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Thursday, July 31, 1986

CALL TO ORDER

At 9:47 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Lugum L. Uka, to wit:

Bismillah Ir Rahman Ir Rahim.

Most Merciful and Compassionate Almighty God, who guides the destinies of men and nations, we, the forty-eight members of the Constitutional Commission of 1986 humbly ask You to guide us on the right path. Grant us the wisdom to enable us to draft a constitution that will bring about real democracy, unity, love, brotherhood, peace and prosperity among our people, Christians, Muslims and tribal communities alike.

Instill in us the noble belief expressed in all Your Holy Books that all mankind regardless of race, color or creed are but one single nation — one big family, founded by Adam and Eve whom You have created as mankind's common ancestors.

Fill our hearts, Almighty God, with the message of brotherhood, love and unity which You commanded Your Holy Messengers or Prophets to preach to every creature and which Moses, Jesus and Muhammad did.

Make us more tolerant, kind, forgiving and peaceful so that peace, love and prosperity for all mankind shall prevail throughout the world.

Hasten, Oh Lord, the dawn of that new day when all nations will sing together in perfect unison, "Peace on earth, goodwill to all men".

Amen.

ROLL CALL

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

Aquino, F. S. Bennagen, P. L.

Azcuna, A. S. Bernas, J. G.

Bacani, T. C. Rosario Braid, F.

Calderon, J. D. Regalado, F. D.

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

Colayco, J. C. Rodrigo, F. A.

Concepcion, R. R. Romulo, R. J.

Davide, H. G. Rosales, D. R.

Foz, V. B. Sarmiento, R. V.

Guingona, S. V. C. Sumulong, L. M.

Jamir, A. M. K. Tadeo, J. S. L.

Lerum, E. R. Tan, C.

Monsod, C. S. Tingson, G. J.

Nolledo, J. N. Treñas, E. B.

Padilla, A. B. Uka, L. L.

Muñoz Palma, C. Villacorta, W. V.

Quesada, M. L. M. Villegas, B. M.

Rama, N. G.

With 35 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

Abubakar, Y. R. Maambong, R. E.

Alonto, A. D. Natividad, T. C.

Bengzon, J. F. S. Nieva, M. T. F.

Brocka, L. O. Ople, B. F.

Garcia, E. G. De los Reyes, R. F.

Gascon, J. L. M. C. Suarez, J. E.

Laurel, J. B.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 385 — Constitutional Commission of 1986

Letter from Mr. Q. Rebueno Hodreal for the Kapisanan ng mga Brodkaster sa Pilipinas submitting its position favoring the Filipinization and structuring of broadcast media to discourage monopolies and cross-media ownership provided that radio and television be treated as one single medium separate from either print or cinema

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 386 — Constitutional Commission of 1986

Communication from Mr. Sergio Z. Esmilla, Jr. of the University of the Philippines College of Music and one thousand seven hundred fifty others, seeking the inclusion of a provision obliging the state to protect the life of the unborn from the moment of conception

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

Communication No. 387 — Constitutional Commission of 1986

Letter signed by Dr. Miraflor G. Parpan and six others from the Kalinga-Isneg Self-Rule and Self-Determination Movement (KISSM), Province of Kalinga-Apayao, opposing the creation of an Autonomous Cordillera as proposed by the Cordillera Peoples Alliance (CPA)/Cordillera Bodong Association (CBA) because both spring from the CPP/NPA's which seek to control the Cordillera Region into a consolidated secured base of the NPA communist ideology operations in the Luzon area

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 388 — Constitutional Commission of 1986

Letter from Mr. Lorenzo M. Tañada, former Senator of the Philippines, saying that the foreign bases in our country must go and our foreign policy makers must be so mandated by the Constitution

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 389 — Constitutional Commission of 1986

Letter from Mr. Alexis V. Pardo for the GSIS Lawyers' Guild proposing the transfer of the compensation planning function of the Ministry of the Budget to the Civil Service Commission, representation of government employees in the CSC, strengthening of the security of tenure clause, and the government employees' right to self-organization for the purpose of collective bargaining

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 390 — Constitutional Commission of 1986

Letter from Mr. Clem. Manalo Leaño of the GSIS requesting the inclusion of a provision that government properties classified as immovable and real estate properties sold and conveyed to private and juridical entities shall be subject to escheat proceedings

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 391 — Constitutional Commission of 1986

Letter from Mr. Ramon A. Tagle, Jr. of the Family Planning Organization of the Philippines, submitting a resolution passed by its National Office, proposing the inclusion of provisions providing for the strengthening of the family as a basic social institution, recognizing the sacredness and inviolability of human life, and condemning abortion in all forms

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

Communication No. 392 — Constitutional Commission of 1986

Letter from Mr. Manuel A. Sanico of 4107 Corregidor-Pitogo, Makati, Metro Manila, proposing a provision providing for the award of homelots to the poor

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 393 — Constitutional Commission of 1986

Letter from Mr. Teofilo C. Ramos, Sr. of the Iglesia ni Cristo, stating that the Iglesia ni Cristo is unequivocally for the retention of the phrase "the separation of church and state" in Section 15, Article XV of the 1973 Constitution and attaching a copy of the editorial of July-August 1986 issue of the PASUGO

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 394 — Constitutional Commission of 1986

Letter from Mr. Ben Rafols and one hundred seventy-four others of United Students for a Better Central, Central Philippine University, Iloilo City, proposing that the State should not only recognize but affirm the vital role of the youth in nation building and that the State shall also promote respect for human rights

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

Communication No. 395 — Constitutional Commission of 1986

Communication from Mr. Herman R. Juatas for Philippine Unemployed Labor Association, proposing a transitory provision constituting the Constitutional Commission of 1986 as an interim legislature for the purpose of enacting measures designed to counter problems of unemployment and poverty

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 396 — Constitutional Commission of 1986

Resolution No. 44, series of 1986, of the Sangguniang Bayan of Biliran, Subprovince of Biliran, Leyte, suggesting a provision making the Subprovince of Biliran a regular province

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 397 — Constitutional Commission of 1986

Letter from the Honorable Commissioner Ambrosio B. Padilla, transmitting a letter of Mr. Bienvenido A. Castillo of 50 McKinley, Pulilan, Bulacan, opposing the creation of autonomous governments for Cordillera and Mindanao

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 398 — Constitutional Commission of 1986

Letter from Sr. Mary Clemencia Flora, RGS, for the Rural Missionaries of the Philippines, supporting the Program for Genuine Land Reform proposed by the Kilusang Magbubukid sa Pilipinas (KMP)

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 399 — Constitutional Commission of 1986

Letter from Lunaz El Mismo, 264 N. Burlington Avenue, Los Angeles, California, proposing a six-year term for the President and Vice-President, English as a national language, dual citizenship for Filipino Americans, and the retention of US military bases, among others

TO THE STEERING COMMITTEE

Communication No. 400 — Constitutional Commission of 1986

Letter from Mr. Rene S. Santiago, proposing a provision that would set a time limit on the life of government agencies and corporations

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 401 — Constitutional Commission of 1986

Letter from Mr. Pablo U. Ibe of Philippine National Bank, Macabebe Branch, Pampanga, proposing a six-year term for the President and Vice-President with one reelection but with a total tenure of 10 years

TO THE COMMITTEE ON THE EXECUTIVE

Communication No. 402 — Constitutional Commission of 1986

Letter from Mr. Ed Samson and eleven others of the Christian Education Committee, Negros District Conference of the United Church of Christ in the Philippines, opposing the move to make religious instruction in public schools compulsory

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 403 — Constitutional Commission of 1986

Communication from Ms. Laureana Guanzon Tinio Alindada of Pamanang Salinlahi Foundation, Inc., 59 Connecticut St., Northeast Greenhills, San Juan, Metro Manila, submitting proposed inclusions and exclusions in the new constitution, mainly on education

TO THE COMMITTEE ON HUMAN RESOURCES

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 26 ON PROPOSED RESOLUTION NO. 517 ON THE ARTICLE ON THE EXECUTIVE

On motion of Mr. Rama, there being no objection, the Body resumed consideration on Second Reading of Proposed Resolution No. 517, entitled:

Resolution to incorporate in the new Constitution an Article on the Executive.

Thereupon, the Chair recognized the Sponsors for the continuation of the period of amendments.

PROPOSED AMENDMENTS OF MESSRS. RIGOS, NOLLEDO, DE LOS REYES AND MAAMBONG

At this juncture; Mr. Rigos manifested that, together with other Commissioners, particularly Messrs. Nollado, de los Reyes and Maambong, they feel that Section 9 should be harmonized with Section 5 which was amended and approved in the previous session by retaining the first sentence of Section 9 and substituting the next sentence and

the paragraph until the end of this Section, with the following: IN CASE OF PERMANENT DISABILITY, DEATH, REMOVAL FROM OFFICE OR RESIGNATION OF BOTH THE PRESIDENT AND VICE-PRESIDENT, THE SENATE PRESIDENT OR, IN CASE OF HIS INABILITY, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL THEN ACT AS PRESIDENT UNTIL THE PRESIDENT AND VICE-PRESIDENT SHALL HAVE BEEN ELECTED AND QUALIFIED.

MR. AZCUNA'S AMENDMENT TO THE AMENDMENT

Mr. Azcuna proposed to change the first "and" to OR in the clause "until the President and Vice-President shall have been chosen and qualified", pointing out that either one could fill the gap. Mr. Rigos accepted the amendment.

Mr. Regalado accepted the amendment on behalf of the Committee.

INQUIRY OF MR. BACANI

In reply to Mr. Bacani's query whether, in case both are not able to continue with the discharge of their duties, an election would be held for the Vice-President alone without any reference to the election of a President, Mr. Bernas explained that there may be obstacles to the election or qualification of the President so that while waiting for the President to be elected or to qualify, if the Vice-President had already qualified, he would act as President until the President qualifies.

In this connection, in reply to Mr. Bernas' inquiry, Mr. Rigos stated that the second paragraph of Section 9 would become unnecessary.

Mr. Bacani pointed out that the eventuality referred to would be the permanent disability of both the President and Vice-President. In response, Mr. Bernas explained that even if there is an election for President and Vice-President, there may be a delay in the announcement of the result in the election of the President so that in the meantime, the Vice-President, who has been proclaimed and qualified, would take over.

Mr. Regalado observed that by deleting the second paragraph of Section 9, under the amendment as formulated, the Acting President may be the Senate President and in case of his inability, the Speaker of the House of Representatives shall take over as Acting President. He raised the question as to what would happen when the Acting President, who may either be the President of the Senate or the Speaker of the House of Representatives, becomes incapacitated, or in case of death or permanent disability. He noted that the second paragraph of Section 9 would refer to the case of death, permanent disability or resignation of the Acting President.

Thereupon, Mr. Rigos limited his proposal to the substitution of the second sentence in lines 6 to 10, retaining the second paragraph in lines 11 to 18.

MANIFESTATION OF MR. RODRIGO

Mr. Rodrigo manifested that inasmuch as the first paragraph of Section 9 has been amended, the second paragraph should also be accordingly amended. He reserved the right to make corresponding amendments on the second paragraph later on.

REMARKS OF MR. DAVIDE

At this juncture, Mr. Davide made some clarificatory remarks. He stated that the section to be amended refers to a vacancy occurring during the term, while the Body in the previous session considered the matter of vacancy at the

commencement of the term, in which case, the Senate President or the Speaker would assume the office of the President. He noted that there might be a situation, at the commencement of the term, that it would be the Senate President or the Speaker who would be the Acting President and that the occupancy of this position may be ended within the term of the President. He noted that to insist on the Senate President or the Speaker would mean that at that time the Acting President may be the Senate President himself or the Speaker himself, in which case, the proposal would become meaningless. He stressed that this would provide for a successor or the Acting President who, himself, may be either the Senate President or the Speaker. He maintained that the present wording is adequate as it would refer to persons other than those who may be acting President because of the vacancy in the office of the President and Vice-President at the commencement of the term. He inquired whether the Committee could reassess its acceptance of Mr. Rigos' amendment.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 10:14 a.m.

RESUMPTION OF SESSION

At 10:16 a.m., the session was resumed.

Mr. Bernas stated that the observation of Mr. Davide was based on the assumption that the second paragraph of Section 9 would also be deleted, but that in view of its retention, Mr. Davide was withdrawing his observation.

