

JOURNAL NO. 91

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Wednesday, September 24, 1986

CALL TO ORDER

At 10:00 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

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

God our Father, You love our people and our country. You heard our prayers when we cried out to you for release after years of oppression. Pour out Your wise and gentle spirit upon the men and women to whom You have entrusted the task of framing a fundamental law that will guarantee our freedom under Your divine guidance and protection. Let it bind us together as our seas bind our islands together. Let our laws be just to everyone, allowing our people to develop their talents together. Give a voice to everyone, to every person a place in the sun. Let all wounds be healed, all strife come to an end. Above all, bring us reconciliation. Let Muslim and Christian live side by side in mutual respect, trust and peace, for we are all Your children. With the help of Mary, we ask You: Bless our people and our country for we love You, our God, forever and ever.

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. Muñoz Palma, C.

Azcuna, A. S. Quesada, M. L. M.

Bennagen, P. L. Rama, N. G.

Rosario Braid, F. Regalado, F. D.

Calderon, J. D. Rigos, C. A.

De Castro, C. M. Rodrigo, F. A.

Colayco, J. C. Romulo, R. J.

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

A.M.

Abubakar Y. R.
Lerum, E. R.
Aquino, F. S.
Maambong, R. E
Bacani, T. C.
Monsod, C. S.
Benzon, J. F. S Natividad, T. C.
Bernas, J. G. Nollado, J. N.
Concepcion, R. R. Ople , B. F.
Garcia, E. G. De los Reyes, R. F.
Gascon, J. L. M. C.

Mr. Rosales was sick.

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

Mr. Laurel was absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 969 — Constitutional Commission of 1986

Communication from Mr. Felino C. Marcelo, Taytay, Rizal, suggesting some amendments to the draft provision on the separation of the Church and State

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 970 — Constitutional Commission of 1986

Communication from Mr. Bantas W. Suanding, OIC, Provincial Governor of Benguet, transmitting Resolution Not 53, s. 1986 of the Sangguniang Bayan of Bakun, Benguet, vehemently opposing the establishment of a Cordillera Regional Autonomy and instead, favoring an administrative regionalization.

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 971 — Constitutional Commission of 1986

Communication from the National Council of Churches in the Philippines signed by its General Secretary, La Verne D. Mercado, 879 EDSA, Quezon City, registering its objection to the proposed constitutional provision that would mandatorily allow the teaching of religion in public elementary and high schools within the regular class hour.

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 972 — Constitutional Commission of 1986

Telegram from Mr. William Neves of Makati, Metro Manila, suggesting the printing of the motto: "In God We Trust" on the currency.

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 973 — Constitutional Commission of 1986

Communication from Mr. Cecilio F. Hernandez of Tanauan, Batangas, suggesting among others, that national issues be submitted directly to the people or through local legislators.

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 974 — Constitutional Commission of 1986

Position paper of the Concerned Filipino Parents containing various proposals on the declaration of principles, form of government, education, and family, among others.

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

Communication No. 975 — Constitutional Commission of 1986

Communication from Mr. Florentino L. Ospick, San Fernando, La Union, proposing that for purposes of teaching religion in public schools, 15 Minutes A Day With the World's Greatest Book” is acceptable to all Bible reading Christians.

TO THE COMMITTEE ON HUMAN RESOURCES

Communication Nos. 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002 and 1003 — Constitutional Commission of 1986.

Communications seeking to include in the Constitution a provision mandating the State to protect the life of the unborn from the moment of conception, from:

1) Ms. Maria Rona T. Bueno

4 Scout Limbaga Street

Quezon City

2) On hundred eight signatories of the Brotherhood of Christian Businessmen and Professionals

3) Two thousand six hundred sixty-nine signatories from St. Paul College — Pasig, St. Paul Street corner Meralco Avenue, Pasig, Metro Manila

4) Mr. Ricardo P. Boto and seventy-eight other members of Jesus is Coming Christian Fellowship, 3rd Floor, Roma Building, Novaliches Plaza, Quezon City

5) Ms. Mercedes Urmenita and two hundred eighteen other vendors of 21 West Riverside Drive, San Francisco del Monte, Quezon City

6) Mr. Andrew Oback and forty-eight other bar candidates

7) Ms; Flora U. Kagaoan and fifty-six other employees of Quezon City Regional Health Office No. 4, Project 4, Quezon City

8) Mr. Rogelio Manigza and eighty-five other employees, students, and concerned citizens, Barrio Palanas, Visayas Avenue, Diliman, Quezon City

9) Ms. Ving Casison and two hundred seventy-seven other employees of the Philippine Airlines Comptroller's Office

10) Mr. Amado Lucindo and one hundred twenty-eight others, # 5 Kalayaan, Gulod, Novaliches, Quezon City

11) Mr. Felix T. Antonio and ninety other employees, # 50-A Banana Road, Potrero, Malabon, Metro Manila

12) Ms. Elvira O. Nebre and two hundred twenty other employees from various government offices

13) Ms. Jocelyn S. Gonzales and ninety-eight other students from the university belt

14) Ms. Carmina C. Mallari and two hundred forty-five other school teachers from Pasig, Metro Manila

15) Mr. Armando Egonio and one hundred ninety-six other concerned citizens from San Juan, Metro Manila

16) Ms. Lita Diakono and ninety-three other mission of 1986 concerned citizens from San Francisco del Monte, Quezon City

- 17) Ms. Ma. Victoria A. Suarez and one hundred two other concerned citizens from Manila
- 18) Mr. Pablo A. Atienza and one hundred fifty-three other concerned citizens with their respective addresses
- 19) Dr. Joselito Matheus and eighty-one other physicians, interns, nurses, medical consultants and employees of the FEU Hospital
- 20) Mr. Antonio H. Ceniza and two hundred twenty-one other concerned citizens with their respective addresses
- 21) Mr. Jorge Quila and one hundred seventy-nine other students from the University of the Philippines, Diliman, Quezon City
- 22) Mr. Mateo F. Lagoy and two hundred sixty-nine other employees, vendors, and concerned citizens with their respective addresses
- 23) Mr. Pio Aure and one hundred fifty other concerned citizens with their respective addresses
- 24) N. C. Fernandez and two hundred seventeen other staff members of the National Investment and Development Corporation, Makati, Metro Manila
- 25) Ms. Virginia P. Adriano and ninety-two medical students from FEU and other concerned citizens with their respective addresses
- 26) Ms. Gigi Martelino and one hundred eighty-three other concerned citizens with their respective addresses
- 27) Ms. Delia C. Endaya and one hundred eighteen other concerned citizens with their respective addresses
- 28) Sister Maria Consuelo B. Billanes and one is hundred fifty-two faculty members and high school students of Qur Lady of Grace Academy, 12th Avenue, Caloocan City

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

Communication No. 1004 — Constitutional Commission of 1986

Communication from five hundred signatories expressing strong support for the approval of Proposed Resolution No. 272, incorporating in the new Constitution a separate article on the protection and promotion of the rights of the family.

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 1005 — Constitutional Commission of 1986

Letter from Mr. Gregorio L. Balanza, Jr., Officer-in-Charge, Public Information Assistance Staff, Ministry of Information, furnishing the Constitutional Commission a copy of the "Ang Tulong Sa Con-Com Ay Tulong Sa Bayan", a compilation of the information support made and accomplished by the Ministry, covering the period from June 1 to September 15, 1986.

TO THE ARCHIVES

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 36 ON PROPOSED RESOLUTION NO. 537 ON THE ARTICLE ON DECLARATION OF PRINCIPLES

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 537 (Committee Report No. 36) on the Article on the Declaration of Principles, entitled:

Resolution to incorporate in the Constitution an Article on the Declaration of Principles.

Thereupon, the Chair recognized the Chairman and Members of the Committee on Preamble, National Territory and Declaration of Principles, who occupied the front table.

Mr. Azcuna informed that the Committee had accepted some proposed additional sections.

PROPOSED AMENDMENT OF MR. DE CASTRO

As proposed by Mr. de Castro, a new section would read:

THE STATE SHALL TAKE POSITIVE AND EFFECTIVE MEASURES AGAINST GRAFT AND CORRUPTION IN ALL LEVELS OF GOVERNMENT AND SOCIETY.

Mr. de Castro remarked that graft and corruption is an evil which pervades society and that President Aquino, in Proclamation No. 3, had said:

"Whereas, the direct mandate of the people as manifested by their extraordinary action, demands the complete reorganization of government, restoration of democracy, protection of basic rights, rebuilding of confidence in the entire government system, eradication of graft and corruption, restoration of peace and order, maintenance of the supremacy of civilian authority over the military, and the transition to a government under a new Constitution in the shortest time possible."

Moreover, he stated that graft and corruption have caused demoralization in the Armed Forces because while soldiers are being killed in the campaign against insurgency, high-ranking officers are getting rich through graft and corrupt practices. He stressed that a mandate recognizing this evil and taking positive and effective measures against it must be included in the Constitution.

OBJECTION OF MR. GUINGONA

Mr. Guingona objected to the proposed section on the following grounds:

1. The proposed provision could be better left to statutory law and that the fundamental law should not constitutionalize words such as "graft and corruption".
2. The proposal assumes that graft and corruption will persist and endure, which is debatable since there are Constitutional provisions which would make public officials and employees realize that public service is a public trust. He observed that the Body has provided for this subject in the Article on Accountability of Public Officers and even created the Office of the Ombudsman. He maintained that with the present emphasis on values in society and in educational institutions the time will come when this evil will be reduced considerably.
3. The proposed provision is expressed in a negative manner. He stated that it is better to express it positively by reiterating or reincorporating in the Declaration of Principles Section 1 of the Article on Accountability of Public Officers, to wit: "Public office is a public trust. Public officers and employees must at all times be accountable to the people."
4. The inclusion of "graft and corruption" in the Constitution may give the misimpression that the Filipinos are dishonest. He opined that the dishonest segment constitutes a very small fraction of the 55 million people who are generally and fundamentally honest.

