

R.C.C. NO. 94

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Saturday, September 27, 1986

OPENING OF SESSION

At 9:41 a.m., the Vice-President, the Honorable Ambrosio B. Padilla, opened the session.

THE VICE-PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE VICE-PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Florangel Rosario Braid.

Everybody remained standing for the Prayer.

PRAYER

MS. ROSARIO BRAID: Dear Father, we have completed 110 days in this awesome task of drafting a charter for our nation. We pray for perspective that we may transcend our individual interests and biases. Give us the gift of understanding so that we may tolerate the opinions of others. We know deep in our hearts that we all share the equal depth of patriotism and nationalism, the same goals, equal depth of feeling for those who have less in life. If we have different perceptions of the means to reach our goals, it may be because we hear a different drummer and because we come from different backgrounds and experiences. But, O dear God, please help us to get out from too much preoccupation with our own ideas, our selfish concerns, so that we may be able to be open to other views, so that we may listen, and in doing so, will be able to enter into a real human dialogue, in love, humility and trust.

May Thy Spirit enter our hearts during the next three weeks and hereafter. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar

Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*</SUP Natividad Present <SUP STYLE="COLOR:

RGB(255, 0, 0);">*</SUP

Alonto Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*</SUP Nollado Present

Aquino Present Ople Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*</SUP

Azcuna Present Padilla Present

Bacani Present Rama Present

Bengzon Present Regalado Present

Bennagen Present Reyes de los Present

Bernas Present Rigos Present

Rosario Braid Present Rodrigo Present

Calderon Present Romulo Present

Castro de Present Rosales Absent

Colayco Present Sarmiento Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*</SUP

Concepcion Present Suarez Present

Garcia Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*</SUP Sumulong Present

Guingona Present Tadeo Present

Jamir Present Tan Present

Laurel Absent Tingson Absent

Lerum Present <SUP STYLE="COLOR: RGB(255, 0, 0);">*</SUP Treñas Present

Monsod Present Uka Present

The Secretariat is in receipt of official advice of absence of Commissioner Villegas.

Commissioners Davide, Foz, Gascon, Maambong, Nieva, Quesada and Villacorta are on official mission.

The President is absent.

The roll call shows 28 Members responded to the call.

THE VICE-PRESIDENT: The Chair declares the presence of a quorum.

The Assistant Floor Leader is recognized.

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

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

APPROVAL OF JOURNAL

MR. CALDERON: Mr. Vice-President, I move that we approve the Journal of the previous session.

MR. DE CASTRO: Mr. Vice-President, may I have a very, very slight correction on this?

THE VICE-PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: On page 7, second to the last paragraph, line 4, we delete the words "was repealed" and change these to the word "EXPIRED." It will now read: "Adverting to Republic Act No. 1363 approved by Congress on June 18, 1955, he stated that it granted war veterans, their widows and orphans, the preference to acquire public lands but that the said law EXPIRED twenty-five years later."

Thank you, Mr. Vice-President.

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

MR. CALDERON: Mr. Vice-President.

THE VICE-PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we proceed to the Reference of Business.

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from Mr. Celso Calumba and nineteen (19) other seminarians of St. Francis Xavier Seminary, P.O. Box 189, Davao City, advocating a policy of protectionism to ensure Filipino control over domestic industries and lessen the importation of goods.

(Communication No. 1018 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Sisenando C. Satin of 4618 Arellano Avenue, Makati, Metro Manila, suggesting that tenants and landlords be given the freedom to determine what is good for them, that the government should equally subdivide the government's idle land and be given to the landless, among others.

(Communication No. 1019 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Judge Norberto Y. Acenas, Municipal Trial Court of Kumalarang, Zamboanga del Sur, suggesting that the Intermediate Appellate Court be divided into three branches — one each for Luzon, Visayas, and Mindanao — to facilitate the disposition of cases appealed to it.

(Communication No. 1020 — Constitutional Commission of 1986)

To the Committee on the Judiciary.

Letter from Mr. Agaton N. Ibarbia, I, President of the Small Landowners Association of Buhi, Inc., Buhi, Camarines Sur, reiterating his suggestion that small landowners with less than seven hectares landholdings be exempted from the coverage of tenancy leasehold and other laws.

(Communication No. 1021 — Constitutional Commission of 1986)

To the Committee on Social Justice.

THE VICE-PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 551

(Article on General Provisions)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Mr. Vice-President, I move that we resume consideration of the Article on General Provisions.

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

MR. RAMA: May I ask the chairman of the committee and his members to proceed to the front table.

THE VICE-PRESIDENT: The chairman and the committee members are requested to take their seats in front.

MR. RAMA: Mr. Vice-President, I ask that Commissioner Monsod be recognized to present an amendment to Section 3.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Yesterday, when we were discussing Section 3, we sort of got lost in the relationship between this section and those that are already provided for under the Article on Civil Service. Actually, Section 3 covers three situations, the first one is the question of double compensation for both elective and appointive officials. That is already covered in Section 7 of the Article on the Civil Service. The second situation is the prohibition on elective officials to occupy any other position in government. That is already covered in Section 4 of the Article on the Civil Service. The third situation is the prohibition on appointive officials from occupying any other office or employment in government. That is not covered in the abovementioned article. So, I propose that this section would only cover that situation that is not already covered in the Article on the Civil Service which is the double occupancy of position of an appointive official.

The other issue is that there are certain appointive officials who, by reason of the function of their office, have to occupy other positions. Example: The Minister of Trade and Industry has a responsibility for the performance of the NDC and the companies under it. To prohibit the Minister of Trade and Industry from exercising supervisory functions over such companies would not be consistent with putting a responsibility on that Minister for the proper functioning or performance of these companies.

So, I propose to reword Section 3 to read as follows: "Unless required by law OR BY THE FUNCTIONS OF HIS POSITION, NO APPOINTIVE OFFICIAL SHALL hold any other office or employment in the government, or any subdivision, agency or instrumentality thereof including government-owned or controlled corporations OR THEIR SUBSIDIARIES."

With this amendment, the general rule would still be against double occupancy or double office, but it would now be subject to two exceptions: "Unless required by law," and, secondly, "Unless required BY THE FUNCTIONS OF HIS POSITION."

So that is my proposal.

THE VICE-PRESIDENT: What is the reaction of the committee?

MR. DE CASTRO: Mr. Vice-President, may I ask Commissioner Monsod a question on his proposal?

MR. MONSOD: Gladly.

MR. DE CASTRO: The provisions in the Civil Service do not exempt from double compensation, gratuities or pensions. In the Commissioner's reformulation of Section 3, would he be willing to include the exemption of pensions and gratuities from double compensation?

MR. MONSOD: As a matter of fact, the question of pensions and gratuities was taken up at that time. It was not specifically mentioned, because it is automatically exempted since that is a vested right.

MR. DE CASTRO: It is not automatically implemented because, in my case, after my retirement, I had my pension then when I was called to duty as Chairman of the National Police Commission. I never received the salary as chairman because according to the Government Auditing Office (GAO), that is double compensation. Although I cited all the rulings of the Supreme Court that pensions and gratuities are already earned and should not be considered as double compensation, still the GAO did not give me my salary for seven years as Chairman of the National Police Commission on the reason that with my pension it will be double compensation.

And so with Commissioner Natividad. When he became Chairman of the National Police Commission, he did not also receive his salary because according to the GAO the ruling is that pensions and gratuities are double compensation when one goes to office.

MR. MONSOD: Yes, I remember this issue was discussed at the time when we were discussing the Article on the Civil Service, and if I remember correctly, the Commissioner raised the same point. I also remember correctly the interpretation given that the prohibition of double compensation exempts pensions and gratuities, precisely, because the Commissioner brought up that question.

MR. DE CASTRO: There is no exemption in the Civil Service provisions that we approved, like Sections 7 and 4 which the Commissioner cited.

MR. MONSOD: That is right. That is why, as I said during the discussions, if I remember correctly the interpretation was that the pensions and gratuities would not be considered as double compensation. Now, if the Commissioner has any reservations about the possible misinterpretation of that, then it should be read into the record rather than enact another section that would amount to a restatement or reconsideration of what has already been approved by this body.

MR. DE CASTRO: If the Commissioner can give us his formulation, perhaps, we can insert there the exemptions of what I am looking for.

MR. MONSOD: My proposal is only to state in the Article on General Provisions the second paragraph, because as I said, the first paragraph is already covered by Section 7 of the Article on the Civil Service except for the phrase "except pensions and gratuities" as the Commissioner said. If we reiterate the interpretation that pensions and gratuities do not constitute double compensation, then we might solve that problem without another provision here that duplicates substantially Section 7 of the Article on the Civil Service.