Thereupon, Mr. Davide stated that he was withdrawing if the last paragraph would be retained.

INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' query on whether there is a provision regarding the period within which the presidential or vice presidential election would be called on the assumption that both the President and the Vice-President would have been removed from office, or would have died or would have been permanently disabled, Mr. Regalado adverted to Section 10 which provides for 180 days as proposed by Mr. Guingona and accepted by the Committee.

On whether the Acting President would be allowed to run for the position of either President or Vice-President in the scheduled elections, Mr. Regalado stated such is a possibility, considering that he is only an Acting President and he may actually be the Speaker or the Senate President.

INQUIRY OF MR. RODRIGO

On Mr. Rodrigo's query relative to the applicability of Section 9, Mr. Regalado stated that in the event both the President and Vice-President die, or are permanently disabled, or removed from office, the Senate President becomes the Acting President until the end of the term or until a president shall have been elected under the circumstances envisioned in Section 10. In this connection, he affirmed that the Senate President and the Speaker do not lose their positions in accordance with Section 5.

VOTING ON MR. RIGOS' AMENDMENT

Thereupon, the amendment of Mr. Rigos was submitted to a vote, and with 32 Members voting in favor and none against, the same was approved by the Body.

INQUIRY OF MR. MONSOD

On Section 15, page 7, line 4, in reply to Mr. Monsod's inquiry on the meaning of the phrase "the Congress by a vote of at least a majority of all its members", Mr. Regalado stated that the intent was for each House voting separately to obtain the majority vote. He pointed out, however, that since the matter had been taken up, the Committee was inclined to accept an amendment on page 7, line 6, after the word "session", to insert the words VOTING SEPARATELY and a comma (.). Mr. Monsod then suggested that the same clarification be made with respect to Section 4 on lines 21 and 22 of page 2.

Replying thereto, Mr. Bernas stated that the Body should discuss the matter thoroughly because it had already approved the deletion of concurrence of Congress for the initial imposition of martial law. He opined that it would be difficult for Congress to revoke the imposition of martial law since the Senate and the House of Representatives would vote separately so that he was recommending that voting be done jointly to balance the situation.

REMARKS OF MR. RODRIGO

Mr. Rodrigo stated that he was a member of the Senate for 12 years, and it was always the practice for the two Houses of Congress to vote separately. He pointed out that while the Senate and the House of Representatives sometimes met in joint session, voting was always separately done, otherwise, the Senate would be useless because it would be completely outnumbered by the members of the Lower House.

Mr. Bernas stated that he was precisely proposing this change as an exception to the practice in the defunct Congress. He argued that since the Constitution has allowed the President to impose martial law and suspend the privilege of the writ of habeas corpus unilaterally, the Constitution should make it a little easier for Congress to reverse the situation for the sake of protecting the rights of the people.

Mr. Rodrigo stated that it could be done by a majority vote of each House. He pointed out, however, that there are other safeguards for revoking the proclamation of martial law, one of which is to bring the matter up to the Supreme Court, to which Mr. Bernas replied that, although he realized the other safeguards, it would be easier for the representatives of the people to be able to review the action of the President.

Mr. Rodrigo stated that between the Senate being absorbed by the House numerically and having each House vote alone, the latter is the lesser of two evils.

INQUIRY OF MR. BENGZON

In reply to Mr. Bengzon's query in case of variance of decision between the Supreme Court and Congress, Mr. Bernas stated that the Supreme Court will prevail. However, he agreed that if Congress decides to recall its pronouncement before the Supreme Court issues its decision, the case would become moot and academic. He pointed out that the decision of the Supreme Court would be based on its assessment of the factual situation and as situations change Congress could do something about it.

REMARKS OF MR. BENNAGEN

Mr. Bennagen stated that he had written down his thoughts on the Constitution after the Body voted on the provision to remove the concurrence of Congress as a condition precedent to the President's power to declare martial law.

He stated that he got into the Constitutional Commission with a great deal of cynicism borne out of his social

science training which tells him that a Constitution is merely a piece of paper which, in spite of its lofty objectives, could not remake society.

Mr. Bennagen observed that a Constitution could be any of two possibilities, namely, a pro-people document suggestive of executive, legislative and judicial structures and processes that truly respond to the needs and aspirations of the people; or an ideological document that promises a lot to the people but which, in reality, strengthens the structures of domination.

He stated that as he talked to many of the Members of the Commission and as he listened and observed the research techniques he learned as a social scientist, he began to entertain the possibility of a Constitution worthy of the Filipino people, a change of attitude which was reinforced when he listened to the daily prayers, so full of hope, compassion and courage, more so when the Preamble was approved. He stressed that he voted against the Preamble on procedural grounds but, nonetheless, accepted the decision of the majority since it, too, was full of hope, compassion and love.

Mr. Bennagen posed several queries, as the cliché goes, whether the people could all be born-again democrats; whether they could change their habits that easily; whether they have learned enough from the trauma of martial rule; or whether they shall soon forget the tyrannical past, the euphoric present, and the optimistic future. He stressed that there are no easy answers.

He adverted to his remarks at the University of the Philippines, where he made the observation that at the very least, the country would have an anti-dictatorship Constitution as a reaction to the Marcos dictatorship. He opined, however, that after the Body voted to grant the President the power to declare martial law without the concurrence of Congress, it appeared that he spoke too soon. He stressed that he voted against the amendment because no one, all by himself, should declare martial law and that it should have at least the concurrence of the people's representatives to serve as check against the machinations of a potential dictator, for strange are the ways of power and it does not lend itself readily to prediction. In this regard, he stated that "power corrupts and absolute power corrupts absolutely" so that once martial law is declared, it would generate its own dynamos, create its own rules until it runs its own course, a democratic constitution notwithstanding. He also stated that the provision suggests to any power-hungry ruler some tremendous possibilities for a power grab. He opined that "invasion" and "rebellion" could be invented and set up to justify the imposition of martial law which, once declared, could set up the apparatus of terror to mutilate the Constitution to legitimize martial rule.

Mr. Bennagen stated that in a study of tyranny, the longer and tougher the struggle for power, the greater the prospect of stability and durability of the resulting dictatorship. He stated that he could not fathom why a Constitution, coming in the wake of a dictatorship, should include a provision that could pave the way for its resurgence. He also said that after ransacking his mental cabinet for an explanation, he could only think of one thing — that our consciousness has been subjugated that we could no longer understand what it means to be free and that we have turned against ourselves, forging our own chains.

He then urged his Colleagues to break free from that subjugated consciousness by examining the structures and processes that have prevented them from making the dash to freedom as an act of courage which all the Members must do, if not for themselves for the future generations.

REMARKS OF MR. GUINGONA

In connection with the statements made by Messrs. Rodrigo and Bernas, Mr. Guingona stated that the Commission should break away from tradition and that, instead of referring the matter to Congress, the function of revoking proclamations be given to the House of Representatives. He opined that even the Senators would

welcome the arrangement because they would feel frustrated by the imbalance in the number between the Senators and the Members of the House of Representatives.

Replying thereto, Mr. Bernas stated that, personally, he was against voting separately.

REMARKS OF MR. MONSOD

In reply to the query of the Chair whether he was proposing an amendment to page 7, lines 4 to 6, Mr. Monsod stated that he would prefer the vote of both Houses, since limiting it to the House of Representatives would lose the benefit of the advice and opinion of the Senate. He pointed out, however, that although he would prefer that the two Houses conduct joint sessions, they should not vote separately. He stated that he would prefer the present wording of the provision although there is still a need for a clarificatory phrase such as voting jointly.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento suggested that the Committee reexamine its position on separate voting. He then urged his colleagues to break traditions and to vote for the proposal of Mr. Monsod.

Mr. Sarmiento, in supporting Mr. Monsod's proposal, stressed that Congress should have the power to revoke the proclamation of martial law or the suspension of the privilege of the writ of habeas corpus so that it would be easier for the people's representatives to cut short a very potent power which could be subject to abuse and could open the way for the resurgence of tyranny and dictatorship.

Mr. Rodrigo pointed out that a joint voting by the two Houses would be insulting to the intelligence of the Senators, who are elected at-large, and who would be asked to join a session where they know they would be outnumbered. He stressed that the Senate is a separate chamber and the members thereof have longer term than the members of the Lower House. He expressed preference for separate voting by each House and that if a choice were to be made between two evils, it would be better to let the House of Representatives alone decide rather than let the Senators participate in a charade.

In reply to Mr. Regalado's inquiry as to what would be the consequence of a separate voting where a majority is obtained in the House of Representatives but not in the Senate, Mr. Rodrigo stated that in such case martial law or suspension of the writ would continue and that the Supreme Court may have to decide the issue.

Mr. Regalado stated that it would be very difficult to revoke a proclamation declaring martial law or suspending the privilege of the writ of habeas corpus based on separate voting which could result in lack of majority in one House, to which Mr. Rodrigo replied that the President, like the Members of Congress, is elected by the people and that the Body should not overreact to a past experience when the former President destroyed the people's faith by assuming that future Presidents would do the same.

Mr. Guingona did not insist on his proposal but added that it is in the House of Representatives where they would have sectoral representation.

RESTATEMENT OF MR. MONSOD'S PROPOSED AMENDMENT

Thereupon, Mr. Monsod restated his proposed amendment to add the words VOTING JOINTLY after the word "Congress" on page 7, line 4, explaining further that his proposal would be one safeguard left to the people to revoke or extend the suspension or declaration.

In reply to Mr. Rodrigo's query, Mr. Monsod stated that out of the 274 Members of both Houses, 138 Members would constitute the majority, implying, however, that the Senators are absolutely outnumbered. He stressed the

higher value which is to prevent a deadlock that would enable the President to continue the full 60-day period in case one House revokes and the other does not. He added that the Senators could participate fully in the deliberations and they could use their persuasive powers on account of their stature.

On Mr. Rodrigo's contention that in effect, the Senators would have the quality votes while the Members of the Lower House would have the quantity votes, Mr. Monsod maintained that in voting jointly, the consensus would be clearer because they would not be voting against each other.

PROPOSED AMENDMENT OF MR. RODRIGO TO MR. MONSOD'S AMENDMENT

Mr. Rodrigo proposed the substitution of the word "Congress" to HOUSE OF REPRESENTATIVES, which Mr. Monsod did not accept, stating that under his proposal, the advice and intelligence of the Senators would be very useful.

Mr. de Castro recalled that Mr. Monsod was earlier convincing in to support his proposal to have the Senate as the only one to revoke or extend martial law or the suspension of the writ, to which Mr. Monsod replied that he was discussing then the possibilities in order to avoid a deadlock and, although initially he was in favor of the Senate, he realized, after hearing the arguments advanced by some Members that in order to have an effective check and balance, a joint voting would be necessary.

Mr. de Castro expressed his support for Mr. Rodrigo's proposal.

PROPOSED AMENDMENT OF MR. PADILLA TO MR. MONSOD'S AMENDMENT

Mr. Padilla proposed the substitution of the word "jointly" to SEPARATELY, explaining that on the assumption that there would be a deadlock, the Congress, in failing to get a majority, should not stop, interrupt or make less effective the President's declaration of martial law or suspension of the writ because if the President committed a mistake, the Supreme Court could make a declaration in an appropriate proceeding.

Mr. Monsod did not accept Mr. Padilla's proposed amendment with the observation that the proposal and that of Mr. Rodrigo's are mutually exclusive alternatives. He asked the Body to vote on his proposal before deciding on other options.

In reply to Mr. Rigos' inquiry, the Chair opined that disapproval of Mr. Monsod's amendment would not necessarily mean that the Congress would have to vote separately.

Additionally, Mr. Bernas stated that if Mr. Monsod's amendment is voted down by the Body, there is still the possibility of giving the power to revoke either to the Senate or to the House of Representatives alone.

In reply to Mr. de Castro's inquiry on the Committee's intention in proposing the sentence appearing on page 7, lines 4 to 8, Mr. Bernas stated that the formulation of the sentence referred to was based on the premise that the Body would adopt a unicameral legislature.

WITHDRAWAL OF MR. RODRIGO'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Rodrigo withdrew his proposed amendment, which was not accepted by Mr. Monsod, to give way to the proposal of Mr. Padilla.