REMARKS OF MR. BENNAGEN

Mr. Bennagen supported the proposed section, noting that there is nothing to be embarrassed about or to be ashamed of in stating something about "graft and corruption" which is an accepted fact of life in both developed and underdeveloped countries. He cautioned that unless strong and effective measures are taken, graft and corruption might be exacerbated.

Referring to an empirical study done by an international group of scientists, he stated that the findings which were published in the book *Bureaucratic Corruption in Asia: Causes, Consequences and Controls* concluded that "no anti-corruption policy can be effective if it depends solely on legal and administrative measures . . . more important, are the moral foundation of society and the active cooperation of the population in controlling corruption." He noted that as a solution, it proposed that "emphasis should be on the improvement of quality of life, the improvement of moral and value orientations as well as, and very importantly, active participation of people's community in anti-corruption campaign." He stressed that a provision in the Declaration of Principles would be an important reminder to the people to be ever vigilant of the ills of graft and corruption, which if unchecked, could undermine any legitimate authority.

REMARKS OF MR. DE CASTRO

Mr. de Castro stated that he would be amenable to a reformulation of the provision as long as the Article includes the concept that graft and corruption should be eradicated from all levels of society. He observed that Section 2 on Accountability of Public Officers refers to graft and corruption as one of the grounds for impeachment without mention of eradicating it.

Mr. de Castro informed that his resolution on this matter was referred to the Committee on Accountability of Public Officers and thereafter to the Committee on Declaration of Principles.

PROPOSED AMENDMENT OF MR. PADILLA

Mr. Padilla proposed the following substitute amendment:

THE STATE SHALL MAINTAIN HONESTY AND INTEGRITY IN THE PUBLIC SERVICE AND TAKE POSITIVE AND EFFECTIVE MEASURES AGAINST GRAFT AND CORRUPTION.

Mr. de Castro accepted the amendment which, in turn, was accepted by the Committee.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to insert AND PROMOTE after "maintain."

Mr. Padilla stated that the amendment may not be necessary because "maintain" includes promotion.

INQUIRY OF MR. SUAREZ

Upon inquiry of Mr. Suarez, Mr. Padilla confirmed that the provision would be limited to those in public service.

Mr. Suarez noted that the proposal of Mr. De Castro embraces not only those in public service but also those outside of it.

Mr. Padilla opined that the other sectors should be covered by the moral integrity and moral standard provisions under the education and improvement of the youth sections. He stated that it is understood that honesty and truth are desirable virtues in society but the matter of graft and corruption should have specific reference to public

service.

Mr. Suarez remarked that Mr. Padilla repeatedly called attention to RA Nos. 3019 and 1379, to the Article on Accountability of Public Officers, and to the creation of constitutional agencies such as the Ombudsman, Tanodbayan and Sandiganbayan.

On whether the provision would be the culmination of all measures designed to encourage public officers to be honest, Mr. Padilla replied that all such provisions complement the principles of honesty and integrity in public service.

REMARKS OF MRS. QUESADA

Mrs. Quesada urged Mr. de Castro to enlarge his explanatory note by taking cognizance of the fact that graft and corruption have not only demoralized the military and civil servants but also affected the quality of service to the people. She stated that in the health sector, she has witnessed how graft and corruption denied and deprived the people of their right to basic health services. She supported the proposal.

FURTHER REMARKS OF MR. BENNAGEN

Explaining further his support for the proposal, Mr. Bennagen stated that even if it is limited to the public service, its social impact should be far-reaching because those in the public service are highly visible in social life and, as models for those outside of the public service, their moral suasion could create a social transformation.

Mr. Bennagen also opined that limiting the proposal to those in the public service would not necessarily mean limiting the effects of its re-moralization on those within the public service.

REMARKS OF MR. TADEO

Mr. Tadeo agreed that graft and corruption in society should be eliminated. He pointed out, however, that the colonial and feudalistic system is the root cause of the problem. He stated that although the Philippines is said to be an independent country, it is colonialistic because the United States dominates it politically, economically and culturally. He also explained that the system is feudalistic because most lands are owned by a few, mostly foreigners, who are engaged in the export of raw materials. He noted that the foreigners use the country's capital not for industrialization but for operations outside the country. He pointed out that this system created three evils, namely, imperialism, through which monopolies dominate society; officials enriching themselves while in office; and feudalism, all of which are the roots of poverty.

Mr. Tadeo concluded by saying that the problem of graft and corruption will never be solved if this colonialistic and feudalistic system continues to exist.

REMARKS OF MR. BACANI

Speaking in support of Mr. de Castro's proposal, Mr. Bacani adverted to the draft pastoral letter of the Philippine Bishops in 1975 which contained an analysis of Philippine society and noted its two salient characteristics, widespread poverty and demoralization among the people, which are closely linked in the sense that poverty is bred by demoralization. He, likewise, cited a study which showed that graft and corruption cost at least P20 billion annually, which cost is borne by the people. It is for this reason, he stated, that there should be an explicit provision in the Constitution to raise morale and morals in the country.

Commenting on Mr. Tadeo's remark that the structures are very much at fault, Mr. Bacani stated that even more

fundamental than the structures are the human attitudes which they have underlined. He believed that the approach should not simply be a change in structures but a simultaneous change in the selfish, egocentric attitudes of the people.

RESTATEMENT AND APPROVAL OF SECTION 24, AS PROPOSED BY MR. DE CASTRO AND AMENDED BY MR. PADILLA

Mr. Tingson restated Section 24 as proposed by Mr. de Castro and amended by Mr. Padilla, to wit:

THE STATE SHALL MAINTAIN HONESTY AND INTEGRITY IN THE PUBLIC SERVICE AND TAKE POSITIVE AND EFFECTIVE MEASURES AGAINST GRAFT AND CORRUPTION.

Submitted to a vote, and with 35 Members voting in favor, none against and 3 abstentions, the Body approved Section 24, as amended.

REMARKS/SUGGESTION OF MR. MAAMBONG

Mr. Maambong recalled that during the previous session, his inquiry whether the provision on asylum to foreigners was already approved in the Article on the Bill of Rights prompted Mr. Bernas to present a motion to suspend consideration of Section 21 until after verification of the records. He stated that on that same day the Office of the Secretary-General furnished the Commission the record of the proceedings on this provision during the consideration of the Article on the Bill of Rights and as reflected in the Journal of July 18, 1986, it appeared that Section 21 as formulated is different from the formulation presented by Mr. Nollado at that time which reads:

"Section 10. Foreigners persecuted because of their struggle in defense of human rights and in the liberation of their country shall be given asylum in the Philippines and their extradition shall not be allowed."

Mr. Maambong pointed out that in the course of deliberation on this Section, Mr. Guingona raised a point of order, which the Chair sustained, on the ground that the discussion should be deferred to the time when the Body would consider the proposal under the Article on the Declaration of Principles. In view of what transpired at that time, he opined that this section was never taken up nor was it approved when it was considered in the Article on the Bill of Rights. For this reason, he stated that the Body should be free to discuss it in the Article on the Declaration of Principles as an entirely new formulation. He then suggested that it be considered.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 10:41 a. m.

RESUMPTION OF SESSION

At 10:49 a.m., the session was resumed.

Upon resumption of session, Mr. Tingson informed that during the suspension, there was a suggestion to delete Section 21.

PROPOSED AMENDMENT OF MR. GARCIA

Mr. Garcia stated that it was his understanding that the Committee accepted the provision which reads: "The Philippines, under the conditions laid down by law, shall grant asylum to foreigners who are persecuted in their country in defense of human rights and in the liberation of their country." He recalled that during the previous

session the discussion was centered on Article XIV of the Universal Declaration of Human Rights which states that "Everyone has the right to seek and to enjoy in other countries asylum from persecution" and it was at that time when he read to the Body Article I of the Declaration of Territorial Asylum which, he stated, was adopted by the General Assembly of the United Nations on December 14, 1967. He recalled further that at that time, it was stressed that asylum is a peaceful and a humanitarian act which could not be regarded as unfriendly by any other State. He stated that the Declaration governs the procedures, restrictions and limitations and that it is the State granting asylum which must evaluate the grounds therefor.

Mr. Garcia then proposed the following provisions:

THE PHILIPPINES, UNDER CONDITIONS LAID DOWN BY LAW, SHALL GRANT ASYLUM TO FOREIGNERS WHO ARE PERSECUTED IN THEIR COUNTRY IN DEFENSE OF HUMAN RIGHTS AND IN THE LIBERATION OF THEIR COUNTRY.

REMARKS OF MR. SARMIENTO

Speaking in support of Mr. Garcia's proposal, Mr. Sarmiento recalled that during the past regime, many Filipinos sought for and were granted political asylum by the United States and European countries. He opined that if Filipinos were beneficiaries of this kind of treatment, in the spirit of internationalism, the Philippines should not deny the same right to foreigners who are persecuted for their defense of human rights and struggle for the liberation of their country.

Upon inquiry of the Chair whether the United States government was under obligation to grant asylum, Mr. Sarmiento explained that persons who seek political asylum have to apply and the government concerned may, if it deems wise, grant it.