MR. GUINGONA: Mr. Vice-President.

MR. DE CASTRO: Let them stay on record that when we formulate Section 3 of the Article on General Provisions and Sections 4 and 7 of the Article on Civil Service Commission, pensions and gratuities are not considered as double compensation.

MR. MONSOD: Yes.

MR. BENGZON: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: In view of the dialogue between Commissioner de Castro and Commissioner Monsod and as a matter of follow-up, I would like to suggest and thus move that the first paragraph of Section 3 be deleted, and after we shall have taken that move, then I have a clarificatory question that I would like to throw to Commissioner Monsod on his formulation of the new Section 3. So, may I move that the first paragraph from line 13 to line 18 on page 1 of the proposed Article on General Provisions be deleted.

THE VICE-PRESIDENT: Before we take up this motion for deletion of the first paragraph, the Chair recognizes Commissioner Guingona.

MR. GUINGONA: Thank you, Mr. Vice-President.

I am not taking any position with regard to the exchange of views between Commissioner de Castro and Commissioner Monsod, but I was thinking that any reference now to the exemption from gratuities and pensions would have no basis if we delete the first paragraph of Section 3. Commissioner Monsod has referred to a previous discussion on this matter. Maybe it would be better to ascertain by referring to the Record of the Constitutional Commission so that if it has really been taken up and the matter has already been decided by the body, then that would be settled. Otherwise, Commissioner de Castro might wish to persist in his view that there should be some reference in this particular article regarding exemptions as to gratuities and pensions.

THE VICE-PRESIDENT: What does the committee say?

MR. DE CASTRO: May I ask for a suspension of the session.

MS. ROSARIO BRAID: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Before we ask for a suspension of the session, may I just read the manifestation of Commissioner Maambong who is not here. In an earlier document that he distributed, he states that once this provision is approved he would like to recommend that this be transposed to the Article on Civil Service where it belongs because this section, Section 3, is more encompassing than the section already approved in Civil Service. This is his manifestation.

MR. MONSOD: May I have the floor?

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I believe that when Commissioner Maambong said that he was talking about the entire section. As explained this morning, there are some repetitions that we want to avoid. I believe the motion on the floor merely refers to the first paragraph of that section.

MS. ROSARIO BRAID: Mr. Vice-President, as long as the spirit of his intent is already integrated and included in that earlier provision, we approve the motion to delete. But before we do so, Commissioner de Castro would like to request a suspension of session because he would like to check with some early provisions.

MR. BENGZON: Mr. Vice-President, before we declare a suspension of session, may I just allay the fears of every Commissioner here. Precisely before I presented my motion to delete, I allowed Commissioners de Castro and Monsod to have their exchange of views. It is now clear in the record as has been agreed between the two and without objection on the part of this Commission that Section 7 in the Article on the Civil Service is interpreted to

mean that pensions and gratuities are exempted and therefore not considered as double compensation. That is very clear in the record.

Having arrived at that conclusion, that was the time when I presented my motion to delete. So, therefore, there is no doubt as to the interpretation and to the meaning that pensions and gratuities would not be considered as double compensation.

MR. GUINGONA: Parliamentary inquiry.

SUSPENSION OF SESSION

THE VICE-PRESIDENT: As requested by the chairman of the committee, the Chair declares a suspension of the session.

MS. ROSARIO BRAID: Just a brief suspension of the session to clarify the issue.

It was 10:02 a.m.

RESUMPTION OF SESSION

At 10:09 a.m., the session was resumed.

THE VICE-PRESIDENT: The session is resumed.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Monsod be recognized.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. RAMA: I withdraw the motion. I ask that Commissioner Bengzon be recognized to state the reformulated provision.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: For the record, I will pursue my motion to delete the first paragraph of Section 3, with the understanding that after it is deleted I will introduce a new sentence that would definitely state that pensions and gratuities will not be considered as double compensation. So I will pursue now my motion to delete lines 13 to 18 of Section 3.

THE VICE-PRESIDENT: Yes.

MR. GUINGONA: Parliamentary inquiry, Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you.

While we were discussing during the suspension of the session, this proposal came up and I gave the view that the proposed new section that Commissioner Bengzon would introduce might be in conflict with the provision on Civil Service, because when Commissioner Monsod was talking about this, he was saying "if I remember correctly." In other words, he was not sure, and I said "Maybe we should check the record," because their suggestion was: Once this new section is approved by us, our committee — the Committee on Sponsorship —

would simply transpose this to the Article on the Civil Service.

MR. BENGZON: May I raise a point of order, Mr. Vice-President.

MR. GUINGONA: This is a privileged question, because this involves the work of the Committee on Sponsorship.

MR. BENGZON: I am raising a point of order, Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: The point of order is that there is a motion to delete; there is no motion yet to insert. The comment of Commissioner Guingona should come after I introduce any motion to insert after the motion to delete.

So, I suggest that we go ahead and vote on the motion to delete, and let Commissioner Guingona hold his comments until after a new proposed paragraph is introduced.

MR. GUINGONA: I agree, Mr. Vice-President. I submit.

THE VICE-PRESIDENT: What does the committee say?

MS. ROSARIO BRAID: We are ready now for a vote.

THE VICE-PRESIDENT: Will the Commissioner please restate the motion for deletion for the body to vote on?

MR. BENGZON: Mr. Vice-President, I move that lines 13 to 18 on page 1 of the proposed Article on General Provisions be deleted.

THE VICE-PRESIDENT: Is the body ready to vote?

So, a vote of "yes" means deletion; a vote of "no" means against the deletion.

MR. RODRIGO: Just a minute.

VOTING

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

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

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

The results show 20 votes in favor, 3 against and 2 abstentions; so, the motion to delete the first paragraph of Section 3 is approved.

Commissioner Bengzon is recognized.

MR. BENGZON: Mr. Vice-President, may I invite the attention of this body to Section 7 of the Article on Civil Service which reads:

No elective or appointive public officer or employee shall receive additional or double compensation unless specifically authorized by law nor accept without the consent of the Congress any emolument or official title of any kind from any foreign government.

I would like to introduce a new sentence which will be the first sentence of Section 3 of this Article on General

Provisions, which reads: "PENSIONS OR GRATUITIES SHALL NOT BE CONSIDERED AS ADDITIONAL DOUBLE OR INDIRECT COMPENSATION."

MR. GUINGONA: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: During the discussion between Commissioners de Castro and Monsod, Commissioner Monsod made a manifestation that if he remembered correctly, this matter had been taken up when we were discussing the provision that Commissioner Bengzon had just read. He was of the opinion that a decision or a sense of the Commission had been expressed then.

Since his manifestation was prefaced by the words, "if I remember correctly," I suggest that we look into the records. If the suggested section of Mr. Bengzon is approved and found contrary to the sense of the Commission in our deliberation of Section 7, this would, in effect, be a motion for reconsideration.

MR. MONSOD: Mr. Vice-President.

MR. GUINGONA: I am not yet through. On the other hand, if it is the same, then there would be no need for this provision because there is already the sense of the Commission that we are exempting pensions and gratuities.

MR. MONSOD: Mr. Vice-President, may I reply to that?

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I think if one reads Section 7, there is a room for a second sentence that is now being introduced by Commissioner Bengzon. The records of the discussions form only a secondary source of interpretation. If we approve this sentence and it is transposed, then this letter will constitute the intent of the body. We do not even need to go into the interpretation of the debate in the Journal.

So, our position is that in order to be explicit about the exemption from double compensation of pensions and gratuities, we approve this now, and then the mechanical transposition of this sentence to Section 7 will clarify the intent of Section 7.

THE VICE-PRESIDENT: What does the committee say?

MR. GUINGONA: Mr. Vice-President, I do not see how the Sponsorship Committee can transpose this even if it is the sense of the Commission now, expressly stated, when there is another sense, a contrary sense that has been expressed when we were discussing the same provision in Section 7. In other words, it would have to remain in this article. We cannot transpose this to the Article on Civil Service because it would be contradictory. In that particular section, there will be a sense of the Commission that there is no exemption. How can we then transpose this provision on exemption to that particular section?

MR. MONSOD: Mr. Vice-President, may I just clarify? Precisely, what we were saying earlier was the intent of Section 7; that is, to exempt pensions and gratuities. There is nothing in the letter of Section 7 which says: "that pensions and gratuities are included within the purview of the prohibition."

I think Commissioner Guingona is assuming that there is a contrary interpretation under Section 7.

MR. GUINGONA: Yes.

MR. MONSOD: There is none, as we are saying.