REMARKS OF MR. BROCKA

Mr. Brocka, reacting to the arguments raised by Mr. Rodrigo about the alleged humiliation and insult to the Senate, pointed out that martial law involves the very basic and fundamental rights of citizens. He supported Mr. Monsod's proposed amendment as a better safeguard.

REMARKS OF MR. RODRIGO

Mr. Rodrigo stated that when he spoke of humiliation, he was not just referring to the 24 Senators but to their constituents spread all over the country who voted for them. He pointed out that the proposal is a radical departure from a very logical and reasonable practice in a republican form of government that when there are two Houses, they must be coequal. He stressed that the Body is drafting a new Constitution which would be scrutinized not only by the people but also by the entire world.

OBJECTION OF MR. OPLE TO MR. MONSOD'S AMENDMENT

Mr. Ople, objecting to Mr. Monsod's amendment, pointed out that when the Body decided on a bicameral legislature, it accepted the consequence that each House would act separately and that neither chamber should be disparaged by its own creator. He maintained that deadlocks as a consequence of having a bicameral legislature should test the political skill and leadership of the President, in the same manner that leadership in both Houses should be exercised to avoid potential deadlocks.

INTERPELLATION OF MR. NOLLEDO

On Mr. Nolleddo's inquiry on the need to limit the presidential power to declare martial law as the paramount consideration of Mr. Monsod's amendment, Mr. Ople stated that the Body had already introduced several safeguards to ensure that these presidential powers would be checked and that the proposal on separate voting does not detract from the checks and balances.

Mr. Nolleddo pointed out that the proposed amendment would set forth a limitation to avoid a stalemate which would allow martial law to continue even if there is no factual basis for it, to which Mr. Ople replied that if the amendment is adopted, the Body would be held responsible for a glaring inconsistency in the Constitution to a degree that it distorts the bicameral system. He reiterated that it is the responsibility of the President as well as the leaders of both Houses to overcome deadlocks.

RESTATEMENT OF MR. PADILLA'S PROPOSED AMENDMENT TO THE AMENDMENT

Thereupon, Mr. Padilla restated his proposed amendment to change the words "voting jointly" to VOTING SEPARATELY. He asked that his amendment be put to a vote.

Mr. Bernas stated that Mr. Padilla's proposed amendment is the complete opposite of Mr. Monsod's amendment. He asked that the Body vote on Mr. Monsod's proposed amendment.

VOTING ON THE AMENDMENTS

Submitted a vote, and with 24 Members voting in favor of a joint voting and 13 Members voting in favor of a separate voting, the Body approved Mr. Monsod's amendment.

PROPOSED AMENDMENT OF MR. RODRIGO

On Section 15, page 7, line 4, Mr. Rodrigo proposed to change "Congress" to HOUSE OF REPRESENTATIVES.

Mr. Bernas pointed out that the proposal should actually be a motion for reconsideration since the Body had already decided that both Houses would have to vote jointly.

Mr. Rodrigo maintained that if his proposal would, in effect, make both Houses vote separately, then, it is indeed in the nature of a motion for reconsideration, but this is another formula.

On Mr. de Castro's query relative to the rationale of the proposal, Mr. Rodrigo explained that it is intended to avoid the awkward situation wherein 24 Senators have to vote jointly with 250 Representatives in a joint session because the former would surely be absorbed by the latter's numerical superiority.

Mr. Sarmiento opined that the country needs the knowledge, experience and wisdom of the Senators on questions pertaining to human and civil liberties, hence, they have to discard the classification and work together with the Representatives in restoring democracy in the country.

Mr. Rodrigo stressed that the advice of the Senators could be sought by the Representatives if ever they would need the former's counsel since they occupy the same building and could always be invited.

At this juncture, Ms. Tan requested for voting on the proposal.

Thereupon, the proposal was submitted to a vote, and with 5 Members voting in favor and 25 against, the same was lost.

JOINT AMENDMENT OF MESSRS. RAMA AND DAVIDE

On Section 15, page 7, line 4, Mr. Rama proposed to insert after "Congress" the phrase WHICH SHALL BE AUTOMATICALLY CONVENED IF NOT IN SESSION.

Mr. Rama explained that there is a 30-day period during each year when Congress does not hold sessions and the President may declare martial law during this period to avoid its revocation.

Mr. Rama agreed with Mr. Suarez' observation that the special session could only be called during the 30-day interregnum when the Congress is not in session.

Mr. Suarez then suggested to insert SPECIAL before "which".

Mr. Rama admitted that the proposal enhances the intent and he agreed with Mr. Suarez' suggestion that the matter of whether or not it is awkward be left to the Committee on Style.

At this juncture, Mr. Davide observed that a special session could only be called within the 30-day period prior to the commencement of a regular session.

Thereupon, he proposed to add a new sentence between lines 8 and 9 to read as follows: THE CONGRESS, IF NOT IN SESSION, SHALL WITHIN TWENTY-FOUR (24) HOURS FOLLOWING SUCH PROCLAMATION OR SUSPENSION, CONVENE IN ACCORDANCE WITH ITS RULES WITHOUT NEED OF A CALL.

Mr. Davide stated that the proposal would be consistent with the amendment on vacancy in the Office of the President or Vice-President.

Mr. Rama accepted the amendment.

On Mrs. Quesada's query as to what would happen if a special session could not be convened because the

Members of both Houses were arrested and the Congress Building padlocked upon the declaration of martial law, Mr. Rama replied that there is always a possibility that the Congress would not be able to convene and in order to preclude this possibility there must be a provision for its automatic convening so that it could exercise its right to revoke, scrutinize the circumstances or question the validity of the President's declaration of martial law.

On Mrs. Quesada's contention that it was the understanding during the previous session that there are enough safeguards for Congress to be able to revoke the proclamation, Mr. Rama stressed that his proposal would, in fact, strengthen the safeguards.

At this juncture, Mr. Regalado informed the Body that in such a situation, a person could petition the court for the issuance of a writ of habeas corpus or the Supreme Court could review the factual basis of the declaration.

He stressed that even if the Congress Building is padlocked, the Members thereof could always convene in another place.

Mrs. Quesada manifested that she still has reservations as to how Congress could be convened if all the Members thereof were arrested.

Mr. Bengzon opined that if and when the situation envisioned by Mrs. Quesada would happen then it would already be a complete military take-over.

Mr. Natividad opined that there is a provision which states that "A state of martial law does not suspend the operation of the Constitution nor supplant the functioning of the civil courts or legislative assemblies nor authorize the conferment of jurisdiction on military courts and agencies over civilians where civil courts are able to function, nor automatically suspend the privilege of the writ".

He recalled that, as a Representative when martial law was declared, they were not able to hold a rump session, because there was no Constitutional authority given to them to do so.

Mr. Regalado, on behalf of the Committee, accepted the joint amendment of Messrs. Rama and Davide.

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

AMENDMENT OF MR. OPLE AS MODIFIED BY MR. MAAMBONG

On Section 15, page 7, line 4, Mr. Ople proposed to add a new sentence after "law" to read as follows: WITHIN FORTY-EIGHT (48) HOURS OF THE PROCLAMATION OF MARTIAL LAW OR THE SUSPENSION OF THE WRIT OF HABEAS CORPUS THE PRESIDENT SHALL SUBMIT A REPORT, IN PERSON OR IN WRITING, TO THE CONGRESS.

Mr. Ople explained that the President would be held responsible for the report and this would be used as basis against other facts and perceptions of the Members of Congress if they would revoke it.

Mr. Regalado accepted the amendment on the understanding that the report or any statement therein would not be conclusive on Congress.

Mr. Padilla opined that while the intention of the amendment is good, the country needs during actual rebellion or invasion the President's immediate action and not his explanation why he declared martial law or suspended the privilege of the writ of habeas corpus because he may lose valuable time while doing so. He manifested that he would be in favor of the proposal if the country is not yet in actual rebellion or invasion.

Mr. Ople stated that while he appreciates the concern of Mr. Padilla, the dignity of the country, through Congress, requires that the President at least tell them what he did and why he did so, which report would also be used for

evaluating his proclamation of martial law.

At this juncture, Mr. Maambong suggested that PRIVILEGE OF THE should be inserted between “the” and “writ”.

Mr. Ople accepted the amendment.

Mr. Sarmiento objected to Mr. Ople's proposal because it is unwise, unnecessary and impractical for the President to give his report to Congress during actual rebellion or invasion.

Mr. Ople maintained that the President should not be excused from tendering his report to Congress under any circumstance. He stressed that the President must find time to do it in order to satisfy the dignity and the right to know of the people through their Representatives.

Mr. Bacani also objected to the proposal because the President could make his report through television or other forms of mass media.

Thereupon, Mr. Ople's proposal as modified by Mr. Maambong was submitted to a vote, and with 23 Members voting in favor and 11 against, the same was approved by the Body.

AMENDMENT OF MS. AQUINO

Ms. Aquino proposed, on Section 15, page 7, line 7, to insert the phrase WHICH REVOCATION SHALL NOT BE SET ASIDE BY THE PRESIDENT between "suspension" and "or".

Ms. Aquino explained that if the proviso would not be included, it may be deemed that the revocation power of Congress could be vetoed by the President.

Mr. Regalado accepted the amendment.

On Mr. Suarez' suggestion to include "extension" in her amendment so that the President should not also set aside an extension approved by Congress, Ms. Aquino stated that Mr. Azcuna would have an amendment on the matter and that she would limit her amendment to revocation.

Furthermore, Mr. Bernas opined that the President does not have to override an extension because all martial law does is give the President extraordinary powers, and if he does not like the extension, he can simply refrain from the exercise of such extraordinary power.

However, Mr. Suarez pointed out that in the case of an extension, it is a Congressional and no longer a presidential act.

Mr. Bernas stated that the extension may be relevant with respect to the suspension of the writ of habeas corpus but not to martial law.

On Mr. Suarez' observation that the President should have the final decision on whether to extend or not the suspension of the writ especially when the Congress did not seek the prior approval of the President thereon, Mr. Concepcion underscored that the power to suspend the privilege of the writ of habeas corpus is an Executive power subject to revocation by Congress.

On the contention that the Congress may be extending the suspension without prior consent or approval of the President, Mr. Concepcion stated that the power had already expired and it is the Congress that would extend the power of the Executive.

Mr. Suarez maintained that under the proposal, the President could not counteract the decision of Congress to

extend the suspension of the writ of habeas corpus.

ACKNOWLEDGMENT OF PRESENCE OF GUESTS

At this juncture, the Chair acknowledged the presence in the gallery of a Sociology Class from the University of the Philippines, the students from St. Bridget's College, Ateneo Pre-Law students, and high school students from the Philippine Women's University.

CONTINUATION OF CONSIDERATION OF

MS. AQUINO'S AMENDMENT

On Mr. Colayco's query, Ms. Aquino stressed that her proposal would foreclose the possibility that the President would counteract the revocation by Congress, such that the decision of Congress would be the final act.

At this juncture, Mr. Sarmiento proposed an amendment to the amendment by changing the words "set aside" to VETO, in reply to which Mr. Regalado pointed out that veto only refers to the action of the President on bills passed by Congress and not to proclamations.

Mr. Sarmiento did not insist on his proposal.

There being no objection, the proposed amendment of Ms. Aquino was approved by the Body.

AMENDMENT OF MR. AZCUNA

On page 7, line 7, between the words "or" and "extend", Mr. Azcuna proposed to insert the words AT THE INSTANCE OF THE PRESIDENT.

The Sponsor accepted the proposed amendment. On Mr. Suarez' proposal to fix a definite period for the extension of the proclamation or suspension, Mr. Azcuna suggested that it should be considered separately from his proposal.

On Mr. Davide's observation that the President would merely request for extension but Congress is not obliged to grant, such that the proposal should instead be UPON PETITION OF THE PRESIDENT, Mr. Azcuna stated that "petition" would be proper for courts but "initiative" would be appropriate for the proposal such that this proposed amendment would be the insertion of the phrase UPON THE INITIATIVE OF THE PRESIDENT.

There being no objection, the proposed amendment of Mr. Azcuna as amended by Mr. Davide was approved by the Body.

PROPOSED AMENDMENT OF MR. SUAREZ

On page 7, line 7, between the words "same" and "if", Mr. Suarez proposed to insert the words FOR A PERIOD OF NOT MORE THAN SIXTY DAYS, which is equal to the period of the first proclamation or suspension.