On whether there have been cases of denial of asylum, Mr. Sarmiento stated that he was not aware of any denial and that the applications which he handled as a lawyer were all approved by the United States and by other European countries.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query whether the right of asylum pertains to the individual or to the State, Mr. Azcuna explained that a State may or may not grant asylum, however, the Universal Declaration of Human Rights includes among the rights of individuals the right of asylum. He stated that the practice has been to recognize it as a right on the part of the State rather than a right of the individual because not everything in the Universal Declaration of Human Rights is legally enforceable.

On whether the proposal, as formulated, would make this right a demandable right in the sense that the so-called freedom fighters from other countries may demand from the Philippine government the right to asylum, Mr. Azcuna stated that with the phrase "under conditions laid down by law", Congress could lay down the parameters, criteria and limitations under which foreigners may claim asylum.

Mr. Maambong recalled that during the deliberation on this concept in the Article on the Bill of Rights, Mr. Ople mentioned that the proposal might legitimize the extension of Philippine hospitality to leaders of failed revolutions whose asylum in the Philippines could provoke indignation and reprisal from friendly countries in the region, in reply to which Mr. Azcuna stated that Congress, in enacting an implementing law, could provide safeguards against possible repercussions, one of which is to require reciprocity.

Mr. Maambong likewise adverted to Mr. Romulo's observation that whether or not someone is a freedom fighter

in his country is never a black and white question and that he was appalled by the suggestion that the request for asylum could override national interest, to which Mr. Azcuna reiterated that the implementing law should see to it that the determination of whether or not the applicant is a freedom fighter would be left to the State.

REMARKS OF MR. JAMIR

Mr. Jamir spoke against the inclusion of Section 21 in the Constitution on the ground that it could be an open invitation to war with a friendly nation in the sense that the proposal as formulated presupposes that the country of origin is persecuting him and this, he stated, may constitute a prejudgment and a casus belli may arise.

He also pointed out that the provision under Commonwealth Act No. 613+ known as the Philippine Immigration Act of 1940, authorized the President under Section 47, (b) thereof "for humanitarian reasons and when not opposed to the public interest, to admit aliens who are refugees for religious, political, or racial reasons in such cases and under such conditions as he may prescribe" would be sufficient to guarantee asylum to a refugee in case the President deems it necessary and proper, and it would be a superfluity to provide it in the Constitution.

Mr. Nollado stated, however, that a Constitutional mandate is necessary so that the President may not refuse to grant asylum to deserving political prisoners just because he is a friend of the tyrant President of said political prisoners. He disclosed that the Committee's proposal is based on the recommendation of former Senator Lorenzo Tañada and on the firm belief that the freedom guaranteed by the Bill of Rights would be held sacred and inviolable.

INQUIRY OF MR. GUINGONA

In reply to Mr. Guingona's query, Mr. Garcia explained that although the non-inclusion of the proposal in the Constitution would not prevent the government from granting asylum, such Constitutional provision would be a guiding principle that affirms the same provision in the Universal Declaration of Human Rights.

On the fear of discrimination or abuse, Mr. Garcia pointed out that Subsection (3), Article I of the Declaration on Territorial Asylum provides that "It shall rest with the State granting asylum to evaluate the grounds for the grant of asylum."

Mr. Guingona contended that since the Philippines is a signatory to the Universal Declaration of Human Rights, the country is morally bound to it and it would not be necessary to constitutionalize the provision, in reply to which, Mr. Garcia stated that since many great Filipino heroes fought for human rights and liberation and that since the country has been liberated, the proposal would manifest the Filipinos' willingness to protect the rights of foreigners by accepting them into the country.

In view of the admission that the non-inclusion of the proposed section on the grant of political asylum would not prevent the government from granting it, Mr. Guingona moved to delete said proposal.

VOTING ON THE DELETION OF SECTION 21

Submitted to a vote and with 24 Members voting in favor, 14 against, and 1 abstention, the motion was approved by the Body.

PROPOSED AMENDMENT OF MR. PADILLA

Thereafter, Mr. Tingson explained that with the deletion of the proposed Section 21, the proposed amendment of Mr. Padilla would be Section 22 which reads:

THE MAINTENANCE OF PEACE AND ORDER, THE PROTECTION OF LIFE, LIBERTY AND PROPERTY, AND THE PROMOTION OF THE GENERAL WELFARE SHALL BE PURSUED BY THE STATE FOR THE ENJOYMENT BY ALL THE PEOPLE OF THE BLESSINGS OF DEMOCRACY.

Mr. Padilla stated that his proposed amendment was self-explanatory, although the problem of insurgency has to be included in the interpretation of peace and order that will entail the protection of life, liberty and property. He added that the general welfare or the common good should be the primary concern in the exercise of the police power of the State in order that the people may enjoy the blessing of democracy as contained in the Preamble.

INQUIRY OF MR. BENGZON

In reply to Mr. Bengzon's query on whether Mr. Padilla would propose to delete the same concept found in the General Provisions if his proposal is approved, the latter opined that although the concepts in the General Provisions refer to defense and security of the State by the Armed Forces, the basic principle should be placed in the Declaration of Principles and that he would not object to the deletion of superfluous concepts in the General Provisions.

REMARKS OF MR. DE CASTRO

Mr. de Castro pointed out that the proposed amendment of Mr. Padilla speaks of maintenance of peace and order while the proviso in the General Provisions refers to the security and defense of the State, which are two different matters, the former having reference to the police while the latter to the Armed Forces. He underscored, however, that both have to be included in the Constitution because of the importance of peace and order and the security and defense of the nation, without which other goals such as social justice, free education and national economy would not be attainable.

Mr. Bengzon, however, opined that such maintenance of peace and order is inherent in the exercise of the police power of the State. He suggested that it be submitted to a vote.

REMARKS OF MR. GASCON

Speaking against Mr. Padilla's proposal, Mr. Gascon observed that the sense of the amendment is already contained in many parts of the Constitution and is, therefore, superfluous.

COMMITTEE'S REFORMULATION OF THE PROPOSED AMENDMENT

Thereupon, Mr. Tingson reformulated Mr. Padilla's proposed amendment, to read:

THE STATE SHALL PURSUE THE MAINTENANCE OF PEACE AND ORDER, THE PROTECTION OF LIFE, LIBERTY AND PROPERTY, AND THE PROMOTION OF THE GENERAL WELFARE FOR THE ENJOYMENT BY ALL OF THE PEOPLE OF THE BLESSINGS OF DEMOCRACY.

Mr. Padilla opined that as a matter of style, the provision should begin with the phrase "The maintenance of peace and order . . ." which shall be pursued by the State necessarily for the protection of other rights.

INQUIRY OF MR. OPLE

Mr. Ople observed that the formulation of the proposed amendment postulates peace and order as the fundamental concern of the Constitution to protect life, liberty and property, and might evoke conflict on the primacy of rights contained in the Bill of Rights, such that property rights might also undermine the rights to life and liberty.

Mr. Padilla underscored that the proper situs of his proposal would be the Article on Declaration of Principles because the Bill of Rights speaks of the delineation of governmental powers against individual rights. He added that his proposed amendment speaks of the right to life, liberty and property in the same order they appear in the Bill of Rights in relation to due process and equal protection of law.

He affirmed that nothing in the formulation of his proposal would prejudice the rights of farmers and workers as provided for in the Article on Social Justice because it would actually promote the general welfare or the common good.

REMARKS OF MR. GARCIA

Mr. Garcia opined that the proposed amendment would not be proper in the Declaration of Principles because it would give primacy to police power and would encourage militarism. He stated that the solution to social, economic and political problems would actually require social and economic justice and popular democracy.

MR. GUINGONA'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Guingona proposed to amend Mr. Padilla's amendment, to read:

THE MAINTENANCE OF PEACE AND ORDER THE PROTECTION OF LIFE, LIBERTY AND PROPERTY SHALL BE PURSUED BY THE STATE.

He opined that "promotion of the general welfare" is too broad and is already included in the inherent duty of the State through the exercise of police power.

Mr. Padilla did not accept the proposed amendment to his amendment because although it follows his brevity and simplicity in style, the promotion of the general welfare should be explicated as the reason for maintaining peace and order, and protecting life, liberty and property.

APPROVAL OF MR. PADILLA'S AMENDMENT

Thereafter, Mr. Tingson restated the new formulation of Mr. Padilla's proposed amendment, which would be Section 24, to wit:

THE MAINTENANCE OF PEACE AND ORDER, THE PROTECTION OF LIFE, LIBERTY AND PROPERTY, AND THE PROMOTION OF THE GENERAL WELFARE SHALL BE PURSUED BY THE STATE FOR THE ENJOYMENT BY ALL THE PEOPLE OF THE BLESSINGS OF DEMOCRACY.

Submitted to a vote, and with 24 Members voting in favor, and 12 against, the proposed amendment was approved by the Body.

CLARIFICATION OF MR. MAAMBONG

At this juncture, Mr. Maambong pointed out that Mr. Padilla's amendment should be Section 25 and not Section 24, in reply to which Mr. Tingson explained that the original Section 24 was deleted, such that the provision on the supremacy of civilian authority over the military would be the new Section 21; separation of church and state would be the new Section 22; honesty and integrity in public service would be Section 23; and Mr. Padilla's amendment would be the new Section 24.

CONSIDERATION/APPROVAL OF RESOLUTION NO. 546

Upon call of Mr. Bennagen, the Body proceeded to the consideration of Proposed Resolution No. 546, entitled:

Resolution urging the Constitutional Commission to agree to conclude its work soonest but in no case later than October 15, 1986.

He stated that the Proposed Resolution was signed by Messrs. Ople, Rama, de los Reyes, Natividad, Monsod, Tingson, Jamir, Regalado, Treñas, Uka, Concepcion, Sumulong, Padilla, Maambong, Calderon, Rigos, Romulo, de Castro, Rodrigo, Colayco, Lerum, Villegas, Alonto, Guingona, Bacani Bengzon, Ms. Tan and Mr. Gascon.