MR. GUINGONA: The assumption came about because of the words used by Commissioner Monsod himself. He

said, "if I remember correctly." That means he is not even sure. Now, he is proclaiming that he is sure. So, if he is sure, then I will accept his word. But before he was saying, "if I remember correctly." That is a clear statement of the fact, a clear admission that he was not sure of his statement.

MR. BENGZON: Mr. Vice-President.

MR. MONSOD: I did not say that I remember correctly, that there was a prohibition. I said, "if I remember correctly, this comes within the meaning"; so it is consistent.

MR. BENGZON: Mr. Vice-President.

THE VICE-PRESIDENT: What does the committee say?

MS. ROSARIO BRAID: We accept the amendment.

MR. BENGZON: We are ready to vote with the acceptance of the committee.

THE VICE-PRESIDENT: Is the body ready to vote on the proposed insertion? Will the Commissioner restate his amendment?

MR. BENGZON: "PENSIONS OR GRATUITIES SHALL NOT BE CONSIDERED AS ADDITIONAL DOUBLE OR INDIRECT COMPENSATION."

THE VICE-PRESIDENT: Is the body ready to vote?

MR. BENGZON: Yes, Mr. Vice-President.

VOTING

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

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

The results show 22 votes in favor and 1 against; so, the insertion is approved.

The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Monsod be recognized for the second sentence.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Mr. Vice-President, I would like to propose that the second sentence of Section 3 be amended by inserting the words: "OR BY THE FUNCTIONS OF HIS POSITION" and the phrase "SHALL ANY APPOINTIVE OFFICIAL." So the second sentence will read: "Unless required by law, OR BY THE FUNCTIONS OF HIS POSITION, neither SHALL ANY APPOINTIVE OFFICIAL hold any other office or employment in the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations OR THEIR SUBSIDIARIES."

The last amendment is already an approved amendment from Commissioner Davide, "OR THEIR SUBSIDIARIES."

MR. OPLE: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Monsod yield to a question before we react or before the committee acts on the

proposed amendment.

MR. MONSOD: Gladly.

MR. OPLE: We are providing two exceptions here by way of restriction on holding an extra or additional position for appointive office holders — one is by law and the other is by function. Is Commissioner Monsod comfortable with bracketing functions with a law?

MR. MONSOD: I think there are instances where the law specifically requires the ex-officio membership of certain officials in other offices or corporations, but there are also instances which need not be required by law but is necessary by reason of the function of the office. An example is the Ministry of Trade and Industry. With respect to corporations organized under the General Corporation Law, which are subsidiaries of MBC, there are no ex-officio requirements for membership of the board in those companies because these are not by special charter.

MR. OPLE: The point of my concern is that the functions of an office may, in certain cases, even in appropriation ones, be construed if the determining authority is lodged in the same agency of the government, so that we virtually nullify the intent of the entire section unless Commissioner Monsod can think of a way to restrict the construction of the word "FUNCTIONS," so that it is not to be taken as a blanket exemption or potentially a blanket exemption from the very intent of this section.

MR. MONSOD: I would be willing to accept an amendment that would qualify the word "FUNCTIONS" in order to impart that interpretation. Although I would think that when we talk about functions, these are enumerated as the functions of, say, a ministry or an office, and it does not include interpretations for purposes of getting additional allowances or anything of the sort.

MR. OPLE: We have no difficulty at all with ex-officio chairmanships and board memberships, let us say, of certain members of the Cabinet because these are provided for by law which means that in a charter, for example, creating the Land Bank of the Philippines, the Ministers of Agrarian Reform, Labor and Finance, are specifically designated as ex-officio members. Our problem begins with the possibility of a broad construction of the term "FUNCTIONS," so that it can be stretched to its limits in the future for some office holders to take advantage of it as a loophole for circumventing the laudable intent of Section 3.

But in any case, I just want to seek that clarification.

Thank you, Mr. Vice-President.

MR. DE LOS REYES: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: May I be allowed to propound some questions to Commissioner Monsod?

MR. MONSOD: Gladly.

MR. DE LOS REYES: Page 66 of yesterday's Journal states that the Commission changed the word "required" to "ALLOWED" and this was accepted by the committee and approved by the body. Later on when the Commissioner was required to read the entire amendment, he again used the words "unless otherwise ALLOWED" and that is on pages 73 and 74 of yesterday's Journal. I hear now that the Commissioner has again changed the word "ALLOWED" to "REQUIRED," which is which now?

MR. MONSOD: Our proposal is "required by law." We went back to the original wording of the committee.

MR. DE LOS REYES: So, in effect, it is a reconsideration of what has been approved by the body yesterday?

MR. MONSOD: If the Commissioner wants to put it that way, yes.

MR. DE LOS REYES: I really do not have any serious objection: I just want to clarify the record.

Thank you.

THE VICE-PRESIDENT: What does the committee say?

MS. ROSARIO BRAID: We accept the amendment.

MR. MONSOD: May I just restate the proposed amendment before the voting?

THE VICE-PRESIDENT: The Commissioner may restate.

MR. MONSOD: "Unless required by law, OR BY THE FUNCTIONS OF HIS POSITION, NO APPOINTIVE OFFICIALS SHALL hold any other office or employment in the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations OR THEIR SUBSIDIARIES."

THE VICE-PRESIDENT: Is there any objection to paragraph 2 of Section 3 as reworded which was accepted by the committee?

MR. OPLE: Mr. Vice-President, will Commissioner Monsod — I do not know if it is seasonable at this time, we have not acted on it yet — consider an amendment to the word "FUNCTIONS" so that it will read: "THE PRIMARY FUNCTIONS"?

MR. MONSOD: I will accept that amendment.

MR. OPLE: I hope the committee so decides as well.

Thank you, Mr. Vice-President.

MS. ROSARIO BRAID: We accept.

THE VICE-PRESIDENT: Is there any objection?

BISHOP BACANI: May we just ask Commissioner Ople what he means by that distinction "PRIMARY FUNCTIONS"?

MR. OPLE: The term "PRIMARY FUNCTIONS" will refer to — if there is a charter — the charter functions of the office holder, if he is a political appointee, say, a Minister or if he is Minister of National Defense whose primary function pertains to national security. That would restrict him from invoking this paragraph in order to occupy such position as chairman or member of the board of directors of companies wholly unrelated or only incidentally related to his primary function as Minister of National Defense in charge of national security. So, I suppose it is a restricting term in order to satisfy the intent of this Section 3.

BISHOP BACANI: Thank you.

MS. ROSARIO BRAID: Mr. Vice-President, we accept the amendment.

MR. RAMA: The body is ready to vote, Mr. Vice-President.

THE VICE-PRESIDENT: The word "PRIMARY" was accepted by the proponent, Commissioner Monsod, and also by the committee. Paragraph 2 of Section 3 as reworded or amended is accepted.

Is there any objection to the approval? (Silence) The Chair hears none; the motion is approved.

The Floor Leader is recognized.

MR. RAMA: Mr. Vice-President, I ask that Commissioner Jamir be recognized.

THE VICE-PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Mr. Vice-President, I have an amendment by substitution for Section 4 of the committee draft on the Article on General Provisions. My cosponsors for this are: Commissioners Colayco, Monsod, Ople and Rama. It reads: "It shall be the DUTY of the State to provide IMMEDIATE AND adequate care, benefits AND OTHER FORMS OF ASSISTANCE TO war AND INSURGENCY veterans, THEIR WIDOWS AND ORPHANS, WHICH SHALL IMPROVE THEIR condition in life. THEY shall be given preference in the DISPOSITION of public AGRICULTURAL lands and the development of natural resources."

Copies of this amendment were distributed yesterday.

MR. OPLE: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I am an author and I am proud to be one but I was somewhat remiss in being unable to make the suggestions to the principal proponent, Commissioner Jamir, yesterday. I hope I can be allowed to claim the opportunity to do so now. This is just a minor amendment to improve the whole paragraph. Is the word "IMMEDIATE" really of a very urgent importance so that it should be included in this constitutional provision?

MR. JAMIR: It is deemed so, because of the fact that many deserving veterans are in dire need of help from the government.

MR. OPLE: Can we just put this intent on the record that the meaning of "adequate care, benefits AND OTHER FORMS OF ASSISTANCE" partakes of immediacy and urgency?

MR. JAMIR: So, it is the Commissioner's suggestion to delete the word "IMMEDIATE"?

MR. OPLE: Yes, provided that it is clearly recorded that that is the intent of the proponent, the committee and the Constitutional Commission.

MR. DE CASTRO: Mr. Vice-President, the committee has been furnished this amendment by substitution by Commissioner Jamir, and we are prepared to accept it with the word "IMMEDIATE." To my understanding the word "IMMEDIATE" means now, not tomorrow.

