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Thursday, September 25, 1986

CALL TO ORDER

At 10:05 a.m., the Presiding Officer, the Honorable Francisco A. Rodrigo, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Teodoro C. Bacani, to wit:

Diyos na aming Ama, salamat po sa bagong araw na ito. Isa pang araw upang makapaglingkod kami sa Iyo at sa aming kapwa tao. Iniaalay namin sa Iyo ang lahat ng aming iisipin, sasabihin at gagawin. Maging kalugud-lugod nawa kami sa Iyong paningin. Wala nawa kaming isipin, sabihin o gawing anuman na hindi namin maihaharap sa Iyo. Isugo Mo sa amin ang Iyong Espiritu upang bigyan ng liwanag ang aming mga isip, punuin ng pag-ibig ang aming mga puso at palakasin ang aming mga katawan upang sa lahat ng bagay at pagkakataon ay malaman namin ang Iyong kalooban at masiglang isakatuparan ito.

Sa araw na ito, Ama, ibigay Mo sa amin bilang natatanging biyaya na malaman namin at isagawa ang tunay na makabubuti at makapagpapaunlad sa pamilyang Pilipino, na siyang pinakasaligan ng aming lipunan.

Ito'y hinihiling namin sa Iyo sa pamamagitan ni Kristo ng aming Panginoon.

Amen.

ROLL CALL

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

Bacani, T. C. Ople, B. F.

Bennagen, P. L. Quesada, M. L. M.

Bernas, J. G. Rama, N. G.

Rosario Braid, F. Regalado, F. D.

Calderon, J. D. De los Reyes, R. F.

De Castro, C. M. Rigos, C. A.

Colayco, J. C. Rodrigo, F. A
Concepcion, R. R. Romulo, R. J.
Davide, H. G. Samiento, R. V
Foz, V. B. Suarez, J. E.
Guingona, S. V.C. Sumulong, L. M
Jamir, A. M. K. Tadeo, J. S. L
Nieva, M. T. F. Tingson, G. J
Treñas, E. B
Uka, L. L
Villacorta, W. V.

With 29 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar Y. R.
Gascon, J. L. M. C.
Alonto, A. D.
Lerum, E. R.
Azcuna, A. S
Maambong, R. E
Benzon, J. F. S Natividad, T. C.
Garcia, E. G. Nollado, J. N.

P. M.

Monsod, C. S. Tan, C.
Padilla. A. B.

Mrs. Muñoz Palma and Mr. Rosales were sick.

Mr. Villegas notified the Constitutional Commission, through the Secretariat, of his absence.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 1006 — Constitutional Commission of 1986

Letter from Mr. Petronilo C. Joaquin of 39 Bagong Pook, San Pablo City, Laguna, suggesting, among others, the change in the national colors from navy blue to sky blue and the addition of a ray to the sun in the national flag to give recognition and a feeling of belonging to our Muslim brothers.

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 1007 — Constitutional Commission of 1986

Letter from Mr. Carlos Sobreviñas of the Manphil Investment Corporation, 5th Floor, Alco Building, 391 Sen. Gil Puyat Avenue Ext., Makati, Metro Manila, suggesting that the provisions of the Bill of Rights on nonpayment of debts be amended by making punishable, by imprisonment and fine, the act of incurring loans or indebtedness in the amount of P500,000 or more if the loan becomes sour or unpaid and if there is evidence showing collusion or connivance between the borrower and the lender.

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No. 1008 — Constitutional Commission of 1986

Letter from Mr. Marcelino W. Macapobre of Bato, Toledo City, Cebu, suggesting, among others, that barangay captains and barangay councilors be paid for their services to their barangays.

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 1009 — Constitutional Commission of 1986

Letter from Mr. Ruben Soliman of Lopez, Quezon, proposing, among others, the following: 1) that the Constitution be written in Filipino or Tagalog; 2) that all 18-year old citizens be required to secure their cedula; 3) that those who cannot read and write should not be allowed to vote; and 4) that the U.S. bases continue up to 1991.

TO THE STEERING COMMITTEE

Communication No. 1010 — Constitutional Commission of 1986

Communication from Mr. Felicisimo Tupas, Executive Secretary, Holy Name Society of the Philippines Archdiocese of Ozamiz, seeking inclusion in the Constitution of a provision that would include religion as a

required subject in the elementary and high schools and to say the invocation in every flag ceremony.

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 1011 — Constitutional Commission of 1986

Communication from Mr. Gregorio D. Guadalupe, transmitting Resolution No. 91 of the Sangguniang Panlalawigan of Iloilo, proposing to the Constitutional Commission the redistricting of the Province of Iloilo by increasing the congressional districts therein from five

(5) to six (6) with an average population of 288,843.43 per district, based on the 1980 population of the Philippines.

TO THE COMMITTEE ON THE LEGISLATIVE

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 39 ON PROPOSED RESOLUTION NO. 542 ON THE ARTICLE ON FAMILY RIGHTS

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 542 (Joint Committee Report No. 39), entitled:

Resolution to incorporate in the new Constitution a separate Article on Family Rights.

The Chair recognized the Chairmen and Members of the Committees on Social Justice; and Human Resources.

SUSPENSION OF SESSION

Thereupon, on request of Mr. Rama, the Chair suspended the session to allow the proponents of amendments to confer with the Committees.

It was 10:14 a.m.

RESUMPTION OF SESSION

At 10:36 a.m., the session was resumed.

CONSIDERATION OF SECTION 1

Upon resumption of session, Mrs. Nieva read the following proposed alternative formulations for Section 1:

By Mr. Davide:

THE STATE RECOGNIZES THE FILIPINO FAMILY AS THE FOUNDATION OF THE NATION. ACCORDINGLY, IT SHALL STRENGTHEN ITS SOLIDARITY AND ACTIVELY PROMOTE ITS TOTAL DEVELOPMENT.

By Mr. Suarez:

THE STATE SHALL STRENGTHEN THE FAMILY AS A BASIC SOCIAL INSTITUTION AND SHALL PROMOTE AND PROTECT THE SOLIDARITY OF THE FAMILY. *

Mrs. Nieva manifested that the Committee would accept the Davide amendment which, except for the phrase "promote its total development", includes the Suarez amendment.

Mr. Davide explained that his proposal emphasizes the indispensable role of the family consonant with the

Declaration of Principles provision that "The State values the sanctity of family life and shall promote the family as a basic social institution." He stated that the family referred to is the Filipino family which, in the light of the concept mandated therein, is the foundation of the nation. The proposal, he stressed, necessarily mandates the State to strengthen family solidarity and to actively promote its total development. He noted that the solidarity and strength of the family is also the solidarity and strength of the nation.

Mr. Maambong coauthored the amendment.

MR. MAAMBONG'S AMENDMENT TO THE AMENDMENT

In reply to Mr. Maambong's query, Mrs. Nieva reiterated the Committee's acceptance of Mr. Davide's amendment, to wit:

THE STATE RECOGNIZES THE FILIPINO FAMILY AS THE FOUNDATION OF THE NATION. ACCORDINGLY, IT SHALL STRENGTHEN ITS SOLIDARITY AND ACTIVELY PROMOTE ITS TOTAL DEVELOPMENT.

Mr. Maambong proposed to add the words AS A BASIC SOCIAL INSTITUTION after "development" to realign the provision with the Civil Code provision that the family is a basic social institution. He stated that he was not constitutionalizing the Civil Code provision but merely putting in the concept enshrined therein. Mr. Davide pointed out, however, that said concept is already included in the Declaration of Principles.

Thereupon, Mr. Maambong withdrew his proposal.

APPROVAL OF MR. DAVIDE'S AMENDMENT

Submitted to a vote, and with 23 Members voting in favor, none against and 1 abstention, the amendment was approved by the Body.

OMNIBUS AMENDMENT OF MR. OPLE

Mr. Ople proposed the following omnibus amendment to the whole draft article:

SECTION 1. THE FAMILY EXISTS AS A MATTER OF NATURAL RIGHT WHICH SHALL BE RESPECTED BY THE STATE. MARRIAGE, AS A SACRAMENTAL RIGHT AND DUTY, IS THE FOUNDATION OF THE FAMILY.

THE STATE SHALL RESPECT THE FAMILY AS AN AUTONOMOUS SOCIAL INSTITUTION IN WHICH MAN AND WIFE ASSUME THE PRINCIPAL RESPONSIBILITY FOR DOMESTIC HARMONY, INTEGRITY AND DEVELOPMENT AND OF THE TUTELAGE OF CHILDREN ESPECIALLY IN CHARACTER AND CITIZENSHIP FORMATION.

THE STATE SHALL DESIST FROM REGULATING FAMILY LIFE EXCEPT TO THE EXTENT THAT ITS SOCIAL RESPONSIBILITIES RIPENING INTO PUBLIC INTEREST ARE INVOLVED.

THE FAMILY HAS THE DUTY TO CARE FOR ITS ELDERLY MEMBERS BUT THE STATE MAY ALSO DO SO THROUGH JUST SCHEMES OF SOCIAL SECURITY.

In reply to the Chair's query whether approval of the amendment would amount to the deletion of Mr. Davide's approved amendment, Mr. Ople stated that he would abide by the Committee's recommendation on the final disposition of his amendment if it or any part thereof proves acceptable.

Explaining his amendment, Mr. Ople stated that in ancient as well as in modern times, the great issue between family and State has always been the freedom of the family from State regulation and interference, thus, in totalitarian states, the family is mobilized to serve the purposes of the State, often resulting in direct intrusion into the privacy of the family and its co-optation into State programs as an institution.

Mr. Ople also noted that in the present Committee formulation of family rights, the family is literally handed over to the State for its ultimate disposition in the guise of caring for the family, the children and the elderly, which is also how State control of the family is presented and justified in totalitarian societies where the State's ubiquitous interference is a day-to-day reality and the family as an institution becomes subservient to its aims.

He stated that one of the features of fascism in World War II was precisely the heavy-handed interference of the totalitarian rulers in the autonomy of the family and that there are totalitarian societies where children are recruited into State-sponsored organizations so that they could spy on their parents. He expressed the hope that the Committee is not confronting with its proposed Article the spectre of such overwhelming state dominance of the family institutions.

