE: It is extraordinary for the reason that this transitory period is historically extraordinary. However does the Gentleman want to include as part of the intent of the committee and of this Commission that where treaty issues may come up, it might be prudent for the executive power to wait until the Congress is convened before ratifying a treaty that the government itself, the executive power, has negotiated and which, under this Constitution, would be subject to the ratification by the Senate?

MR. SUAREZ: We agree that that is the most judicious step that can be taken by the executive.

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

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

MR. ABUBAKAR: I was just going to comment on the question posed by Commissioner Ople regarding the exercise of legislative power of the President where, using his judicious judgment, he would wait until Congress

convenes and submits the treaty for ratification. I believe that would be the position any prudent President, any normal President would assume with respect to this provision.

Thank you. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

The Chair takes it that Commissioner Ople was just making a remark or comment and he is not presenting any amendment.

MR. OPLE: No, I just wanted to fix clearly the intent of the Commission with respect to Section 2, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Jamir be recognized before we vote.

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

MR. JAMIR: I have a minor amendment on line 11. Instead of "the convening of Congress," I move that the provision states "UNTIL THE CONGRESS IS CONVENED."

THE PRESIDING OFFICER (Mr. Guingona): What does the committee say?

MR. SUAREZ: It is accepted. It is a question of style.

MR. JAMIR: Thank you very much.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I propose an amendment to insert the words "THE FIRST" before "Congress."

THE PRESIDING OFFICER (Mr. Guingona): May we hear the reaction of the committee on the second proposed amendment?

MR. SUAREZ: It makes it more emphatic; it is accepted, Mr. Presiding Officer.

MR. RAMA: We are ready to vote.

THE PRESIDING OFFICER (Mr. Guingona): We are now ready to vote. May we ask Commissioner Suarez or Commissioner Maambong to read again the section to be voted upon?

MR. MAAMBONG: Section 2 of the Transitory Provisions, as amended by Commissioners Davide and Jamir, reads: "THE INCUMBENT PRESIDENT SHALL CONTINUE TO EXERCISE LEGISLATIVE POWER UNTIL THE FIRST CONGRESS IS CONVENED."

VOTING

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

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

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 35 votes in favor and none against; Section 2 is approved.

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

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

MR. VILLACORTA: Mr. Presiding Officer, this is an amendment that will constitute an additional section after Section 2.

THE PRESIDING OFFICER (Mr. Guingona): The Commissioner may proceed.

MR. VILLACORTA: "DURING THE FIRST ELECTIVE TERM OF THE HOUSE OF REPRESENTATIVES, THE REPRESENTATIVES OF THE SECTORS UNDER ARTICLE — SHALL BE APPOINTED BY THE PRESIDENT FROM A LIST OF RECOMMENDATIONS BY THEIR RESPECTIVE SECTORS. IN DETERMINING THE NUMBER OF SEATS FOR EACH SECTOR, THE PRESIDENT SHALL GIVE PROPORTIONATELY MORE SEATS TO THE PEASANTS' AND WORKERS' SECTORS." This was coauthored by Commissioners Monsod, Tadeo, Ople, Lerum, Suarez, Quesada, Aquino, Bernas, Sarmiento, Rigos, Nieva, Bennagen, Uka, Tan, Garcia, Gascon, Nollado, Foz, Treñas, Rosario Braid and this Representation.

THE PRESIDING OFFICER (Mr. Guingona): Would the honorable Commissioner wish to have three minutes to explain?

MR. VILLACORTA: This is for the purpose of filling the reserved seats stipulated in the Article on the Legislative for the sectoral representatives; and in the absence of election, a nationwide election or election by district of these representatives, we are providing the mechanism for selecting the first batch of sectoral representatives during the first elective term. The consensus of the cosponsors is that the President shall give more seats, proportionately more seats, for the peasants and the workers.

Thank you.

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

MR. SARMIENTO: May I address a few questions to Commissioner Villacorta.

MR. VILLACORTA: Willingly, Mr. Presiding Officer.

MR. SARMIENTO: The last line of the first paragraph speaks of "respective sectors." I think these refer to youth, peasants, cultural communities, women and urban poor. Am I correct?

MR. VILLACORTA: What was identified was five sectors — the peasants, workers, women, youth and minorities. It does not include the urban poor.

MR. SARMIENTO: What if each sector has several distinct and separate organizations? For instance, in the women sector we have a group known as GABRIELA, a group known as AWARE, a group known as KALAYAAN, et cetera. How will the selection be made by the President, conceding that there are many women organizations?

MR. VILLACORTA: I think the purpose of this provision is to give leeway to the President on the manner of selection. Probably, the process followed in choosing the Members of this Constitutional Commission, for that matter, could be followed.

There are suggestions also that each sector may hold sectoral congresses so that the names to be submitted to the President would be limited, much more limited in number, and that will help the President significantly in making her choice.

MR. SARMIENTO: Does not the Gentleman think that the holding of sectoral congresses is more wise since the decision will be vested upon the member organizations and the President is not left to decide exclusively as to who will be the sectoral representatives?

MR. VILLACORTA: We decided to keep quiet about that because there may be some sectors which are not ready for sectoral congresses, and such sectoral congresses might lead more to greater divisiveness and internal division than unity.

MR. SARMIENTO: I have one last question, Mr. Presiding Officer. The last two lines of the last paragraph state that the President shall give proportionately more seats to the peasants and the worker sectors. May we know the reason why we are allotting more seats to the peasants and workers?

MR. VILLACORTA: This has to do with the rationale for sectoral representation, and our bias is in favor of the marginalized, less advantaged sectors, and these are clearly the peasants and the workers. Moreover, they compose the biggest, I mean the bulk, the majority of our population, occupationally speaking.

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

MR. RODRIGO: Mr. Presiding Officer.

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

MR. RODRIGO: Will Commissioner Villacorta yield to a few questions?

MR. VILLACORTA: Gladly, Mr. Presiding Officer.

MR. RODRIGO: Section 5 of the Article on the Legislative provides that the House of Representatives shall be composed of not more than 250 members, referring to the district representatives. Then referring to the party list and sectoral representatives, it provides that the House shall also be composed of those elected through a party list system of registered national, regional, and sectoral parties or organizations, as provided by law.

I think the intention in this section is very clear: that before we can elect or select sectoral representatives, there must be implementing legislation. Precisely, this came up because of the doubt expressed by many Members of this Commission about the practicability of selecting or electing the sectoral representatives. What are the mechanics? We said that we will leave it to Congress. So I think the mandate in Section 5 is for us to wait until Congress is convened; and then, let Congress enact the implementing legislation for the selection or election of sectoral members.

Let me continue. The provision also says that for three consecutive terms after the ratification of this Constitution, 25 of the seats allocated to the party list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth and such other sectors as may be provided by law.

So, we have to wait for an implementing legislation to know what sectors are going to be represented because while there is an enumeration here of some sectors, labor, peasant, etc., it also says "and such other sectors as may be provided by law." So, I think it is premature.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: For further comment on the same issue, I ask that Commissioner Davide be recognized.

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

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

In addition to the statement of Commissioner Rodrigo, while I am personally in favor of the proposal, it is with deep regret that I have to object to it, for the reason that when we took up Section 5 of the Article on the Legislative, we specifically did not even provide as to how to begin the three consecutive terms where sectoral representations shall be allowed to occupy one-half of the seats reserved for the party list system.

So, the wording is very clear: "For three consecutive terms." I remember very well when this was introduced by Commissioner Monsod that there was a proposal to insert the word "THE," meaning, for the three consecutive terms. The article "THE" was not even included, precisely because if we fix the three consecutive terms to immediately begin from the first Congress, it will not leave Congress the authority precisely to prescribe for sectoral representations. We spoke here of "as provided by law," the clear intent being that the matter of providing for sectoral representations to occupy one-half of the number of seats allotted to the party list system must be left to Congress.

Finally, under the proposal now, we are in effect curtailing the authority of Congress or even the incumbent President in the exercise of her legislative power to provide for a law to determine what are the other sectors to be represented, because the proposal now mandates to give priority to certain other sectors.