Mr. Regalado stated that with the amendment of Mr. Azcuna, if the period were fixed at sixty days, the President and Congress have to meet again if another extension is necessary. He pointed out, however, that there is a period prescribed for the first declaration of martial law or suspension of the privilege of the writ of habeas corpus because of the deletion of the concurrence requirement.

On Mr. Suarez' contention that a fixed period for an extension would be necessary, Mr. Bernas argued that there should be flexibility on the period and suggested that the amendment instead be FOR A PERIOD TO BE

DETERMINED BY CONGRESS. Mr. Suarez agreed to the amendment to his amendment but that it should be put at the end of the sentence on line 8, in reply to which Mr. Bernas opined that it would just be a matter of style.

In reply to Mr. Ople's query on whether the Committee was departing from the principle that the matter should have the collective judgment of the President and Congress, Mr. Bernas stated that the President would still be participating because he would initiate or request for such extension, although the final action thereon rests with Congress.

Mr. Ople opined that these encumbrances on the power of the President could force him to handle invasion or rebellion all by himself by declaring a revolutionary government, especially when the Congress is dominated by opposition parties.

Furthermore, in reply to Mr. Rodrigo's query, Mr. Bernas stated that the Senate, even if it unanimously voted against the extension, may not separately vote thereon because the extension has to be determined by Congress, voting jointly.

On Mr. Maambong's query, Mr. Bernas also stated that the Congress has to provide the period in a resolution because if Congress would enact a law, it has to pass the cumbersome process of three readings subject to approval by the President.

On Mr. Padilla's query as to why it is Congress that will determine the period of extension since according to Mr. Concepcion the suspension of the writ or a declaration of martial law is an Executive act, Mr. Bernas underscored that what Mr. Concepcion was pointing out was that the initiation is an Executive act but the final action would depend on Congress. Mr. Concepcion added that it is actually the President who would suggest to Congress the necessary period of extension, which Congress should not refuse in certain situations.

At this juncture, Mr. Romulo moved for a vote on Mr. Suarez' proposed amendment as amended by Mr. Bernas, in reply to which, the Chair suggested that the matter be put to a vote after lunch break.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session until two o'clock in the afternoon.

It was 12:12 p.m.

RESUMPTION OF SESSION

At 3:08 p.m., the session was resumed.

PROPOSED AMENDMENT OF MR. PADILLA

On Section 15, Mr. Padilla proposed to delete the last paragraph and in lieu thereof to substitute the following sentence: DURING THE SUSPENSION OF THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS, ANY PERSON WHO HAS BEEN ARRESTED OR DETAINED SHALL BE JUDICIALLY CHARGED WITHIN FIVE WORKING DAYS, OTHERWISE, HE SHALL BE RELEASED.

The purpose of the amendment, he explained, is to prevent undue arrest and detention of persons who may be confined in prison for a long period of time without any criminal charge filed against them or without even being aware of the reason for their arrest or detention. He remarked that the provision "The suspension of the privilege of the writ shall apply only to persons judicially charged for rebellion or for offenses inherent or directly connected with invasion" would not protect persons who have been arrested and detained by the military under

orders such as those used in the past regime like the ASSO, and the PDA. He noted that "judicially charged" means that a warrant of arrest had been issued. The amendment, he stressed, would protect the rights of persons arrested and detained by requiring that within at least five working days, criminal charges should be filed against them, otherwise, they should be immediately released.

Mr. Regalado suggested that before considering Mr. Padilla's amendment which the Body was still studying, the amendment of Mr. Suarez, introduced before the suspension of the morning session, be taken up. The amendment would be on the first paragraph of the same Section which, as amended by Mr. Suarez, would read: "The Congress, by a vote of at least a majority of all its members voting jointly in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President, or, upon the initiative of the President, extend the same FOR A PERIOD TO BE DETERMINED BY CONGRESS if the invasion or rebellion shall persist and public safety requires it".

Mr. Padilla stated that he had objected to the "period to be determined by law" on the ground that a proclamation of martial law or suspension of the privilege of the writ of habeas corpus is a prerogative of the Executive and should not be exercised by the Legislative. The Chair took note of Mr. Padilla's objection.

AMENDMENT OF MR. SUAREZ

Upon inquiry of the Chair, Mr. Suarez stated that he would leave the matter of acceptance or rejection of his amendment to the Committee. Mr. Regalado, thereupon, informed the Chair that the Committee would prefer to submit the proposed amendment to the Body.

Before the vote, Mr. Bernas made a clarification that the clause FOR A PERIOD TO BE DETERMINED BY CONGRESS would mean that it would be by both Houses voting jointly, which suggestion was accepted by the proponent.

Submitted to a vote and with 25 Members voting in favor, 4 against and 1 abstention, the amendment was approved by the Body. Mr. Rodrigo manifested his objection to the joint voting of both Houses.

Mr. Romulo informed the Chair that Messrs. Sarmiento and Davide have amendments to the amendment of Mr. Padilla.

Upon request of Mr. Sumulong, Mr. Concepcion reacted to the proposed amendment of Mr. Padilla. Mr. Concepcion made it clear that the purpose of the paragraph is to require all those detained to be immediately turned over to the judicial authorities so that the suspension of the privilege will not apply to them until they are placed in the custody of the judicial authorities. He noted that the first important thing would be to preserve the life of the detainee.

Mr. Concepcion noted that if the detainee has not yet been turned over to the court, the government cannot claim that the privilege has been suspended. He stated that he has no objection to the period proposed by Mr. Padilla and would, in fact, prefer that the detainee be turned over to the court as soon as possible. He reiterated that in such circumstance, the first thing would be to preserve the life of the individual; second, to avoid his torture or the application of other forms of oppression; third, to turn over the detainee to the authority of the court. He added that in so doing, it would avoid a situation where a court would order the release of the detainee and other parties may refuse to obey such an order. He explained that the effectivity of the suspension of the privilege with respect to persons covered by this provision shall take effect only after the person has been turned over which may take some time although the five days allocated, to start with, would be sufficient time.

Mr. Padilla concurred with the statement of Mr. Concepcion and noted, moreover, that the same sentiments

prompted him to propose the amendment by substitution which, he maintained, would make the intendment of the provision clearer.

As to the Chair's inquiry whether he was insisting on his proposed amendment, Mr. Padilla replied in the affirmative.

Mr. Padilla then restated his amendment.

At this juncture, Mr. de Castro requested recognition from the Chair to speak in support of Mr. Padilla's amendment but was informed that as per arrangement with the Floor Leader, the Chair shall recognize first those who have registered. Thereupon, Mr. Sarmiento yielded part of his time to Mr. de Castro.

REMARKS OF MR. DE CASTRO

Mr. de Castro stated that he had previously informed the Floor Leader about his proposed amendment on the last paragraph of Section 15 although after consulting with Mr. Concepcion who expressed his concern about judicially charging those arrested under the writ, which sentiment he shared, he gave way to Mr. Padilla's amendment. He stated that there are two instances — actual rebellion and actual invasion — when the writ can be issued. He expressed his doubts whether it would be practical to issue a writ in such a situation. As to a state of actual rebellion, he manifested his doubts whether a detainee can be released within the 5 working-day period, inasmuch as the place would be a theater of war and that the authorities will not have the time to get the necessary affidavits, prepare the complaints and file the necessary charge before the court. He stated that even the court may no longer exist under such a situation, in a place where actual rebellion prevails. He expressed the hope that five days will be sufficient time.

MR. SARMIENTO'S AMENDMENT TO THE AMENDMENT

Mr. Sarmiento proposed to shorten the five working days to three working days. He stated that during martial law, torture and other human rights violations took place immediately after the arrest, on the way to safehouses or to Camps Aguinaldo, Bonifacio and Crame. He noted that the Revised Penal Code has a 6-9-18 formula — meaning 6 hours, 9 hours and 18 hours within which to charge the detainee before the judicial authorities. He stated that during martial law, that period of time was increased.

In reply thereto, Mr. Padilla stated that he has no particular conviction on the number of hours or days. He affirmed that under Article 125 of the Revised Penal Code which penalizes delaying the transmittal or delivery of the person arrested to the judicial authorities, the period is based on the gravity of the offense and this is punishable by the same penalties as arbitrary detention in Article 124 and delay in the release, under Article 126. The provision, he explained, applies when there is a suspension by the President of the privilege and would cover a different situation from that contemplated in the Revised Penal Code. The Rules of Court, he added, also allows under Section 6, Rule 113, arrest without warrant under three situations but which is still subject to the period of delivery of the arrested person to the judicial authorities or the court through the fiscal.

Mr. Bernas stated that the Committee would have no objection if it were an amendment by addition and not by substitution as the latter would weaken the intent of the provision as it exists. He stressed that the intention of the provision is precisely to apply the suspension of the privilege only to those who have been judicially charged. On the other hand, he noted that if the amendment is by substitution — by requiring that the detainee be charged within a certain period of time — the Committee would accept provided that what stands in the provision would not be deleted. He explained that the suspension of the privilege will apply only to those who have been judicially charged. He added that until such persons are actually charged, the suspension will not apply to them.

Mr. Padilla remarked that the phrase "shall only apply to persons judicially charged" is not clear because if persons are judicially charged, it would become irrelevant if a warrant of arrest has been issued.

In reply, Mr. Bernas clarified that it is not a question of whether or not a warrant of arrest can be issued but whether, in spite of the warrant, the detainee can still be released.

Mr. Padilla asked if only persons to be covered by the suspension are those judicially charged, would the others then be not subject to the suspension.

Mr. Bernas answered that the purpose of the suspension of the privilege would be to enable the government to deal with a situation of invasion or rebellion and the government must charge judicially those persons involved. He noted that those who are not charged are not involved in the rebellion and therefore are not considered to be involved in the rebellion or invasion and there would be no reason for extending the suspension of the privilege to these persons.

Mr. Padilla observed that inasmuch as these people are not involved in rebellion or invasion, they are, therefore, innocent.

In reply thereto, Mr. Concepcion said that these persons can still be detained for years although they did not participate in the rebellion or insurrection and it is to avoid such a situation that the suspension will apply only to detainees who are turned over to the judicial authorities.

Upon inquiry of Mr. Padilla as to what would happen to persons who might have been arrested but have not been turned over to the judicial authorities, Mr. Concepcion replied that these persons should be released.

At this juncture, the Chair stated that as suggested by Mr. Bernas, the proposed amendment can be added without deleting the last paragraph.

Mr. Padilla remarked that he could not reconcile the paragraph as presently formulated. He argued that under his proposal, it would be clear that persons who are arrested or detained must be judicially charged within 3 to 5 days, otherwise, they should be released even if it is during the period of the suspension of the privilege.

Thereafter, Mr. Bernas read the paragraph with the amendments of Messrs. Padilla and Sarmiento, to wit:

"The suspension of the privilege of the writ shall apply only to persons judicially charged for rebellion or offenses inherent in or directly connected with invasion. DURING THE SUSPENSION OF THE PRIVILEGE OF THE WRIT ANY PERSON WHO HAS THUS BEEN ARRESTED OR DETAINED SHALL BE JUDICIALLY CHARGED WITHIN FIVE DAYS, OTHERWISE HE SHALL BE RELEASED".

Mr. Regalado inquired if the amendment of Mr. Padilla contemplates that such a person is not entitled to preliminary investigation, so that he can be immediately charged within the 72-hour period or five-day period as the case may be.

Mr. Padilla replied that there is no intention to waive any right of a person who has been arrested or accused and that even during the suspension of the privilege, there should be no arrest unless there is evidence and probable cause which would justify such an arrest or detention.

In reply to Mr. Suarez' inquiry, Mr. Padilla stressed that his amendment does not contemplate any waiver of any right of the person arrested.

There being no objection, the Body approved Mr. Padilla's amendment.

AMENDMENTS OF MR. FOZ

On Section 16, page 7, Mr. Foz proposed the deletion of the words "and bureaus" on line 26 and, with Mr. de Castro as coauthor, to change the words "colonel or naval captain" on line 28 to MAJOR GENERAL OR REAR ADMIRAL.

On the proposed deletion of the words "and bureaus", Mr. Foz stated that the position of bureau director is quite low and to require further confirmation by the Commission on Appointments would subject them to political influence. He affirmed that his amendment would include the regional directors because they are under the supervision of the staff bureau directors.