Thereupon, on motion of Mr. Bengzon, there being no objection, the Body approved Proposed Resolution No. 546, unanimously.

PROPOSED AMENDMENT OF MR. GUINGONA

Mr. Guingona proposed to transpose the first sentence of Section 9 in Proposed Resolution No. 531 as a new section in the Article on Declaration of Principles, to wit: THE STATE RECOGNIZES THE VITAL ROLE OF COMMUNICATION AND INFORMATION IN NATIONAL DEVELOPMENT.

Mr. Tingson accepted the proposal.

In reply to Mr. Monsod's query whether there is any approved or proposed provision in the Constitution that would operationalize the principle, Mrs. Rosario Braid stated that there is such provision in the Article on General Provisions. She denied, however, that operationalization of the principle would involve the establishment of an authority, explaining that the government's role would merely be that of a facilitator of private development of communication facilities and resources.

In reply to Mr. Ople's query on the meaning of "communication", Mrs. Rosario Braid explained that it encompasses the entire information industry and all forms of media including computers and audio-visuals. She disclosed that it is the intent of the Committee to give high priority to the telecommunications industry so that it could serve all the islands of the archipelago.

Upon Mr. Bennagen's query, Mrs. Rosario Braid affirmed that "communication" includes interpersonal communications.

Mr. Bennagen then queried whether the Committee is aware of an Indian study which shows that mass media and other forms of mass communications have not contributed much to national development insofar as equitable distribution of income is concerned and that it is the interpersonal communications between and among the people's organizations and the bureaucratic hierarchy that have really contributed to national development.

In reply, Mrs. Rosario Braid stated that the Committee is aware of such study. She explained that the provision would also mean changing or improving the content of information coursed through media channels by having more balanced programs and by linking mass media with interpersonal communications to complement communication among small groups.

On whether it is the State that would implement this interpersonal communications, Mrs. Rosario Braid replied that the State would only provide the climate to encourage private initiative such as by providing incentives to small or rural media companies.

On Mr. de Castro's query whether Section 9 of Proposed Resolution No. 531 would be transposed to the Article on General Provisions, Mrs. Rosario Braid replied in the affirmative.

MOTION OF MR. BERNAS

At this juncture, Mr. Bernas moved that the Body defer consideration of the proposal until it considers the Article on General Provisions for two reasons: 1) there is an abundance of provisions about communications in the General Provisions; and 2) the Article being considered is the Article on Declaration of Principles which, according to the sponsorship speech, "embodies the section which state the general philosophical foundations of our Constitution."

Mr. Bernas pointed out that the provision sought to be transposed does not state a principle but refers more to implementation. He suggested that it would be better to consider this provision together with the other provisions on telecommunications in the General Provisions so that it could be seen in its proper context.

Responding thereto, Mrs. Rosario Braid stated that the Body should not belabor the importance of communication because it could be the medium to project positive models of honesty, peace and integrity as well as a vehicle for the attainment of national development.

At this juncture, Mr. Maambong, who is a member of the Committee on General Provisions, called attention to the fact that the Article on General Provisions contains many provisions on communications in Sections 9, 10, 11 and 12 thereof. He then asked if it would be better to separate the first sentence of Section 9 from the rest of the provisions.

Mr. Rama requested that the Body consider Mr. Bernas' motion for deferment.

In reply to Mr. Guingona's query whether the approval of Mr. Bernas' would preclude the inclusion of the proposal in the Article on Declaration of Principles, Mr. Bernas replied in the affirmative although, he stated, it could be adopted in the Article on General Provisions.

Thereupon, Mr. Guingona registered his objection to the motion.

Upon request from the Chair, Mr. Bernas restated his motion to defer consideration of the section until the Body considers the Article on General Provisions.

Mr. Gascon also objected to Mr. Bernas' motion stating that it is high time that the country gave priority to information and communication by incorporating a principle thereon in the Article on Declaration of Principles.

Mr. Guingona assured the Body that the proposed section to be transposed would not entail State involvement in or control of any of the areas of communication.

At this juncture, Mr. Davide requested that the Body accord equal treatment to the Committee in the matter of transpositions.

Thereupon, Mr. Bernas modified his motion to a deferment of the discussion of the section until the Body takes up the Article on General Provisions without prejudice to putting it back in the Article on Declaration of Principles if the Body so decides.

Mrs. Rosario Braid and Mr. Guingona agreed.

Submitted to a vote, and there being no objection, Mr. Bernas' modified motion was approved by the Body.

AMENDMENT OF MRS. QUESADA

Thereafter, Mrs. Quesada proposed, subject to restyling by the Committees on Style and Sponsorship, to transpose the first sentence of the Article on National Economy and Patrimony to the Article on Declaration of Principles, to

wit: THE STATE SHALL DEVELOP A SELF-RELIANT AND INDEPENDENT NATIONAL ECONOMY EFFECTIVELY CONTROLLED BY FILIPINOS.

Mr. Azcuna accepted the proposal.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 11:52 a.m.

RESUMPTION OF SESSION

At 11:54 a. m., the session was resumed.

Upon resumption of session, Mr. Quesada's proposal was submitted to a vote, and with 30 Members voting in favor, and none against the same was approved by the Body.

At this juncture, Mr. Ople observed that there seems to be a trend towards transposing the most significant parts of the flagship provisions to the Article on Declaration of Principles. He then inquired if this would not impoverish the flagship sections of the other articles, in reply to which Mr. Monsod stated that the transposition would not detract anything from the Article on National Economy and Patrimony.

Mr. Bennagen stated that while the drafting of the Constitution should have started with the definition of principles which the Body failed to do for one reason or another, the transposition of the so-called flagship provisions from the various articles to the Declaration of Principles would enrich this Article because, as principles, they would constitute the richest contribution from the plenary sessions.

MOTION OF MR. RAMA TO CLOSE THE PERIOD OF AMENDMENTS

At this juncture, Mr. Rama moved to close the Period of amendments on the Article on Declaration of Principles and State Policies subject to the reservation of Mrs. Rosario Braid and Messrs. Padilla and Sarmiento.

In reply to the Chair's query on whether the Committee had been consulted, Mr. Rama answered in the affirmative.

Mr. Tingson clarified that except for the reservations, the Committee had practically finished its work.

Speaking on behalf of Mr. Sarmiento, Mr. Bengzon stated that Mr. Sarmiento would be willing to forego his proposed amendment which reads: THE STATE SHALL PROVIDE LIVELIHOOD OPPORTUNITIES FOR THE FILIPINO PEOPLE, should the concept be contained in the Article on Social Justice, subject to confirmation of the Committees on Declaration of Principles and State Policies, and National Economy and Patrimony.

Mrs. Quesada gave the assurance that the concept is contained in the Article on Social Justice as well as in Section 9 of the Declaration of Principles and State Policies.

On behalf of the Committee on the National Economy and Patrimony, Mr. Monsod explained that Mr. Sarmiento's concern is covered by the provisions on equitable distribution of opportunities, income and wealth. On the Article on Social Justice, he stated that it is contained in the provisions to create economic opportunities based on the freedom of initiative and principle of self-reliance.

Thereupon, Mr. Rama reiterated his motion.

Mr. Maambong, however, reminded the Committee of his suggestion to arrange the provisions in such a manner that the principles precede the policies which should be submitted to the Committee on Sponsorship, to which Mr. Tingson concurred.

VOTING ON MR. RAMA'S MOTION

Mr. Rama requested that his motion be submitted to a vote.

Thereupon, submitted to a vote, with 28 Members voting in favor, 1 against and 1 abstention, the Body approved to close the period of amendments.

MANIFESTATION OF MR. MONSOD

Mr. Monsod manifested that he registered the reservation in line with Mr. Padilla's and Mrs. Quesada's reservation and that he would confer with them on the matter.

MOTION TO VOTE ON SECOND READING ON THE ARTICLE ON EDUCATION, SCIENCE AND TECHNOLOGY, SPORTS, ARTS AND CULTURE

At this juncture, Mr. Rama, on behalf of Mr. Villacorta, moved for a vote on Second Reading on the Article on Education, Science and Technology, Sports, Arts and Culture.

Mr. Monsod stated that he registered his reservation to consolidate the Sections on culture which contain certain repetitions and which should be resolved first.

Mr. Bennagen confirmed Mr. Monsod's statement, stating that the reservation was made with respect to the concept of popularization. Mr. Monsod stated that he had a formulation on which he wanted to consult with Mr. Bennagen.

Mr. Maambong invited attention to the omission of RESEARCHERS between "investors" and "technologists" which did not appear in the amended copy of the Article but which was duly corrected by Mr. Villacorta.

Regarding the provision on assistance, scholarships and grants, Mr. Gascon stated that during the discussions with Mr. Guingona, the Subcommittee Chairman on Education, the Committee proposed to substitute "subsidy" with DEMOCRATIZED SUBSIDY to make the intent of providing continuous education for the underprivileged clearer, to which Mr. Monsod objected.

The Chair noted that the voting on Second Reading would have to be deferred because of the differences, for which reason, Mr. Rama withdrew his motion.

Mr. Ople stated that he was about to endorse the Chair's proposal to defer because of a proposed amendment which is complementary to Mr. De Castro's amendment dealing with the principle of full public disclosure of the affairs of the government in the Declaration of Principles and State Policies.

MOTION TO VOTE ON THIRD READING ON PROPOSED RESOLUTION NO. 534

Mr. Rama moved for a vote on Third Reading on Proposed Resolution No. 534, entitled:

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

(At this juncture, the President relinquished the Chair to the Honorable Ricardo J. Romulo.)