So we are being inconsistent with what we have approved. In effect, it would be a reopening of Section 5, more particularly on sectoral representation. I believe, and I submit very humbly, that the proposed amendment, although a good one, is out of order.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Does Commissioner Villacorta wish to react first to the comment? After the reaction, we will call on Commissioner Aquino.

MR. VILLACORTA: First of all, our understanding of the Transitory Provisions is that this would fill in the gap between the time that the Constitution is ratified and the time that certain agency or branch of government starts its operation. There is nothing that should stop us from placing in the Transitory Provisions certain provisions that will provide substance and give immediate implementation to the provisions of the Constitution.

If we do not come up with this provision, then in the First Congress, the seats allotted to the sectoral representatives will be vacant and it will be a big waste because for the first elective term there will be no sectoral representatives. With respect to the provision "as provided by law," the President can herself enact a law. The executive order in itself is part of the intention, that is my humble interpretation. Secondly, Section 2 says that the incumbent President shall continue to exercise legislative power until the convening of Congress. I know that Commissioner Davide has also a reservation with respect to the second sentence, and if we will vote on this, may I suggest that we do it sentence by sentence.

THE PRESIDING OFFICER (Mr. Guingona): The Chair recognizes Commissioner Aquino as we have indicated earlier.

MS. AQUINO: Mr. Presiding Officer, I would like to differ with the manifestation of Commissioner Davide that the proposed amendment of Commissioner Villacorta is out of order.

I remember very distinctly that during the deliberations on Section 5 of the Article on the Legislative, this exact concept was already proposed jointly by this Representation and Commissioner Bernas. However, the consensus of the body then was to defer the vote and decision on that same amendment and refer to the Committee on Transitory Provisions. In the nature of the provisions of the Article on Transitory Provisions, this is not at all out

of place precisely without intending to contravene the approved Article on the Legislative providing reserve seats for sectoral representatives. This would give full effect and impetus for the immediate implementation of reserve seats of sectoral representation. The reservation of seats for sectoral representatives is, to be exact, an innovative political mechanism that would attempt to democratize popular representation.

In this context, it will require the best possible support for immediate mechanism that will implement the concept for the first elective term of Congress. It is as if the intention of this Commission, if this proposal is adopted, is to break new ground and precisely plant the seeds for sectoral representation so that the sectoral representatives will take roots and be part and parcel exactly of the process of drafting the law which will stipulate and provide for the concept of sectoral representation.

THE PRESIDING OFFICER (Mr. Guingona): Before recognizing Commissioner de Castro, we would like to recognize Commissioner Davide.

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

I only want to react to the statement that it might be possible that the first Congress will be without sectoral representation. It cannot be because, as correctly stated by Commissioner Villacorta, the President can continue to exercise legislative powers until the First Congress is convened; meaning to say, that between the ratification and the date of the convening, the President herself may promulgate an executive order providing sectoral representation. Besides, the Congress, after being convened, may likewise consider the immediate legislation providing for sectoral representation to complete the composition of the Congress. So, the fear that there might not be sectoral representation for the First Congress is rather unfounded.

MR. VILLACORTA: Mr. Presiding Officer, may I just briefly react to that.

THE PRESIDING OFFICER (Mr. Guingona): Yes, after that we will recognize Commissioner de Castro. The Gentleman may proceed.

MR. VILLACORTA: The point of the Honorable Davide is that the President may provide for sectoral representation but cannot this Article on Transitory Provisions of this Constitution direct the President with this provision to do so? In other words, this is a way of ensuring that there will be sectoral representatives in the First Congress. If we are really serious about this innovation, why can we not guarantee that the First Congress would have such representatives?

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

MR. DE CASTRO: Thank you.

May I ask just one question of Honorable Villacorta.

MR. VILLACORTA: Gladly, Mr. Presiding Officer.

MR. DE CASTRO: Did I get the Commissioner right that in this proposal the urban poor are included?

MR. VILLACORTA: Commissioner Gascon pointed that out. I do not have the draft of the Article on the Legislative but Commissioner Gascon said that the urban poor are included.

MR. DE CASTRO: So the Commissioner's statement at the beginning is already . . .

MR. VILLACORTA: Yes, I correct myself, Mr. Presiding Officer.

MR. DE CASTRO: Section 5 of the Article on the Legislative speaks of "such other sectors." Are "such other sectors" not included in this recommendation that the President may perhaps include?

MR. VILLACORTA: If that is the intent of that provision, then it is possible that the President, in appointing the first batch of representatives, may include other sectors other than those six that were identified.

MR. DE CASTRO: In short, this proposal is not limited to peasants, workers, women, youth and minorities. It also includes the urban poor and such other sectors that the President, according to the Gentleman, may so designate. Is that correct?

MR. VILLACORTA: It is so, because the wording does not limit the range of choices by the President.

MR. DE CASTRO: What is the rationale then of giving more seats to the peasants and workers?

MR. VILLACORTA: As I had explained earlier, they compose the majority of our population and they are the most marginalized.

MR. DE CASTRO: Do we have statistics to show that they compose the greater number than the other sectors?

MR. VILLACORTA: That point was borne out during the earlier discussions on sectoral representation during the period of interpellations. I did not anticipate that the same question will be raised again, so I did not bring the statistics with me.

MR. DE CASTRO: The Gentleman said that the peasants and the workers are more marginalized. How about the urban poor, are they not marginalized?

MR. VILLACORTA: They are, Mr. Presiding Officer, but in terms of number, the peasants and the workers are greater in number.

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

THE PRESIDING OFFICER (Mr. Guingona): Mr. Floor Leader, do we have any other business?

MR. LERUM: Mr. Presiding Officer, may I be recognized.

MR. RAMA: Commissioner Lerum would like to speak.

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

MR. LERUM: I want to speak in favor of the amendment because without this amendment, it is possible that in the First Congress there will be no sectoral representation. We are leaving to the President the manner of their election or selection because up to the time that a new Congress is convened, the President is the Congress. The President is the one who can legislate. Therefore, by putting this provision in the Transitory Provisions, we are ensuring that sectoral representatives will be with the First Congress. Under the provision on legislative power that we have approved, the sectors are not limited to those included therein because Congress may add other sectors.

Sectoral representation is not new because we had it in the interim Batasang Pambansa and in the regular Batasang Pambansa. In both the interim and the regular Batasang Pambansa, the sectors and the manner of the election of representatives had been defined. In this new Congress, it will be the Congress that will define how the representatives will be elected or selected. But because there is no Congress yet, until we have an election, then we leave it to the other Congress, which is the President, to fix the manner of their election or selection.

This body will remember that the original draft provides only for election. But anticipating the fact that the Members of Congress will yet have to be elected, nobody will be able to provide the election or selection of the sectoral representatives; we provided therein the provision that it should be by election or selection as may be provided by law.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: May I be allowed to volunteer some historical information in support of the Villacorta amendment.

THE PRESIDING OFFICER (Mr. Guingona): The Gentleman may proceed.

MR. OPLE: In the interim and the regular Batasang Pambansa, in accordance with an amendment to the 1973 Constitution, there were four reserve seats for industrial labor, four reserve seats for agricultural labor and six reserve seats for the youth. Therefore, historically, there is a precedent for what the Villacorta amendment urges, that proportionately the number of seats for workers and peasants should be more. I do not know if that revises any provision in the Article on the Legislative but I think there is a strong historical support for that view.

Moreover, may I visualize, Mr. Presiding Officer, what Congress will look like, also on the basis of historical precedents. The elected Members of the interim Batasang Pambansa and the regular Batasang Pambansa tried their best to torpedo sectoral representation and they tried their best to delay the seating of sectoral representatives on the ground that these people who owed their seats to a constitutional provision but were not elected could not rise to the same levelled status of dignity as those elected by the people. There is that inherent discrimination and unless we support the Villacorta amendment now and call on the President in the exercise of her legislative power to correct this, we may not see sectoral seats still there for a long, long time if we allow Congress or if we have to wait for the convening of Congress for the appropriate implementing law to be enacted.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

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

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

FR. BERNAS: Mr. Presiding Officer, in the light of Section 5 of the Article on the Legislative which says that for three consecutive terms after the ratification of this Constitution, 25 seats allocated by the House of Representatives shall be filled as provided by law by selection or election from the various sectors, may I offer this amendment to the first paragraph of the proposed amendment. The amendment will read: "UNTIL A LAW IS PASSED ON THE SUBJECT THE PRESIDENT MAY FILL BY APPOINTMENT THE SEATS RESERVED FOR SECTORAL REPRESENTATION UNDER SECTION 5 OF ARTICLE ____ OF THIS CONSTITUTION."

