

JOURNAL NO. 50

VOL. I, August 07, 1986

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Thursday, August 7, 1986

CALL TO ORDER

At 9:46 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 Mrs. Florangel Rosario Braid, to wit:

Lord of Creation: In supreme wisdom You have bestowed bountiful gifts upon Your children. In this country of ours, You have been generous beyond measure. We marvel at the abundant resources of Nature, pleasing to the eye and provident to our physical needs. You have endowed many of Your children with talents to be dedicated to the service of humanity. And yet, there is hunger and weeping in the land. The powers of darkness hang over us, shaking our faith in ourselves. As we strive for truth and justice, our thoughts dwell on the words of the poet who said:

"To you the earth yields her fruit, and you shall not want if you know how to fill your hands. It is in exchanging the gifts of the earth that you shall find abundance and be satisfied. Yet, unless the exchange be in love and kindly justice, it will but lead some to greed and others to hunger."

Help us to see the need to be independent and the grace to admit our need for interdependence, the need for self-reliance and yet, to be compassionate to others.

We have completed an important milestone; we have listened to our people who have helped us identify the hues, the weave and the pattern of this tapestry — a document which hopefully would capture their aspirations.

We thank Thee for the dedication of our fellow Commissioners, to the sacrifice of our Secretariat and support staff and our fellow countrymen out there in the gallery whose love for our country and people have motivated them to share with us their hopes. Continue to inspire us to work for Your greater glory.

Amen.

ROLL CALL

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

Alonto, A. D. Regalado, F. D.

Aquino, F. S. De los Reyes, R. F.

Bennagen, P. L. Rigos, C. A.

Bernas, J. G. Rodrigo, F. A.

Rosario Braid, F. Romulo, R. J.

Calderon, J. D. Rosales, D. R.

De Castro, C. M. Sarmiento, R. V.

Colayco, J. C. Suarez, J. E.

Concepcion, R. R. Sumulong, L. M.

Davide, H. G. Tadeo, J. S. L.

Foz, V. B. Tan, C.

Jamir, A. M. K. Tingson, G. J.

Monsod, C. S. Treñas, E. B.

Nolledo, J. N. Uka, L. L.

Muñoz Palma C. Villacorta, W. V.

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

Rama, N. G.

With 33 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R. Laurel, J. B.

Azcuna, A. S. Lerum, E. R.

Bacani, T. C. Maambong, R. E.

Bengzon, J. F. S. Natividad, T. C.

Brocka, L. O. Nieva, M. T. F.

Garcia, E. G. Ople, B. F.

Gascon, J. L. M. C. Padilla, A. B.

Mr. Guingona was absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF RESOLUTION AND COMMUNICATIONS

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

Proposed Resolution No. 536, entitled:

RESOLUTION AMENDING SECTION TWENTY-EIGHT OF THE RULES OF THE CONSTITUTIONAL COMMISSION BY ALLOWING RECONSIDERATION OF CONSTITUTIONAL PROPOSALS EMBODIED IN THE FINAL DRAFT OF THE CONSTITUTION BEFORE ITS FINAL APPROVAL

Introduced by Honorable Sarmiento

TO THE STEERING COMMITTEE

COMMUNICATIONS

Communication No. 471 — Constitutional Commission of 1986

Letter from Mr. Crispin C. Maslog, President of the Philippine Association of Communication Educators, College, Laguna, recommending a broad-based ownership of mass media, establishment of more community-based newspapers and broadcast stations, Filipinization of mass media ownership, and prohibition of cross-ownership of mass media, among others

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 472 — Constitutional Commission of 1986

Letter from the Daughters of Mary Immaculate, Our Lady of Remedios Circle, Malate Catholic Church, M.H. del Pilar, Malate, Manila, recommending some measures for the establishment of a moral regeneration of values throughout the country

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 473 — Constitutional Commission of 1986

Letter from Mr. Jaime Hermida Ching, a contract worker in Dammam, Kingdom of Saudi Arabia, containing his suggestions on the framing of the new constitution

TO THE STEERING COMMITTEE

Communication No. 474 — Constitutional Commission of 1986

Letter jointly signed by Messrs. Horacio M. Montefrio, Cesar P. Macasero, Arturo P. Casuga, and Pedro L. Esteban, requesting inclusion in the Article on Education, Science, Technology, Sports, Arts and Culture of the Constitution the following proposed provision: THE STATE, IN PARTNERSHIP WITH THE INDUSTRIAL AND BUSINESS SECTORS, SHALL ESTABLISH, MAINTAIN AND SUPPORT AN INTEGRATED AND COORDINATED SYSTEM OF TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING FROM THE SECONDARY TO TERTIARY LEVELS FOR MORE EFFECTIVE HUMAN RESOURCE DEVELOPMENT AND UTILIZATION

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 475 — Constitutional Commission of 1986

Letter from Mr. Fulgencio S. Factoran, Jr., Deputy Executive Secretary, Office of the President, Malacañang, transmitting the letter of Sgt. Jovenal B. Finanga of PAF, Mactan Air Base, Lapulapu City, seeking the abolition of the political party system

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 476 — Constitutional Commission of 1986

Letter from Mr. Rolando Cimafranca of Chugum cor. Abanao Street, Baguio City, seeking a definite provision in the Constitution protecting the right to life of the unborn from the moment of conception

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

Communication No. 477 — Constitutional Commission of 1986

Letter from Mr. Justino E. Honculada of 311 D. Alviola Village, Butuan City, expressing apprehension over the approval of a constitutional provision allowing illiterates to vote

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

Communication No. 478 — Constitutional Commission of 1986

Letter from Mr. Victor Gruta of Biriran, Juban, Sorsogon, submitting an unnumbered resolution of the Biriran Irrigators' Service Association, requesting exemption of small landowners from the implementation of the land reform program

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 479 — Constitutional Commission of 1986

Letter from Mr. Hilario L. de Pedro III, OIC of Koronadal, South Cotabato, submitting the result of the opinion survey conducted by the municipal government of Koronadal, favoring, among others, the retention of US military bases, a bicameral legislature, election of congressmen by district, presidential type of government, and the abolition of the death penalty

TO THE STEERING COMMITTEE

Communication No. 480 — Constitutional Commission of 1986

Communication signed by Mr. Omar Mendoza of the UP Science Research Foundation and three thousand nine hundred thirty-five others with their respective addresses, seeking the inclusion in the Constitution 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. 481 — Constitutional Commission of 1986

Communication from Mr. Haji Jameel Ramli A. Noor of 38 Pangarungan Village, Marawi City, submitting for consideration by the Constitutional Commission a manuscript entitled: "Islamic Autonomous Government or Federal State for the Muslim: The only acceptable formula is its incorporation in the New Constitution to formally and finally integrate the Muslims into the Philippine body politic"

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 482 — Constitutional Commission of 1986

Letter from Mr. Cesar V. Canchela, transmitting the position paper of the United Architects of the Philippines, CCP, Roxas Boulevard, Metro Manila, recommending, among others, for inclusion in the Constitution the utilization of the services of Filipino professionals and consultants on government projects funded by the Philippine government and from foreign loans and grants

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 483 — Constitutional Commission of 1986

Letter from Mr. Santiago B. Galang of 14 7th Avenue, Cubao, Quezon City, expressing apprehension over the influx of Chinese and their monopoly of business in the Philippines

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 484 — Constitutional Commission of 1986

Letter from Mr. Isaias P. Costelo of 285 Picnic Ground, Tugbungan, Zamboanga City, proposing, among others, a presidential type of government with a bicameral legislature and the creation of a Commission on Appointments

TO THE STEERING COMMITTEE

Communication No. 485 — Constitutional Commission of 1986

Communication from Ms. Edna Desalapo of 2258 Int. 11-53 Leveriza, Malate, Manila and one hundred twenty others from Sta. Ana, Pandacan, Leveriza and San Andres Bukid, Manila, suggesting provisions on social justice, housing, education, labor, family and women's rights among others

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 486 — Constitutional Commission of 1986

Letter from Mr. Erlindo P. Llanera of Villa Maria Subdivision, Travesia, Guinobatan, Albay, suggesting a preamble couched in the language of God-loving citizens of a free nation, a four-year presidential term and non-immunity from suit of the President

TO THE COMMITTEE ON THE EXECUTIVE

Communication No. 487 — Constitutional Commission of 1986

Communication from Ms. Trifona P. Macapanas for the Ramis Barangay High School Students Organization, Hinabangan, Samar, submitting resolutions proposing the abolition of the National; College Entrance Examination and allowing colleges and universities to administer entrance examinations; and the adoption of Tagalog as the medium of instruction

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 488 — Constitutional Commission of 1986

Letter from Ms. Fe Samaniego for the National Spiritual Assembly of the Baha'is of the Philippines, Inc., 1070 A. Roxas, Singalong, Manila, submitting proposals for the State to inculcate in the individual the conviction and consciousness of the essential unity of the human race as the only viable standard for social and economic justice, and for the State to provide free elementary and high school education in public schools wherein comparative religion shall be taught

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 489 — Constitutional Commission of 1986

Letters from Messrs. Lito Urgino and Frank Padilla for Families for Justice and Peace, 300 P. Guevarra, San Juan, Metro Manila, submitting 5,830 signatures in support of Resolution No. 272, introduced by the Honorable Commissioners Nieva, Bacani, Muñoz Palma, Rigos, Gascon and Guingona, to incorporate in the Constitution a separate article on the protection and promotion of the rights of the family; and recommending the approval of a provision which mandates the protection of the life of the mother and the unborn human life from the moment of conception

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

Communication No. 490 — Constitutional Commission of 1986

Communication from Ms. Maribel C. Purisima of the Ministry of Trade and Industry and one thousand five hundred and twelve other petitioners, seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception

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

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 34 ON PROPOSED RESOLUTION NO. 534 ON THE ARTICLE ON SOCIAL JUSTICE

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 534, entitled:

Resolution to incorporate in the new Constitution a separate Article on Social Justice.

Mr. Rama stated that the Body was still in the period of amendments.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 10 01 a.m.

RESUMPTION OF SESSION

At 10:08 a.m., the session was resumed.

MANIFESTATION OF MR. RAMA

Upon resumption of session, Mr. Rama manifested that while the text of Mr. Colayco's proposed amendment was being xeroxed, the Body could proceed to consider Section 5 since there were no proponents on Section 4.

Thereupon, he moved that Mr. Jamir be recognized.

AMENDMENT OF MR. JAMIR

Mr. Jamir proposed, on Section 5, to put a comma (,) after "shall" at the beginning of the second sentence and to insert BY LAW between "shall" and "encourage" to be followed by another comma (,).

Mr. Suarez invited Mr. Jamir's attention to the phrase "as Congress may prescribe" which, he said, carries the sense of Mr. Jamir's concern. He also suggested that a comma (,) be placed before "as".

Mr. Jamir manifested that he was transposing his amendment to the first sentence by inserting BY LAW between "shall" and "undertake" which the Committee accepted.

At this juncture, Mrs. Nieva manifested that the Committee had agreed to delete "genuine" between "a" and "agrarian". Mr. Suarez likewise pointed out that "a" should be changed to AN.

There being no objection, the Body approved the amendment.

PROPOSED AMENDMENT OF MR. DAVIDE

On the third line of Section 5, between "farmworkers" and "to", Mr. Davide proposed to insert a comma (,) after "farmworkers" followed by the phrase: ESPECIALLY THE LANDLESS and a comma (,) after it.

On the fourth line, he proposed to place a comma (,) after "till".

Mr. Tadeo requested Mr. Davide to explain what he meant by "landless" to which Mr. Davide replied that it refers to regular farmworkers or farmers who do not own lands of their own and who should be given priority.

Mr. Tadeo noted that the program was known as "land for the landless" under President Magsaysay and "land for the tillers" under President Marcos and that farmers and regular farmworkers are both landless.

Mr. Davide stated that both are not necessarily landless. He pointed out that Mr. Tadeo admitted in the course of the interpellations that a small landowner who works on the land of another during offseason may get this land in addition to his own.

Mr. Monsod stated that it is not the contemplation of the Committee that someone who owns a land but helps as a hired hand or manager of an adjoining lot would still be entitled to acquire that lot under the agrarian land reform program. He stressed that it is not the intention of the Committee to allow those who already own lands to be beneficiaries of the agrarian land reform program. Mr. Davide remarked that this was not the answer given by Mr. Tadeo to his question.

Mr. Tadeo stated that while Mr. Davide had a point, what was referred to are farmers and regular farmworkers who do not own lands but who work for others. He added that landless farmers and regular farmworkers are given priority.