Thereupon, Mr. Rama manifested that the Committee on Social Justice was not yet ready to present the Article for

Third Reading.

SUSPENSION OF SESSION

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

RESUMPTION OF SESSION

At 2:56 p.m., the session was resumed with the Honorable Jose C. Colayco presiding.

Upon resumption of session, Mr. Rama stated the parliamentary situation, which was the closing of the period of amendments on the Article on the Declaration of Principles, subject to the reservations made by Messrs. Ople and Padilla.

PROPOSED AMENDMENT OF MR. PADILLA

Mr. Padilla proposed the following amendment as a new section, to wit:

THE STATE RECOGNIZES THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR IN NATIONAL DEVELOPMENT, ENCOURAGES PRIVATE INITIATIVE AND FREE ENTERPRISE, ACKNOWLEDGES THE NEED FOR INVESTMENTS BOTH DOMESTIC AND FOREIGN FOR ECONOMIC PROGRESS AND SOCIAL BENEFITS FOR ALL THE PEOPLE.

In reply to Mrs. Quesada's query on how the proposal would dovetail with the basic provisions on private initiative in the Article on National Economy and Patrimony, Mr. Padilla stated that his proposal does not call for the transposition of any provision already approved under the Article on National Economy and Patrimony and its objective is consistent with said Article. He requested the Committee and the Members to carefully consider it.

MRS. QUESADA'S AMENDMENT TO THE AMENDMENT

Mrs. Quesada proposed to amend the amendment, to read:

THE STATE SHALL RECOGNIZE THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR, ENCOURAGE PRIVATE INITIATIVE AND PROVIDE INCENTIVES TO NEEDED INVESTMENTS.

Mr. Padilla further modified the amendment by changing "shall recognize" to RECOGNIZES.

Mrs. Quesada accepted the amendment on behalf of the Committee.

MR. OPLE'S AMENDMENT TO THE AMENDMENT

Mr. Ople proposed to amend the amendment, to read:

THE STATE RECOGNIZES THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR IN NATIONAL DEVELOPMENT CONSISTENT WITH SOCIAL EQUITY, ENCOURAGES PRIVATE INITIATIVE AND ENTERPRISE IN A MIXED ECONOMY AND ACKNOWLEDGES THE NEED FOR INVESTMENTS FOR ECONOMIC PROGRESS AND SOCIAL BENEFITS FOR ALL THE PEOPLE.

Mr. Padilla stated that he would have no objection to the amendment since it follows the sense of his proposal.

Mr. Monsod observed that the balancing phrase on social equity may not be necessary because the balance should be in the context of the entire article and not in every section, and that as he saw it, the provision would balance with other sections in the article which already promotes the social aspect of development.

Reacting thereto, Mr. Ople stated that considering the Declaration of Principles as a general framework which establishes the directive principles of the entire Constitution, he thought of establishing a balance right in this section. He stated, however, that if the Committee would accept Mr. Monsod's interpretation that this section is in effect also controlled by the entire Article on the Declaration of Principles, he would not insist on his amendment.

Mr. Davide, likewise, observed that the concept sought to be inserted in the Article on the Declaration of Principles is also provided in the Article on National Economy and Patrimony, in reply to which Mrs. Quesada stated that the Committee would leave the matter to the Body.

VOTING ON MR. PADILLA'S AMENDMENT

Mrs. Quesada restated Mr. Padilla's amendment, to wit:

THE STATE RECOGNIZES THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR, ENCOURAGES PRIVATE ENTERPRISE AND PROVIDES INCENTIVES TO NEEDED INVESTMENTS.

Submitted to a vote, and with 20 Members voting in favor and 9 against, the amendment was approved by the Body.

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople proposed the following amendment, with Messrs. Rama, Treñas, Romulo, Regalado and Mrs. Rosario Braid as coauthors, to wit:

SECTION 24. THE STATE SHALL ADOPT AND IMPLEMENT A POLICY OF FULL PUBLIC DISCLOSURE OF ALL ITS TRANSACTIONS SUBJECT TO REASONABLE SAFEGUARDS ON NATIONAL INTEREST AS MAY BE PROVIDED BY LAW.

Mr. Ople stated that his proposal would provide an umbrella statement in the Declaration of Principles for all the safeguards for an open and honest government distributed all over the draft Constitution and would establish a concrete ethical principle for the conduct of public affairs in a genuinely open democracy, with the people's right to know as the centerpiece.

INQUIRY OF MRS. ROSARIO BRAID

In reply to Mrs. Rosario Braid's query as to how the proposal would complement Section 6 of the Bill of Rights in terms of the right to know if it would be subject to safeguards with exceptions and limitations as may be provided by law, Mr. Ople stated that the provision would mandate the State to be accountable by following a policy of full public disclosures especially on information concerning loans contracted by the government and the statement of assets and liabilities of public officials, therefore, establish a kind of ethical principle for public officials as a great deterrent to conflicts of interest in government.

INQUIRY OF MR. JAMIR

In reply to Mr. Jamir's query if the proposal would not deter the grant of loans by banks which would not like their competitors to know the conditions under which they are granted, Mr. Ople stated that loans invested with color of public interest would be covered, otherwise, it would be covered by the exception in the last clause "reasonable safeguards on national interest" which would include national security. He gave assurance that unless there is a court order, his proposal would not impinge on the secrecy of banking transactions.

INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' query, Mr. Ople affirmed that the phrase "a policy of full public disclosure of all its transactions" would refer to transactions of the State and all its agencies, departments, ministries, government-owned and controlled corporations, instrumentalities of the government and its individual public officers.

He, likewise, stated that "transactions" is used in a generic sense and would refer to both the steps leading to the consummation of a contract subject to reasonable safeguards on national interest and to the treaties, executive agreements and service contracts that should be disclosed to the public periodically according to a system that the government would establish as may be provided by law and also upon reasonable demand by the public.

Mr. Ople further stated that Congress may provide that all public officers should submit their statements of assets and liabilities as may be required by law for public scrutiny and would, therefore, require some publication thereof, the implementing law therefor to be enacted by Congress.

REMARKS OF MR. SARMIENTO

Speaking against the proposed amendment, Mr. Sarmiento stated that it may be difficult to realize the thrust of the proposal in view of the clause "subject to safeguards on national security" which was the very same concept used and exploited by the past era to justify the proclamation of martial law, arrest of persons and issuance of decrees and letters of instructions.

Reacting thereto, Mr. Ople maintained that the provision shall be subject to reasonable safeguards on national interest and national security, stating he does not want to be reckless on matters of national security. Moreover, he stated that good faith and regularity of transactions should be presumed and that the burden of providing a color of national interest or security rests on the public officials or government authorities concerned.

INQUIRY OF MR. BERNAS

In reply to Mr. Bernas' observation that the same policy sought to be enunciated in the proposal is already embodied in Section 6 of the Bill of Rights, Mr. Ople maintained that his proposal is wider in scope, one of its objectives being the development of a higher level of ethical practice in the government and would, therefore, put all public officers under duty to disclose their own conflicts of interest.

REMARKS OF MR. BERNAS

Mr. Bernas stated that Section 6 refers to the right of the people to information and that to every right corresponds a duty which, in this particular case, is the duty of the State to make information of public concern available to the people. He opined that Section 6, which is broadly stated to cover anything of public concern, is a challenge to the people to be active in seeking for themselves information rather than depend on whatever the State may release to them.

REMARKS OF MR. RAMA

Mr. Rama pointed out that there is a basic difference between the provision in the Article on Declaration of Principles and the provision in the Bill of Rights, in the sense, that under the Bill of Rights, the provision contemplates a collision between the rights of the citizens and those of the State such that it is the right of every citizen to demand to know, whereas under the provision in the Article on the Declaration of Principles it shall be the policy of the State to disclose information and transactions.

INQUIRY OF MR. DE CASTRO

On Mr. de Castro's initial inquiry, Mr. Ople affirmed that full public disclosure of all transactions is subject to safeguards on national interest as provided for by law. He stated that originally, the provision used the words "national security" which was changed, at the instance of Mr. Regalado, to "national interest", to which Mr. de Castro agreed considering that as earlier stated, national interest includes national security.

On the final query of Mr. de Castro, Mr. Ople affirmed that the last proviso contains the phrase "as may be provided by law".

INQUIRIES OF MR. NOLLEDO

On Mr. Nollado's query whether he would agree that not all transactions of the government affect public interest, Mr. Ople stated that any transaction of the State potentially affects the public interest.

On certain contracts entered into by government corporations with the private sector where public interest is not necessarily involved, Mr. Ople stated that if the government corporation is performing a proprietary rather than a government function, then this would be uncontroversial and regular and it would not be subject to the obligation to publish the transaction. He pointed out, however, that the past, most local government units borrowed heavily from the Land Bank and the Development Bank of the Philippines to build public markets, and experience showed that these transactions later on became focal points of local political disputes because of alleged kickbacks. It was for this reason, he stated, that he initiated, as member of the Land Bank Board, a full disclosure policy so that transactions with respect to public markets are posted conspicuously right in the municipal buildings. He stated that this full disclosure policy proved successful because complete transaction data were made known to the people that if there was something suspicious about it, a dialogue could take place with the mayor and the municipal council.

Mr. Nollado opined that this would overburden the State because it has to initiate full disclosure whereas the general proposition is that all interested individuals in any part of the country should have access to public records such that the initiative comes from the private parties. He opined that this would be costly to the government if it is given the burden to fully disclose all its transactions.