THE PRESIDING OFFICER (Mr. Guingona): May we hear Commissioner Villacorta's reaction?

MR. VILLACORTA: Mr. Presiding Officer, may I request the Honorable Bernas to repeat the amendment.

FR. BERNAS: "UNTIL A LAW IS PASSED ON THE SUBJECT, THE PRESIDENT MAY FILL BY APPOINTMENT THE SEATS RESERVED FOR SECTORAL REPRESENTATION UNDER SECTION 5 OF ARTICLE ____ OF THIS CONSTITUTION."

MR. VILLACORTA: It is accepted, Mr. Presiding Officer.

MS. AQUINO: Query, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Is the honorable Commissioner Bernas through?

FR. BERNAS: I will listen to the questions of Commissioner Aquino.

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

MS. AQUINO: Would that mean that if the President exercises her appointive powers in selecting the first sectoral representatives for the First Congress, their term could be delimited by the passage of the law pertaining to sectoral representation?

FR. BERNAS: No, the term will be the term given by the Constitution. The law will apply only to those selected or elected under the law.

MS. AQUINO: In other words, once appointed, the term will pertain to the term of Congress.

FR. BERNAS: That is correct, yes.

MS. AQUINO: Assuming that a law is passed during the first term of Congress, will it not affect the term of the appointive sectoral representatives?

FR. BERNAS: It will not unseat the appointed representatives.

MR. OPLE: Will Commissioner Bernas yield?

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

MR. OPLE: Instead of saying "UNTIL A LAW IS PASSED," will Commissioner Bernas accept an amendment so that it will read: "UNTIL A LAW IS ENACTED BY CONGRESS" because I think we should not foreclose the exercise by the President of the legislative power in Section 2 until the Congress is convened.

FR. BERNAS: Yes.

MR. OPLE: Instead of merely filling up the appointments, there might be need for a brief executive order dealing with the essentials of the matter until Congress can deal with it in full.

FR. BERNAS: The reason I say "UNTIL A LAW IS PASSED" is to allow the President to appoint even without passing a law because she might not want to pass a law.

MR. OPLE: Yes, but at the same time, should we not foreclose the exercise by the President of the legislative power because on the other hand, the exercise of the power of appointment might entail a brief executive order?

FR. BERNAS: No, it will not foreclose the exercise of the President's legislative power because the law could be a law passed by her.

MR. OPLE: If that is the intent, I will not press for my amendment.

MR. GASCON: Mr. Presiding Officer.

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

MR. GASCON: Mr. Presiding Officer, the intent of Commissioner Villacorta's proposal is primarily to assure that there will be sectors represented in the First Congress elected after the Constitution is ratified.

FR. BERNAS: Yes, Mr. Presiding Officer.

MR. GASCON: In the Gentleman's proposal, he has replaced the words "SHALL APPOINT" by "MAY APPOINT" which means there is a possibility that the President will not appoint. Will it not be best that to make that assurance — since it was the intent, I believe, during our deliberation that either we should write an ordinance with regard to sectoral representation or encourage an appointment by the President — we change the words "MAY APPOINT" to "SHALL APPOINT"?

FR. BERNAS: I would be amenable to that.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: I just wanted to clarify because I was the one involved in the interpellation at that time. To confirm the interpretation of Commissioner Davide that the reason we took out the article "the" is precisely that it is not absolutely necessary to have it in the First Congress to give it more flexibility, and although we did not say that there are three ways by which it could be filled — by ordinance of the President, by an ordinance appended to the Constitution, by a law decreed by the President or by Congress — I would be more comfortable by just saying: "THE PRESIDENT MAY FILL."

The President may have her commitments to labor and the peasant sector. But a directive on this point may be in fact counterproductive because she may not have the full period to look into how to implement the selection. If we do it that way, the President may be hurried into a selection because she has to comply with it by July and it may not be a good or meaningful selection. It may be necessary that there will be, as Commissioner Lerum said, various congresses in order to make it a real systematic choice. I do not know if there is enough time. But why do we not leave it to the President to determine if there is time to do this properly?

MR. GASCON Mr. Presiding Officer, I feel that we should encourage at least an assurance that all the sectors we mentioned in Section 5 of the Article on the Legislative be represented in the First Congress. We have five months from the ratification of the Constitution until the first election for Congress. We had less than two months for the choosing of the Members of the Commission itself through a process of nominations. So, I believe that the process involved, although it is arduous, can be done.

MR. MONSOD I am not saying it cannot be done. All I am saying is that appointing sectoral representatives is a little different from appointing 47 people to this Commission. I think the process would be a little different from that and I would just allow the President to use her discretion. I am sure the President will want to abide by her commitments and the fact that we mentioned it in this Constitution is enough persuasion for her to do it. We could have been silent.

THE PRESIDING OFFICER (Mr. Guingona) Before we recognize anyone else, may we ask the Floor Leader if there are any more speakers; otherwise, we will only recognize Commissioner Colayco.

MR. RAMA There are no more speakers.

MR. GASCON Mr. Presiding Officer, I have a second point.

THE PRESIDING OFFICER (Mr. Guingona): So, after Commissioner Colayco and Commissioner Gascon, we are ready to vote.

FR. BERNAS: Mr. Presiding Officer, I would request that before voting on the entire paragraph itself, we vote on "SHALL" or "MAY."

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I would speak against the change of the word "MAY" to "SHALL."

THE PRESIDING OFFICER (Mr. Guingona): May we first hear Commissioner Colayco whom we have recognized.

MR. COLAYCO: Thank you, Mr. Presiding Officer. I am going to propose an amendment, but before doing so I

would like to ask a few questions of Commissioner Villacorta.

MR. VILLACORTA: Gladly, Mr. Presiding Officer.

MR. COLAYCO: I understand that there are five sectors already recognized, is that right?

MR. VILLACORTA: Six, Mr. Presiding Officer.

MR. COLAYCO: And the Gentleman favors two of them — peasant and workers sectors.

MR. VILLACORTA: Yes, Mr. Presiding Officer.

MR. COLAYCO: What are the four sectors that are not included in the Gentleman's proposal?

MR. VILLACORTA: Women, indigenous communities, youth and urban poor.

MR. COLAYCO: So, obviously, the second paragraph is grossly discriminatory. Does the Gentleman admit that?

MR. VILLACORTA: I would not agree; it is preferential but not grossly discriminatory.

MR. COLAYCO: Anyway, whether the Gentleman agrees or not, I suppose we can expect big dissatisfaction from the part of the four which have been discriminated against, particularly the women sector.

MR. VILLACORTA: I consulted the female Commissioners here, all six of them, and they did not object.

MR. COLAYCO: But they are not the only Members.

THE PRESIDING OFFICER (Mr. Guingona): So, it would seem that the women Commissioners are the silent minority now.

MR. COLAYCO: So, my proposal is that we should not discriminate in our Constitution. For that reason, would the Gentleman accept a proposal to eliminate the second paragraph?

THE PRESIDING OFFICER (Mr. Guingona): If the Chair may interrupt, we have decided to go part by part, and we are now in the first sentence of the proposal. So may we ask Commissioner Colayco to take the floor when we come to the second sentence.

MR. COLAYCO: I will wait.

Thank you.

THE PRESIDING OFFICER (Mr. Guingona): We are now on the first sentence and, aside from Commissioner Gascon and perhaps Commissioner Davide, the Chair will no longer entertain any speakers. So after Commissioner Gascon, we will hear from Commissioner Villacorta if he accepts the amendment of Commissioner Bernas in the first line, and then we will ask the reaction of the committee.

Commissioner Gascon is recognized.

