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Saturday, October 4, 1986

OPENING OF SESSION

At 10:02 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Roberto R. Concepcion.

Everybody remained standing for the Prayer.

PRAYER

MR. CONCEPCION: Merciful Father, fountain of all good,
As we look in retrospect
At the work of this Commission
During the last four months,
As we assess the magnitude and quality
Of our individual and collective endeavors,
As we ponder on the nature and significance
Of the conflicts and other obstacles
We have solved and surmounted
In the pursuit of our common objective,
We perceive the magnitude of our debt of gratitude
to You
For the beneficent influence of Your grace,
Our complete dependence upon Your Holy Will
And the bigness of Your Sacred Heart.
We beg You, our Lord and Shepherd, to sustain us,
To provide us with further strength
And impart to us the light of Your wisdom
To the end that we may complete the New
Constitution
In line with the demands of a just, humane

and democratic society,
With the honest conviction and collective will
of the Members of this Convention,
And, as far as practicable,
with the general requirements of
constitution-making.
As we approach the end of our undertaking,
With mixed feelings of joy
In the accomplishment of our mission as a body,
And with the hope and fervent prayer
That our fundamental law
May effectively contribute
to the stabilization of our government,
the promotion of understanding and unity
among the Filipino people,
and of their welfare and prosperity,
As well as of sorrow at the thought
that this Commission must soon be dissolved
and its Members will part ways,
for each to meet his own destiny.
Oh, Lord of Lords, grant us
The grace to reach the finish line
In a spirit of brotherhood and friendship,
Fortified by the feeling
That we have done our level best for country
and the people,
Bolstered up by the common anxieties
and warm associations,
And the enduring pleasure of being together
in the quest for truth and justice,
for freedom, and equality,
and for a lasting peace for all.
For this Constitutional Commission
And its distinguished Officers and Members,
We earnestly pray to You, our Savior and
Redeemer
To extend Your bountiful blessings
That their work of love
and devotion to the Fatherland
may merit due recognition from all.
And, lastly, please accept my heartfelt gratitude
for the courtesies extended to me by the
Commission and its Officers and particularly
for the expressions of personal consideration
and esteem of my dear colleagues in this body,
which I hope to fondly remember and treasure
till the end of my days.
This I ask You, Lord to grant us. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar

Present [*] Natividad Present [*]

Alonto Present [*] Nieva Present

Aquino Present Nollado Present

Azcuna Present Ople Present

Bacani Present [*] Padilla Present

Bengzon Present [*] Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present [*]

Calderon Present [*] Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Absent

Davide Present Sarmiento Present

Foz Present Suarez Present

Garcia Present [*] Sumulong Present

Gascon Present [*] Tadeo Present

Guingona Present Tan Present

Jamir Present Tingson Absent[*]

Laurel Present Treñas Present

Lerum Present Uka Present

Maambong Present Villacorta Present

Monsod

Present [*] Villegas Absent

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I move that we dispense with the reading of the Journal of yesterday's session.

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

APPROVAL OF JOURNAL

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

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

MR. RAMA: Madam President, I move that we proceed to the Reference of Business.

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from former MP Helena Z. Benitez, National President, Girl Scouts of the Philippines, 901 Padre Faura, Manila, submitting, for consideration by the Constitutional Commission, proposed constitutional provisions concerning the child — its role in nation-building and the promotion of its physical, intellectual, moral, emotional and social well-being.

(Communication No. 1043 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter of Mr. Gregorio M. Batalla of Sipocot, Camarines Sur, urging the inclusion in the Constitution of a provision that would mandate the government to give salaries to barangay captains.

(Communication No. 1044 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Ms. Patrocinio del Rosario, President, Aklan Public School Retirees Association, Batan, Aklan, seeking a constitutional provision that would uplift the plight of government retirees, especially the retired public school teachers.

(Communication No. 1045 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Communication from Mayor Baltazar A. Gimolatan of the Municipality of Liloy, Zamboanga del Norte, transmitting Resolution No. 73 of the Sangguniang Bayan of Liloy, fully supporting Resolution No. 130 of the Sangguniang Panlungsod of the City of Dipolog, proposing the creation of a new region to be composed of the Provinces of Zamboanga del Norte, Misamis Occidental, Zamboanga del Sur, the Cities of Dipolog, Dapitan, Oroquieta, Ozamis, Tangub and Pagadian.

(Communication No. 1046 — Constitutional Commission of 1986)

To the Committee on Legislative.

Letter from Mr. Tomas Crisologo Valeros of San Jose Norte, Manabo, Abra, submitting for consideration by the Constitutional Commission a xerox copy of "Constitution for the Republic of the Philippines," written by him.

(Communication No. 1047 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Manuel A. Argel of Vigan, Ilocos Sur, suggesting that in order to resolve the issue of unicameralism and bicameralism, two questions should be asked in the plebiscite — one asking to vote for the approval of the Constitution, and the other, to choose between a unicameral and bicameral legislature.

(Communication No. 1048 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letter from Mr. Juan J. Angeles of 1842 F. Agoncillo St., Malate, Manila, advocating that the President and the Vice-President should submit themselves to the election of 1987.

(Communication No. 1049 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Telegram from Ms. Nelia A. Mitra of Makati, Metro Manila, seeking help for a no-vote to a presidential election.

(Communication No. 1050 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letter from Mr. Romulo M. del Rosario, President, DEHECHO, Inc., Manila City Hall, transmitting a resolution adopted by DEHECHO, expressing several concepts on "The Rights and Protection of Children and Youth and the Rights, Responsibilities and Liabilities of Mothers" for possible inclusion in the Constitution.

(Communication No. 1051 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Vicente T. Ataviado, Maasin, Southern Leyte, suggesting that in presenting the proposed Constitution to the people for ratification, the controversial provisions should be separated from the whole and the voter be made to choose between two contradictory alternatives regarding these selected provisions, after voting yes or no on the general document.

(Communication No. 1052 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 540

(Article on Transitory Provisions)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we resume consideration of the Article on Transitory Provisions.

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

The honorable chairman, Commissioner Suarez; the honorable vice-chairman, Commissioner Ople; and members:

Commissioners de los Reyes, Foz, Padilla, Maambong, de Castro, Sarmiento, Tan, Lerum and Tingson are requested to occupy the front table.

MR. SUAREZ: Madam President.

THE PRESIDENT: The chairman of the committee, Commissioner Suarez, is recognized.

MR. SUAREZ: May we request the Floor Leader to recognize Commissioner Guingona in connection with the new section that is sought to be proposed.

Madam President, our arrangement yesterday was to the effect that we should get through with the proposals contained in the addendum which we have distributed among the Commissioners, but there are only two remaining proposals there — one is in connection with the subject of possible reversion of lands which may have exceeded the percentage of ownership for the area limited under the new Constitution and this is the suggestion of Commissioner Regalado. Right now he is trying to formulate a proposal that may be covering that particular matter.

The other subject matter is the one with respect to the portion in the Article on the Declaration of Principles governing the foreign military bases and we suggest that that can be taken up later together with the two other sections that have been deferred for consideration; namely, Sections 7 and 8 of the original proposal submitted by the Committee on Transitory Provisions — Section 7, referring to the tenure of the incumbent President and the Vice-President and Section 8, governing the Presidential Commission on Good Government Authority.

So with the permission of the Commissioners, may we proceed now to a discussion on the new sections proposed by the individual Commissioners.

MR. RAMA: Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: While Commissioner Regalado is formulating the provision on the National Economy and Patrimony, may I just suggest that he also consider the law on reversion and escheat in the possibility that that formulation which he is making may not be necessary at all if that law on escheat and reversion is considered.

Thank you.

MR. RAMA: In the meantime, I ask that Commissioner Guingona be recognized, Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

The first proposal reads as follows: "CONGRESS SHALL, BY LAW, DETERMINE THE TIME FRAME FOR THE IMPLEMENTATION OF FREE PUBLIC SECONDARY EDUCATION" and this is cosponsored by Commissioners Rosario Braid, Treñas, Gascon, Uka, Foz and this Representation. May I be allowed to explain very briefly, Madam President?

THE PRESIDENT: The Commissioner is given three minutes.

MR. GUINGONA: But before I do this, may I say that in a formal conversation with Commissioner Gascon yesterday, he mentioned that he was thinking of presenting an amendment to this proposal by setting a definite time frame, I think, five or ten years. Commissioner Gascon is here now so I will not make the manifestation for

him.

Madam President, this new section is proposed in compliance with the manifestation made by Commissioner Wilfrido Villacorta, chairman of the Committee on Human Resources, during the deliberation on the provision regarding free public secondary education in response to statements made during the deliberation that the government may not, because of the present economic crisis, be in a position to fully implement the giving of free public secondary education.

Thank you, Madam President.

MR. VILLACORTA: Madam President.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Just to explain our position, Madam President. As chairman of the Committee on Human Resources that presented the Article on Education, Science, Technology, Arts and Culture, I was personally for the immediate implementation of free public secondary education, but since the consensus in this body seems to be that we should allow for the government to be prepared — we should give time to the government to be prepared for providing free public secondary education — the committee promised to present this section in the Article on Transitory Provisions. Therefore, Madam President, I was not the one who sponsored this but I left it to the chairman of the Subcommittee on Education, Commissioner Guingona.

THE PRESIDENT: Does this particular proposal carry the acceptance or approval of the chairman of the Committee on Human Resources?

MR. VILLACORTA: Yes, Madam President. I am giving that consent as the chairman, but as I have said, personally I would opt for immediate implementation.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: May I add that when we speak of the time frame here, the sense of the committee, as manifested during the deliberations, is that the granting or the giving of free public secondary education should be given at the earliest possible time and not at the earliest convenience of government. We are relying on the good faith of the representatives of our people, especially now that our House of Representatives will have the youth as members thereof, to be able to provide for a reasonable time frame, so that our objective that there should be free public secondary education given by the State shall be implemented as soon as possible.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Madam President.

May I propose a minor amendment.

MR. GUINGONA: May we hear the Commissioner's amendment.

MR. SARMIENTO: Yes. In the past, the moment the words "Congress shall by law" appear, we decided to delete the words "by law."

So may I propose just a simple amendment. We delete the words "BY LAW" for purposes of uniformity so that the amendment will read: "CONGRESS SHALL DETERMINE THE TIME FRAME et cetera."

Will that be acceptable?

MR. GUINGONA: We accept, and we thank the Commissioner for this worthy suggestion.

MR. SARMIENTO: Thank you, Madam President; I also thank the Commissioner.

THE PRESIDENT: Is there any other comment? The Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA: The words "BY LAW" have been suggested to be deleted because it is claimed that in previous sections, said words are not inserted. I do not believe that is accurate. We have precisely provided in many sections the phrase "by law," and the only way Congress can act is only by law or by statute.

So, I object to the elimination of the words "BY LAW."

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Could we leave this to the Committee on Style, Madam President? In the meantime, the committee accepts the deletion of "BY LAW." We leave it to the chairman and members of the Committee on Style to find out whether they should realign this with all other provisions which contain "BY LAW."

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Commissioner Nollado informs me that in the Committee on Style, they have deleted on at least one occasion the words "BY LAW." So it could really be left to the Committee on Style.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Because of the immediacy of the need to implement this provision on free public secondary education, may we suggest to put the words "THE FIRST" before the word "CONGRESS," so it will read: "THE FIRST CONGRESS SHALL DETERMINE . . ."

MR. GUINGONA: We accept and we also thank the Commissioner for this very good suggestion.

MR. SUAREZ: May we also suggest that instead of using the phrase "TIME FRAME," the word "PERIOD" should be utilized.

MR. GUINGONA: It is accepted.

MR. SUAREZ: So, as proposed, the whole section will now read: "THE FIRST CONGRESS SHALL DETERMINE THE PERIOD FOR THE IMPLEMENTATION OF FREE PUBLIC SECONDARY EDUCATION."

MR. GUINGONA: Yes.

MR. SUAREZ: Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I propose an amendment? Before the word "IMPLEMENTATION," insert the word

"FULL." So, the time frame is for the full implementation. But we should begin immediately with providing for free education; it may not be all over the country yet.

MR. GUINGONA: Yes. As a matter of fact, I think there must be a typographical error here because the original submission was for full implementation. We thank the Commissioner for his proposal.

THE PRESIDENT: What does the committee say?

MR. SUAREZ: The committee accepts, Madam President.

THE PRESIDENT: For the full?

MR. SUAREZ: For the full implementation.

MR. GUINGONA: Yes, Madam President. If I may be allowed to say so, even now, there is already implementation. So, what is meant here is full implementation. I think there must have been something wrong with the papers submitted. But that was the original proposal.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: May I ask Commissioner Guingona the implications of this for existing barangay high schools.

MR. GUINGONA: This will not affect the barangay high schools, if they are already existing. We are talking of the creation of more high schools where there are none.

MR. BENNAGEN: In other words, barangay high schools would go on offering free high school education.

MR. GUINGONA: Yes.

MR. BENNAGEN: Thank you, Madam President.

THE PRESIDENT: Are we ready to vote now? Will Commissioner Guingona, please read the reformulation?

MR. GUINGONA: Madam President, may we ask the honorable chairman of the committee to read the reformulation?

MR. SUAREZ: Thank you.

It would read like this: "THE FIRST CONGRESS SHALL DETERMINE THE PERIOD FOR THE FULL IMPLEMENTATION OF FREE PUBLIC SECONDARY EDUCATION."

MR. GUINGONA: Madam President, before we vote, may I manifest that Commissioners Nollado and Davide are also the cosponsors of this amendment.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Will the sponsor agree to change the word "FULL" to "ADEQUATE"?

MR. GUINGONA: I am sorry, but we feel that there should be a full implementation of this provision as we also envision full implementation as far as the granting or the giving of free public elementary education is concerned.

MR. PADILLA: Yes, the free secondary education is a desirable end in the public schools. But suppose the

resources of the government are not adequate?

MR. GUINGONA: That is why we are allowing Congress to determine.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

If we want to convey the exact sense of the Commission concerning this, should we not say that Congress shall give priority to the implementation of the free secondary education, that is to say, the First Congress?