Replying thereto, Mr. Ople referred Mr. Nollado to the exact text which reads "The State shall adopt and implement a policy of full public disclosure of all its transactions". He explained that this would apply not only to the State as a corporate entity but also to the public officers serving the State. He stated that under the provision, all public officials shall be obliged by law to publish and not merely to submit to the Archives their statements of assets and liabilities so that the people would be able to know and judge for themselves. He described as commendable acts of disclosure President Aquino's and her Cabinet Members' voluntarily submission of their statements of assets and liabilities for publication.

On whether this proviso duplicates his earlier proposal on full disclosure of assets and liabilities which was considered in the report of the Committee on Accountability of Public Officers, Mr. Ople stated that the proviso is an umbrella statement which offers a symmetry to Section 6 of the Bill of Rights in the sense that it complements the obligation imposed on Members of Congress to state potential conflicts of interests whenever called upon to sponsor bills.

In order to lessen the burden of the government in complying with this provision, Mr. Nollado proposed to amend Mr. Ople's proposal so that it would read:

THE STATE SHALL PURSUE A POLICY OF FULL DISCLOSURE OF ALL ITS TRANSACTIONS

INVOLVING THE PUBLIC INTEREST, SUBJECT TO SAFEGUARDS ON NATIONAL SECURITY.

Mr. Ople accepted Mr. Nollado's proposed amendment to his amendment.

INQUIRIES OF MRS. ROSARIO BRAID

On whether the disclosure made by the government should be published in the newspapers and other forms of mass media, Mr. Ople stated that in the case of statements of assets and liabilities of public officials, the law would determine the manner of publication. He opined that it is sufficient that every public officer releases, according to law, his statement of assets and liabilities so that the press could publish it, although, there would be no compulsion on the press to publish it.

REMINDER OF THE CHAIR

At this juncture, the Chair stated that the proposal involves the issue of whether government transactions should be subject to disclosure and that the discussion on statements of assets and liabilities of individual public officials is out of context, to which Mr. Ople maintained that the discussion is pertinent thereto.

CONTINUATION OF MRS. ROSARIO BRAID'S INQUIRIES

Mrs. Rosario Braid stated that if the transaction is of national interest, everybody has the right to know. Considering that newspapers cater to only ten percent of the entire population she inquired whether the proposal contemplates that other forms of media like the radio also carry the disclosure so that the people would know and participate in the discussions in the barangay level.

In reply thereto, Mr. Ople stated that inasmuch as newspapers may have limited reach, radio and television networks could help disseminate the news to a bigger audience.

On whether the government would provide feedback mechanisms in areas where there are no existing media facilities so that the people could participate and react. Mr. Ople opined that their elected representatives could air their sentiments.

Mrs. Rosario Braid accepted Mr. Ople's amendments, as amended, on behalf of the Committee.

INQUIRES OF MR. DAVIDE

On whether this is a self-executing provision which would no longer require an implementing legislation by Congress, Mr. Ople stated that it was originally intended to be self-executing but with Mr. Regalado's amendment adding the phrase "as may be provided by Law", legislation may be needed to implement the provision.

On whether the provision, as worded, would immediately take effect with Congress still being able to provide for reasonable safeguards on the ground of national interest, Mr. Ople replied that it should immediately influence the climate of the conduct of public affairs but Congress may no longer pass a law revoking it.

Mr. Davide pointed out that the only possible ground for withholding disclosure would be national security subject to such reasonable conditions as Congress may provide. He then inquired whether the proposal would not be inconsistent with Section 6 of the Bill of Rights under which the limitations are not limited to national interest.

Mr. Ople maintained that this would not, in any manner, impose a limitation on the scope of Section 6 of the Bill of Rights because what is referred to in the proposal is an obligation of the State to follow and, within its own

realm, enforce a policy of full public disclosure. He stated that with respect to actions initiated by citizens for information from the government as contemplated in Section 6 of the Bill of Rights, there is nothing in the proposal that would constrain the exercise of that right.

Mr. Davide maintained that the proposal is really related to Section 6 because the said Section is actually a compliance of the proposed directive to be included in the Article on the Bill of Rights. He noted that under the proposal, the limitation is very restrictive because it only relates to national interest whereas in Section 6 Congress may provide any limitation. In the matter of interpretation, he inquired as to which of the two would prevail.

Replying thereto, Mr. Ople stated that relative to the right of citizens to information from the government, when the citizens initiate requests for such information, there is no question that the coverage of Section 6 is primary.

On Mr. Davide's contention that approval of the proposal would render Section 6 useless because it is already the duty of the State to fully disclose its transactions, Mr. Ople stated that his proposal would complement the right of the citizens in Section 6 because it obliges the State to adopt and implement a policy of full public disclosure even without the citizenry demanding such disclosure in specific instances. He opined that Mr. Davide's fears are not well-founded because there is no conflict between the obligation of the State to make full public disclosure and the right of the citizens to get information from the State.

INQUIRIES OF MR. MONSOD

Mr. Monsod observed that the Committee interpretation that the proposal puts a responsibility on the government to establish a network or mechanism by which these transactions could be disclosed to the public if combined with the interpretation that there may be limitations in the public interest may translate into selective dissemination of information through a government network.

Reacting thereto, Mr. Ople observed that Mrs. Rosario Braid accepted his interpretation that the feedback process could be satisfied through the elected representatives of the people.

Mr. Monsod recalled that during the past 15 years, barangay officials were used in the dissemination of selective information and this, he warned, may give the government the basis for retaining a centralized propaganda network which was once controlled by the Office of Media Affairs.

REMARKS OF MRS. ROSARIO BRAID

Mrs. Rosario Braid stated that the feedback network referred to is not necessarily meant for public officials but for community-based organizations which, she opined, would lend more credence. She allayed the fear that there would be another Office of Media Affairs in the making.

REMARKS OF MS. TAN

Ms. Tan stated that at the outset, she thought that the provision would be harmless but with the participation of barangay officials, who in the past, never told the truth, she might vote against the proposal.

Reacting thereto, Mr. Ople clarified that this would apply to barangay affairs because the barangay council is obliged to disclose to the constituency its transactions, which are often the subject of disputes and suspicion on the part of barangay members.

RESTATEMENT OF MR. OPLE'S AMENDMENT, AS AMENDED

Mr. Ople restated this amendment, as amended, to wit:

THE STATE SHALL ADOPT AND IMPLEMENT A POLICY OF FULL PUBLIC DISCLOSURE OF ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST, SUBJECT TO REASONABLE SAFEGUARDS OF THE NATIONAL INTEREST AS MAY BE PROVIDED BY LAW.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed the following amendments:

1. Before the word "The" at the start of the proviso, insert the words SUBJECT TO REASONABLE CONDITIONS PRESCRIBED BY LAW and a comma (,); and
2. Delete the words "shall adopt and implement" and in lieu thereof, substitute with the words, ADOPTS AND IMPLEMENTS.

As amended, the proviso would read:

SUBJECT TO REASONABLE CONDITIONS PRESCRIBED BY LAW, THE STATE ADOPTS AND IMPLEMENTS A POLICY OF FULL PUBLIC DISCLOSURE OF ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST.

APPROVAL OF MR. OPLE'S AMENDMENT, AS AMENDED

Submitted to a vote, and with 25 Members voting in favor, 4 Members against and 1 abstention, the Body approved Mr. Ople's amendment, as amended.

MANIFESTATION OF MR. OPLE

Mr. Ople manifested for the record that the amendment was coauthored by Messrs. Rama, Davide, Nollado, Treñas, Romulo, Regalado and Mrs. Rosario Braid.

INQUIRY OF MR. SARMIENTO

On Mr. Sarmiento's query on the status of his proposed amendment submitted to the Committee which reads THE STATE SHALL PROVIDE LIVELIHOOD OPPORTUNITIES FOR THE FILIPINO PEOPLE, Mrs. Quesada informed that she had already submitted it to Messrs. Romulo and Bengzon during the morning session.

Mr. Sarmiento stated that he was unable to participate in the deliberation because he was absent at that time, for which reason, he asked that it be discussed in his presence.

POINT OF INFORMATION OF MR. MAAMBONG

Mr. Maambong, on a point of information, stated that in the absence of Mr. Sarmiento, Mr. Bengzon, Chairman of the Steering Committee, informed the Chair that the proposed amendment would not be pursued if its contents and sense will be covered by the other provisions being discussed on the floor and with that understanding, Mr. Bengzon withdrew the proposed amendment submitted by Mr. Sarmiento. He stated that he would not know if Mr. Sarmiento would confirm the delegated authority he gave to Mr. Bengzon to make that manifestation. Mr. Maambong further stated that if Mr. Sarmiento disagrees with the manifestation, he could proceed with his own formulation.

As to what were the provisions that would cover his proposed amendment, Mrs. Quesada cited Section 7 of the Declaration of Principles which reads: "The State shall promote a just and dynamic order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and improved quality of life for all." She affirmed that livelihood projects are already covered by the provisions on the promotion of full employment, comprehensive rural development, and social justice in all phases of development.

She added that the State would continue to assist the ongoing national livelihood projects that are part of the effort to bring about social justice.

In view of Mrs. Quesada's explanations,; Mr. Sarmiento withdrew his proposed amendment.

MANIFESTATION OF MRS. ROSARIO BRAID

Thereupon, Mrs. Rosario Braid stated that the Committee would also withdraw its proposal which was incorporated in the proposed amendment, on the understanding that medium-scale industries, productivity and entrepreneurship are also covered by the provisions cited by Mrs. Quesada.

MANIFESTATION OF MR. RAMA

Thereafter, Mr. Rama stated that there were no more amendments to be proposed on the Article on Declaration of Principles, but the voting on Second Reading would be done after a clean draft of the Article, as amended, shall have been distributed to the Members of the Commission.