With respect to the change of the words "colonel or naval captain" to MAJOR GENERAL OR REAR ADMIRAL, Mr. de Castro stated that the inclusion of the rank of colonel or naval captain was taken from the 1935 Constitution when at that time, there was only one general and a few colonels occupying supervisory positions. In view of the increase of strength in the Armed Forces, he informed that even the position of full-fledged general was filled up and the officer corps constitute 1.2 percent of the entire strength of Armed Forces. He suggested that the major general be subject to confirmation instead of the brigadier generals because the former are supervisory officers while the latter are frontline generals. Moreover, he pointed out that appointments of brigadier generals pass three screenings, from the Chief of Staff, to the Minister of National Defense and finally to the President and, therefore, confirmation is not necessary. On the other hand, Mr. de Castro stated that major generals are usually service commanders and there is a need of confirmation because it might happen that the President may overlook the other good brigadier generals. He added that the same argument applies to rear admirals.

Mr. Regalado explained that when the Committee considered said provision based on the 1935 Constitution, it took into account not only the number of colonels or generals at that time but also the number of troops under their command and under the Table of Organization and Equipment, a colonel is a regimental commander, to which Mr. de Castro replied that in 1935, the division commander was a colonel while at present, a division commander is a major general.

With respect to the area of command of a colonel as distinguished from a brigadier general, Mr. de Castro explained that under the Table of Allowance, a full colonel has in his command either a battalion composed of 700 men or a reinforced battalion composed of 1,200 men. He affirmed that his amendment is based on the existing number of colonels and generals in the Armed Forces. Furthermore, Mr. de Castro stated that the general officers constitute 1.2 percent of the total strength of the officer corps although he was not certain on the percentage with respect to colonels.

On Mr. Rama's argument that a coup d'état starts from the rank of colonel, Mr. de Castro stated that there has never been a coup d'état since the Armed Forces was organized in 1935.

On the clarification sought by Mr. Maambong whether the amendment would deprive the President his appointing power, Mr. de Castro replied that the President could still exercise such power without requiring the consent of the Commission on Appointments insofar as ranks lower than major general are concerned.

Mr. Foz, likewise, affirmed that the deletion of the words "and bureaus" would still allow the President to make appointments but it would no longer require the consent of the Commission on Appointments insofar as bureau directors are concerned.

On the rationale of making a distinction between a brigadier general and a major general and whether it would be alright to require confirmation of appointments of all officers of general rank, Mr. de Castro stressed that a

brigadier general is a frontline general whose supervisor is the major general.

On Mr. Regalado's contention that the appointment of a brigadier general should be confirmed by the Commission on Appointments in order that it could assess his qualifications to lead troops out in the field and to subject them to exposure and enemy fire, Mr. de Castro pointed out that before a person is appointed brigadier general, he has to pass the approval of the Chief of Staff, the Minister of National Defense and finally the President, and to require confirmation on such appointment would be very difficult for him.

Thereupon, Mr. Regalado asked that the matter be submitted to a vote.

APPROVAL OF MR. FOZ' AMENDMENT

There being no objection, the Body approved the deletion of the words "and bureaus" on line 26 of page 7.

REMARKS OF MR. UKA

At this juncture, Mr. Uka informed the Body of the presence of delegations from the Cordillera Region and Southern Philippines who are clamoring for regional autonomy.

MR. DAVIDE'S PROPOSED AMENDMENT

TO THE AMENDMENT

Mr. Davide proposed the substitution of the words "major general" with BRIGADIER GENERAL and "rear admiral" with COMMODORE.

Mr. de Castro stated that his amendment was upon the recommendations of General Ramos and Deputy Minister Ileta.

Explaining his proposed amendment, Mr. Davide pointed out that the security of the state is at issue considering that brigadier generals and rear admirals are the field commanders. He stressed the necessity of allowing the Commission on Appointments to review any proposal for an appointment in these highly sensitive positions, otherwise, they might believe that they are immune from review by Congress.

Mr. de Castro pointed out that to be a brigadier general, one has to pass three screenings, from the Chief of Staff, the Minister of National Defense and the President. He, likewise, adverted to the bad experience suffered by the military when the Commission on Appointments was still existing, which experience could not easily be forgotten.

Mr. Davide stated that if they had passed three screenings, with more reason that the representatives of the people through the Commission on Appointments should be allowed to make the final screening in sensitive positions which might involve violations of human rights and the security and stability of the State, to which Mr. de Castro replied that the President of the Philippines who issues the appointment is also elected by the people.

Mr. Abubakar informed that there is only one rear admiral in the Navy and, on information of Mr. de Castro, there are six major generals and, he opined, they would not pose a big problem to the appointing power, specifically on the matter of submitting such appointments for confirmation. He urged the Body to concentrate on the development of a prosperous Philippines and not a militaristic Philippines. He endorsed the proposal of Mr. de Castro whose experience, ability and counsel should be heeded by the Body.

Speaking against Mr. de Castro's proposed amendment, Mr. Garcia pointed out that the confirmation by the

Commission on Appointments is necessary in the appointment of colonels and naval captains as an adherence to the principle of civilian supremacy. He added that such officers should be accountable to the people and not to the President or someone who appointed them.

Thereafter, Mr. Davide moved that the Body first vote on his amendment to Mr. de Castro's amendment which the latter rejected.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:11 p.m.

RESUMPTION OF SESSION

At 4:18 p.m., the session was resumed.

WITHDRAWAL OF MR. DAVIDE'S AMENDMENT

TO THE AMENDMENT

Upon resumption of session, Mr. Davide withdrew his proposed amendment to Mr. de Castro's amendment but stated his preference for the original wording on line 28.

VOTING ON MR. DE CASTRO'S PROPOSED AMENDMENT

Thereupon, the Sponsor reiterated his non-acceptance of the proposed amendment and moved that the same be submitted to a vote.

Submitted to a vote, and with 12 Members voting in favor and 22 against, the proposed amendment was lost.

AMENDMENT OF MR. FOZ

On page 7, line 28, Mr. Foz proposed to put a period (.) after "captain", and on line 29, to delete the words "and all" and in lieu thereof, to substitute the words HE SHALL ALSO APPOINT ANY.

The Sponsor accepted the proposed amendment since it would clarify that the appointments of those Officers not mentioned therein would not need the confirmation of the Commission on Appointments.

Mr. Davide observed that the proposal would prevent Congress from creating an office which requires the consent of the Commission on Appointments, to which Mr. Bernas took exception, stating that the constitutional list of officers that do not need the confirmation by the Commission on Appointments is not exclusive such that Congress may still require appointments of other officers to be confirmed by said Commission.

In view thereof, Mr. Davide proposed an amendment to the amendment, by inserting after the word "captain" the phrase AND OTHER OFFICERS WHOSE APPOINTMENTS ARE VESTED IN HIM IN THIS CONSTITUTION.

He stressed that his proposal would not include those officers which the Constitution requires confirmation by the Commission on Appointments such as the members of the Judiciary and the Ombudsman.

Likewise, Mr. Bernas agreed with Mr. Rodrigo that the proposal would not prevent the Legislature from enacting a law providing for officers that need confirmation by the Commission on Appointments.

There being no objection, the proposed amendment of Mr. Foz, as amended by Mr. Davide, was approved by the Body.

PROPOSED AMENDMENT OF MS. AQUINO

Thereafter, Ms. Aquino proposed that the Committee adopt the provisions of Section 10, Article VII of the 1935 Constitution on the power of the President to make appointments when Congress is in recess, in reply to which Mr. Bernas observed that said provision states that the appointments would be effective until the disapproval by the Commission on Appointments or until the next adjournment of Congress, which situation could apply only to the old Congress when sessions were limited to 100 days. He pointed out that the Congress as provided in the proposed Constitution would only have a 30-day recess before the opening of the next regular session.

In this connection, Mr. de Castro informed the Committee that the provision in the 1935 Constitution referred to ad interim appointments but the President had to submit said appointments to Congress when it began its sessions.

Ms. Aquino pointed out that if such problems arise, when Congress is in recess, there would be interruption of government activities.

Thereupon, on request of Mr. Bernas, the Body deferred consideration on the matter until the Committee has formulated a remedy for such contingency.

AMENDMENT OF MR BENNAGEN

As proposed by Mr. Bennagen and accepted by the Sponsor, on page 8, line 1, the Body approved to change the words "inferior officers" to OTHER OFFICERS LOWER IN RANK

PROPOSED AMENDMENT OF MR. DE LOS REYES

On page 8, line 2, Mr. de los Reyes proposed to change the word "courts" to MEMBERS OF THE JUDICIARY, since said line mentions persons such as the President and the heads of departments, and that the "courts" could not make appointments.

In reply, Mr. Concepcion explained that under the present setup, the court employees are appointed by the Chief Justice of the Supreme Court, and that clerks of court are appointed by agreement with collegiate courts through a resolution from the court concerned. He added that "courts" refer to Presiding Judges who act on behalf of the court. He stressed that the term "courts" has been used in the past and has established such connotation.

Mr. de los Reyes observed that the last sentence refers to the "President alone" or the Executive as a whole and the "heads of departments" with "courts" in between which do not appoint.

Mr. Concepcion reiterated that under the present setup, court employees are appointed by the Chief Justice of the Supreme Court and the "courts" being referred to means the Presiding Justices who act on behalf of the courts insofar as administrative functions corresponding to their stations are concerned. He opined that "courts" should be retained because it has been used in the past and has an established connotation.

Thereupon, Mr. de los Reyes withdrew his proposal.

AMENDMENT OF MR. DAVIDE

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved, on page 8, line 3, to change the period (.) after "departments" to a comma (,) and to add AGENCIES, COMMISSIONS, OR BOARDS.

Mr. Davide explained that the addition was intended merely to complete the enumeration similar to that in the 1973 Constitution.

JOINT AMENDMENT OF MR. BENGZON AND MS. AQUINO

Mr. Bengzon, jointly with Ms. Aquino, proposed on page 8, to add a new paragraph on Section 16, to read:

THE PRESIDENT SHALL HAVE THE POWER TO MAKE APPOINTMENTS DURING THE RECESS OF CONGRESS WHETHER IT BE VOLUNTARY OR COMPULSORY BUT SUCH APPOINTMENTS SHALL BE EFFECTIVE ONLY UNTIL DISAPPROVAL BY THE COMMISSION ON APPOINTMENTS OR UNTIL THE NEXT ADJOURNMENT OF THE CONGRESS.

Mr. Bengzon stated that these are ad interim appointments.

Mr. Sumulong accepted the amendment.

Mr. Bengzon agreed with Mr. Rodrigo's observation that the appointments would refer both to those which require confirmation by the Commission on Appointments and those which do not require such confirmation.

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

AMENDMENT OF MR. JAMIR

As proposed by Mr. Jamir and accepted by the Sponsor, the Body approved on page 8, line 7, to add the phrase BY FINAL JUDGMENT after "conviction".

AMENDMENT OF MS. TAN

Ms. Tan proposed to delete the sentence on page 8, lines 7 to 9, which reads: "However, the power to grant executive clemency for violations of corrupt practices laws may be limited by legislation".

Ms. Tan explained that the sentence should be deleted for the following reasons: 1) violations of the Anti-Graft and Corrupt Practices Act may include even the stealing of P10.00 and 2) the Body may be drafting a Constitution which would give the President vast responsibilities but little or no corresponding powers except, perhaps, to declare martial law.

Reacting thereto, Mr. Regalado stated that the sentence was included based on Mr. Davide's resolution because of a similar provision in the Article on the Commission on Elections (COMELEC). He explained that violations of the Anti-Graft and Corrupt Practices Act may be of such magnitude as to affect the economic system of the country. He added that, as a compromise, it was provided that Congress would have to provide the classification as to which convictions would still require prior recommendation and which convictions would not.

Ms. Tan maintained that "gross" or "grave" could be inserted before "violation", in reply to which Mr. Regalado stated that it would be better to leave it to Congress to make the distinction in order to avoid any misconstruction in the use of these words.

Speaking in support of the amendment, Mr. Rodrigo pointed out that executive clemency is essentially an executive power and Congress should not be allowed to intrude into this executive prerogative and diminish this prerogative by limiting the enactment of laws only to those referring to corrupt practices when there are more serious crimes for which the Executive could grant executive clemency without any limitations set by Congress.