Mr. Ople noted that in Christian or Muslim homes where democracy exists, the most valued right of the family is the right to privacy and autonomy from all centers of political power. He stated that there is a sort of constitutional government that exists between husband and wife and a line of authority between the parents and children; however, although during the years of maturation, the parents command the children, this is different from the State commanding its citizens because in the former the one commanding is more keen in promoting the welfare of the one commanded, thus, in the Filipino culture, parents would do almost everything and forego every benefit to themselves for the sake of their children. He underscored the need to shift the focus of concern from an overpowering State protection and dominance towards the family's autonomy in a spirit of dignity and genuine liberty for the total development of the family.

Responding thereto, Mr. Bacani stated that the Committee is basically in sympathy with the first sentence "The State shall respect the family as an autonomous social institution"; however, it could not agree that the Article, as presented, fosters the dominance of the State over the family, because it merely asks that the State defend the rights enumerated therein so that the family remains as the foundation of the nation. He stressed that while this is asked of the State, the principle of subsidiarity that what can be accomplished by a lower body, the higher body should not arrogate unto itself, would also operate in this case.

Mr. Bacani noted that there is no State dominance of the family in the Philippines, at least on a big scale, and that the Article does not aim to foster such State dominance. He stated that the Committee is willing to accept family autonomy, not that it becomes a completely self-sufficient body, but that the freedom and dignity of the family should be safeguarded.

Thereupon, upon leave of the Chair, Mr. Ople converted his amendment into an amendment to Section 2 and manifested that he would abide by the Committee's discretion as to what portions of the proposal could be adopted in the light of the manifestations of Mr. Bacani and Mrs. Nieva that the provision concerning the autonomous character of the family would be acceptable to the Committee.

In reply to Mr. Bacani's query on the connotation of the word "sacramental", Mr. Ople stated that he used the phrase "sacramental right and duty" in a layman's manner to convey the idea of sanctity to the institution of marriage in the light of the position of most churches concerning this.

REMARKS OF MR. BENGZON

Speaking against the proposed amendment, Mr. Bengzon stated that the concept of the first paragraph thereof is already embodied in the Declaration of Principles which also protects and strengthens the family as a basic social institution and that it smacks of a Catholic doctrine since the word "sacramental" has a very specific religious meaning. Mr. Bengzon likewise stated that the second paragraph of the proposal is already recognized in the same Section 9 in the Declaration of Principles which provides for "the natural right and duty of parents in the rearing of the youth for civic efficiency. . .". He suggested that the Body limit itself to the principles and concepts and avoid details.

Finally; he noted that the last paragraph of the proposal was discussed lengthily when the Body considered the Article on Social Justice, specifically Section 11 thereof, and that its concept is likewise enshrined in the proposed Constitution.

Responding thereto, Mr. Ople maintained that his amendment does not in any manner duplicate what already appears in the Declaration of Principles but shifts the focus from an overwhelming concern and protection of the State which amounts to dominance to one of family autonomy from the State. He argued that shifting the focus from one direction to another is innovating rather than replicating and noted, moreover, that the Committee was willing to consider the adoption of at least a part of his amendment to the effect that the State shall respect the family as an autonomous social institution where man and wife assume the principal responsibility for harmony, integrity and development, for the caring of the children and where the role of the State is purely incidental and secondary.

SUSPENSION OF SESSION

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

It was 11:03 a.m.

RESUMPTION OF SESSION

At 11:13 a.m., the session was resumed.

RESTATEMENT OF SECTION 2, AS REFORMULATED

Mrs. Nieva read the revised formulation of Section 2, to wit:

SECTION 2. MARRIAGE IS THE FOUNDATION OF THE FAMILY AND SHALL BE PROTECTED BY THE STATE. THE STATE SHALL RESPECT THE FAMILY AS AN AUTONOMOUS SOCIAL INSTITUTION.

INQUIRY OF MR. BENGZON

On Mr. Bengzon's query whether the first sentence of Section 2 would preclude Congress from enacting a law on divorce, Mrs. Nieva stated that it does not because Congress still has every right to pass a divorce law under certain circumstances it may deem fit.

MANIFESTATION OF MR. OPLE

Mr. Ople informed that the Committee has accepted a reformulation of letter (d) of its report with the amendments of Messrs. Davide, Rigos, Bengzon and Padilla incorporated therein which reads: THE FAMILY HAS THE DUTY TO CARE FOR ITS ELDERLY MEMBERS BUT THE STATE MAY ALSO DO SO THROUGH HUMANE SCHEMES OF SOCIAL SECURITY.

Replying thereto, Mr. Bacani stated that it would have to be subject to a right reformulation, although the basic sense is maintained.

AMENDMENT OF MR. MAAMBONG

Mr. Maambong proposed the rewording of the first sentence of Section 2 to read: MARRIAGE AS AN INVIOABLE SOCIAL INSTITUTION IS THE FOUNDATION OF THE FAMILY AND SHALL BE PROTECTED BY THE STATE, explaining that this is a realignment with Article 52 of the New Civil Code.

Mr. Ople, as well as the Committee, accepted Mr. Maambong's amendment.

Mr. Bengzon clarified that the acceptance is subject to the understanding that it would have the same interpretation as the one he earlier articulated.

Submitted to a vote, and with 18 Members voting in favor, none against and no abstention, the amendment was approved by the Body.

APPROVAL OF MR. OPLE'S AMENDMENT

Mr. Bacani stated that the Committee has accepted Mr. Ople's amendment that would fall under Section 3 which reads: THE STATE SHALL RESPECT THE FAMILY AS AN AUTONOMOUS SOCIAL INSTITUTION.

Mr. Davide suggested that Mr. Ople's amendment could be placed as the second paragraph of Section 2 instead of making it a separate section, to which Mr. Bacani agreed.

Submitted to a vote, and with 18 Members voting in favor, none against and no abstention, the Body approved Mr. Ople's amendment.

PROPOSED AMENDMENT OF MR. BACANI

Mr. Bacani proposed three amendments which would be subject to proper placement in the Committee Report.

As the first amendment, he proposed the following:

THE STATE SHALL PROTECT THE FAMILY FROM POPULATION POLICIES IMPOSED AS A CONDITION FOR FOREIGN AID OR LOANS.

Mr. Bacani explained that the focal point of the amendment is the word "imposed" which does not necessarily mean that population policies are being excluded, but that there are certain population policies which are already imposed upon the Philippines by foreign interests as a condition for foreign aid, one of which is the contraceptive drug being tested or used by 1,000 women in Cavite despite a report that the drug has not been approved for use in the United States. He stressed that if the country is asked to reduce its population as a condition for foreign aid and such means is used, then the State should protect its women from such imposition.

REMARKS OF MR. RIGOS

Mr. Rigos believed that this imposition as a condition for foreign aid or loans does not have to be constitutionalized because this could be a matter of government policy or a matter that could be left to Congress.

SUGGESTION OF MRS. ROSARIO BRAID

Mrs. Rosario Braid suggested the deferment of consideration of the proposed amendment considering that there is a provision in the Article on General Provisions which refers to population policy.

Mr. Bacani maintained that the provision referred to in the Article on General Provisions is a general statement on population policies whereas his proposed amendment provides a protection to the family from an imposition which derogates from the sovereignty of the Filipino people and the Filipino women in particular.

Mrs. Rosario Braid pointed out that the inclusion of such an amendment could lead to the inclusion of other negative social forces and that it would be better if it is placed in the Article on General Provisions, to which Mr. Bacani agreed.

REMARKS OF MR. DAVIDE

Mr. Davide seconded the suggestion to defer consideration of the proposed amendment in the light of the second sentence of Section 13 of the Article on General Provisions which reads:

"It shall, however, be the right and duty of parents to determine the number of their children and in the exercise of this right and duty they shall not be compelled to use means of birth limitation that shall be against their informed conscience and religious convictions."

REMARKS OF MR. OPLE

Mr. Ople endorsed the suggestion of Mrs. Rosario Braid to defer consideration of Mr. Bacani's proposed amendment until the Body discusses the appropriate sections in the Article on General Provisions. He pointed out that the draft Article on Family Rights seems to be an important constitutional statement of the values associated with the family from which, he opined, the proposed amendment is a departure because it speaks of a power that is already lodged in the Executive.

Upon inquiry by the Chair, Mr. Bacani stated that he was agreeable to the deferment of his proposed amendment.

INQUIRY OF MR. SARMIENTO

Mr. Sarmiento inquired whether the proposed amendment is already covered by the intent of Sections 1 and 2 which speak of the obligation of the State to protect the family.

At this juncture, the Chair reminded Mr. Sarmiento that consideration of the proposed amendment has been deferred and that any discussion on the matter should, likewise, be deferred.

FURTHER PROPOSED AMENDMENT OF MR. BACANI

Mr. Bacani proposed a new Section 3 to read as follows:

THE STATE SHALL DEFEND THE FOLLOWING:

a) THE RIGHT OF SPOUSES TO FOUND A FAMILY IN ACCORDANCE WITH THEIR RELIGIOUS CONVICTIONS AND THE DEMANDS OF RESPONSIBLE PARENTHOOD.

INQUIRY OF MR. OPLE

In reply to Mr. Ople's query on the right of spouse under Section 1 and whether there would be a need for a constitutional acknowledgment of such right, Mrs. Nieva stated that what are referred to in the proposed amendment are the rights of the family, among which is the founding of a family. She cited, as an example, Singapore which first decreed that the parents should have no more than two children. This, she stated, is an encroachment by the State on the rights of the family. She affirmed that this would proscribe the State and Congress from passing laws that would limit the size of the family.

Mr. Ople opined that this would render unconstitutional some existing laws.

At this juncture, Mr. Bengzon inquired whether a law passed by Congress limiting deductions on income tax to four children could be declared unconstitutional.

Mr. Ople informed that there is already a law which provides that a taxpayer may not claim deductions beyond four children. He, likewise, cited the Maternity Benefit Law according to which after four children, a woman worker may no longer claim maternity benefits from the Social Security System. These laws, he stated, offer incentives to putting a limit to family size. He then inquired whether these laws would become unconstitutional.