REQUESTS OF MR. TINGSON

Mr. Tingson pointed out that the Body had approved 27 Sections in the Article on Declaration of Principles, and requested that Proposed Resolution No. 216, authored by Mr. de los Reyes, be included among the references of the Committee Report.

He also stated that the suggestion of Messrs. Maambong and Padilla to put subheadings on the principles, policies and aspirations, had been accepted by the Committee and requested that Mr. Maambong be the technical assistant to the Committee for the purpose.

APPROVAL OF THE REVISED SECTIONS 1 TO 5 ON ARTS AND CULTURE

Thereupon, Mr. Villacorta invited attention to the new version of Sections 1 to 5 on Arts and Culture as agreed upon by the Committee and Mr. Monsod, copies of which were distributed to the Members of the Commission.

He moved that the Body vote on said revised Sections 1 to 5 on Arts and Culture which were actually amendments to the Article, to 'wit:

SECTION 1. THE STATE SHALL FOSTER THE PRESERVATIONS ENRICHMENT AND DYNAMIC EVOLUTION OF A FILIPINO NATIONAL CULTURE BASED ON THE PRINCIPLE OF UNITY IN DIVERSITY IN A CLIMATE OF FREE ARTISTIC AND INTELLECTUAL EXPRESSION.

SECTION 2. ARTS AND LETTERS SHALL ENJOY THE PATRONAGE OF THE STATE. THE STATE SHALL CONSERVE, PROMOTE AND POPULARIZE THE NATION'S HISTORICAL AND CULTURAL HERITAGE, ARTISTIC CREATIONS AND RESOURCES.

SECTION 3. ALL THE COUNTRY'S ARTISTIC AND HISTORIC WEALTH CONSTITUTES THE

CULTURAL TREASURE OF THE NATION AND SHALL BE UNDER THE PROTECTION OF THE STATE WHICH MAY REGULATE ITS DISPOSITION.

SECTION 4. THE STATE SHALL RECOGNIZE, RESPECT AND PROTECT THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES TO PRESERVE AND ENRICH THEIR CULTURES, TRADITIONS AND INSTITUTIONS. IT SHALL CONSIDER THESE RIGHTS IN THE FORMULATION OF NATIONAL PLANS AND POLICIES.

SECTION 5. (a) THE STATE SHALL ENSURE EQUAL ACCESS TO CULTURAL OPPORTUNITIES THROUGH THE EDUCATIONAL SYSTEM, PUBLIC OR PRIVATE CULTURAL ENTITIES, SCHOLARSHIPS, GRANTS AND OTHER INCENTIVES, AND COMMUNITY CULTURAL CENTERS AND OTHER PUBLIC VENUES.

(b) THE STATE SHALL ENCOURAGE AND SUPPORT RESEARCHES AND STUDIES ON THE ARTS AND CULTURE.

In reply to Mr. Maambong's inquiry, Mr. Villacorta stated that there were no substantial difference between the formulation of the provisions on Arts and Culture in the draft that would be approved on Second Reading and the revised formulation since the amendments of Mr. Monsod were mostly on matters of style. He also affirmed that the Committee on Human Resources would allow the Committee on Sponsorship to renumber all the Sections from Education to Arts and Culture.

Submitted to a vote, and with 27 Members voting in favor, and none against, the reformulation of Sections 1 to 5 on Arts and Culture was approved by the Body.

In reply to Mr. Maambong's further query, Mr. Villacorta explained that Section 5(c) of the original provisions on Arts and Culture was incorporated in reformulated Section 2, so that the provision on popularization of parks and public venues in the original draft that would be approved on Second Reading would be deleted.

APPROVAL ON SECOND READING OF THE ARTICLE ON EDUCATION SCIENCE, TECHNOLOGY, SPORTS, ARTS, AND CULTURE

Thereafter, there being no other reservations to propose amendment, on motion of Mr. Rama, there being no objection, the Body proceeded to voting on Second Reading, on the Article on Education, Science, Technology, Sports, Arts and Culture.

Submitted to a vote, and with 32 Members voting in favor, and none against, the Body approved, on Second Reading, the Article on Education, Science, Technology, Sports, Arts and Culture.

CONSIDERATION ON SECOND READING OF JOINT COMMITTEE REPORT NO. 39 ON PROPOSED RESOLUTION NO. 542 ON THE ARTICLE ON FAMILY RIGHTS

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

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

On request of Mr. Rama, the Chair recognized the Chairmen and Members of the Committees on Social Justice; and Human Resources.

Thereupon, Mrs. Nieva was recognized for the sponsorship.

SPONSORSHIP REMARKS OF MRS. NIEVA

Mrs. Nieva stated that the rights of persons, which the Constitution protects, have fundamental social dimension in the institution of the family. She noted that family exists prior to the State and other communities, and as stated by Pope John Paul II, the future of humanity passes by way of the family, which possesses inherent and inalienable rights that are intrinsic to its very existence and perpetuity.

She observed, however, that while history affirms the family's indispensable role as primary educator, economic provider, cultural mediator and spiritual formator, the rights of the family have often been ignored and undermined by legal, social and economic structures and programs of many countries.

But unlike other peoples, she underscored that the Filipinos are family-centered, which trait has been a real strength of the nation. She noted the deep concern of Filipino parents for their children's welfare, education and future, and in turn, the children take good care of their elderly parents with personal sacrifice.

She maintained that the family system should be preserved not only in the country but in all the world, because without such protection there would be a gradual collapse of the family considering the various powerful forces in society.

Moreover, she adverted to the new dimension of the family as an agent of social change and development, and called on the State to protect such rights of the family in order that it can cooperate with other families for the defense of its rights and responsibilities, for the development of society and for the planning, formulation and implementation of family policies and programs that affect them.

She stated that the Constitutional Commission should take advantage of the opportunities to provide in the Constitution certain safeguards for the inalienable family rights while enhancing its total development.

She pointed out that since some of the provisions on the family had already been considered in other Articles, the proposed Article on Family Rights had been abbreviated. She explained that Section 1 provides for the promotion of the total development of the Filipino family; and Section 2, as amended by Mr. Gascon, provides that the institution of marriage is the foundation of the family, hence, the protection of the rights of the spouses to found a family, the rights of the family to a decent living wage, and the right of the elderly to family care.

INTERPELLATION OF MR. DE CASTRO

In reply to Mr. de Castro's query on Section 1, Mrs. Nieva explained that "total development" refers to the social, economic, spiritual, intellectual and cultural aspects of family life. She stated that the Committee would, however, welcome any amendment on the use of the term "actively promote".

Mr. Gascon also stated that Mr. de Castro's suggestion to refer to marriage as a social institution as found in the Civil Code would be considered in the period of amendments.

On Section 2(g), on the right of the elderly to family care, Mrs. Nieva pointed out that in Western countries, the elderly are sent to institutions for the aged because their social and economic structures do not allow the elderly to be maintained in their own homes, which practice does not obtain in the Philippines.

Mr. de Castro disclosed that in Switzerland, the elderly are given some help instead of sending them to homes for the aged, and their family takes care of them.

On whether the Committee intends that the State should take care of the elderly, Mrs. Nieva stated that such assistance would be extended when necessary, for instance, when the family is financially unable to support them.

Mr. Gascon explained that what the Article would like to discourage would be the impersonal care given to the elderly in old folk homes and by their own families.

On the age classification of "elderly", Mrs. Nieva explained that the term refers to those who are incapacitated or unable to support themselves. Additionally, Mr. Gascon explained that "elderly" refers to persons who are no longer as productive as they used to be but have the right to care from the family which they had supported.

Mr. de Castro contended that taking care of the elderly is already a Filipino tradition and, therefore, there is no need for the provision in the Constitution, to which Mrs. Nieva replied that the Constitution is for future generations who, because of modern trends, may take the elderly for granted.

INTERPELLATION OF MR. NOLLEDO

In reply to Mr. Nollado's query as to what a Filipino family is, Mrs. Nieva stated that the Committee has adopted Article 217 of the New Civil Code as the basic definition thereof. She also agreed with Mr. Nollado's observation that the Committee has adopted the stipulation in the New Civil Code which directs the State to defend the rearing of children in accordance with religious convictions and demands of responsible parenthood.

Additionally, Mr. Gascon stated that it would also mean that the State shall defend the primary right of the parents to determine how many children they wish to have, and that there would be no law authorizing the State to dictate on families how many children they could have.

On Mr. Nollado's query as to the meaning of children, Mrs. Nieva explained that it refers to legitimate, legitimated, natural children by legal fiction, acknowledged natural children and other illegitimate children.

As to the meaning of decent living wage, Mrs. Nieva explained that it means the employment of at least a member of the family on a wage that will allow it to live a decent life supplemented by social service, housing, health, education and other help from the State.

On Mr. Nollado's query whether the Committee is aware that a minor who is employed by his parents need not be compensated, Mrs. Nieva stated that what the Committee contemplates is employment of the child by a third person.

As to how the State could defend the institution of marriage as the foundation of the family, Mr. Gascon stated that it could discourage divorce, but what the Committee would want to emphasize is that those who wish to marry and establish a family have the right to expect from society the moral, educational, social and economic conditions that would enable them to exercise their right to marry in maturity and responsibility.

On whether the provision would outlaw live-in relationship Mrs. Nieva replied that it certainly does not encourage such relationship because according to psychologists and educators many delinquent children who eventually become criminals come from families or homes which were not stable. Additionally, Mr. Gascon stated that although the provision does not encourage live-in relationship, it also acknowledges the fact that some poor people establish families without marriage but who should not be discriminated.

