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Monday, August 18, 1986

CALL TO ORDER

At 9:54 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Hilario G. Davide, Jr., to wit:

Almighty and Eternal God, through Your Son Jesus Christ, You said:

"Ask, and it shall be given you; seek and you shall find it; knock, and it shall be opened to you. For everyone who asks, receives; and he who seeks, finds; and to him who knocks, it shall be opened."

During the past seventy-seven days of our sacred work to write the fundamental law, we had asked for Your guidance; sought Your wisdom; knocked at Your heart for love not only here, but everywhere, at waking hours or sleeping moments, in the quiet of aloneness or in the midst of noise.

You never failed us. Your patience was endless.

As the end of our work draws near and the issues become more complex and complicated, debates more intense and even winded, we need You more.

We need You for strength to walk the last mile; for courage to resist pressures and the intimidation of the crowd; for humility to accept defeat of our pet proposals; for patience to listen to the words of others; for peace of mind and soul.

Above all, we need Your wisdom so that the Constitution we shall prepare will come from You — and no one else — for the Filipinos of all generations to love, cherish and share.

Be with us then always. Amen."

ANNOUNCEMENT OF THE CHAIR

At this juncture, the Chair announced the start of the celebration of the Peace and Freedom Week under the auspices of the Ninoy Aquino Movement-SERVE. The Chair urged the Members to join in expressing the hope that peace and freedom would always reign in the country, in the communities, among families and homes and also in the Commission itself.

ROLL CALL

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

Alonto, A. D.
Padilla, A. B.
Bacani, T. C.
Muñoz Palma, C.
Benzon, J. F. S.
Quesada, M. L. M.
Bennagen, P. L.
Rama, N. G.
Bernas, J. G.
Regalado, F. D.
Rosario Braid, F.
Rigos, C. A.
Calderon, J. D.
Rodrigo, F. A.
De Castro, C. M.
Romulo, R. J.
Colayco, J. G.
Sarmiento, R. V.
Concepcion, R. R.
Suarez, J. E.
Davide, H. G.
Sumulong, L. M.
Foz, V. B.
Tadeo, J. S. L.
Gascon, J. L. M. C.
Tan, C.
Jamir, A. M. K.
Tingson, G. J.

Laurel, J. B.

Treñas, E. B.

Lerum, E. R.

Uka, L. L.

Monsod, C. S.

Villacorta, W. V.

Nieva, M. T. F.

Villegas, B. M.

Nolledo, J. N.

With 37 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R.

Garcia, E. G.

Aquino, F. S.

Maambong, R. E.

Azcuna, A. S.

Ople, B. F.

Brocka, L. O.

P.M.

Guingona, S. V. C. Natividad, T. C.

Mr. Rosales was absent.

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. 568 — Constitutional Commission of 1986

Letter from Ms. Pearl Gunzon and sixteen (16) others, all from U.P., Diliman, Quezon City, proposing the following: (1) that elective local officials will have a six-year term, (2) that they be allowed to seek reelection or to run for other elective positions only after a six-year term has been served by a successor; and (3) that first degree relatives of elective officials be disqualified from running for elective positions after the expiration of their term

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 569 — Constitutional Commission of 1986

Communication from the Mindanao Movement, signed by its Chairman, Epimaco M. Dansing, Jr., urging inclusion in the Constitution of the following proposals: a) that election to public office should not involve any expense whatsoever on the part of the candidates, political parties, voters and others, except on the part of the government, and b) that in the administration of justice, litigants should not incur any expense in the procurement and/or availment of anything which may affect a just and fair decision

TO THE STEERING COMMITTEE

Communication No. 570 — Constitutional Commission of 1986 '

Letter from Mr. Edmundo H. Fulleros of Buhang, Bulusan, Sorsogon, urging the dismantling of the U.S. military bases come 1991, and thereafter, no foreign military bases be allowed in our country

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 571 — Constitutional Commission of 1986

Position paper of the Association of Baptist Churches in Luzon, Visayas and Mindanao, Inc., 32 Road 2, Project 6, Quezon City, signed by its Chairman, Rev. Edwin T. Ormeo, supporting the retention of the provisions upholding the principle of the separation of Church and State in the new Constitution of the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 572 — Constitutional Commission of 1986

Letter from the Philippine Association of Colleges and Universities (PACU) signed by its President, Ms. Josephine C. Reyes, submitting proposed amendments on the Resolution incorporating in the Constitution an Article on Education, Science, Technology, Sports, Arts and Culture, embodied in Committee Report No. 29

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 573 — Constitutional Commission of 1986

Letter from Mr. Benigno Jaleroso of Camiling, Tarlac, expressing concern over the proposed creation of the Cordilleras and Muslim Mindanao as autonomous regions, saying that this might lead to the creation of other autonomous regions like the Ilocos region, Bicol region, the Southern Tagalog provinces, and others

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 574 — Constitutional Commission of 1986

Letter from Mr. Faustino Ruivivar, Jr. of Every Home Crusade Philippines, Inc., P.O. Box 50, Valenzuela, Metro Manila, recommending that the provision of the 1973 Constitution on the separation of the Church and State be incorporated in the new Constitution; that the teaching of religion in the public schools should be optional and without cost to the government; and to allow the U.S. Military Bases to remain after 1991

TO THE STEERING COMMITTEE

Communication No. 575 — Constitutional Commission of 1986

Communication from seven hundred seventy-seven signatories with their respective addresses, seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

MANIFESTATION OF MR. RAMA

At this juncture, Mr. Rama manifested that in view of the motion for reconsideration of the approval of Section 1 of the Article on National Economy and Patrimony, the Body would first take up the said motion and, later, the proposed Article on Local Government.

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 24 ON THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY

Thereupon, on motion of Mr. Rama, there being no objection, the Body resumed consideration of Proposed Resolution No. 496 (Committee Report No. 24), entitled:

Resolution to incorporate in the new Constitution an Article on National Economy and Patrimony.

The Chair then recognized Mr. Villegas and the members of the Committee.

Thereupon, Mr. Romulo suggested that before the Body vote, the proponents be given a chance to explain their bases for said motion in view of the fact that the Body had already discussed in detail and at great length in the Committee, in the plenary session and even in caucus all the major concepts involved in Section 1, namely, the concept of a mixed economy with the private sector predominating, the concept of industrialization, the concept of protection against unfair foreign competition and the concept of a broad-based ownership. He stated that the proponents should be allowed some latitude to explain their positions since they would have the burden of showing the merits of their motion.

Mr. Sarmiento likewise suggested that the proponents be allowed to finish their comments/explanations before entertaining any interpellation.

Thereupon, the Chair recognized Mr. Sarmiento as the first speaker in support of the motion for reconsideration.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento expressed his reservations on Section 1 by stating that it would constitutionalize a development philosophy prescribed by the IMF-World Bank group which is characterized by 1) minimal protection for domestic industries, with an economy liberally open to import competition; and 2) an industrialization program which lays emphasis on industries geared to foreign markets and based on exploitation of the nation's agricultural resources and cheap labor supply.

Mr. Sarmiento stated that in essence, the new Constitution would incorporate the notorious labor-intensive and export-oriented development strategy which the IMF-World Bank group imposed on the Marcos government and which has been adopted by the Aquino government in the guise of an economic recovery program. He further stated that far from accomplishing a self-reliant and independent national economy which is the thrust of Section 1, the mandate and directive embodied therein would operate to perpetuate an imposed dependent type of

industrialization based on exploitation of the country's agricultural resources and labor supply geared towards the agricultural markets.

Mr. Sarmiento maintained that Section 1, by necessary implication, commits the State to a policy of protection only in cases where foreign competition is proved unfair and rejects the notion that the domestic market should be preserved and secured for domestic industries irrespective of whether or not import competition is fair or unfair. He opined that operatively, this would mean a policy of minimal protection for domestic industries.

Mr. Sarmiento pointed out that this development philosophy has not only been proven a failure in the Philippines but also in other developing countries as disclosed in a survey by the Economic and Social Commission for Asia of the United Nations. This, he stated, challenges the Committee to deny that what has been intended by Section 1 is to incorporate the failed labor-intensive, export-oriented approach to development into the new Constitution. He stressed that an assessment of Section 1 must be undertaken from the perspective that a policy of intense protection for domestic industries through tariffs and through direct and outright control of imports is not only necessary but indispensable to the development of an independent and self-reliant economy. He observed that a policy of rigorous protectionism continues to be practiced even by highly developed states, regardless of whether or not import competition is fair or unfair.

Mr. Sarmiento stated that his thoughts and reflections are best stated in the sponsorship speech of Speaker Laurel on the Magna Carta of Social Justice and Economic Freedom, otherwise known as House Joint Resolution No. 2, to wit:

"Many of our social problems stem from archaic economic structure that is unable to meet the employment requirements of 37 million people, growing at a rate of almost 3.5% a year. It is an economic structure marked by the conspicuous absence of significant manufacturing capabilities and dependent mainly on agricultural pursuits as the largest source of the country's income and employment opportunities. Only by industrializing the economy through the establishment of basic industries, particularly those that will utilize indigenous raw materials can we hope to resolve the perennial problem of mass unemployment and marginal incomes that haunt the lives of our people.

"If we are to induce Filipino capitalists to invest in desirable industries, we must assure their products of an effective and controlling share of the domestic market. All other considerations are secondary. And we can assure our entrepreneurs control over the domestic market for their products only if they are effectively protected against foreign imports. This is the primary purpose of tariffs and of import and foreign exchange restrictions."

In closing, Mr. Sarmiento quoted former Senator Tañada, who said:

"It is only economic nationalism, sustained by solid substance in the form of control by our own entrepreneurs of the basic industries and facilities all over our broad land, which will ensure the achievement of a lasting and effectual solution to the problem of mass poverty, high cost of living and increasing unemployment. It is the only philosophy of economic development which will ensure for us and perhaps for our region, the permanence of individual freedom and parliamentary constitutions."

REMARKS OF MR. TADEO

Speaking in support of the motion, Mr. Tadeo read the statements of Mr. Alexander Padilla on economic protectionism contained in Church People's Response, "Philippine Society in Perspective, a National Situationer," to wit:

"In 1909, the United States forced the Philippines into an economic relation called the free trade. Essentially, this meant that our government will be prohibited from imposing any tariff and other restrictions on American

goods exported to the Philippines. Free of tariffs and duties and without limit, cheap manufactured goods flooded the Philippines. More than any single factor, this law which forced our agricultural economy to trade freely with a highly industrialized America, entrenched and solidified the colonial pattern of our economy. Our country became an exporter of raw materials and a consumer of finished products. This inhibited our manufacturing and industrial sectors from expanding since it was prohibited to compete with imported, cheaper and better quality manufacture. This free trade policy, to this date, is still being practiced through its modern and various guises such as the decontrol program of 1962, the floating rate of 1970, and through most of the entire period of martial law, the export oriented, labor-intensive development strategy introduced in 1972 at the behest of the IMF World Bank financial institutions.

"It is significant to note that over 200 years ago, when the United States had just fought and won their independence from England, this very theory of free trade espoused by Adam Smith was itself repudiated by the newly-born democracy through US Finance Minister Alexander Hamilton, the simple reason being that a country to be strong economically, must be capable of producing its own means of production and industries. With free trade, a developing and agricultural country, like the United States then, would be flooded by cheap imported manufactures and thus hinder her from developing her own industries.

"Unless such a country decides to impose tariffs and quota limitation on imports, encourage domestic industries through subsidies, she would forever remain an agricultural country dependent on her industrial partners for essential imported materials. By practicing protectionism (then known as mercantilism), the United States became not only industrialized but even the most powerful country in the entire world, fast outpacing its colonial mother country, Great Britain. To this day, the United States practices protectionist policies by imposing tariffs, quota limitations and other measures to prevent the influx of cheap imported products; but ironic as it may seem, through her controlled international financial institutions, she imposes the policy of an open economy on developing and highly agricultural countries and thus perpetuating countries like the Philippines, a perennial market for manufactured goods and cheap source of agricultural products, foodstuffs and raw materials. The United States would grant us loans provided that we keep our economy open to imports and foreign investments, and not restrict the remittance of profit and outflow of capital. In other words, free enterprise was practiced on a global level with developing countries simply treated as markets. In essence, this established a neocolonial relationship and a third world country that stagnated in the semi-feudal, backward agricultural economy".

In closing, Mr. Tadeo stated that it is the intent the proponents of the motion to incorporate in the Constitution a mandate on tariff protection for domestic industry.

REMARKS OF MR. VILLACORTA

In his remarks, Mr. Villacorta thanked the Body for reopening the discussion on the basic foundation of the new social order that the Commission is trying to introduce.

Mr. Villacorta recalled that incidents in the past clouded the position paper presented by the Coalition for a constitutional provision on industrialization, economic protectionism and Filipinization of the economy. He stated that this position paper could not just be ignored because it was given by a broad based coalition of labor, farmers, cause-oriented groups, youth organizations, business and industry associations, the private business sector and the local governments.

He pointed out the position of the coalition of businessmen that foreign forces would continue to suppress the country's industrialization unless economic protectionism and industrialization are constitutionalized. He stated that local businessmen also maintained that the country should be transformed from being an importer and consumer to being the producer, which would not be possible unless there is industrialization.

He also explained that protectionism would help local business to engage better in international trade because there would be motivation to increase production and improve trade capacities of local industry.

Furthermore, he pointed out that with the defeat of the Jenkins Bill, the United States has maintained its policy on protectionism and other developed and newly industrialized countries remain to be protectionists. In this connection, he requested that copies of Appendix 4 of the book *Asian-Japan Relations, Trade and Development*, which contained some 60 protectionism measures that Japan had imposed on its exports to the Philippines, be distributed to the Members of the Commission. He stressed that since most of the country's trading partners are protectionists, the Philippines should likewise be protectionist.