MR. OPLE: Yes.

MR. DE CASTRO: Our veterans are there — old, maimed and needing care. If we will not put the word "IMMEDIATE," it is possible that many of them would die already before the care can be given to them.

MR. OPLE: I am not opposed.

MR. DE CASTRO: They have long been waiting for this care. So I would suggest that Commissioner Ople would not remove the word "IMMEDIATE."

MR. OPLE: It is just a matter of form because we are writing a constitutional provision and not a law. I will not press it if the committee insists. However, I also would like to propose the deletion of another phrase here, "AND INSURGENCY" between the words "war" and "veterans." Can we just keep the "war veterans" and record it very clearly and equivocably that this phrase also includes those who have fought the insurgency drives of the government for the interest of national security?

MR. JAMIR: The word "INSURGENCY" here, Mr. Vice-President, was inserted because of Commissioner Monsod's interpellations of Commissioner de Castro yesterday. When Commissioner Monsod asked whether those victims or military officers and men engaged in insurgency operations may not be considered as among those to be benefitted by this provision, there was that favorable reply of Commissioner de Castro that they should be included. Hence, the inclusion of this thing.

MR. OPLE: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: It is along the same line because it is not clear to me what insurgency means. I seem to understand from Commissioner Jamir that that has reference not to the insurgents but rather to those who campaign against the insurgents. Is it the understanding?

MR. JAMIR: That is correct.

FR. BERNAS: So, the Commissioner wants to cover not just those who fought in a declared war but also those who fought in peace-keeping campaigns?

MR. JAMIR: Yes. The word "war" here refers originally to the veterans. It includes those who fought in 1896, in the First World War, Second World War, Vietnam and Korea.

FR. BERNAS: Could we just substitute for this phrase "war AND INSURGENCY, " "MILITARY CAMPAIGN VETERANS"?

MR. JAMIR: I have no inconvenience.

MR. SARMIENTO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I be allowed to comment on the words "INSURGENCY VETERANS." I wish to go beyond the wish of Commissioner Ople that this should be read into the records. I am expressing my reservations with respect to the word "INSURGENCY." So, my comment will be in the form of a request for deletion.

May I briefly explain, Mr. Vice-President.

Insurgents or rebels are our brother Filipinos. Not that I want to validate or justify insurgency in our country, but many of these insurgents or rebels went to the countryside, or many of our Filipinos became rebels because of the iron and blood, stick and whip policy of the past administration.

Secondly, we might be preempting the ceasefire efforts being conducted by the government.

I think the hope is that this problem will be wiped out, will be resolved; and, thirdly, there are reports in the countryside that many of these insurgent veterans or soldiers engaged in pacifying the countryside are guilty of human rights violations. So, it would be unfair to provide adequate care, benefits and other forms of assistance to the insurgent veterans because this would mean justifying human rights violations committed against the people in the rural areas and countryside. So, I wish the committee and the proponents will reconsider their decision of incorporating the word "insurgency" explicitly or by mere intent.

MR. OPLE: Mr. Vice-President, I was the original proponent of that deletion.

FR. BERNAS: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: May I reply briefly to the point just made by Commissioner Sarmiento.

I want to take advantage of my remaining time on the floor. I hope I still have the floor as the original proponent to explain why the term "INSURGENCY" should be dropped. I think Commissioner Sarmiento is partly right in pointing out that we are dealing with a dynamic situation now. I think we can take cognizance as a Commission of the fact that there are negotiations that are on the way or are about to take place that would seek to heal, precisely, these wounds of a nation. And therefore, since the framing of the Constitution coincides with this dynamic historic effort, it might be prudent to delete the word "INSURGENCY" here. I would insist, however, that our soldiers who fight be called as what Commissioner Bernas termed properly as "VETERANS OF MILITARY CAMPAIGNS." These soldiers should be included in the scope of care, benefits and other forms of assistance. I am not foreclosing the possibility that what happened about a decade ago would be repeated where the Hukbalahaps were finally recognized as legitimate and bona fide veterans entitled to the same benefits as those who had fought them in an earlier campaign, especially in Central Luzon and in the Southern Tagalog regions, because the time has become propitious for a reconciliation and solidarity. So, may I reiterate my proposal. I move for the deletion of "AND INSURGENCY," but I ask that it merely be recorded that the intent of the proponent, the committee and the floor is to include "VETERANS OF MILITARY CAMPAIGNS" in the phrase of Commissioner Bernas within the compass or the purview of all these care, benefits and other forms of assistance extended to war veterans.

MR. RAMA: Mr. Vice-President.

MR. JAMIR: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Jamir restate his amendments so we can proceed with the voting.

MR. JAMIR: No, we would like to request that the session be suspended for one minute so we can afford to discuss with the proponents.

MS. ROSARIO BRAID: Yes.

SUSPENSION OF SESSION

THE VICE-PRESIDENT: As requested, the session is suspended.

It was 10:44 a.m.

RESUMPTION OF SESSION

At 10:50 a.m., the session was resumed with the Honorable Christine Tan presiding.

THE PRESIDING OFFICER (Sr. Tan): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Madam Presiding Officer, the proponents and the committee members have reached an agreement as to the new formulation for Section 4. May I ask that Commissioner Jamir be recognized.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Jamir is recognized.

MR. JAMIR: Madam Presiding Officer, the new formulation as agreed upon with several Members of the Commission, together with Commissioner de Castro, reads as follows: "It shall be the DUTY of the State to

provide IMMEDIATE AND adequate care, benefits AND OTHER FORMS OF ASSISTANCE TO war veterans AND VETERANS OF MILITARY CAMPAIGNS, THEIR WIDOWS AND ORPHANS, AND TO PROVIDE FUNDS THEREFOR. THEY shall be given preference in the DISPOSITION of public AGRICULTURAL lands and the development of natural resources."

MR. SARMIENTO: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Madam Presiding Officer.

Before we vote on this proposed amendment, may I address a few questions to Commissioner Ople.

MR. OPLE: Very gladly, Madam Presiding Officer.

MR. SARMIENTO: A few years ago the Integrated Bar of the Philippines, headed by Justice J.B.L. Reyes assisted by now Solicitor General Ordoñez, and Head of the Presidential Committee on Human Rights, Jose W. Diokno, conducted a study of hamletting, food blockades, and saturation drives conducted by the military in Mindanao. They reported that hamletting, food blockades, and saturation drives are part of military campaigns against insurgents.

Will the soldiers who took an active part in these military campaigns be beneficiaries of this proposed amendment?

MR. OPLE: Madam Presiding Officer, I suppose that there is a burden of proof involved here. There is a presumption in law of regularity and good faith. I think that if this section is approved, the burden will rest on those who want to challenge the entitlement of soldiers allegedly engaged in hamletting and other forms of human rights violations to show that they are not entitled because of that.

MR. SARMIENTO: Another question: As part of the pacification drive conducted by the military, strafing and bombings were committed in the countryside. Will the participants in this drive be covered by this proposed amendment?

MR. OPLE: I would make the same reply as I had already stated, Madam Presiding Officer. May I also point out that under the stress of combat conditions, both sides tend now and then — and I speak of a tendency and not an iron law — to exceed the bounds of their authority; and this is true of both combatant forces.

I suppose that at the proper time, if there are human rights crimes committed by troops, anyone can raise this question in order to challenge the entitlement of a veteran or the widow and orphans under this section.

MR. SARMIENTO: Will the Commissioner agree with me that those who are charged with human rights violations before appropriate bodies and those convicted will not be beneficiaries of this proposed amendment?

MR. OPLE: I do not feel very prepared to answer that in black and white, because in the case of an enlisted man, a private or a corporal or a sergeant who must follow orders, it may be under the pressure of very urgent situations in the field. They may not have the reasonable time to ponder the lawful character of such orders. In the military, this nature is of a critical trait and is not part of the principle of selecting those who become soldiers and sometimes even officers.

So, I would say that unless there is an overwhelming proof to show that a sergeant, a corporal or a private has committed a crime in human rights, he or his widow and orphans should not be denied the protection of this section.

MR. SARMIENTO: With that answer which has so many qualifications, I still have my reservations with the inclusion of soldiers who took part in insurgency drives or military campaigns, although I am not against war veterans. I am fully supportive of this proposal insofar as war veterans, their widows and orphans are concerned, but with respect to the participants in pacification drives at present and in the past — during the past regime — I have my reservations.

Thank you, Madam Presiding Officer.