In reply, Mr. Bacani opined that if said laws are demonstrated to be coercive rather than persuasive, they would be unconstitutional.

Mr. Ople pointed out that the violation of these laws results in deprivation of certain benefits that normally belong to these workers and, therefore, they might be viewed as coercive, to which Mr. Bacani stated that not being a lawyer, he would not know whether tax exemption is a favor given by the State or an individual right which can be demanded under all circumstances.

INQUIRY OF MR. BENGZON

Mr. Bengzon noted that the proposed amendment might create the problem that existing laws may be viewed by one family as coercive while another may view it as persuasive. He inquired as to who would determine whether or not laws passed by Congress would take away privileges or rights from the head of the family. He warned that there could be numerous litigations to challenge the constitutionality of certain laws.

REMARKS OF MR. COLAYCO

Mr. Colayco noted that Section 13 of the Article on Declaration of Principles and State Policies recognizes the right of parents to determine the number of their children, on the basis of which, he opined that a law limiting the tax exemption to four children is discriminatory and may be successfully assailed before the Supreme Court.

APPROVAL OF MR. BACANI'S PROPOSED AMENDMENT

Thereupon, Mrs. Nieva restated the proposed provision in Section 2(a), to wit:

THE STATE SHALL DEFEND THE FOLLOWING:

a) THE RIGHT OF SPOUSES TO FOUND A FAMILY IN ACCORDANCE WITH THEIR RELIGIOUS CONVICTIONS AND THE DEMANDS OF RESPONSIBLE PARENTHOOD.

Submitted to a vote, and with 14 Members voting in favor, none against and 4 abstentions, the amendment was approved by the Body.

COMMENTS OF MR. SARMIENTO

Mr. Sarmiento stated that Section 2(b) is the product of Proposed Resolutions filed by Messrs. Rigos, Villacorta, Uka and Monsod, and Ms. Aquino, Ms. Tan, Mrs. Quesada, Mrs. Nieva and himself.

Mr. Sarmiento underscored the importance of the provision in view of rampant child prostitution, child labor, child abuse and neglect. He disclosed that a study showed that 69 out of 100 children below 7 years old are malnourished; 454 out of 1,000 babies die before they are one year old; 1 out of 100 school-children is severely malnourished; 6 million to 8 million children are underweight; and less than 10 percent of Filipino children are believed to have completed primary immunization. He added that another study showed that roughly 30 percent of children from 6 to 14 years old are not studying, only 66 percent of those enrolled in Grade I complete their elementary education, and only 22 percent of those enrolled finish high school.

Additionally, he pointed out that quite a number of children are already working either by selling sampaguitas or watching cars or barking for jeepneys.

In view thereof, he expressed support of Section 2(b).

PROPOSED AMENDMENT OF MR. DAVIDE

On Section 2(b), before the word "cruelty", Mr. Davide proposed to insert the word ABUSE and a comma (,); to delete "and" before "exploitation"; and after "exploitation", to insert a comma (,) and the words IMPROPER INFLUENCES, HAZARDS, OR CONDITIONS OR CIRCUMSTANCES PREJUDICIAL TO THEIR PHYSICAL, MENTAL, SOCIAL, AND MORAL DEVELOPMENT.

Mr. Bacani stated that the Committee agrees with the sense of the proposal except that it should be shortened.

SUSPENSION OF SESSION

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

It was 11:41 a.m.

RESUMPTION OF SESSION

At 11:44 a.m., the session was resumed.

REFORMULATION OF MR. DAVIDE'S AMENDMENT AS AMENDED BY MESSRS. VILLACORTA, MAAMBONG, ROMULO, OPLE, SARMIENTO, RIGOS, AND MRS. ROSARIO BRAID

Upon resumption of session, Mr. Bacani read the reformulation of Mr. Davide's amendment on Section 2(b), as amended by Messrs. Villacorta, Maambong, Romulo, Ople, Sarmiento, Rigos and Mrs. Rosario Braid, to wit:

b) THE RIGHT OF CHILDREN TO ASSISTANCE, INCLUDING PROPER CARE AND NUTRITION, AND SPECIAL PROTECTION FROM ALL FORMS OF NEGLECT, ABUSE, CRUELTY, EXPLOITATION AND

OTHER CONDITIONS PREJUDICIAL TO THEIR DEVELOPMENT.

Submitted to a vote, and with 14 Members voting in favor, none against and 3 abstentions, the proposed amendment was approved by the Body.

CONSIDERATION OF SECTION 2(c)

On Section 2(c) which provides for the right of the family to a family living wage, Mrs. Nieva explained that "family living wage" refers to the wage that would enable a family to live a dignified life and fulfill its basic needs and right to social services.

In reply to Mr. Bengzon's query on whether an employer would be liable for giving compensation below the family living wage to which the employee consented because of the difficulty of finding other jobs and because of his lack of qualification, Mr. Bacani stated that the subsection provides for the right of the family to a share in the fruits of production that would allow it to live a decent life under present conditions. He explained that although the employer could not be sued, the State must work towards conditions which will make possible the payment of a just family living wage.

Mr. Bacani further stated that according to the report of the Center for Research and Communications, only 10 percent of the firms pay the minimum wage which is actually below the family living wage of P5,000.00.

On whether an employee can claim back wages for the period that he was not paid the family living wage when the employer's business improves to the extent that he is able to pay such family living wage, Mr. Bacani stated that the constitutional provision would not have retroactive effect.

On whether the employees can seek the assistance of the Ministry of Social Services and Development for the difference that was not given him, Mr. Bacani affirmed that given the condition that the family of the employee could not adequately live a decent life, he may seek the help of the State which is obliged to help the employee's family, with the help of other sectors, to the extent of its capacity to help. Mrs. Nieva also affirmed that the State should provide funds therefor in the budget of the Ministry of Social Services and Development, as in other Ministries, subject to availability of funds. She agreed with Mr. Bengzon that the people must not compel the State, through this provision, if it could not provide such services because of lack of funds.

In this connection, Mr. Bacani pointed out that other sectors are expected to help the State in this endeavor.

REMARKS OF MRS. ROSARIO BRAID

Mrs. Rosario Braid stated that the family's right to a living wage should carry a corresponding obligation to educate its members in order that they may become productive members of society, to which Mrs. Nieva agreed.

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople proposed to add the words OR INCOME after the word "wage", so that Section 2(c) would read: THE RIGHT OF THE FAMILY TO A DECENT FAMILY LIVING WAGE OR INCOME.

He explained that about 60 percent of the work force, like the farmers, are not covered by the wage system.

The Sponsor accepted Mr. Ople's proposed amendment, and there being no objection, the same was approved by the Body.

APPROVAL OF SECTION 2(c), AS AMENDED

Mr. Bacani read Section 2c, as amended, to wit:

c) THE RIGHT OF THE FAMILY TO A FAMILY LIVING WAGE OR INCOME.

Submitted to a vote, and with 19 Members voting in favor, none against and 1 abstention, Section 2(c), as amended, was approved by the Body.

CONSIDERATION OF SECTION 2(d)

Thereafter, Mr. Ople read the new formulation of Section 2(d), to wit:

THE FAMILY HAS THE DUTY TO CARE FOR ITS ELDERLY MEMBERS BUT THE STATE MAY ALSO DO SO THROUGH JUST SCHEMES OF SOCIAL SECURITY.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed that Section 2(d) be formulated as a separate new Section 4.

The Sponsor accepted Mr. Davide's proposed amendment.

Explaining the rationale of the provision, Mr. Ople pointed out that there are already 8,000,000 members of the Social Security System and 1,200,000 members of the Government Service Insurance System, and that the purpose of social security is to allow workers to retire in comparative dignity through the benefits they have paid for during their employment. He stressed that the duty of the family to take care of the elderly should be seen in line with the State's effort to provide social security to both the public and private sectors.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Bacani, the Chair suspended the session.

It was 12:02 p.m.

RESUMPTION OF SESSION

At 12:04 p.m., the session was resumed.

RESTATEMENT OF THE NEW SECTION 4

Upon resumption of session, in reply to the Chair's query, Mr. Bacani affirmed that Section 2(d) would be deleted, in lieu of which, would be placed the new Section 4, to wit:

THE FAMILY HAS THE DUTY TO CARE FOR ITS ELDERLY MEMBERS BUT THE STATE MAY ALSO DO SO THROUGH JUST SCHEMES OF SOCIAL SECURITY.

Submitted to a vote, and with 20 Members voting in favor and none against, the same was approved by the Body.

SUBSTITUTE AMENDMENT TO SECTION 2(d)

Thereupon Mrs. Nieva proposed, as Section 2(d), the following:

(d) THE RIGHT OF FAMILIES AND FAMILY ASSOCIATIONS TO PARTICIPATE IN THE PLANNING AND IMPLEMENTATION OF POLICIES AND PROGRAMS THAT AFFECT THEM.

Mrs. Nieva explained that the rationale behind the proposal is to give families the right to be heard by public authorities in the planning, formulation and implementation of policies or programs directly affecting their welfare.

She agreed with Mr. Bengzon's observation that the subsection would recognize the right of the families to express themselves; to present position papers to appear in public hearings; and to be heard Congress or by the Executive Department on policies or proposed legislations that would affect the rights of families and their associations.

In reply to Mr. de Castro's query on the difference between the proposed subsection and Section 16 of the Article on Social Justice which provides for the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making, Mrs. Nieva explained that the latter provision is wider in scope because it covers all sorts of aggroupments and organizations while the present provision is narrower in scope. She added that family rights are much different from the rights of children and the youth because they also have specific needs which should, likewise, be heard and considered in the planning, formulation and implementation of programs and policies affecting them.

On Mrs. Rosario Braid's query as to how the provision could be operationalized whether through family associations rather than through the families themselves — Mrs. Nieva replied that generally, it would be through family associations, although it does not preclude individual families from taking advantage of their rights as citizens to be heard.

Mrs. Rosario Braid then informed that there is also a provision in the Article on Declaration of Principles which makes reference to family organizations despite which, she asked that the Committee on Style should not look at the proposal as a surplusage.