He underscored that even the World Bank in its 1963 Report stated that the progress of the Philippine economy during the 1950's was one of the more impressive records of economic gains among the less-developed countries. However, it also stated that towards the end of the decade, the pace of economic growth had been sluggish because of unrestricted trade and free exchange.

He pointed out that the United States has restricted its importation of such products as textile, steel and cars, irrespective of whether the competition is fair or unfair. He stressed that protectionism in the United States restricts imports in order to give domestic industries control of the domestic market.

He observed that Section 1 of the Article mandates protection of domestic industries only in cases of unfair competition, thus, preventing the State from protecting them for reasons other than unfair competition, adding that it would be difficult for the party invoking the government's protection to prove unfair competition.

Finally, he disagreed with Mr. Villegas that protectionism would discourage imports since there is no necessary correlation between protectionism and the ban on imports.

REMARKS OF MR. GARCIA

Mr. Garcia pointed out that Section 1 gives the government no power to apply the necessary direct modes of protection, aside from its protective action to impose tariffs upon prodding of the International Monetary Fund. He underscored that all kinds of protection, specially direct import controls, must be extended to domestic industries regardless of whether or not there is unfair competition, in order that they could control the domestic market itself which is the source of capital and profits.

He pointed out that Communist China had become highly industrialized within a period of less than forty years from the beginning of the Communist revolution in 1949. He reiterated the World Bank report that the economy of the Philippines had rapidly grown towards industrialization in the 1950's when imports were controlled.

He stressed that the domestic market which is the source of wealth should be protected, and there would be no one to protect it but the Filipinos themselves through the provisions of the Constitution. He opined that the efforts of bringing about social justice would come to naught unless there is a strong, self-reliant, self-restraining and productive economy.

REMARKS OF MR. BROCKA

Mr. Brocka expressed the hope that the explanations given by Messrs. Villegas and Monsod were correct since he was not familiar with economics. However, he stated that the proposal of the coalition of businessmen on industrialization, protectionism and economic nationalism had some merits.

On the action of some Members during the previous session, in bargaining for Filipino control in business shares, from 100% to 75% to 66 2/3% Filipino investment, he opined that it was not only ridiculous but pathetic because

they were fighting for every percent of Filipino control.

He also explained that as a layman and film maker, he was against oppressive State intervention in the affairs of the film industry, particularly by censorship and the production of tax-free movies which provided unfair competition to local movie producers. He stated, however, that he was not against the grant by the State of subsidies and tax incentives for making quality films.

He pointed out that tax-free movie producers were not concerned with social responsibility and the common good; therefore, the government should relate the business demands of private enterprises with the needs of the poor.

Furthermore, he observed that the Constitutional Commission was making it difficult for the Filipinos to survive in their own country. Specifically, he opined that Mr. Ople's amendment on "unfair competition" was ambiguous because any competition at present is actually unfair. He added that if sardines from Taiwan and rattan from Korea continue to enter the country without limitation, the local fishermen and furniture manufacturers would suffer, and if they could no longer fish and make furnitures, they would have no money to buy even cheap imported goods.

He stressed that the domestic market should be protected against all forms of foreign competition. He pointed out that the constitutional incentives given in the past to foreign investments did nothing good for the economy.

Finally, he urged reconsideration of the approval of Section 1 of the Article on National Economy and Patrimony.

REMARKS OF MRS. QUESADA

Thereafter, Mrs. Quesada pointed out that it is important for the people to know the stand of the Commission on this economic issue because it would affect the whole country.

She opined that unlike other lobbyists, the businessmen were not given equal opportunity to air their sentiments, especially on the impact of Section 1 which was approved by the Body.

She added that the provisions on social justice would be useless if there is neither mass employment nor economic recovery. She also stated that she made a mistake in voting in favor of Section 1 because what the people really want is economic protectionism, Filipinization and industrialization as the pathway to national development.

She opined that only through full and rapid industrialization of the economy could work opportunities be created in a massive scale to absorb the millions of unemployed and underemployed and that only through economic protectionism could industrialization be achieved. She stressed that if the Article on Social Justice was considered significant enough to be incorporated into the new Constitution as an objective of State policy, with more reason should industrialization and economic protectionism be similarly incorporated because there can be no meaningful program of social justice as long as mass unemployment exists and as long as the economic system is unable to generate massive work opportunities through industrialization.

She then moved that the entire text of the Coalition's position paper addressed to President Cecilia Muñoz Palma, be included in the Journal of the Commission, to wit:

"As representatives of labor, agricultural and business sectors and cause-oriented groups, and as concerned citizens, we are conveying to your goodself and through your office this urgent appeal to the members of the Commission for a new charter that directly addresses the problem of mass unemployment.

"The social scourge that is mass unemployment must be eliminated at the earliest possible time, because as long as it persists, mass poverty will remain.

"President Aquino has repeatedly observed that mass poverty is at the root of insurgency, and that this nation

will never recover economically as long as insurgency hounds our countrysides.

"We must add that if mass poverty is at the root of insurgency, mass poverty, in turn, is rooted in mass unemployment. The first step towards the conquest of mass poverty is therefore the mass creation of job opportunities.

"We are aware, from direct sight and experience, of the full dimension of the unemployment problem, and of its terrifying implications. Mass unemployment literally translates into mass hunger, and that is what millions of our countrymen are now undergoing.

"We shall be brief and direct to the point. We submit that —

"1.

Only through a full and rapid industrialization, supported by sound agrarian reform, can we create, in a massive scale, the work opportunities that will absorb the millions of unemployed and underemployed; and that, corollarily, only by a rigorous system of economic protectionism, similar to that in force in virtually every nation in the world, both the developed and newly industrialized countries, can we foster the industrialization of the country.

We see no need to elaborate on these two specific and related points because this has been done by others.

We specifically refer you to a recent study of political economist, Alejandro Lichauco, entitled Towards a New Economic Order and the Conquest of Mass Poverty. Copies of that study have been distributed to the Members of the Commission along with this letter. Copy is transmitted to you with this position paper.

"2.

Industrialization and economic protectionism as an indispensable means to industrialization are of vital importance and urgency to warrant their incorporation in the new Constitution.

If social justice is significant enough to be incorporated into the Constitution as an objective of State policy, with more reason should industrialization and economic protectionism be similarly incorporated.

"3.

There can be no meaningful program of social justice as long as mass unemployment exists, and as long as our economic system is unable to generate massive work opportunities, which it can do only through industrialization. History has shown no other way.

"4.

We have a particular reason for making this appeal. There are powerful forces who have vested and historical interests in seeing this country preserved as a non-industrial economy. As long as industrialization and economic protectionism are not elevated as constitutional mandates, these forces will continue to succeed, as they have long succeeded, in suppressing our industrialization.

"5.

The industrialization of this country has been delayed far too long. Unless we industrialize, by the end of the century, which will come in less than 15 years, we will be the most backward and the most impoverished nation in Southeast Asia. And the most exploited. Every nation in Asia is fast industrializing.

"6.

We are aware of the various arguments, advanced by anti-protectionist forces, intended to discredit the local industrial sector and Filipino entrepreneurs. They invariably have to do with the alleged inefficiencies of local

manufacturers and the high cost of their products. These arguments have been sufficiently answered, in our view, by Minister of Trade and Industry Jose Concepcion Jr.

“7.

But whatever the failings and inadequacies of the local industrial sector, the larger picture should never be obscured, and that picture is, that factories and industrial sites represent sources of livelihood for our people. These should not be destroyed and liquidated in the name of cheaper imports. Imports do not provide livelihood. They do not create work opportunities. In fact, where these imports consist of goods that are produced locally, they represent job displacement, not to mention the squandering of the nation's international reserves.

“8.

The central question is whether we wish to remain a nation of importers, compradores and consumers, or, do we wish to transform ourselves into a nation of producers. The truth is that we have no choice, if we are to survive with dignity, but to transform into the latter. But we cannot do so unless we industrialize.

“9.

The same considerations which argue for protecting domestic industries apply to protecting domestic agriculture. We shall never develop a viable, self-sufficient and productive agricultural sector unless our farmers are protected from import competition.

We must stress this because there are likewise powerful international forces which, hounded by agricultural surpluses abroad, would like nothing better than to see countries like the Philippines function as dumping ground for these surpluses. We regret that our government has yielded to the pressure of these international interests, utilizing the IMF as their leverage.

“10.

Only a Constitution which mandates that domestic producers, farmers and manufacturers alike, shall be protected, as a matter of State policy, from import competition, can provide our government with both the strength and the weapon with which to resist these international pressures.

“11.

Lastly, for industrialization to be meaningful to us, as a people, it must be a nationalist one; that is, an industrialization under the control and direction of Filipinos. Hence, the need for the Constitution to provide a mandate for the Filipinization of the economy.

“12.

We submit the following draft of the provision discussed above:

"The State shall promote the full and rapid industrialization of the economy to generate mass employment. For this purpose, the State shall adopt, among others, a policy of direct and indirect protectionism that will preserve and ensure the domestic market for local industries as well as for agricultural and other sectors of the economy.

“The State shall at all times ensure that the economy is under the control of Filipinos and that industries deemed vital to national interest do not fall under the control of non-Filipinos”.

At the core of this nation's struggle for survival is its struggle to develop the productive capabilities of an industrial state. Unless it achieves this goal, then the economic and social condition of the Filipino will continue to degenerate.

We thank you most kindly for your attention; and earnestly hope that the issues and arguments raised in this paper are favorably entertained.

In the ultimate analysis, social peace can come only with the advent of full employment and real economic independence. These are the reasons why the parties hereto see in industrialism, protectionism and economic nationalism areas of common and urgent agreement".

At this juncture, the Chair, reacting to Mrs. Quesada's statement that the Body failed to entertain the group of businessmen during the previous session, stressed that individuals or groups have always been welcomed to express their views and submit their proposals but these must be done within the Rules of the Commission in order to preserve the integrity and dignity of its proceedings.

MANIFESTATION OF MR. GASCON

Mr. Gascon manifested that the basic issue involved in the motion for reconsideration is the question of economic sovereignty, hence, the need to further discuss the concepts of industrialization and protectionism in order that the Body could reach some points of agreement.

He stated that Section 1, as approved, would operate to curtail the sovereign power of the State to protect the most important economic resource the domestic market for the nation's output of goods and services. He then reiterated the request for reconsideration.

REMARKS OF MR. VILLEGAS

Mr. Villegas stated that economics is a very inexact science that in trying to define the common economic good there would always be a mosaic of legitimate vested interests that have to be recognized, and that the most serious error in economics is never an absolute falsehood but an oversimplification.

He stated that the Committee could have insisted that all these requests for industrialization, protectionism and economic nationalism had already been sufficiently covered by the omnibus statement in the original Section 1 that "all economic sectors shall be given optimum opportunity to develop", citing as a reason therefor that the Constitution must be as succinct as possible. But, he added that in a spirit of reconciliation, open-mindedness and accommodation, the Committee had agreed to risk the danger of introducing policy-oriented terminologies like "protect" into the Constitution.

He pointed out that Mr. Hilarion Henares, Jr., one of the proponents of the coalition advocating protectionism, industrialization and nationalism, was, in fact, given full hearing by the Committee to present all his views, and which views were considered by the Committee.

He added that the article distributed by the coalition in support of their views was, however, oversimplified and only partially true. He explained that the said article, entitled "Stemming the Tide of New Protectionism" by Dr. Susan Wok, head of the Korean Development Institute of the Korean Government, is, in fact, an appeal to the whole world to reject protectionism but the coalition decided to underline very select paragraphs thereof to highlight what is already known, that is, that in all industrialized or non-industrialized countries, developed or developing, there are always legitimate vested interests asking for protection to save their industries but at the same time prejudicing the common economic good.

He stressed that the Korean economist had, in fact, pointed out that any tendency towards protectionism, no matter who may initiate such tendency, is self-destructive and is the road to international economic suicide, for if some nations fail to support free trade by maintaining protectionist barriers, there would be economic reprisals which could only lead to the eventual collapse of global trade environment.

On Mr. Villacorta's point about the Jenkins Bill, Mr. Villegas stated that the editorial of the *The Economist*, a London-based economic magazine, had precisely condemned the American protectionist move reporting that the reason for such move is the easier way by which politicians obtain votes by blaming imports for every worker laid off.

Free trade, Mr. Villegas stated, is a doctrine supported by the weight of history and wisdom and that consumer groups, without political constituency, have proven too small, too busy or too scared to deal with the unions and businessmen who have wrapped themselves in patriotism. He noted that America imports yearly billions of dollars worth of goods which does not suggest a burning hatred of all things foreign. He concurred with Mr. Villacorta's statement that the Americans are open to imports and stressed that it would be false to say that the Americans have been systematically and deliberately keeping underdeveloped countries as "hewers of wood and drawers of water" which he branded as the biggest inaccuracy. He noted that the most eloquent evidence of America's openness to trade and protection is the exception that proves the rule — a matter which can be gleaned from the fact that nearly everything that one buys there is made in a foreign country such as Taiwan, Korea, Japan or the Philippines.

In answer to the questions of Mrs. Quesada and Ms. Tan, on why the country is poor, Mr. Villegas offered economic opinions based on a 20-year study of the economic problems, to wit:

1)

The Philippines from the 1950's to the early 1980's encouraged the growth of capital-intensive industries which did not contribute to the creation of employment opportunities which would have absorbed the thousands of unemployed and new entrants into the labor force. He noted that policies such as tariff protection, overvaluing of the peso and giving industries access to artificially cheap capital were responsible for this situation, which policies can be summarized in one word — protectionism.

2)

Agricultural productivity was neglected. Mr. Villegas stated that there is a big difference between agricultural production and agricultural productivity and that the increase in the production of rice, sugar and coconut was brought about by an expansion of hectareage and not through workers' productivity.