MR. OPLE: Madam Presiding Officer, I want to thank Commissioner Sarmiento for completing the record of this debate in the period of amendments. I also would like to call his attention to what I put on the record, that one reason we want to drop insurgency here is that we do not want to foreclose the possibilities that in the future when the time has become propitious, we can even consider the kind of generosity that the government demonstrated for ex-Hukbalahaps who fought in the field against the troops of the Armed Forces of the Philippines, and who also, under a later law, acquired their own entitlement to benefits of this nature.

Thank you, Madam Presiding Officer.

MR. RAMA: Madam Presiding Officer, may I ask that Commissioner Padilla be recognized for an amendment to the amendment.

THE PRESIDING OFFICER (Sr. Tan): The Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA: This is a minor suggestion. I notice that in the original the first sentence reads: "It shall be the responsibility of the State"; now it has been changed to "It shall be the DUTY of the State."

This seems to be much stronger than the phrase "The State shall" because we are imposing a clear duty on the part of the State.

Would the proponents and the committee consider saying "CONGRESS SHALL TAKE STEPS to provide adequate care. . .?"

THE PRESIDING OFFICER (Sr. Tan): May we know the response of the proponent?

MR. DE CASTRO: We have not yet accepted the proposed transposition of Commissioner Jamir, so we will first refer the question to him.

MR. JAMIR: Will the Commissioner kindly repeat his question?

MR. PADILLA: Before, it said "It shall be the responsibility of the State"; now it says "It shall be the DUTY of the State "

In my opinion, that is even stronger than "The State shall."

MR. JAMIR: Originally, the word was really "responsibility," but in my discussion yesterday with Commissioners de Castro and Colayco, it was agreed that "DUTY" is a better word than "responsibility."

MR. PADILLA: I am suggesting whether we could consider saying that it is a mandate to the Congress: "CONGRESS SHALL TAKE STEPS to provide adequate care . . ."

SUSPENSION OF SESSION

MR. JAMIR: I move that we suspend the session.

THE PRESIDING OFFICER (Sr. Tan): The session is suspended.

It was 11:00 a.m.

RESUMPTION OF SESSION

At 11:05 a.m., the session was resumed.

THE PRESIDING OFFICER (Sr. Tan): The session is resumed.

MR. RAMA: Madam Presiding Officer, I ask that Commissioner Jamir be recognized for the new and the latest reformulated provision.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Jamir is recognized.

MR. JAMIR: Madam Presiding Officer, the latest formulation and I hope, the final, reads as follows: "THE STATE SHALL PROVIDE IMMEDIATE AND ADEQUATE CARE, BENEFITS AND OTHER FORMS OF ASSISTANCE TO WAR VETERANS AND VETERANS OF MILITARY CAMPAIGNS, THEIR WIDOWS AND ORPHANS. FUNDS SHALL BE PROVIDED THEREFOR AND PREFERENTIAL CONSIDERATION SHALL BE GIVEN THEM IN THE DISPOSITION OF PUBLIC AGRICULTURAL LANDS AND, IN APPROPRIATE CASES, THE DEVELOPMENT OF NATURAL RESOURCES.

MR. RAMA: Madam Presiding Officer.

MR. JAMIR: May we know from the committee what is its reaction to this proposal?

MR. RAMA: I move that we take a vote on that provision.

FR. BERNAS: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bernas is recognized.

FR. BERNAS: May I ask for the deletion of the word "PREFERENTIAL." Let me explain a little bit. We are dealing here with land and natural resources which are limited and permanent in their size and availability. It is an augmentable resource and to set a limit on the State as to just how these are to be disposed of could be prejudicial to the public interest. We should leave it to the State to consider who should be preferred based on the need but not on the status or profession. They can be given consideration on the basis of need but not preferential consideration because others may, in fact, need this more than they do.

MR. DE CASTRO: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

Although the committee has not yet accepted the proposed formulation of Commissioner Jamir, we are poised to accept the same and I will say that it is necessary that our war veterans be given that preferential consideration in the disposition of public lands. The reason is that these war veterans when they put their lives on the line for our country did not choose the word "preferential," they just gave their lives for it. It will be just an honorable stand of a country to recognize these people who gave up their lives for the country and what we are asking is just a little preferential treatment in the acquisition of public lands.

THE PRESIDING OFFICER (Sr. Tan): May we know the opinion of the proponent? Does Commissioner Jamir accept the proposed amendment of Commissioner Bernas?

MR. JAMIR: May I propose a happy solution? Instead of the word "PREFERENTIAL," the favorite word of

Commissioner de Castro, we insert the favorite word of Commissioner Aquino, which is the word, "DUE" so it will read: "AND DUE CONSIDERATION SHALL BE GIVEN."

FR. BERNAS: That would be adequate for me. The only thing I want to say is that the distribution of land should be based on need not on status.

THE PRESIDING OFFICER (Sr. Tan): So Commissioner Bernas accepts the amendment to the amendment. What does the committee say?

MR. DE CASTRO: We accept the amendment as amended by Commissioner Bernas but we want to put in the record that when we say, "DUE" it is the preferential treatment that our war veterans should be given in the disposition of public lands and in the development of natural resources.

MR. RAMA: Madam Presiding Officer, the body is now ready to vote.

MR. JAMIR: I want to clarify something. Commissioner de Castro said that he is accepting the proposal of Commissioner Bernas, it should be the Bernas-Aquino proposal, because we deleted the word "PREFERENTIAL" and instead we inserted the word "DUE."

MR. RAMA: Madam Presiding Officer, we are ready to vote.

MR. DE CASTRO: Madam Presiding Officer, for clarification. We would like to make it clear on the record that when we speak of war veterans we speak of the veterans of our revolution in 1896, World War I, World War II, our campaigns in Korea and in Vietnam. When we speak of veterans of military campaigns, these include the veterans who campaigned against the Hukbalahaps, from 1945 to 1960, the Hukbong Magpapalaya ng Bayan. The Hukbalahap changed their name to HMBs, and also to the NPAs now.

That is the only clarification that I would like to say when we speak of war veterans and veterans of military campaigns.

Thank you, Madam Presiding Officer.

MR. RAMA: Madam Presiding Officer, the body is ready to vote.

THE PRESIDING OFFICER (Sr. Tan): The body is ready to vote. Will the proponent please read the whole section.

MR. JAMIR: "THE STATE SHALL PROVIDE IMMEDIATE AND ADEQUATE CARE, BENEFITS AND OTHER FORMS OF ASSISTANCE TO WAR VETERANS AND VETERANS OF MILITARY CAMPAIGNS, THEIR WIDOWS AND ORPHANS. FUNDS SHALL BE PROVIDED THEREFOR AND DUE CONSIDERATION SHALL BE GIVEN THEM IN THE DISPOSITION OF PUBLIC AGRICULTURAL LANDS AND, IN APPROPRIATE CASES, IN THE DEVELOPMENT OF NATURAL RESOURCES."

VOTING

THE PRESIDING OFFICER (Sr. Tan): As many as are in favor of the new section, please raise their hand. (Several Members raised their hand.)

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

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

MR. SARMIENTO: Madam Presiding Officer, I abstain, although I am of the idea for giving support, care and attention to war veterans, widows and orphans. I have my reservations with respect to giving the same treatment

to soldiers who took part in counterinsurgency drives, thereby resulting in human rights violations.

THE PRESIDING OFFICER (Sr. Tan): The results show 26 votes in favor, none against and 3 abstentions; the new section is approved.

The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Monsod be recognized.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: Madam Presiding Officer, I would like to move for the deletion of Section 5 on the ground that it is unnecessary. When we are silent about it, then those salaries are taxable, so there is no need to state in the General Principles of the Constitution that they will not be exempt from tax. So, I move for the deletion of Section 5.

MR. OPLE: Madam Presiding Officer, may I support the proposed amendment by deletion on the ground that this is unnecessary.

THE PRESIDING OFFICER (Sr. Tan): What does the committee say?

MR. NOLLEDO: Madam Presiding Officer, this provision was embodied in the 1973 Constitution in order to avoid having Congress pass a law exempting certain government officials for one reason or another. We would like that the burden of taxation be shared by all officials, officers and employees, as well as workers in the government. This provision was designed to do away with the Supreme Court Doctrine in *Perfecto vs. Meer* that taxing the salaries of Justices of the Supreme Court will be equivalent to diminishing their salary during their tenure of office and would be considered unconstitutional. If we delete this provision, we might revert to the *Perfecto vs. Meer* doctrine and we might also open the way for Congress to pass a legislation that will exempt certain government officials from taxation. All tax burdens should be shouldered by all taxpayers regardless of their status or positions in the government.

MR. OPLE: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Ople is recognized.