Mr. Monsod maintained that the phrase "especially the landless" would suggest that even those who already have land could still be beneficiaries. Mr. Davide, at this juncture, asked clarification whether it is the objective of land reform to give priority to the landless and that it should not be extended to farmers and farmworkers who have lands of their own. He suggested that the Commission decide on the scope of agrarian reform.

MR. DE LOS REYES' AMENDMENT TO THE AMENDMENT

Mr. de los Reyes proposed to insert the word LANDLESS between "regular" and "farmworkers" so that the phrase will read "on the basic right of farmers and the regular LANDLESS farmworkers".

Mr. Davide did not accept the amendment stating that it would not cure the conflict of interpretation as it would then apply only to regular landless farmworkers and not to farmers without lands of their own.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 10:20 a.m.

RESUMPTION OF SESSION

At 10:21 a.m., the session was resumed.

Upon resumption of session, Mr. Monsod manifested that after consultation with the proponent, they have agreed that instead of the phrase "especially the landless", it should be WHO ARE LANDLESS after the word "farmworkers", so that the sentence, as amended, will read:

"The State shall by law undertake an agrarian reform program founded on the basic right of farmers and regular farmworkers WHO ARE LANDLESS to own directly or collectively the lands they till, or . . ."

Upon inquiry of Mr. Rodrigo, Mr. Monsod affirmed that the phrase "who are landless" would modify both farmers and regular farmworkers. Mr. Monsod proposed to put a comma (,) between the words "farmworkers" and "who" and another comma (,) between the words "landless" and "to" so that the phrase would refer to both farmers and regular farmworkers.

PROPOSED AMENDMENT OF MR. BACANI

At this juncture, Mr. Bacani raised the question as to how the Body could justify the basic right of farmers and regular farmworkers who are landless to own directly or collectively the land they till. He stated that the provision would have to be explained to the people but he noted that while it is easy to say that farmers and farmworkers have a right to some property, it is not very clear whether they have a basic right to the land they till. He noted that there has been a distribution and redistribution of land but instead of affirming that this is founded on the basic right of the landless farmers and farmworkers to own the land they till, he would prefer that this be based on the reason that common good requires it.

In reply to Mrs. Nieva's inquiry whether he would prefer to change the phrase "founded on the basic rights of farmers", Mr. Bacani replied that it should be on account of exigency for the common good. He proposed a rewording of the sentence to read "The State shall undertake a genuine agrarian reform program so that farmers and regular farmworkers who are landless will own directly or collectively the land they till".

Mr. Tadeo explained that "basic right" is a principle in agrarian reform which recognizes that those who actually till the land would have primacy in owning the same in an expeditious manner and/or in common with others. He stated that the farmer would have the first priority to own the land and to enjoy the benefits derived therefrom. He stressed that this is the objective of agrarian reform.

Mr. Bacani in reply, stated that the right of farmers to own the land they till is not a self evident principle which he would like the Committee to explain. He added that what is evident is the primacy of right to the property and to its fruits.

To concretize the points raised by Mr. Bacani Mr. Monsod offered as an example the case of an individual (Juan) who tills the land of another (Jose) who may be one of small landowners allowed to keep his land on the basis of the retention limits. He stated that Juan would have a right to own land since he is a landless tiller and, therefore, would have priority to alienable public land.

Affirming the correctness of Mr. Monsod's interpretation, Mr. Bacani stated that because of a "basic right", it would not be possible to deny the landless farmers/farmworkers their claims to lands.

At this juncture, Mr. Monsod proposed that the first paragraph be amended to read: THE SHALL, BY LAW, UNDERTAKE AN AGRARIAN PROGRAM FOUNDED ON THE BASIC RIGHT OF TILLERS AND REGULAR FARMWORKERS, WHO ARE LANDLESS, TO OWN LAND DIRECTLY OR COLLECTIVELY

OR, IN THE CASE OF OTHER FARMWORKERS TO RECEIVE A JUST SHARE OF THE FRUITS THEREOF.

Mr. Bacani accepted the proposal, stating tillers and farmworkers would be entitled to the land and to the fruits thereof but not necessarily to the land they till.

Ms. Aquino noted Mr. Bacani's interpretation of the phrase "basic right" to mean an unqualified and plenary right to claim and asked if Mr. Bacani would be satisfied if the Committee finds an alternative phrase that would meet the difficulty and problem of interpretation.

Upon inquiry of Mr. Monsod Bacani does not want an absolute correspondence between the land being tilled and the tiller's right to own, Mr. Bacani replied in the affirmative and added that the government must guarantee their right to own some land.

Upon inquiry of Mr. Bengzon, Mr. Bacani affirmed that it would not mean that tillers have the basic right to own the land they till. Mr. Bacani also affirmed that he would propose the amendment so that the Committee could react to it.

REMARKS OF MR. VILLEGAS

At this juncture, Mr. Villegas provided some insights into the principle behind agrarian reform. He adverted to Section 13, Article XIV of the 1973 Constitution, reading "The Batasang Pambansa may authorize upon payment of just compensation, the expropriation of private land to be subdivided into small lots and conveyed at cost to deserving citizens", which, he noted, made constitutional history as it went beyond just the principle of eminent domain. The principle behind the provision, he said, had nothing to do with the basic right of tillers to own the land they till but was premised on exigencies of the common good. He noted that the social function of property requires that in specific circumstances, when political and social stability is threatened, the government or the State has the right to expropriate lands upon payment of just compensation.

He shared Mr. Bacani's fear in stating "basic right" and said he would prefer that another reason be cited. He stated that he would favor giving lands to small farmers which is a requirement of political, social and economic stability although the Body would be treading on dangerous grounds if it articulates that basic right.

Taiwan, he noted, had gone full circle and is presently implementing an agrarian reform program which is exactly the opposite of what it originally set out to do and that the Taiwanese are trying to consolidate their small farms into large-scale farms because the common good dictates that they should not have small farms anymore. He noted that the Body could not constitutionalize certain provisions which are requirements of common good today but which, 30 years from now, may completely be the opposite.

He favored the provision which should make sure that during this time, the millions of landless farmers should have lands they could till which they could call their own although he cautioned the Body to be very careful about constitutionalizing that kind of exigency of the common good.

Upon inquiry of Mrs. Nieva, Mr. Villegas affirmed that he would like to propose an amendment which would read: BECAUSE OF THE REQUIREMENTS OF THE COMMON GOOD.

Mr. Tadeo, in response to Mr. Villegas' remarks, stated that in the phrase "to own directly or collectively" the latter word would refer to "common good". He stated that it would eventually lead to cooperative or collective farming. He noted that at this time the farmers are not ready to accept collective farming for the common good.

Mr. Villegas noted that common good and collective farming are not synonymous and that there is no

correspondence between the use of common good and the advocacy of collective farming. He underscored that common good is a high principle which he would suggest as an alternative to the phrase "basic right". He noted that there is no question about small farmers owning lands devoted to corn, coconut or other types of crops.

Mr. Bengzon inquired as to whether Mr. Villegas would agree to a formulation being made by Mr. Monsod, to coordinate and correlate with the amendment of Mr. Bacani, which would state: IN THE PURSUIT OF THE COMMON GOOD THE STATE SHALL BY LAW UNDERTAKE AGRARIAN REFORM PROGRAM FOUNDED ON THE BASIC RIGHT OF FARMERS AND REGULAR FARMWORKERS WHO ARE TILLERS AND LANDLESS TO OWN DIRECTLY OR COLLECTIVELY . . .

SUSPENSION OF SESSION

The Chair suspended the session.

It was 10:42 a.m.

RESUMPTION OF SESSION

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

AMENDMENT OF MR. BACANI

Mr. Bacani proposed the following amendment to Section 5, to wit:

THE STATE SHALL BY LAW UNDERTAKE AN AGRARIAN REFORM PROGRAM FOUNDED ON THE RIGHT OF FARMERS AND REGULAR FARMWORKERS, WHO ARE LANDLESS, TO OWN DIRECTLY OR COLLECTIVELY THE LANDS THEY TILL OR, IN THE CASE OF OTHER FARMWORKERS, TO RECEIVE A JUST SHARE OF THE FRUITS THEREOF.

Mr. Bacani stated that the amendment is basically the same as the original Section 5 except for the deletion of the word "basic". He then requested the Committee to explain the amendment.

Mr. Monsod pointed out that the word "right" is subject to the succeeding sentence which provides that it is "subject to such priorities, reasonable retention limits and other conditions as Congress may prescribe". In this connection, he stated that the Committee felt it important to retain the phrase "the lands they till" because it would be a preferential right as far as identification of the land is concerned.

Additionally, Ms. Aquino stated that the deletion of the term "basic" is best understood in the context of the proposal of Messrs. Romulo and de los Reyes which would be an insertion of a sentence after the word "compensation". She pointed out that, preliminarily, it was the Committee's position that the deletion of the term "basic" and the retention of the word "right" would expound the principle of land reform in the sense that, although the farmer has a right to the land he tills, it would not be considered an immutable right. Ms. Aquino stressed that his claim of ownership does not automatically pertain or correspond to the same land that he is actually and physically tilling because it would yield to the limitations and adjustments provided for in the second sentence of the first paragraph, specifically with reference to retention limits, and the forthcoming amendment of Mr. de los Reyes which the Committee would accept.

Mr. Monsod further pointed out that the words "by law" in the first sentence and the phrase "as Congress may prescribe" would include the consideration of whatever law Congress shall prescribe.

PROPOSED AMENDMENT OF MR. DE LOS REYES, JOINTLY WITH MESSRS. ROMULO, MONSOD AND TINGSON

Mr. de los Reyes, jointly with Messrs. Romulo, Monsod and Tingson, proposed to add a new sentence after the word "compensation" which would read as follows: THE STATE SHALL RESPECT THE RIGHTS OF SMALL FAMILY LANDOWNERS IN THE DETERMINATION OF THE RETENTION LIMITS.

REMARKS OF MR. TINGSON

Mr. Tingson, in support of the proposed amendment, stated that it would give the small landowners a feeling of assurance that they are not ignored or that their basic rights are not neglected. He pointed out that a Supreme Court decision refers to the small landowners as the hardworking and frugal people who, in a lifetime of sacrifice, gathered their pitiful little savings and purchased small farms to supplement the inadequate pensions from the Government Service Insurance System or from the Social Security System.

PROPOSED AMENDMENT OF MR. REGALADO

Mr. Regalado proposed the deletion of the word "family", which Mr. de los Reyes accepted.

Ms. Aquino, in accepting the proposed amendment to the amendment, clarified that small landowners who are entitled to State protection do not necessarily refer to owner-cultivators. She stated that in respecting the right of small landowners, tenancy relationship should be abolished and this, she said, is the basic principle of all land reform codes presently in effect, to which Mr. de los Reyes stated that it is in that spirit that the amendment was being offered.

INQUIRY OF MR. DE CASTRO

On Mr. de Castro's inquiry on the meaning of "small landowners", Mr. de los Reyes stated that it should be determined by law although the retention limit, at present, is seven hectares.

Mr. Monsod stressed that the coverage of the provision extends to all agricultural lands and that Congress would have a better opportunity to define not only the limits but also the specific types of lands or crops.

POINT OF INFORMATION OF MR. TINGSON

Mr. Tingson, on a point of information, stated that in the case of Nilo vs. Court of Appeals, small landowners are referred to as those who have twenty-four hectares or less.

Mr. Monsod pointed out that while some court decisions defined "small", the provision has a wider coverage which needs additional clarification by Congress.

REMARKS OF MR. BENNAGEN

Mr. Bennagen stated that it would be very hard to define "small" in terms of absolute figures because it depends on a number of variables like soil and climate. He opined that the provision, as formulated, provides some criteria which would take into account ecological, developmental or equity considerations.

INQUIRY OF MR. JAMIR

In reply to Mr. Jamir's inquiry on the Committee's definition of "agricultural lands", Mr. Tadeo adverted to Mr. Nollado's book entitled Principles of Agrarian Reforms, Cooperatives and Taxation which defines agricultural lands, pursuant to Section 166 of RA 3844, as lands devoted to any crop, including but not limited to crop lands, salt beds, fishponds, idle lands and abandoned lands.

COMMENTS OF MR. PADILLA

Commenting on Ms. Aquino's statement on the absolute abolition of the system of tenancy, Mr. Padilla pointed out that under RA 3844, some lands devoted to rice and corn are subject to land reform if there is a tenancy relation but not when there are farm laborers thereon.