3)

Twenty years of corrupt and repressive regime looted away billions of dollars from the economy.

REMARKS OF MR. OPLE

Mr. Ople noted that the last sentence in Section 1, to wit: "The State shall protect Filipino enterprises against unfair competition and trade practices" was introduced by Mr. Suarez so as to include a statement which would emphasize the obligation of the State to protect Filipino enterprises against unfair foreign competition and trade practices and that some Members felt the word "unfair" was too limiting and sought its deletion.

Mr. Ople observed that the deletion of the word "unfair" would have certain consequences, namely: 1) it would build a permanent "Great Wall of China" around the Philippine economy which no future Congress could dismantle because it is a Constitutional mandate and it would sanction the production of shoddy, exorbitantly priced products the cost of which would be shouldered by the common man; 2) it would deprive the future Congress of flexibility in dealing with domestic and international situations and would leave the Philippine market captive to industries which lack the necessary impulse to improve their efficiency and competitiveness to deliver products which combine good quality and lower cost.

He stated that he is repelled by the thought that some of the Philippine industries would be perpetually excused from rendering the service expected of them, which is to earn the needed currency, by taking advantage of the dynamism of the international market, to finance local industrialization.

Mr. Ople observed that such money cannot come from perpetual subsidies. He stated that part of subsidy comes from the State through tax exemptions paid by the common man inasmuch as tariff laws of the past 30 years have insulated the manufacturer from the risk of competition thus preventing them from becoming more efficient and thereby depriving the common man, the consumer, from being served with better products that cost less.

Equating absolute protectionism with patriotism, he stated, would be the greatest and most dangerous fallacy. He manifested that the Commission's task is not to shut off the Philippine economy from the rest of the world, from any foreign competition and allow it to become a hermit economy.

Mr. Ople maintained that he has nothing against the Philippine industry but maintained that he would like to put the industries to high standards of patriotic duty which would not consist of demanding a close market parcelled out among such industries so as to perpetuate profits they are making through monopoly control. Thereafter, he adverted to the case of FILSYN which, he said, is a monopoly whose product costs two and a half times than that of Taiwan or Hongkong. He blamed the irrational blind protectionist policies which have ensured this monopoly, 25% of whose stocks are Taiwanese, to complete domination of the local textile market. He stressed that the burden of such policies would rest on the common man.

Mr. Ople objected to the motion for reconsideration, stating that there are considerations of dignity, independence and even integrity which are at stake in the issue. He stated that as in all deliberative assemblies, whatever is done in the plenary hall and all the Chair's rulings would create the force of precedence as part of the Rules and that anyone, under the same Rules, could file a motion for reconsideration within the time limit of 48 hours provided therein. He observed that the Body, on past occasions, had even suspended the Rules to allow reconsideration of previous decisions even beyond the time limit allowed. He, moreover, noted that the President of the Commission in all her rulings had exemplified the spirit of liberality itself.

On the issue at hand, Mr. Ople stated that the Members present at that time voted unanimously for Section 1 which fact could be attested to by the records of the Commission although some Members since then have undergone a change of heart and have moved for reconsideration of that vote. He noted that the avowed reason for this motion had been influenced by external pressures and that the Commission should draw the line. He stated that Section 1 of the draft Article had been subjected to the most exhaustive debates and undergone the most demanding amendment processes ever experienced by the Commission. He observed that the proponents of the motion had taken an active part in the deliberations and had enriched and strengthened the same section with their own amendments. He noted that the position paper of the Coalition for Protectionism in the Constitution which was responsible for the "illumination" of the proponents was seriously and sympathetically considered by the Body and had been a valuable input in the debates and amendment although it should not be considered as a controlling and binding guide for the Commission.

He noted that Minister Jose Concepcion, Jr. was quoted as saying that the formulation of Section 1, as it now stands, might repel foreign investors and trading partners of the Philippines. He also stated that certain lobbyists, whose behavior on the floor was censured by the Commission, warned that the entire Body in approving Section 1 had committed treason, which accusation was published by the Philippine Daily Inquirer and attributed to Mr. Alejandro Lichauco and was never denied.

Mr. Ople said that all Members had been stigmatized as traitors to the country and the people and that the proponents of the motion would seem to act as though this stigma could be removed reconsidering the unanimous

approval of Section 1.

He reminded the Commission that treason, a capital offense punishable by death, was perhaps used lightly, metaphorically or cavalierly but nevertheless is a serious, irresponsible and damaging charge against the Commission, and every Member thereof. He maintained that he would be ratifying this indictment against the Body by voting for the motion for reconsideration.

Stating his pride in the draft section, Mr. Ople noted that it is a formulation which bears the stamp of the Body's authentic and independent will, a prescription for an independent and self-reliant economy under effective Filipino control — an amendment of Mr. Garcia; a mandate for industrialization and the protection of Filipino enterprises from unfair competition and trade practices; and a fiat for new and innovative corporate forms of economic participation by the people themselves — an amendment also from Mr. Garcia. The burden of proof that the Section is an inadequate and even a treacherous document, Mr. Ople opined, rests not with the Constitutional Commission but on those who have maligned the Members thereof and threatened to punish the Commission by campaigning against the ratification of the Constitution. He added that to vote for the motion would not only be an admission of the charge against the Body but also complete humiliation by an act of capitulation and surrender.

INQUIRY OF MR. NOLLEDO

In reply to Mr. Nollado's inquiry on the basis of his remark about "absolute protectionism", Mr. Ople informed that he made the remark on the basis of a hypothetical omission or deletion of the term "unfair foreign competition" from the last sentence of the paragraph on industrialization.

Mr. Ople also affirmed that he is the author of the amendment on the adoption of a policy of industrialization which did not mention protectionism.

As to whether he would agree to the suggestion that the Body after adopting the policy of industrialization should also adopt a companion policy of selective protectionism, Mr. Ople observed that selective protectionism is not abandoned by the adoption of "unfair competition".

As to whether new industries that would be set up as infant industries, pursuant to the policy of industrialization in accordance with the Ople amendment, would need protection, Mr. Ople replied that there would be need to protect infant industries.

Mr. Nollado inquired whether Mr. Ople would agree that when some well-meaning Members of the Commission advocated protectionism as a matter of policy in the Constitution they were not necessarily advocating absolute protectionism inasmuch as Congress itself may fix a period during which some policies or provisions on protectionism should be adopted in order to protect newly established industries, to which Mr. Ople mentioned that the paragraph as written would not foreclose the option of Congress to do so.

Thereafter, Mr. Nollado inquired whether Mr. Ople would agree that competition is not the only factor which should be considered in order to have good or high-quality products inasmuch as Mr. Ople opined that without competition, local industries would not be able to improve local products. He also inquired whether Mr. Ople would agree that local industries would be able to improve their products should government grant them incentives or adopt policies geared towards attaining high quality standards.

In reply thereto, Mr. Ople noted that the NEDA and even the Ministry of Trade and Industry feel the need to review such incentives which have not provided the impetus for local industries to be more efficient and more competitive. He concurred with Mr. Nollado's point on the matter of incentives although he noted that an excess of such incentives would not necessarily make the local industries self-reliant but make them more dependent. Mr.

Ople noted that in the last sentence, the Body sought to give Congress the flexibility needed to enact laws which shall put the Constitutional mandate into operation. He stressed that removing the qualifier “unfair” from the phrase “unfair competition and trade practice” would amount to absolute protectionism. He stated that he is not against “protectionism” rationally utilized to protect fledgling industries although he is against a theory of perpetual infancy which would require protecting and subsidizing such industries forever.

REMARKS OF MR. SUAREZ

Mr. Suarez, in tracing the history of the last sentence of Section 1, stated that he did inform Mr. Ople that he was instrumental in introducing the particular sentence and that during the Committee hearing when there was a hue and cry against the possible use of such words as "protection", "protect", or "protectionism", the Committee was in a quandary and that being a lawyer and compromiser, he proposed the use of the sentence, "The State shall protect the interest of Filipino enterprises". He noted that later the phrase "against foreign competition" was included and thereafter the word "unfair" was incorporated finally resulting in the formulation "The State shall protect Filipino enterprises against foreign competition" without the additional phrase "and trade practices". Mr. Suarez stated that there was a debate on the use of the term "unfair" and the Committee arrived at the consensus that it should be submitted for discussion on the floor. He agreed that the remark on partial paternity was correct in the sense that Mr. Ople coauthored the proposed amendment.

REMARKS OF MR. TADEO

On Mr. Villegas' comment about the decline on agricultural productivity which was made to appear as the cause of the difficulty the farmers are currently experiencing, Mr. Tadeo pointed out that even before the International Rice Research Institute (IRRI) was established in the Philippines, the country's average production was 30 cavans per hectare, which increased to 46 cavans per hectare after IRRI came in 1960, but still the lowest worldwide. He observed that when IRRI was launched, scientists in Los Baños noticed that it began dictating its rice program on the Philippine Government. He pointed out, however, that the IRRI high-yielding varieties not only require more fertilizers and pesticides, without which the palay becomes soft and fibrous making it vulnerable to pests, but they also need more irrigation, thus forcing the government to borrow money from the ADB, IMF and World Bank for irrigation purposes, the cost of which was only P60 per hectare, but now costs P875. Moreover, he observed that the bayanihan spirit had disappeared because of the emergence of the machines which increased the cost from P150 to P1,050 per hectare, with the price of fertilizer increased from P30 to P200 per bag. He stressed that while production increased, the increase benefitted only the multinationals, not the farmers. He also observed that although IRRI has been in existence for the past 25 years, it was not able to develop organic fertilizers and instead advocated the use of chemical fertilizers which poison the soil and make it less productive and that the pesticides being used destroy the beneficial insects thus, making the country dependent on its product.

Mr. Tadeo questioned the accuracy of Mr. Villegas' statement that 90% of the babies have to depend on imported milk stating that coconut milk if developed, contains 20 to 21% protein which could reduce malnutrition in the countryside by 70 to 80%. He maintained that the self-reliant independent economy, mentioned in the Article on National Economy and Patrimony means full Filipino control but, upon closer scrutiny, contains several loopholes.

He urged the Committee on National Economy and Patrimony to study the matter thoroughly.

Adverting to Section 3 of the proposed Article, Mr. Tadeo stated that the provision requiring the concurring vote of two-thirds of the Congress was deleted. He observed that proposals which favored the interest of the multinationals were readily agreed to by some Members but not proposals for the benefit of the Filipinos.

REMARKS OF MR. ROMULO

Responding thereto, Mr. Romulo adverted to the 1969 Joint Resolution approved by Congress under the leadership of Speaker Laurel, providing, among others, to wit:

"Within the context of what is socially desirable, every effort shall be exerted to persuade and encourage private capital to invest in enterprises that can operate with maximum efficiency in providing quality goods and services using domestic raw materials at competitive prices to the national and foreign markets".

"However, in their infant stages, products of domestic industries and agricultural enterprises shall be given competitive advantages in the national market through direct measures, and foreign markets for those products and others that can be produced at competitive cost shall be fully explored and developed".

"The government shall actively plan and promote the development of the agricultural sector in harmony with the industrial sector in order to achieve increased agricultural productivity and national self-sufficiency in the basic staples".

Mr. Romulo maintained that the aforequoted paragraphs would state the position of the Committee.

Reacting thereto, Mr. Sarmiento pointed out that Mr. Romulo had quoted from Joint Resolution No. 2, which was the Magna Carta of Social Justice and Economic Freedom, but that what he (Mr. Sarmiento) quoted in the morning session was the sponsorship speech of Speaker Laurel which advocated protectionism and industrialization.

In reply, Mr. Romulo acknowledged that he was quoting Joint Resolution No. 2 which was precisely endorsed by Speaker Laurel in his sponsorship speech.

REMARKS OF MR. MONSOD

Mr. Monsod put on record certain quotations from the book *Economic Recovery and Long-Run Growth: Agenda for Reforms*. Two of the authors are Professor Romeo Bautista who was earlier referred to as being in favor of protectionism, and Professor Mahar Mangahas, one of those who helped draft the Article on Social Justice, who said:

"Despite the rapid growth of agricultural output in the 1970s, incomes of the rural population had been falling behind and by the early 1980s, production of major crops has stagnated. The rural-urban income ratio has declined from 75% to 50% in the 1980s and the prices of agricultural products have all dropped.

"The heart of the efficiency problem in agriculture and overall income distribution are both in the macroeconomic and agricultural policies.

"In the area of macroeconomic policies, the industrial protection system has not only raised prices of manufactured goods to agriculture, but has also reduced the peso prices of exportable agricultural crops by defending a lower value of foreign exchange.

"Likewise, exchange rate policy itself has in the past, failed to make the necessary adjustments to avoid prolonged overvaluation of the peso culminating in a balance of payments crisis and the need for sudden devaluation. This failure has further served to keep agricultural prices low over long periods of time. At the same time the excessively capital-intensive character of industrial growth has meant an inadequate rate of labor absorption, depressing rural wages.

"One of the requirements of our proposed development strategy is a liberalized trade regime that would foster competition and provide a set of market prices closely reflecting social opportunity costs and benefits. That kind of environment has eluded us through most of the post-war period, causing the country's scarce resources

to be allocated inefficiently and constraining the growth of national income and foreign trade. The price distortions created by the past trade and exchange rate policies also discriminated heavily against agriculture in favor of manufacturing sector, the protection structure strongly favored import substitution over export production as well as finished consumer goods over intermediate and capital goods.

"There are two themes to which our recommendations for trade liberalization are indicated. One is the significant reduction of trade taxes and the complete elimination of quantitative restrictions. The second relates to the adoption of a flexible exchange rate policy that will maintain a realistic valuation of the peso. The principal objective of our suggested policy measure is to make the incentive structure as neutral as possible.