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

I believe the parliamentary situation is that Commissioner Bernas has presented an amendment which Commissioner Villacorta accepted. And I was asking some questions of Commissioner Bernas. The first point was the changing of the word "SHALL" in the original to "MAY." I will agree to the proposal to bring it to a vote.

My second point is that the words "from a list of recommendations by their respective sectors" had been deleted. I realize that the intent of the Gentleman is to give as much freedom to the President in her choosing the sectoral representatives for the First Congress. But I also feel that we should encourage the sectors to become participants

in the choosing of the appointees.

Perhaps, we could include that in the Gentleman's proposal since it has already been accepted by Commissioner Villacorta. So my second proposal is that we retain the concept of "from a list of recommendations by their respective sectors."

THE PRESIDING OFFICER (Mr. Guingona): May we hear from Commissioner Villacorta if the understanding is that that part about recommendations has not been included by Commissioner Bernas.

MR. VILLACORTA: Mr. Presiding Officer, in accepting the amendment of Commissioner Bernas, that was my understanding. But if it is necessary to make it clearer and to make it more explicit, with the permission of Commissioner Bernas, we can add the phrase "FROM A LIST OF RECOMMENDATIONS BY THEIR RESPECTIVE SECTORS."

THE PRESIDING OFFICER (Mr. Guingona): Will the Gentleman please restate the section, as amended by Commissioner Bernas.

MR. VILLACORTA: "UNTIL A LAW IS PASSED ON THE SUBJECT, THE PRESIDENT MAY FILL BY APPOINTMENT THE SEATS RESERVED FOR SECTORAL REPRESENTATION FROM A LIST OF RECOMMENDATIONS BY THEIR RESPECTIVE SECTORS UNDER ARTICLE ____ OF THIS CONSTITUTION."

THE PRESIDING OFFICER (Mr. Guingona): There was a proposal from Commissioner Bernas that we decide first on the word "SHALL" or "MAY."

FR. BERNAS: That is, if Commissioner Gascon is insisting on "SHALL."

THE PRESIDING OFFICER (Mr. Guingona): Is Commissioner Bernas insisting on "MAY"?

FR. BERNAS: At any rate, there is objection to "SHALL" from Commissioner Monsod.

THE PRESIDING OFFICER (Mr. Guingona): I think Commissioner Rodrigo would like to make a comment. Before we take a vote on anything, we would like to hear from Commissioner Rodrigo.

MR. RODRIGO: This is not on the choice between "SHALL" and "MAY," but I just want to ask something about the practicability of limiting the President's choice to a list of recommendations by the respective sectors. I would like to ask Commissioner Lerum of the committee.

On the labor sector, are there not many labor unions all over the Philippines and within the very short time given to the President, can all these labor unions in the different parts — Luzon, Visayas and Mindanao — submit lists?

MR. LERUM: In the regular Batasang Pambansa where the sectoral seats were filled by appointment, the sectors were allowed to submit their recommendees.

MR. RODRIGO: Yes, they were allowed but were they able?

MR. LERUM: And the President made the choice from these recommendees. But there are conditions such as that these organizations making the recommendation must be of national character, representative of their sectors and must abide by the rule of law. So because of these conditions certain organizations were, in effect, disqualified because they are not following the rule of law.

MR. RODRIGO: Was the President then, meaning Mr. Marcos, limited in his choice to lists recommended by each sector, or did he have freedom to appoint somebody else, provided he was a laborer?

MR. LERUM: That was what the Constitution said. In the Constitution that was the basis for the appointment, there was a provision that this must be from a list of recommendees.

MR. RODRIGO: And so, President Marcos himself was limited to that list.

MR. LERUM: Also, the President could do it on his own time, but in this particular case, the lists were taken into consideration and the appointees were taken from the list of recommendees. But the appointment was made about 17 months late, so that the appointees in the regular Batasang Pambansa took their oath of office only on December 2, 1985, on the last day of the session for the year 1985, and they participated only during the canvassing of the votes for President and Vice-President, so there was a violation.

MR. RODRIGO: Thank you.

THE PRESIDING OFFICER (Mr. Guingona): Is Commissioner Monsod making a statement?

MR. MONSOD: Just a clarificatory question, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Regarding what matter, please?

MR. MONSOD: Regarding the process, because as I understand it, the process was confined to unions of national scope.

THE PRESIDING OFFICER (Mr. Guingona): May the Chair interrupt? I think the Floor Leader wants to make a manifestation.

MR. RAMA: The issue has been sufficiently debated and we are going into a vote on the word "SHALL" or "MAY."

MR. MONSOD: May I just complete my sentence, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): The Commissioner may proceed.

MR. MONSOD: But as I understand it, 80 percent to 90 percent of labor is unorganized and that is the reason we had the reservation about "SHALL" and "MAY." An exhaustive selection process might take more than five months.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): Commissioner de Castro is recognized and then we will take a vote on "SHALL" and "MAY."

MR. DE CASTRO: On the list to be submitted by respective sectors, I join Commissioner Rodrigo in that we will be restricting the hand of the President from the list to be submitted. So, I do not believe it is necessary in this sentence.

MR. MAAMBONG: Mr. Presiding Officer, from the committee.

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

MR. MAAMBONG: The committee has no definite stand on this but I would just like to point out some awkwardness in the structure as it is read. Will Commissioner Bernas perhaps agree on the deletion of the words "ON THE SUBJECT" because the subject is well-covered in the provision itself.

FR. BERNAS: I would not object to that so long as it is clear. We are just talking about the 25 seats.

MR. MAAMBONG: The second point is in the transposition of the words "FROM A LIST OF RECOMMENDATIONS BY THEIR RESPECTIVE SECTORS." I wonder if Commissioner Villacorta would allow the insertion after the word "APPOINTMENT." So that the whole thing would read: "UNTIL A LAW IS PASSED THE PRESIDENT MAY FILL BY APPOINTMENT FROM A LIST OF RECOMMENDATIONS BY THEIR RESPECTIVE SECTORS THE SEATS RESERVED FOR SECTORAL REPRESENTATION UNDER SECTION 5, ARTICLE ____ OF THIS CONSTITUTION."

MR. VILLACORTA: It is just a matter of style, Mr. Presiding Officer. The amendment is accepted.

MR. MAAMBONG: Thank you.

THE PRESIDING OFFICER (Mr. Guingona): We take it that the committee has no objection to our taking a vote on "SHALL" and "MAY," assuming that the proposal of Commissioner Villacorta, as amended, is later on approved.

MR. COLAYCO: Clarification, Mr. Presiding Officer.

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

MR. COLAYCO: Are we voting also on the merit of the first paragraph?

VOTING

THE PRESIDING OFFICER (Mr. Guingona): No, only on "SHALL" and "MAY," assuming that the section, as proposed by Commissioner Bernas himself, would be approved. So, we have two choices: It is either "SHALL" or "MAY."

As many as are in favor of "SHALL," please raise their hand. (Few Members raised their hand.)

As many as are in favor of "MAY," please raise their hand. (Several Members raised their hand.)

The results show 14 votes in favor of "SHALL" and 15 votes in favor of "MAY." so, "MAY" is approved.

We are ready to vote on the new section proposed by Commissioner Villacorta, as amended, after we hear from the committee.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): May we hear from the committee first.

MR. DAVIDE: May I be allowed to introduce one amendment.

THE PRESIDING OFFICER (Mr. Guingona): The Gentleman may proceed.

MR. DAVIDE: It is just the insertion of a comma (,) followed by the word "PREFERABLY before "from"; and instead of "RECOMMENDATIONS," we use "NOMINEES." So, the provision reads: "PREFERABLY FROM A LIST OF NOMINEES."

THE PRESIDING OFFICER (Mr. Guingona): What does Commissioner Villacorta say?

MR. VILLACORTA: It is accepted, Mr. Presiding Officer.

MR. GASCON: I object to the amendment, Mr. Presiding Officer, so, I would ask that we vote on that proposal. I feel that we should encourage as much participation of the sectors themselves and it would look awkward that when they participate, they submit nominations who do not even come from a list. We are giving the freedom to

the people anyway to nominate as many as they want. But it would look quite awkward that the people themselves have already nominated the nominee, or the appointee will not even come from that group.