He stated that a tenant is considered an industrial partner because he receives 70% of the produce while a farm laborer does not share in the productive income of the farm but is entitled only to a minimum wage.

Mr. Padilla stated that he could not understand why, under RA 3844 and the statement that land reform is based on absolute abolition of the tenancy relationship, preference is given the farm laborer vis-a-vis a tenant who, as an industrial partner, is higher and better placed than a mere farm laborer. He pointed out that this was one loophole in the correct implementation of the land reform program because certain owners, in order to be spared from the program, made it appear that they only engaged the assistance of laborers on their farms.

He then inquired from the Committee whether it is the intention to absolutely abolish as a social evil the tenancy relations which, he opined, is a better and higher relation than contracting farm laborers.

REPLY OF MR. MONSOD

Mr. Monsod, while agreeing that there are instances of share tenancy where the tenant actually receives more than if he were a mere employee, pointed out that the system of tenancy is looked upon as the source of many evils and in order to solve this problem, he adverted to the clause "the right to receive a just share of the fruits thereof" so that in preventing a worse situation, the concept of an industrial employee is suggested.

RESTATEMENT OF MR. BACANI'S PROPOSED AMENDMENT

Thereupon, Mrs. Nieva restated Mr. Bacani's amendment to wit:

THE STATE SHALL BY LAW, UNDERTAKE AN AGRARIAN REFORM PROGRAM FOUNDED ON THE RIGHT OF FARMERS AND REGULAR FARMWORKERS, WHO ARE LANDLESS, TO OWN DIRECTLY OR COLLECTIVELY THE LANDS THEY TILL OR, IN THE CASE OF OTHER FARMWORKERS, TO RECEIVE. A JUST SHARE OF THE FRUITS THEREOF.

INQUIRY OF MR. RODRIGO

In reply to the queries of Mr. Rodrigo, Mr. Bacani affirmed the concept that a farmer who does not own land is one who farms another person's land while a regular farmworker who is landless is a regular worker on somebody else's farm. He stated that seasonal farmworkers do not fall under the term "regular farmworkers".

In the event an owner does not hire regular farmworkers in order to avoid the provision, Mr. Bacani opined that in such instance, these farmworkers would fall under the clause "in the case of other farmworkers, to receive a just share of the fruits thereof." He affirmed that these workers are not given the right to own the land.

Mr. Rodrigo cited coconut areas where there are no farmers, in reply to which Mr. Tadeo stated that in a tenancy relation, rental is given by the farmer to the owner. He stated that in the case of coconut plantations, there is tenancy relation because of the sharing of one-third for the owner and two-thirds for the tenant-farmers.

Mr. Rodrigo pointed out that if crop-sharing is considered as a tenancy relation, in order that he would be spared from land reform, the owner could just employ seasonal workers.

Replying thereto, Mr. Monsod stated that this is a new provision that would take effect upon ratification of the

new Constitution and the case cited by Mr. Rodrigo could be determined based on the history of the relationship between the owner and the farmworker.

Mr. Bennagen agreed that the history of the relationship could be a safeguard against the possibility of circumventing the provision.

Mr. Rodrigo argued that in order to circumvent the provision the owner could just engage in cropsharing for a period of time after which he could hire workers, to which Mr. Bacani replied that they could fall under the category of "farmworkers".

Mr. Monsod stated that seasonal workers are entitled to receive a just share of the fruits and that upon ratification of the Constitution, any attempt to change the relationship by way of circumventing the law could be determined from a history of the relationship.

Mr. Rodrigo suggested that the Commission take into account the possibility that the owners might campaign for the rejection of the Constitution, to which Mr. Monsod replied that in anticipation of such possibility and in order to solve possible gray areas that may come out from the provision, the Committee would be willing to accept the amendment proposed by Mr. de los Reyes.

On whether tenancy is identical to crop sharing, Mr. Tadeo opined that there is tenancy relation whenever there is crop-sharing.

However, in the case cited by Mr. Rodrigo of the practice in Bulacan where seasonal workers are paid in kind for their respective participation in farmwork, Mr. Tadeo stated that this is not included in the contemplation of tenancy relation.

Mr. Ople observed that the correlation between crop sharing and tenancy depends on how crop-sharing is defined. He stated that those who formerly engaged in tenancy but who shifted to leasehold get more than the regular tenants, to which Mr. Rodrigo agreed stating that in leasehold, once the harvest increases, the additional harvest goes to the lessee while in tenancy, any increase in harvest is shared by the farmworkers. Mr. Ople also stated that in tenancy, it is the owner who makes decisions.

In reply to Mr. Ople's query whether leasehold is included in the proposed agrarian reform program, Mr. Tadeo stated that because of the abolition of share tenancy, leasehold would be included in the agrarian reform program. He explained that under Presidential Decree No. 27, the retention limit of not less than seven hectares would be under the leasehold system.

Furthermore, in reply to Mr. Rodrigo's query on whether the right to own lands would include the right to dispose of them, Ms. Aquino explained that all laws implementing the land reform program provide for limitations on the disposition of lands acquired through the program. Specifically, she pointed out that under the Homestead Act, a farmer is not allowed to dispose of his homestead within 50 years from the date of the grant. She affirmed that Congress may limit the disposition of lands.

On whether the children may inherit a two-hectare land which their father acquired under the agrarian reform program, Mr. Tadeo stated that if the farmer has five or more children, and the land would be divided into five, each child would not have a share sufficient for his needs. He explained that the intention of land reform is to give economic family-size farms which could help in industrial development.

In view thereof, Mr. Rodrigo believed that Congress may limit inheritance by heirs of the land acquired under the land reform program, to which Ms. Aquino agreed. Mr. Tadeo, however, pointed out that under Republic Act 1199, a hectare of agricultural land could not be subdivided although 330 square meters thereof could only be

used as homelot.

APPROVAL OF MR. BACANI'S AMENDMENT

Submitted to a vote, and with 30 Members voting in favor and none against, the amendment of Mr. Bacani with Mr. Villegas as coauthor, was approved by the Body.

APPROVAL OF MR. DE LOS REYES' AMENDMENT

Thereafter, Mr. Rama adverted to Mr. de los Reyes' amendment which was accepted by the Committee.

Submitted to a vote, and with 36 Members voting in favor and none against, the Body approved the amendment of Mr. de los Reyes to add a new sentence to Section 5, which reads: THE STATE SHALL RESPECT THE RIGHTS OF SMALL LANDOWNERS IN THE DETERMINATION OF THE RETENTION LIMITS.

AMENDMENT OF MR. TREÑAS

Thereafter, on the second sentence of Section 5, Mr. Treñas proposed to delete the words "and progressive system of", such that the phrase would read SUBJECT TO A JUST COMPENSATION.

He opined that the qualifying words "progressive system" would cause some legal complications in the interpretation of just compensation since it has already an established interpretation in jurisprudence, and it may cause delay in the payment of just compensation, in reply to which Mr. Monsod explained that the Committee intended to use "progressive system" in relation to market value of lands whereby the price per square meter of bigger tracts of lands would be lower than smaller tracts.

Mr. Treñas maintained that even without the words "progressive system", it should always be interpreted as just compensation, as used in the Bill of Rights, in reply to which Mrs. Nieva pointed out the definition of just compensation as given by economist Mahar Mangahas which states that the compensation formula should be progressive in the sense that taxation is progressive, and that the proportion of the landowners' sacrifice should be greater in relation to the size of the land. Mr. Monsod added that "progressive system" does not qualify the word "just" but rather "compensation".

But Mr. Treñas pointed out that "progressive system" would already be covered by "just compensation".

On Mr. Monsod's explanation that the bigger the land, the lower the price per square meter, Mr. Bernas opined that this would be a regressive rather than a progressive system, in reply to which Mr. Monsod stated that it is regressive on the part of the landowner but progressive on the part of the beneficiary. Mr. Monsod further explained that it is not the intention of the Committee to give the owner less than just compensation but that it is meant to reflect the market reality that the bigger the tract of land, the lower is the price per square meter. However, he believed that if the priority of agrarian reform would be the bigger lands, then the farmers would benefit more from it.

Mr. Bernas contended that the words "progressive system" would not be advantageous to the State because it would be made to pay the difference due to the lesser price that the buyer would pay. Mr. Monsod explained that the State would really have to step in order to make up for what the farmer could not afford as part of just compensation to be paid to the landowner.

Mr. Bernas opined that instead of the word "progressive" a better term should be used to express subsidy by the State.

Furthermore, Mr. Villegas stated that the word "progressive" is ambivalent, in the sense that although it means giving more in law to those who have less in life, it does not capture the real intention of the provision.

In reply, Mr. Monsod stated that the Committee would be willing to consider any amendment conveying the idea that the State may have to step in to make up for what the farmer could not afford to pay.

Mr. Concepcion then stressed that since the term "just compensation" has been used with uniform meaning in other parts of the Constitution, it should not be used in this Section with a different meaning.

Additionally, Mr. Rodrigo reiterated that "just compensation" has a definite meaning in jurisprudence, which is what is paid the owner, not necessarily from the farmer but may be from the State in the form of subsidy.

Mr. Bernas then proposed an amendment to the amendment by inserting the phrase "and where necessary, state subsidized" between the words "just" and "compensation".

Mr. Davide, however, suggested that the phrase should instead read: JUST COMPENSATION WHICH MAY BE SUBSIDIZED BY THE GOVERNMENT.

Mr. Bernas opined that the sense would be the same, provided that it is clarified that the owner would get the full market value, specifying where the payment would come from.

Mr. Ople objected, stating that subsidy by the government should not be constitutionalized because although it is an inherent duty of the State to give priority to social justice, particularly to land reform, it could be interpreted as giving mandate to fund all aspects of land reform with the taxpayers' money, in which case, the farmers may even rationalize that anyway the State would subsidize the program.

Likewise, Mr. Regalado stressed that "just compensation" has an established meaning in jurisprudence. He then proposed that the phrase should read: SUBJECT TO THE PRIOR PAYMENT OF JUST COMPENSATION.

He explained that since it is the purpose of land distribution to give the landowners whose lands are thereby affected opportunity to invest in other business or occupation, the period within which the payment should be made should be provided in order that said landowners would be able to use the money for other business or occupation.

Mr. Regalado added that in the case of *Commissioner of Public Highways vs. San Diego* it was specifically stated that the judgment requiring payment of just compensation as a condition precedent for the transfer of the title to the government, could not be realized upon execution, as the Legislature must first appropriate the amount over and above the provisional deposit. In the meantime, he pointed out that the landowner would have to wait indefinitely as he could not use his dispossessed property and its supposed proceeds. He stressed that if the landless have rights, the owners have also their rights. For this reason, he stressed that there should be prior payment of just compensation before the landowners could be dispossessed of their property.

Mr. Bengzon maintained that the Committee was not insensitive to the rights of the landowners because the intent of the paragraph is that the landowners would have to be paid immediately, otherwise, "just compensation" would no longer be just.

On Mr. Ople's remarks relative to government subsidy, Mr. Bengzon expressed the hope that the statement would not mean that the State could not at all come to the rescue of the farmer, when necessary, and pay the landowner in the event that the farmer is unable to pay just compensation.

As a rejoinder thereto, Mr. Ople stressed that subsidies may be necessary to make up for the difference in price, so that the landowner may be justly compensated, however, the giving of such subsidies must be a policy of last

resort. He added that although he is in favor of the idea of subsidizing the purchase of lands, he has serious doubts on raising it to the level of a constitutional mandate.

At this juncture, Mr. Tadeo pointed out that under R.A. 3844, the basis for a farmer's exercise of his right of preemption and right of redemption is reasonable capacity to pay. He added that under P.D. No. 27, the value of the land is pegged at P7,000.00 to P8,000.00 per hectare payable in 15 years with annual interest of 6 per cent or a total cost of P15,000.00 per hectare. He stressed that despite these relatively easy terms, only 9 per cent of the farmers were able to pay amortizations for their lands. He then requested the Members to suggest ways through which the purchase of lands would be made easier for the farmers.

Thereupon, Mr. Bernas manifested that in view of the remarks of Mr. Ople, he would withdraw the word "subsidy" from the proposal on the understanding that subsidy would not be excluded whenever necessary. He then objected to Mr. Regalado's proposal to insert PRIOR before "just compensation" because jurisprudence on expropriation requires no immediate prior compensation but only an assurance that compensation would be given.

Thereafter, Mrs. Nieva accepted the amendment of Mr. Treñas so that the phrase would now read as follows: AND SUBJECT TO THE PAYMENT OF JUST COMPENSATION.