Thereafter, the proposal was submitted to a vote and with 8 Members voting in favor and 7 against, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. DE CASTRO

Thereupon, Mr. de Castro proposed to add the following new subsection:

THE RIGHT OF THE YOUTH AND YOUTH ASSOCIATIONS TO PARTICIPATE IN THE PLANNING AND IMPLEMENTATION OF POLICIES AND PROGRAMS THAT AFFECT THEM.

Mr. Bacani, on behalf of the Committee, did not accept the proposal.

Mr. de Castro explained that according to the Committee, "families" are different from the youth and, considering that the youth are the hope of the Fatherland, he stated that with more reason, they should be allowed to participate in the planning and implementation of policies and programs that affect them.

Mrs. Rosario Braid, however, pointed out that there is already a section on the participation of the youth in the Article on the Declaration of Principles.

At this juncture, Mr. Maambong pointed out that the Body is discussing the Article on Family Rights, to which Mr. de Castro replied that the youth is part of the family.

Mr. Bacani reiterated the Committee's rejection of the proposal.

Thereupon, Mr. de Castro withdrew his proposal, stating, however, that differentiating families from people is making a mockery of the Constitution.

Mrs. Nieva stressed that the Committee firmly believes in the correctness of subsection (d).

In reply to Mr. de Castro's query whether the Committee on Style could delete "Filipino" from the section previously approved which reads "The State recognizes the Filipino family", the Chair stated that it could change

the phraseology but not the substance.

TERMINATION OF THE PERIOD OF AMENDMENTS

Thereupon, on motion of Mr. Rama, there being no objection, the Body closed the period of amendments subject to the reservations made by Mrs. Rosario Braid and Messrs. Bacani, Sarmiento and Davide.

SUSPENSION OF SESSION

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

It was 12:21 p.m.

RESUMPTION OF SESSION

At 2:47 p.m., the session was resumed.

The Body resumed consideration of the Article on Family Rights.

Mr. Rama stated that three Members have registered reservations to present amendments.

PROPOSED AMENDMENT OF MESSRS. DAVIDE AND BACANI

Thereupon, as the first proposal, Mr. Bacani read the following amendment which he coauthored with Mr. Davide:

ALL CHILDREN REGARDLESS OF FILIATION SHALL ENJOY THE SAME SOCIAL PROTECTION.

INQUIRY OF MS. MONSOD

In reply to Mr. Monsod's query on the meaning of "social protection", Mr. Davide explained that regardless of — whether legitimate, illegitimate or natural, the child is entitled to social protection. He stated that the language of the Universal Declaration of Human Rights has clear reference to children born inside or outside of wedlock and that even the New Civil Code guarantees certain basic rights. He stated that the proposal simply refers to the equal social protection to the children which the State should afford and that as victims of the parents' indiscretion, they should not be penalized by means of social inequilibrium. He stressed that the concept would establish a social norm that the illegitimate may not be considered lower in status than the legitimate children.

REMARKS OF MR. RAMA

At this juncture, Mr. Rama interposed the information that an example of social discrimination would be the requirement by certain schools of the presentation of a birth certificate as a prerequisite for admission to ensure that only legitimate children are enrolled. However, in this case, such social discrimination is committed by the school and not by the State from which, he said, the provision expects social equality.

Mr. Davide pointed out that the example cited by Mr. Rama refers to education which is already embodied in the appropriate provision of the Constitution and that he would like to broaden its scope to include other social areas.

Mr. Rama clarified that despite his statements, he considers the proposal improper for inclusion in the Constitution.

Mr. Davide stated that the Constitution of Italy contains such provision on social protection which even extends to property relations.

Mrs. Nieva stated that she had read at least a dozen constitutions which provide social protection to children whether legitimate or illegitimate and that parents could not ignore their responsibilities towards them.

COMMENT OF MR. MONSOD

Mr. Monsod commented, however, that the concept is already contained in the Civil Code and the Bill of Rights and its inclusion in the Constitution might only impair other rights, create more injustices and provide an excuse for State interference or intervention in private rights.

REMARKS OF MR. ABUBAKAR

Speaking against the proposed amendment, Mr. Abubakar stated that a constitution should provide for the powers of government and its limitations and that the proposed amendment does not have a place in the Constitution. He noted that it would be embarrassing to include in the Constitution such phrase as "out of wedlock", etc. and that the matter could be left to legislation or to jurisprudence.

REMARKS OF MR. RIGOS

Mr. Rigos suggested that there would be no need for the proposed amendment if it could be shown in the Record that Messrs. Davide's and Bacani's concern is covered by the approved Section 2(b).

INQUIRIES OF THE NOLLEDO

In reply to Mr. Nollado's query whether social protection would include protection from unjust discrimination in employment in the government or in the private sector and in the pursuit of education, Mr. Davide answered in the affirmative, stating that a child should not be discriminated against for a misfortune which is not of his own making.

Mr. Davide agreed with Mr. Nollado that existing labor laws and the rule against unjust discrimination in employment would be sufficient to cover his concern; however, he noted that the labor and social justice provisions in the Declaration of Principles did not embody the 1973 Constitution enumeration of discriminations on grounds of sex, race, creed or political status or conditions, and that the proposed amendment seeks to remedy the situation specifically in relation to the rights of children. He also stressed that the proposed amendment is needed to supplement or amplify the provisions on Education.

Mr. Nollado suggested that social protection must be earned and not imposed by legal mandate, in reply to which Mr. Davide stated that there is no harm in making it a principle of State policy. Likewise, on the suggestion that the provision clearly state that there should be no unjust discrimination against children by reason of their filiation, Mr. Davide stated that "discrimination" may be enough because "unjust discrimination" may only include some kind of discrimination. However, he agreed to leaving out "unjust" in favor of specifying the areas where discrimination may take place, such as in employment or in education.

MR. MONSOD'S REMARKS AGAINST THE AMENDMENT

Opposing the proposed amendment, Mr. Monsod stated that 1) it would be foolish to think that the government will require as a condition for employment that the applicant must be a legitimate child; 2) the provision would be a convenient cause of action for people to invoke the Constitution for being unemployed or for not being admitted into any association by reason of their illegitimate status; and 3) the Constitution should not incorporate provisions simply because they would do no harm.

INQUIRIES OF MR. GUINGONA

In reply to Mr. Guingona's query, Mr. Bacani affirmed that "social protection" refers to protection under the laws and that it applies to all kinds of discrimination.

On whether approval of the proposal would mean that the Civil Code provision on inheritance would be deemed unconstitutional, Mr. Bacani explained that the provision simply seeks to provide a minimum protection to enable one to live a life of dignity; it would not mean that an illegitimate child shall receive the same inheritance as that of a legitimate child.

Mr. Guingona argued, however, that the matter of inheritance is a discrimination in itself, in reply to which, Mr. Bacani stated that if the discrimination does not amount to any injustice, there would be no discrimination but a differentiation in treatment, which is not necessarily unjust.

Mr. Guingona pointed out that the concern of Messrs. Davide and Bacani are already included in the Bill of Rights provision on equal protection of the laws and that there is no need to specify illegitimate children, otherwise, it would require specification of the other classes of children, in reply to which Mr. Bacani stated that there are instances not covered by the Bill of Rights such as discriminations in the schools. Mr. Guingona remarked that this could be a mere speculation because it is also possible that schools ask for birth certificates only for purposes of determining the citizenship of the children especially if they carry foreign surnames.

Mr. Rama pointed out that the problem arose from the fact that the phrase "social protection" was given a wider meaning than that contemplated in the Declaration of Human Rights.

REMARKS OF MS. TAN

Ms. Tan stated that she is against the proposed amendment for two reasons: 1) that it is superfluous, and 2) that it is nebulous. Adverting to Mr. Rama's example, she stated that she has never encountered such an experience.

Reacting thereto, Mr. Rama stated that there are Catholic schools which refuse to admit illegitimate children to avoid the embarrassing situation when both the legitimate and illegitimate children of a father are enrolled in the same school, in which case, the refusal would be for a valid reason.

INQUIRY OF MR. COLAYCO

In reply to Mr. Colayco's request for example of schools where admission is refused on said ground, Mr. Rama stated that it would not be fair to mention the schools concerned.

Mr. Colayco stated that in Ateneo de Manila, an illegitimate son of a former President of the Philippines was admitted and the school stood pat on its decision.

INQUIRY OF MR. UKA

In reply to Mr. Uka's query, Mr. Bacani affirmed that an illegitimate child is one born out of wedlock.

Mr. Uka appealed to the Body to be reasonable. He stated that an illegitimate child should not be discriminated against because it is not his fault that his parents met and romantically interlocked to create him.

He also argued against "birth control" by stating that the world could not have been populated if Adam and Eve decided to practice "birth control".

At this juncture, Mr. Bacani manifested the Body's readiness to vote on the proposed amendment.

REMARKS OF MR. GUINGONA

Mr. Guingona pointed out that the provision refers to the protection by the State, and that there would be no discrimination should the Body accept the replies during the interpellations. He noted that if there is any discrimination at all, it would be discrimination found in society itself.

He stated that the illegitimate children cannot be blamed for their status but averred that the provision may even extend to the matter of inheritance, as gleaned from the replies during the interpellations. He added that it might encourage illegitimacy.

In reply, Mr. Bacani stressed that the provision protects children against neglect but does not encourage illegitimacy.

REMARKS OF MR. MAAMBONG

Mr. Maambong informed that Article 349 of the Civil Code states that "the government promotes the full growth of the faculties of every child", for which purpose the government established schools in every barrio, puericulture and similar centers, council for the protection of children and juvenile courts; and that Article 350 provides that "the Council for the Protection of Children shall look after the welfare of children in the municipalities", and enumerates no less than 7 functions.

He maintained that there are ample protection under the laws without the word "protection" being added to the provision.

PROPOSED AMENDMENT OF MR. NOLLEDO

Mr. Nollado proposed an amendment by substitution, to wit: THERE SHALL BE NO DISCRIMINATION AGAINST ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK.

Mr. Davide stated that the Committee had already accepted his proposal, and that he would leave it to the Committee whether or not to accept the amendment by substitution.

Mr. Bacani remarked that the meaning given by Mr. Nollado seems to be wider in scope than that intended by the Committee and that the Committee would prefer the original provision as interpreted during the interpellation of Mr. Guingona.