MR. GUINGONA: Yes, that would be even better; however it is already with the committee but we have no objection to that proposal.

MR. OPLE: Madam President, just to continue for a few seconds. Among the new provisions of this Constitution, none has excited more hopes and expectations since its passage than free secondary education.

It is possible that the First Congress will run into multifarious obstacles and, therefore, if we want to ensure real priority for this in the First Congress, we should say so. Hence, I seek the committee's kind consideration of the proposed amendment which says: "THE FIRST CONGRESS SHALL GIVE PRIORITY TO THE FULL IMPLEMENTATION."

MR. GUINGONA: We are talking of a time frame. Madam President, I have no objection to the proposal of Commissioner Ople although I think the priority is already expressed when we state in our Constitution that education should have the highest budgetary priority.

MR. OPLE: The priority expressed in the Article on Education, Madam President, is for education in general and for teachers in particular in terms of the budget. This is going to be essentially a budgetary constraint and unless we assert the priority for it, in the mandate to Congress in the Transitory Provisions, there will be many more competing claims on that budget. And, therefore, perhaps it can be so amended that it will read: "THE FIRST CONGRESS SHALL GIVE PRIORITY IN DETERMINING THE PERIOD FOR THE FULL IMPLEMENTATION OF FREE SECONDARY EDUCATION."

MR. GUINGONA: Madam President, we have no objection to that because our observation earlier was that we would not want a provision that would speak of priority to the giving of free public secondary education since this is already expressed in a previous provision but this provision would refer only to the time to be fixed and, therefore, we have no objection. But as I said, this is already within the committee's jurisdiction.

MR. OPLE: Subject to style, Madam President.

THE PRESIDENT: What does Commissioner Suarez say?

MR. SUAREZ: Madam President, may the committee reformulate this particular section now. It should read: "THE FIRST CONGRESS SHALL GIVE PRIORITY IN DETERMINING THE PERIOD FOR THE FULL IMPLEMENTATION OF FREE PUBLIC SECONDARY EDUCATION."

MR. GUINGONA: Yes.

MR. SUAREZ: I think that would reflect both the thinking of Commissioners Ople and Guingona.

THE PRESIDENT: Is it acceptable to all the proponents?

MR. GUINGONA: We accept.

THE PRESIDENT: Are we ready to vote now?

MR. RAMA: Madam President, just one comment.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: May I just ask a few questions. Is it possible that the First Congress may set a period which will extend beyond the term of the First Congress so it will bind the Second Congress?

MR. GUINGONA: Yes.

MR. RODRIGO: How can the First Congress foretell that during the Second Congress there will already be enough funds for the full implementation of this provision?

MR. GUINGONA: The First Congress will have enough time to make a study and we are assuming that the enactment of the enabling act would be in consonance with the study to be made.

MR. RODRIGO: Let us say that the First Congress decides that the full implementation must be ten years later; so, it might bind even the Third Congress?

MR. GUINGONA: Yes.

MR. RODRIGO: And suppose the Third Congress says: "We do not have enough funds for the full implementation." Will there be a sanction against the Third Congress?

MR. GUINGONA: There will be no sanction, but there will be that moral obligation, even a legal obligation, since this is already a provision of law.

MR. RODRIGO: How can that obligation be enforced?

MR. GUINGONA: The enforcement will be effective not so much by Congress. It would be by the executive. The implementation will be done by the executive department through the Ministry of Education, Culture and Sports and may I manifest that it is the opinion expressed by Minister Quisumbing herself that within a few years free public secondary education could be implemented.

MR. RODRIGO: I am speaking of Congress, the Third Congress, in case the period for full implementation, as determined by the First Congress, happens to fall on the Third Congress. The implementation will, of course, be by the President, but the appropriation will be by Congress.

Suppose there is not enough money and the Third Congress says, "We are sorry; there is not enough money." Can it be compelled?

MR. GUINGONA: There are provisions that are found in the Constitution like the elementary education which is not fully implemented although the construction that has been given to this is full implementation. So that failure to do this because of unavoidable circumstances could perhaps be justified.

MR. RODRIGO: Thank you very much.

MR. RAMA: Madam President, I have just two questions for the proponent.

THE PRESIDENT: The Commissioner may proceed.

MR. RAMA: In using the words "FULL IMPLEMENTATION" does the Commissioner realize fully the reality of our economic situation now?

MR. GUINGONA: Yes.

MR. RAMA: There is a gap between intention and reality. Does not the Commissioner think that it would be much better if the Congress could implement 50 or 70 percent for giving free public education? If we say "FULL IMPLEMENTATION," it might be very hard to set up a time for full implementation. I think we should define now because I thought that under the situation and in the face of reality, probably, a 50 percent or 60 percent implementation or 80 percent implementation would be much better than no time frame at all because we are calling for full implementation.

MR. GUINGONA: As I said, we are already implementing. And it is no less than the Minister of the Ministry of Education, Sports and Culture who says that this can be realized in the foreseeable future. Besides, the words "FULL IMPLEMENTATION" is a relative term. It does not mean that we have to provide free secondary education to all the youths, because there will be those who would want to go to private educational institutions.

MR. RAMA: The Commissioner is introducing a new meaning to the word "FULL."

MR. GUINGONA: No, that is the meaning as conceived now by the education sector, by the academe. When we talk of elementary education, we are not talking of education for all. As a matter of fact, we stated during our deliberations that we are against monopoly by the government precisely because we would want those students and their parents to be able to choose where they would go, whether to public educational institutions or to private educational institutions.

MR. GASCON: Madam President.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: In response to the Commissioner's question, when we say "FULL IMPLEMENTATION," what we mean is the intent of what we approved in the Article on Education. We realize that there are a lot of constraints considering the present situation. What we are mandating Congress to do is to set the reasonable schedule, which is realistic, for its full implementation as mandated in the article. So, that would mean that it could say hypothetically that after 10 years it shall have been able to implement the intent of full free public secondary education. Within that 10 years, it could perhaps say that within five years, the percentage of implementation is 80 percent; within 7 years, 90 percent and then by the tenth year, 100 percent. That can be done by Congress based on the prevailing realities.

MR. GUINGONA: As a matter of fact, Madam President, this is a compromise because the actual stand of the committee, both the Committee on Human Resources and the Subcommittee on Education, is for the immediate implementation.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: The observation of Commissioner Rama is justified under the formulation that is being proposed now. It is as if we are saying that we will not allow anything less than the full implementation of free public secondary education such that, I would reiterate the proposal of Commissioner Padilla, instead of "FULL," we use the qualifier "ADEQUATE" if only to avoid this kind of an interpretation. It approximates best the intention of the committee and this Commission.

MR. GASCON: May I answer?

THE PRESIDENT: Commissioner Gascon may proceed.

MR. GASCON: The intent of our Article on Education is for the implementation of a system of free public elementary and secondary education. Not adequate secondary education means not full. What we are intending is full implementation. But what we are referring to now is the time frame; that is what should be adjusted. The intent of providing free public secondary education is clear. We are not saying that we shall achieve only 90 percent of that, but that we shall provide for such. But Congress shall provide the term.

THE PRESIDENT: In other words, Commissioner Gascon, this particular proposed amendment leaves to Congress the time frame to determine when and how this free public secondary education can be fully implemented, if possible.

MR. GASCON: Yes.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

This is just a question for the proponent.

The Commissioner stated a while ago that this may mean partial implementation, say, 40 percent this year, et cetera. How does the Commissioner intend to implement this? Will it be implementation in one high school in a certain town and nonimplementation in another high school in the next town?

MR. GASCON: The goal is for full implementation but it cannot be done in one shot, so Congress is given the freedom to determine the schedule, the program and manner of implementation. What the Commissioner is saying is possible. Perhaps, we could say that we shall implement free public secondary education for the first two years in Luzon and then later in the Visayas, and then later in Mindanao. That is a possibility. There are other possible scenarios that could be considered by the Congress depending on the realities prevailing. What is intended here is that we give Congress the mandate to set the schedule towards achieving the intent, but we give them the freedom as to how to achieve that intent.

MR. DE CASTRO: Will it not be unfair? For example, my place, Sta. Rosa, Laguna, has a public high school which is five kilometers from my own hometown which has another high school. If it is only for 50 percent implementation, will the Commissioner give free secondary education in the high school in Biñan and not in Sta. Rosa? Is that not unfair?

MR. GASCON: In the short run it would be unfair. This is just one example, a hypothetical question; in fact, that could be a possibility and the Congress could think of other ways. The whole point is, the intent is to provide for full implementation of free public secondary education. How to program that is the problem of Congress. In the short run, perhaps it would be unfair but in the long run it is intended to achieve much. We could always say it is unfair that there are so many roads in Metro Manila while there are no roads in the provinces. The whole point is we are providing Congress the freedom to achieve that goal.

MR. DE CASTRO: Or will it not be fair if we say 50 percent implementation, then all high schools will be free only for 50 percent? For example, the tuition fee is P200; they will be free only for 50 percent — so that will be P100. All high schools will have the same treatment.

THE PRESIDENT: That is being lodged in Congress, is it not? So we will leave it to Congress.

MR. GASCON: Yes, Congress can also do that.

MR. GUINGONA: Madam President, under our proposal it is precisely this Congress that will do this after study,

and we envision that they will ask the participation of the ministry which would be able to identify which areas would need high schools most.

THE PRESIDENT: That is very clear from the wording of the proposed amendment.

Are we now ready to vote? Will the committee chairman please read the proposal?

MR. SUAREZ: Thank you, Madam President.

The proposal reads: "THE FIRST CONGRESS SHALL GIVE PRIORITY IN DETERMINING THE PERIOD FOR THE FULL IMPLEMENTATION OF FREE PUBLIC SECONDARY EDUCATION."

VOTING

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

As many as are against, please raise their hand. (Few Members raised their hand.)

As many as are abstaining, please raise their hand. (Five Members raised their hand.)

The results show 20 votes in favor, 7 against and 5 abstentions; the proposed section is approved.

MR. PADILLA: Madam President.

THE PRESIDENT: The Vice-President is recognized.

MR. PADILLA: I am in favor of the section but I am against the word "FULL" and suggest the word "ADEQUATE."

THE PRESIDENT: The next section, please.

MR. SUAREZ: Madam President, may we request that the Honorable Guingona be recognized for one of the new sections to be proposed.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

The second proposal is made by Commissioners Foz, Rigos, Uka, Tingson, Nollado, Azcuna, Abubakar and this Representation, and the proposal is as follows: "THE PRESIDENT MAY ALLOW THE INCUMBENT CHIEF-OF-STAFF WITHOUT REGARD TO HIS RETIREABILITY TO SERVE THE FULL THREE-YEAR MAXIMUM TOUR OF DUTY."

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: May I please explain? The way the proposal is formulated appears to be a motion for reconsideration because on September 30, we approved under Section 12(6) the tour of duty of the Chief of Staff. If it is a motion for reconsideration, it has already passed the period upon which such motion should be submitted because we approved this provision on September 30, 1986. Madam President, suppose the Chief of Staff were appointed today and were to be retired tomorrow, the Commissioner's question was whether he would continue his position as Chief of Staff. I said I had answered the same question the last time we were talking of Section 12(6). I said that the tour of duty of the Chief of Staff is separate from his retireability. So that if he is appointed as Chief of Staff today by the President and he retires tomorrow, he shall have completed, unless sooner relieved

by the President, his three-year tour of duty. In short, retireability is not a problem now because he is given a tour of duty or a period of duty as contemplated in Section 12(6). So, this provision is no longer necessary under that explanation aside from the fact that it is actually a motion for reconsideration.

MR. GUINGONA: Madam President, may I be allowed to explain the proposal that I have just read?

THE PRESIDENT: The Commissioner will please proceed.

MR. GUINGONA: Before I do that, Madam President, may I manifest that with regard to the first proposal, Commissioner Ople is also one of the cosponsors.

Madam President, in drafting the new section, the proponents did not give any weight to the fact that it was the stand taken by the incumbent Chief of Staff, together with the Minister of National Defense, that served as the spark which resulted in the illuminating events of February this year.

The EDSA event, as well as other occurrences including the aborted coup by the so-called loyalists, however, shows that the incumbent Chief of Staff has a firm grip of the Armed Forces of the Philippines. One reason that we have is pragmatic and down-to-earth: the serious insurgency problem which confronts our country. The seriousness of the crisis is not only reflected by the many provincial encounters but by the fact that the rebels have gone as far as penetrating the Metro Manila area. Not long ago, a group of rebels was raided in a house not far from Camp Aguinaldo resulting in the death of two officers. But the primary reason for this proposal is precisely to give effectivity to what the distinguished chairperson of the Subcommittee on the Military had said a while ago, that during the deliberations when we discussed the provision on the tour of duty of the Chief of Staff, he made the manifestation that he mentioned earlier. He said that if a Chief of Staff is appointed today and tomorrow he is retireable, he can still continue his tour of duty.

MR. DE CASTRO: Yes.

MR. GUINGONA: But we respectfully submit that first of all, this is open to doubt, even assuming that this is the sense of the committee and considering the fact that if we recall correctly, there was no objection from the Members of the Commission. But this manifestation of the honorable chairman is in doubt as pointed out by Commissioner Aquino.

MR. DE CASTRO: The Commissioner is talking of persons. We are talking here of the Constitution.

MR. GUINGONA: The text of the provision is the final or controlling version and the committee's sense is only a secondary source for purposes of interpretation and construction.

THE PRESIDENT: In other words, the Commissioner just wants to play safe?

MR. GUINGONA: Yes, Madam President.

Just one more point, Madam President.

The manifestation by the honorable chairman was made after this Commission had disapproved a provision that would make retireable officers subject to retirement without exception. We deleted that before a reconsideration was made.

MR. DE CASTRO: Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: We will suspend the session for a few minutes.

It was 10:53 a.m.

RESUMPTION OF SESSION

At 10:56 a.m. the session was resumed.

THE PRESIDENT: The session is resumed.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: During the recess, honorable Commissioner de Castro and I agreed that I would express my doubts and he will just express his objections and if the committee would not accept, we will just ask that it be put to a vote.