"Concerning industrial policy, we are cognizant of the efforts to offset the price distortions due to trade and exchange rate policy by protection through BOI-administered fiscal and other incentives. There is a high degree of selectivity, however, in the granting of such incentives.

"A very prominent historical feature of our economy is the recurrence of balance of payments crisis every ten years. We had one in 1949, another in 1960, another in 1970 and one in 1983 that is still with us. Unless one breaks the cycle, the late 1990s is likely to usher once more a familiar visitor. With it will have been half a century of mediocrity in the country's economic performance.

"Although this phenomenon could be partly attributed to external shocks, much of the blame could be laid squarely on our own trade and domestic policies, particularly our effort to defend a fixed exchange rate until it is no longer possible to borrow; and our continuing policy of protection via tariffs and import controls. We have a system of protection which rewards inefficient import substitutes (made profitable only by import and tariff restrictions) and generally penalizes exports and efficient import substitutes. As a result, in the 1980s, further import substitution has become more and more costly and difficult to achieve, while much of the potential for export growth has remained unrealized.

"What most people overlook is that protecting one sector means penalizing another. Protecting PICOP by restricting paper imports means that education for our children will be costlier and our export publishing industry dies. It also means the rapid exploitation of our forests. The idea that we, therefore, have to produce our own steel means that consumers pay more for downstream product lines which, being high cost, cannot be sold abroad. The main instrument of protection to date is the battery of quantitative restrictions on imports either through outright banning or quantity ceilings.

"In view of the above, we proposed the removal of all quantitative restrictions on imports including licensing. We endorse the original intent of the Ministry of Trade and Industry of liberalization of quantitative restrictions. They should be removed in one year's time."

Finally, Mr. Monsod endorsed the book to his colleagues which, he opined, is a very disciplined way of studying this issue. He then stated that he held talks with some of the exporters in industries, one of whom was Dante Santos of PHILACOR, who, he said, was for import liberalization.

REMARKS OF MR. BENNAGEN

Mr. Bennagen supported the motion to reconsider Section 1. He stated that part of the confusion had something to do with unequal grasp of the issues and the unequal access to information, which confusion, he opined, was expected from a group as diverse as the Commission. He pointed out that even in the social science discipline of which economics is one, economics has become increasingly unreachable by the other social scientists.

He then read into the record the article written by Amado A. Castro, former Dean of the UP School of Economics, entitled "IMF Theology Part II", to wit:

"At the Bretton Woods Conference in July 1944, the Allies met to plan the post-World War II economic order.

They agreed to set up three organizations: the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (World Bank) and the International Trade Organization (ITO).

"By design, there was to be specialization among the three institutions: the IMF was to take care of monetary matters and short-term finance; the World Bank would concentrate on the rehabilitation of the war-torn industrial nations, mainly in Europe, and the long-term economic development of underdeveloped countries. The ITO was to assure orderly international trade.

"The World Bank was established in 1946; the IMF, in 1947. The ITO was slated to be organized at the Havana Conference in 1947. The spokesmen for the underdeveloped countries, prominent among them the late Central Bank Governor Miguel Cuaderno, denounced the proposed ITO as a device being foisted by the advanced nations to preserve the status quo of world trading. The ITO was scuttled.

"Today, however, by a strange twist, the IMF is carrying on a large part of the ITO's original mission to liberalize world trade. Under the guise of promoting sound national currencies, the IMF tackles balance of payments problems which cause foreign exchange and currency difficulties. And one of its theologies is that free trade leads to economic efficiency and sound balance of payments situations.

"In principle, free trade is, indeed, as Adam Smith pointed out in 1776, the economists' ideal. By giving full play to competition, free trade leads to international division of labor and therefore economic efficiency. National economies should become stronger for it. But as often happens, between the theoretical ideal and the real world, many factors come into play which can justify departures from the ideal.

"One of the justifications for a paced trade liberalization program is infant industry and even infant economy protection. A free trade regime freezes the trade situation. It gives an advantage to those industries which are already established. The successful industrializations of Germany, Japan and other latecomer countries and now Korea and Taiwan which protected their budding industries demonstrate that up to a point infant industry and infant economy protection have historical validity.

"Furthermore, long-run solutions inevitably involved short-run adjustment difficulties for sectors adversely affected. These should be sorted out before full trade liberalization can take place. Finally, a depression is a poor time to preach free trade; adjustment is less painful in an expansionary economy.

"These and other reasons argue for intelligent and considered, not to mention compassionate, application of trade liberalization prescriptions".

REMARKS OF MR. VILLEGAS

Mr. Villegas stated that the paper of Dean Castro which was just read by Mr. Bennagen is fully supportive of the second paragraph of Section 1 because, consistent with the position of the Committee, it favors selective protection especially of infant industries and it is against dumping and other unfair trade practices, to which Mr. Bennagen replied that he made such reference because he noted a trend towards reducing the issue into black and white. He further observed that during the debate, mention was made that there has to be both tariff and non-tariff barriers with respect to competition.

INQUIRY OF MR. BENNAGEN

In reply to Mr. Bennagen's query, Mr. Villacorta affirmed that domestic industries would include foreign companies located in the Philippines and it is for this reason, that he disagreed with the contention that protectionism would necessarily kill foreign investment. On the contrary, he stressed that this would, in effect, protect foreign investment in the Philippines and it would not close the door to foreign participation.

REMARKS OF MR. MONSOD

Mr. Monsod clarified that the intent of the second paragraph of Section 1 is to protect Filipino enterprises and not multinationals, to which Mr. Villacorta replied that some statements given seemed to imply that the protection against foreign competition would ban importation and foreign investment.

On the suggestion that the second paragraph of Section 1 be read again, Mr. Villacorta stated that he had read very carefully said paragraph and the interpretation is very clear.

INQUIRY OF MR. VILLACORTA

Mr. Villacorta asked Mr. Villegas to cite examples of protected industries which have lower prices compared to imported goods; to which the latter responded by citing FILSYN and another industries in which there are quotas. Mr. Villegas also cited the tire industry which have 30 to 50 percent tariff rates.

In the case of rice, Mr. Monsod stated that rice and corn are not included in the liberalization program.

Mr. Villacorta stated that he brought up the issue on rice because of Mr. Villegas' reference to the textile industry relative to the us protection extended to the industry as if to imply that anything that serves to protect certain local industries and which would entail higher prices for the consumers would necessarily hold for the economy as a whole. This, he stated, would seem to imply that the country import rice from Thailand or from the United States where the price of rice would be much cheaper for the rice consumers, in reply to which Mr. Villegas stressed that there are possible situations wherein the government has to extend protection regardless of whatever happens.

On Mr. Villacorta's contention that the same protection should be extended to all other industries, Mr. Monsod stated that once it is done, the country would have the problem where to get foreign exchange to finance imports. In the case of Japan, Mr. Monsod pointed out that Japan protects its agriculture but forces the industry to be competitive. Likewise, he stated that products for national security, health and safety are not included in the import liberalization program.

On Mr. Villacorta's suggestion to delete the qualifying word "unfair" if the intention of the Committee is to extend protection against foreign competition, Mr. Monsod stressed that dumping constitutes unfair competition and advertent to the records of the proceedings, it had been pointed out that in recovering from recession, affected industries should be given temporary relief until they could go back to normal levels.

Mr. Villacorta expressed wonder over a certain double standard with respect to the insertion of certain words in the Constitution. He observed that in some occasions when the intention of a certain provision is clear, some Members would not insist on putting a word because the contemplation and intention are clearly registered in the records of the deliberations. On the other hand, he noted that when it works against their favor, they would insist on the insertion of a certain word. This, he observed, is a transparent attempt at legal necromancy.

Commenting on Mr. Ople's statements, Mr. Villacorta stated that in the last caucus as well as in the previous session, he was made to understand that consistent with the ethics of parliamentarism, a Member should not be allowed to impute motives on the actions and motions of a colleague, and it was for this reason, he stated, that he made an apology for the sake of unity and integrity of the Commission. However, he noted that in Mr. Ople's remarks, he imputed certain ulterior motives, certain undue pressure and influence coming from a so-called "bloc" or "coalition".

Mr. Villacorta asked what is wrong with this coalition, composed of respectable people, and which is presented as if it were a monster, a group of subversives and hotheads. He maintained that if there is nothing wrong in quoting

the Londoners and the Koreans in the Economic Journal, then there is nothing wrong in quoting the position paper of a coalition composed of Filipinos. He reminded Mr. Ople that he did not exercise his right to vote when Section 1 was submitted to a vote during the previous session. He pointed out that during the caucus, he raised questions to the Committee without having been influenced because he had not met any member of said coalition although he admitted consulting with them later in the afternoon which, he opined, is a legitimate act because he and some others, are not economists.

Finally, Mr. Villacorta deplored this post hoc ergo propter hoc fallacy.

REMARKS OF MR OPLE

Replying to Mr. Villacorta's remarks, Mr. Ople denied that he was in any manner degrading the motives of those who sought reconsideration. He pointed out that he spoke of certain facts and he was not aware that some Members did not participate in said voting. He stated that he had no quarrel with the coalition adverted to because, like any other group, it had the right to exercise its civic duty to present proposals to the Constitutional Commission.

Mr. Ople admitted that upon reading the August 16 issue of the Philippine Daily Inquirer on the statement attributed to Mr. Lichauco, he took it as offending to the entire Commission. He read to the Body some relevant portions of the news article which, he described, as fairly strong words. He asked for understanding on his reaction to the accusation of treason against the Commission and pointed out that while he would not seek a remedy of reparation, he was putting his comment in proper light. He denied accusing anyone in the Commission of lacking fidelity to his duty and he pointed out that this should be admitted as a provocation which had never been denied. He stressed that he was not speaking for himself but for the entire membership of the Commission when he articulated such protest.

REMARKS OF MR. BERNAS IN SUPPORT OF THE MOTION

Mr. Bernas stressed that he did not favor absolute protectionism and listening to the Members who spoke on the matter, he noted that there was no absolute irreconcilability in what they were saying but he perceived their differences in the reading of the second paragraph of Section 1. In view thereof, Mr. Bernas suggested to the Members to make an effort in removing these differences by improving the language of said paragraph in order that it could reflect accurately its real intent. He stated that he was aware of the hyperbolic statement referred to in the Philippine Daily Inquirer and for the sake of clarifying this point, he advised the Members to transcend such hyperboles and face this as dispassionately and as coolly as possible. He suggested that the Body do something about the second paragraph which would be used in the future by legislators and by jurists, and in doing so, he opined that the Body would be doing a service to the nation.

Thereafter; Mr. Romulo asked that the motion be submitted to a vote.

NOMINAL VOTING

Mr. Brocka asked for nominal voting, to which Mr. Jamir responded by citing Section 39 of the Rules, to wit: "Nominal voting on questions not connected with constitutional proposals or the text of the Constitution itself shall not be allowed except when it involves the discipline of Members".

Mr. Sarmiento maintained that the motion involves a constitutional proposal and therefore, nominal voting is proper.

Thereupon, the Chair declared nominal voting in order.

Mr. Romulo clarified that a vote of "yes" would grant the motion for reconsideration while a vote of "no" would uphold the decision of the Commission.

ROLL CALL ON MOTION FOR RECONSIDERATION

Upon direction of the Chair, the Secretary-General called the Roll and thereafter, a second Roll Call was made.

EXPLANATION OF VOTES

The following Members explained their votes:

1. Mr. Bennagen voted Yes in order that the confusions he earlier cited would be clarified and that future legislators would truly understand the intent of the Commission.
2. Mr. de Castro, in voting No, stated that Section 1 had already been thoroughly discussed and besides, he would present an amendment on the "Filipino first policy."
3. Mr. Lerum voted Yes on the belief that there would still be a middle ground between those who were in favor of the proposal and those who were against it.
4. Ms. Tan, in explaining her affirmative vote, observed that the Body was becoming hysterical over the lobbying of this coalition group which, she opined, had a good reason to feel impassioned if they felt fiercely about their stand. She stated that while their manner was unparliamentary, she never felt threatened compared to the "right to life" group who carried her physically just to listen to their program. She opined that one should not look at a vote for reconsideration as a weakness arising from fear of being accused of treason. She stated that Marcos had threatened everyone for the last twenty years not only of treason, but of subversion, sedition and even death and nobody succumbed. She pointed out that only a fool would not change his mind. She asked the Members to change their mind based on what they learned from the farmers and the workers who had been crying out for twenty years, and she lamented how quickly some Members forgot.
5. Mr. Villegas voted No stating that there is no imperfection that could not be remedied by the Committee on Style.
6. President Muñoz Palma voted No, explaining that the provision as worded does not limit nor prevent the government, whether through Executive or Legislative action, from undertaking measures that would protect Filipino enterprises.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Azcuna Lerum

Bennagen Nollado

Bernas Quesada

Rosario Braid Sarmiento

Brocka Suarez

Davide Tadeo

Foz Tan

Garcia Villacorta

Gascon

Against

Abubakar Muñoz Palma

Alonto Rama

Bacani Regalado

Bengzon De los Reyes

Calderon Rigos

De Castro Rodrigo

Colayco Romulo

Concepcion Sumulong

Jamir Tingson

Maambong Treñas

Monsod Uka

Ople Villegas

Padilla

Abstention

Nieva

With 17 Members voting in favor, 25 against and one abstention, the Chair declared the motion for reconsideration lost.

SUSPENSION OF SESSION

On motion of Mr. Rama, the Chair suspended the session until two-thirty in the afternoon.

It was 12:51 p.m.

RESUMPTION OF SESSION

At 2:43 p.m., the session was resumed.

UNFINISHED BUSINESS: COMMITTEE REPORTS NOS. 21 AND 25, AS AMENDED, ON PROPOSED RESOLUTION NO. 470 ON THE ARTICLE ON LOCAL GOVERNMENTS

Upon resumption of session, on motion of Mr. Rama, there being no objection, the Body resumed consideration of Committee Reports Nos. 21 and 25, as amended, on Proposed Resolution No. 470, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON LOCAL GOVERNMENT.