On the Chair's query, Mr. Nollado informed that Mr. Davide is amenable to the amendment if the term "social discrimination" is included in the provision which would then read: THERE SHALL BE NO SOCIAL DISCRIMINATION AGAINST CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK.

Mr. Davide accepted the amendment as it limits the mantle of protection to the social aspect.

REMARKS OF MR. NOLLEDO

Mr. Nollado argued that this would be in accordance with the observations of Mr. Guingona and he impressed upon the Members that the provision in the Universal Declaration of Human Rights is substantially the same as the original provision reading "All children, whether born in or out of wedlock, shall enjoy the same social protection" which was proposed by Mr. Davide.

Mr. Nollado stated that there is discrimination against illegitimate children in all sectors of society. He suggested raising the status level of such children by doing away with the discrimination dictated by human frailty and weakness. Furthermore, he argued that the provision would give protection to an illegitimate child considering

that the Body had given protection even to the unborn child.

Mr. Bacani, on behalf of the Committee, accepted the amendment in the sense given by Mr. Nollado and in the light of the replies to Mr. Guingona's interpellations.

Thereupon, Mr. Nollado restated his amendment, to wit: THERE SHALL BE NO SOCIAL DISCRIMINATION AGAINST ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK.

INQUIRY OF MR. MONSOD

In reply to Mr. Monsod's inquiry whether the provision is applicable to the government or to everybody, Mr. Nollado stated that it would be a notice to the whole world.

On the matter of enforcement, Mr. Nollado stated that the government is not expected to pass a law that will discriminate against illegitimate children.

Mr. Guingona observed that the Universal Declaration of Human Rights has no binding effect on states and it does not mean that rights found therein would, likewise, be included in the Article. To underscore his point, he informed that the right to asylum, which was voted down by the Body, is found in said document.

On the matter of discrimination, Mr. Guingona inquired whether the act under the particular provision would be subject to penal sanctions.

POINT OF ORDER OF MR. JAMIR

Mr. Jamir raised a point of order, stating that under Section 33 of the Rules, no Member shall consume more than 15 minutes in debate or speak more than once on any question without leave of the Constitutional Commission.

In reply thereto, the Chair acknowledged that there is a specific rule regarding discussions during the period of amendments but that the Chair has been very liberal in applying such rule, adding that the 3-minute rule is being enforced.

INQUIRY OF MR. NATIVIDAD

Mr. Natividad queried whether the approval of the provision would encourage the passage of a disclosure act which would require job applicants to state whether they are illegitimate or not, to which Mr. Nollado replied in the negative.

PARLIAMENTARY INQUIRY OF MR. MAAMBONG

Mr. Maambong stated that as originally proposed, the amendment read CHILDREN, REGARDLESS OF FILIATION, SHALL ENJOY EQUAL SOCIAL PROTECTION, but with the amendment of Mr. Nollado which changes the nature of the proposal, it would read THERE SHALL BE NO DISCRIMINATION AGAINST ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK.

He then inquired whether Mr. Davide is accepting the proposed amendment of Mr. Nollado.

Mr. Bacani informed that as worded, the amendment reads THERE SHALL BE NO SOCIAL DISCRIMINATION AGAINST ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK.

Mr. Davide stated that he agrees with the position of the Committee that it would not affect the previous provision approved by the Body.

VOTING ON MR. DAVIDE'S AMENDMENT AS AMENDED BY MR. NOLLEDO

Submitted to a vote, and with 7 Members voting in favor and 16 against, the proposed amendment, as amended, was lost.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Bacani informed that Mr. Davide has proposed an amendment, to wit:

GIFTED CHILDREN AND THE PHYSICALLY AND MENTALLY HANDICAPPED SHALL RECEIVE SPECIAL STATE ATTENTION.

which the Committee would refer to the Body.

REMARKS OF MR. TINGSON

Mr. Tingson stated that everyone wants to give children the best that can be given them and that most of the Members are in favor of the proposal. Nevertheless, he opined that provisions such as these are best expressed and articulated in enabling legislation.

INQUIRY OF MR. SARMIENTO

Mr. Sarmiento drew attention to a provision in the Article on Education which reads "Scholarship, grants-in-aid or other forms of incentives shall be provided to deserving science students, scientists, inventors, technologists and specially gifted citizens" and queried whether the proposed amendment would already be covered by the aforesaid provision.

In reply to the query of Mr. Davide, Mr. Sarmiento stated that the proposed provision is already covered, and Mr. Bacani affirmed that it has special reference to science students and gifted citizens.

In view thereof, Mr. Davide withdrew his proposed amendment.

PROPOSED AMENDMENT OF MESSRS. SARMIENTO, DAVIDE, BACANI AND MRS. ROSARIO BRAID

As proposed by Messrs. Sarmiento, Davide, Bacani and Mrs. Rosario Braid, the amendment reads as follows: THE STATE SHALL PROVIDE SPECIAL PROTECTION AND CARE TO MOTHERS DURING PREGNANCY AND MATERNITY AND SHALL RECOGNIZE THE SOCIAL VALUE OF THE WORK IN THE HOME, which amendment was accepted by the Committee.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento explained that the proposed amendment is a new provision which embraces non-working mothers. He stated that the Article on Social Justice covers working mothers only and stressed that the proposal would provide protection to mothers especially in times of pregnancy and after delivery.

On the phrase "and shall recognize the social value of their work in the home", Mr. Bacani informed that this has been requested by women and some Members of the Commission to place value on the work of women in the home.

REMARKS OF MR. TINGSON

Mr. Tingson observed that Section 9 of the Article on Declaration of Principles protects the lives of both the unborn and the mother and that Section 10 would cover the proposed amendment. He noted that it might unnecessarily lengthen the Constitution, although he is not against the idea.

INQUIRY OF MR. MAAMBONG

In reply to the query of Mr. Maambong, Mr. Bacani affirmed that it is a demandable right, which means that the mothers can ask the State to give them such protection.

As to whether a neglected mother can file a suit against the State, Mr. Bacani stated that this is not the sense of the amendment but that the State should be aware of the importance of protecting the mothers during her pregnancy.

Mr. Sarmiento stated that he personally believes that it will be a demandable right. He noted that there are many mothers, especially in the rural areas, who die because of the difficulty during or after delivery. He also stated that the lack of doctors or hospitals in the rural areas has contributed to the high mortality rate of mothers. He stressed that the provision would underscore the need to protect mothers.

Mr. Maambong sought clarification on whether it should be a demandable right in the legal sense or merely an aspiration. He stated that should this be a demandable right, the government might not be able to shoulder the burden if all pregnant women who are neglected would go to court and file cases on the basis of this constitutional guaranty.

Replying thereto, Mr. Sarmiento stated that given the country's present financial condition, this principle could be an aspiration or goal.

REMARKS OF MR. GUINGONA

Mr. Guingona manifested that he would have no reservation on the first part of the proposal if the Body would include in the General Provisions a provision that the government cannot be sued without its consent. On the second part, he inquired how the State, aside from including the woman-hours which could be linked to the GNP, could recognize "social value".

Mr. Bacani explained that it would help promote the role of women in the home, and more specifically, it will work towards conditions which will enable the woman, if she so desires, to stay in the home and perform her maternal functions rather work outside the home.

On whether this is already covered by other provisions on the protection to be given to women, Mr. Bacani replied that there is nothing in the Constitution which mandates the State to help the women, if they so desire, to stay at home and do their work, inasmuch as there are compelling reasons which force them to work outside for financial survival, to such an extent that working at home is not considered a real contribution.

Mr. Guingona remarked that it might entail financial burden on the State and inquired whether there is some kind of subsidy to be given to women who do not work but who stay at home to attend to their maternal duties, to which Mr. Bacani opined that the number of working hours that women spend in the home could be considered in the computation of the GNP and could set the conditions which would not force women to work outside the home.

Thereupon, Mr. Bacani restated the amendment which reads:

THE STATE SHALL PROVIDE SPECIAL PROTECTION AND CARE TO MOTHERS DURING PREGNANCY AND MATERNITY AND SHALL RECOGNIZE THE SOCIAL VALUE OF THEIR WORK IN

THE HOME.

Submitted to a vote, and with 12 Members voting in favor and 15 against, the proposed amendment was lost.

MANIFESTATION OF MR. MONSOD

Mr. Monsod informed that Sections 1 and 2 of Family Rights, as approved, are overlapping. He suggested that said Sections be endorsed to the Committee on Style for the necessary corrections without changing their substance.

Upon request of Mr. Rama, Mr. Monsod read the revised sections, to wit:

Section 1. The State recognizes the family as the basic and autonomous social institution of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.

Section 2. Marriage is the foundation of the family and shall be protected by the State.

The Chair stated that the proper Committee would take note of the suggestions.

Mr. Monsod observed that under Section 3(d), it would be difficult to operationalize a consultation mechanism because families, aside from family associations, are given the right to be heard, something which could lead to chaos.

Mr. Rama stated that it would be the subject of a motion for reconsideration.

The Chair stated that it had already been approved, so it would no longer be a problem of the Committee on Style.

INQUIRY OF MR. DE CASTRO

In reply to Mr. de Castro's query whether the Article on Family Rights should be placed under a separate article or a part of the Declaration of Principles, Mrs. Nieva stated that the matter could be better left to the Sponsorship Committee.

Mr. de Castro pointed out that the matter of having a new article in the Constitution is not the prerogative of the Style or the Sponsorship Committee because it is not in their power to do it, in reply to which Mrs. Nieva clarified that it is only the question where to place the separate article that is left to the Sponsorship Committee. She stated, however, that the basic assumption from the beginning is to place it as a separate article.

MOTION OF MR. DE CASTRO

Thereupon, Mr. de Castro moved that the Article on Family Rights should not be placed under a separate article but included either in the Declaration of Principles or in the General Provisions.

POINT OF ORDER

At this juncture, Mr. Colayco raised a point of order on the ground that Mr. de Castro's motion included two subjects.

Thereupon, Mr. de Castro limited his motion to the proposition that the provisions on Family Rights should not be made a separate article in the Constitution.