Mr. Treñas' proposal was submitted to a vote, and with 39 Members voting in favor and none against, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. REGALADO

Mr. Regalado proposed to insert PRIOR PAYMENT OF before "just compensation".

He explained that the statement of Mr. Bernas that jurisprudence does not require prior payment is not correct, because even the recent Presidential Decrees require partial deposit of certain percentage with payment of the balance guaranteed. On Mr. Bernas' statement adverting to assurance of payment, Mr. Regalado opined that such assurance should be in the form of partial payment and the balance guaranteed with redeemable bonds which should be given to the landowners simultaneously with the transfer of the lands. He stressed that there should never be a situation wherein prior payment is not required because even the Revised Rules of Court, as amended by Presidential Decrees, requires the government itself to make a deposit before entry on the land with the rest of the payment guaranteed under court judgment.

Mr. Bernas stated that he misunderstood what Mr. Regalado meant relative to prior payment of just compensation as payment of the full amount. He added that although prior payment only means partial deposit, he would still object to it because it may be construed to mean as requiring full compensation.

Thereupon, Mr. Regalado manifested the withdrawal of his proposal upon the information of Mr. Bengzon that the Committee had accepted and taken into account his interpretation of just compensation and its intent.

Mr. Davide objected to the Committee's acceptance of Mr. Regalado's interpretation of just compensation because it would make more difficult for farmers and farmworkers to pay for the lands, and, at the same time, it would make a distinction as to the meaning of just compensation as applied in other cases.

Mr. Bengzon, however, maintained that just compensation as defined by the Supreme Court was what the Committee accepted and it applies to Section 5 as well as the other articles.

In addition thereto, Mr. Monsod stated that the Committee had also accepted Mr. Bernas' opinion that the State should grant subsidy, whenever necessary, to the farmers if ever they encounter difficulties in their payments.

INQUIRY OF MR. BACANI

In reply to Mr. Bacani's query whether the farmers could waive their right, Mrs. Nieva opined that they may do so.

Mr. Ople pointed out that the Committee's interpretation is a dangerous one because various pressures may be applied so that the farmers would not exercise the right which the Constitution purports to give them.

Mr. Colayco, however, contended that the exercise of such right involves the assumption of an obligation which the farmer may not be able to assume or which he may not wish to assume at all.

Mr. Ople maintained that the reason why people's participation at various levels in the process of agrarian reform is being institutionalized is precisely to ensure that these rights would become effective and would, in fact, be exercised. He added that considering the realities in the countryside where all social structures are stacked up historically against the exercise of these rights, pressures may be applied to make it impossible for would be farmer beneficiaries to invoke such rights.

Ms. Aquino, however, pointed out that the concept and mandate of social justice in the land reform program does not amount to a compulsion to the farmworkers to assume obligations which they are not prepared to assume. She added that the element of compulsion works against the landowner but not against the farmer or intended beneficiary of the program.

Mr. Ople stated that the farmer should indeed be given the freedom of choice but the Committee should also take into account this caveat of the real world.

SUSPENSION OF SESSION

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

It was 12:37 p.m.

RESUMPTION OF SESSION

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

MANIFESTATION OF MR. RAMA

Upon resumption, Mr. Rama manifested that Mr. Nollado would like to comment on the issue raised by Mr. Ople on waiver of rights by the farmers.

REMARKS OF MR. NOLLEDO

Mr. Nollado expressed agreement with the statements of Mr. Ople on the matter of waiver of rights by the farmers. He stated that if the Body should adopt the general rule that rights under the land reform program could be waived, it would open avenues for its circumvention in many subtle ways by the landlords. He stated that he would agree with the Committee's statement that a tenant could not be compelled to assume obligations or to avail of the benefits afforded by the program if the statement would be given a restrictive meaning because a tenant who refuses to avail of the privileges thereunder would have to forfeit his right in favor of other beneficiaries under the program. He opined that the general rule should be that the benefits and rights under the land reform program should not be subject to waiver because it is based on public policy.

Reacting on behalf of the Committee, Mr. Lerum stated that the provision does not contemplate waiver but refusal

on the part of the tenant to exercise his rights. He stressed that a tenant who refuses on the ground that he does not have the means should not be forced to buy. He stated that there is a big difference between waiver and not wanting to exercise a right.

PROPOSED AMENDMENT OF MR. SARMIENTO

Mr. Sarmiento proposed on the second sentence of Section 5, to delete "priorities" and "and other conditions as Congress may prescribe" stating that the inclusion of such words would seriously impair the agrarian reform program because it limits the scope of the program.

He stated that in the last regime, Presidential Decrees, General Orders and Letters of Instructions such as P.D. Nos. 27 and 1942, General Order No. 47 and Letter of Instructions No. 143 were issued limiting the scope of the land reform program and thereby seriously impairing it with unprecedented expansion of agri-business interest favoring the cronies.

He stressed that the inclusion of the words he sought to delete would open the floodgates to more restrictions and limitations.

REMARKS OF MR. RODRIGO

Speaking against the proposed amendment of Mr. Sarmiento, Mr. Rodrigo stated that the matter should be left to the Members of Congress to provide the details of the program since they would be more knowledgeable and competent.

MANIFESTATION OF MR. BENGZON

On the Chair's query relative to the stand of the Committee, Mr. Bengzon manifested that the Members were divided on the issue, so that the matter would have to be submitted to a vote.

REMARKS OF MR. TADEO

Mr. Tadeo agreed with Mr. Sarmiento stating that, indeed, there were loopholes in the program of the last regime. On "priorities", he stated that the program would apply to big landowners, ill-gotten agricultural lands, tenanted agricultural lands, and idle or abandoned lands, following the principle of equity. He stated that to apply the program immediately to small landowners would create a serious problem.

MOTION OF MR. BACANI

Mr. Bacani moved for a vote on the amendments individually, stating that he concurred with the view of Mr. Tadeo.

REMARKS OF MR. OPLE

Mr. Ople supported the proposal of Mr. Sarmiento to delete "other conditions" stating that the future Members of Congress would represent landed interests and that they would focus on these conditions to legitimize all modes of circumventing the heart and spirit of Section 5.

He, likewise, expressed support for Mr. Tadeo's position stating that "other conditions" serves as a weapon against future adversaries of Section 5.

REMARKS OF MS. TAN

Ms. Tan observed that the deletion of certain terms from the provision cuts down the rights of farmers. She stated that she felt that the proposed land reform program would benefit the middle class or the elite class. She agreed, however, that "other conditions" should be deleted.

REITERATION OF MR. BACANI'S MOTION

At this juncture, Mr. Bacani reiterated his previous motion to vote on the proposed amendments separately.

The Chair addressed the motion to Mr. Sarmiento, being the proponent of the amendments.

Mr. Sarmiento then moved that the Body first vote on the deletion of "priorities".

REMARKS OF MR. TADEO

Mr. Tadeo manifested that he likewise seeks to delete "priorities" to avoid any problem.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento stated that Section 12, Article XIII of the 1973 Constitution does not contain qualifications and limitations while the draft provisions contain a list of restrictions and limitations.

REMARKS OF MR. DAVIDE

Mr. Davide stated that the Committee's interpretation is a very sensible limitation because without the established basis for priority, Congress might adopt a reverse system by implementing the program on small landowners.

On the 1973 provision adverted to by Mr. Sarmiento, he stated that said provision was abused by President Marcos.

REMARKS OF MR. VILLEGAS

In support of Mr. Davide's remarks, Mr. Villegas adverted to Mr. Rodrigo's statements that the problem is not between big landowners or small landowners but a question on various crops. He stated that "subject to priorities" serves as a guide for Congress to know what priorities to give with regards to crops.

REMARKS OF MR. BERNAS

Mr. Bernas stated that there is a need to establish priorities. He stated that in constitutional construction, the first rule is to look at the meaning of the word and secondly, that the record should be resorted to, and the absence of these requisites may constrict the power of Congress to push land reform rather than strengthen it.

On the phrase "as Congress may prescribe" and "taking into account ecological, developmental or equity considerations and subject to a just compensation", he stated that they are mere repetitions of the fact that Congress has plenary powers.

He expressed disagreement with those who opined that the right of Congress to establish priorities is preempted.

INQUIRY OF MR. NOLLEDO

Mr. Nollado inquired from Mr. Bernas if he agrees that Congress may not prescribe any priority at all, to which Mr. Bernas replied that it would be possible that Congress may set other priorities.

Mr. Nollado inquired whether Mr. Bernas was aware that the Ministry of Agrarian Reform is also observing priorities in the sense that the Ministry would like to complete the rice and corn land reform program before proceeding to coconut and sugar land inasmuch as the country does not have the necessary funds to undertake these land reform programs at the same time.

In reply thereto, Mr. Bernas pointed out that he was not denying the right of Congress to set priorities but that the enumeration would give the impression that the Body was limiting the power of Congress.

Mr. Nollado stated that based on the explanation of Mr. Tadeo, Congress may begin with big landholdings, then move on to medium size landholdings and lastly to small landholdings, unless these are exempted by Congress.

Mr. Bernas noted that Mr. Tadeo had seen the difficulty and would be willing to eliminate "priorities".

Mr. Nollado pointed out that Mr. Tadeo's first choice was to eliminate "priorities" and, second, to allow "priorities" to remain in the provision. As to whether he would delete "priorities" inasmuch as the phrase "taking into account ecological, developmental or equity considerations" would take care of the enumeration, Mr. Bernas replied in the affirmative stating that there would be sufficient guidelines for Congress. He added that Congress would set priorities when it takes into consideration ecological, developmental or equity considerations.

On Mr. Nollado's query whether "priority" which is a more emphatic word could be placed in the provision, Mr. Bernas answered that it would be excess verbiage and would give the impression that the Body is more interested in limiting Congress than in pushing Congress towards land reform.

Mr. Nollado, however, maintained that the Body would be giving flexibility to Congress, whose members are elected and enjoy the mandate of the people, in determining priorities.

VOTING ON MR. SARMIENTO'S AMENDMENTS

Thereafter, on motion of Mr. Rama, the Body proceeded to vote on the two amendments of Mr. Sarmiento.

With 14 Members voting in favor and 20 against, the proposed amendment to delete the words "such priorities," between the words "to" and "reasonable" in the second sentence of Section 5 was lost.

With 20 Members voting in favor and 15 against, the amendment to delete the phrase "and other conditions" between the words "limits" and "as" in the second sentence of Section 5 was approved by the Body.

PROPOSED AMENDMENT OF MRS. ROSARIO BRAID

On Section 5, between the words "encourage" and "and", Mrs. Rosario Braid proposed to insert the phrase VOLUNTARY LAND SHARING. She stated that the government should take the prime responsibility for the agrarian reform program so that it could redress present imbalances and inequalities. She noted, however, that ten years hence, the government would play a lesser role in land reform while the people would take more initiative. She opined that voluntary land sharing as is presently done in Negros Occidental should be encouraged and that the middle class be reoriented to effect a transformation from adversarial/confrontational strategies to cooperative, harmonious relationship. She cited current projects on human resource development programs which bring together the landlords, the planters and the sacadas in a spirit of cooperation and harmony. She opined that the Ministry of Agrarian Reform should move towards the creation of a climate where private initiative could thrive.

She observed that in the labor sector, voluntary modes of settling disputes have been adopted and in like manner voluntary land-sharing could also be encouraged.

Upon inquiry of Mrs. Nieva whether the proposed amendment had been covered by the phrase "the State shall encourage", Mrs. Rosario Braid replied that it might be, although it is not mandatory. She opined that voluntary land sharing would be a wave of the future in land reform.

MR. NOLLEDO'S AMENDMENT TO THE AMENDMENT

Mr. Nollado proposed to put at the end of Section 5 a provision which would read: **THAT THE STATE SHALL FOSTER VOLUNTARY LAND SHARING.** He observed that the second sentence as already amended would be adversely affected if voluntary sharing is inserted as it might create the impression that what the State fosters is only voluntary land sharing. The amendment was accepted by Mrs. Rosario Braid.

Mr. Nollado then explained that the first provision excluding the amendment of Mrs. Rosario Braid would pertain to compulsory land distribution while the amendment of Mrs. Rosario Braid would encourage voluntary land sharing. He stressed that any landholder may adopt voluntary land sharing program, perhaps, with the support of the State.

INQUIRY OF MR. DAVIDE

On Mr. Davide's query, Mrs. Rosario Braid affirmed that voluntary land sharing would also encompass the right of landowners to share their landholdings.