MR. OPLE: I would like to remind the committee that this Commission earlier struck down a proposal to grant tax exemption to members of the Supreme Court precisely on the grounds stated by Commissioner Nollado. I think Congress, even when left to the exercise of its discretion and power, will know that any attempt to pass a law granting tax exemption to members of the judiciary in the light of that Supreme Court decision would run into strong resistance from public opinion, especially when the public remembers what we did here, not because we derogated the importance of the independence of the judiciary but because we believe that there should be no islands of privilege in the Philippine government. Therefore, we voted to eliminate this tax exemption for the salaries and incomes of the members of the judiciary. Will not these records of the Constitutional Commission be a sufficient signal to future Congresses that they should be guided by the decision of this Commission on that issue of income tax exemption for members of the Supreme Court?

MR. NOLLEDO: Do I understand it right that if we delete this provision the Supreme Court is also precluded from deciding a case that taxing salaries of constitutional officers including the members of the Supreme Court will not amount to diminution of their salary?

MR. OPLE: It will not amount to a diminution of their salary when they pay income taxes.

MR. NOLLEDO: Notwithstanding that, Madam Presiding Officer, we are submitting the question to the floor.

MR. RAMA: Madam Presiding Officer, I ask that Commissioner Bernas be recognized for a short remark.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bernas is recognized.

FR. BERNAS: The question is not whether Congress may or may not pass a law exempting them from tax, but the purpose precisely is to preclude the Supreme Court from following its earlier decision in *Perfecto vs. Meer*. In *Perfecto vs. Meer*, the Supreme Court said that their salaries could not be subject to income tax because their salaries may not be diminished, and income tax is a diminution of their salary. It was for that reason that the 1973 Constitution put this in, precisely in order to countermand that decision of the Supreme Court. If we take this out now, we would seem to be giving the signal again that we are back to the doctrine in *Perfecto vs. Meer*.

So, this is not a question of whether Congress will exempt them from taxes or not. It is just a question of whether the Supreme Court could go back to that doctrine. That is why in order to cover everybody whose salary under the Constitution may not be diminished during their tenure, I would be for the elimination of the phrase "including those of the Constitutional Commission." In other words, salaries and compensations of all government officers, whether they are justices of the Supreme Court or Members of the Constitutional Commission, should not be exempt from tax. This is the purpose of this deletion.

MR. OPLE: Madam Presiding Officer.

MR. RAMA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Bernas reply to just one question?

FR. BERNAS: Willingly.

MR. OPLE: If this is deleted but the records reflect the clear and unambiguous intent of the Constitutional Commission that Congress should not pass any law granting tax exemption . . .

FR. BERNAS: The problem is not Congress passing a law, but the Supreme Court going back to its original decision.

MR. OPLE: Will not a recording of that intent, that this doctrine of the Supreme Court is not acceptable to this Commission in connection with Section 5, be a sufficient deterrent? I think we want a deletion for the simple reason that if an intent will suffice, then we ought not to clutter the General Provisions with provisions of this nature, that are in the nature of constitutional reactions to a previous decision of the Supreme Court. Will Commissioner Bernas agree to that interpretation of the situation at hand?

FR. BERNAS: I would not, because an intent that is not expressed in the text is not superior to *stare decisis*.

MR. RAMA: Madam Presiding Officer, the issue has been sufficiently clarified and the body is ready to vote.

THE PRESIDING OFFICER (Sr. Tan): Will Commissioner Monsod read his motion?

MR. PADILLA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): The Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA: I heard Commissioner Nollado say that this Section 5 of the committee report was included in the 1935 or 1973 Constitution?

MR. NOLLEDO: No, I did not say 1935. I refer to the 1973 Constitution. That was the Montejo proposal. It is found in the 1973 Constitution. Cirilo Montejo was the author of that provision.

MR. PADILLA: Mention was made of the decision in Perfecto vs. Meer, but that case involved the salaries of the Supreme Court justices. That was Justice Perfecto. That case did not involve the salary of other government officials or public officers. Is that not true?

MR. NOLLEDO: Yes, but there are provisions applicable to justices and are likewise applicable to the chairmen and Members of the Constitutional Commissions.

MR. PADILLA: But that decision was a particular application of the provision stating that the compensation shall not be diminished during their continuance in office. That had reference to the Supreme Court. It did not refer to other government officials or public officers.

MR. NOLLEDO: It must necessarily refer also to government officials who are similarly situated with the justices of the Supreme Court.

MR. PADILLA: Only if there is a specific provision that will also provide that their specific salaries fixed by law shall not be diminished.

MR. NOLLEDO: Correct.

MR. PADILLA: Nor increased.

MR. NOLLEDO: The Commissioner is correct.

MR. PADILLA: But unless there is such a provision about the judiciary in particular, I think that was intended in particular to the judiciary including the judges of the Courts of First Instance or, because the intention was to heighten, to strengthen the independence of the judiciary. But that cannot apply to other government offices unless there be also a constitutional provision granting them the same privilege that their salaries not be diminished during their term of office.

MR. NOLLEDO: Yes.

MR. PADILLA: So, there is really no pertinence or relevance of the Perfecto vs. Meer decision and the constitutional provision regarding Supreme Court or the judiciary with regard to all that is provided here for all government officials.

MR. NOLLEDO: I beg to disagree.

MR. PADILLA: It could really be public officers.

MR. NOLLEDO: There is relevance as pointed out by Commissioner Bernas.

MR. PADILLA: Yes, but it has no application. That is a decision that is limited to the salary of the Supreme Court justices.

THE PRESIDING OFFICER (Sr. Tan): The Floor Leader is recognized.

MR. RAMA: We are ready to vote, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Will the committee please read the motion?

MR. RAMA: This is as motion to delete. I would like to ask Commissioner Monsod to restate his motion.

MR. MONSOD: Madam Presiding Officer, the motion is to delete Section 5.

VOTING

THE PRESIDING OFFICER (Sr. Tan): As many as are in favor of deleting Section 5, please raise their hand. (Several Members raised their hand.)

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

The results show 15 votes in favor of deleting Section 5 and 11 against; so, the motion is approved.

We now go to Section 6. The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Sarmiento be recognized.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam Presiding Officer, this is in connection with Section 6. This is jointly authored by Commissioners Bennagen, Ople and this Representation. This is about the creation of an office to advise the President on policy problems affecting indigenous cultural communities. May I briefly explain?

THE PRESIDING OFFICER (Sr. Tan): The Commissioner may proceed.

MR. SARMIENTO: This provision will affect approximately 4.8 million indigenous people; namely,

1. the Lumads of Mindanao with 19 major groups
2. the Caraballo tribes of Eastern Central Luzon
3. the Negritos and Dumagats in Sierra Madre and coastal areas
4. the Mangyans of Mindoro
5. the hill tribes of Palawan

The justifications of this provision, Madam Presiding Officer, are: The indigenous communities of the Philippines that I mentioned have been subjected to all forms of oppressive laws and have suffered a long history of government neglect. At present, they are the victims of grave and massive injustices and violation of human rights. They are living tributes of our ancestors who have integrity and love for freedom. They have fiercely resisted foreign domination and, lastly, they are proud of their distinct cultures and traditions and continue to assert their commitment to maintain and develop their indigenous culture, social, economic and political systems.

This provision has the support of 22 national organizations.

Thank you, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): May we know the opinion of the committee?

MS. ROSARIO BRAID: Madam Presiding Officer, may we request Commissioner Sarmiento to read the amended provision?

MR. SARMIENTO: The amendment will read as follows: "Congress SHALL create an office to advise the President on policy problems affecting INDIGENOUS cultural COMMUNITIES."

THE PRESIDING OFFICER (Sr. Tan): May we know the opinion of the committee?

MS. ROSARIO BRAID: Madam Presiding Officer, the committee accepts the amendment.

MR. MONSOD: Madam Presiding Officer.

MR. PADILLA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Padilla is recognized.

MR. PADILLA: I know that continuously we have had an office on cultural minorities which has even been elevated to the category of a ministry. This young Elizalde, I think, was Minister on Cultural Minorities. Before that, we had an office for national integration. In other words, we have been having an office, sometimes, more than an office. And the purpose is really to elevate the standards of the cultural minorities, especially in education, in more representation and opportunities, so that they may become an essential element of the body politic. In other words, for national assimilation integration. The problem is, instead of achieving the goal of national integration, sometimes too much stress is on the peculiarities of the cultural minorities. I think we are missing the objective of a national integration for one united people. The more we stress on peculiarities or accidental differences within the Filipino nation, the less will be the achievement of that goal of national integration for one united people.