Thereupon, the Chair recognized Mr. Nollado, Chairman of the Committee on Local Governments and the members of the Committee for further individual amendments.

At this juncture, Mr. Nollado stated that when the previous session adjourned, the approval of Section 3 was deferred on motion of Mr. Maambong.

Mr. Maambong, however, requested that his proposed amendment be deferred until copies thereof shall have been distributed.

AMENDMENT OF MR. PADILLA

Mr. Padilla proposed a new Section to be denominated as Section 2, to read:

SECTION 2. THE TERRITORIAL AND POLITICAL SUBDIVISIONS UNDER THE LOCAL GOVERNMENT CODE SHALL CONTINUE TO ENJOY LOCAL AUTONOMY

He explained that aside from the Cordilleras and Muslim Mindanao there is no specific provision in the Article on Local Government. which provides that all local government units also enjoy local autonomy.

In reply, Mr. Nollado opined that the proposed amendment would not be necessary because the Article on Transitory Provisions already provides that all Presidential Decrees, Executive Orders and existing laws would continue to be effective unless repealed or amended by Congress, so that the Local Government Code which provides for autonomy of all local political units, would still be effective. He added that Messrs. Davide and Monsod had amended Section 2 to provide for a "system of decentralization".

Mr. Padilla, however, pointed out that the effectivity of the Local Government Code would not depend on the Transitory Provisions. He stated that he was personally against the continuance of the effectivity of the laws and decrees passed during the Marcos regime which were all unilateral acts of the President.

In reply to Mr. Ople's query, Mr. Padilla underscored that his amendment was not only a philosophical statement but an explicit provision that autonomy must not only be given to the regions of the Cordilleras and Muslim Mindanao but to all provinces, cities and municipalities, in line with the concept of decentralization of powers and local autonomy for all.

Mr. Padilla, however, agreed with Mr. Ople's proposal to delete the word "continue", so that the phrase would read: SHALL ENJOY LOCAL AUTONOMY, in order to merely continue an existing policy for local autonomy.

Mr. Nollado maintained that with the provision of Section 2 on the system of decentralization, the proposed amendment of Mr. Padilla would be superfluous, in reply to which Mr. Padilla stated that while local autonomy is essential decentralization of government powers and authority, the succeeding provisions of the Article might be

misunderstood as giving local autonomy only to the Cordilleras and Muslim Mindanao.

MR. DAVIDE'S PROPOSED AMENDMENT

TO THE AMENDMENT

Thereupon, Mr. Davide proposed that, instead of providing for another Section, the phrase "system of decentralization" on Section 2 should rather read: SYSTEM OF DECENTRALIZATION AND LOCAL AUTONOMY.

In reply, Mr. Padilla maintained that a separate Section would be better. He suggested, however, that "Local Government Code" be deleted in his proposal to contemplate not only the existing autonomy under the Local Government Code but also an increase in local autonomy, so that the proposed new Section would read:

SECTION 2. THE TERRITORIAL AND POLITICAL SUBDIVISIONS SHALL ENJOY LOCAL AUTONOMY.

APPROVAL OF THE AMENDMENT

Submitted to a vote, and with 29 Members voting in favor, and none against, the proposed amendment of Mr. Padilla was approved by the Body.

Thereupon, Mr. Nollado manifested that the original Section 2 would become Section 3 and the rest of the sections would be correspondingly renumbered.

PROPOSED AMENDMENT OF MR. MAAMBONG JOINTLY WITH MESSRS. TINGSON, OPLE, NATIVIDAD, DE LOS REYES AND COLAYCO

Mr. Maambong proposed, together with Messrs. Tingson, Ople, Natividad, de los Reyes and Colayco, to amend Section 3 to read:

SECTION 3. EXISTING HIGHLY URBANIZED CITIES AND THOSE DETERMINED BY REASONABLE STANDARDS ESTABLISHED BY LAW, SHALL BE INDEPENDENT OF THE PROVINCE. HOWEVER, THE VOTERS OF COMPONENT CITIES WITHIN A PROVINCE SHALL NOT BE DEPRIVED OF THEIR RIGHT TO VOTE FOR ELECTIVE PROVINCIAL OFFICIALS, UNLESS THEIR RESPECTIVE CHARTERS PROVIDE OTHERWISE.

THE ELECTORATE OF HIGHLY URBANIZED CITIES SHALL NOT VOTE IN THE ELECTION FOR PROVINCIAL OFFICIALS OF THE PROVINCE IN WHICH IT IS LOCATED: PROVIDED, HOWEVER, THAT NO COMPONENT CITY SHALL BE DECLARED OR BE ENTITLED TO A HIGHLY URBANIZED CITY STATUS WITHIN NINETY DAYS PRIOR TO ANY ELECTION.

In reply to Mr. Bacani's query, Mr. Maambong explained that the Local Government Code provides that the voters of highly urbanized cities are not allowed to vote in the election for provincial officials of the province in which the city is located. He pointed out that in the case of *Ceniza vs. COMELEC*, the petitioner asked that the voters of highly urbanized cities be allowed to vote because, otherwise, there would be a violation of the principle of republicanism, but the Supreme Court stated that there would be no violation because the provinces do not have jurisdiction over highly urbanized cities.

On the determination of highly urbanized cities, Mr. Maambong further explained that there are certain requirements in the Local Government Code that the component cities must meet to qualify for the status of highly urbanized cities, namely, a minimum population of 150,000 as certified by the National Census and

Statistics Office, and the latest annual income of P30 million as certified by the Minister of Finance. He added, however, that once a component city meets these requirements, it does not automatically become a highly urbanized city but it has to apply for such status through the Ministry of Local Governments.

In reply to Mr. Treñas' query, Mr. Maambong pointed out that there is no juridical difference between a highly urbanized city and a component city, but the difference lies in their population and annual income.

However, on the benefits the component city may derive by becoming highly urbanized, Mr. Maambong stated that in the case of a component city the Provisions of the Local Government Code on supervisory control of the province apply. He noted, however, that the provisions of the Local Government Code have not been fully implemented.

Mr. Maambong agreed with Mr. Treñas' observation that most of the inhabitants of small cities have properties or interests in the province. On Mr. Treñas' query whether it is more logical for residents of the city to be allowed to vote for provincial officials, Mr. Maambong replied that if this would be allowed, the residents of the province should also be allowed to vote for city officials.

On whether a provision in the new Constitution, allowing the residents of a city within a province to vote for officials of the province, would violate the jurisprudence laid down in the case of *Ceniza vs. COMELEC*, Mr. Maambong explained that Section 4, Article XI of the 1973 Constitution provides that "provinces with respect to component cities and municipalities with respect to component barrios shall ensure that the acts of their component units are within the scope of their assigned powers and functions. Highly urbanized cities and those determined by standards established in the Local Government Code shall be independent of the province". He pointed out that the phrase "shall be independent of the province" has been repeated several times in Sections 15 and 165 of the Local Government Code to the extent that these provisions and related provisions in the 1973 Constitution had actually jibed with the Supreme Court decision in *Ceniza vs. COMELEC*.

On the query whether it would be more fair to allow residents of a city to vote for provincial officials as what they have, in fact, been doing in the past, Mr. Maambong replied that in the case of highly-urbanized cities on which the province has no supervisory control the residents thereof should not be allowed to vote for provincial officials.

Mr. Maambong agreed with Mr. Treñas' observation that the charters or organic laws creating the highly urbanized city or component city should govern.

On Mr. de Castro's query whether a highly urbanized city with a population of less than 200,000 would be allowed to have one representative, Mr. Maambong replied that according to Mr. Davide it would not be entitled to a representative but its population would be included in the computation of the number of seats for the province. He added that under his proposal the residents of a highly-urbanized city would not be allowed to vote for provincial officials.

Mr. Maambong agreed with Mr. Jamir's observation that under his proposal voters of component cities may vote for provincial elective officials if their charters so provide. However, should the charter be amended, repealed or modified to withdraw such right, then the amendatory provision would prevail.

On Mr. Bernas' query as to the reason why Mr. Maambong's proposal would allow Congress to deprive residents of cities to vote in provincial elections through the clause "unless their respective charters provide otherwise", Mr. Maambong explained that the purpose is to align the charters and make them consistent with the Constitutional provisions.

Mr. Bernas then suggested deleting the clause on the ground that a component city is part of the province and,

therefore, its inhabitants should not be deprived of the right to vote for the provincial officials.

Mr. Maambong stated that he would be willing to accept an amendment in Section 3 to delete the second sentence of the first paragraph.

Mr. Bernas explained that he merely wanted to delete the clause "unless their respective charters provide otherwise" so that the sentence would read **HOWEVER, THE VOTERS OF THE COMPONENT CITIES WITHIN A PROVINCE SHALL NOT BE DEPRIVED OF THEIR RIGHT TO VOTE FOR ELECTIVE PROVINCIAL OFFICIALS.**

At this juncture, Mr. Bengzon, as a coauthor of the proposed amendment, explained that the reason for including the phrase is that there are component cities which are independent of the province by the very nature of their charters but which are not qualified to become highly-urbanized cities because of their inability to meet the standards. He stated that they are component in the sense that they are geographically part of the province, citing as examples, the cities of San Carlos and Dagupan in Pangasinan whose charters specifically prohibit their inhabitants from voting in provincial elections for the reason that their combined population would give them undue advantage in dominating the provincial elections. For this reason, he stated, he would insist on retaining the clause "unless their respective charters provide otherwise". He further explained that heretofore there were only two kinds of cities, namely: those whose charters prohibit their residents from voting in provincial elections and those whose charters allow their residents to do so, adding that the classification of highly urbanized city came later.

Mr. Bengzon concurred with Mr. Bernas' observation that even before the advent of highly urbanized cities there were already differences in the charters of component cities as to whether the residents thereof could vote in provincial elections or not.

Thereupon, Mr. Bernas suggested that there should be a uniform rule applicable to all component cities since they are subject to the jurisdiction of the province and, therefore, should have a voice in choosing who should rule the province and be entitled to equal protection.

Mr. Bengzon maintained that deleting the clause could give rise to an anomalous situation where residents of big cities are able to dominate provincial elections. However, he manifested willingness to reword Section 4 in accordance with the following concepts: 1) residents of highly urbanized cities which are independent of the province should not be allowed to vote in provincial elections; 2) residents of component cities independent of the province by reason of their charters should not be allowed to vote in provincial elections; and 3) residents of component cities which are not independent of the province should be allowed to vote in provincial elections.

On Mr. Davide's query whether Congress may provide for the manner of election of local government officials and all other matters connected with the relationship between local government units, Mr. Maambong stated that Congress has such power as far as the relationship is concerned but the procedure for the election of local government officials properly falls under the Election Code.

Mr. Maambong, in reply to Mr. Davide's query, also stated that Congress could provide for legislation prohibiting residents of highly urbanized cities from voting for provincial elective officials as long as such legislation is consistent with Constitutional provisions. He explained further that Congress provided for provincial and city relations and the prohibition for residents of highly urbanized cities from voting in provincial elections when it enacted the Local Government Code pursuant to Section 4(1) Article XI of the 1973 Constitution.

On Mr. Davide's query whether even without the Constitutional provision it would be within the plenary power of Congress to provide for the restriction on city voters from voting for provincial elective officials, Mr. Maambong

stated that before the constitutional provision was introduced, the individual charters of the cities governed.

On the suggestion that Section 4 be deleted and Congress be allowed to determine whether or not the voters of a particular city may vote for the provincial elective officials, Mr. Maambong pointed out that existing highly urbanized cities have already acquired some vested right on the matter.

On whether Section 4 could be deleted as a superfluity considering the totality of Section 2 without the second paragraph, Mr. Maambong maintained that logic, if not the law itself, demands that there should be some classification of cities considering their number and kinds.

Mr. Davide contended that if it is logic the Body wants, the classification should be left to the Local Government Code because it is probably the only law which would harmonize the classification of cities.

Mr. Maambong noted that the absence of a Constitutional guideline resulted in the lack of uniformity in the charters of cities with some allowing city voters to vote for provincial elective officials while others do not. He stated that some Members of Congress, being politicians, have taken advantage of this lack of guidelines to protect their self-interest. He maintained that unless the criteria are provided, it could happen again that voters of small cities would have such right which voters of bigger urbanized cities would not have.

Moreover, Mr. Maambong stated that the Article on Local Government makes liberal use of the Local Government Code and that as he gleaned from the statement of the Chairman of the Committee under the present configuration of the Transitory Provisions all the laws are supposed to be valid. He asked why the criteria established in Section 11 should be disturbed.

Mr. Davide explained the reasons therefor, to wit: 1) that the Local Government Code provision as worded does not actually vest real autonomy in local governmental units and links local governmental units to the national agencies having offices within the local governmental units. He observed that the idea would be to provide more decentralized local government units and allow greater local autonomy and that pursuant to the amendment of Mr. Padilla, the entire Local Government Code would need reassessment and review; and 2) on the matter of existing charters of some cities which specifically provide that the voters therein cannot vote for elective provincial officials, the determination thereof was based on specific criteria then existing. He stated that it would be up to Congress to determine whether or not a particular city could be granted a charter providing for the disenfranchisement of city voters from electing provincial officials. He observed that incorporating the clause "unless their respective charters provide otherwise" would make it difficult if not impossible for the future Congress to modify or repeal charters of existing cities which do not allow their voters to vote for provincial officials, thus institutionalizing the disenfranchisement of said voters as far as voting for provincial officials is concerned.

Upon request of Mr. Ople for the three Members of the Commission from Cebu to shed light on the problems of Cebu, Mr. Davide explained that the problem of Cebu was not taken into account in his interpellation and that he proposed to delete the section and leave it to the Local Government Code to harmonize conflicting charters.