On whether this would defeat the objectives of land reform inasmuch as voluntary land sharing might place the landholdings beyond the reach of land reform, Mrs. Rosario Braid replied that voluntary land sharing could be a complementary program.

Mr. Davide noted that it could be a complementary program but it would also be a right conceded to landowners. He raised the question as to how one can remove from the landowners what they have already obtained by reason of exercise of a right. He stated that allowing landowners to practice land sharing would remove the right to implement the land reform program over land areas which are the subject of land sharing.

Mrs. Rosario Braid contended that the future legislature could come up with specific provisions as to what size of lands would fall under voluntary land sharing and which would fall under land reform. The concept, she stressed, is to ensure that this should be considered as a complementary program.

Mr. Davide pointed out that he would have no objection if the land sharing would be by farmers and farmworkers who would collectively own the land, but if it would apply to landowners whose lands may be the subject of land reform, it might be dangerous inasmuch as the option should be exercised by the farmworkers and farmers and not by landowners.

Mrs. Rosario Braid, in response thereto, stated that it could be considered as an option but that the program should be encouraged.

Mr. Davide opined that the land-sharing program could be an option to the beneficiaries but not to original landowners. He stated that he would agree as far as the program would encourage the establishment of cooperatives or partnerships among the beneficiaries, for which, Mrs. Rosario Braid agreed that Mr. Davide work out a compromise which would capture the concept of land sharing.

At this juncture, Mrs. Quesada requested Mrs. Rosario Braid to explain the background of the proposal.

In reply thereto, Mrs. Rosario Braid explained that the concept of land sharing is a more cooperative, harmonious environment between the landlords and the workers, with the landowners giving a portion of the landholding to the workers to cultivate.

Upon inquiry of Mrs. Quesada as to the role of the government in this kind of arrangement, Mrs. Rosario Braid stated that it could create the climate inasmuch as government has the training and research programs and the resources to support the replication of the concept throughout the country. She noted that instead of using resources in supporting the traditional land reform programs, the government can develop pilot communities.

SUSPENSION OF SESSION

The Chair suspended the session

It was 3:33 p.m.

RESUMPTION OF SESSION

At 3:39 p.m. the session was resumed.

Thereafter, Mr. Monsod stated that when the Committee drafted the Section, the word "encourage" was placed so as not to preclude voluntary modes of just distribution. He noted that the coverage is all agricultural lands. He noted that the proposal of Mrs. Rosario Braid and Mr. Nollado is not precluded by "encourage" because government could give incentives to accelerate the program in its system of priorities. Rejecting the amendment on behalf of the Committee, Mr. Monsod stated that it might confuse or open the Section to a different interpretation.

Mr. Nollado stated that the proposed amendment is designed to accelerate the land reform program with respect to those who would like to comply voluntarily with the land reform program, expecting that they would be given incentives by the government. Such an incentive, he said, could be exemption from capital gains tax.

Thereafter, Mrs. Rosario Braid read the amendment, to wit: THE GOVERNMENT SHALL PROVIDE INCENTIVES TO THOSE WHO ADOPT VOLUNTARY LAND SHARING.

VOTING ON THE PROPOSED AMENDMENTS OF MRS. ROSARIO BRAID AND MR. NOLLEDO

Submitted to a vote, and with 16 Members voting in favor and 14 against, the proposed amendment was approved by the Body.

PROPOSED AMENDMENT OF MR. JAMIR

On the second sentence of Section 5, Mr. Jamir proposed to insert the word ARABLE between the words "all" and "agriculture" stating that he would like to distinguish this kind of agricultural land from commercial and industrial lands and residential properties which fall under the general classification of "agricultural". He noted that the intention of the Committee is to limit the application of the word "agricultural" to land subject to cultivation.

Mr. Suarez, on behalf of the Committee, clarified that "agricultural lands" do not include commercial and industrial lands and that as contemplated by the Committee, such "agricultural lands" would be limited to arable and suitable agricultural lands.

In view of the explanation of the Committee, Mr. Jamir withdrew his proposal.

PROPOSED AMENDMENT OF MR. PADILLA

On Section 5, Mr. Padilla proposed to delete the word "all" between the words "of" and "agriculture", or to insert the word ARABLE in order to make the provision clear.

In support of the proposal, Mr. Regalado stated that, for purposes of symmetry and uniformity of both expression and intendment, the same intent would apply to the provisions of Section 7 with respect to lands of the public domain. He proposed the addition of the words DISTRIBUTION OF ALL LANDS SUITABLE TO AGRICULTURE to make it jibe with the phraseology in Section 7.

Mr. Padilla accepted the proposal to his amendment.

Responding thereto, Mr. Bennagen stated that there is a distinction between the usage of "agriculture" in Section 7 and that in Section 5, in the sense that the phrase "suitable to agriculture" in Section 7 has something to do with other natural resources including lands of the public domain, whereas in Section 5, it has reference to agricultural lands.

Additionally, Mr. Suarez read into the record the meaning of agricultural lands for land reform purposes, as defined in the survey report of the Ministry of Agrarian Reform, to the effect that "arable" is included in the words "agricultural lands".

Mr. Padilla, however, contended otherwise in the sense that agricultural lands are very broad. He stressed that all other lands are agricultural but not all agricultural lands are arable.

Mr. Suarez pointed out that defining the word "arable" would exclude saltbeds and fishponds.

Thereupon, Mr. Padilla reiterated his proposal to delete the word "all" between "of" and "agricultural" if the insertion of the word "arable" was unacceptable to the Committee.

On Mr. Ople's query on whether the definition of "arable lands" would exclude the kaingineros from the purview of agrarian reform, Mr. Padilla stated that timberlands not classified as agricultural lands available to private grantees like homestead or lease, or other methods recognized by the Public Land Law, should remain as forests or timberlands. He stated, however, that any portion of the forests or timberlands which ceases to be timber or forest land should be made by public authority available for disposition to private parties or purposes of agriculture.

Mr. Bennagen stated the Committee's position that kaingineros could be beneficiaries of agrarian reform, however, lands above 18 degrees slope are not covered by the scope of agrarian reform because such lands are no longer alienable and disposable but are considered forest lands.

On Mr. Ople's observation that setting the limit at 18 degrees slope would exclude thousands of hectares from agrarian reform, Mr. Bennagen stated that he was referring to the 18 degrees partly in relation to ancestral lands and partly to other variables that have to do with productivity.

REMARKS OF MR. CONCEPCION

On the reference to the words "agricultural land" Mr. Concepcion stated that under the provisions on conservation of natural resources, all lands that are neither timber nor mineral are agricultural, the reason being that all lands are per se agricultural.

He pointed out that, although it would be alright to have different concepts of agricultural lands, these concepts concerning agricultural lands under land reform were not found in the old Constitution. In this connection, he

expressed the hope that in the preparation of the Constitution, "agricultural land" should be used either in accordance with the provisions on the conservation of natural resources or its provisions as amended to mean what is intended under land reform. In other words, he stated that the same phrase should mean the same thing in whatever portion of the Constitution it may be.

REMARKS OF MR. VILLEGAS

Mr. Villegas recalled that in the 1973 Constitution, lands were classified into too many categories which gave the Marcos regime tremendous room for reclassifying lands, especially for the benefit of the Ministry of Human Settlements, into agricultural, industrial or commercial, residential, resettlement, mineral, timber, forest and grazing lands. He suggested a reversion to the 1935 Constitution which limited the classification into mineral, timber and agricultural, with the addition of national parks as the fourth classification.

He agreed that it may no longer be necessary to add the word "arable" because of an existing jurisprudential definition of "agricultural" and also because it is something subject to further determination by the Legislature. He then informed the Body that there are a lot of industrial tree plantations that are more agricultural than timber, which is the reason why the Committee on the National Economy and Patrimony would provide for Congress to define forest lands which should not be diminished thereafter.

RESTATEMENT OF MR. PADILLA'S AMENDMENT

Mr. Padilla restated his amendment to delete the word "all" between "of" and "agricultural".

Mrs. Nieva did not accept the amendment.

Submitted to a vote, and with 7 Members voting in favor and 26 against, the amendment was lost.

AMENDMENT OF MR. SARMIENTO

As proposed by Mr. Sarmiento and accepted by the Sponsor, the Body approved an amendment to insert the word AND between the words "priorities" and "reasonable" as a consequence of the deletion of the words "and other conditions".

POINT OF CLARIFICATION OF MR. TADEO

At this juncture, Mr. Tadeo stated that if "just compensation" would not mean the reasonable capacity of the farmer to pay under the right of preemption and the right of redemption, he would be constrained to withdraw his vote.

Replying thereto, Mr. Bennagen stated that the understanding of just compensation was such that if the farmer could not afford to pay, the government would then come in.

INQUIRY OF MR. BACANI

In reply to the query of Mr. Bacani, Mr. Bengzon affirmed that just compensation is the compensation paid to the landowner and that the concept that it would be subsidized by the government remains.

RESTATEMENT OF SECTION 5

Thereupon, Mrs. Nieva restated Section 5, as amended, to read as follows:

SECTION 5.- THE STATE SHALL BY LAW UNDERTAKE AN AGRARIAN REFORM PROGRAM

FOUNDED ON THE BASIC RIGHT OF FARMERS AND FARMWORKERS, WHO ARE LANDLESS, TO OWN DIRECTLY OR COLLECTIVELY THE LANDS THEY TILL OR, IN THE CASE OF OTHER FARMWORKERS, TO RECEIVE A JUST SHARE OF THE FRUITS THEREOF. TO THIS END, THE STATE SHALL ENCOURAGE AND UNDERTAKE THE JUST DISTRIBUTION OF ALL AGRICULTURAL LANDS, SUBJECT TO SUCH PRIORITIES AND REASONABLE RETENTION LIMITS AS CONGRESS MAY PRESCRIBE, TAKING INTO ACCOUNT ECOLOGICAL, DEVELOPMENTAL OR EQUITY CONSIDERATIONS AND SUBJECT TO THE PAYMENT OF JUST COMPENSATION. THE STATE SHALL RESPECT THE RIGHT OF SMALL LANDOWNERS IN DETERMINING RETENTION LIMITS. THE STATE SHALL FURTHER PROVIDE INCENTIVES FOR VOLUNTARY LAND SHARING.

In reply to Mr. Regalado's inquiry, Mrs. Nieva affirmed that there should be a comma (,) after the word "farmworkers" so that the phrase "who are landless" would refer to both regular farmworkers and farmers.

Submitted to a vote, and with 36 Members voting in favor, none against and no abstention, the Body approved Section 5, as amended

AMENDMENT OF MR. DAVIDE

On Section 6, Mr. Davide proposed the deletion of the words "research and development", the reason being that it is already included in the word "technology".

Explaining why the word "research" was included in Section 6, Mr. Bennagen stated that in various studies on agrarian reform, it had been shown that many agricultural practices in other countries are not suited to Philippine conditions because of the great variability of ecological conditions. He stated that he would consider the deletion of the words "and development" but not the word "research", to which Mr. Davide accepted.

Mrs. Rosario Braid proposed to insert the word TRAINING in lieu of the word "development", which Mr. Davide did not accept, explaining that training is inherent to technology because there could never be a transfer of technology without training in it.

Mrs. Rosario Braid did not insist on her proposed amendment.

The Committee accepted Mr. Davide's proposed amendment, as amended, and there being no objection, the same was approved by the Body.

AMENDMENT OF MRS. ROSARIO BRAID

Mrs. Rosario Braid proposed the deletion of the words "marketing assistance" and in lieu thereof, the substitution of the words SUPPORT SERVICES, explaining that aside from marketing, there are other services like post-harvest technology, storage and processing systems which are likewise necessary and important.

Mr. Davide proposed the retention of the words "marketing assistance", the deletion of the word "and" and after the word "assistance", the addition of the words AND OTHER SUPPORT SERVICES, which Mrs. Rosario Braid accepted.

The Committee, in turn, accepted the amendment and, there being no objection, was approved by the Body.

AMENDMENT OF MR. RIGOS

As proposed by Mr. Rigos and accepted by the Sponsor, the Body approved to transpose the words "and landowners" after the word "farmworkers" and to delete the word "and" preceding it.

AMENDMENT OF MR. DAVIDE

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved the amendment to add the letter "s" after the word "organization" and to place the apostrophe (') after the letter "s" in "farmers" so that it would read "farmers' organizations".

AMENDMENT OF MR. DE LOS REYES

As proposed by Mr. de los Reyes and accepted by the Sponsor, the Body approved to change the word "organizing" to ORGANIZATION.