Mr. Nollado agreed with Mr. Suarez' observation that Article 216 of the New Civil Code is also the thrust of the Family Rights and that Article 218 of the same Code which provides that "no custom, practice or agreement which is destructive of the family shall be recognized or given any effect" can be very effective. However, Mr. Nollado stated that this has to be read in the light of the Constitutional provision which respects indigenous customs and tradition and the decree of Mr. Marcos recognizing Muslim laws on persons which allow divorce. With respect to Article 219 thereof, which provides for mutual aid, both moral and material, to be rendered to members of the same family, Mr. Nollado stated that this is covered by Section 2 and, in the same manner,

Articles 220, 222 are also covered.

On whether there is still need for a constitutional provision despite these provisions of the Civil Code, Mr. Nollado stated that the importance of the family as a basic institution must be underscored and raised to the level of a constitutional provision.

INTERPELLATION OF MR. BERNAS

In reply to Mr. Bernas' query whether the proposal of Mr. Gascon means prohibiting a general law on divorce, Mr. Gascon replied that such is not his intention and that he merely wanted to encourage the social institution of marriage.

INTERPELLATION OF MRS. QUESADA

In reply to Mrs. Quesada's query as to how would the State actively promote the spiritual development of the Filipino family, Mr. Bacani explained that it could be through education, specifically through the constitutional provision allowing religious instruction in public and private schools, and by safeguarding the freedom of worship and religion.

On Mrs. Quesada's contention that the State should not impose on the family how the members should develop spiritually, Mr. Bacani replied that this is not the intention of the Committee.

As to why the word "defend" was used in Section 2 instead of other words like "promote", "protect" or "encourage", Mrs. Nieva explained that the Section speaks of rights and rights must be defended. She stated, however, that the Committee would be willing to consider alternatives at the proper time.

On the reason why the Committee has limited the right of the spouses to found a family in accordance with their religious convictions, Mrs. Nieva stated that the Committee would be willing to accept amendments at the proper time.

As to what assistance could be extended to the children, Mrs. Nieva explained that this would involve the whole gamut of social services, education, moral, health, physical, spiritual and others.

At this juncture, Mr. Bacani informed that one proposed amendment on the assistance for children reads as follows: CHILDREN SHALL HAVE THE RIGHT TO PROPER CARE, NUTRITION, A RELEVANT, NON-SEXIST AND QUALITY EDUCATION, AS WELL AS PROTECTION FROM EXPLOITATION AND MENTAL AND PHYSICAL ABUSE.

Mrs. Quesada stated that the kind of assistance that could be given the children must be enumerated so that the people would know exactly what kind of support the children would have. She suggested that instead of providing for special protection against neglect, cruelty and

exploitation, the Body should be more explicit in the kind of assistance that should be extended to the children.

Mr. Villacorta stated that some Members have suggested that "assistance" should be substituted with PROPER CARE AND NUTRITION.

On Mrs. Quesada's query whether the Committee would be amenable to including a provision that would liberate the women or the girls of the family from the bondage of household chores such as cooking, washing and cleaning, Mr. Bacani stated that the Body has already approved a provision regarding the fundamental equality between men and women.

Mrs. Quesada opined that the fundamental equality between men and women should also apply to all members of the family so that the boys and the girls would have to share responsibility and learn the basic things to make the family more cohesive. She added that there should be reorientation of roles and that she would present an amendment to that effect.

SUSPENSION OF SESSION

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

It was 4:53 p.m.

RESUMPTION OF SESSION

At 5:23 p.m., the session was resumed.

Upon resumption of session, Mr. Rama moved that Mr. Tingson be recognized for his interpellation.

INTERPELLATION OF MR. TINGSON

Mr. Tingson suggested that the article be entitled "Family Rights AND RESPONSIBILITIES" stating that it is necessary to inculcate into the minds of husbands, wives and other family members that the enjoyment of rights would be meaningless unless fulfilled with their respective responsibilities. Mrs. Nieva replied that she has no objection although it might mean reformulating the whole Section to include the different responsibilities of the family and that the Section might then become unwieldy.

Reacting thereto, Mr. Tingson remarked that if it is the conviction that responsibilities should accompany those rights, the Article would become more meaningful. Then adverting to the saying "No success elsewhere could ever compensate for failure at home", he inquired whether this is one of the reasons for stating in the Article that marriage as an institution is the foundation of the family, to which Mr. Gascon replied that he believes marriage encourages a strong family, although, there are instances of successful families not founded on marriage. He concurred with Mr. Tingson's statement that there is a lot of merit in developing values and proper family perspectives which are beneficial to society.

Mr. Tingson observed that the amendment "the institution of marriage as the foundation of the family" is a positive suggestion that the family should be based on marriage, to which Mr. Gascon agreed. Likewise, to his inquiry whether a good marriage is based on the husband's and wife's respect for each other, Mr. Gascon noted that one of the basic things needed in the development of the family is love and partnership upon which the success of the family is based, with proper values encouraged within the home.

INTERPELLATION OF MR. BENNAGEN

In reply to Mr. Bennagen's inquiry on the Committee's understanding of "marriage", Mrs. Nieva stated that it is the union of man and woman.

As to whether this would be the same as the folk norm of "nagsama sila", Mrs. Nieva stated that the Committee does not define marriage as a mere agreement between the two spouses without legal sanction.

On whether marriages which have not gone through religious or legal rituals would be defended by the State, Mrs. Nieva replied that "marriage" should be understood in its general sense.

As to whether this would compel all spouses to undergo a certain legal or religious ritual in lieu of folk ritual in

the concept of "nagsama", Mrs. Nieva replied that it would not for purposes of receiving protection from the State.

Mr. Nieva clarified that what the Committee tries to project is that marriages are founded on full consent of the spouses and that other cultures which may have other traditional models of marriage and family life would be respected.

On the meaning of "religious convictions", Mrs. Nieva stated, by way of example, that the Catholics do not believe that the State has the right to dictate the number of children and impose certain methods to limit such number.

On the question whether "religious convictions" would include convictions of animists and pantheists, Mrs. Nieva replied that the State should respect their beliefs provided that they are not against the law.

On the matter of promoting and defending the family, Mrs. Nieva stressed that the State should exert efforts to promote or defend the family in the same manner as in the Social Justice provisions.

Mr. Bennagen informed that a recent study conducted by the Communications Research Center headed by Mr. Villegas claims that the threshold wage of a Metro Manila family is around P5,865 per month. He noted that the Article does not state that there should only be one wage earner who should earn enough to maintain the family. To his inquiry as to what the families earning wages below this level can do in relation to their claims on the State, Mrs. Nieva answered that the remunerations are provided in the provisions on labor.

Mr. Bennagen, however, pointed out that this would differ from labor in the sense that a laborer can claim his right for a decent family living wage from capital.

Mrs. Nieva stated that what is emphasized is that families have a right to live decent human lives and that the State should do everything in its power to help the family achieve this goal. She noted, however, that there are no sanctions against the State in case it fails to do so.

On whether the failure of the State to meet the goal of providing families with a decent family living wage would not set into motion some kind of revolution of rising expectations, Mrs. Nieva answered that it shall all depend on what the State has in its power to provide.

OBSERVATIONS OF MRS. ROSARIO BRAID

Mrs. Rosario Braid prefaced her observation by stating that a decision has to be made on whether a full Article would be provided or the provisions would be placed under one of the other Articles which shall be determined by the kind of amendments made thereon.

On Section 1, she observed that "total human development" would mean that the family, as the basic social institution, would provide the moral and intellectual foundation, orientation for a fully developed personality and the stronghold of emotional stabilization, in addition to material and physical needs.

She expressed the hope that, should the provision be a whole Article, it would look at the values which the people would like to preserve, re-orient or restructure with reference to such matters as rigidity in family roles, allowing the school to undertake the entire socialization process, the closeness of family ties or family solidarity which at times fosters nepotism in large businesses, and the value of women in a family life.

Reacting thereto, Mr. Gascon observed that the family rights issue deserves due recognition, perhaps, through the institutionalization of an Article on Family Rights. He added that the Committee recognizes family as a basic social institution.

Mrs. Nieva stated that the Committee would welcome Mrs. Rosario Braid's suggestions or amendments at the proper time.

REMARKS OF MR. MAAMBONG

Mr. Maambong urged that the Body make sure that the family rights provisions would not conflict with the Civil Code. On Section 1, he suggested that "solidarity", which is the thrust of the Civil Code provisions, could be incorporated therein.

To underscore his point, he noted that the Civil Code provides that in violation of the freedom of contract, two married people cannot enter into a contract for legal separation. They cannot even dissolve the conjugal partnerships of gains.

He stated that in case of annulment or an action for legal separation, the fiscal is duty-bound to see to it that there is no collusion between the parties, which proves that solidarity is the thrust of the Civil Code.

On Mr. Gascon's proposed provision making the institution of marriage as the foundation of the family, Mr. Maambong pointed out that what the Civil Code defends in Article 52 is marriage as an inviolable social institution and not the institution of marriage.

He suggested that the provision be reworded.

On Section 2 which provides several rights, he stated that when there are rights, there are corresponding duties. The Civil Code, he informed, provides for rights under parental authority and care and education of the children. He noted that the Body can particularize the persons duty-bound to be liable for violation of such rights.

TERMINATION OF THE PERIOD OF SPONSORSHIP AND INTERPELLATIONS

On motion of Mr. Rama, there being no objection, the Body closed the period of sponsorship and interpellations on the Article on Family Rights.

ADJOURNMENT OF SESSION

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

It was 5:44 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 September 25, 1986

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