I think both Commissioner de Castro and I agree on the proposition that the incumbent Chief of Staff should continue even if he is retireable for three years from the time that he was appointed Chief of Staff. There is no conflict there although, of course, Commissioner de Castro was asking why it is only limited to one. If we could ask for a reconsideration, we probably would ask for it because our doubt, which I have explained, is that, first of all, this matter of the extension of the tour of duty of a retireable Chief of Staff — a Chief of Staff whose term as an officer is already ended — is only expressed in the sense of the chairman of the subcommittee and, therefore, if the text is clear that the officer is retireable and the requirement is that there should be no exception, then it is the provision of nonexception that will apply. There will be, therefore, two conflicting provisions which may bring about doubt. One provision says the tour of duty of the Chief of Staff will be three years, but the Chief of Staff is also an officer. So, when he is retireable, then he should retire without exception because we did not say in the provision on the tour of duty of the Chief of Staff that it will be with the exception of a Chief of Staff who is on his tour of duty; there is no exception provided. Aside from that, Madam President, as I pointed out previously before honorable Commissioner de Castro made his manifestation, we had precisely deleted the provision that there should be no exception. This action of the Commission was reconsidered upon motion of Commissioner Bernas and it was subsequently approved, but the approval came after the manifestation of Commissioner de Castro.

THE PRESIDENT: I am sorry I have to interrupt, but I think that is very clear already from all the manifestations.

MR. GUINGONA: Yes.

Thank you very much, Madam President.

THE PRESIDENT: Does Commissioner de Castro insist on his objection?

MR. DE CASTRO: The approved section, Section 12(6) is progressive in application. As I say, this constitutional provision does not refer to persons. If the Honorable Guingona is talking about the present Chief of Staff, General Ramos, then please recall that General Ramos became Chief of Staff of our Armed Forces sometime in February 1986 when our incumbent President became President. That means General Ramos, beginning February 1986, has three years to be Chief of Staff and he may even be extended based on the second sentence of Section 12(6):

However, in times of war or other national emergency declared by Congress, the President may extend such tour of duty.

So to my mind, Madam President, this paragraph of the proposed provision for Transitory Provisions is no longer necessary.

THE PRESIDENT: I think that is clear. Are there any other comments? Are we ready to vote?
Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to propound a question to the proponent. When the Commissioner says "incumbent," that means incumbent as of the date of ratification of this Constitution. Is it not?

MR. GUINGONA: Yes.

MR. RODRIGO: Considering the inscrutable mandates of fate, it is possible that on the date of ratification of this Constitution, it might no longer be General Ramos who is the Chief of Staff.

R. GUINGONA: Yes.

MR. RODRIGO: So that will apply also to whoever is the Chief of Staff.

MR. GUINGONA: Yes, Madam President. But speaking of inscrutability, we are not even sure that the Constitution would be ratified, if that is the way the Commissioner's thinking is. I mean we are presuming that the Constitution would be ratified and we are assuming that the incumbent would still be incumbent.

MR. RODRIGO: We have to start from the presumption that the Constitution is ratified. If the Constitution is ratified, then "incumbent," as the Commissioner said, would mean the one who is incumbent on the date of the ratification; it is not General Ramos who is the Chief of Staff.

MR. GUINGONA: Yes, Madam President.

MR. RODRIGO: In that case, will this be applicable to the Chief of Staff?

MR. GUINGONA: Yes, Madam President.

MR. RODRIGO: Thank you.

MR. GUINGONA: Thank you.

THE PRESIDENT: Are we ready to vote?

Commissioner Romulo is recognized.

MR. ROMULO: I want to oppose this amendment because it involves internal contradictions. We adopt a rule of a three-year limitation except in national emergencies as expressed by Congress. In the next breath we want to create an exception. Secondly, no man is indispensable. If it is time for him to retire under the constitutional rule we have just made, then let him retire. Thirdly, there is a great dispute here about including the term of the very President. And here we are going to constitutionalize an exception for a mere Chief of Staff. So, Madam President, I do not think this is necessary at all for the reasons I have expressed.

MR. GUINGONA: Madam President.

THE PRESIDENT: Are we ready to vote now?

MR. GUINGONA: Just one word, Madam President, regarding the national emergency that Commissioner Romulo was talking about.

THE PRESIDENT: The Commissioner may proceed.

MR. GUINGONA: Obviously, there could not be a declaration of a national emergency because we still do not have the Congress. But I have spoken about the serious insurgency problems.

Thank you, Madam President.

MR. MAAMBONG: May we ask for a vote?

THE PRESIDENT: Will the Commissioner please read the proposed amendment?

MR. MAAMBONG: The proposed amendment is: "THE PRESIDENT MAY ALLOW THE INCUMBENT CHIEF-OF-STAFF, WITHOUT REGARD TO HIS RETIREABILITY, TO SERVE THE FULL THREE-YEAR MAXIMUM TOUR OF DUTY."

We ask for a vote, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I would like to know what the reaction of the committee is.

THE PRESIDENT: The Committee Chairman is recognized.

MR. SUAREZ: We regret that the Committee cannot accept the proposed amendment, Madam President.

THE PRESIDENT: So the Committee is leaving it to the body.

MR. SUAREZ: Yes, Madam President.

MR. PADILLA: In line with the observations of Commissioners de Castro and Romulo, among others, I move for the deletion of this section.

VOTING

THE PRESIDENT: It is not in the committee report; we will just record that as an objection.

As many as are in favor of this proposed amendment about the incumbent Chief of Staff, please raise their hand. (Few Members raised their hand.)

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

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

The results show 9 votes in favor, 24 against and no abstention; the proposed amendment is lost.

The Floor Leader is recognized.

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

MR. DAVIDE: This is the third in the proposed new section. It reads: "SEC. _____. ALL EXISTING TREATIES OR INTERNATIONAL AGREEMENTS WHICH HAVE NOT BEEN RATIFIED BY THE BATASANG PAMBANSA BECAUSE OF SECTION 16 OF ARTICLE XIV OF THE 1973 CONSTITUTION SHALL REMAIN VALID UNTIL DISAPPROVED BY THE SENATE." May I know the reaction of the committee?

MR. GUINGONA: Madam President, may I propose an amendment to the amendment?

THE PRESIDENT: Will Commissioner Davide please explain?

MR. MAAMBONG: May I just propound a question to Commissioner Davide, Madam President, to clarify the matter? When the Commissioner talks of existing treaties or international agreements under Section 16 of Article XIV of the 1973 Constitution, is he talking of treaties or international agreements which were entered into by the President by way of an exception because the rule is that treaties are supposed to be concurred in by Congress? Under this specific article in the 1973 Constitution, it was the President who was given the authority by way of exception to enter into international treaties or agreements.

MR. DAVIDE: That is correct, Madam President, because Section 16, originally Section 15 before the amendment, of Article XIV of the 1973 Constitution was to me a constitutional freak. It was an anomaly.

And so I felt that the authority to ratify treaties or international agreements is a legislative authority but under the 1973 Constitution, an abnormal exception was given. So my proposal is, we restore to the new Congress or the new Senate the authority to review it in a sense that that would remain valid until the Senate shall stamp its disapproval on that particular treaty.

MR. MAAMBONG: Yes, the committee was about to go to that point. The committee is actually concerned only on the last portion of the proposed section which says "UNTIL DISAPPROVED BY THE SENATE." The committee is wary as to the result of the disapproval by the Senate of such treaties or international agreements validly entered into by the President at that time because he had the treaty-making power. So, we would just like to ask what would be the possible effect of such disapproval by the Senate in our existing treaties or international agreements with other countries.

MR. DAVIDE: If it would be disapproved by the Senate, then it is rendered ineffective and without force.

MR. RAMA: Madam President.

THE PRESIDENT: Is Commissioner Maambong through?

MR. MAAMBONG: Yes, Madam President.

THE PRESIDENT: Commissioner Rama is then recognized.

MR. RAMA: Madam President, there were a lot of agreements or renegotiations of the military bases agreement since 1973 up to now. Are these agreements contemplated as embraced in the words "EXISTING TREATIES OR INTERNATIONAL AGREEMENTS"?

MR. DAVIDE: Technically speaking, yes, although the mutual bases agreement was merely considered as an executive agreement. I believe that really is a treaty.

MR. RAMA: I understand that during these renegotiations since 1973, we were supposed to get several millions of dollars as rental or as aid, whatever it is. So what would be the effect if this is disapproved by the Senate?

MR. DAVIDE: The disapproval will not have a retroactive effect.

MR. RAMA: But the monies that were supposed to be secured through these renegotiations have not yet been fully paid. So what would be its effect on the monies that have not yet been paid to us?

MR. DAVIDE: If they represent payments for arrears in rentals, they could still be collected because in the meantime, the other contracting party enjoyed the benefits under the agreement.

MR. RAMA: Is the Commissioner not unnecessarily complicating the problems of the country and the President with this kind of provision?

MR. DAVIDE: The idea here really is just to accord the new Senate the authority to review all these agreements

entered into by the deposed President under an anomalous provision of the 1973 Constitution.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: May I direct a question to the honorable proponent of this new section.

If, as the Commissioner said a while ago, he was referring only to existing treaties or international agreements entered into by the deposed President, would it not be better to indicate such so that it will not cover treaties that were entered into validly before the former President became a dictator?

MR. DAVIDE: Before he became a dictator, he could not enter into any treaty without the concurrence of the Senate.

MR. GUINGONA: Yes, but he might have entered into some treaties that were not acted upon.

MR. DAVIDE: Which he ratified himself?

MR. GUINGONA: Yes, which he ratified himself. Is that also a subject of this very broad provision?

MR. DAVIDE: If the treaty was entered into before the proclamation of martial law and the Senate did not act on it because it had been abolished by then and the President approved it under Section 15, now Section 16 of Article XIV, then that would be covered by my proposal.

MR. GUINGONA: But because this is a very broad provision, would this also include treaties?

MR. DAVIDE: This provision is not broad; it refers only to treaties or international agreements entered into by the President pursuant to Section 16 of Article XIV of the 1973 Constitution.

MR. GUINGONA: I was thinking of treaties that might have been entered into before Mr. Marcos came into the presidency.

MR. DAVIDE: I answered that already.

Before the 1973 Constitution, treaties can only become valid if ratified by the Senate.

MR. GUINGONA: May I propose an amendment to the Commissioner's proposed section.

MR. DAVIDE: At the proper time. I think there are still interpellators.

MR. GUINGONA: Thank you.

MR. AZCUNA: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Madam President.

May I ask this question of the proponent.

This refers to those treaties and international agreements entered into by way of an exception under the provision in the 1973 Constitution on national economy where the President, in the national interest, may enter into treaties or international agreements without the concurrence of the National Assembly. Is that correct?

MR. DAVIDE: That is correct, Madam President.

MR. AZCUNA: And the Commissioner would want that these treaties, although valid at the time they were

entered into, would now be subject to disapproval by the Senate?

MR. DAVIDE: It would require disapproval. If it is not disapproved, it will remain valid.

MR. AZCUNA: Would that not be against our international commitments since that would be a unilateral action on the part of one party to one of the contracting states without consultation or agreement by the other state in modifying or abrogating an existing agreement?

MR. DAVIDE: I understand that we have also a settled rule in international law regarding abrogation or modification of treaties. And it is with more reason that it should be made applicable to us because that particular treaty which the Commissioner may have in mind was entered into by only one man under a very questionable Constitution.

MR. AZCUNA: Does the Commissioner also agree that under our legal system, a statute can amend a treaty in the same way that a treaty can amend a statute?

MR. DAVIDE: Yes.

MR. AZCUNA: So that whichever comes later can amend or repeal the other.

MR. DAVIDE: That is correct.

MR. AZCUNA: So, even without this provision, Congress may pass a law inconsistent with an existing treaty and thereby repeal that treaty, as far as our internal municipal legal system is concerned.

MR. DAVIDE: That may be a very circuitous process. Under our proposal, we immediately give the Senate the authority to review these treaties or international agreements and to disapprove the same if they are not consistent with national interest or the public good.

MR. AZCUNA: Would the Commissioner agree to an amendment at the proper time to read: "ALL SUCH EXISTING TREATIES SHALL NOT BE RENEWED OR EXTENDED WITHOUT THE CONCURRENCE OF THE SENATE" so that it will refer to the renewal or extension of these treaties or international agreements rather than to their continuing validity under the agreed term?

MR. DAVIDE: That would be a very happy compromise.

MR. AZCUNA: Thank you, Madam President.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

Will the Gentleman from Cebu yield to interpellations?

MR. DAVIDE: Very willingly, Madam President.

MR. NOLLEDO: To be specific, the Commissioner's proposal covers only treaties or international agreements which were entered into by the President pursuant to Section 16 of the 1973 Constitution which says that any provision of paragraph 1, Section 14 of Article VIII — meaning, ratification by the National Assembly — and said article notwithstanding — meaning, under this provision, the President can disregard the provisions on the Article on National Economy and Patrimony — the President may enter into international treaties or agreements as the national welfare and interest may require.

I am reminded that at one time the Commissioner interpellated me with respect to the American bases and he said during the interpellations that the 1973 Constitution is null and void because it was not duly ratified by the people. Does the Commissioner remember that?

MR. DAVIDE: I remember that vividly.

MR. NOLLEDO: Therefore, if the Commissioner is consistent with his statement that the 1973 Constitution is null and void, these existing treaties or international agreements are likewise null and void because they have no constitutional basis. Would the Commissioner agree with that?

MR. DAVIDE: The Commissioner is correct in that respect, but we know for a fact that insofar as our position on the military bases is concerned, we were overturned by a decision. And it is in the light of this decision that we allow some degree of respect for such an agreement until disapproved by the Senate.

MR. NOLLEDO: I think the Commissioner can still be consistent with his statement that the 1973 Constitution is null and void because it seems to me that his proposal would like to validate these existing treaties or international agreements for purposes of complying with international commitments.

MR. DAVIDE: Yes, but subject to the disapproval by the Senate.

MR. NOLLEDO: And, therefore, because it is subject to the disapproval by the Senate, the Commissioner can allay the fears of Commissioner Rama that all these treaties or international agreements may be disapproved because, after all, the Senate may apply this provision of Section 16 by taking into account the issue or question of whether these treaties or international agreements were really dictated by the national welfare and interest. Would the Commissioner agree with me?