Madam Presiding Officer, what bothers me is the creation of another office. The committee report was worded as "may." In other words, permissive on the part of Congress. But the way I heard it restated from Commissioner Sarmiento, it is to change the word "may" to "SHALL," so this is again another duty or responsibility imposed upon Congress to create an office. Moreover there may be duplication of offices and an increase in bureaucracy which we should minimize and reduce to make our government simplified and understandable to the common man.

MR. MONSOD: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. RAMA: Madam Presiding Officer, there is an amendment to the amendment that may solve the problem of Commissioner Padilla. May I ask that Commissioner Monsod be recognized.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: Would the proponent or the committee consider an amendment so that it will read: "Congress may create A CONSULTATIVE BODY to advise the President on POLICIES affecting INDIGENOUS cultural minorities"?

THE PRESIDING OFFICER (Sr. Tan): Commissioner Sarmiento is recognized.

MR. SARMIENTO: We are accepting the amendment, Madam Presiding Officer.

MR. BENNAGEN: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: I wish to ask one question of Commissioner Monsod. Do we take it that the consultative body will include representatives from the communities themselves?

MR. MONSOD: Yes, Madam Presiding Officer. Maybe, if the Gentleman wants, we can make that explicit.

MR. BENNAGEN: Yes.

MR. MONSOD: "Congress may create a CONSULTATIVE BODY REPRESENTING THE COMMUNITIES . . ."

MR. BENNAGEN: Or majority.

MR. MONSOD: Yes. But I thought that it is understood, Madam Presiding Officer.

MR. BENNAGEN: It does not have to be completely composed of representatives from the communities.

MR. MONSOD: Would the Commissioner like to reword it, Madam Presiding Officer?

MR. BENNAGEN: "MAJORITY OF WHOM MEMBERS SHALL COME FROM THE INDIGENOUS COMMUNITIES."

MR. MONSOD: I accept that amendment.

MR. BENNAGEN: Thank you.

MR. OPLE: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Ople is recognized.

MR. OPLE: Before we act on the amendment of Commissioner Monsod, by way of acknowledging also some of the points made by Commissioner Padilla, may I just put on record that there is an urgent reason for this section in the General Provisions. During the consideration of the Article on Local Governments, after the Commission approved the autonomous regions for Islamic Mindanao and the Cordilleras, we took note of the fact that there were still around three million Filipinos belonging to different tribes other than Islamic Mindanao and the Cordilleras who were left out of constitutional reckoning at that time; and most of the Luzon tribes do not fall under the Cordillera region or under the Mindanao region. According to Commissioner Bennagen, the magnitude that I cited of about three million such Filipinos is understated because according to official data there are more than four million of them.

And so it is also an act of equity and justice for non-Muslim, non-Cordillera tribes numbering about four million, that the Commission now has the opportunity to give them the same mantle of protection, although of a lesser rank by agreeing to mandate Congress to create this advisory, this consultative body.

Thank you, Madam Presiding Officer.

MR. RAMA: Madam Presiding Officer.

MR. ABUBAKAR: Madam Presiding Officer.

BISHOP BACANI: Madam Presiding Officer, from the committee, just a question for Commissioner Bennagen. The Gentleman proposes the words "indigenous communities," while in the next line the words that appear are "cultural communities." Would the Gentleman like to have a consistent formulation?

MR. BENNAGEN: Yes, please.

BISHOP BACANI: Which formulation would the Gentleman prefer, "cultural COMMUNITIES"?

MR. BENNAGEN: "Cultural COMMUNITIES."

Commissioner Monsod had the final formulation, as amended.

MR. RAMA: Will Commissioner Monsod restate the final formulation.

MR. MONSOD: "CONGRESS MAY CREATE A CONSULTATIVE BODY TO ADVISE THE PRESIDENT ON POLICIES AFFECTING INDIGENOUS CULTURAL COMMUNITIES, THE MAJORITY OF WHOM SHALL COME FROM SUCH COMMUNITIES."

MR. ABUBAKAR: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Abubakar is recognized.

MR. ABUBAKAR: The amendment for a consultative body would not be strong enough if in our conscience we also look for the welfare of these communities. A consultative body would be at the disposal of the President. These indigenous communities or tribal communities, who have no representatives to look after their welfare, will benefit from this consultative body. The President may not have the time to study, to see how these people are attended to by our government.

So, in our conscience, in our hearts, these are the almost abandoned communities in Mindanao, in Luzon and the Visayas. Those of us here who have had no opportunity to see them and their tribal groups or communities may not realize that they are also part of the Philippines, the abandoned people of our country.

Therefore, the suggestion of Commissioner Sarmiento to create precisely an office to look after them, to accept the representations that they may propose, is not only in accordance with our conscience as Filipinos but we should also find it in our hearts to help every sector of the community that is part of the Philippines.

I do not believe that the President will have the time to meet and consult this body. Why should we not create a body to look after their welfare? Why should we not create a body to study how we can advance their status so that finally, they will be in a position to be integrated into our society? A united Philippines is the dream of every Filipino.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Rodrigo is recognized.

MR. ABUBAKAR: Just a minute. I would support the Sarmiento suggestion that an office be created to look after them. Thank you.

MR. RODRIGO: Madam Presiding Officer, before we vote, just one question for Commissioner Monsod.

Before Congress acts or before Congress enacts a law creating this consultative body, may the President, using her own or his own executive powers, create just a body?

MR. MONSOD: Yes.

MR. RODRIGO: Thank you.

MR. BENNAGEN: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: I would like to go on record as saying that the creation of a consultative body does not preclude the creation of a government agency to precisely look into the problems of the indigenous cultural communities.

THE PRESIDING OFFICER (Sr. Tan): Is the body ready to vote?

MR. RAMA: The body is ready to vote.

THE PRESIDING OFFICER (Sr. Tan): May we know the opinion of the committee?

MS. ROSARIO BRAID: The committee accepts and will suggest a vote at this time.

THE PRESIDING OFFICER (Sr. Tan): Will the proponent please read the section.

MR. MONSOD: May I ask Commissioner Bennagen to read it, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you. "CONGRESS MAY CREATE A CONSULTATIVE BODY TO ADVISE THE PRESIDENT ON POLICIES AFFECTING INDIGENOUS CULTURAL COMMUNITIES, THE MAJORITY OF WHOM SHALL COME FROM SUCH COMMUNITIES."

VOTING

THE PRESIDING OFFICER (Sr. Tan): As many as are in favor, please raise their hand. (Several Members raised their hand.)

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

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

The results show 25 votes in favor, 1 against and 1 abstention; the proposed amendment is approved.

MR. RAMA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): The Floor Leader is recognized.

MR. RAMA: To amend Section 7, I ask that Commissioner Monsod be recognized.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: Madam Presiding Officer, I would like to move for the deletion of Section 7. This section is the section that calls for a review by Congress of government ministries, bureaus, agencies and corporations . . .

MR. OPLE: Anterior amendment, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam Presiding Officer.

With the indulgence of Commissioner Monsod, I would like to propose an amendment that should take its place properly with the approved Section 4 on war veterans.

The Gentleman will recall, Madam Presiding Officer, that the government retirees got deleted from Section 4 and that was the subject of a prior agreement with the committee, provided that the welfare of government retirees and other retirees from the private sector may also be recognized in a parallel or subsequent section. And, therefore, in association with Commissioner Nollado, Commissioner de Castro and Commissioner Natividad, may I propose the following Section 5.

MR. MONSOD: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: I believe the subject matter of Commissioner Ople's proposal has nothing to do with Section 7. We can proceed with the deletion of Section 7 without prejudice to a new amendment by him and his coauthors on a provision that will protect the government retirees.

As it is, Section 7 merely authorizes Congress to review offices and ministries and to abolish them so the subject matter is not the same, Madam Presiding Officer.

MR. OPLE: I will not insist on what I consider a proper sequence of this proposal immediately subsequent to Section 4. But I want to make a manifestation, Madam Presiding Officer, and I hope the committee agrees that this should be taken up immediately upon the disposition of Section 7, as proposed by Commissioner Monsod.

Thank you very much.

THE PRESIDING OFFICER (Sr. Tan): The Floor Leader is recognized.

MR. RAMA: We would like to know what is the position of the committee regarding the motion to delete so that we can vote.

MR. NOLLEDO: Madam Presiding Officer, I would like to know the reasons behind the motion to delete, and I reserve the right to speak against the motion.

MR. MONSOD: Madam Presiding Officer, I thought that the interpellation was precisely for the purpose of our putting on record the reasons for our proposed amendments. And yesterday, we already discussed the pros and cons of this section. And if we are going to repeat the debate today, then there was no need to have debated on it yesterday.

MR. NOLLEDO: In that case, Madam Presiding Officer, I would like to speak briefly against the deletion.