So, I suggest that we vote on that proposal.

THE PRESIDING OFFICER (Mr. Guingona): Before we vote, may we hear the committee's reaction.

The honorable chairman, Commissioner Suarez, is recognized.

MR. SUAREZ: Are we referring now to the use of the word "PREFERABLY"? The committee would like to throw that to the floor for determination.

VOTING

THE PRESIDING OFFICER (Mr. Guingona): We are now going to vote on the word "PREFERABLY."

The word "PREFERABLY" is an amendment to the amendment of Commissioner Villacorta, which Commissioner Villacorta accepts but which is not accepted by the committee. So, we are throwing it to the floor for consideration.

As many as are in favor of "PREFERABLY," please raise their hand. (Few Members raised their hand.)

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

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 11 votes in favor, 15 against and one abstention; the amendment is lost.

We are now ready to vote on the amendment, as amended. What is the pleasure of Commissioner Colayco?

MR. COLAYCO: Are we going to vote on the entire first paragraph?

THE PRESIDING OFFICER (Mr. Guingona): There are two sentences in the section. We are going to vote on the first sentence. May we ask Commissioner Villacorta to read the first sentence of the proposed section.

MR. VILLACORTA: "UNTIL A LAW IS PASSED, THE PRESIDENT MAY FILL BY APPOINTMENT FROM THE LIST OF NOMINEES BY THE RESPECTIVE SECTORS THE SEATS RESERVED FOR SECTORAL REPRESENTATION UNDER ARTICLE ____ OF THIS CONSTITUTION."

MR. COLAYCO: Mr. Presiding Officer.

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

MR. COLAYCO: May I register my objection to submitting the first sentence of the first paragraph for the reason that my vote on the entire section will depend on how the second paragraph is disposed.

I would suggest then that the entire section be debated on first before we put to a vote any portion of the same.

THE PRESIDING OFFICER (Mr. Guingona): We have agreed earlier that we will take this paragraph by paragraph, unless the Commission decides otherwise.

MR. COLAYCO: I would like to express my reason. The second paragraph can be considered part and parcel of the first. As far as I am concerned, if the second paragraph is not deleted, I am not going to vote for the first paragraph because the first paragraph is affected by merits of the second.

THE PRESIDING OFFICER (Mr. Guingona): Does the Gentleman like to present a motion?

MR. COLAYCO: I am making the motion that we finish debate on the entire section, that means paragraphs (1) and (2), before putting the entire section to a vote.

THE PRESIDING OFFICER (Mr. Guingona): There is a motion to consider the entire section. Is there any objection?

MR. MAAMBONG: Mr. Presiding Officer, before we vote, may the committee ask the proponent of the amendment a question on whether his first sentence or first paragraph could stand alone without the second paragraph?

MR. VILLACORTA: Yes, Mr. Presiding Officer.

MR. MAAMBONG: Thank you.

THE PRESIDING OFFICER (Mr. Guingona): Is Commissioner Maambong registering an objection?

FR. BERNAS: Mr. Presiding Officer, I am registering an objection so I ask for a vote on the motion of Commissioner Colayco

THE PRESIDING OFFICER (Mr. Guingona): The motion of Commissioner Colayco is to take the whole section with the two paragraphs together.

MR. PADILLA: Mr. Presiding Officer.

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

MR. PADILLA: May we suggest that the vote on the second sentence be taken first.

THE PRESIDING OFFICER (Mr. Guingona): There is a pending motion which we would have to dispose of.

MR. COLAYCO: I accept the amendment, Mr. Presiding Officer.

MR. PADILLA: It is a little awkward, Mr. Presiding Officer, that we will vote between "MAY" or "SHALL"; then another vote on "PREFERABLY or NOT." I think it is unprocedural and unparliamentary. If we can do that, then certainly we should be able to vote on the motion to delete paragraph 2 and thereafter decide again on paragraph 1.

THE PRESIDING OFFICER (Mr. Guingona): What is the motion now? Will the Gentleman state the motion.

MR. COLAYCO: Mr. Presiding Officer, I would have to present my amendment to the second paragraph, after which, if it is not acceptable to the committee, I will move that it be submitted to a vote.

My amendment would be to delete the second paragraph.

SUSPENSION OF SESSION

MR. VILLACORTA: Mr. Presiding Officer, may we request a suspension of the session so that we can confer with the other coauthors.

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

It was 5:42 p.m.

RESUMPTION OF SESSION

At 5:43 p.m., the session was resumed.

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

The Floor Leader is recognized.

MR. RAMA: There has been an agreement among the proponents.

I ask that Commissioner Villacorta be recognized.

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

MR. VILLACORTA: Mr. Presiding Officer, after conferring with the coauthors, we are willing to delete the second paragraph.

THE PRESIDING OFFICER (Mr. Guingona): So, we are voting on the first paragraph. Will the Gentleman please read the first paragraph.

MR. VILLACORTA: The first paragraph which has only one sentence reads: "UNTIL A LAW IS PASSED, THE PRESIDENT MAY FILL BY APPOINTMENT FROM A LIST OF NOMINEES BY THE RESPECTIVE SECTORS THE SEATS RESERVED FOR SECTORAL REPRESENTATION UNDER ARTICLE ___ OF THIS CONSTITUTION."

VOTING

THE PRESIDING OFFICER (Mr. Guingona): As many as are in favor, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 28 votes in favor, none against and 1 abstention; the amendment is approved.

The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Romulo be recognized.

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

MR. ROMULO: For the record, may I just ask Commissioner Villacorta one question. In the event that the President is not satisfied with the list that a sectoral organization presents, can the President ask for another list?

MR. VILLACORTA: I guess so, but the President is tied to that second list.

MR. ROMULO: That is the question. Can the President keep asking one list after the other until she is satisfied?

MR. VILLACORTA: Theoretically, the President can do that but I do not think she would. But interpreted to its extreme, the answer is "yes."

MR. ROMULO: I just want to establish whether in principle the President is able to ask for another list in the event she is not satisfied with the first.

FR. BERNAS: Mr. Presiding Officer.

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

FR. BERNAS: May I attempt an answer. I think the language used is "the President may appoint." So if she wants to ask for another list, she may. If the President is not satisfied, she might decide not to appoint anybody.

MR. ROMULO: It seems that the discretion is in whether the President will appoint or not, but the appointment must come from a list.

MR. VILLACORTA: Yes, Mr. Presiding Officer.

MR. OPLE: Yes.

FR. BERNAS: Yes.

MR. OPLE: Mr. Presiding Officer, may I volunteer the information that in the past, guidelines were drawn up for the guidance of the sectoral organizations so that there is a kind of standard in making recommendations. Deadlines are established and so on and all of these can be done very well by the Office of the President. I foresee that for a rational implementation of these appointments based on the lists of nominees from sectoral organizations, some kind of guidelines will have to be issued.

Thank you.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Nollado be recognized. He is the only registered speaker on Section 3.

THE PRESIDING OFFICER (Mr. Guingona): We are now in Section 3.

Commissioner Nollado is recognized.

MR. MAAMBONG: Mr. Presiding Officer, that is an entirely new section which we have approved. Could we temporarily assign to it a number which will read as Section 13 so that we do not have to disturb the numbering of the committee report?

THE PRESIDING OFFICER (Mr. Guingona): The Gentleman is referring to the proposal just approved?

MR. MAAMBONG: Yes. We will assign it Section 13 temporarily so that we will not disturb the numbering of the committee report.

THE PRESIDING OFFICER (Mr. Guingona): That section now is Sec. 13 then. We now recognize Commissioner Nollado to express his views or to present an amendment on Section 3.

MR. NOLLEDO: Thank you, Mr. Presiding Officer. I would like to pose some queries to the committee. Section 3 reads:

All existing laws, decrees, executive orders, proclamations, letters of instruction and other executive issuances not inconsistent with this Constitution shall remain operative until amended, modified or repealed by Congress.

Of course, by "laws" we mean commonwealth acts and republic acts.

MR. SUAREZ: That is right, including commonwealth acts and republic acts.

MR. NOLLEDO: Thank you.