MR. DAVIDE: There will be 24 Senators of different minds; I do not know what would be the thinking of each of them.

MR. NOLLEDO: With respect to that, would the Commissioner say that that principle in public international law, that *rebus sic stantibus*, may apply in the situation referring to treaties or international agreements referred to in the Commissioner's amendment because we will have a new Constitution? Would the Commissioner agree with me?

MR. DAVIDE: Definitely, not only in the light of the present circumstances; it could even be in the light of the circumstances at the time of the execution of the contract; meaning to say that it was not really in accordance with public interest or the general welfare because it was a decision of the dictator.

MR. NOLLEDO: Even if the Commissioner stated that he cannot divine the sentiments of 24 Members of the Senate, would the Commissioner suggest to them that in the review of these treaties or international agreements they consider whether the national welfare and interest mandated by Section 16 of the 1973 Constitution would be served by continuing these treaties or international agreements?

MR. DAVIDE: Did I get it correctly that I suggest to them?

MR. NOLLEDO: No. What I mean is, would the Commissioner suggest a basis for the review of these treaties or international agreements when they come into consideration by the forthcoming Senate?

MR. DAVIDE: I will cross the bridge when I come to it, but I know for a fact that many of these international agreements did not really take into account the interest and welfare of the entire Filipino people.

MR. NOLLEDO: Thank you.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: In view of the proposed amendment to the new section by Commissioner Azcuna which Commissioner Davide, I understand, has accepted, there is no need for me to introduce my own amendment. But I would like to express my reservation regarding a manifestation made by both Commissioners that a later law could repeal a treaty precisely because while talking about the provision regarding the adoption of the principles of international law as part of the laws of our country, I said that perhaps we should be clarified. If it is adopted also as part of the fundamental law, the legislature, the Congress, may not be able to repeal.

MR. DAVIDE: What we adopted are only the generally accepted principles of international law.

MR. GUINGONA: I am just referring to my previous manifestation.

Thank you.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. DAVIDE: Willingly, Madam President.

MR. OPLE: Is this amendment equivalent to proposing a selective repudiation policy for all treaties and international agreements entered into without the concurrence of the National Assembly?

MR. DAVIDE: I would not know what would be the guidelines of the Senate. I think if we approve this proposal, all such international agreements and treaties would be reviewed by the Senate in the light of the circumstances attending its execution, its effects on the people in general and policies of the leadership.

MR. OPLE: This is equivalent, as I see, it, to a general reopening of every single treaty and international agreement, including executive agreements entered into without the concurrence of the National Assembly.

MR. DAVIDE: Generally, yes.

MR. OPLE: Would this include, for example, the agreements covering the foreign loans of the Philippines usually achieved through an exchange of notes, including the letter of intent of the Philippine side which is subject to concurrence or approval by the Board of the IMF and the World Bank?

MR. DAVIDE: I understand that this is merely covered by executive agreements and, therefore, it will not be included. What are included are treaties and international agreements.

MR. OPLE: With the Commissioner for such a very radical change in policy, I suppose he has considered this very carefully.

MR. DAVIDE: Yes, Madam President.

MR. OPLE: And that because of the seriousness of his proposal, he could have obliged himself to bring to this Commission a list of such treaties and international agreements that are considered wholly onerous to the Filipino people to a degree that a blanket reopening for Senate review and consideration will be warranted.

Can the Commissioner name any such onerous agreements?

MR. DAVIDE: I remember very well when we were still in the interim Batasang Pambansa that the President approved this Treaty of Amity, Navigation, Commerce, etc. with Japan which earlier was rejected by the

Philippine Senate.

MR. OPLE: Would the Gentleman have wanted the government at that time, in the absence of a regular assembly, to forego completely the opportunity to negotiate such an agreement with the Japanese?

MR. DAVIDE: The Batasang Pambansa was already in existence when the President approved this particular treaty of peace, commerce, navigation and so on with Japan.

MR. OPLE: Does the Gentleman recall any other onerous treaties and agreements?

MR. DAVIDE: I understand that there were certain agreements involving treaties, but I do not think that the Senate will just stamp its disapproval on treaties which are not onerous.

MR. OPLE: Would this include the international covenant on social and political rights and the covenant on economic rights?

MR. DAVIDE: I do not think so because, like the international labor organization agreements, some were approved during the time of President Marcos.

MR. OPLE: I do not have the data with me.

MR. DAVIDE: I do not think that this will involve onerous conditions against the Philippines. What may be considered onerous would be agreements or international treaties which might have been entered into by the dictator in violation, for instance, of settled policies or constitutional policies on our national patrimony and our national economy.

MR. OPLE: Yes, I would have welcomed a more substantial list of such onerous treaties but just the same, will Commissioner Davide yield to another question: Is not a treaty which has the force and effect of law not be subject to the jurisdiction of the Supreme Court where this is brought to the Supreme Court on grounds of constitutionality?

MR. DAVIDE: It can be brought to the Supreme Court on grounds of constitutionality, but the matter here is more procedural. We are talking about the Transitory Provisions of the new Constitution and so we should provide for a transition provision allowing the proper authority of the government to ratify treaties, to review such treaties or international agreements which earlier have been entered into under a constitutional anomaly.

MR. OPLE: So that to confer this jurisdiction now on the Senate with respect to the possible selective repudiation of treaties is one way of preempting the powers of the Supreme Court to review such treaties.

MR. DAVIDE: That would be rather speculative as to the thinking of the Senate. I believe that the Senate, composed of 24 men elected by the people all over the country in like manner as the President and the Vice-President, will not just act without taking into account everything in the light of the national interest, the common good and the general welfare.

MR. OPLE: In the same Transitory Provisions that are now under consideration, Madam President, we just approved a section which upholds the validity and the continuing operation of existing laws, presidential decrees, executive orders and letters of instructions issued from the same fountain of power — the presidency — without the participation of a legislative assembly issued by both President Marcos and President Aquino under the interim Constitution.

MR. DAVIDE: It is not inconsistent.

MR. OPLE: Will this proposal of the Commissioner not, in effect, either repeal this provision or amend it to a

very substantial degree by opening, in an indiscriminate manner, to congressional review and possible repudiation, treaties and international agreements entered into before?

MR. DAVIDE: I do not think that the Senate will act indiscriminately.

And, secondly, it is precisely for the reason that there is nothing in the proposed Transitory Provisions submitted by the Committee on Transitory Provisions regarding treaties that I was compelled to raise this particular issue.

MR. OPLE: Treaties partake of the nature of laws, do they not?

MR. DAVIDE: They may partake of the nature of laws in a lower plane, yes, but since it involves already another contracting party which is sovereign by itself, it should not be, for purposes of a provision on the Transitory Provisions placed on the same level as an ordinary law.

MR. OPLE: Closer home — and this is very germane to the discussions on National Security — there is a so-called Tripoli Ceasefire Agreements signed by representatives of the Philippine Government, the Motor National Liberation Front and representatives of the Organization of Islamic Conference in 1977. Is this one of the agreements contemplated in the proposal of Commissioner Davide?

MR. DAVIDE: Madam President, I do not know how to classify this Tripoli Agreement. I do not think it is a treaty; I do not think it is an international agreement.

MR. OPLE: But lacking the material time to study the evidence to determine whether this partakes of an international agreement or merely a domestic undertaking for parties, the Commissioner will concede the possibility that because of the participation of the Organization of Islamic Conference and the Quadrilateral Commission appointed by that Conference to monitor the implementation of the agreement in Mindanao, there is a possibility that this can rise to the status of a treaty or an agreement.

MR. DAVIDE: I am not in a position to answer that right now, but, personally, I would not consider that as an international agreement or as a treaty.

MR. OPLE: Finally, may I ask Commissioner Davide, who has a long track record of responsibilities in public service, whether he agrees that treaties and international agreements are generally entered into among states on the basis of a presumption of regularity and good faith.

MR. DAVIDE: That is a presumption.

MR. OPLE: Undisputably, it is a major presumption.

MR. DAVIDE: Yes. That is a presumption, general presumption, but I have laid the basis, a constitutional basis, a policy basis which must mandate that all these international agreements or international treaties entered into by the deposed dictator pursuant to an anomalous provision of the 1973 Constitution be reviewed.

MR. OPLE: Madam President, my last remark on this point is that the exchange of views may have revealed the scanty foundation of this proposal in the absence of vital knowledge that should be made available to the Commission.

My first impulse is to move for a deletion, but I think Commissioner Azcuna may have introduced the amendment that should rescue this provision from deletion, Madam President.

Thank you very much.

MR. REGALADO: Madam President.

THE PRESIDENT: Yes. Commissioner Aquino was asking first. We shall recognize Commissioner Aquino first.

MS. AQUINO: Madam President, do I understand the proponent correctly that the intention of his proposal is to allow for unilateral revocation or repudiation of the obligation of the Philippines arising from treaties and obligations which shall have been proven onerous in view of supervening circumstances?

MR. DAVIDE: Not only supervening, but perhaps circumstances even attending the very execution of the agreement of the treaty.

MS. AQUINO: In other words, would the Gentleman invoke the principle of *rebus sic stantibus* in an attempt to revoke the contract or repudiate the obligation?

MR. DAVIDE: To review, basically to review the contract or agreement.

MS. AQUINO: But we are aware that the principle of *rebus sic stantibus* always yields to the principle of *pacta sunt servanda* when there is a definitive period in the treaty or in the international agreement.

MR. DAVIDE: I do not think that the intervening period from 1972 up to the present would be enough to allow the principle of *rebus sic stantibus* to supplant the *pacta sunt servanda* rule.

MS. AQUINO: Effectively, therefore, the effect of the provision is not really to allow revocation.

MR. DAVIDE: It is to allow the review and to disapprove. We conceive some degree of validity until disapproval by the appropriate body.

MS. AQUINO: Thank you.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

May I seek some clarification from Commissioner Davide.

Under the Gentleman's proposed amendment, these questionable treaties — let us just call them questionable — shall remain valid until disapproved by the Senate. In other words, upon disapproval by the Senate there is, in effect, a unilateral abrogation of the treaty.

MR. DAVIDE: That would be the effect.

MR. REGALADO: What happens if the treaty itself provides for the effects and the effectivity of the terms thereof in the event of abrogation?

MR. DAVIDE: If the treaty itself provides for the effects upon abrogation, then these effects will take effect upon abrogation, and these will be among the considerations that the Senate shall consider.

MR. REGALADO: In which case, the disapproval of the Senate will not automatically terminate the effectivity of that treaty until it really terminates in accordance with the very terms thereof, and not only on the basis of abrogation?

MR. DAVIDE: Madam President, since we accord here validity until disapproved by the Senate, the disapproval would amount to an abrogation, and it puts an end to the treaty, subject, of course, to certain conditions to provide for the post-abrogation conditions between the parties.

MR. REGALADO: I am also a little intrigued by the invocations here of the doctrines of *rebus sic stantibus* and the doctrines of *pacta sunt servanda*. I do not think we really have to elaborate on that, because that is on the basis

of the alleged change in the circumstances at the time the treaty was entered into, and the circumstances now which militate against its continuity. But the Gentleman has stated that these treaties are, in effect, null and void from the very beginning because of the fact that they were not ratified by the Senate for the simple reason that there was no Senate. My impression and my understanding of the doctrine of *rebus sic stantibus* is that it involves a treaty which is valid from the very outset but only, in the course of time and the change of circumstances, the factors or considerations which gave rise to the treaty are no longer controlling and, therefore, the treaty should come to a mutually happy end.

MR. DAVIDE: I made the answer on a question by Commissioner Nollado that when we took up the military bases, my position was that the military bases agreement was void from the very beginning. But that position was practically overturned when the Commission adopted a different view, a view different from our respective position. So I made this proposal now on the assumption that the treaty so entered into before had to be respected in the sense that it is to be accorded some degree of validity. And now I am saying that since this was entered into under that anomalous provision of the 1973 Constitution, we will now allow the Senate to review it. And if the Senate will consider that such a treaty was not really in accordance with the very authority that was used by the President, then the Senate may disapprove the same.

MR. REGALADO: I am also a little concerned about our standing in the diplomatic community because, insofar as our constitutional processes are concerned, we have that Constitution — whether we call it an anomalous Constitution — that is a concern of ours. But I would think that it would not be necessarily a concern of the foreign contracting party which, relying on our Constitution and our reputed constitutional processes entered into such a treaty with us. We should not appear, therefore, in the international community to have placed the doctrine of *caveat emptor* even in the matter of international agreements. In other words, shall we let the foreign countries beware and find out for themselves whether our actions here in the Philippines are valid or not?

MR. DAVIDE: Madam President, I am not so much concerned of how we will stand before the diplomatic community. My main concern is the integrity of the Philippines. My main concern would be the interest of the Filipino people. If these treaties were entered into in gross violation of the national patrimony, the national economy, the common good, then I do not care.

MR. REGALADO: Would the Gentleman not believe that the proposal of Commissioner Azcuna makes a happier compromise in that we shall respect these treaties despite their dubious origins, as the Gentleman puts it or as he has portrayed it to be, but reserving to the Senate the power not to renew the same anymore.

MR. DAVIDE: I said earlier that the Azcuna proposal was a happy compromise but I answered the Gentleman because the question was directed on the original wording.

MR. REGALADO: Thank you.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: With the indulgence of the Floor Leader, may we now ask that the period of sponsorship and debate on this particular amendment be closed and we proceed to the period of amendments.

PERIOD OF AMENDMENTS

MR. RAMA: There are no more registered speakers, so I ask that we enter the period of amendments on this particular provision.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the period of amendments is now in order.

Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Madam President.

I move to amend this proposal, Madam President, by inserting between the words "shall" and "remain" on the fourth line the words "NOT BE RENEWED OR EXTENDED WITHOUT THE CONCURRENCE" and to delete "remain valid until disapproved." So that it will read: "SHALL NOT BE RENEWED OR EXTENDED WITHOUT THE CONCURRENCE BY THE SENATE."