REMARKS OF MR. RAMA

Speaking against the amendment of Mr. Maambong, Mr. Rama stressed that the major premise of the provision as proposed in the Local Government Code is its anti-warlordism aspect. Thereafter, he explained the history of cities whose voters had been disenfranchised. He stated that all such cities were allowed to vote for provincial elective officials but warlords, who came to the fore during the Marcos regime, adopted a ploy disallowing more informed voters from the centers of population from voting so as to establish their fiefdoms. The disenfranchisement of city voters, he added, was at the behest of workers. He observed that the most powerful

arguments were voiced by Messrs. Bernas and Monsod who raised the question why city voters should be allowed to vote for elective provincial officials when the province itself has no jurisdiction over the city. Nevertheless, he noted that although cities are beyond the jurisdiction of the province, city residents once outside the city would be affected by the government of the warlords. Thereafter, he adverted to the experience of NAMFREL people in Cebu City who were terrorized by the warlords of the province and could not even get out of the city or even visit towns where their families live and where their properties are located. Disenfranchising the cities, he observed, would allow warlords to thrive and survive and terrorize the whole province.

On the matter of jurisdiction, Mr. Rama remarked that while the province has no jurisdiction over the city or city residents, the seat of government of the province is still located in the city. He stated that allowing warlords to gerrymander votes would in effect allow them to control even the cities inasmuch as they can bring in their goons. He stressed that for such reasons the voters of Cebu City have been demanding the right to vote for provincial officials so as to have a say on who shall be the head of the province inasmuch as their lives are affected as well as their right to vote. Mr. Rama underscored that the main thrust of the provision would be to try to solve warlordism.

Mr. Maambong manifested his preference to discuss his amendment without any reference to a particular province or city inasmuch as the issue concerned is a Constitutional provision. He observed that the Body would lose direction if it starts relating a constitutional provision which is supposed to set up certain standards and guidelines to particular problems. He adverted to the time of Senator Sergio Osmeña, Jr. who used the city of Cebu to control the whole province.

On Mr. Davide's apprehension that the inclusion of the clause "unless their respective charter provides otherwise" would prevent Congress from revising city charters, Mr. Maambong maintained that Congress can always revise, amend or repeal laws — be these charters, resolutions or ordinances.

On the observations of Mr. Davide on city charters, Mr. Maambong reiterated that the reason for the different provisions therein was the absence of a Constitutional criteria or standard. He stressed that such criteria are already established in the Local Government Code.

Mr. Rama, reacting to the remarks of Mr. Maambong on the case of Mr. Osmeña, stated that through the voters of Cebu City, Mr. Osmeña was able to end the reign of terror in the province in 1949 or 1950. To this remark, Mr. Maambong retorted that warlordism can be discussed from the standpoint of the person who is accused of being a warlord. Mr. Maambong manifested that he has nothing against Mr. Osmeña for whom he worked as a campaign manager but maintained that Mr. Osmeña, while holding on to power in Cebu City, was able to control the whole province. He noted that the power situs is Cebu City and that whoever controls it would control the whole province.

REMARKS OF MR. TINGSON

Mr. Tingson observed that in the case of Negros Occidental by disenfranchising the voters of San Carlos City, Silay City, Bago City, Talisay City and La Carlota City from voting for provincial elective officials, there would be no one to vote for such officials. He stated that the lives of the people in these cities are intertwined with the whole province and manifested his support for Mr. Davide's amendment.

Mr. Maambong, by way of clarification, stated that voters from the component cities of Negros Occidental are not going to be disenfranchised inasmuch as these are component cities. He pointed out that the discussion was on classifying cities into component cities and highly urbanized cities.

INQUIRY OF MR. DE LOS REYES

Upon inquiry of Mr. de los Reyes, Mr. Maambong affirmed that money collected by highly urbanized cities could not be spent for public works improvement in the province and vice-versa.

To the observation of Mr. de los Reyes that the province and city are therefore independent of one another, Mr. Maambong stated that because of this principle, the 1973 Constitution stated "shall be independent of the province" and that the Local Government Code also has the same provision.

Mr. de los Reyes also inquired if someone from a highly urbanized city who wins in an election for a provincial office could divert provincial funds for the highly urbanized city to the prejudice of the province, to which Mr. Maambong replied that he could not.

OBSERVATIONS OF MR. NOLLEDO

Mr. Nollado observed that except for provisions on income level and population level, Title 3 of the Local Government Code contains no special provisions on highly urbanized cities. He maintained that there is no fundamental difference between component cities and highly urbanized cities except that component cities are located within the provinces, their affairs are interlinked and that there would be a need for coordination on essential services.

INQUIRY OF MR. BACANI

At this juncture, Mr. Bacani inquired whether the Body would vote on Section 3 and whether in voting it would be done with the understanding that the amendments suggested by Mr. Bernas are included therein.

Mr. Maambong informed that his cosponsor, Mr. Bengzon, had just given a reformulation to resolve the problems raised by Mr. Bernas. Thereafter, he restated the amendment which drew Mr. Nollado's comment on some grammatical defects therein.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:01 p.m.

RESUMPTION OF SESSION

At 4:54 p.m., the session was resumed.

MANIFESTATION OF MR. MAAMBONG

Mr. Maambong stated that in a talk with Mr. Davide, he agreed that the prejudicial question is whether or not to delete Section 3 and should the Body not approve said deletion, he would present a reformulated amendment excluding Mr. Bengzon's amendment which, in turn, could be incorporated therein should the Body approve his reformulated amendment.

PROPOSED AMENDMENT OF MR. DAVIDE

In view of Mr. Maambong's manifestation, Mr. Davide proposed the deletion of Section 3, explaining that Section 2 on the organization and operation of the local units is broad enough to allow Congress to provide that highly urbanized cities may be independent of the province. He contended that the proposed Section 4 is directory in

character in the sense that it is conceded to the plenary authority of Congress to provide in the Local Government Code everything that is related to decentralization and local autonomy and the respective relations not only of the different local units but also of its inhabitants to the other units. He maintained that Section 3 is a superfluity.

Mr. Maambong objected to the proposed deletion of Section 3, stating that it is necessary that the Constitution should provide a classification of cities into highly urbanized cities and component cities, otherwise, making it the sole prerogative of Congress, could repeat what happened in the past when Congress was influenced to allow one city to vote for elective provincial officials and not allow another city to do the same. He agreed with Mr. Bernas that if there should be some form of classifications it should be limited to two classifications, namely, highly urbanized cities and component cities.

In reply to Mr. Bengzon's query, Mr. Davide stressed that until a new Local Government Code shall have been enacted or until Congress shall have repealed these city charters which prohibit its voters from voting for the elective provincial officials, as well as those that allow their voters to vote for the provincial officials, they would continue to do so.

Mr. Nollado did not accept Mr. Davide's proposed amendment and asked that it be submitted to a vote.

Submitted to a vote, and with 7 Members voting in favor and 12 Members voting against, the Chair declared the proposed amendment lost.

MODIFIED AMENDMENT OF MR. MAAMBONG

Thereupon, Mr. Maambong proposed a modified amendment to Section 4 so that the entire section would read:

SECTION 4. HIGHLY URBANIZED CITIES AS DETERMINED BY LAW SHALL BE INDEPENDENT OF THE PROVINCE. HOWEVER, THE VOTERS OF COMPONENT CITIES WITHIN A PROVINCE SHALL NOT BE DEPRIVED OF THEIR RIGHT TO VOTE FOR ELECTIVE PROVINCIAL OFFICIALS.

Mr., Nollado did not accept the proposed amendment, in view of which Mr. Maambong asked that it be submitted to a vote.

Mr. Bernas explained that the amendment would mean that there would only be two kinds of cities, highly urbanized cities and component cities, the former being independent of the province while in the latter, the voters therein would not be deprived of the right to vote for elective provincial officials. He stressed that the effect of this on existing charters which deprived citizens of the right to vote would be the amendment of existing charters of cities which are not highly urbanized cities.

On the Chair's query, he affirmed that as long as it is a component city, the inhabitants therein could vote for elective provincial officials.

Mr. Bengzon suggested that the Body vote first on his proposed amendment to the amendment because if Mr. Maambong's amendment is approved, then his proposed amendment would be foreclosed. He stated that if his proposed amendment is approved, then it would be included in Mr. Maambong's amendment, to which Mr. Nollado agreed.

Mr. Maambong stated that although he would not object to the suggestion, the voting on his proposed amendment would not foreclose Mr. Bengzon from presenting his proposed amendment

PROPOSED AMENDMENT OF MR. BENGZON TO MR. MAAMBONG'S AMENDMENT

Thereupon, Mr. Bengzon proposed to insert after the words "highly urbanized cities" the following: AS WELL AS THOSE CITIES WHOSE CHARTERS PROHIBIT ELECTIVE OFFICERS FROM VOTING FOR PROVINCIAL ELECTIVE OFFICIALS.

Mr. Maambong suggested that the proposed amendment be inserted after the word "law", which Mr. Bengzon accepted.

Mr. Nollado did not accept the amendment because it would prohibit Congress from amending the charter when exigencies so demand.

Mr. Bernas stressed that the amendment would not fossilize the charters because as long as they remain charters, they are amendable. He stated that Congress could either make these cities highly urbanized or component cities, to which Mr. Bengzon agreed.

In reply to Mr. Rodrigo's inquiry as to what would happen to existing highly urbanized cities in the event Congress shall decide to change the definition of highly urbanized cities, Mr. Bernas explained that the amendment removed the word "existing" so that a city which is presently considered highly urbanized could still be demoted should the standards of law change.

Mr. Davide inquired as to what would happen to cities whose original charters allowed the voters therein to vote for elective provincial officials but later on become highly urbanized and therefore, the voters therein would no longer be allowed to vote for provincial officials. He further inquired as to what would prevail, whether their original charters or their having been declared as highly urbanized cities under the Local Government Code.

In this connection, Mr. Maambong pointed out that the voters of a component city who were formerly allowed to vote for elective provincial officials would no longer be able to vote in the election of provincial officials when the city becomes highly urbanized. He added that the Committee suggested not to use the word "existing" in order to allow Congress to determine whether the present urbanized cities really qualified as such.

Mr. Bengzon also affirmed that when a component city qualifies as a highly urbanized city, its charter would be deemed changed to that of a highly urbanized city.

On Mr. Azcuna's query, Mr. Maambong agreed that if his proposal is approved, a law allowing the voters of a highly urbanized city to vote for provincial officials would be unconstitutional.

Thereafter, Mr. Maambong restated the proposed Section 4, to wit:

SECTION 4. HIGHLY URBANIZED CITIES AS DETERMINED BY LAW, AS WELL AS THOSE CITIES WHOSE CHARTERS PROHIBIT ITS VOTERS FROM VOTING FOR PROVINCIAL ELECTIVE OFFICIALS SHALL BE INDEPENDENT OF THE PROVINCE. HOWEVER, THE VOTERS OF COMPONENT CITIES WITHIN A PROVINCE SHALL NOT BE DEPRIVED OF THEIR RIGHT TO VOTE FOR ELECTIVE PROVINCIAL OFFICIALS.

Submitted to a vote, and with 16 Members voting in favor, and 10 against, the proposed amendment of Mr. Maambong was approved by the Body.

MANIFESTATION OF MR. OPLE

At this juncture, Mr. Ople agreed to place his amendment on metropolitan areas under the new Section 9, which was originally Section 6.

APPROVAL OF SECTION 5

Mr. Nollado restated Section 5, to wit:

SECTION 5. LEGISLATIVE BODIES OF LOCAL GOVERNMENTS SHALL HAVE SECTORAL REPRESENTATION AS MAY BE PRESCRIBED BY LAW.

Submitted to a vote, and with 24 Members voting in favor and none against, Section 5 was approved by the Body.

APPROVAL OF SECTION 6

Mr. Nollado read Section 6, which was the amendment of Mr. Davide, to wit:

SECTION 6. THE TERM OF OFFICE OF ELECTIVE LOCAL OFFICIALS EXCEPT BARANGAY OFFICIALS WHICH SHALL BE DETERMINED BY LAW, SHALL BE THREE YEARS AND NO SUCH OFFICIAL SHALL SERVE FOR MORE THAN THREE CONSECUTIVE TERMS. VOLUNTARY RENUNCIATION OF THE OFFICE FOR ANY LENGTH OF TIME SHALL NOT BE CONSIDERED AS AN INTERRUPTION IN THE CONTINUITY OF HIS SERVICE FOR THE FULL TERM FOR WHICH HE WAS ELECTED.

Submitted to a vote, and with 24 Members voting in favor, and none against, Section 6 was approved by the Body.

PROPOSED SECTION 7

Thereafter, Mr. Nollado read the proposed Section 7, to wit:

SECTION 7. THE PRESIDENT OF THE PHILIPPINES SHALL EXERCISE GENERAL SUPERVISION OVER LOCAL GOVERNMENTS TO ENSURE THAT LAWS ARE FAITHFULLY EXECUTED.

In reply to Mr. Bengzon's query, Mr. Nollado explained that the President should see to it that national laws are properly executed in the local government units, but nothing would prevent the President from ensuring that laws passed by regional assemblies are complied with because they have also the force of law based on the Constitution, to which Mr. Ople added that the explanation of Mr. Nollado would be the stand of the Committee.

AMENDMENT OF MR. BERNAS

On the suggestion of Mr. Bernas to retain the hierarchy of supervisory powers found in the 1973 Constitution, wherein the municipality supervises the barangays, the province supervises the municipalities, and the President supervises the provinces and the highly urbanized cities, in line with the purpose of decentralization, Mr. Nollado opined that it would not be inconsistent with the intent of Section 7 because the term "local governments" would refer to all units from the barangay to the province, and even to the highest level in the autonomous regions, and the hierarchical supervision could always be exercised by the President.