When the Gentleman talks of executive orders, does he necessarily also cover the executive orders of the

incumbent President, President Corazon Aquino?

MR. SUAREZ: That is right, Mr. Presiding Officer. That is why we pointed out in our sponsorship speech that in the case of Mrs. Aquino, she had also issued some executive orders.

MR. MAAMBONG: We have the figures here.

MR. MAAMBONG: May I take over from there, Mr. Presiding Officer.

MR. SUAREZ: Yes, please.

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

MR. MAAMBONG: I have the figures here. As of the moment, President Aquino has issued, from the time the sponsorship speech was prepared by the honorable chairman, 9 proclamations, 43 executive orders, 6 memorandum circulars and 10 memorandum orders and they have been growing everyday, of course.

MR. NOLLEDO: Of course, am I right if I say that the executive agreements are not covered by Section 3?

MR. SUAREZ: No, they are not covered.

MR. NOLLEDO: I understand that executive agreements, unless they partake of a treaty, need not be ratified by the Senate.

MR. SUAREZ: They are not covered by this provision, Mr. Presiding Officer.

MR. NOLLEDO: Am I right if I say that Section 3 does not prohibit the Supreme Court to declare unconstitutional the laws, decrees, orders, proclamations, letters of instructions and executive issuances mentioned therein?

MR. SUAREZ: Of course not.

MR. NOLLEDO: With respect to the words "shall remain operative until amended, modified or repealed by Congress," is the committee amenable to make it more emphatic that after "by" following "repealed," we will add "THE INCUMBENT PRESIDENT UNDER SECTION 2 HEREOF OR" because it seems to me that there is a vacuum left in this provision. We are making Congress the one that can amend, modify, or repeal these existing laws, and we entirely forgot Section 2 of the report which we have just approved.

Would it be more emphatic if we state also that the President may also amend these laws, decrees, et cetera?

MR. MAAMBONG: We have considered that formulation in the committee, but we feel that that is already covered by Section 2 which we just approved when we said that the incumbent President shall continue to exercise legislative powers until the First Congress is convened. In other words, it is already emphatic in Section 2.

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

THE PRESIDING OFFICER (Mr. Guingona): Mr. Floor Leader, do we have any other registered speaker?

MR. RAMA: May I ask that Commissioner Davide be recognized to present an amendment.

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

MR. DAVIDE: After "Congress," add a comma (,) and the following: "OR REVOKED OR SUPERSEDED BY SUBSEQUENT EXECUTIVE ORDERS, PROCLAMATIONS, OR OTHER EXECUTIVE ISSUANCES."

THE PRESIDING OFFICER (Mr. Guingona): May we hear the reaction of the committee.

MR. SUAREZ: May we have the amendment again.

MR. DAVIDE: After "Congress," add a comma (,) and the following: "OR REVOKED OR SUPERSEDED BY SUBSEQUENT EXECUTIVE ORDERS, PROCLAMATIONS, OR OTHER EXECUTIVE ISSUANCES." The idea is that, if this is not included, we will limit the authority to repeal, modify or supersede executive orders or proclamations by Congress alone.

MR. MAAMBONG: Mr. Presiding Officer, the committee cannot accept that because, as we have answered Commissioner Nollado, that power is inherent in the President. If the President under the approved Section 2 exercises legislative power, with more reason she has all the power to issue and revoke executive orders because we do not even need an authorization for the President to do that.

MR. DAVIDE: That is correct, Mr. Presiding Officer, up to the convening. But beyond the convening, executive orders, proclamations or other issuances, or letters of instructions can only be superseded, repealed or amended by Congress, not by the President because he no longer exercises legislative power.

MR. MAAMBONG: Let us delimit our discussion, for example, on the law.

MR. DAVIDE: There is no problem about the law.

MR. MAAMBONG: As regards executive orders, memorandum circulars, administrative orders, proclamations which are inherent powers of the President of the Philippines, we do not need an enacting law to give her that power.

MR. DAVIDE: No, Mr. Presiding Officer. Under the proposal, all existing laws, decrees, executive orders, proclamations, letters of instructions and other executive issuances not inconsistent with this Constitution shall remain operative until amended, modified, or repealed by Congress.

So what happens would be that we shall institutionalize perpetually executive orders, proclamations, unless superseded or amended by Congress. We are not conceding to the executive that singular authority to revoke or cancel or supersede its own acts.

MR. MAAMBONG: The committee understands the point of the Gentleman but could we perhaps formulate it in such a manner that Section 3 will not become very lengthy? If we add after the word "Congress" the formulation of the Gentleman, it would be very lengthy already.

Probably the Gentleman could also formulate another sentence so that we can put in what the Gentleman is thinking.

THE PRESIDING OFFICER (Mr. Guingona): Is Commissioner Davide agreeable to that suggestion?

MR. DAVIDE: I am very agreeable to the suggestion.

MR. SUAREZ: We are thinking in terms of adding after the word "Congress" something like: "OR THE PRESIDENT AS THE CASE MAY BE." In other words, it is either Congress or the President.

MR. DAVIDE: I cannot agree to that because even a law may be amended or repealed by the President under that formulation.

THE PRESIDING OFFICER (Mr. Guingona): So, we will consider that later on. We are now in Section 3, and we will recognize the honorable Vice-President.

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

MR. SUAREZ: We desire to reformulate it.

MR. PADILLA: The sponsorship speech states on page 5 that the inclusion of other executive orders, proclamations, letters of instructions, and other executive issuances with statutory laws has made this provision a little problematic. On the same page 5, the committee sponsorship speech states that:

. . . by actual reckoning the figures we obtained are 2,036 presidential decrees; 2,419 proclamations; 1,091 executive orders; 1,525 letters of instructions, 157 letters of instructions, implementations; 504 administrative orders; and 12,097 memo circulars.

The way Section 3 has been formulated, all existing laws, decrees, executive orders, proclamations, letters of instructions and other executive issuances are all placed on the same category, Mr. Presiding Officer.

There is no question about "all existing laws" as already inquired by Commissioner Nollado, that said phrase refers to laws passed by the different legislatures, including the last Batasan, and approved by the President. But to say that decrees, executive orders, proclamations, letters of instructions and other issuances shall remain operative until amended, modified or repealed by Congress will be a blanket provision validating or recognizing all these issuances by the thousands.

I have always suggested that we distinguish between statutory laws and these presidential decrees, especially those issued by the former regime. My suggestion, if the committee will agree, although I am a member of that committee, is to separate existing laws from all these unilateral presidential issuances. If the committee will also consider, I suggest Section 3 to read: "ALL EXISTING LAWS NOT INCONSISTENT WITH THIS CONSTITUTION SHALL REMAIN OPERATIVE UNTIL AMENDED, MODIFIED OR REPEALED BY CONGRESS. ALL PRESIDENTIAL DECREES, EXECUTIVE ORDERS, PROCLAMATIONS, LETTERS OF INSTRUCTIONS AND OTHER EXECUTIVE ISSUANCES OF THE PAST REGIME SHALL NOT BE OPERATIVE UNLESS CONFIRMED BY THE PRESIDENT OR APPROVED BY THE CONGRESS."

In other words, let us make a clear distinction. I even noticed from the substance of proposed resolutions considered for this Article on Transitory Provisions that even Commissioner Davide filed Proposed Resolution No. 476 validating all these. But in his Proposed Resolution No. 461, the proposal was for the repeal of all these. In other words, it is really problematical, as stated in the sponsorship speech, but I believe it would be clearer if we make a clear distinction between all existing laws, which means statutory enactments from the unilateral presidential decrees, especially of the past regime. According to our distinguished chairman, there have been thousands, some published, a greater number unpublished. How can we now validate all these and still require the Congress to amend, modify or repeal?

So, I believe that statutory laws should be recognized as operative. But with regard to other unilateral presidential issuances especially of the past regime, they should only be operative if affirmed or confirmed by the President or approved by the Congress.

MR. LERUM: Mr. Presiding Officer, may I be allowed to ask just two questions?

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

MR. LERUM: We have now Wage Order Nos. 1, 2, 3, 4, 5 and 6. Does the Vice-President mean to tell us that without any validation these laws will become ineffective now?