MR. MAAMBONG: Will Commissioner Azcuna please read the whole thing so that we can have it on record?

MR. AZCUNA: The whole thing would now read: "ALL EXISTING TREATIES OR INTERNATIONAL AGREEMENTS WHICH HAVE NOT BEEN RATIFIED BY THE BATASANG PAMBANSA BECAUSE OF SECTION 16 OF ARTICLE XIV OF THE 1973 CONSTITUTION SHALL NOT BE RENEWED OR EXTENDED WITHOUT THE CONCURRENCE BY THE SENATE."

THE PRESIDENT: Concurrence of the Senate?

MR. AZCUNA: Concurrence of the Senate, yes.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Will the proponent yield to one or two questions?

When he says "without the concurrence of the Senate," does that mean a majority of the Senate or the Senators?

MR. AZCUNA: No, Madam President. It will be in accordance with the provision in the executive where we say two-thirds of all the Members.

MR. RODRIGO: Yes, that is what I wanted to call attention to, Section 21 under the executive department:

No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

MR. AZCUNA: That is the sense, Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Does Commissioner Azcuna conceive of the possibility that when we apply this amendment on renewal or extension the Constitution has already been ratified?

MR. AZCUNA: May I beg the Gentleman's pardon.

MR. MAAMBONG: May I repeat the question. Does the Gentleman contemplate a situation that when we apply this amendment on the renewal and extension of treaties or international agreements this Constitution we are framing shall have been ratified already and is already in effect?

MR. AZCUNA: Yes, Madam President.

MR. MAAMBONG: Then in that case, what would be the purpose of this amendment, considering that when this

Constitution takes effect, all treaties and international agreements will always be subject to concurrence by the Senate?

MR. AZCUNA: There will be a doubt whether renewal or extension of existing treaties would have to be submitted also to the concurrence of the Senate since they are not new treaties. When these treaties were entered into, they were entered into without the need for a concurrence by the legislative body. So, in this Transitory Provisions we make it clear that any further renewal or extension of these treaties will need the concurrence of the Senate.

MR. MAAMBONG: May we now formally ask if Commissioner Davide accepts this so that we can act on this?

MR. DAVIDE: Very gladly.

THE PRESIDENT: Commissioner Davide accepts.

MR. AZCUNA: Yes.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: Just a point of information in answer to the comments of Commissioner Maambong. Madam President, it may turn out that these treaties contain a renewal clause. I notice that some treaties contain a renewal clause. And that is why the Azcuna amendment is not out of place.

Thank you, Madam President.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: A vital point has to be resolved before we vote.

I would like to inquire whether executive agreements are included under the heading of treaties and international agreements used in this proposed amendment.

MR. AZCUNA: They are not, Madam President.

MR. OPLE: Thank you very much. Executive agreements are routinely renewed and I do not think it will be fair to the Philippine government to oblige them to submit this to the Senate for further proceedings.

MR. AZCUNA: Yes.

MR. OPLE: Thank you.

MR. NOLLEDO: Madam President, just one question to Commissioner Azcuna.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: Thank you very much.

Will the Gentleman's amendment preclude the President from negotiating with other parties not necessarily on renewal but on a new treaty that may be apart and different from the treaties now existing?

MR. AZCUNA: No, Madam President. In that case, that new treaty will have to be subject to concurrence by the Senate also under the regular provision.

MR. NOLLEDO: Thank you, Madam President.

Thank you.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Is there any other comment?

Commissioner de los Reyes is recognized.

MR. DE LOS REYES: May I ask some questions of Commissioner Azcuna.

MR. AZCUNA: Yes, Madam President.

MR. DE LOS REYES: As I understand it, when we say renewal, it will be an entirely new agreement. But when we say extension, it is an extension of an old agreement the terms of which will be extended.

MR. AZCUNA: That is right, Madam President.

MR. DE LOS REYES: Would it not be better, if we just delete the word "renewed" and confine the provision to "EXTENDED"? "Renewal" necessarily means the concurrence of the Senate, because it is an entirely new agreement.

MR. AZCUNA: Technically, sometimes if there is a renewal clause in the treaty itself, there might be a doubt again since it is practically just an extension; only they are denoted "renewal." There will be a doubt again whether this needs concurrence or not.

MR. DE LOS REYES: I see.

MR. AZCUNA: It may be without change. They will just renew it without saying that it is an extension; it is a renewal. So, I believe we should use both terms.

MR. DE LOS REYES: Thank you.

THE PRESIDENT: Is there any other comment?

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I just propose a simple amendment to the amendment of Commissioner Azcuna.

In reply to the query made by Commissioner Rodrigo, Commissioner Azcuna said that concurrence shall refer to two-thirds of all the Members of the Senate. This has the same wording as the 1935 Constitution. Will he agree with me that we specify; we incorporate in the amendment "CONCURRENCE OF AT LEAST TWO-THIRDS OF ALL THE MEMBERS OF THE SENATE"?

MR. AZCUNA: I would agree, but the committee may have to comment also. That is the sense anyway, Madam President.

MR. SUAREZ: Yes.

MR. SARMIENTO: Thank you, Madam President.

THE PRESIDENT: Is the Davide-Azcuna amendment accepted by the committee now?

MR. SUAREZ: Madam President.

MR. AZCUNA: My coauthor is Commissioner Guingona, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Before we accept the Azcuna amendment, as amended by Commissioner Sarmiento, may we just clear up the use of the words "renewed" or "extended"? It is possible that there is an automatic extension or renewal clause in the sense that, let us say, if either party will not indicate a desire to terminate it within a period of 60 days before the expiration of the treaty or international agreement, that is deemed automatically extended or renewed, as the case may be.

MR. AZCUNA: Yes. Sir.

MR. SUAREZ: Does the Gentleman have that in mind? In other words, even in a situation such as we have pictured, then there is need for concurrence of two-thirds vote of the Senate.

MR. AZCUNA: Yes, Madam President. In that case, we will have to indicate to the other contracting party that prior to this automatic renewal, before it can take place, there is a need for us to submit this to the Senate.

MR. SUAREZ: Thank you.

Then the committee accepts the proposed amendment, Madam President.

MR. AZCUNA: Thank you, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Will the proponent consider the deletion of the clause on lines 2 to 4 which reads: "by the Batasang Pambansa because of Section 16 of Article XIV of the 1973 Constitution," so that this Section 3 will simply read:

"All existing treaties or international agreements which have not been ratified shall not be renewed nor extended without the concurrence of the Senate."

Madam President, there is a provision on Article VIII, Section 14, paragraph 1, which lays the fundamental rule that all these treaties and international agreements should have the concurrence or the approval of the Senate, but by a subsequent amendment to the 1973 Constitution this Section 15 of Article XIV reads:

Any provision of paragraph 1, Section 14, Article VIII and of this Article notwithstanding, the Prime Minister may enter into international treaties or agreements as the national welfare and interest may require.

This is, I believe, the insertion or the amendment that Commissioner Davide considers anomalous because it is really in conflict with the other provision that requires the concurrence of the Senate. I do not believe it is necessary to mention the Batasang Pambansa nor this section because this has also a relation to another section, and it will be just simpler to restate Section 3:

All existing treaties or international agreements which have not been ratified shall not be renewed nor extended without the concurrence of the Senate.

THE PRESIDENT: What does Commissioner Davide say?

MR. DAVIDE: Accepted, Madam President.

MR. AZCUNA: We also accept, Madam President.

THE PRESIDENT: Commissioner Azcuna and the committee also accept.

MR. RODRIGO: Madam President.

MR. SUAREZ: How would it be worded?

MR. AZCUNA: As reworded now, it will read: "ALL EXISTING TREATIES OR INTERNATIONAL AGREEMENTS WHICH HAVE NOT BEEN RATIFIED SHALL NOT BE RENEWED OR EXTENDED WITHOUT THE CONCURRENCE OF AT LEAST TWO-THIRDS OF ALL THE MEMBERS OF THE SENATE."

MR. SUAREZ: Accepted, Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Just one question for clarification. This refers to renewal and extensions of existing treaties upon the ratification of the Constitution.

MR. AZCUNA: Yes, Madam President.

MR. RODRIGO: They need ratification by two-thirds of the Senate. Does this imply that new treaties entered into after the ratification of the Constitution will not come under the rule that should they be renewed or extended in the future, the renewal or extension should also be ratified by two-thirds of the Senate?

MR. AZCUNA: That is included under the general rule. There is no need to state that because their original agreement will come under the general rule.

MR. RODRIGO: I just wanted to make that clear of record, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Regarding the two-thirds vote, it should be THE CONCURRENCE OF TWO-THIRDS OF ALL THE MEMBERS, not just the "MEMBERS OF THE SENATE," but "ALL THE MEMBERS."

MR. AZCUNA: Yes, "ALL THE MEMBERS."

THE PRESIDENT: Please read once more so that we can proceed to vote.

MR. AZCUNA: It reads: "ALL EXISTING TREATIES OR INTERNATIONAL AGREEMENTS WHICH HAVE NOT BEEN RATIFIED SHALL NOT BE RENEWED OR EXTENDED WITHOUT THE CONCURRENCE OF AT LEAST TWO-THIRDS OF ALL THE MEMBERS OF THE SENATE."

VOTING

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

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

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

The results show 34 votes in favor, none against and no abstention; the proposed section in the Transitory Provisions is approved.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: May we record this newly approved section as Section 19 and the previous one on free public secondary education as Section 18.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: The next proposed new section in the Transitory Provisions, which is item number 4 on the additional sheet distributed, will read: "ALL EXISTING CONTRACTS ENTERED INTO BY THE FORMER PRESIDENT OR BY THE GOVERNMENT OR ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS BETWEEN SEPTEMBER 21, 1972 AND FEBRUARY 25, 1986, AS WELL AS ALL CONTRACTS, CONCESSIONS, PERMITS, OR OTHER FORMS OF PRIVILEGE OR AUTHORIZATIONS FOR THE EXPLORATION, DEVELOPMENT, EXPLOITATION OR UTILIZATION OF NATURAL RESOURCES OR FOR THE OPERATION OF PUBLIC UTILITIES ENTERED INTO, GRANTED, ISSUED OR ACQUIRED BEFORE THE RATIFICATION OF THIS CONSTITUTION MAY BE REVIEWED BY THE INCUMBENT PRESIDENT."

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Before the committee reacts to this, just some clarification. Up to when will this power which the Gentleman seeks to give to the incumbent President be? In the formulation there is no time frame up to when she can exercise this power.

MR. DAVIDE: The proponent is willing to accept a amendment fixing a time limit. Under my proposal, I did not.

MR. MAAMBONG: Will the Gentleman also agree with me that this proposal is, in effect, an exception to the Bill of Rights on the nonimpairment of obligations and contracts clause?

MR. DAVIDE: In effect, yes.

MR. MAAMBONG: In effect.

MR. DAVIDE: May I say further that under the Freedom Constitution, among the objectives of the government would be to remove all vestiges, institutions or structures of oppression, injustice and so on. So, these agreements or contracts may be a vestige of the old regime prejudicial to the interest of the nation.

MR. MAAMBONG: Yes, Madam President. But does the Gentleman feel that we can make this properly an exception to the Bill of Rights once the Constitution shall have been ratified? What I am trying to say is that can we make a valid exception to the Bill of Rights in the very same Constitution which provides for the nonimpairment clause of obligations and contracts?

MR. DAVIDE: Certainly, Madam President, that is why this is transitory, and I would like to call the attention of the committee that in the 1973 Constitution, we have a specific provision to this effect.

MR. MAAMBONG: I notice that a big portion of the Gentleman's formulation is actually based on Article IV, Section 2 of Proclamation No. 3, which reads: "The President may review all contracts, concessions, permits or other forms of privileges . . ." But the very same Article IV, Section 2 of the Freedom Constitution adds these

words: ". . . and when the national interest requires, amend, modify or revoke them." May we know why the Gentleman deleted these words found in the Freedom Constitution: ". . . and when the national interest requires, amend, modify or revoke them" in relation to the power which we seek to give to the incumbent President?

MR. DAVIDE: I believe that when we give the President the authority to review the matter, those things will be taken into account by the President. However, I would have no objection if that is to be inserted.

MR. MAAMBONG: One more point, Madam President, I was reminded by my Chairman regarding the use of the word "incumbent." This was taken up when we discussed the fate of General Ramos and there was a contingency which we cannot anticipate. I would like the Gentleman to consider the use of this word "incumbent."

MR. DAVIDE: We can have it deleted.

MR. MAAMBONG: Thank you, Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, it seems to me that Commissioner Davide will probably agree that the only way these existing contracts can really be reviewed and, perhaps, repudiated is if there are instances or there are circumstances attendant to these contracts that would vitiate the validity of these contracts. Otherwise, if these were entered into validly, then we would be going against and we would be impairing the vested rights and obligations of contracts, would we not?

MR. DAVIDE: As I said, I was willing to accept the committee proposal to insert the qualification "when national interest so requires."

MR. BENGZON: Madam President, I am afraid and leery about certain matters that are beginning to be imposed upon the administration to infect the sincerity, good faith and honesty of our leaders. This Section 4 strikes me as a booby trap. It is an incentive for people. Unscrupulous people in this country and in other countries as well use the name of the President or members of the family of the President or names of people who are reputed to have good access to the President to harass and make money on people or companies that have been awarded by these contracts.

Because of this fear and concern of mine and considering that this proposal merely states that the President may review these contracts, then this provision is no longer needed because with or without this provision, if the administration finds that these contracts are attended to by fraud or by circumstances that vitiate their validity, this administration will motu proprio review these contracts. I think we already have a precedent on this when it motu proprio reviewed the contract of the nuclear plant in Bataan. Was it G.E. or Westinghouse?

MR. DAVIDE: The review, I understand, was made by virtue of Proclamation No. 3 which allows precisely that authority on the part of the President.

Madam President, the idea here is to give the incumbent President a constitutional shield because if she does not have that shield, it might be very difficult to allow a review of a particular contract because of the defense that it might impair a particular contract entered into by the previous regime. But if we have this proposal, the President can seek refuge on this and, therefore, would have the clout to review all onerous contracts which may have been entered into.