Mr. Regalado admitted that pardoning power is indeed an executive prerogative but he also pointed out that under the provisions on the COMELEC, it is constitutionally required that executive clemency for violations of election

laws be granted only by the Executive upon favorable recommendation by the COMELEC.

Mr. Davide objected to the proposal on the ground that in order to strengthen the Article on Accountability of Public Officers, the executive pardon should be granted to offenders of the Anti-Graft and Corrupt Practices Act with the limitations to be set by Congress, because such violations are, in effect, violations of the public trust character of the public office.

Speaking in support of the proposal, Mr. Sarmiento stated that the provision emasculates the power of the President which the 1935 and 1973 Constitutions did not even provide.

Mr. Colayco also spoke in favor of the proposal because it singles out violations of corrupt practices laws and excludes more serious crimes which cast a bigger blot on the moral character of public officials. He added that the Body should not be the first one to emasculate the President's power to grant executive clemency.

Mr. Padilla also spoke in favor of the proposal because offenders of more serious crimes could be granted executive clemency while the same privilege could not be extended to those who committed crimes in violation of the Anti-Graft and Corrupt Practices Act.

Mr. Natividad also manifested that he is in favor of the proposal because the provision would emasculate the power of the President and would at the same time prejudice offenders of the Anti-Graft and Corrupt Practices Act.

Thereupon, Ms. Tan's proposal was submitted to a vote and with 34 Members voting in favor and 4 against, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. DE CASTRO

Mr. de Castro proposed on Section 18, lines 15 and 16, to change "Monetary Board" to CONGRESS.

Mr. Regalado rejected the amendment.

Explaining his proposal, Mr. de Castro maintained that the country incurred a \$26-billion debt because President Marcos contracted loans without any check from the then Batasang Pambansa, which loans brought about the economic crisis. He stressed that under the system of check and balance, Congress should have a hand in contracting foreign loans.

At this juncture, Mr. Villegas pointed out that borrowing is an executive prerogative which could be resorted to for various reasons such as the collapse of export product prices; sudden increase in imported goods prices; calamities; or drop in government revenues which could affect the government's ability to provide social services. He stressed that borrowing is not inherently evil but is a necessary executive function which should not be emasculated.

He informed that the Article on National Economy and Patrimony would provide for an independent Monetary Board with majority of its members coming from the private sector.

Thereupon, he proposed to amend the amendment to read: THE MONETARY BOARD SHALL FIX A LIMIT TO FOREIGN BORROWING so that the concurrence of Congress would only be needed if the President would borrow loans which exceed the limit fixed by the Monetary Board.

REMARKS OF MR. DE CASTRO

Mr. de Castro observed that Mr. Villegas spoke of calamities which will prompt the Executive to make foreign borrowings but maintained that the budget normally provides for such calamities. He stated that Mr. Villegas has a proposal on the duties of a new Monetary Board but noted that the independence of the Monetary Board from the Executive cannot be gauged at the moment. He opined that the economic morass was due to the extravagance and use of power of the Executive which went unchecked by the Legislature.

Mr. de Castro proposed that foreign borrowing be subject to the concurrence of Congress voting jointly.

Mr. Villegas explained that there are contingencies which are always included in the budget of the government although there are certain types of calamities which cannot be covered by these contingencies which would, therefore, require the Chief Executive to borrow.

He agreed with Mr. de Castro that the five-year plan to be submitted by the central planning agency should include the amount of borrowings that can be foreseen within that span of time. Nevertheless, he opined that a plan would only be a plan. He noted that no one could have foreseen the tremendous increase in oil prices in the 1970's for which reason the Executive had to be given a lot of elbow room to enable him to meet any contingency from year to year. He argued that including the provision would make the Monetary Board independent by making sure that the majority of its members shall not be Cabinet Ministers. He added that it would be sufficient to have the Monetary Board concur in ordinary borrowings. Thereafter, he restated his amendment on line 16 of page 8, to wit: THE MONETARY BOARD SHALL FIX A LIMIT TO FOREIGN BORROWING WHICH CAN BE EXCEEDED ONLY UPON CONCURRENCE OF THE MAJORITY OF CONGRESS. The Monetary Board, shall within thirty (30) days . . ."

Upon inquiry of Mr. Bernas as to how often would the Monetary Board fix the ceiling debt-service ratio, Mr. Villegas replied that it is a matter which the Board must decide. He informed that the 20% set by the Board has been in place for the last ten years.

INQUIRY OF MR. NATIVIDAD

Upon inquiry of Mr. Natividad, Mr. Villegas affirmed that his position is that the Monetary Board has been given this duty and responsibility because it has the expertise and consistency to perform them and that such expertise and consistency may be absent among the Members of Congress.

Mr. Natividad noted that there will be no consistency inasmuch as the Members shall be elected every three years.

As to what would be the qualities Mr. Villegas would expect from the Monetary Board to perform such responsibility, Mr. Villegas noted that the person appointed thereto must have an understanding of the workings of the international financial community; what happens to interest rates year in and year out; what happens to exchange rates; what are the demands of the domestic economy concerning the money supply, credit and other matters pertaining to monetary management which should be left to experts in these fields.

Upon inquiry, Mr. Villegas affirmed that what he mentioned are just the basic qualifications which should be updated.

As to whether the most qualified and most experienced individuals should be chosen to perform the duties of the Monetary Board and whether he perceives a situation where such experts can be found among Members of Congress, Mr. Villegas answered that there will be few who would qualify although he would not prejudice the quality of the Members of Congress.

Mr. Natividad observed that the membership in the Congress can change every three years and that the expertise and consistency required may not be available for long. He stated that he would agree that Congress should have the power to concur but that he would prefer that people should be qualified. He observed that the Monetary Board failed in its duty to stop the debauchery of public funds or loans, nevertheless it would not justify allowing Congress, which would be unable to provide the expertise and advise the President as to the viability of foreign loans, to act instead of the Monetary Board.

CLARIFICATION OF THE PARLIAMENTARY SITUATION

Mr. Maambong, suggested that the parliamentary situation be clarified before allowing Mr. Monsod to interpellate Mr. de Castro. He observed that there was a primary amendment suggested by Mr. de Castro which was supposed to have been amended by Mr. Villegas although Mr. Villegas' amendment is not really an amendment to the amendment. He noted that the proposed amendment of Mr. de Castro can stand alone without the proposed amendment to the amendment of Mr. Villegas. He suggested that the matter be taken up at the proper time; the first being the amendment of Mr. de Castro followed by the amendment of Mr. Villegas. The Floor Leader agreed to the suggestion. Thereafter, the Chair recognized Mr. Monsod.

INQUIRY OF MR. MONSOD

Upon inquiry of Mr. Monsod, Mr. de Castro affirmed that Congress voting jointly must concur with each and every loan that is going to be incurred by the government. Mr. de Castro pointed out that based on short-range or long-range economic plan, the government can determine beforehand how much shall be borrowed in a given year and that Congress can then approve it. Congress, he added, should also determine the capability of the country to repay a loan before it is approved.

To Mr. Monsod's inquiry whether Congress voting jointly must concur on every loan and look into the merits of the companies and projects for each loan in order to arrive at a conclusion, Mr. de Castro replied in the affirmative.

Upon inquiry of the Chair, Mr. Regalado informed that the Committee did not accept the amendment of Mr. de Castro and suggested that it be submitted to a vote.

In reply to Mr. Natividad's observations that there are few economists among the Congressmen, Mr. de Castro maintained that they are responsible people who would, before arriving at certain decisions, invite experts on the matter to assist them.

Mr. Rodrigo noted that the amendment, as originally stated, would delete the words, "the Monetary Board" and change it to CONGRESS and that thereafter Mr. de Castro used the phrase "Congress voting jointly". Mr. de Castro clarified that the amendment would be CONGRESS VOTING SEPARATELY.

Submitted to a vote and with 5 Members voting in favor and 24 against the proposed amendment was lost.

ALTERNATIVE AMENDMENT OF MR. VILLEGAS

On line 16, after the word "Board" and the period (.), Mr. Villegas proposed to insert the clause THE MONETARY BOARD SHALL FIX A LIMIT TO FOREIGN BORROWING WHICH LIMIT CAN BE EXCEEDED ONLY UPON CONCURRENCE OF THE MAJORITY OF CONGRESS and thereafter omit the word "separately".

INQUIRY OF MR. DAVIDE

Mr. Davide prefaced his queries by observing that the Philippines has its Foreign Borrowings Act which was originally a law enacted by Congress and then amended by Presidential Decrees.

Upon inquiry, Mr. Villegas affirmed that the approval of his amendment would repeal the Foreign Borrowings Act and that the repeal will immediately take effect upon the ratification of the Constitution.

Also upon inquiry, Mr. Villegas affirmed that before any further foreign borrowings can be made, it would be necessary for the Monetary Board to first fix the limits.

As to whether the matter of fixing limits to foreign borrowings is a prerogative of the Legislature which was exactly the reason why the Old Congress enacted the Foreign Borrowings Act, Mr. Villegas stated that as he sees it, it would be a prerogative of the Executive with the necessary checks and balances from the Legislature.

Mr. Davide pointed out that in the Old Congress, the law itself defined the limits which the President may pursue in foreign borrowing, and that the implementation was vested upon him. Mr. Villegas remarked that the Monetary Board was not independent of the President under the past regime which is why a check by the Legislative would be necessary. He noted that in the Constitution, the people would like to have an independent Monetary Board and it would be sufficient for that Monetary Board to exercise the right to fix the limit.

In reply thereto, Mr. Davide stated that in the exercise of this right, it would mean depriving Congress the right to repeal or modify the same and that in short, Congress shall have no power to review, modify, or repeal the limits fixed by the Monetary Board. In effect, he noted, the Constitution will enshrine a Monetary Board which is even superior to the Congress elected by the people.

Mr. Villegas, in reply, stated that it would be so inasmuch as foreign borrowing is a prerogative of the Executive and that the Legislative check on excessive borrowing would be sufficient.

Mr. Davide observed that the proposed amendment would deprive the Legislature of this power to check which may be exceeded only with the concurrence of the majority and thus would limit the authority of Congress to concur in cases where the borrowings are not in excess of the limit. Mr. Villegas stated this was correct.

In addition, Mr. Davide observed that Congress would not be able to touch what has been approved as limits by the Monetary Board and this would insulate the acts of the Board from the representatives of the people.

Mr. Villegas explained that the way in which Congress can influence the Monetary Board would be to include in the Constitution the proposed Article on the National Economy and Patrimony which would empower Congress to determine the organization and composition of this agency.

Mr. Davide noted that such influence would be limited to the composition and creation, and observed further that such influence will not be on the exercise of the Board's authority which should be subject to Legislative check or control.

Upon inquiry of Mr. de los Reyes, Mr. Villegas stated that he was accepting Mr. de los Reyes' amendment to his amendment. Thereafter, Mr. Villegas restated the amendment, to wit: "The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board AND SUBJECT TO SUCH LIMITATIONS AS MAY BE PROVIDED BY LAW".

AMENDMENT OF MRS. QUESADA

Mrs. Quesada manifested that she would like to introduce an amendment which will be in keeping with the idea that contracting loans would put the citizenry under an economic burden. She noted that such loans should be the responsibility of all Filipinos, not only the government or the Monetary Board, and that the people should be made aware that they and future generations will be carrying an economic burden. She suggested that before concurrence by the Monetary Board, the President should allow public hearings so as to involve the people. She adverted to Nigeria where the matter of borrowing from the IMF was submitted to the people and it took the country three months to decide and that in so doing they were made aware of the implications of such a loan. She noted that Congress can provide for the mechanism for this public hearing.

Upon inquiry of Mr. Gascon, Mr. Villegas explained that his own amendment will be an amendment to Mr. de los Reyes' amendment. With the clarification given by Mr. Gascon that Mr. de los Reyes' amendment would be prior to Mr. Villegas' amendment, Mr. Villegas stated that his amendment would no longer be needed.

Mr. Maambong stated that so as not to violate the rule on third degree amendment, the Committee should react to the amendment of Mr. de los Reyes and thereafter proceed to the amendment of Mrs. Quesada in the nature of a primary amendment.