Mr. Bernas then proposed to put a period (.) after "governments" and to delete the phrase "to ensure that laws are faithfully executed" because that is actually the meaning of general supervision in the present jurisprudence, which amendment was accepted by the Sponsor.

At this juncture, Mr. Azcuna pointed out that in the 1935 Constitution, there were two powers given to the President, namely, general supervision over local governments as may be provided by law, and to take care that the laws are faithfully executed; therefore, the amendment of Mr. Bernas would only provide the power of general supervision over local governments, to which Mr. Ople agreed that the powers under the 1935 Constitution would

be summed up in the term "general supervision".

Mr. Bernas explained that the 1935 Constitution provided for the phrase "as may be provided by law", because the Legislature had the power and control over local governments, but with the decentralization of powers and local autonomy, the control of the Legislature would be removed.

Furthermore, in connection with Mr. Bengzon's previous query on the power of general supervision of the President, Mr. Maambong pointed out that on the creation of autonomous Regions IX and XII, Presidential Decree No. 1618 provides that the President shall have the power of general supervision and control over the autonomous regions.

In reply to Mr. Maambong's query, Mr. Nollado affirmed that under the proposed provisions of the Constitution, the power of the President would be limited to general supervision.

Adverting to Section 2 of PD No. 1618, which provides that the legislative and executive powers and responsibilities would be specified in accordance with the provisions of the Constitution and the laws of the Republic of the Philippines, Mr. Maambong inquired if it would be consistent with the provisions on the autonomous regions, in reply to which Mr. Nollado pointed out that the proposed Constitution would also grant general supervision over autonomous regions, and he affirmed that the 1986 Constitution would still be applicable to the autonomous regions because national laws are superior to regional laws, such as those enacted by the Sangguniang Pampook.

OBSERVATION OF MR. RODRIGO

At this juncture, Mr. Rodrigo observed that the second sentence of Section 17 of the Article on the Executive also provides that the President shall exercise general supervision over all local governments as may be provided by law and shall take care that the laws be faithfully executed, which provision was also found under the Article on the Executive of the 1935 Constitution.

Mr. Nollado then suggested that proper realignment be made, in reply to which Ms. Aquino opined that in the spirit of recognition given to the autonomous regions, the provision in the Article on Local Governments must be retained.

But Mr. Rodrigo pointed out that Section 17 makes a distinction between the authority of the President over the departments, bureaus and offices, which is found in the first sentence, and the power over local governments, which appears in the second sentence; therefore, if the provision would already appear under the Article on Local Government, then only the first sentence of Section 17 of the Article on the Executive would remain.

Thereupon, Mr. Bernas recalled that when the second sentence of Section 17 of the Article on the Executive was provided for, it was subject to what may be provided for in the Article on Local Government, to which Mr. Nollado agreed, stating that it was with Mrs. Quesada that the agreement was made to have the final decision in the Article on Local Government.

The Chair also affirmed that whatever was provided in the Article on the Executive must be adjusted to the provisions of the Article on Local Government.

But Mr. Rodrigo observed that the phrase "as may be provided by law" appeared in the provision under the Article on the Executive and not in the Article on Local Government.

Ms. Aquino reiterated her support for the retention of the provision in the Article on Local Government to recognize the power of the President over an inferior body which includes suspension or removal of public

officials.

Additionally, Mr. Ople opined that with its retention in the Article on Local Government, the President's control over the Ministry of Local Governments would continue and the authority to take disciplinary actions against members of the local governments would not be eliminated, in reply to which Ms. Aquino pointed out that present jurisprudence rather grants the authority to initiate administrative complaints against local officials to the provincial boards.

Mr. Ople stressed that local autonomy contemplates the allowance of all channels to function and as one moves up the government hierarchy appeals would generally be addressed to the Office of the President as head of the Government.

Ms. Aquino then stated that the general rule is that the power of suspension or removal rightfully belongs to the local government and matters of appeal, which may be in the nature of a general supervisory power, pertain to the Office of the President.

Mr. Nollado agreed with Ms. Aquino's interpretation.

Thereupon, Mr. Davide moved for a modification of Mr. Bernas' amendment so that instead of deleting the last clause "and ensure that laws are faithfully executed" it should be transferred to the Article on the Executive so that Section 17 thereof would read to the effect that the President shall have control over ministries, bureaus and offices and shall ensure that all laws are faithfully executed.

On Mr. Nollado's query whether the execution of laws pertains to all laws in general without particularly mentioning the Local Government Code, only the first sentence of Section 17 of the Article Mr. Davide answered in the affirmative for which reason the clause should merely be transferred as a separate sentence of Section 17 of the Article on Executive.

Mr. Nollado agreed.

Supporting Mr. Davide's view, Mr. Guingona opined that it is the President's prerogative or duty under the Constitution to see to it that all laws are faithfully executed whether they be national or local laws. He stressed that this would not constitute a violation of the concept of decentralization because, if the President were not given this power, there is a danger that local officials might refuse to implement the laws with the President not being able to do anything about it.

At this juncture, Mr. Padilla observed that, as Mr. Azcuna pointed out, there are really two powers under the 1935 and 1973 Constitutions, one, the general power of supervision and, the other, to see to it that all laws are faithfully executed. He suggested that Section 7 be reworded to read: THE PRESIDENT OF THE PHILIPPINES SHALL EXERCISE GENERAL SUPERVISION OVER LOCAL GOVERNMENTS AND SHALL TAKE CARE THAT THE LAWS BE FAITHFULLY EXECUTED and to leave as is Section 17 of the Article on the Executive.

Mr. Nollado, however, stated that the Committee considered Mr. Bernas' amendment good enough without prejudice to Mr. Davide's amendment, whose suggestion was also considered by the Committee as well taken.

Mr. Bernas accepted Mr. Davide's amendment and the incorporation of Mr. Padilla's recommendation. He added that if all these suggestions would be placed in Section 7 of the Article on Local Government there must be specification of the authority of local governments over other local governments. He then suggested that the Section in the 1973 Constitution which reads PROVINCES WITH RESPECT TO COMPONENT CITIES AND MUNICIPALITIES, AND CITIES AND MUNICIPALITIES WITH RESPECT TO COMPONENT BARRIOS SHALL ENSURE THAT THE ACTS OF THEIR COMPONENT UNITS ARE WITHIN THE SCOPE OF

THEIR ASSIGNED POWERS AND FUNCTIONS be included in Section 7.

Mr. Nollado accepted the amendment.

Mr. Bernas stated that Section 7, as amended, would be moved to the Article on the Executive and in lieu of the present Section 7, the first sentence of Section 4(1), Article XI of the 1973 Constitution would be substituted.

At this juncture, Mr. Azcuna suggested that the general supervisory power should be separated from the power to take care that all laws are faithfully executed rather than merge the two. He stated that it would be better to simply delete the phrase "as determined by law" in Section 17 of the Article on the Executive.

Mr. Bernas, however, opined that it would be tautologous.

Mr. Nollado pointed out that should the Body decide to transfer the provision of Section 7 to the Article on the Executive and in lieu thereof to have the first sentence of Article XI, Section 4(1), it should also take into account Section 3, lines 29 to 31, page 3 of Resolution No. 470 on autonomous regions which states that "The President of the Philippines shall exercise general supervision over autonomous regions to ensure that laws are faithfully executed".

Thereupon, Mr. Davide made a reservation to introduce, at the proper time, the clause "to ensure that laws are faithfully executed" in Section 17 of the Article on the Executive. He pointed out that the second sentence of Mr. Bernas' proposal would have no relation at all to the President's general power of supervision over local governments.

Mr. Nollado, however, disagreed and stressed that the relation is almost direct because it concerns hierarchical supervision by higher local governments over inferior ones.

In addition thereto, Mr. Bernas pointed out that the section talks of groupings of various juridical entities cooperating but not forming a new juridical entity.

Thereafter, Mr. Nollado read Mr. Bernas' proposed amendment on Section 6, to wit: THE PRESIDENT OF THE PHILIPPINES SHALL EXERCISE GENERAL SUPERVISION OVER LOCAL GOVERNMENTS. PROVINCES WITH RESPECT TO COMPONENT CITIES AND MUNICIPALITIES, AND CITIES AND MUNICIPALITIES WITH RESPECT TO COMPONENT BARANGAYS SHALL ENSURE THAT THE ACTS OF THEIR COMPONENT UNITS ARE WITHIN THE SCOPE OF THEIR ASSIGNED POWERS AND FUNCTIONS.

Submitted to a vote and with 25 Members in favor and 1 against, the same was approved by the Body.

AMENDMENT OF MR. OPLE

Thereafter, Mr. Nollado read Mr. Ople's amendment on Section 8, to wit: THE CONGRESS MAY BY LAW CREATE SPECIAL METROPOLITAN POLITICAL SUBDIVISIONS, SUBJECT TO A PLEBISCITE AS SET FORTH IN SECTION 11 HEREOF. THE COMPONENT CITIES AND MUNICIPALITIES SHALL RETAIN THEIR BASIC AUTONOMY AND SHALL BE ENTITLED TO THEIR OWN LOCAL EXECUTIVE AND LEGISLATIVE ASSEMBLIES. THE JURISDICTION OF THE METROPOLITAN AUTHORITY THAT WILL THEREBY BE CREATED SHALL BE LIMITED TO BASIC SERVICES REQUIRING COORDINATION.

Submitted to a vote and there being no objection, the same was approved by the Body.

PROPOSED AMENDMENT OF MS. AQUINO

Ms. Aquino proposed on Section 9 to add IN ACCORDANCE WITH LAW AND SUBJECT TO APPROVAL BY A MAJORITY OF THE VOTES CAST IN A PLEBISCITE, IN THE POLITICAL UNIT OR UNITS DIRECTLY AFFECTED.

On Mr. Maambong's query as to why the grouping together of local government units should be submitted to a plebiscite when a new political unit would not be formed, but merely the coordination of efforts, services and resources, Ms. Aquino replied that a municipal corporation has two powers: one is the governmental power and the other is the power to exercise proprietary functions and that by consolidation it would have to assume certain quasi-juridical personality.

On whether such a grouping would result in what is known under the country's laws on municipal corporation as a quasi-public corporation, Ms. Aquino noted that it would be in the nature of a developmental authority.

Mr. Maambong observed that if the Body intends to form a quasi-public corporation it would not be necessary to submit it to a plebiscite for approval of the voters. The proposed amendment of Ms. Aquino, he stated, could stop at the addition of the phrase "as may be provided by law".

Mr. Nollado manifested that the Committee cannot accept the amendment unless it ends with "in accordance with law", and that the same could not be submitted to a plebiscite inasmuch as Section 9 contemplates a voluntary aggroupment. He manifested apprehension that it could open the avenue to the formation of autonomous regions.

Upon inquiry of the Chair, Ms. Aquino stated that her concern is the very vague and all-embracing interpretation which could be read into the phrase "for purposes commonly beneficial to them". She stated that she would agree to ending her amendment with the phrase "in accordance with law" if the essential delimitations of the concept could be put into the record.

REMARKS OF MR. BERNAS

Mr. Bernas stated that his reading of the amendment is that it would encourage local governments to experiment in some kind of cooperation among themselves, and if from the beginning the Body would require that before they could do so there must be a law governing them, it may discourage this experimentation. He observed that even if the Body would not include the phrase "as may be provided by law" it would still be within the power of Congress eventually, after some experimentation, to pass some kind of regulating law. On the other hand, he noted that if the Body were to state from the very beginning "as may be provided by law" the intent would seem that the local governments would have to wait for the passage of an enabling act before they could experiment.

Ms. Aquino stated that she had contemplated it in the nature of a general enabling act for the creation of some kind of a developmental authority or an amalgam of local governments to undertake the purposes provided for in Section 9.

Mr. Bernas raised the question if it would not be better to wait after some kind of experimentation on this before formulating an enabling act inasmuch as there is nothing to prevent Congress from formulating a law governing the matter. He noted that at the moment it would seem better to leave them free to seek ways of doing it, unhampered by pre-existing legislation.

At this juncture, Ms. Aquino insisted on her amendment to insert IN ACCORDANCE WITH LAW stating that in political dynamics any form of consolidation, amalgamation or aggroupment assumes a political color which can create a bailiwick or political persuasion and that the intention would be to confine it within the modicum of

statutory restraints in the nature of an enabling act.

INQUIRY OF MRS. ROSARIO BRAID

In response to the inquiry of Mrs. Rosario Braid whether the Regional Development Council found in Section 10 would be an appropriate mechanism, Ms. Aquino clarified that she deleted the term “developmental authority” upon the suggestion that before the Committee on the Legislative and that it was not necessarily intended to define the powers.

INQUIRY OF MR. NOLLEDO

As to whether the provision could be self-executing without an implementing statute, Ms. Aquino replied in the negative.

POINT OF INFORMATION OF MR. OPLE

At this juncture, Mr. Ople invited attention to the fact that the provision was adopted from the 1973 Constitution and that no local governments had grouped themselves for their common beneficial purposes except for one brief experiment in Metro, Manila since the Constitution came into effect. He noted that no one was happy about the experiment and that it served as the basis for a decree creating the Metro Manila Commission. He observed that the concern of Mr. Bernas that local governments should start experimenting with this innovative form of regrouping for common benefit could be better served if there is a general enabling act which will provide for the structure under which cooperation could be undertaken. He stated that this explains why the Committee agreed to the amendment of Ms. Aquino which in effect would provide for a general enabling act to give more substance and meaning to the particular Constitutional provision.

INQUIRY OF MR. MAAMBONG

To clarify the matter, Mr. Maambong noted that the proponent mentioned that the intended vehicle may be a quasi-public corporation although local governments could form in some other manner or association which may be registered for the same purpose.

In reply thereto, Ms. Aquino stated that this would be covered by the general enabling act being contemplated in the amendment.