MR. BENGZON: But the position, Madam President, is that there is no need for this particular provision precisely because certain contracts are probably being reviewed already because of certain circumstances attendant to the

execution of these contracts which vitiate the validity of these agreements.

MR. DAVIDE: The review is under the specific provision of the Freedom Constitution almost to the same effect. Even if the provision of the Freedom Constitution allows the President to make such a review, the President cannot.

MR. BENGZON: Even without that particular provision in the Freedom Constitution, if the circumstances attendant to the execution and validity of these contracts are such that would vitiate the validity of this agreement, the President and this administration can review and repudiate these contracts.

I am against anything that will be placed here in this Constitution that might give some semblance of validity and ideas to unscrupulous people that will use the name of the President, the members of her family and other people that are reputed to have direct access to her, just so they can make money. Considering that even without this particular paragraph, the administration has the right to review all these contracts and, in fact, certain contracts are presently under review, I guess we can just refrain from that.

MR. DAVIDE: I would like to repeat for the record that any review undertaken is precisely because of a similar provision under the Freedom Constitution. And simply because there is a possibility of abuse that some unscrupulous people may use this is no justification why a provision so necessary as this must be rejected.

MR. BENGZON: We differ in the concept that this is not necessary. So I do not know whether I can convince the Gentleman of the fact that this is not necessary and that to put this would be a disadvantage. I hope the Gentleman will see it my way, Madam President, and having done so, I ask that he withdraw the proposal.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: Thank you, Madam President. Will the Gentleman from Cebu yield to interpellations?

MR. DAVIDE: Gladly, Madam President.

THE PRESIDENT: Commissioner Nolleto may proceed.

MR. NOLLEDO: I notice that Commissioner Davide has been citing the Freedom Constitution. But it seems to me, Madam President, that he has widened the scope of the Freedom Constitution because if we read his proposal, there are two parts; namely, all existing contracts entered into by the former President or by the government, etc. and all contracts, concessions pertaining to the development of natural resources or for the operation of public utilities, which is stated on line 5.

MR. DAVIDE: Yes, Madam President.

MR. NOLLEDO: So, I think this will cover all contracts entered into by the previous Presidents including contracts entered into even in a period of 100 years by provinces, cities, municipalities, barangays and government-owned or controlled corporations which will be beyond the capacity of the President to review.

MR. DAVIDE: That is exactly the reason why I intentionally used the words "may be."

MR. NOLLEDO: Madam President, I would like to cite a ruling of the Supreme Court in the case of Ayog vs. Judge Vicente N. Cusi, Jr. decided on November 19, 1982, which reads as follows:

The due process clause prohibits the annihilation of vested rights. "A State may not impair vested rights by legislative enactment, by the enactment or by the subsequent repeal of a municipal ordinance, or by a change in the Constitution of the State, except in the legitimate exercise of police power." (16 C.J.S. 1177-78).

Is the Gentleman aware of this ruling that even the Constitution itself must respect the vested rights theory and the only exception is when that is demanded by the police power of the State?

MR. DAVIDE: Madam President, there was a committee proposal regarding the insertion of a qualification in the exercise of the review power to the effect that it can be done so "when public interest so requires." And I have expressed my willingness to accept the amendment.

MR. MAAMBONG: Madam President, that was not a committee proposal; that was an interpellation by the committee.

MR. DAVIDE: I thought it was already a proposed amendment by the committee.

MR. NOLLEDO: Madam President, I would like to know the meaning of "review by the President." Does this "review by the President" mean to declare the contract null and void, to impose certain terms or to other aspects of the contract?

MR. DAVIDE: We have the best example regarding the nuclear plant; that is the kind of review that I am contemplating. It may be for modifications to remove onerous terms and conditions.

MR. NOLLEDO: With due respect to Commissioner Davide, I would like, Madam President, to echo the sentiments expressed by Commissioner Bengzon.

Thank you, Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Yes, Madam President. I just wanted to say that one of the purposes for writing this Constitution is to stabilize our situation and the government.

This provision is an open-ended provision that encompasses everything, practically everything that has happened in this country since 1972. We are trying to recover from our economic problems; we are trying to induce investments; and if I were an investor, regardless of how good or fair I think my contract is, this provision would make me think twice before doing anything because it is capable of being applied selectively, as Commissioner Nolleddo said. I believe, Madam President, that we should not constitutionalize things that would increase uncertainties and anxieties over contracts and business relationships.

So, Madam President, I really would object to the inclusion of this provision in our Constitution.

MR. DAVIDE: Madam President, may I just comment before any action is taken?

The proposal is not to destabilize; on the contrary, the proposal is to stabilize. With this proposal, we will eradicate unjust and oppressive structures and all iniquitous vestiges of the previous regime. I am sure that these contracts resulted in situations prejudicial to the best interest of the country, especially if it would affect our national economy and our national patrimony.

MR. MONSOD: Madam President, just a short response.

There would be stability if such contracts have been reviewed and affirmed, but the fact that it is open until they are affirmed or until they are reviewed and affirmed, would still breed uncertainty.

Thank you, Madam President.

THE PRESIDENT: What does the committee say?

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: The committee does not have a definite stand on this. With all the seemingly adverse comments from the Members of the Commission, may the committee know from Commissioner Davide if he is insisting on his amendment on the new section?

MR. DAVIDE: Not necessarily because of the adverse comments, but it turned out that the interpretation is to the effect that the President, at any time, may review, and because of the anxieties raised on the assurance that the President can review, I am willing to withdraw.

THE PRESIDENT: Even without this provision?

MR. DAVIDE: Even without this provision. On that assurance that the President can review at any time.

THE PRESIDENT: So the proposed Section 4 has been withdrawn.

May we proceed now to the next?

MR. RAMA: I ask that Commissioner Rosario Braid be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, the amendment which will take the place of number four has been distributed earlier. It refers to franchises. This is a proposal by Commissioner Davide and this Representation.

May I read it, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May we find out from Commissioner Rosario Braid if she is insisting on her addendum to number four, considering the withdrawal of number four by Commissioner Davide?

MS. ROSARIO BRAID: I have consulted Commissioner Davide, and we think this is a different proposal. This refers to franchises which are now issued by bodies created during the martial law regime, such as the National Telecommunications Commission and others which grant franchises in lieu of Congress. When Congress convenes, it will take over this responsibility. So this provision would ensure that whatever happens after the ratification of the Constitution and before Congress convenes the franchises could be reviewed by Congress.

THE PRESIDENT: Will Commissioner Rosario Braid please read the proposed new section?

MS. ROSARIO BRAID: It reads: "ALL FRANCHISES, CERTIFICATES OR ANY FORM OF AUTHORITY FOR THE OPERATION OF PUBLIC UTILITY INCLUDING COMMERCIAL TELECOMMUNICATIONS GRANTED OR ISSUED AFTER THE RATIFICATION OF THIS CONSTITUTION UNTIL THE CONVENING OF THE FIRST CONGRESS SHALL BE SUBJECT TO REVIEW BY THE LATTER."

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: First of all, it seems to me that the proposed amendment only refers to the period after the ratification of the Constitution and until the convening of Congress. That seems to be only a five-month period so this is not really consistent with the sponsorship remarks of Commissioner Rosario Braid.

Secondly, under Section 15 of the Article on National Economy and Patrimony, I quote:

"Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by Congress when the common good so requires."

Therefore, there is an authority of Congress in the body of the Constitution itself and it is not needed to put a similar provision in the Article on Transitory Provisions, particularly referring only to the four-and-a-half month period between the ratification and the convening of Congress, which is a six-month period.

So I would say, Madam President, that this amendment is not only unnecessary but may even confuse the matter.

MS. ROSARIO BRAID: Madam President, as long as the spirit of this proposal is covered by an existing provision, I will be happy to withdraw. But the purpose of this proposal is to review franchises awarded during this six-month period. As we know franchises are very scarce. Therefore, when an agency ceases to be responsible these are usually allocated before responsibility is transferred to another agency.

So this is the intent of this proposal, Madam President.

MR. MONSOD: Madam President, it is not only the spirit but there is a specific provision in Section 15.

MS. ROSARIO BRAID: With that explanation, I will be happy to withdraw.

MR. MONSOD: Thank you, Madam President.

MR. RAMA: Madam President, I ask that Commissioner Villacorta be recognized to present his amendment.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: The amendment of Commissioner Villacorta refers to the writ of sequestrational freeze order. This is under deferment, Madam President. So, with the indulgence of Commissioner Villacorta, can we have this presented at the time when the main proposal is presented before the body?

MR. VILLACORTA: Yes, Madam President.

THE PRESIDENT: May we know when that will be?

MR. MAAMBONG: Madam President, after we are through with all these sections. We have agreed on that.

MR. VILLACORTA: I submit, Madam President.

MR. MAAMBONG: May we now go to number seven, Madam President.

MR. RAMA: May I ask that Commissioner Monsod be recognized to present Section 7 under this draft.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, this proposal merely seeks to put a period of implementation to the section on advertising entities which we approved a couple of days ago.

In the provisions that we have approved, it is only in the case of advertising companies that there might be a need for a transitory provision because in the other cases the ratios approved by this body are similar to those in the past. We understand that there are three advertising companies that have foreign equity. We also understand that two of them have a 60-40 equity ratio but the other one may have a zero Filipino equity because they were not covered by a rule that this should be raised to 60 or 70, as the case may be.

In the case of the nationalization of retail trade, the provision was for a compliance over a period of ten years but that is too long, and we feel that a five-year period of compliance would be reasonable provided that it is on a graduated basis. In other words, the advertising entities should not be allowed to hold that divestment up to the fifth year and then have a one-shot divestment at that time. So the proposal really is for a five-year graduated divestment to comply with the minimum Filipino requirement of equity.

MS. AQUINO: Madam President.

THE PRESIDENT: What does the committee say?

MR. SUAREZ: We would rather that the matter be thrown to the wisdom of the Commission, Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Madam President, I have a query. Does this provision intend that its statutory implementation cover as well the intention that there be a quota of divestment for every year, for example, proportional to the amount that will have to be made up for?

MR. MONSOD: Yes, Madam President. Actually, we can make it self-executory by introducing "PROPORTIONATE AND GRADUATED BASIS." By stating it in this manner, a law may not be needed.

MS. AQUINO: So, it would read "GRADUATED BASIS PROPORTIONATE TO THE AMOUNT THAT IS ALLOWED."

MR. MONSOD: Even that, Madam President, will put in the record that "graduated" means a proportionate reduction over the five-year period.

MS. AQUINO: Thank you, Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: I understand from the dialogue between Commissioners Aquino and Monsod that there has to be a law that will have to implement this, am I correct?

MR. MONSOD: My answer, Madam President, is that it may not be necessary to have a law. That is precisely why we should have now a transitory provision. Congress may decide to put in more details on the divestment requirements but that is up to Congress, Madam President.

MR. BENGZON: That is also my position. My position is that Congress need not be involved here because what I desire is that the executive department of the government — specifically the BOI — would be the one that would enforce this and that I would give the BOI or the executive department that latitude of discretion on how and in what manner this thing is going to be enforced so that it could be done with better and greater dispatch.

MR. MONSOD: I would be amenable to amendments the Gentleman may want to present in order to reflect that intent, Madam President. But the idea should be a five-year graduated divestment.

MR. BENGZON: Maybe we could just put a phrase here which would say that it would be the executive department of the government that would implement this. Would the Commissioner agree with that kind of a concept?

MR. MONSOD: Yes, I would be amenable to that, Madam President.

MR. BENGZON: Thank you.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Monsod yield to a question.

MR. MONSOD: Yes, Madam President.

MR. OPLE: This will require, I suppose, the formal submission of a schedule of graduated divestment according to each year of the five-year period.

MR. MONSOD: Yes, Madam President. As a matter of fact, Commissioner Aquino was suggesting that we say "on a graduated and proportionate basis."

MR. OPLE: Which is the government agency that should receive and process such schedules?

MR. MONSOD: I guess it would be the BOI or the Ministry of Trade and Industry, Madam President.

MR. OPLE: It should be the Ministry of Trade and Industry, which chairs the foreign investments.

MR. MONSOD: Thank you, Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would just like to be clarified by Commissioner Monsod on how we have arrived at five years as the period in which advertising entities would be able to divest.

MR. MONSOD: In a way that is a judgment, Madam President. In the case of the nationalization of retail trade, it was ten years. And I thought that five years would be a reasonable period to divest because one of the problems here is whether there are Filipinos who would have the resources to purchase 70 percent of the companies.

MS. QUESADA: But there has been no study whether or not local advertising people would be able to assume ownership.

MR. MONSOD: One of the advertising companies that would be affected said that they would like a period longer than five years, but I told them that I do not think this body would entertain a period longer than five years.

MR. BENGZON: Madam President, point of information. I just have an input to the question of Commissioner Quesada.

THE PRESIDENT: Commissioner Bengzon will please proceed.

MR. BENGZON: I have also talked to Filipino executives and businessmen involved in the advertising industry who own advertising agencies which are 100-percent Filipino and they have given me the categorical statement that anything shorter than five years would make it financially difficult for them to take over the 70 percent.

MS. QUESADA: The next thing I would like to be clarified on is: Why is it that we are giving special consideration to advertising entities and having a transitory provision here when there are other enterprises that probably need a transitory provision?

MR. MONSOD: Madam President, the reason we are referring to advertising entities is that they are the only entities in the new Constitution that have a different or a new ownership requirement for Filipinos. The others are the same.

THE PRESIDENT: That is the 70-30 ratio.

MR. MONSOD: Yes, Madam President.

MS. QUESADA: I thank the Commissioner for the clarification.

THE PRESIDENT: Vice-President Padilla is recognized.

MR. PADILLA: Madam President, the rule we have agreed upon, especially when we were discussing the Article on National Economy and Patrimony, is that its provisions should be prospective rather than retroactive. For example, a domestic corporation has been granted 1,024 hectares, but the proposed Constitution now limits it to 1,000 hectares, so that provision is prospective and not retroactive. Will the Commissioner not agree that the equity provision of 75-25 on advertising agency, which to me appears very absurd, should also be prospective rather than retroactive?