MR. PADILLA: If they are presidential issuances, they can be adopted by the President in the exercise of legislative power until the Congress is convened or they can also be confirmed or adopted or enacted by the

Congress.

MR. LERUM: But in the meantime that there is no validation, what will be the effect? Will these orders be no longer effective?

MR. PADILLA: Wage Order Nos. 1-6 have been issued and imposed by the Department of Labor or by the deposed President by setting certain minimum wages and allowances such as cost of living allowance, et cetera. These wage orders are imposed on the private sector but are not even applied to nor implemented among the employees of the government. Personally, I am against impositions, even of wage orders, especially when they are imposed on the private sector without their previous consent or acquiescence.

MR. LERUM: I am just clarifying, Mr. Presiding Officer.

MR. PADILLA: That is my personal opinion because I am against all kinds of controls; I am even against price control or rent control.

MR. LERUM: I am just asking a question.

MR. NOLLEDO: Point of information, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer, from the committee.

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

MR. NOLLEDO: Thank you, Mr. Presiding Officer. Section 1, Article IV of Proclamation No. 3 settles the problem of Commissioner Padilla:

All existing laws, decrees, executive orders, proclamations, letters of instructions, implementing rules and regulations, and other executive issuances not inconsistent with this Proclamation shall remain operative until amended, modified, or repealed by the President or the regular legislative body to be established under a New Constitution.

So I believe that, aligning with the reasons of the committee for this provision, Section 1, Article IV already validates in effect the decrees, executive issuances of the past regime.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Guingona): May we hear from the committee. Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, may I explain the situation.

When this Representation, together with Commissioners Ople, Natividad and de los Reyes, filed Proposed Resolution No. 262 which was the basis of this present formulation, and Commissioner Davide filed his Proposed Resolution No. 476, these were subjected to a lot of debate at the committee level precisely because of the objection of the honorable Vice-President. Because of much debate, we decided to adopt the wording of the Freedom Constitution which has just been read by Commissioner Nolleto, specifically Article IV, Section 1. That solved the problem until now, when the Vice-President again wanted to make some amendment.

But I would like to indicate that as far as executive orders, proclamations, letters of instructions, other executive issuances are concerned, there is a presumption of legality until they are repealed. I volunteered the information to the committee that in a personal talk with Minister Villafuerte, it is precisely because of these seemingly repressive decrees of the previous regime that there was an instruction to all the Cabinet ministers to compile all these repressive decrees and issuances and report them to Malacañang. Probably, before the end of the power of

the incumbent President which shall continue up to the time Congress convenes, all these presidential decrees, issuances, and executive orders shall have been compiled by the different ministries, and probably one repealing executive order or proclamation — or whatever the President might call it — will repeal all these even before Congress convenes.

That is why I think that will solve the problem. If we are going to make exceptions, as suggested by the honorable Vice-President, although he has also a point there, we will damage the whole section because we will be making so many exceptions. Also, as pointed out in the sponsorship speech of our chairman, there are so many decrees, letters of implementation, letters of instructions and other issuances and we cannot simply keep track of all of them. It might also paralyze the government if we will make an outright repeal of all these issuances.

Thank you.

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

MR. RAMA: There is a proposed amendment by Commissioner Davide, and there is a suggestion to amend the amendment on the part of Commissioner Padilla. I would like to know whether he insists on his amendment.

THE PRESIDING OFFICER (Mr. Guingona): Is the honorable Vice-President insisting on his amendment?

MR. PADILLA: Yes, Mr. Presiding Officer.

I am, of course, cognizant of Article IV, Section 1 of the Freedom Constitution or Proclamation No. 3. But it is not very clear whether it was intended to keep alive, operative, valid and effective all the issuances by the former regime. We should not validate all these presidential issuances, when some of them are not even known, some are published but many others are unpublished, and there are thousands of them. So, even assuming that this provision says "shall remain operative," and it further talks of amendment, modification, or repeal by the President or by the regular legislative body under this new Constitution, I believe it was not the intention to validate the thousands of presidential issuances of the former regime. I believe this Commission can make the distinction between existing laws or statutory laws and unilateral presidential issuances of the past regime.

THE PRESIDING OFFICER (Mr. Guingona): I understand that Commissioner Davide does not accept the amendment.

MR. DAVIDE: In principle, I accept the amendment but I will propose a modified amendment.

THE PRESIDING OFFICER (Mr. Guingona): The Gentleman will please state his modified amendment.

MR. DAVIDE: The modified amendment will split Section 3 into two paragraphs. The first paragraph will read: "ALL EXISTING LAWS NOT INCONSISTENT WITH THIS CONSTITUTION SHALL REMAIN VALID UNTIL AMENDED, MODIFIED, OR REPEALED BY CONGRESS." The second paragraph will read: "ALL DECREES, EXECUTIVE ORDERS, PROCLAMATIONS, LETTERS OF INSTRUCTIONS, AND OTHER EXECUTIVE ISSUANCES NOT INCONSISTENT WITH THIS CONSTITUTION SHALL REMAIN IN FORCE UNTIL AMENDED, MODIFIED OR REPEALED BY THE INCUMBENT PRESIDENT OR BY CONGRESS."

THE PRESIDING OFFICER (Mr. Guingona): May we hear from the honorable Vice-President if that new formulation is satisfactory to him.

MR. PADILLA: That is much better than the present formulation under Section 3.

MR. MAAMBONG: Just one clarificatory question of Commissioner Davide.

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

MR. MAAMBONG: In the second paragraph of the Gentleman's formulation, is he including decrees?

MR. DAVIDE: Yes, but note that they will remain in force only, not valid. So we really do not fully concede. This is to accommodate the position of Commissioner Padilla. Nevertheless, they are in force; they are operative until repealed, amended or modified by the incumbent President or by Congress.

MR. MAAMBONG: That is precisely my point. Is the Gentleman saying under the second paragraph of the formulation that even after Congress shall have convened, the President can still amend presidential decrees or repeal or modify them?

MR. DAVIDE: No more.

MR. MAAMBONG: That is not clearly indicated in the formulation of the Gentleman.

MR. DAVIDE: Because the President will no longer exercise legislative power by then when it comes to decrees.

MR. MAAMBONG: The second point I am worried about is that the second paragraph of the Gentleman's formulation might run counter to the approved provision on the judicial department. If the Gentleman will remember, practically the validity of presidential decrees, as far as enforceability is concerned, is impliedly admitted in the provision on the judicial department because we even require a certain number of votes either majority of all the members of the Supreme Court or in certain cases majority of those present of the members of the Supreme Court in declaring a decree unconstitutional or declaring its unenforceability. In other words, we are giving validity to presidential decrees under the provisions on the judicial department, but in the Gentleman's formulation, we are reverting back by saying that presidential decrees are just like executive orders. That is my main concern — to be consistent with the other portions of the Constitution.

MR. DAVIDE: I am not very sure now of the provision on the judiciary but I remember that when it comes to declaring a proclamation, a decree, a letter of instructions nonenforceable or void, a lesser number of votes is required unlike a law, a treaty or an international agreement.

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

MR. DAVIDE: So necessarily, even the Article on the Judiciary concedes the lesser effect of a decree vis-a-vis an ordinary statute.

MR. MAAMBONG: That is correct, Mr. Presiding Officer. When we debated on presidential decrees, we required a lesser number of votes, not declare them unconstitutional but only as to its enforceability. That was lengthily explained. But the fact remains that we already recognize presidential decrees in the provision on the judicial department. Now, we are relegating it to a mere executive order under the Gentleman's present formulation. I just want to be consistent; I just want this Constitution to have consistency in all its provisions.

MR. NATIVIDAD: Mr. Presiding Officer.

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

MR. NATIVIDAD: Will Commissioner Davide yield to a few questions.

MR. DAVIDE: Gladly, Mr. Presiding Officer.

MR. NATIVIDAD: Thank you.

I would just like to validate the Gentleman's postulate with actual operation. Did the Gentleman say it is not valid

but enforceable?

MR. DAVIDE: Insofar as the first paragraph on existing laws is concerned, these laws remain valid until modified, amended or repealed by Congress.