Upon inquiry of Mr. Maambong whether the Body could limit this vehicle to a quasi-public corporation and nothing else, Ms. Aquino replied that it would not be possible.

Mr. Bernas interposed to confirm whether Ms. Aquino stated that in the absence of an enabling law, the municipalities would not be able to do anything, to which Ms. Aquino affirmed the statement although she maintained it could be perceived the way Mr. Bernas had said it. She noted that such could stifle initiative or in the context of Mr. Ople's comment it could vest legal fiat on any effort or initiative.

Mr. Bernas asked whether Ms. Aquino would agree to the interpretation that even before the law is passed, local governments may begin experimenting, to which Ms. Aquino replied that her worry concerned a political adventure which could assume a partisan political color. She noted that if it could be clarified for purposes of interpretation that the provision is not a self-executing provision and does not intend to delimit or inhibit initiative that would lead to the creation of amalgams or consolidated bodies, she would concede to this interpretation.

RESTATEMENT AND APPROVAL OF

MS. AQUINO'S AMENDMENT

Thereafter, Mr. Nollado restated the amendment of Ms. Aquino on Section 9, to wit: "Local government units may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them IN ACCORDANCE WITH LAW".

Upon inquiry of Mr. Bengzon, Ms. Aquino affirmed that the interpretation would not prohibit political units and municipalities from starting an initiative of their own.

The Chair inquired whether the words IN ACCORDANCE WITH LAW would not deter local governments from exercising initiative and grouping themselves, to which inquiry both Messrs. Nollado and Ople replied in the affirmative.

There being no objection to the amendment of Ms. Aquino which has been accepted by the Committee, the same was approved by the Body.

SECTION 10

Thereafter, Mr. Nollado read Section 10, to wit:

THE CONGRESS MAY PROVIDE FOR REGIONAL DEVELOPMENT COUNCILS COMPOSED OF LOCAL GOVERNMENT OFFICIALS WITH SUCH ADEQUATE POWERS AS MAY BE PRESCRIBED BY LAW, DESIGNED TO ACCELERATE THE ECONOMIC AND SOCIAL GROWTH OF LOCAL GOVERNMENT UNITS.

AMENDMENTS OF MR. DAVIDE

Thereupon, Mr. Davide proposed the following amendments:

- On line 16, change the word "Congress" to PRESIDENT; and "may" to SHALL;
- On line 17, after the word "councils", insert the phrase OR OTHER SIMILAR BODIES;
- On lines 18 and 19, substitute the clause "with such adequate powers as may be prescribed by law" with the clause AND REPRESENTATIVES OF MINISTRIES AND OTHER APPROPRIATE GOVERNMENT OFFICES AND NON-GOVERNMENTAL ORGANIZATIONS WITHIN THE REGIONS FOR PURPOSES OF EFFECTIVE ADMINISTRATIVE DECENTRALIZATION;
- On line 19, before the word "accelerate", insert the phrase STRENGTHEN THE AUTONOMY OF UNITS THEREIN AND TO and on the same line after the word "growth" insert the words AND DEVELOPMENT; and
- On line 20, delete the words "local government" and after the word "units" insert IN THE REGION.

The entire section, as amended, would now read:

THE PRESIDENT SHALL PROVIDE FOR REGIONAL DEVELOPMENT COUNCILS OR OTHER SIMILAR BODIES COMPOSED OF LOCAL GOVERNMENT OFFICIALS AND REPRESENTATIVES OF MINISTRIES AND OTHER APPROPRIATE GOVERNMENT OFFICES AND NON-GOVERNMENTAL ORGANIZATIONS WITHIN THE REGIONS FOR PURPOSES OF ADMINISTRATIVE DECENTRALIZATION TO STRENGTHEN THE AUTONOMY OF THE UNITS THEREIN AND TO ACCELERATE ECONOMIC AND SOCIAL GROWTH AND DEVELOPMENT OF THE UNITS IN THE

REGION.

INQUIRY OF MR. OPLE

Mr. Ople observed that the section speaks of Regional Development Councils (RDCs) and as amended by Mr. Davide, would provide other bodies as may be formed. As to whether the term "Regional Development Councils" would refer to the RDCs utilized by the NEDA as its regional offices under existing arrangements, Mr. Davide noted that at the beginning it could be, although the phrase OR OTHER SIMILAR BODIES may provide for a future situation when the President may decide to establish other regional bodies than those existing.

Mr. Ople stated that the RDC's function is to participate in the planning process through the region as well as a medium for allocating or proposing allocations of infrastructure funds set aside for a region in the budget although such funds would be allocated to component provinces and cities of such region under the parameters set jointly by the MPWH and the NEDA. In view thereof, Mr. Ople inquired whether the amendment would strengthen local autonomy.

In reply, Mr. Davide stated that the amendment would contribute to strengthening local autonomy and it would also be the rationale for providing an additional function — administrative decentralization and acceleration of the economic and social growth and development of the units and the region itself. He added that he had sought to introduce the concept of administrative decentralization as distinguished from political decentralization although both work hand in hand to promote the social and economic development of the component units and the region itself.

Mr. Ople observed that in view of the existing functions of the RDCs, he could not perceive a direct correlation with the administrative decentralization and strengthening of local autonomy unless Mr. Davide would propose augmenting and making more permanent the functions of the RDCs.

REMARKS OF MR. MONSOD

Mr. Monsod informed that since the new government took over, the functions of the RDCs are in the process of being enlarged and that unlike in previous years when there was a top-to-bottom planning, today a bottom-up planning process is being undertaken. He noted that local officials and nongovernmental institutions or organizations are the ones being consulted on the projects and programs to flesh out the framework for economic development. The second part of the planning process, he stated, is the coordinating and monitoring process on how projects and programs are being implemented, with the private sector being part of the monitoring activities.

INQUIRY OF MR. OPLE

Upon inquiry of Mr. Ople whether in the enlargement of the functions of the RDCs, decentralization of administrative services would be included, Mr. Monsod replied that this is one of the expansions of functions they are presently working on in order to implement and concretize decentralization of government functions.

On another query, Mr. Monsod affirmed that the RDC is based on so-called regions that are not invested with the authority and aura of municipal corporations. Mr. Monsod added that it is essentially a coordinative body. He suggested a better definition of RDCs to allow more decentralization in organization and administration of government.

As to whether through the process of strengthening regional planning and consultations, regions which are not recognized in the enumeration of political subdivisions may someday rise to this level, Mr. Monsod noted that it would be possible. He also noted that there are nongovernmental organizations which discussing their role with

the ministries and, hence, are participating and being consulted in the bottom-up planning process.

INQUIRY OF MR. FOZ

To Mr. Foz' observation that Mr. Davide had substituted PRESIDENT for "Congress", Mr. Davide stated that the reason is that when it comes to administrative decentralization, it should really be a presidential function. He stressed that the President should be given greater flexibility because if left to Congress, Congress may not provide for it at all.

MRS. ROSARIO BRAID'S PROPOSED AMENDMENT TO THE AMENDMENT

Mrs. Rosario Braid proposed an amendment to the amendment by adding the following sentence: THE STATE SHALL FURTHER ENCOURAGE THE ESTABLISHMENT OF PRIVATE DEVELOPMENT COUNCILS WHICH WILL COOPERATE WITH THE REGIONAL DEVELOPMENT COUNCILS.

Mrs. Rosario Braid stated that there had been efforts on the part of the private sector to organize themselves to work together with the existing regional development councils.

Mr. Davide pointed out, however, that if this particular section would be approved, the President, in the exercise of her discretionary power, would have to appoint members of the development councils from nongovernmental organizations and that all the sectors would have to be consulted. He further stated that the Article on Social Justice had already recognized the role of people's organizations and that adequate consultative mechanisms had already been provided for.

Mrs. Rosario Braid stated that the concept of national economy is to increase decentralization and lessen centralized planning by lessening the role of the National Economic and Development Authority (NEDA) and letting the private agencies operate the sole engine of growth, although she observed that the concept is not really being absorbed by their regional development councils (RDCs) but by private initiative themselves organizing into their own council and linking with the efforts of the RDCs.

Mr. Davide maintained that the independent regional development councils, at the instance of private initiative, could come in easily under what had been approved in Sections 19 and 20 of the Article on Social Justice. In this regard, he stressed that as worded, all nongovernmental organizations are taken into account in the proposal.

Additionally, Mr. Monsod stated that the manifestations of Mrs. Rosario Braid were meritorious. He reminded the Body, however, that there are other bodies, like the people's economic councils, which are also being organized. In this connection, he stressed that the Commission need not focus on private development councils because there are many types of nongovernmental organizations and to constitutionalize private development councils would veer away from the concept of regional development councils with private sector participation because this would involve government expenditures.

Thereupon, Mrs. Rosario Braid withdrew her amendment to the amendment on the understanding that the concept of coordination and equal role of private organizations are included in Mr. Davide's amendment.

MR. MAAMBONG'S AMENDMENT TO THE AMENDMENT

In reply to Mr. Maambong's query on the composition of the regional development councils, Mr. Davide adverted to local government officials as well as the representatives of ministries and other appropriate government offices and from nongovernmental organizations.

Thereupon, Mr. Maambong proposed to change the word "representatives" to HEADS.

Mr. Davide accepted the amendment to his amendment.

The Sponsor requested that the amendment be submitted to the Body.

The Chair stated that there is nothing controversial in this particular amendment except for the proposal to change "Congress" to PRESIDENT.

RESTATEMENT AND APPROVAL OF

MR. DAVIDE'S AMENDMENT

Mr. Davide restated his amendment, to wit:

THE PRESIDENT SHALL PROVIDE FOR REGIONAL DEVELOPMENT COUNCILS OR OTHER SIMILAR BODIES COMPOSED OF LOCAL GOVERNMENT OFFICIALS AND HEADS OF MINISTRIES AND OTHER GOVERNMENT OFFICES AND REPRESENTATIVES FROM NONGOVERNMENTAL ORGANIZATIONS WITHIN THE REGIONS FOR PURPOSES OF ADMINISTRATIVE DECENTRALIZATION TO STRENGTHEN THE AUTONOMY OF THE UNITS THEREIN AND TO ACCELERATE THE ECONOMIC AND SOCIAL GROWTH AND DEVELOPMENT OF THE UNITS IN THE REGION.

Submitted to a vote, and with 21 Members voting in favor and none against, the amendment, was approved by the Body.

At this juncture, Mr. Davide manifested that the coauthors of his amendment were Messrs. Monsod, Bengzon and Maambong.

MANIFESTATION OF MR. MAAMBONG

Mr. Maambong manifested that with respect to his reservation on Section 14, the word "barrio" should be changed to BARANGAY.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to reduce Sections 11, 12 and 13 into two sections, namely, Sections 11 and 12, to wit:

SECTION 11. LOCAL GOVERNMENT UNITS SHALL HAVE THE POWER TO CREATE ITS OWN SOURCES OF REVENUES, AND TO LEVY, IMPOSE, AND COLLECT TAXES, FEES AND CHARGES, SUBJECT TO THE GUIDELINES AS MAY BE PRESCRIBED BY LAW BUT CONSISTENT WITH THE BASIC POLICY OF AUTONOMY FOR SUCH UNITS, WHICH SHALL ACCRUE EXCLUSIVELY TO SUCH UNITS.

SECTION 12. LOCAL GOVERNMENTS SHALL HAVE AN EQUITABLE AND JUST SHARE, AS MAY BE DETERMINED BY LAW, IN THE NATIONAL TAXES, WHICH SHALL BE PERIODICALLY AND AUTOMATICALLY RELEASED TO THEM, AND IN TAXES, FEES AND CHARGES IMPOSED AND COLLECTED FROM OR OTHER PROCEEDS OF THE EXPLOITATION, EXPLORATION, UTILIZATION AND DEVELOPMENT OF NATIONAL RESOURCES WITHIN THEIR RESPECTIVE AREAS.

Mr. Davide stated that he deleted the second sentence of Section 11 because it is already included in the authority to create its own sources of revenues and to levy, impose and collect taxes, fees and charges.

Responding thereto, Mr. Nollado requested more time for the Committee to further study the proposals on the ground that he found some superfluities with respect to the general rule on the levy of taxes, fees and charges. He opined that this should be separated from each other to recognize the importance of each provision.

AMENDMENT OF MR. DAVIDE, AS MODIFIED

BY MR. MAAMBONG

As proposed by Mr. Davide, modified by Mr. Maambong and accepted by the Sponsor, the Body approved an amendment on Section 14, line 8, to delete the words "unit or".

AMENDMENT OF MR. FOZ

As proposed by Mr. Foz and accepted by the Sponsor, the Body approved the amendment to transpose Section 14 to the Section following Section 3.

PROPOSED AMENDMENT OF MR. PADILLA

On Section 11, Mr. Padilla proposed to reinstate the word "limitations" instead of "guidelines", on the ground that "guidelines" is a sort of perspective directive although it does not give Congress any power to revise or reverse some actions that may be taken by political units in their power of taxation.

Responding thereto, Mr. Nollado stated that the use of the word "guidelines" was in response to the requests of the League of Governors and City Mayors who pointed out that PD No. 231 authorizing local governments to levy taxes is full of limitations and restrictive provisions that the power of governments to tax is, in effect, negated. In this connection, Mr. Nollado requested for the deferment of Mr. Padilla's amendment until the next session, to which Mr. Padilla interposed no objection. He agreed that taxation is a very important and delicate power which may have far-reaching effects and, therefore, from the point of view of local executives, they would want more plenary powers of taxation.

As a rejoinder, Mr. Nollado stated that the power of taxation is subject to well-settled limitations and that they must be for public purposes, uniform, and not confiscatory.

ADJOURNMENT OF SESSION

Thereafter, 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 7:07 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA

President

Approved on August 19, 1986

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