RESTATEMENT AND APPROVAL OF SECTION 6, AS AMENDED

Thereupon, Mrs. Nieva restated Section 6, as amended, to wit:

SECTION 6. - THE STATE SHALL RECOGNIZE THE RIGHT OF FARMERS, FARMWORKERS AND LANDOWNERS, OF COOPERATIVES AND OTHER INDEPENDENT FARMERS' ORGANIZATIONS. TO PARTICIPATE IN THE PLANNING, ORGANIZATION, AND MANAGEMENT OF THE PROGRAM AND SHALL PROVIDE SUPPORT TO AGRICULTURE THROUGH APPROPRIATE TECHNOLOGY AND RESEARCH, AND ADEQUATE FINANCIAL, PRODUCTION, MARKETING, AND OTHER SUPPORT SERVICES.

There being no objection, the Body approved Section 6, as amended.

AMENDMENT OF MESSRS. OPLE AND NOLLEDO

On Section 7, Mr. Ople, jointly with Mr. Nollado, proposed to add a new paragraph after Section 7 which would read as follows:

THE STATE MAY RESETTLE THE LANDLESS WORKERS IN ITS OWN AGRICULTURAL ESTATES WHICH SHALL BE DISTRIBUTED TO THE BENEFICIARIES ACCORDING TO THEIR QUALIFICATIONS.

Mr. Ople, in explaining the amendment, stated that the State itself may want to establish model estates for agrarian reform, similar to what had been initiated by President Magsaysay through the creation of the NARRA Settlement in Palawan and the establishment of the EDCOR in Mindanao. He pointed out that his proposed amendment would complement the first portion of Section 7 which deals with lands of the public domain suitable to agriculture under lease or concession although under the proposal, the State sets up the model agrarian reform estates at its own expense just like the case of Indonesia where approximately five million people were resettled from overcrowded Java to the outer islands of the country through the so-called "transmigration policy".

In reply to Mrs. Nieva's inquiry, Mr. Ople explained that the term "workers" would refer to seasonal landless agricultural workers who far exceed those engaged in tenancy or share cropping and whose prospects of acquiring land or finding a job outside of agriculture are nil.

As proposed by Mr. Suarez, Mr. Ople accepted the substitution of the word "workers" with FARMERS AND REGULAR FARMWORKERS and to add after the word "distributed" the words TO THEM IN THE MANNER PROVIDED BY LAW.

Mr. Padilla proposed the deletion of the word "regular" explaining that those who are not regularly employed may be the better beneficiaries or recipients of these agrarian reform estates, to which Mr. Ople agreed.

The Committee, in turn, accepted Mr. Padilla's proposed amendment.

RESTATEMENT OF MR. OPLE'S AMENDMENT, AS AMENDED

Thereupon, Mr. Suarez restated Mr. Ople's amendment, to wit:

THE STATE MAY RESETTLE THE LANDLESS FARMERS AND FARMWORKERS IN ITS OWN AGRICULTURAL ESTATES WHICH HAVE BEEN DISTRIBUTED TO THEM IN THE MANNER PROVIDED BY LAW.

INQUIRY OF MR. BENNAGEN

In reply to the queries of Mr. Bennagen, Mr. Ople explained that his proposed amendment contemplates a situation where the government is the landowner and the cooperatives and other independent organizations of farmers and farmworkers would participate in the organization, management and direction of the program. He stated that these agricultural workers who would be resettled to these estates would become potential owners upon meeting certain standards as may be provided by law and through their own voluntary system of association such as a cooperative, these agricultural estates would eventually be completely independent of the State.

REMARKS OF MR. VILLEGAS

Speaking in support of the amendment, Mr. Villegas stated that Malaysia had a very successful model that implemented the concept of Mr. Ople through a government corporation called the Federal Land Development Corporation which distributed small plots of land to farmers and through a nucleus estate, the government helped these beneficiaries to be productive. He opined that this Malaysian model is something to which the Filipinos has been looking forward for the government and the private sector to implement.

INQUIRY OF MR. LERUM

Mr. Lerum inquired whether the amendment would not prejudice laid-off workers who would want to go back to the provinces to engage in farming, to which Mrs. Quesada replied that they would be entitled in the sense that these laid-off workers, when they go back to the provinces, would eventually end up as agricultural workers.

APPROVAL OF MR. OPLE'S AMENDMENT

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

AMENDMENT OF MR. ROMULO

Mr. Romulo proposed the insertion of the words OR STEWARDSHIP between the words "reform" and "whenever".

Mr. Tingson, in support of the amendment, stated that stewardship must be applied to the concept of land ownership because it is only God who owns the land and the people are only his stewards.

INQUIRY OF MR. VILLEGAS

Mr. Villegas sought clarification on the meaning of the phrase "disposition of natural resources" considering that only agricultural lands are alienable, in reply to which Mr. Monsod stated that the word "disposition" does not mean transfer of title. He cited as example forest areas when, in giving concessions, the people around that area would be given preferential attention or treatment.

PROPOSED AMENDMENT OF MR. AZCUNA

Mr. Azcuna proposed to insert the words OR UTILIZATION between the words "disposition" and "of".

REMARKS OF MR MONSOD

Further explaining the word "disposition", Mr. Monsod stated that it would not necessarily mean transferring legal title and that the provision contemplates a situation wherein the State changes the classification of lands of the public domain by making it available for disposition.

INQUIRY OF MR. BACANI

In reply to Mr. Bacani's inquiry, Mr. Romulo explained that the word "stewardship" refers to the right of an individual to have free use and free occupancy but not legal title to the land given him.

REMARKS OF MR. BENNAGEN

Mr. Bennagen stated that forest lands suitable for agriculture, known as agro-forestry, could be made available to kaingeneros for their use for a certain period but subject to renewal, although they are not given land titles. In other words, he stated that the government would support this integrated social forestry program in order that the forest would not be destroyed and at the same time help the cause of the kaingineros.

INQUIRY OF MR. RODRIGO

In reply to Mr. Rodrigo's query whether ownership would also apply to Section 7, Mrs. Nieva stated that lands owned by the government could be utilized by farmers but the titles thereof would not be given.

On whether government agricultural estates would also be subdivided in order that farmers may eventually own them, Mr. Ople explained that since the owner is the government, there would be no obstacle in distributing them which may directly lead to ownership by farmers. He further stated that in the case of kaingineros whose ownership of land may be prevented by certain problems in the classification of lands, a stewardship contract may be issued to them in terms of a collateral in the bank, which stewardship is related to usufruct contracts wherein ownership has limited period, for instance, for 50 years.

On whether under Section 7 the farmers would be owners or mere stewards, Mr. Ople underscored that as soon as the conditions are fulfilled then nothing should prevent the steward to have full ownership. Mr. Monsod added that is a case of disposable public lands, the farmers could easily own them under the land reform program.

Considering that in Section 5, five heirs may not inherit the land and the owner may not dispose of it, Mr. Rodrigo inquired if the same would apply to Section 1, to which Mr. Monsod replied in the affirmative but stated that in the case of forest lands where there are concessions, the laws on forestry would apply except with certain considerations to local communities.

Additionally, Mr. Bengzon pointed out that Section 7 underscores other natural resources, such that it is not the principle of ownership under the agrarian reform that would apply to timber and mineral lands, but the principle of stewardship.

Thereafter, submitted to a vote, and with 31 Members voting in favor and none against, the proposed amendment of Mr. Romulo, jointly with Mr. Azcuna was approved by the Body.

APPROVAL OF SECTION 7, AS AMENDED

On motion of Mr. Rama, there being no objection, the Body approved Section 7, as amended, to wit:

SECTION 7. - THE STATE SHALL APPLY THE PRINCIPLES OF AGRARIAN REFORM OR STEWARDSHIP WHENEVER APPLICABLE IN ACCORDANCE WITH LAW IN THE DISPOSITION OR UTILIZATION OF OTHER NATURAL RESOURCES, INCLUDING LANDS OF THE PUBLIC DOMAIN SUITABLE TO AGRICULTURE UNDER LEASE OR CONCESSION, SUBJECT TO PRIOR RIGHTS, HOMESTEAD RIGHTS OF SMALL SETTLERS AND THE RIGHTS OF INDIGENOUS COMMUNITIES TO THEIR ANCESTRAL LANDS.

THE STATE MAY RESETTLE LANDLESS FARMERS AND FARMWORKERS IN ITS OWN AGRICULTURAL ESTATES WHICH SHALL BE DISTRIBUTED TO THEM IN THE MANNER PROVIDED BY LAW.

Mr. Tadeo explained that "prior rights" refer to previous rights of indigenous cultural communities and settlers to cultivate and use for livelihood the land where they live.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:57 p.m.

RESUMPTION OF SESSION

At 5:29 p.m., the session was resumed with the Honorable Florenz D. Regalado presiding.

JOINT AMENDMENT OF MESSRS. DE LOS REYES, NATIVIDAD, REGALADO AND DAVIDE

Upon resumption of session, Mr. de los Reyes proposed, jointly with Messrs. Natividad and Regalado, to reword the first clause of Section 8 to read as follows: THE STATE SHALL PROTECT THE RIGHTS OF MARGINAL FISHERMEN AND LOCAL COMMUNITIES TO THE PREFERENTIAL USE OF COMMUNAL MARINE AND FISHING RESOURCES, BOTH INLAND AND OFF-SHORE, PARTICULARLY MUNICIPAL FISHING GROUNDS.

Mrs. Nieva accepted the proposal.

REMARKS OF MR. NATIVIDAD

Mr. Natividad manifested his support for the proposed amendment, stating that the phrase "preferential use of communal fishing grounds" would finally reserve fishing areas to small and poor fishermen who could not undertake deep-sea fishing because of their lack of equipment.

He noted, however, that "municipal fishing grounds" might be confused as part of "communal fishing grounds" because in some provinces, like Bulacan, there are municipalities which own, lease or operate fishing grounds or fishponds in the exercise of their proprietary functions. He explained that small fishermen cannot fish in these fishponds which are usually circled by dikes. He suggested that "municipal fishing grounds" be substituted with another term to avoid confusion.

Mr. Natividad also lauded the Committee's use of the word "conservation" which would mandate the State to develop, conserve and protect fishing grounds not only from foreign encroachment but also from encroachment of rich fishermen who often extend the boundaries of their fishponds to "communal fishing grounds" to the detriment

of the poor fishermen.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's query, Mr. de los Reyes explained that with the phrase "communal marine and fishing resources" all such resources would now be considered communal and Congress may not define what area within the marine and fishing resources area should be considered communal because the entire area itself is communal.

With this understanding, Mr. Davide concurred with the proposal stating that he also wanted to prohibit Congress from defining an area as the only communal fishing area.

INQUIRY OF MR. SUAREZ

On the intention of the proposed amendment, Mr. de los Reyes explained that marine and fishing resources would now be owned by the community as its fishing grounds with the preferential use thereof given to marginal fishermen.

INQUIRY OF MR. MONSOD

In reply to Mr. Monsod's queries, Mr. de los Reyes reiterated that his proposed amendment would convert all marine and fishing resources into communal fishing grounds including eventually the privately-owned rivers and lakes which properly belong to the State and people. He stated that under the land reform program private properties were taken away and awarded to landless farmers but, with respect to rivers and lakes, the communal marine and fishing resources were allocated to the rich to the exclusion of marginal fishermen, which should not be the case. He stressed that his amendment intends to prohibit the grant of licenses to build fishpens in Laguna de Bay and other fishing areas.

INQUIRY OF MR. DE CASTRO

On Mr. de Castro's query as to the meaning of "marginal", Mr. Sarmiento volunteered the information that according to the Bureau of Fisheries and Aquatic Resources marginal fishermen are those who operate in coastal waters less than seven fathoms deep, using motorized or nonmotorized bancas weighing less than three gross tons and, because of the seasonality of fish, operate on an average of five hours a day, twenty days a month and six months a year.

On Mr. de Castro's query whether the big fishpen operators in Laguna de Bay who use even less than one-ton bancas are also considered as small fishermen, Mr. Monsod stated that there are other criteria which should be taken into consideration such as the size of the holding and the capitalization required.

Mr. de Castro stated that the definition given is not as Mr. Sarmiento meant it to be.

Mr. Sarmiento explained that municipal fishermen are classified into two sectors, namely: 1) those who use motorized bancas and fishing gear, and 2) those who use wooden bancas equipped only with hooks and lines or small nets. He stated that according to the Ministry of Natural Resources, there are 600,000 of the latter sector called subsistence fishermen, otherwise known as marginal fishermen.