Mr. Bacani stated, however, that he would want to have the provisions on Family Rights as a separate article in order to highlight the importance of the family in society.

The Chair suggested that Mr. de Castro withdraw his motion and present a reformulation in the affirmative.

MODIFIED MOTION OF MR. DE CASTRO

Thereafter, Mr. de Castro moved that the provisions on family rights be joined with some other articles already approved in the Constitution.

At this juncture, Mr. Guingona noted that the motion was ambiguous.

Mr. de Castro amended his motion anew and moved that the provisions on Family Rights be included in the Article on General Provisions.

Mr. Guingona objected on the ground that the proponent has not explained his reasons therefor. He suggested that the motion be submitted for discussion by the Body.

REMARKS OF MR. DAVIDE

Thereupon, adverting to Section 8(17), Rule II of the Rules, Mr. Davide stated that one of the functions of the Committee on Sponsorship is the arrangement of proposals in a logical order, therefore, the matter of placement of the approved Articles should be left to said Committee, to which Mr. Guingona agreed.

VOTING ON MR. DE CASTRO'S MOTION

The Chair suggested that the Members signify their agreement to a separate Article on Family Rights by raising their right hands and, thereafter, following the same procedure for those who are against.

Mr. de Castro agreed.

At this juncture however, Mr. Gascon expressed the hope that the Commission would approve the proposal to have it as a separate article because he feels that the family as a basic social unit should be given recognition in the Constitution.

Thereupon, the Chair submitted Mr. de Castro's motion to a vote, and with 16 Members voting in favor and 7 against, the Body decided that the provisions on Family Rights be embodied in a separate article, its logical place to be determined by the Sponsorship Committee.

REMARKS OF MRS. NIEVA

Thereupon, Mrs. Nieva expressed her appreciation and gratitude to all the Members of the Commission who have helped in formulating the Article on Family Rights.

CONSIDERATION OF PROPOSED RESOLUTION NO. 531 ON THE ARTICLE ON GENERAL PROVISIONS

Thereafter, on motion of Mr. Rama, there being no objection, the Body proceeded to the consideration, on Second Reading, of Proposed Resolution No. 531 on the Article on General Provisions, entitled:

Resolution proposing to incorporate in the Constitution an Article on General Provisions and a section in the Transitory Provisions.

On motion of Mr., Rama, the Chair recognized the Chairman and Members of the Committee on General Provisions for the sponsorship.

At this juncture, the Chair announced that the amended Committee Report No. 31 (Substitute Resolution) would

be used as the basis for the discussion.

SPONSORSHIP REMARKS OF MRS. ROSARIO BRAID

In her remarks, Mrs. Rosario Braid stated that the General Provisions had been translated in Filipino as "Mga Tadhanang Pangkalahatan", which could also be aptly described as the Committee on Etcetera, it being the Committee to which all provisions not treated or which did not pertain to other standing committees were referred.

She pointed out that it differs from the corresponding Articles in the 1935 and 1973 Constitutions in that it no longer includes important areas such as education, science and technology, and arts and culture although it expanded the provisions to include those on national defense and communication. She stated that the Article on General Provisions has 21 provisions and the Committee has held more than 25 committee meetings including public hearings with representatives of the various sectors giving their views on various issues which were integrated by unifying themes such as the concern for cultural diversity, national unity and symbols that reflect national ideals, the name of the country, national anthem, and national scene which are reflective and symbolic of the ideals, history and traditions of the people, all of which shall be mandated to Congress.

Mrs. Rosario Braid explained that two provisions call for a reorientation of the public officers, the media and the military; Sections 3 and 5 deal with the limitations on compensation and other privileges of public officers and are concerned with accountability of these officers; Section 4 mandates the State to provide adequate care and benefits for war veterans, government retirees and their dependents; Section 6 mandates Congress to create an Office of Tribal Communities to advise the President on policy problems on cultural minorities; Section 7 sets a limit on the life of the governmental ministries, bureaus, agencies or corporations, after which the agency may be dissolved unless its continued existence is justified; Section 8 encourages the promotion of indigenous tourism; Section 13 recognizes the population problem of the country by mandating the State to adopt population policies conducive to the national welfare; Section 14 gives priority to Filipino-owned corporations in terms of access to domestic credit facilities.

She stated that the provision on Church and State, as well as the bases, although discussed in the Committee, had been referred to the Committee on Declaration of Principles; Section 15 repeats the old provision that the State may not be sued without its consent; Section 16 protects consumer interest; Sections 17 to 21 are provisions on national defense and security and affirms the AFP's task in preserving the sovereignty and territorial integrity of the nation and participation in national development and reconstruction to serve the people's interest; and Section 22 states the establishment of a police force which shall be national in scope and civilian in character to be administered and controlled by a national police commission where the authority of local executives is provided. She stated that a provision to dismantle all armed groups and para-military forces existing contrary to law has been recommended to the Committee on Transitory Provisions.

Speaking at length on Sections 9 to 12 which are provisions on communication and information, Mrs. Rosario Braid stated that they differ from earlier provisions since their concern about the role and reorientation of the media of communication including new communication technology is that they truly serve the economic, political, social and cultural development of the nation. Moreover, she stressed that the provisions also note the significant impact of media of communication on Filipino values and culture, the concerns being expressed in support of an earlier provision on Filipinization of ownership of the mass media, in view of which the present provision expands it to broaden ownership that will give employees of media corporations the right to be part owners or to purchase shares of stock and to participate in the management of these establishments. She then adverted to another provision which restricts control of the corporations to Filipinos in the management of

commercial telecommunications and advertising by providing Filipino citizens a controlling interest in these corporations.

Mrs. Rosario Braid also pointed out that Section 12 mandates the State to regulate the grant of broadcast and telecommunication franchises according too criteria of public interest and to prevent such transfer without securing the prior consent of the State.

She explained that information is processed data on which one makes decisions, the other forms being mass media such as broadcast, print, film, and new communication technology such as satellites, computers, book publishing, telecommunications or telephone. She stated that communication is the nerve of government just as information is power and that those who own the information technology necessarily have more power which could be used for good or evil and, therefore, communication policies are necessary if such policies would concern with such problems as the need to strengthen local productive capability in media programs; the need to link the mass media with education as in distance learning; the need to encourage more balance in programming; the need to improve the flow of communication between government and sectors of society; and the need to link local communication industry with knowledge industry in the global village.

Mrs. Rosario Braid underscored that communication and information provide the leverage for power which enables the people to act, to make decisions, to share consciousness and processes and; therefore, the law is not so much concerned with channels or messages but with the functions of communication resources in a given society in relation to education, mobilization of rural communications, integration of ethnic groups, improvement of capability in decision-making and in forging peace and brotherhood with the entire community of nations. She stressed that media have such a powerful socializing effect that they could tell audiences how to think and behave because they have a tremendous influence in shaping opinions and attitudes that could lead to cultural alienation and social uniformity. She stated that the growing dependence on advertising tends to produce a commercial mentality in which consumption becomes an end in itself and that instead of fostering a culture based on plurality, they often encourage homogenization of ideas by discouraging productivity and encouraging consumerism where the flow is from the top to bottom, and where the media are likely to promote the acceptance of approved ideas at the expense of independent thought and critical judgment.

On the contention that if society loves self-destruction, it only needs a policy which encourages abuse of the present communication resources, as what is happening now, she stated that this is clearly shown in the contradictions between the values taught in school and in the home and the values shown in the media, so much so that the left hand of the economy should not destroy through irresponsible advertising what its right hand wants to achieve in terms of productivity and growth because economic growth would depend more on proper work attitudes rather than on the whetting of appetite for consumer goods that the economy is unable to supply.

She noted that the lessons from the Marcos regime in the use of communication for bolstering its legitimacy, in depriving millions of Filipinos of the freedom to shape their personal needs and demands due to the continuing assault by messages of indoctrination either from advertising that sells foreign goods or favorable images about the new society, should alert the people on the consequences of an interlapping relationship between a political regime with transnational corporations and the elite groups of society who have access to power.

Mrs. Rosario Braid emphasized that no other technology has prescribed itself so penetratingly and so imperceptively on human consciousness as mass communication and that one could not measure the real losses in terms of people participation, development of indigenous technical skills, personal and national identity, self-worth and self-esteem, owing to the pervasive influence of communication in society. She stated that the importance of small and noncommercial forms of communication, particularly the community media that support

the philosophy of "small is beautiful" in enhancing people power, is recognized in one provision, specifically referring to the opportunity presented by the media as delivery systems for nonformal education, health, agriculture and other development areas, the role of communication being that of a major carrier of culture in the sense that it fosters adoption of behavioral patterns designed to bring about social integration.

Finally, she stated that development is a cooperative venture requiring communication and deep understanding between people and, therefore, all people must share a common code of meaning for it would be difficult for people to cooperate with each other politically when they are divided socially and culturally and, as such, it is a recognition of the primacy of communication as a tool of government, particularly in communicating the national ideology or philosophy.

Thereafter, the Chair stated that the Body was in the period of interpellations and general debate.

INTERPELLATION OF MR. COLAYCO

On Section 13, in reply to Mr. Colayco's query as to what population policies are contemplated under the first paragraph thereof, Mr. Bacani stated that the Committee does not have in mind a definite policy because the intention is simply to provide that the State shall have the responsibility to adopt a population policy. He explained that this is a general formulation which does not adopt but at the same time does not rule out the adoption of a policy.

Mr. Colayco observed that in the absence of any specific guideline the legislature would be free to think of any kind of policy, to which Mr. Bacani replied that there is already a guideline in the sense that a policy must be conducive to the national welfare in addition to the protection of the State for the life of the unborn which, in effect, eliminates abortion. He further stated that the second sentence provides another guideline which ought to be observed in the formulation of population policies.

Mr. Colayco opined that it would be dangerous to give authority to the legislature on a matter on which the Committee has a very vague idea — the concept embodied in the first sentence, in reply to which Mr. Bacani denied that the Committee is not formulating a government policy on population.

Mr. Colayco contended that a cursory reading of the sentence immediately brings to mind population control, in reply to which Mr. Bacani stated that that may necessarily be so because the government, at some future time, may opt for an increase in population level and the intent is not to formulate a policy for the government.