MR. NATIVIDAD: There is no question about that.

MR. DAVIDE: When it comes to decrees, letters of instructions, proclamations and other presidential issuances, we say that they remain in force, if they are not inconsistent with the Constitution, until otherwise amended, repealed or superseded by the incumbent President or Congress.

MR. NATIVIDAD: What is the difference between the first and second?

MR. DAVIDE: The difference is obvious in the sense that in the first, the word "valid" is there, and in the second, "remain in force." The second difference is that, insofar as the first is concerned, only Congress can do it. Insofar as the second difference is concerned, either the President or Congress can do it.

MR. NATIVIDAD: Let me take an actual case, P.D. No. 769, which establishes for the first time in history the Adult Probation Law. In other words, there are now about 50 thousand sentenced offenders who are serving their terms not in prison but in the community under the terms and conditions of the Adult Probation Law.

In other words, we have adopted this liberal approach of not sentencing old people to jail for all types of offenses. For the first time in history, in accordance with the repeated resolutions in the United Nations congresses on crime prevention, this government has adopted through P.D. No. 769 the Adult Probation System. This was complemented by P.D. No. 603, the Juvenile Probation System.

The Adult Probation System as a system suspends the implementation of the sentence of the court; the Juvenile Probation System suspends the sentencing. There are two types of probation in the whole world. What we opted to have for the adults is the suspension of the implementation of the sentence, and for the juvenile, the suspension of the actual sentencing.

There are about 50 thousand under this Adult Probation Law, and we have saved about 300 million already as a consequence of this Adult Probation Law. This Adult Probation System, according to the United Nations, is one of the best in the world in terms of ratings in violation. In America and England, the rate of violation — meaning, committing another offense while serving their probation — is about 25 percent. Here in the Philippines, it is about two percent. So it is a good thing for the country.

What then is the effect if we say it is merely enforceable? Will there be any effect in the continuous operation of this very well-accepted system of probation which provides us with a community-based treatment program, instead of jailing everybody for the simplest of offenses and thus exposing our citizenry to pollution and contamination in our very substandard jails? What is the effect, Mr. Presiding Officer?

MR. DAVIDE: These laws will remain in force and continue to be operative until otherwise repealed, amended, or modified by Congress or by the President of the Philippines.

MR. NATIVIDAD: Thank you, Mr. Presiding Officer. I just want to clarify the situation.

MR. DAVIDE: Besides, I also do not think that because the law itself is a very good law, both for adult offenders and the youthful offenders, Congress or the President will simply set it aside.

MR. OPLE: Mr. Presiding Officer.

MR. NATIVIDAD: I am confident of that. Only in the actual interpretation, that is what I am interested in.

Thank you, Mr. Presiding Officer.

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

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

Will Commissioner Davide yield to just a question or two?

MR. DAVIDE: Gladly, Mr. Presiding Officer.

MR. OPLE: It is understood that over many years, some of these decrees, letters of instructions and executive orders have been in effect. Millions of transactions of our citizens among themselves and between them and, let us say, foreign countries have taken place on the basis of all of these decrees, executive orders, and so on, as a result of which there are hundreds of thousands of earned rights and vested rights, including those based on contracts. When we give way to this formulation so that we deny validity — although we acknowledge that these decrees or executive orders spring from the same lonely source of presidential power, without the participation of an elected Congress — are we not going to vitiate all of these earned rights and vested rights and the integrity of contracts sought among Filipinos and between them and foreigners, and perhaps even the integrity of international agreements that may be based on such decrees and executive orders?

MR. DAVIDE: The best answer is the original Section 3. The original Section 3 does not even mention validity. It only says "shall remain operative," referring to all existing laws. In my proposal, I use the word "valid" when it comes to existing laws until otherwise repealed. When it comes to the others, instead of saying "shall remain operative," I stated shall remain in force," practically the same effect as the original wording of the committee report. Besides, taking into account vested interests acquired under a particular law, I do not think Congress, without any second thought, will repeal, amend or modify an existing law or executive order.

MR. OPLE: So, the Gentleman does not foresee any vitiating effect on all of these contracts, agreements earned rights, vested rights, possibly in the magnitude of millions among our citizens upon which the peace and serenity of the parties to such agreements may rest. The Gentleman does not foresee any deleterious effect on all of those?

MR. DAVIDE: Mr. Presiding Officer, if that particular deleterious effect is foreseen by the Gentleman, then that is already the effect which would follow if we approve in full Section 3. However, I cannot find any deleterious effect because I know that within the wisdom of the Members of Congress, they will take into consideration everything affecting a particular executive order.

MR. OPLE: Therefore, the purpose of the Gentleman's amendment is not really to set up fundamental distinctions between one set of laws and another, but merely to put them in a clearer arrangement and perspective.

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. OPLE: Thank you very much.

MR. PADILLA: Mr. Presiding Officer.

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

MR. PADILLA: I would like to state that contractual rights and vested rights will not be impaired. Likewise, I recognize that some presidential decrees like those mentioned by Commissioner Natividad are good laws.

With regard to the observation of Commissioner Maambong, we do not have to mention the judiciary here because it is a fundamental rule that it is the prerogative and power of the judiciary to declare any law or executive order invalid or unconstitutional if it contravenes any provision of the Constitution.

So, Mr. Presiding Officer, in line with my proposal to divide Section 3 into two sections, I accept the amendment of Commissioner Davide to my amendment.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

Commissioner Sarmiento is recognized, after which we will be ready to vote.

MR. RAMA: Yes, we are ready to vote.

MR. SARMIENTO: It is clear, Mr. Presiding Officer, that the Davide amendment has two parts, the second part referring to the published decrees. It is also plain that the proposed amendment does not cover the unpublished decrees issued by the former President. Will Commissioner Davide now entertain an amendment to cover the unpublished decrees. The proposed amendment will read: "UNPUBLISHED DECREES SHALL BE INOPERATIVE UNLESS VALIDATED BY THE INCUMBENT PRESIDENT OR CONGRESS."

THE PRESIDING OFFICER (Mr. Guingona): That would be a third sentence.

MR. SARMIENTO: Yes, third sentence.

MR. DAVIDE: That is a very good proposal, although I cannot agree to the last because if these are unpublished, these are all unknown and even the President may not know about it. So there is nothing to be validated by her.

MR. SARMIENTO: But if we exert extra effort, we will be able to discover or find out what these decrees are.

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

MR. FOZ: I would like to give the information that there was a recent Supreme Court ruling to the effect that the presidential decrees and issuances of the President, referring to President Marcos, are not valid until or unless published.

THE PRESIDING OFFICER (Mr. Guingona): Thank you.

We are now ready to vote on the amendment. May we hear first the reaction of the committee chairman, Commissioner Suarez.

MR. SARMIENTO: Mr. Presiding Officer, we have this proposed amendment. May we know from Commissioner Davide if he is accepting the proposed amendment.

SUSPENSION OF SESSION

MR. DAVIDE: May we request a suspension of session.

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

It was 6:28 p.m.

RESUMPTION OF SESSION

At 6:29 p.m., the session was resumed.

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

Commissioner Sarmiento is recognized.

MR. SARMIENTO: Mr. Presiding Officer, we are withdrawing our proposed amendment.

THE PRESIDING OFFICER (Mr. Guingona): Commissioner Sarmiento is withdrawing his proposed amendment. May we now hear the amendment of Commissioner Padilla, as amended by Commissioner Davide.

MR. DAVIDE: Mr. Presiding Officer, we are not yet ready. May we request an extension of the suspension.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Guingona): The suspension is extended for one minute.

It was 6:30 p.m.

RESUMPTION OF SESSION

At 6:31 p.m., the session was resumed.

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

MR. RAMA: Mr. Presiding Officer.

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

ADJOURNMENT OF SESSION

MR. RAMA: The proponents are still mulling over the correct phraseology and they have decided that they will sleep on it overnight. So, I ask that we adjourn the session until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Guingona): The session is adjourned until tomorrow at nine thirty in the morning.

It was 6:31 p.m.

[*] Appeared after the roll call.

[**] With reservation, especially on Section 7

[*] See Appendix.

[**] Subject to synchronization of elections.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.