Mr. de Castro stated that some small fishermen use nets of about 5 kilometers wide and 5 kilometers long called pukot and employ diesel-operated bancas. He stressed that a definition of small fishermen is essential because they might be excluded from the classification of small fishermen. Mrs. Nieva replied that the word "marginal" was used.

Mrs. Rosario Braid stated that income is a criterion in classifying fishermen. She stated that a research study showed that marginal fishermen are those below the poverty line who usually join associations to be able to bargain in terms of loans, marketing and technical assistance.

Mr. de Castro stated that a diligent fisherman may be able to build a house of strong materials and acquire three or four bancas, earning more than a regular employee or more than what a professional earns. He then inquired whether such fishermen would be denied the preferential right to fish.

At this juncture, however, Mr Bengzon asked Mr. de Castro what his amendments would be, to which Mr. de Castro replied that he had not yet formulated any. He then posed the query on the meaning of "marginal" and "small".

Mr. Bengzon stated that marginal fishermen are those who maintain a hand-to-mouth subsistence.

Mr. Bacani stated that a fisherman who is not classified marginal would be allowed to use marine and fishing resources, but it will not be a preferential use, unless he falls under the phrase of "and local communities".

At this juncture, Mr. Bengzon invited attention to Mr. de los Reyes' pending amendment on the definition of "communal".

Thereupon, Mr. de Castro reserved further inquiries.

REMARKS OF MR. VILLEGAS

Mr. Villegas, rectifying his reference to agricultural, forest, mineral lands and national parks as categories of natural resources, stated that they are categorized as lands of the public domain.

He expressed disagreement to the suggestion that communal waters should be made prohibited fishpens. He stated that under the Article on the National Economy and Patrimony, the State can limit the use of water rights for irrigation, water supply, fisheries or industrial uses other than development of water power for beneficial use. He stated that consumers of fish would be prejudiced if highly-productive technology of fish farming would not be allowed for entrepreneurs in the fishing business. He stressed that as long as preferential rights are given to marginal fishermen, the State should not be completely prohibited from giving this natural resource to whoever can productively make use of the waters for the benefit of the fish-consuming public.

In reply to Mr. de los Reyes' query on whether other countries allow its lakes and rivers to be fenced by the moneyed few who exclude the marginal fishermen from fishing therein, Mr. Villegas cited Nigeria as an example. He stated that not so many countries have developed the indigenous technology of fish farming which the Philippines had developed. He informed the Body that the Philippines is the pace-setter in the world of fish farming. He stressed that he is not against agrarian reform and stewardship of marine resources but that he is against exclusivists.

He stated that his Committee has recommended that priority be given to cooperative fish farming in rivers, lakes and lagoons.

Reacting thereto, Mr. de los Reyes stated that he not against the employment of technology to improve the fishing industry, but it should not apply to Laguna Lake and other communal fishing grounds. He stated that the fishermen of Laguna and Rizal easily fall prey to those who want to overthrow the government because they are convinced that ultimately they would suffer the same fate as the Indians of America.

POINT OF INFORMATION OF MR. DE CASTRO

Mr. de Castro volunteered the information that Laguna Bay has an area of 90,000 hectares and that the Laguna Lake Development Authority (LLDA) has limited the fishpens to about 21,000 hectares in a certain area. He stated that the fishpen owners employ approximately 5 to 10,000 employees in their fishpens. He stated that with fishpens, people would have a good livelihood from catching fry.

In reply to Mr. de Castro's query whether he is aware of fishpens established by small fishermen through the ADB4PEC financing, Mr. de los Reyes affirmed that there is such a program and that some LLDA personnel are being misled by persons who claim to be fishermen but who are actually only acting as dummies for the rich.

At this juncture, Mr. Villegas pointed out that matters relating to the Laguna de Bay should be left to the Legislature. He stated that he agrees with Mr. de los Reyes' mention of a general principle that there are other inland waters which could be used for fishpens. He stated that the only bone of contention is whether or not Laguna de Bay should be included among these bodies of water.

Mr. Monsod stated that he wanted Mr. de los Reyes to clarify his statement that the entire Laguna de Bay would now be considered as communal marine and fishing resource.

Mr. de los Reyes manifested that according to Mr. Natividad there are shallow portions in Laguna de Bay which should be considered as communal because these are the fishing grounds of marginal fishermen. However, he stated that with respect to the deeper portions, fishermen who are not marginal should be allowed to fish there. He added that there is a suggestion to insert THE before "communal" precisely to convey the idea of marine and fishing grounds which are declared communal. He then manifested his acceptance of the suggestion.

On Mr. de Castro's query as to what should be the depth for portions of Laguna de Bay to be considered as communal, Mr. de los Reyes stated that the main problem in the area is that fishpens are being constructed on portions which are traditional fishing grounds of small fishermen. He observed that the bamboos in these fishpens hamper the free flow of water and cause progressive and uncontrollable siltation which makes the bay shallow.

Mr. Monsod, on behalf of the Committee, accepted Mr. de los Reyes' proposal with the clarification made. The proposed amendment, as accepted by the Committee, reads as follows: THE STATE SHALL PROTECT THE RIGHTS OF MARGINAL FISHERMEN AND LOCAL COMMUNITIES TO THE PREFERENTIAL USE OF THE COMMUNAL MARINE AND FISHING RESOURCES, BOTH INLAND AND OFFSHORE, PARTICULARLY MUNICIPAL FISHING GROUNDS . . .

On Mr. Rodrigo's query whether a fisherman has to be marginal and at the same time living in the community to be able to avail of the preferential use, Mr. Monsod stressed that the two terms are not conjunctive, which means that a person may be a marginal fisherman and be entitled to the preferential use, or it could be the entire local community.

On whether a marginal fisherman from Bataan could fish in the communal fishing grounds in Bulacan, Mr. Monsod stated that it is the sense of the Committee that they must be either available individually or communally, as in the case of a cooperative.

Mr. Rodrigo replied that he was not talking of cooperatives and inquired whether marginal fisherman from any part of the Philippines could have preferential right in fishing in the communal fishing grounds of Bulacan or whether that preferential right would be enjoyed only by marginal fishermen from that area of Bulacan. Mr. Monsod, in reply thereto, stated that the same question was raised by Mr. Ople and that it had been answered by the Committee. However, he further explained that somebody from another place, who is a marginal fisherman,

may avail of the preferential use of the area. He also affirmed that a marginal fisherman can fish in any communal fishing ground anywhere in the Philippines.

As to whether a rich fisherman, who lives in the vicinity, could fish in the communal fishing ground, Mr. Monsod answered that the preferential use is for certain people. Mr. Rodrigo inquired whether people who live in the local community could only get preferential treatment if they are marginal fishermen, to which Mr. Bengzon answered in the affirmative.

Mr. Bengzon stressed that an individual who lives in a local community but who is not a marginal fisherman would not get preferential treatment.

On Mr. Rodrigo's observation that the words "local community" might as well be deleted in view of the explanation, Mr. Monsod stated that the intent of the Committee in placing "local community" is to refer to groups or to people who fish as a group.

On whether marginal fishermen from Palawan who want to fish in the communal fishing grounds by the seashore of Bulacan would be entitled to preference, Mr. Bengzon answered that theoretically, they are. He stated that the real intent of the provision is for marginal fishermen in local communities, acting individually or as a group, to be preferred.

On the implementation scheme, Mr. Rodrigo inquired whether there would be licenses or permits for identification purposes.

In reply thereto, Mr. Bengzon stated that there would be some mode of licensing which could be considered in the deliberation on the Article on Local Governments.

Mr. Monsod explained that there are two aspects involved the aspect of exclusion and the aspect of inclusion. Under the first aspect, in the areas that are considered communal, government may exclude the putting up of fishpens or allowing big fishing enterprises to fish in that area. Under the second, marginal fishermen or marginal local communities would have preferential right. He agreed with Mr. Bengzon that there might be a need to identify them by a system of licensing,

Mr. Rodrigo inquired whether a licensed marginal fisherman could fish anywhere in the Philippines. Mr. Bengzon replied that he would be subject to whatever rules and regulations and local laws may be existing or will be passed.

MR. VILLEGAS' AMENDMENT TO THE AMENDMENT

Mr. Villegas observed that the phrase "local communities" is quite clear that what is meant is directly or collectively, as stated in the provision on agrarian reform.

Upon inquiry of the Chair, Mr. Villegas affirmed that he would offer an amendment to the proposed amendment of Mr. de los Reyes.

Thereupon, on the second line of Section 8, Mr. Villegas proposed to place after the word "fishermen" the words DIRECTLY OR COLLECTIVELY so as to avoid confusion over the phrase "local communities". He added that the word "collectively" would mean "local communities". Mr. de los Reyes and the Committee accepted the proposed amendment to the amendment.

In reply to the inquiry of Mr. Rodrigo, Mr. Bengzon stated that the phrase "local communities" had been replaced by the word "collectively".

REMARKS OF MR. BROCKA

Mr. Brocka recalled that during the Committee deliberations, the words "local communities" were used in reference to a particular group such as the Laguna de Bay fishermen. He noted that the proposed amendment of Mr. Villegas did not consider the reference to a particular community in a particular area.

Mr. Monsod replied that the Committee appropriately used the term inasmuch as it was also using the words "communal use." He noted that the meaning has been enlarged so that the phrase "direct or communal" had to be taken out and that thereafter the word "collective" would have the same meaning in that context.

MR. BACANI'S AMENDMENT TO THE AMENDMENT

At this juncture, Mr. Bacani inquired whether the meaning of the provision would be preserved if it shall state "The State shall protect the rights of marginal fishermen, ESPECIALLY THOSE IN THE local communities TO THE PREFERENTIAL USE OF THE COMMUNAL MARINE AND FISHING RESOURCES." This amendment, he stated, would provide preference for the marginal fishermen in the local community inasmuch as the Committee did not intend to give preference to non-marginal fishermen in said local community.

SUSPENSION OF SESSION

On motion of Mr. Monsod, the Chair suspended the session to allow the Committee Members to consult on the proposed amendment.

It was 6:27 p.m.

RESUMPTION OF SESSION

At 6:35 p.m. the session was resumed.

Thereafter, Mr. Bacani restated the amendment, to wit: "The State shall protect the right of MARGINAL fishermen ESPECIALLY OF local communities to the PREFERENTIAL USE OF THE communal marine and fishing resources . . .".

Mrs. Nieva accepted the amendment.

At this juncture, Mr. de Castro reserved his right to give a definition of "marginal fishermen." He stated that he was confused as to the meaning of "marginal" and "small" fisherman.

Upon inquiry of the Chair whether this would be included in the Journal, Mr. de Castro stated that it may also call for a change of the word "marginal" based on the definition that he would arrive at.

On the Chair's query, Mr. Bengzon requested that the Body proceed to vote on the amendment of Mr. Bacani and that thereafter the Committee would decide on the proposal of Mr. de Castro.

VOTING ON THE AMENDMENT OF MR. BACANI

Thereupon, Mr. Bacani restated his amendment, to wit:

THE STATE SHALL PROTECT THE RIGHTS OF MARGINAL FISHERMEN ESPECIALLY OF LOCAL COMMUNITIES TO THE PREFERENTIAL USE OF THE COMMUNAL MARINE AND FISHING RESOURCES, BOTH INLAND AND OFFSHORE, PARTICULARLY MUNICIPAL FISHING GROUNDS.

AMENDMENT OF MR. PADILLA

Mr. Padilla proposed the phrase "right of marginal fisherman in the local community to the preferential use of marine and fishing resources" which, while stated in the singular would apply to all marginal fishermen. Mr. Bacani answered that there are two senses that the Commission would like to preserve 1) preferential treatment to marginal fishermen from other communities; and 2) preferential treatment to fishermen who belong to the local community.

VOTING ON MR. BACANI'S AMENDMENT

Submitted to a vote, and with 30 Members voting in favor and none against, the amendment of Mr. Bacani was approved by the Body.

Thereafter, Mr. de Castro reiterated his reservation to which the Committee acceded.

PROPOSED AMENDMENT OF MR. DAVIDE

On Section 8, page 3, Mr. Davide proposed the following amendments: On lines 5, 6 and 7, between the words "provide" and "appropriate", insert the following words SUPPORT THROUGH; and between the words "appropriate" and "financial" to insert the following clause TECHNOLOGY, RESEARCH AND ADEQUATE; delete the word "technical" and the following words "and research" and before the word "assistance" insert the phrase PRODUCTION AND MARKETING; and after the word "assistance" insert the words AND OTHER SUPPORT SERVICES, So that the amended section would partly read: "grounds, and shall provide SUPPORT THROUGH appropriate technology, research and ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE AND OTHER SUPPORT SERVICES.