On whether the legislature, under the first sentence, could pass laws which would, in effect, order population control, Mr. Bacani affirmed that Congress may do so provided it is guided by certain limitations, among them, it must be conducive to national welfare, the right and duty of parents to determine the number of their offsprings, and their right not to be compelled to use methods of birth limitation against their conscience.

On Mr. Colayco's observation that the first sentence would refer to population control, Mr. Bacani stated that this would include methods on how to serve the population. He disclosed that the Commission on Population will soon be renamed Commission on Population Welfare with an orientation different from what it had in the past.

Mr. Colayco stated that he asked those questions with the observation that the concept of the second paragraph seems to be inconsistent with the concept in the first sentence in the sense that when it speaks of the right of parents to determine the number of their children, in effect, the State should not enter that area of their private lives, to which Mr. Bacani agreed that the second paragraph puts a delimitation to the extent of the government policy.

Mr. Colayco stated that at the moment he considers the first sentence an invasion of privacy which impinges on

the constitutional provision called the "pursuit of happiness". He manifested that in due time he would present arguments in support of his position that this provision should not be incorporated in the Constitution

Mrs. Rosario Braid opined that this policy should not be related to the present policy of the government. She stated that population policies do not refer only to family planning but also to demographic policies, migration and more education to women. These, she stated, are some of the various indirect means of population control. She pointed out that the present agenda of the government on economic recovery program, as prepared by the National Economic and Development Authority, have a clear-cut policy on population. Considering that the present population program is oriented to applied family planning, she opined that there should be more policies linked to population and this, she stated, is the intent of the first sentence.

Mr. Colayco made a reservation to submit more legal grounds to defend his view.

INTERPELLATION OF MR. REGALADO

Mr. Regalado prefaced his interpellation with a reservation to submit some questions on Section 13.

Relative to Section 2 which states that "Congress may by law adopt a new name for the country", Mr. Regalado inquired how the new Constitution would be affected should Congress pass a law changing the name of the Philippines since all throughout reference has always been to the Constitution of the Philippines and to the Filipinos as its citizens. He further inquired whether this would not necessarily require the participation of the entire Filipino nation considering that it would be a transcendental change of a name which was given way back in the 16th century. He asked for the justification of the provision.

Replying thereto, Mr. Nollado disclosed that during the 1971 Constitutional Convention, former President Marcos wanted to change the name "Philippines" to "Maharlika" and it was for this reason that a provision was adopted, without any justifiable reason, as contemplated in the 1973 Constitution.

On whether it is the intent to follow the desire of one man to perpetuate his so-called guerrilla organization, Mr. Nollado stated that it is not the case, the reason being that time may come when there is a need to change the name of the Philippines.

On the observation that the name "Philippines" has been used in the different parts of the Constitution, Mr. Nollado opined that this could be easily remedied, if necessary, by way of a constitutional amendment. He stated that the moment the name Philippines is changed, it is understood that the name "Philippines" appearing in the other provisions shall follow the new name. He further affirmed that the change could be done by a Congressional fiat, to which Mr. Regalado stated that he would challenge the constitutionality of the proposal in the next session.

With respect to the concept of indirect compensation, on whether this new concept includes allowances, honoraria or such other emoluments provided these are not pensions or gratuities, Mr. Maambong stated that this particular provision is supposed to be in Section 7 of the Article on Constitutional Commissions and Agencies, to which Mr. Regalado stated that as a member of the Committee on Constitutional Commissions and Agencies, he was made to understand that any discussions therein were withheld until the discussion on the Article on General Provisions.

Mr. Regalado reiterated his question whether this would mean any kind of emolument provided it is not in the nature of a pension or gratuity, in reply to which Mr. Maambong explained that this concept of indirect compensation was an amendment proposed by Mr. Davide which would cover all kinds of money that an employee would receive as long as it is not a pension or gratuity.

Relative to the clause "unless required by law, neither should he hold any other office", Mr. Regalado inquired about a situation where a public officer could be required by law to hold another office, in reply to which Mr.

Maambong explained that as the proponent of the clause referred to, he was thinking of situations like when the Supreme Court acts as a presidential or vice-presidential electoral tribunal pursuant to the Constitution. He likewise cited the case of Members of Congress who would sit in the House Electoral Tribunal and the Senate Electoral Tribunal, all of which are requirements of the Constitution.

On whether a mere authorization could be an exempting clause to this section, Mr. Maambong stated that there are members of the Cabinet or public officials who are compelled by law to sit in certain boards or commissions.

On Section 4 which provides care and benefits to war veterans, Mr. Regalado inquired what would be the bases for determining who are the recognized war veterans considering that there were fake guerrilla organizations and fake veterans. Mr. De Castro replied that the word "veterans" would refer to those who actually participated in the 1896 Revolution, World Wars I and II, the wars in Korea and Vietnam. With respect to guerrillas during the Second World War, he assured that there is a complete listing in the Adjutant General's Office of the retired and the veterans force. Mr. Regalado pointed out that with respect to guerrillas who participated in World War II recognition was authorized under the U.S. Missing Persons Act which was administered in the country by the Recovered Personnel Division originally of the AFWESPAC and the PHILRECOM. He disclosed that verification is still going on considering that there were some veterans who were not included in the reconstituted records of the Missing Persons Act as well as the Recovered Personnel Division and who are subject to such action as the United States Government may take on the representation of Colonel Medalla of the Veterans Federation of the Philippines and on the basis of some bills introduced in US Congress to give them guerrilla status. He then inquired whether these guerrillas would be covered by this provision in the event their status is established.

In reply, Mr. de Castro reiterated that the Armed Forces of the Philippines has a complete list of recognized guerrillas. He recalled that in his capacity as a Director of the Association of Generals and Flag Officers, he asked the Adjutant General to show him the list of veterans and recognized guerrillas for purposes of according them benefits provided by a certain Act in the United States. He stated that the provision would not cover those who were not recognized and whose names do not appear in the list of the Armed Forces of the Philippines.

On whether the Committee would consider the possibility of giving these veterans leasehold rights, Mr. de Castro stated that the Committee would be amenable to including the phrase "and utilization of natural resources".

With respect to salaries in connection with the Constitutional Commissions, Mr. Regalado inquired whether the term "salaries" is used in the generic sense considering that members of the Constitutional Commissions are not public officers but members of a coordinate governmental agency, in reply to which Mr. Bacani stated that what is referred to are the bodies under the Article on Constitutional Commissions and Agencies.

Mr. Regalado admitted that he was a little misled because he thought that what was referred to are the Members of the Constitutional Commissions or Constitutional Conventions who are considered members of a coordinate government agency.

In reply, Mr. Nollado acknowledged the typographical error by clarifying that the term has reference to the constitutional officials recognized and provided in the Constitution.

On Section 11, Mr. Regalado noted that there is a specific reference to mass media whereas line 19 refers to advertising establishments such that there is a distinction between "mass media" and "advertising establishments". He then inquired whether it is the intent to set aside the 1974 opinion given by the Securities and Exchange Commission to the effect that advertising agencies are also part of mass media.

Replying thereto, Mr. Bacani admitted that the Committee was not aware of such an opinion although the media

people insist that there is a difference between mass media and advertising.

Mr. Nollado stated that he was aware of the opinion but it was not accepted by people in the advertising industry because it was a mere administrative opinion which has a persuasive but not a binding effect.

Mr. Regalado stated that he just wanted to establish the position of the Committee that for purposes of the Constitution, its intendment and its legal effect, advertising agencies and mass media are not in conflict.

Mrs. Rosario Braid informed that during the debate in the 1971 Constitutional Convention, there was an attempt to include advertising in mass media, to which Mr. Regalado stressed that it is important to read into the records that those previous opinions contrary to the Commission's distinction are not in any way binding or approved by the Commission.

Thereafter, Mr. Regalado reserved his right to continue his interpellation in the next session.

REMARKS OF MR. FOZ

Reacting to the stand of the Committee, Mr. Foz opined that advertising is part of mass media which is the same view obtaining in the United States.

Mr. Nollado maintained that advertising should not be included in the term "mass media" for purposes of Section 11(1).

INTERPELLATION OF MR. JAMIR

On Section 4, in reply to Mr. Jamir's query on the meaning of the term "government retirees", Mr. Nollado explained that it refers to employees who retire from government service, whether in the local or national level, including employees in government-owned or controlled corporations.

On whether the patents of war veterans would be considered their dependents, Mr. de Castro stated that they may be so considered if they are living and are actually dependent on the veteran for their support.

Mr. Nollado added that since the provisions of the Social Security Act and the Government Service Insurance System Law recognize only the children as dependents, future legislation may include the parents of war veterans as dependents. He also affirmed that all legitimate children of war veterans are entitled to adequate care by the State.

Mr. de Castro explained that the care and benefits given to war veterans under Republic Act 1373 included preference in purchasing public lands under the Land Resettlement Program, but since said law had already expired, it would be necessary to provide such privileges in the Constitution.

On the number of war veterans and their dependents, Mr. de Castro stated that they are about 500,000; while Mr. Nollado estimated the government retirees to be about one million.

On the compensation for government retirees, Mr. Nollado pointed out that generally, they receive a monthly retirement pay ranging from P70 to P240, which has not been sufficient to support their needs, and therefore, the proposal would urge Congress to increase the benefits of retirees.

On the compensation for war veterans, Mr. De Castro disclosed that the surviving veterans of the Philippine Revolution of 1896 are given pension of about P50 monthly while World War II veterans and their dependents receive P100 monthly pension, which benefits have forced them to extreme poverty.

Mr. Jamir affirmed that little concern is given to war veterans stating that his townmate who is more than 86 years

old and is about to die has not yet received a single centavo of the P20,000 which he is entitled to.

Mr. Jamir urged that the payment of benefits to war veterans be facilitated.