Upon inquiry by the Chair, Mr. Romulo affirmed that the amendments of Messrs. Villegas and de los Reyes had been joined. Thereafter, Mr. de los Reyes read the provision, as amended, to wit:

THE PRESIDENT MAY CONTRACT OR GUARANTEE FOREIGN LOANS ON BEHALF OF THE
REPUBLIC OF THE PHILIPPINES WITH THE PRIOR CONCURRENCE OF THE MONETARY BOARD,
AND SUBJECT TO SUCH LIMITATIONS AS MAY BE PROVIDED BY LAW.

The Committee accepted the amendment.

Mr. Regalado noted that the subsequent amendment of Mr. Villegas was withdrawn. Upon inquiry of Mrs. Quesada, Mr. de los Reyes affirmed that "subject to limitations as may be provided by law" would refer to legislative process and would entail public hearings. Mr. de los Reyes explained that before the Legislature enacts a law, it must conduct public hearings at the Committee level and plenary sessions. In view of the explanation given by Mr. de los Reyes, Mrs. Quesada withdrew her amendment.

Mr. Gascon clarified that the withdrawal of the amendment would not prejudice its presentation insofar as the process is involved.

In reply to Mrs. Quesada's inquiry, Mr. de los Reyes affirmed that under his proposal, before the Legislature enacts a law, it must conduct public hearings at the Committee level and even simultaneous with the plenary sessions.

In view thereof, Mrs. Quesada withdrew her proposed amendment on the understanding that under the legislative process, public hearings would be included.

Mr. Gascon opined that the proposed amendment of Mrs. Quesada would still be proper considering that it speaks of limitations, to which the Chair replied that Mrs. Quesada withdrew her proposal on the understanding that Congress, as a rule, should conduct public hearings before it enacts a particular law.

Upon request of Mrs. Quesada, Mr. de los Reyes agreed to include her as cosponsor of his amendment.

Mr. Bennagen suggested that public hearings be systematic and extensive so that the cross section of society could be consulted, to which the Chair replied that such a suggestion could be presented to the proper Chamber.

APPROVAL OF THE AMENDMENT OF MR. DE LOS REYES, JOINTLY WITH MRS. QUESADA

There being no further objection, the Body approved the amendment on page 8, line 16 to add after the word "board" the following: SUBJECT TO SUCH LIMITATIONS AS MAY BE PROVIDED BY LAW.

AMENDMENT OF MR. FOZ

On Section 19, page 8, Mr. Foz proposed the deletion of the words "chief of bureaus or offices" on line 25, explaining that all government officials and employees covered under the career service of the Civil Service Commission, are already prohibited under existing rules of the Commission from engaging in any business or in the practice of any profession without the permission of their department heads who shall see to it that in granting such permission there is no conflict of interests.

As to who are referred to as "assistants" of Members of the Cabinet, Mr. Foz, adverting to his previous interpellation, stated that "assistants" would refer to the deputies of the Cabinet Ministers.

Mr. Foz agreed with the suggestion of using the word DEPUTIES instead of the word "assistants".

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 5:46 p.m.

RESUMPTION OF SESSION

At 6:10 p.m., the session was resumed.

APPROVAL OF MR. FOZ' AMENDMENT

Upon resumption of session, Mr. Foz restated his proposed amendment on page 8, line 26, to insert the words DEPUTIES OR before the word "assistants".

The Sponsor accepted the proposed amendment. In reply to Mr. Rodrigo's query, Mr. Regalado affirmed that "Ministers and their Deputies" would refer to Secretaries and Undersecretaries under the Presidential form of government.

There being no objection, the proposed amendment of Mr. Foz was approved by the Body.

AMENDMENT OF MR. RIGOS

As proposed by Mr. Rigos, jointly with Mr. Nollado, and accepted by the Sponsor, on page 8, line 26, the Body approved to change the word "term" to TENURE.

AMENDMENT OF MR. FOZ

As proposed by Mr. Foz and accepted by the Sponsor, on page 9, lines 5 and 6, the Body approved the addition of letter "s" to the words "minister", "deputy minister", "head", "bureau" and "Office", on line 5, between "or" and "heads" to insert CHAIRMEN OR; and on line 6, between "offices" and the period (.), to insert the words INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES, so that lines 5 and 6 would read as follows: BE APPOINTED AS MINISTERS, DEPUTY MINISTERS OR CHAIRMEN OR HEADS OF BUREAUS OR OFFICES INCLUDING

GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES.**PROPOSED AMENDMENT OF MR. NOLLEDO**

Thereafter, Mr. Nollado proposed a new Section 24, to read as follows:

SECTION 24. ALL POWERS AND FUNCTIONS NOT INCONSISTENT WITH THIS CONSTITUTION VESTED IN THE PRESIDENT OF THE PHILIPPINES UNDER EXISTING LAWS AS WELL AS THOSE POWERS AND FUNCTIONS NOT VESTED IN ANY PARTICULAR OFFICIAL SHALL BE EXERCISED BY THE PRESIDENT UNLESS THE CONGRESS SHALL PROVIDE OTHERWISE.

He explained that presently, there are existing laws or decrees which grant the President certain powers and functions, such that his proposal would be a safeguard thereon.

In reply to Mr. Bernas' query, Mr. Nollado affirmed that the power to sequester would be inconsistent with Section 3 of the Bill of Rights, so that a qualification is necessary when the same is considered in the Transitory Provisions.

On the suggestion of Mr. Davide that the amendment should be proposed in the Transitory Provisions, Mr. Nollado insisted that it should be placed under the Article on the Executive.

Mr. Maambong, however, informed Mr. Nollado that a similar resolution he authored was already approved by the Committee on Amendments and Transitory Provisions.

Ms. Aquino observed that the proposal of Mr. Nollado would be more appropriate in the Transitory Provisions.

At this juncture, Mr. Suarez, as Chairman of the Committee on Amendments and Transitory Provisions, informed the Body that on July 22, 1986, the Committee approved the resolution of Mr. Maambong, similar to the proposal of Mr. Nollado.

In reply, Mr. Nollado pointed out that the resolution speaks of laws and decrees which shall remain effective, while his proposal speaks of the powers of the President not vested in any official.

Nevertheless, he withdrew his proposed amendment.

PROPOSED AMENDMENT OF MR. VILLACORTA

In reply to Mr. Villacorta's query, Mr. Bernas stated that relatives of the Vice-President who becomes President would not be covered by Section 19 because he was not the one who appointed them.

In view thereof, on page 9, between lines 6 and 7, Mr. Villacorta proposed a new paragraph to read as follows:

IF THE VICE-PRESIDENT BECOMES PRESIDENT HIS RELATIVES WHO ARE INCUMBENT SECRETARIES, UNDERSECRETARIES, OR HEADS OF BUREAUS OR OFFICES, SHALL BE OBLIGED TO RESIGN IMMEDIATELY.

Mr. Villacorta opined that the proposal would not actually avoid nepotism because the Vice-President who becomes President did not appoint them, but it is favoritism that the proposal intends to prevent especially in the continuance of said relatives in office.

Mr. Bernas suggested that instead of stating in the preceding paragraph that "they shall not be appointed", it should be stated that "they shall not serve as"

In reply to Mr. Bacani's query on whether the proposal would be unfair to relatives who had acquired their

positions by merit, Mr. Villacorta pointed out that it is also the same as the case of the President-elect whose relatives would not be appointed, only because they are his relatives.

On Mr. Bacani's contention that the relatives of the former Vice-President were appointed when the latter was not yet in power, Mr. Villacorta stressed that the proposal would avoid criticisms from the public concerning favoritism if they continue to serve.

At this juncture, Mr. de los Reyes proposed to delete the words "or heads of bureaus or offices", such that only relatives who are secretaries or undersecretaries would be obliged to resign, which amendment was accepted by Mr. Villacorta.

In reply to the Chair's query, Mr. Villacorta stated that his proposal refers to relatives in the third degree of consanguinity or affinity, such that his amendment, which is a new paragraph after line 6, would read:

IF THE VICE-PRESIDENT BECOMES PRESIDENT, HIS RELATIVES BY CONSANGUINITY OR AFFINITY WITHIN THE THIRD DEGREE, WHO ARE INCUMBENT SECRETARIES OR UNDERSECRETARIES SHALL BE OBLIGED TO RESIGN IMMEDIATELY.

Mr. Rodrigo observed that if the amendment would be approved, the prohibition against appointing relatives would be stricter for the Vice-President than that for the President because if the former succeeds to the Presidency, he cannot appoint his relatives and even those who already occupy positions in the government would have to resign.

On the Chair's request for clarification, Mr. Villacorta explained that his proposal envisions a situation wherein the Vice-President's spouse was appointed by the President to the Cabinet and if the latter dies, then the Vice-President who succeeds the President and his spouse would both be in the Cabinet. He added that the Vice-President's relatives who are heads of bureaus and other offices would not be included in the prohibition.

Mr. Rodrigo maintained that his position still stands because in the case of the President, the prohibition is from appointing his own relatives, while in the case of the Vice-President, even if his dose relatives were appointed by somebody else, they would be affected because they would have to resign in case the Vice-President succeeds the President.

Mr. Guingona stated that there is a suggestion that the promotion in the career service go up to the undersecretary level. On his query as to what would happen to an undersecretary who rose from the ranks if his relative was elected President, Mr. Villacorta replied that he would not be covered by the prohibition because it applies only to the Vice-President who succeeds the President.

On Mr. Guingona's query whether the prohibition contemplates reappointment of an undersecretary whose relative was elected President, Mr. Villacorta stated that the query should be referred to the Committee.

Mr. Regalado, on behalf of the Committee, rejected the amendment of Mr. Villacorta and submitted it to the Body for decision.

At this juncture, Mr. Uka opined that if the elected President's relatives were already appointed by his predecessor or were promoted through merit, then they should be excluded from the prohibition.

On the query on reappointment, Mr. Regalado replied that under the original paragraph, reappointment is included.

Thereupon, Mr. Guingona proposed to amend Mr. Villacorta's amendment to delete "undersecretaries or deputy ministers".

Mr. Villacorta accepted the amendment.

Mr. Bernas opined that Mr. Villacorta's amendment is unnecessary because if there is a new President, all Cabinet Ministers are required to submit their courtesy resignations and the prohibition applies only to them.

Mr. Villacorta withdrew his proposal on the understanding that a Vice-President who succeeds the President would be constrained not to reappoint his relatives who were Cabinet Members.

AMENDMENTS OF MS. AQUINO

As proposed by Ms. Aquino and accepted by the Sponsor, the Body approved the amendments on Section 19, page 8, to insert OR INDIRECTLY between "directly" and "in" on line 29; and to change "financial" to FRANCHISE on line 30.

AMENDMENT OF MS. AQUINO AS MODIFIED BY MR. DAVIDE

Ms. Aquino proposed, on page 9, line 4, to insert DURING HIS TERM after "not".

Mr. Davide suggested TENURE instead of "term."

Ms. Aquino accepted the proposal.

Mr. Regalado, likewise, accepted the proposal.

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

AMENDMENT OF MR. PADILLA

Mr. Padilla proposed, on page 9, line 4, to change "third" to FOURTH.

Mr. Regalado stated that his original proposal was to limit the prohibition up to fourth-degree relatives but the Committee Members felt that the country might be deprived of the services of competent officials who happen to be first cousins of the President.

Mr. Padilla pointed out that most of the appointments which may be considered as nepotism are those of first-degree cousins who fall within the fourth-degree relation.

Mr. Regalado submitted the matter for the decision of the Body.

At this juncture, Mr. Maambong manifested that he and Messrs. de los Reyes, Ople and Natividad were the ones who proposed that the prohibition be limited up to third-degree relatives only.

Thereafter, Mr. Padilla's proposal was submitted to a vote, and with 20 Members voting in favor and 9 against, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed on page 8, line 27, to insert EXCEPT WHEN OTHERWISE PROVIDED IN THIS CONSTITUTION after "employment".

On Mr. Foz' query whether "employment" refers to a public office, Mr. Davide answered in the affirmative.

Mr. Foz pointed out that during the interpellation in the previous session, the Committee had stated that they had in mind private office or private employment.

Mr. Regalado explained that the prohibition applies to both private and public office, unless provided otherwise.