MR. MONSOD: Madam President, I believe the discussions indicated the intent of the body for this to apply to existing businesses. That is the reason why they must be provided with a transition period.

MR. PADILLA: But the fact is that, as I mentioned earlier, the provision in the new Constitution which limits the area for a domestic corporation to own public agricultural lands was reduced from 1,024 hectares to 1,000 hectares. This was clearly intended to be prospective in operation and not retroactive. In other words, a domestic corporation that has already been granted 1,024 hectares should not be required to divest itself of the excess of 24 hectares.

MR. MONSOD: That is why perhaps we should ask the chairman of the General Provisions Committee or we can refer to the record, because I recall that in the discussions the existing advertising companies were not exempted, if they are not in compliance with this minimum requirement. In the case of public lands, if I remember correctly, we were talking about the difference between 1,000 and 1,024, with that difference of 24 hectares really attributable to the 24 hectares allowable to individuals which would then be incorporated in the 1,000 hectares for the corporations. That is how the 1,024 was arrived at, Madam President.

And if we are limiting to 1,000 hectares now, there seems to be no prohibition for an individual to still have 24 hectares. So, in effect, the 1,024-hectare requirement is not difficult to comply with.

MR. PADILLA: Similarly, the area for private homesteads under existing law is 24 hectares and this Constitution reduced it to 12 hectares. Such similar provisions are considered to be prospective in operation.

MR. MONSOD: I agree with the Commissioner. I presented this motion because I believe the intent of the Commission is for this requirement of 70 percent to apply to existing companies operating in the Philippines. Perhaps, we can ask the committee to inform us on what the intent was with respect to this. Maybe Commissioner Rosario Braid, the chairman of the committee, can help us.

MR. PADILLA: I recall the provision that included advertising agency with telecommunications, which originally was 66 2/3, and thereafter telecommunications was correctly eliminated from that provision. Its intention, if there should be any regulation, should not be retroactive in operation. In fact, I was the one who suggested the first paragraph and I stated as a principle there that advertising agencies, and I added, "as private enterprise or activity," impressed with public interest shall be regulated by law. So that first section clearly intends any regulation by law in the future. A law cannot be retroactive unless there is a specific provision to the contrary under the basic rule of Article IV of the Civil Code. So should not this provision on advertising agency, which requires a disproportionate equity ratio of 70-30, be applied only to prospective companies or firms to be engaged in the advertising industry?

MR. MONSOD: I believe if we take a look at the record, the whole issue on telecommunications was debated on the problem of ownership. The intent was that the requirement would be prospective because there were

evidences and arguments presented precisely on the problem of divestment. The intent of the body was to require a higher percentage, which resulted in a mandate for divestment of telecommunications companies to the extent of 66 2/3 percent of the ownership. I believe the minutes of the proceedings will support this position. And in the case of advertising companies, the intent was the same.

MR. PADILLA: Would not a retroactive application be considered as an impairment of some rights already vested, but which impairing of the obligations of contracts may only be justified in the exercise of the police power of the State?

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Just a point of information from the committee.

Commissioner Rosario Braid and I conferred regarding the meaning of that statement in the General Provisions Article. The question of Commissioner Padilla did not come up explicitly, but we did understand that it would have an effect on existing advertising agencies. That was, I think, the understanding of the committee.

THE PRESIDENT: That was the intent that is why there is need for this particular section.

BISHOP BACANI: Yes, Madam President.

MS. AQUINO: Madam President.

MR. PADILLA: Madam President, may I say a sentence before Commissioner Aquino is recognized.

We have been repeatedly informed that there is only one advertising agency which is wholly owned, and two with 60-40 equity. If the new provision were to be made retroactive, it would seem that it will be a special legislation against one, two or three foreign firms, and I think its validity, legality and constitutionality may be doubted and assailed.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: It is my submission, in reply to the query and doubt of Commissioner Padilla, that his question has been settled already in the case of *People vs. Quasha*. It was ruled explicitly in that case that in the application for public franchises, the new equity ratio will apply not only to the new corporations which shall be created but also to the existing corporations required to comply with the equity ratio in their application for public franchises. In the final analysis, Madam President, this Constitutional Commission is empowered to determine the applicability or maybe even the retroactivity of this provision. It is likewise settled that the principle of retroactivity applies only to ordinary statutes and legislation.

THE PRESIDENT: Thank you, Commissioner Aquino.

Are we now ready to vote?

MR. RAMA: Yes, Madam President, we are ready to vote.

THE PRESIDENT: Is there any proposed amendment?

Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, I was about to ask the proponent whether the agency which will

implement the provision should be indicated in the provision. Or would the proponent be contented if we put it on record that the implementing agency is the executive department or the Board of Investments?

MR. MONSOD: I believe, Madam President, that just putting it on record would be sufficient.

There is an amendment by Commissioner Aquino to add "AND PROPORTIONATE so that it will now read: "ADVERTISING ENTITIES AFFECTED BY SECTION ____ OF ARTICLE ____ OF THIS CONSTITUTION SHALL BE GIVEN FIVE YEARS FROM RATIFICATION TO COMPLY ON A GRADUATED AND PROPORTIONATE BASIS WITH THE MINIMUM FILIPINO OWNERSHIP REQUIREMENT THEREIN."

MR. RODRIGO: Madam President, just for the record.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: "GRADUATED AND PROPORTIONATE" does not mean that the corporation cannot accelerate the Filipinization process. If they can do it in two years, that would not be violative of this Constitution.

MR. MONSOD: Yes, the Commissioner is correct.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Just to clear up the situation, because of the point of inquiry raised by Commissioner Rodrigo.

Is my understanding correct that if this provision is not complied with within the period of five years, the advertising agencies affected would self-destruct — meaning that they will cease and stop operations?

MR. MONSOD: They will not be allowed to operate.

MR. SUAREZ: I thank the Commissioner.

MS. AQUINO: Madam President, just one clarification.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Are we in agreement in the intention, considering the manifestation of Commissioner Rodrigo that the corporations divesting are allowed to accelerate — meaning, they can "balloon" in the beginning but they cannot in the end?

MR. MONSOD: Yes, the Commissioner is correct.

MS. AQUINO: I thank the Commissioner.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: There is just one more point. I just want to clarify this with Commissioner Aquino.

Commissioner Aquino mentioned earlier the case of *People vs. Quasha* regarding the retroactive applicability of the constitutional provision when it comes to public utilities or advertising in this case. But that would be an exception to the general rule that provisions of the Constitution are supposed to have a prospective effect.

MS. AQUINO: In the final analysis, as I have manifested, this Commission can decide on the applicability of its provisions. If we so desire, therefore, this will be given a retroactive application, whether or not the ruling in the case of *People vs. Quasha* applies or exists. We can so provide.

MR. MAAMBONG: So let us just clarify this for the record.

If the intent of the Commission is not very specific, we would apply the general rule that the provisions of the Constitution will be prospective.

MS. AQUINO: Prospective in application.

MR. MAAMBONG: But if the intent of the Commission is to the effect that it would have a retroactive effect, it could be done irrespective of what issue we are taking up.

MS. AQUINO: Yes, Madam President.

MR. MAAMBONG: I thank the Commissioner.

MR. PADILLA: Madam President, may I just say that in the decision in *People vs. Quasha*, the accused was acquitted of falsification of public documents on the basis that there was no law requiring the duty to include in a truthful narration of facts other facts that may be considered false. In other words, under Article 171, paragraph 4 of the Revised Penal Code, one of the ways of committing falsification is making untruthful statements in the narration of facts. And the decisions of the courts say that this will only apply if there is an obligation to make such a narration of facts.

MR. RAMA: We are now ready to vote, Madam President.

MR. DAVIDE: Madam President, a very minor amendment.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like to substitute the words "BE GIVEN" with "HAVE" and to add the word "ITS" before "RATIFICATION."

MR. MONSOD: I accept, Madam President.

THE PRESIDENT: So how does it read now?

MR. MONSOD: It will now read: "ADVERTISING ENTITIES AFFECTED BY SECTION ____ OF ARTICLE ____ OF THIS CONSTITUTION SHALL HAVE FIVE YEARS FROM ITS RATIFICATION TO COMPLY ON A GRADUATED AND PROPORTIONATE BASIS WITH THE MINIMUM FILIPINO OWNERSHIP REQUIREMENT THEREIN."

VOTING

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

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

The results show 30 votes in favor and 1 against; the proposed section is approved.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: The approved section will be Section 20.

THE PRESIDENT: Yes, that will be Section 20.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I think some Commissioners would like to ask for an adjournment. But before we come to that, may I call the attention of the chairman of the Steering Committee, Commissioner Bengzon. Would it be timely, now that we are facing a weekend and, perhaps, the final hectic week of our work in the Constitutional Commission, to request a report from the chairman of the Steering Committee on how this final period will look like?

MR. BENGZON: Yes, Madam President. If the Commissioner will excuse me, I will get my note.

THE PRESIDENT: This is outside of the Transitory Provisions.

MR. OPLE: Yes, the whole perspective as seen by the Steering Committee.

THE PRESIDENT: So we are interrupting our discussion on the proposed Article on Transitory Provisions.

MR. OPLE: Yes, Madam President.

MR. SUAREZ: The interruption is very welcome, Madam President.

THE PRESIDENT: Commissioner Bengzon will please proceed.

MR. BENGZON: Madam President, on the basis of the schedule that I prepared as approved by the President of this Commission and which I am going to reproduce for distribution to the Members, we urge everyone to please follow the schedule as much as possible so we could meet on October 15. And on the basis of this schedule, the Transitory Provisions Article should be finished by the end of our session on Monday, October 6. On October 7 and 8, we will finish all the pending sections in the various articles, such as Legislative and Judiciary. And on October 9, 10 and 11, we will consider the report of the Committees on Sponsorship and Style on the final draft of the Constitution. And I think it will be during this period when we will have the opportunity to have an overview of the entire Constitution and really review the report and the work of the Sponsorship and the Style Committees.

We will note that October 11 is a Saturday, so we request everyone to keep Saturday open because we would like to have sessions the whole day. Also, we are requesting everyone to keep Sunday, October 12, also open because that is the day when we intend to approve on Second Reading the draft of the entire Constitution. And we allocate two days, October 13 and 14, for printing and the chairman of the Steering Committee and the members are very much welcome to join to make sure that the printing is properly done. We feel that we need these two days of printing. Finally, on October 15, we will have the approval on Third Reading of the entire Constitution and the closing ceremonies. Then all of us will proceed to Malacañang to present the signed Constitution to the President.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: The Committees on Style and Sponsorship have agreed that as far as corrections are concerned, it would be the Committee on Style that will present to the body in plenary session, but we would like to invite attention to the fact that the Committee on Sponsorship has functions which belong exclusively to the committee. Therefore, we would like to request at least three session days to make our presentation and final sponsorship of the entire Constitution. And Madam President, maybe the representatives of the Committees on Style and Sponsorship should also join the Steering Committee members with regard to the matter of printing because they are also involved insofar as the entire draft is concerned.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: It looks like we are really having a time constraint. I would request my colleagues here that we start on time — 9:30 in the morning, not 9:31. And in the afternoon, if I will be able to make a request, let us start at 2:00 in the afternoon, not 2:30. Let us cut short our nap in the afternoon because this is only a matter of two weeks. So I request that we follow this schedule. This morning, we are supposed to start at 9:00 but we started at past 10:00. So I request a little sacrifice of my colleagues.

Thank you.

THE PRESIDENT: We will take note of that, Commissioner de Castro.

MR. OPLE: Madam President, just one final question.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I now address myself to the question of the transcripts of the proceedings. Some of us had been pretty remiss in inserting our corrections with respect to imperfections in the transcript of records because of the sheer volume of tasks that have to be met. Will there be some material time allowed between now and October 15 for Members of the Commission interested in finally looking at the transcripts to be allowed to make their last minute corrections?

THE PRESIDENT: I suppose the correction of the transcripts has nothing to do with respect to our session. The correction can be done even after October 15. But we hope that the Commissioners will, as promptly as possible, make the corrections so that we can proceed with the printing because we are printing the entire Record, the proceedings of the Commission.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: To facilitate the review by our Commissioners, we are making efforts so that our computer support might be able to produce at least the first ten articles as already corrected by the Committee on Style and reviewed by the Committee on Sponsorship for distribution to the Commissioners by early next week.

THE PRESIDENT: Does Commissioner Foz have any other comment?

MR. FOZ: May we just make an appeal, Madam President. We would like to appeal to the Committees on Style and Sponsorship to resist the temptation to revise the provisions that we have already approved on the floor.

Thank you.

THE PRESIDENT: In other words, not to change the substance but to just stick to the style.
Commissioner Bengzon is recognized.

MR. BENGZON: Precisely, Madam President. I believe the Chair shares this thought of the Steering Committee. We gave three days precisely because there have been some statements from some Commissioners to the effect that the Style and the Sponsorship Committees have been revising the draft. So we have three days so that the entire Commission can take a look at the entire Constitution.

THE PRESIDENT: Excuse me, Commissioner Bengzon.

May we know from the Committee on Transitory Provisions whether or not they will be really ready to finish by Monday, because we still have two issues remaining, if I am not mistaken — the provisions on the PCGG and the term of the President. Does Chairman Suarez think we will finish by Monday?

MR. SUAREZ: That is exactly what I was going to take up, Madam President, because the chairman of the Steering Committee is allocating it by Monday. I think we can finish by Monday provided there will be cooperation on the part of all the Commissioners, if we can be a little more brisk in our debates.

THE PRESIDENT: So we should inform our Commissioners to be ready to work a little bit late in the evening of Monday.

MR. SUAREZ: Yes, because we still have to reckon with about seven or eight more sections, including the two controversial sections.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Informally, there had been a previous agreement with Committee Chairman Suarez that there should be no impression, with respect to Section 7, that the time for the periods of debate and amendments would be drastically limited. Because of the enormous amount of interest on the part of the whole nation in this provision, there was a consensus to defer it to the last of the Transitory Provisions agenda. We hope that the schedule announced by the chairman of the Steering Committee would not prejudice that consensus.

Thank you, Madam President.