In this connection, Mr. Natividad pointed out that some members of the War Veterans organization who were earlier in the galleries wanted to inform the Members of the Commission that they are actually receiving only P30 to P100 a month depending on their disability; that they were not given medicine; that the help from the United States was marginal; that the promise of equalization pay of P50 a month for enlisted men was not fulfilled and they are given only P18 a month; that hospitalization, death and burial benefits given to the American veterans were denied the USAFEE guerrillas; that the promised educational and housing benefits were never granted; and that old-age pension was totally forgotten. All these, he said, were denied because the Rescission Act passed by the 79th US Congress considered their service as service to the Philippine Commonwealth and not to the United States.

Mr. de Castro stated that he had similar experience in the Veterans Memorial Hospital, not to mention the nonpayment of living subsistence allowance for prisoners of war, to which Mr. Jamir added that neither did he receive a single centavo as a major in the guerrilla organization.

INTERPELLATION OF MR. GUINGONA

Before proceeding with his interpellation, Mr. Guingona reserved a turn to propound more questions in the next session.

On Section 7, as amended, which provides that Congress shall by law and within a specified period provide for the review of the performance and management of government ministries, bureaus, agencies or corporations for the purpose of determining their retention, reorganization or dissolution, Mr. Guingona inquired if such reorganization, retention or dissolution would be the prerogative of the legislature and not the function of the Executive Department, as had been done by Minister Villafuerte, in reply to which, Mr. Nollado explained that although Congress will pass the reorganization law, the actual review may be done by the Executive Department or may be delegated to Congress.

Mr. Nollado further explained that such reorganization, retention or dissolution would also include government-owned or controlled corporations.

On Section 8, on the meaning of "indigenous tourism", Mrs. Rosario Braid explained that according to the Center for Solidary Tourism, the term refers to tourist spots that actually lead to the destruction of natural resources rather than to their preservation and to white elephants like the Cultural Center of the Philippines Complex.

Mr. Guingona observed that the preservation of indigenous tourism might prejudice other types of tourism, such that he would propose in due time an amendment to include a proviso that "the State shall promote tourism including indigenous tourism", which Mrs. Rosario Braid considered acceptable.

As to how the State would reorient the tourism industry in order to sustain the socioeconomic and cultural development, Mrs. Rosario Braid opined that the present tourism industry should first be evaluated vis-a-vis the approved provisions on culture, particularly the provision on the preservation of the cultural identity and treasures like artifacts, museums, and others.

On the possible control or influence of boards over the mass media, Mrs. Rosario Braid underscored that as enunciated in her sponsorship speech, policies would be formulated by the private sector, while the State would only act as facilitator 60 that the development of standards to strengthen their capabilities would be encouraged.

She pointed out that Messrs. Monsod, Davide and Azcuna were suggesting a reformulation that would mandate the State to promote a climate conducive to communication development, rather than the State taking an active role in management, which in the past had negative results.

On Section 10, particularly on noncommercial media, Mrs. Rosario Braid explained that it refers to communication media that serves the goals of education, such as labor radio station, agricultural radio station, campus stations, as well as blackboard newspapers, mimeo-newspapers, and other means of rural communications that would promote the livelihood development of a community.

She further explained that noncommercial media refers to nonprofit means of communication. She stated, however, that the State could provide some subsidy for community newspapers in rural areas, or ask the business enterprises to help them so that they would not just be depending on judicial notices.

On Section 13, Mrs. Rosario Braid affirmed that the population policies to be adopted by the State may not include prohibition of the use of contraceptives.

Thereafter, Mr. Guingona reiterated his reservation to propound more questions in the next session.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Rama, the Chair suspended the session.

It was 5:14 p.m.

RESUMPTION OF SESSION

At 5:33 p.m., the session was resumed.

INTERPELLATION OF MR. PADILLA

Mr. Padilla observed that Section 2 is the first sentence in the 1973 Constitution (Article XV, Section 2). The second sentence allowed changes by Constitutional amendment which reads: "Thereafter, the national name, anthem and seal so adopted shall not be subject to change except by Constitutional amendment". In reply to Mr. Padilla's inquiry whether the Committee would be amenable to a deletion of Section 2 in order to preserve the name Philippines which had gained admiration and honor throughout the world, Mr. Rigos stated that the Committee intends to delete the provision at the proper time.

On whether the Committee would also be amenable to deleting Section 6 which seeks to create an office for tribal communities as an advisory body to the President, Mr. Nollado stated that it is Mr. Ople's proposal which the Committee adopted because it is meritorious.

Responding thereto, Mr. Ople stated that during the deliberations on the Article on Local Governments, the Committee on Local Governments had decided that it would be best to locate the provision in the Article on General Provisions because it was decided that there should be no further provisions in the former article other than those concerning Muslims and the tribal people in the Cordilleras. He pointed out that at that time, he appealed to the Members of the Body not to forget the three million other Filipinos belonging to the tribal communities other than those in Muslim Mindanao and Cordilleras such as the Dumagats and the Mangyans. He opined that the Tribal Communities Office is a misnomer and should really be called the Office of Tribal Communities to include tribal communities other than those in Muslim Mindanao and the Cordilleras. He then appealed to Mr. Padilla to consider the plight of the members of the other tribal communities.

At this juncture, Mr. Sarmiento pointed out that he and Mr. Bennagen objected to the proposal and suggested that it be transferred instead to the Transitory Provisions.

On Mr. Padilla's query whether the Committee would also be amendable to the deletion of the word "indigenous" in Section 8, page 2, line 19, Mrs. Rosario Braid stated that the proposal for the development of "indigenous tourism" actually came from an umbrella organization of various groups who clamor for alternative tourism as differentiated from commercial tourism. She added that this group abhors the idea of promoting tourism guided by the windfall of dollars and would like that communities, like Puerto Galera, be given the right to self-determination and should not be exploited so that their cultural heritage could be preserved.

Mr. Padilla then queried whether it would be better to clearly distinguish telecommunications, mass media and advertising, because the first refers to telegraphs, telephones as public utilities; the second refers to TV and radio which are subject to licensing; while the third, to advertising agency as a private activity. He stated that according to Mr. Regalado, advertising agency is considered by the Securities and Exchange Commission as part of mass media while the Secretary of Justice opines that it is not.

Replying thereto, Mrs. Rosario Braid stated that the provision was merely copied from Section 7(2), Article XV of the 1973 Constitution which, she opined, did not distinguish one from the other for purposes of brevity.

Mr. Padilla pointed out, however, that the 1973 Constitution clearly distinguished mass media from commercial telecommunications, which distinction should be maintained.

Mrs. Rosario Braid explained that what was lumped into one section was commercial telecommunications and advertising while mass media was a separate section, in reply to which, Mr. Padilla pointed out that "advertising agency" is another concept which would not fall under either or both concepts.

Mrs. Rosario Braid stated that it is the sense of the Committee to shorten the Article by lumping the concepts into one provision but that amendments thereto would be welcomed at the proper time.

Adverting to the provision on partnerships of mass media on line 16, Mr. Padilla stated that he is against a provision that implies a right on one hand with the corresponding duty of owners-employers on the other. In response, Mr. Foz explained that there is no intention to compel but to encourage those media establishments to sell shares of stock to their employees or workers, if they are able and willing to do so. He stated that the prevailing practice of vesting ownership in employees, like what happened in the Philippine Daily Inquirer and the Philippines Daily Express Corporation should not be ignored.

Mr. Padilla suggested changing the phrase "shall enjoy" to one that would encourage the employers to sell and the employees to acquire, which should be on a more or less voluntary basis for their mutual benefit.

Mr. Foz pointed out, however, that the retention of the phrase would not change the sense of the provision and that legislative enactment would be necessary to carry out the provision in the Constitution, in reply to which, Mr. Padilla stated that the provision would be a mandate to Congress to provide for such a mandatory duty.

Adverting to line 24 in relation to Section 15 of the Article on the National Economy and Patrimony, Mr. Padilla pointed out that the 60-40 ratio requirement is at variance with the two-thirds requirement on activities which have lesser magnitude and significance to national development.

Responding thereto, Mr. Nollado stated that "public utility" is almost synonymous with "public service" and that it includes the following:

- 1) Transportation in all its ramifications — land, sea, water and ferry service;

- 2) Electric service;
- 3) Maintenance and operation of ice plants;
- 4) Telecommunications and others.

He stressed that Section 15 of the Article on National Economy and Patrimony would not be violated as this would be an exception to the 60-40 rule, because commercial telecommunication seriously involves the national interest, in particular, the national security.

Mr. Padilla, however, expressed disagreement thereto stating that public utilities and natural resources are definitely at higher levels than the private activities of advertising agencies. He suggested three classification, which would require the revival of the distinctions between 1) telecommunications; 2) mass media; 3) advertising agency. In reply, Mr. Nollado stated that national security and national interest can still predominate without considering the economic aspect of the question.

INTERPELLATION OF MR. GUINGONA

In reply to Mr. Guingona's query on the distinction between the citizen armed force and the regular force in Section 17, Mr. de Castro stated that the citizen armed force refers to the whole Armed Forces of the Philippines and that the regular force in Section 18(a) refers to the force necessary to fight insurgency in the country which shall eventually be reduced upon solution of the insurgency problem.

Adverting to his proposals which were incorporated into the draft provisions, Mr. Guingona stated that all officers of the Armed Forces due for retirement shall be retired in accordance with existing laws except in times of war.

Mr. de Castro stated that in times of war or emergencies, there is no retirement as even retired people are required to render military service.

On the possible integration of the civilian police force into the Armed Forces, Mr. Natividad stated that the result would be tragic for the nation. He stressed that the military is trained to fight while the police officers are trained to serve and to follow the law.

On whether the Committee would consider the proposed amendment which reads:

THE POLICE FORCE OF THE COUNTRY ARE CIVILIAN OFFICERS AND MAY NOT BE INTEGRATED INTO THE MILITARY EXCEPT IN TIMES OF WAR.

Mr. Natividad explained that the police is always a reserve force in times of war.

On whether the Committee would consider the exposed amendment which reads:

THE POLICE FORCE OF THE COUNTRY ARE CIVILIAN OFFICERS AND MAY NOT BE INTEGRATED INTO THE MILITARY,

Mr. Natividad stated that the provision precisely provides for the creation of a civilian police force.

ADJOURNMENT OF SESSION

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

It was 6:11 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) AMBROSIO B. PADILLA
Vice-President

Approved on September 26, 1986

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