The Chair informed Mr. Davide that a period (.) has been placed after the word "grounds". Mr. Davide, thereafter, modified his proposed amendment to read: THE STATE SHALL ALSO PROVIDE SUPPORT THROUGH APPROPRIATE TECHNOLOGY, RESEARCH AND ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE AND OTHER SUPPORT SERVICES TO SAID FISHERMEN.

MRS. ROSARIO BRAID'S AMENDMENT TO THE AMENDMENT

Mrs. Rosario Braid proposed an amendment to the amendment to insert TECHNOLOGY between "appropriate" and "financial".

Mr. Davide noted that the amendment would be symmetrical to the wordings on Section 6. He stated that it would also benefit the farmers, farmworkers and their cooperatives on one hand and the marginal fishermen on the other. He proposed that Mrs. Rosario Braid be his coauthor inasmuch as she proposed "and other support services" to Section 6.

Mrs. Rosario Braid noted that it is really a matter of style.

Mr. Davide noted that the intention is to provide support which would be a better compromise.

AMENDMENT OF MR. SARMIENTO

Mr. Sarmiento proposed to delete the word "support" after the word "other" inasmuch as there is a repetition.

Mr. Davide stated that he would be agreeable provided that the interpretation is that these other services would simply mean "other support services".

AMENDMENT OF MR. SUAREZ

On the suggestion of Mr. Suarez, Mr. Davide agreed to change the words "The State" in the first sentence to the word "It" to avoid repetition.

Thereafter, Mr. Davide restated the amendment to wit: IT SHALL ALSO PROVIDE SUPPORT THROUGH APPROPRIATE TECHNOLOGY, RESEARCH AND ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE AND OTHER SERVICES TO SAID FISHERMEN FOR THE . . .

Mr. Davide acceded to the suggestion of Mr. Suarez to change "The State" to IT.

The Committee accepted the amendment and, there being no objection, the same was approved by the Body.

RESTATEMENT OF MR. DAVIDE'S AMENDMENT

Mr. Davide restated his amendment to place a period (.) after the word "grounds" and to add a new sentence which shall read as follows: IT SHALL ALSO PROVIDE SUPPORT THROUGH APPROPRIATE TECHNOLOGY, RESEARCH AND ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE AND OTHER SERVICES TO SAID FISHERMEN.

Mrs. Nieva accepted the amendment, and there being no objection, the same was approved by the Body.

AMENDMENT OF MR. DAVIDE

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved an amendment on the same Section 8, line 7, to insert the word PROTECTION and a comma (,) before the word "development".

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople proposed a new sentence under Section 8, which shall read: THE STATE SHALL ESTABLISH A POLICY TO PROTECT FROM FOREIGN INTRUSION THE NATIONAL TERRITORIAL WATERS WITH THEIR MARINE WEALTH WHICH SHALL BE RESERVED TO EXCLUSIVE EXPLOITATION BY FILIPINO CITIZENS ESPECIALLY SMALL FISHERMEN.

Mr. Ople stated that the amendment was coauthored by Messrs. Natividad, Rodrigo, de los Reyes, de Castro and Davide.

Explaining his amendment, Mr. Ople stated that the intrusion of foreign fishing vessels into the country's fishing waters, among the richest in Southeast Asia and the Pacific, has reached a scandalous proportion where, adding insult to injury, Japanese fishing vessels have the temerity to ram the small boats of Filipino fishermen. He stressed that his amendment would round off the section immediately preceding by declaring a policy to protect the country's marine wealth from the intrusion of foreign fishing vessels and from foreign capital.

INQUIRY OF MR. FOZ

Upon inquiry of Mr. Foz, Mr. Ople affirmed that national territorial waters would refer to the territorial sea of the Philippines, especially the coastal waters which should be exploited by citizens of the Philippines alone, including the internal waters mentioned in the Article on the National Territory.

With respect to the exclusive economic zone under the Convention on the Law of the Sea over which the Philippines has jurisdiction, Mr. Ople stated that the construction of the 200-mile economic zone by most authorities is that it pertains to the wealth in the seabed, such that in the same degree that Filipino fishermen are

allowed to fish in the 200-mile economic zone of neighboring countries, the same privilege should not be denied to the fishermen of other countries.

On a point of information, Mr. Concepcion stated that the 200-mile economic zone is now part of the internal waters of the Philippines.

Mr. Ople pointed out, however, that the 200-mile economic zone does not have a one-to-one correspondence with the internal waters because the economic zones have to be negotiated with neighboring countries with which there is an overlap of the 200-mile economic zone. He agreed that as long as the economic zone is understood to be part of the internal waters, there is a call in the amendment for the Philippines to protect its waters and its marine wealth from foreign intrusion.

In reply to Mr. Bennagen's query, Mr. Ople stated that foreign intrusion would refer to all fishing vessels which directly encroach upon marine wealth that should be enjoyed exclusively by Filipino fishermen. He also stated that foreign capital is considered a form of intrusion considering that the territorial waters shall be reserved to exclusive exploitation by Filipino citizens.

Upon the suggestion of Mr. Suarez, Mr. Ople agreed to delete the phrase "establish a policy to" because it improves the amendment.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's query, Mr. Ople affirmed that territorial waters would include the territorial sea over which the Philippines has jurisdiction, although it could extend to about 300 miles from the nearest baselines under the archipelagic doctrine. He stated that he would keep the idea of this protection within bounds and to an extent that the State could actually endeavor to protect the territorial waters of the Philippines.

On the clarification of Mr. Monsod, Mr. Ople affirmed that corporations which are 60% owned by Filipino citizens are included in the definition in accordance with the provisions on national patrimony.

With respect to the territorial waters of the Philippines, Mr. Ople agreed with Mr. Davide that it means the internal waters of the Philippines as defined under the Article on The National Territory excluding the territorial sea, without prejudice, however, to any other provision of the Constitution on the protection of the country's territorial seas for purposes of national security. He affirmed that Congress may subsequently have the authority to include in the territorial waters the territorial sea itself.

RESTATEMENT OF MR. OPLE'S AMENDMENT

Mr. Ople restated his amendment to Section 8 by adding a new sentence, to wit:

THE STATE SHALL PROTECT FROM FOREIGN INTRUSION THE NATIONAL TERRITORIAL WATERS WITH THEIR MARINE WEALTH WHICH SHALL BE RESERVED TO EXCLUSIVE EXPLOITATION BY FILIPINO CITIZENS ESPECIALLY SMALL FISHERMEN.

In reply to Mr. Bengzon's query, Mr. Ople stated that the amendment intends to extend to the small fishermen the exclusive use of their own marine resources.

Mr. Bengzon pointed out that this paragraph should pertain to the Article on National Economy and Patrimony because it is wider in scope, to which Mr. Ople disagreed stating that it pertains to the Article on Social Justice because of the reference to the rights of small fishermen within the context of a policy to reserve the marine wealth of the country's territorial waters, especially the internal waters, to exclusive exploitation by Filipino

citizens.

Mr. Bengzon suggested deferment of consideration of the amendment until the Body considers the Article on National Economy and Patrimony, to which Mr. Ople replied that it appropriately belongs to the Article on Social Justice considering that a nationalistic policy on the rights of small fishermen would not be incompatible with the objective to conserve the depleted fishing resources.

In reply to Mrs. Quesada's query on whether the phrase "to the exclusive exploitation by Filipino citizens" would disregard the interest of big fishermen, Mr. Ople stated that his amendment places emphasis on small fishermen.

Mrs. Nieva agreed that the rights of the small fishermen to be free from foreign intrusion belongs to the Article on Social Justice while the phrase "exclusive exploitation by Filipino citizens" would rightly belong to the Article on National Economy and Patrimony.

Additionally, Mr. Monsod stated that marginal fishermen should be protected from foreign intrusion in their traditional fishing grounds. He opined, however, that the general principle of exclusive use of marine and fishing resources in territorial waters would be more appropriate in the Article on National Economy and Patrimony, so much so that the phrase on marginal fishermen could be inserted in a Section in the Article on Social Justice while the succeeding paragraph could be transposed to the Article on National Economy and Patrimony.

Mr. Ople pointed out, however, that there is a full-bodied context on the rights of the small fishermen in this paragraph. He stated that in trying to distinguish the small fishermen from the bigger fishermen, the Body might be losing sight of a community of interest between them in the sense that they have to share the same marine resources that should be reserved to the exclusive enjoyment of Filipino citizens, especially the small fishermen. He stressed that if the Committee had inserted in the previous section the objectives of protection and conservation of the marine resources, he saw no reason why it could not transpose the same principle in a more nationalistic context which unites the interest of small and big fishermen.

At this juncture, Mr. Rigos stated that since he did not detect from the Committee any strong objection to the proposed amendment, the Body could act on it with the understanding that should the Committee on Style find that it belongs to another Article, said Committee is authorized to transpose the same.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento stated that this Section should not express the unified interest of small and big fishermen but should only pertain to small fishermen.

Responding thereto, Mr. Ople stated that he was for conserving the efforts of the Committee which had been working hard the whole day. In this regard, he expressed willingness to stating that the protection from foreign intrusion pertains mainly to the rights of small fishermen.

Mr. Ople then reiterated his amendment to read:

THE STATE SHALL PROTECT FROM FOREIGN INTRUSION THE NATIONAL TERRITORIAL WATERS WITH THEIR MARINE WEALTH WHICH SHALL BE RESERVED PRINCIPALLY TO THE USE AND ENJOYMENT OF SMALL FISHERMEN.

Mr. Davide proposed, after the word "resources", to add a comma (,) and the words INCLUDING PROTECTION AGAINST INTRUSION BY FOREIGN INTERESTS IN THE USE AND ENJOYMENT THEREOF, explaining that the matter would be completely left to the marginal fishermen and that the proposed amendment would mean the protection not one of the fishermen but also of the marine and fishing resources against intrusion of foreign

interests in the use and enjoyment thereof. He further explained that the word "interests" would qualify all kinds of foreign intrusion, be it capital or use of a dummy. He stated, however, that the general principle on reserving these fishing and marine resources to Filipino citizens would be provided for in the Article on National Economy and Patrimony.

At this juncture, Mr. Ople inquired whether the Committee on the National Economy and Patrimony would agree to the inclusion of the concept of exclusive exploitation by Filipino citizens of the country's marine resources in the Article on National Economy and Patrimony, to which, Mr. Villegas, as Chairman of the Committee, affirmed that it would fit well in one of the provisions of said Article.

In order to express the concern of small fishermen, Mr. Monsod proposed a modified amendment that would read:

THE STATE SHALL PROTECT THE TRADITIONAL FISHING GROUNDS OF MUNICIPAL FISHERMEN FROM THE INTRUSION OF FOREIGN FISHING VESSELS,

to which Mr Davide replied that it would convey the idea of the on final proposed amendment because it could not be considered as an intrusion if the vessels would just be passing through. He insisted on his proposed amendment to Mr. Ople's amendment.

Mr. Ople, jointly with Mr. Romulo, proposed an amended version which would read:

THE STATE SHALL PROTECT THE SMALL FISHERMEN IN THE NATIONAL TERRITORIAL WATERS FROM FOREIGN INTRUSION,

to which Mr. Davide pointed out that the idea of his proposal is to widen the umbrella of protection in the sense that it would not only protect the interest of marginal fishermen but also the marine resources.

Mr. Bengzon opined that the proposal would fall under the Article on National Territory, to which Mr. Davide maintained that it would not because these natural resources are reserved for the marginal fishermen.

Mr. Ople again presented his amended version which would read:

THE STATE SHALL PROTECT THE SMALL FISHERMEN IN THE NATIONAL TERRITORIAL WATERS FROM FOREIGN INTRUSION,

explaining that foreign intrusion would refer to foreign fishing vessels, foreign capital or its agents.

Mr. Davide proposed the substitution of the words "from foreign intrusion" to AGAINST FOREIGN INTERESTS, which Mr. Ople accepted.

Mr. Monsod requested for an adjournment of the session in order that the proponents, as well as the Committee, could formulate a better proposal along the same line.

ADJOURNMENT OF SESSION

Thereupon, the Chair declared the session adjourned until nine-thirty in the morning of the following day.

It was 7:23 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 8, 1986

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