MR. BENGZON: Madam President, I was going to precisely say that although we must finish the Transitory Provisions Article by Monday, we must not limit the debates and amendments on Section 7 and even perhaps on Section 8. Therefore, I was going to suggest that our sessions on Monday, October 6, be sine die.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: As chairman of the Committee on Style, I am constrained to state that this committee has been working very hard and we know the limitations of our duties. Ours is only to improve the phraseology and the form. And in behalf of all the members of the committee, I would like to state that we have been sticking very faithfully as much as possible to that limitation. So I am really forced to stand up because I regret statements made here that the Committee on Style is revising even the substance of sections approved by this Chamber.

MR. GUINGONA: Madam President.

THE PRESIDENT: Chairman Suarez, on page 2, there are three new provisions. Can we not approve these before we suspend for lunch? These are on the Judiciary provisions, which are just pro forma, I understand.

MR. SUAREZ: We are ready, Madam President. In fact, we have requested the honorable Chief Justice to stand by for the sponsorship of these provisions governing the judiciary.

THE PRESIDENT: It is only in the application of the period for the resolution, is it not? Or maybe we can vote on these two, Sections 8 and 9.

MR. SUAREZ: What does the Chief Justice say about this? The Chair was asking whether or not we could take action on the two proposed sections governing the judiciary.

MR. GUINGONA: Madam President, just one word. On behalf of the Sponsorship Committee, I would also like to take exception to the remarks, and I would like to ask that specific cases or instances of changing the substance be called to our attention.

Thank you, Madam President.

THE PRESIDENT: Thank you, Commissioner Guingona. Chairman Suarez, can we proceed to Sections 8 and 9?

MR. SUAREZ: Yes, we can proceed with the discussions. But before we do that, Madam President, in connection with our proposed section governing the salaries of constitutional officials as mandated, we have come up with certain suggestions. So during the weekend, the Commissioners can study the advisability of acting on this particular requirement. We are suggesting the following scaling of salaries: for the President, something like P200,000 annually; for Vice-President and Chief Justice, P150,000; for Associate Justices and Senators, P120,000; and for all the others, P100,000. We will start with our discussion on Monday.

Thank you, Madam President.

We now ask that the honorable Commissioner Concepcion be recognized or may we request the Chief Justice to join us here at the Commissioner's table.

THE PRESIDENT: Commissioner Maambong, so far, is there any change in the phraseology of Sections 8 and 9 as drafted?

MR. MAAMBONG: None, Madam President, but we will listen to the honorable Chief Justice.

MR. CONCEPCION: Madam President.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Thank you, Madam President.

The Committee on the Judiciary proposes what appears to be Section 8 in the addendum of the Committee on Transitory Provisions to read: "THE LEGAL EFFECT OF THE LAPSE, BEFORE THE ADOPTION OF THIS CONSTITUTION, OF THE APPLICABLE PERIOD FOR THE DECISION OR RESOLUTION OF A MATTER SUBMITTED FOR ADJUDICATION SHALL BE DETERMINED IN APPROPRIATE JUDICIAL PROCEEDINGS." The reason for this provision is the following:

There have been widespread questions as to what happens to those cases whose period for action by the courts shall have lapsed before the adoption of the new Constitution. This provision has to be inserted in the Transitory Provisions Article because the text on the Judiciary Article refers necessarily to cases or matters whose period has lapsed after the adoption of the Constitution.

The question that has been asked is: What happens to those cases whose periods have lapsed before the ratification of the new Constitution? The Committee on the Judiciary has discussed this matter thoroughly and it has reached the conclusion that it has no authority to decide the matter, the issue being a legal question which is beyond the jurisdiction of the committee and of this Commission to settle, except to say that whatever question may arise as to the legal effect of the lapse of time, it must be determined by the courts in appropriate proceedings. Hence? Section 8 of the addendum.

THE PRESIDENT: May the Chair know the reaction of the committee on this.

MR. MAAMBONG: Madam President, just a minor point. In the approved Section 5 of the Article on Transitory Provisions, we mentioned "cases or matters." Could we, perhaps, insert before the word "MATTER" the words "CASE OR" to align this provision with the approved Section 5? So, it will now read: "DECISION OR RESOLUTION OF A CASE OR MATTER." Is that all right, Madam President?

MR. CONCEPCION: We accept it.

MR. SUAREZ: Another point, Madam President. We are saying in this provision that the legal effect of the lapse shall be determined in appropriate judicial proceedings.

MR. CONCEPCION: Yes.

MR. SUAREZ: Are we saying here that the parties adversely affected may have to file appropriate judicial proceedings in order that their rights can be properly determined?

MR. CONCEPCION: If they cannot agree on that issue, the parties have to settle it judicially.

MR. SUAREZ: Would that not breed more suits, one on top of the other when precisely we are trying not only to avoid multiplicity of suits but also to expedite the resolution of all these cases? Would this not result in endless litigations, Madam President? Is it not better that we put in a more effective control and direction to the Supreme Court in order that these lapses would not happen?

MR. CONCEPCION: No, these lapses have already happened; that is our problem. Insofar as that is concerned, the committee is open to suggestions. As a matter of fact, it has been requesting Members of the Commission and even parties in cases to make suggestions as to how to solve the problem.

One suggestion made is to apply the provisions of the existing Constitution under which, in appealed cases, the decision appealed from shall be deemed affirmed, and in original petitions, the petitions shall be deemed dismissed.

But our attention has been called also to the fact that the appellant in appealed cases and the petitioner in original petitions are not to blame for the lapse of the prescribed period. Why should they suffer in consequence of its lapse? So the Committee is open to suggestions.

MR. SUAREZ: I thank the Commissioner for the clarification, Madam President.

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, I would just like to be clarified on the exact meaning of "APPROPRIATE JUDICIAL PROCEEDINGS" as envisioned in this proposal.

MR. CONCEPCION: That is a question of law which the courts will have to decide. The Commissioner will see that this is a justifiable question and, therefore, the courts before which the matter may be submitted will have to decide whether it is proper or improper.

Of course, in many cases, much will depend upon the manner in which counsel for both parties present the issue to the court.

MR. DE LOS REYES: In other words, this will be determined on a case-to-case basis.

MR. CONCEPCION: That is right.

MR. DE LOS REYES: There will be no uniform rule.

MR. CONCEPCION: That is right.

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

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: May I suggest to the honorable chairman of the Committee on the Judiciary that we retain the term "APPROPRIATE JUDICIAL PROCEEDINGS" and then allow the Supreme Court to promulgate the rules to be embodied in the Rules of Court because we will be discussing this lengthily.

So may I recommend an amendment to add "AS MAY BE PROVIDED IN THE RULES OF COURT" after "IN APPROPRIATE JUDICIAL PROCEEDINGS." I think it would be much better if we allow the Supreme Court to promulgate the rules because this will involve procedural matters.

MR. CONCEPCION: In other words, the Commissioner's suggestion is to add "AS MAY BE PROVIDED IN THE RULES OF COURT." We will allow the Supreme Court to determine what are those appropriate proceedings and the rules that shall govern.

I think that would be much better because I cannot really find an appropriate amendment to that, except by adding "AS PROVIDED IN THE RULES OF COURT."

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May I be allowed to say something about the concern that with the use of the phrase "APPROPRIATE JUDICIAL PROCEEDINGS," we may be inviting additional cases in court which will only add to the congestion of the dockets.

There are two things to consider here which may not really approximate the gravity of that concern.

First, there is the doctrine of stare decisis, where similar cases are already decided by the Supreme Court insofar as the period is concerned, and all facts and circumstances are in pari materia with another case. Obviously, the parties there are already bound by the decision of the Supreme Court in the application of the period in that particular case, all things being equal, en tempore and in part materia.

Second, it will not necessarily involve a separate proceeding, because if the Supreme Court in one case, for instance, in an appeal, says "because of the lapse of the period, the case is reversed" or if in one case in a petition which is an original petition the Supreme Court says "it is denied," then the party there does not really have to file a separate action. He can file a motion for reconsideration right in the same case and ask the Supreme Court why its decision was along that line. It will be clarified by the Supreme Court right in that very case on appeal or wherein an original petition has been filed.

And if the Supreme Court does not do so, he can ask for a reconsideration. He can ask why the 1973 Constitution was applied or whether a separate proceeding should be involved. It will not necessarily involve such a congestion, a rash of cases.

THE PRESIDENT: Is the Commissioner proposing an amendment?

MR. REGALADO: No, Madam President.

THE PRESIDENT: So it is only an interpretation.

MR. REGALADO: Madam President, I am citing in support of the phrase "APPROPRIATE JUDICIAL PROCEEDINGS" or even "AS MAY BE PROVIDED BY THE RULES OF COURT," which the Supreme Court can promulgate.

Incidentally, since I am on this score, Madam President, may I point out some minor corrections which I already brought to the attention of the committee. The word "PERIOD" should be pluralized, "PERIODS," because the

periods for the Supreme Court, the Court of Appeals and the regional trial courts are different. So it should be "OF THE APPLICABLE PERIODS." I think I sent that information to the committee the other day.

And with respect to the phrase "MATTER SUBMITTED FOR ADJUDICATION," I propose that we add after it the words "BY THE COURTS" because this is a transitory provision. Those who read the Article on Transitory Provisions may not necessarily relate it to the Articles on the Judiciary. So the section will now read: "THE LEGAL EFFECT OF THE LAPSE, BEFORE THE ADOPTION OF THIS CONSTITUTION, OF THE APPLICABLE PERIODS FOR THE DECISION OR RESOLUTION OF A CASE OR MATTER SUBMITTED FOR ADJUDICATION BY THE COURTS SHALL BE DETERMINED IN APPROPRIATE JUDICIAL PROCEEDINGS AS MAY BE PROVIDED IN THE RULES OF COURT."

MR. DE LOS REYES: Madam President, may I be recognized.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: May I ask Commissioner Nollado or Commissioner Regalado a few questions.

At present, there is nothing about this situation in the existing Rules of Court?

MR. REGALADO: None, Madam President. It is in the Constitution and in resolutions of the Supreme Court only.

MR. DE LOS REYES: Yes, Madam President. So the Commissioners are contemplating that the Supreme Court will promulgate supplemental rules to cover the situation.

MR. REGALADO: Such supplemental rules will implement the constitutional provision and perhaps ramify or supplement the same as they have done by way of resolutions.

MR. DE LOS REYES: I thank the Commissioner.

MR. REGALADO: I recall that, for instances, the provision of the 1973 Constitution on this time constraint was later expanded by the Supreme Court by way of three resolutions.

MR. MAAMBONG: What would be the last phrase? Is it: "SHALL BE DETERMINED IN APPROPRIATE JUDICIAL PROCEEDINGS"?

MR. REGALADO: No, we will make it permissive "AS MAY BE PROVIDED IN THE RULES OF COURT."

MR. MAAMBONG: "SHALL BE DETERMINED IN APPROPRIATE JUDICIAL PROCEEDINGS AS MAY BE PROVIDED IN THE RULES OF COURT."

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Just one question of Commissioner Concepcion, Madam President. Is it true that in a number of decisions, the Supreme Court had ruled that the periods mentioned in the Constitution are merely directory?

MR. CONCEPCION: The Commissioner is right.

MR. FOZ: And by such rulings, does the Commissioner not think that the problem presented in this provision has already been resolved: I mean, there is no problem insofar as the parties are concerned?

MR. CONCEPCION: There is, because the Supreme Court says that it is directory, but the present Constitution says also that in such event the decision appealed from shall be considered affirmed or the petition shall be dismissed. This is a patent manifestation of the unusual result reached by the Supreme Court. If it is directory, it cannot produce the effect stated in the present Constitution and that is part of the programs presented to the

committee in deciding "What have we got?" "How do we solve it?" But this is a justiciable question which the Constitutional Commission has no authority to decide.

MR. FOZ: Is the Commissioner saying that as a result of the Supreme Court ruling that it is merely directory, private parties have been injured in their rights?

MR. CONCEPCION: In other words, they seem to suggest that they have a vested right. Does the Constitutional Commission have the power to determine whether or not there is a vested right? Have we? Our function is merely to draft a constitution: we have no judicial power.

MR. FOZ: If that is the argument, does the Commissioner not think that we might as well not provide for anything in the Transitory Provisions Article?

MR. CONCEPCION: Still there is a question. "What happened," many ask. They say we have left the matter hanging.

MR. FOZ: Is it not that the private parties who claim to have been injured in their rights have to do something about the protection of their rights?

MR. CONCEPCION: That is right, but the public is blaming us for not saying anything. We once received a copy of an article by Mr. Jerry Montemayor saying that the administration of justice will be worse because of our failure to introduce a provision to this effect.

MR. FOZ: But that is a little distortion of the provision we have approved.

MR. CONCEPCION: That is, in a way, a popular belief. What is the status of these cases?

MR. FOZ: But in the end, we expect the Supreme Court and the other courts to finally decide the cases.

MR. CONCEPCION: That is a question of policy of the Commission. Shall we try to satisfy the seeming demands of the Bar, or shall we just ignore the same or consider the Commission unnecessary to do something that will answer somehow the objection of some members of the Bar?

MR. FOZ: I thank the Commissioner.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

ADJOURNMENT OF SESSION

MR. SUAREZ: Madam President, in view of the apparently controversial character of the section under consideration and considering further that we had over-extended the patience and the indulgence of the Commission, may we request that we adjourn until nine o'clock on Monday morning in order that we can resume the discussions on these sections.

MR. BENGZON: Madam President.

THE PRESIDENT: Does Commissioner Bengzon have any objection?

MR. BENGZON: I heard the chairman of the committee say "nine o'clock."

THE PRESIDENT: It is 9:30.

MR. SUAREZ: Nine o'clock, Madam President.

THE PRESIDENT: Nine-thirty but sharp.

MR. BENGZON: Yes, 9:30. And may I reiterate, Madam President, the motion that I filed earlier that our sessions on Monday will be sine die, until we finish the Article on Transitory Provisions.

THE PRESIDENT: Is there any objection (Silence) The Chair hears none; the session is adjourned until 9:30 sharp Monday morning.

It was 1:21 p.m.

[*] Appeared after the roll call.

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