On Mr. Foz' query whether it is provided in the Constitution that the President, Vice-President or Members of the Cabinet could be allowed to occupy any private office, Mr. Davide stated that under Section 3, the Vice-President may be appointed as a member of the Cabinet, which appointment requires no confirmation and for which reason he would propose an amendment to make it an exception.

Mr. Rodrigo opined that the amendment violates statutory construction that when there is a general rule and a particular rule, the particular rule would prevail.

Mr. Davide contended that there is also a statutory rule that in case of conflict, the latter provision applies.

Mr. Rodrigo maintained that the proposal may be a redundancy because the specific provision is clearly as exception to the general rule.

Mr. Regalado agreed with Mr. Rodrigo's interpretation.

Thereupon, Mr. Davide withdrew his proposal.

AMENDMENT OF MR. RIGOS

As proposed by Mr. Rigos and accepted by the Sponsor, the Body approved on page 8, line 27, to insert OTHER between "any" and "profession".

PROPOSED AMENDMENT OF MR. DAVIDE

On page 9, line 5, Mr. Davide proposed to add after "appointment" the following: AS MEMBERS OF THE CONSTITUTIONAL COMMISSIONS, OFFICE OF THE OMBUDSMAN, OR THE JUDICIARY OR.

Thereupon, Mr. Guingona proposed to amend the amendment so as to limit the prohibition only to those who are members of collegiate courts

Mr. Davide stated that the prohibition should apply to these bodies.

Mr. Bernas opined that what is common among ministers, deputy ministers and heads of bureaus is that they are under the President's control whereas the proposal of Mr. Davide refers to independent bodies.

Mr. Davide pointed out that a President, who is about to end his term, may continue to rule the country by appointing his own people to these sensitive positions, thereby preempting his successor from doing the same.

Mr. Bernas maintained that there are other checks as far as those appointments are concerned.

Thereupon, Mr. Davide restated his amendment to add after "appointment" on line 5, page 9 the clause: AS MEMBERS OF THE CONSTITUTIONAL COMMISSIONS, OFFICE OF THE OMBUDSMAN.

Thereafter, submitted to a vote and there being no objection, the amendment was approved by the Body.

AMENDMENT OF MR. SARMIENTO

Mr. Sarmiento proposed on line 7 to delete "or international agreement" and stated that Article VII of the 1935 Constitution does not mention it. He noted that the Vienna Convention on the Law on Treaties states that a treaty is an international agreement and noted that the source of the provision, the U.S. Constitution; does not speak of international agreement but only of treaties. He informed that Messrs. Guingona and Villacorta and Ms. Aquino support his amendment.

In reply thereto, Mr. Concepcion stated that international agreements can become valid and effective upon ratification by a designated number of parties to such agreements. He remarked that such would not be valid and effective as regards the Philippines. He noted that there are international agreements with 150 parties and there is generally a provision requiring 50 to ratify the agreement to be valid but only those who ratified it will be bound.

Mr. Concepcion noted that international agreements should be retained in the provision but when it states "shall not be valid and effective" it would be necessary to say "as regards the Philippines". He stated that no treaty or international agreement shall be valid and effective as regards the Philippines unless concurred in by at least two-thirds of all the Members of the Senate.

Ms. Aquino, at this juncture, asked clarification from the Committee. She stated that the Body has retained "international agreement" which she stated would be correct judgment because international agreement is different from a treaty. A treaty, she explained, is a contract between parties which is in the nature of international agreement and also, a municipal law in the sense that the people are bound.

As to whether international agreements would include executive agreements, Mr. Concepcion noted that it would depend upon the parties since all parties to international negotiations stipulate the conditions required for the agreement to become valid or effective as regards the parties.

Ms. Aquino noted that according to common usage, there are two types of executive agreements — one which proceeds purely from an executive act which affects external relations independent of the legislative, and the other an executive act in pursuance of legislative authorization, such that the first kind might just take the form of conventions or exchange of notes or protocols, while the second may be in the nature of commercial agreements. She asked whether executive agreements would depend on the parties or on the nature of the executive agreement itself.

Replying thereto, Mr. Concepcion clarified that executive agreements are generally made to implement a treaty already in force to determine the details of implementation of the treaty.

Ms. Aquino observed that it would not cover the first kind of executive agreements which are just protocols or exchanges of notes and this would be in the nature of reinforcement of claims of a citizen against a country.

Mr. Concepcion stated that the Commission is free to require ratification for validity insofar as the Philippines is concerned.

Ms. Aquino cited the need for a proviso which would exempt executive agreements from the requirement of concurrence of two-thirds of all the Members of the Senate. She proposed the sentence to read: "No treaty or international agreement EXCEPT EXECUTIVE AGREEMENTS shall be valid and effective . . ."

In reply thereto, Mr. Bernas adverted to a Supreme Court decision to the effect that the right of the Executive to enter into binding agreements without the necessity of subsequent Congressional approval has been confirmed by long usage.

Upon inquiry of Mr. Romulo whether the Committee would exclude executive agreements, Mr. Bernas replied that international agreements which need concurrence of at least two-thirds of all the Members of the Senate would refer to those which are permanent in nature.

Ms. Aquino observed that such may include commercial agreements which are executive agreements essentially, but which proceed from authorization of Congress. In view thereof, Ms. Aquino withdrew her amendment.

Mr. Bernas added that if it is with prior authorization of Congress, it would not need subsequent concurrence by Congress.

INQUIRY OF MR. GUINGONA

Mr. Guingona stated that he could not clearly understand the meaning of executive agreement inasmuch as someone stated that such agreement relies on treaties. Mr. Concepcion clarified that implementation of treaties are by executive agreements containing details which do not affect the sovereignty of the state.

Mr. Guingona inquired as to the permanence of such an agreement, to which Mr. Concepcion stated that he would suppose that the question would be whether this type of agreement should be included in a provision of the Constitution requiring Congressional concurrence, to which Mr. Guingona replied that if an executive agreement partakes of the nature of a treaty, then it should be included. Mr. Concepcion replied that whether it partakes or not of the nature of a treaty it would be within the power of the Commission to include it.

Upon inquiry, Mr. Concepcion noted that generally, international agreements would not include executive agreements

INQUIRY OF MR. ROMULO

Upon inquiry of Mr. Romulo, Mr. Bernas affirmed that as far as the Committee is concerned, international agreements do not include executive agreements as defined by the text.

INQUIRY OF MR. TINGSON

Mr. Tingson asked if the Military Bases Agreement would fall under a treaty or an international agreement. Mr. Concepcion stated that he has not read the Agreement on the bases and would be in no position to answer the question.

Mr. Tingson explained that the military bases treaty was ratified by the Philippine Congress but not by the U.S. Senate. Mr. Concepcion remarked that insofar as the Philippines is concerned, it is a treaty but insofar as the U.S. is concerned, it would be an executive agreement.

Mr. Sumulong clarified that the Military Bases Agreement is an agreement entered into by and between the U.S. President duly authorized by the U.S. Congress and the Philippine President duly authorized by the Philippine Congress. He stated that it has the nature of a treaty, not an executive agreement. He added that when it was signed by President Roxas, although it was not necessary, he referred it to the Philippine Senate because he thought the matter was of such importance that he wanted it to bind him and the members of the Senate.

Upon inquiry of Mr. Guingona, Mr. Bernas informed that the text he read is found on page 936, 96 Philippine Reports, 1955.

PROPOSED AMENDMENT OF MR. AZCUNA

On the matter of executive agreements, Mr. Azcuna noted that the case of *Gonzales vs. Hechanova*, 9 SCRA 1963 would also be helpful.

Mr. Azcuna proposed the deletion of Section 21 on the ground that it is already covered by the Report of the Legislative Committee in Section 25(1) which had been amended by the Body, and contains substantially the same words referring to the submission by the President to Congress of a budget of receipts and expenditures.

Mr. Sumulong noted that Section 21 simply refers to the submission by the President of the budget within 15 days of the opening of the regular session and that it was limited to the act of submission of the budget by the President. He informed that the Committee did not continue the provision inasmuch as they were aware that the

report of the Committee on the Legislative contains details about the budget of receipts and expenditures.

Mr. Regalado informed that it was the agreement that this duty on the part of the President (first sentence) will be retained in the Executive Department and the Legislative Department shall take charge of all other details.

AMENDMENT OF MR. DAVIDE

Mr. Davide stated that the matter can be left to the Committee on Style and with the consent of the Commission, he proposed changing "fifteen" in Section 21 to THIRTY days so as to harmonize it with Section 25.

Mr. Azcuna withdrew his amendment.

Mr. Monsod requested that the language should also be harmonized inasmuch as there were changes made on the Section in the Article on the Legislative.

Thereafter, Mr. Davide, with the approval of the Body, suggested that Section 21 be harmonized with Section 25 of the Article on the Legislative which had been amended on the floor and specifically in view of the amendments of Messrs. Natividad and Monsod.

INQUIRY OF MR. MAAMBONG

With the permission of the Chairman of the Committee, Mr. Maambong formally recorded the reservation of the Committee to rearrange the presentation of the approved sections to achieve proper sequence. He requested that a clean draft of the Report be distributed the next day so as not to confuse the Members.

Also, in view of the interest of Messrs. Nollado, Foz, de los Reyes and Monsod in Section 4(2) on the canvass of votes for President and Vice-President, he noted that it would only be fair to these Members to supplement his answer by inserting into the records the written explanation of the authors of Resolution No. 198, namely, himself, Messrs. Ople and Natividad to complete the records of the proceedings.

The Chair stated that said written explanation shall be inserted into the record.

Mr. Monsod, thereafter, also reserved the right to read his written explanation and present whatever he feels would be necessary to amplify or clarify certain portions. The Chair noted that copies thereof shall be distributed to the Members.

Mr. Maambong informed the Body that the points in this report which they submitted to the Committee on June 29, 1986, were taken up by the Committee.

Thereafter, Mr. Bengzon moved for approval on Second Reading of the Article on the Executive, subject to the comments and observations made by Mr. Maambong.

Mr. Bernas suggested that the Body vote on it after a consolidated copy has been distributed to the Members.

Thereupon, Mr. Bengzon stated the Order of Business for the next session, namely: voting on third reading on the Article on Accountability of Public Offices on the first hour, if there are enough Members present; continuation of the Committee Report on the Legislative, specifically on the party list system and multi-sectoral system; period of sponsorship and interpellations on the Report of the Committee on Social Justice.

Upon inquiry of the Chair, Mr. Bengzon noted that if clean copies of the Committee Report on the Executive are distributed in the morning, the Body can vote on Second Reading before the noon recess.

PROPOSED AMENDMENT OF MR. JAMIR

Mr. Jamir informed that he proposed in the previous session an amendment to Section 4 and that in view of Mr. Monsod's proposal to reconsider the decision on the prohibition on the President from running for reelection, Mr. Regalado suggested that he withdraw his amendment for the time being. In view of the fact that he had not heard from Mr. Monsod on the status of Mr. Monsod's amendment, he would now be ready to introduce his own amendment.

Mr. Regalado observed that Mr. Monsod's motion was for reconsideration. Mr. Monsod clarified that he was informed that a motion for reconsideration has to be filed within the day, and can only be done after suspension of the rules. He noted that the amendment can be taken up at some other time as it would need the suspension of the rules.

The Chair noted that only the Steering Committee can move for such suspension.

Thereupon, Mr. Jamir proposed to insert a new paragraph between the first and second paragraphs of Section 4, to wit:

NO PERSON WHO HAS SERVED MORE THAN FOUR YEARS AS PRESIDENT SHALL BE QUALIFIED FOR ELECTION TO THE SAME OFFICE AT ANY TIME.

He explained that should the President die two years after assuming office, the Vice-President who succeeds him shall be serving for more than three years in which case he shall be ineligible for reelection to the same office. He noted that this would take care of the seeming vacuum with respect to the qualification of the Vice-President to run for reelection if he succeeds in the office of the President.

At this juncture, Mr. Uka stated that the consideration of Mr. Jamir's amendment would need the suspension of the Rules, to which Mr. Monsod replied that it is his motion for reconsideration that needs the suspension of the Rules.

Upon request of Mr. Romulo, Mr. Jamir withdrew his proposed amendment with the understanding that it would be taken up in the next session.

ADJOURNMENT OF SESSION

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

It was 7:39 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on August 1, 1986

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