It seems to me that there is a misunderstanding of this provision, Madam Presiding Officer. And so, before I give my arguments against the deletion, I would like to read Section 7, as amended by the committee. "Congress shall by law AND WITHIN A SPECIFIED PERIOD PROVIDE FOR THE REVIEW OF THE PERFORMANCE AND MANAGEMENT of government ministries, bureaus, agencies or corporations FOR THE PURPOSE OF DETERMINING THEIR RETENTION REORGANIZATION OR DISSOLUTION."

I see this provision to be in support of the provisions against graft and corruption and the Article on Ombudsman. This will supplement the provisions of the Monsod Committee on Accountability of Public Officers.

I gathered from Commissioner Monsod that if we approve this provision, Congress may by threatening the executive, abolish certain offices in the executive department. I think that argument does not hold water. Because to my mind, Madam Presiding Officer, Congress will merely pass a law and provide for guidelines under which the performance and management of government offices may be reviewed.

And as I stated, in answer to the interpellation of Commissioner Guingona, the members of the body that will be created by Congress — that will undertake the review of the performance and management of government offices — will also come from the executive.

So, I think the fear that Congress may abolish any office in retaliation against the executive is groundless.

In this case, I also observe, Madam Presiding Officer, that we set up bodies to reorganize the government only in case of extraordinary circumstances happening in the country. The first instance was when martial law was declared. And the second instance was when the revolutionary government was set up by the "Cory government."

I take note of the observation of Commissioner Ople that there may come a time when an office may become a Frankenstein in the sense that while it has become a white elephant, it remains there and there is nobody that will determine whether it should be abolished or not.

So, I believe that we need a law under which reorganization may be adopted, as long as the provisions thereof are reasonable.

MR. MONSOD: Madam Presiding Officer.

MR. NOLLEDO: I do not want to see the possibility of destroying the tenure of civil servants because, I think, between the national interest and the self-centered interest of the civil servants, the national interest must prevail.

Thank you, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MS. ROSARIO BRAID: Madam Presiding Officer.

MR. MONSOD: Madam Presiding Officer, I just want to say that the Congress always has the power to enact laws.

Secondly, the task of reviewing and making recommendations with respect to the efficiency or management of government offices, corporations and the like, is already covered by the functions of the Commission on Audit. As a matter of fact, under Section 3 we are mandating Congress to submit reports to the President and to the National Assembly for this purpose. So I think the issues have been joined and I would like to submit this to a vote before the body.

MS. ROSARIO BRAID: Madam Presiding Officer, may I just have one minute?

THE PRESIDING OFFICER (Sr. Tan): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam Presiding Officer, this provision, in fact, encourages productivity and creativity in the civil service. It prevents the bureaucracy — a large bureaucracy — where many of the members become deadwood in the overtime. Organizations have a tendency to become obsolete unless you have a provision like this which will always enable them or encourage them to maintain a degree of efficiency and effectiveness, and I think the criteria and the functions will not adequately cover what we really intend in this provision which is really a positive encouragement to organizational effectiveness.

MR. NOLLEDO: Madam Presiding Officer, the functions of the Commission on Audit have nothing to do with reorganization. They refer to disbursements and use of public funds in auditing. I do not think the Commission on Audit can take the place of this provision.

MR. MONSOD: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: Yes, I would like to ask the committee one question. Does this provision include state colleges and universities?

MR. NOLLEDO: Possibly, Madam Presiding Officer.

MR. BENNAGEN: Thank you, Madam Presiding Officer.

MR. MONSOD: Madam Presiding Officer, may I just clarify a point?

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: Section 3 of the Commission on Audit, which is an independent constitutional commission, authorizes the Commission on Audit not only to audit but to recommend measures necessary to improve efficiency and effectiveness and it can be required at any time to do that. So, what follows after that is the natural process where there can be reorganizations. Madam Presiding Officer, I believe it is time for a vote to see what the sentiment of the body is.

THE PRESIDING OFFICER (Sr. Tan): The Chair believes that the subject has been sufficiently discussed.

MR. OPLE: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Ople is recognized.

MR. OPLE: My name was mentioned by Commissioner Nollado in his remarks and I am very grateful for that — that he remembers part of what I said yesterday in connection with the subject. I really think that in government we ought to have a policy of periodic review so that government institutions may justify their continued existence. However, I think the executive power can deal with this on its own. I think I would have some concern about this sweeping character of this provision and the unsettling impact it would have on the feeling of peace and security of many thousands of our government employees who may wake up one day to find that Congress is threatening their agencies with abolition. And that is the reason, although my heart is in this provision, I will be constrained to vote for its deletion in the meantime. Thank you, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): May we know the opinion of the committee?

MR. NOLLEDO: Madam Presiding Officer, the fear that we will prejudice the civil servants is insulated by the fact that when Congress abolishes an office, the security of tenure is not adversely affected. We consider Congress as the repository of all governmental authority and, therefore, it has the discretion whether to abolish an office or not. Besides, Madam Presiding Officer, the recommendation will still come from the executive and if there are government officials who are adversely affected, they will be duly compensated.

VOTING

THE PRESIDING OFFICER (Sr. Tan): The body is ready to vote.

As many as are in favor of the deletion of Section 7, please raise their hand. (Several Members raised their hand.)

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

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

The results show 16 votes in favor and 10 against; the deletion of Section 7 is approved.

MR. RAMA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): The Floor Leader is recognized.

MR. RAMA: Commissioner Ople has made a reservation with respect to Section 4 which will be attended to later. In the meantime, I ask that Commissioner Monsod be recognized to amend Section 8.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: Madam Presiding Officer, I believe yesterday the deletions were also explained primarily by Commissioner Tadeo with whom I agree, and I would, therefore, like to move for the deletion of Section 8. The reasons are: One, that we do not think tourism should be constitutionalized because it is a double-edged sword and it would be best to just leave that to the exigencies of the times. Secondly, with respect to the cases, for example, that happened in Mindoro, those are now amply covered by a section that we approved in the Declaration of Principles where it is the duty of the State to maintain a balanced ecology. That would now include implementing actions by the State which would encompass the objective that is here in this Section 8.

MR. NOLLEDO: Madam Presiding Officer, in behalf of the committee, I would like the Commissioner to know that we now favor the motion to delete that provision because we are aware that in the Local Governments Article we have already provided for the development of tourism by the regional governments.

MR. MONSOD: Thank you.

THE PRESIDING OFFICER (Sr. Tan): Is there any objection to the committee's stand to delete Section 8 on

tourism? (Silence) The Chair hears none; the motion to delete Section 8 is approved.

Let us now proceed to Section 9.

MR. ROMULO: Madam Presiding Officer, I ask that Commissioner Monsod be recognized for Section 9.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: Madam Presiding Officer, we have a formulation on Section 9 which I believe has been circulated to the Members of this body and which has been discussed with the committee, and I would like to read it. This would be an amendment by substitution of Section 9.

"THE STATE RECOGNIZES THE VITAL ROLE OF COMMUNICATION AND INFORMATION IN NATION-BUILDING. TO THIS END THE STATE SHALL CREATE THE ENVIRONMENT FOR THE FULL DEVELOPMENT OF FILIPINO CAPABILITY AND THE EMERGENCE OF COMMUNICATION STRUCTURES SUITABLE TO THE NEEDS AND ASPIRATIONS OF THE NATION AND A BALANCED LAW OF INFORMATION WITHIN AND ACROSS THE COUNTRY, IN ACCORDANCE WITH THE POLICY THAT RESPECTS THE FREEDOM OF SPEECH AND OF THE PRESS."

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam Presiding Officer. May I ask Commissioner Monsod a few questions.

May I know from the reference, "to create the environment" what could be entailed by the creation of this environment, and what would this environment be?

MR. MONSOD: Environment means a policy environment, Madam Presiding Officer.

MR. BENNAGEN: Is it a policy environment?

MR. MONSOD: Yes.

MR. BENNAGEN: How about "communication structures," would this mean organizational and physical structures?

MR. MONSOD: No, I would like to call on Commissioner Azcuna because this is a composite of the authors here and that is his phrase. So, may I ask Commissioner Azcuna to answer the question.

MR. BENNAGEN: This suggests a very physicalist model especially in relation to the emergence of communication structures.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Madam Presiding Officer. We include here not only physical structures but even software, the know-how.

MR. BENNAGEN: How about organizational structures?

MR. AZCUNA: Yes, that would be included also, the overall wherewithal in which we can develop the communication system that is suitable to the needs and aspirations of the nation.

MR. BENNAGEN: Thank you, Madam Presiding Officer.

MR. AZCUNA: I just would like to add that we were helped in this formulation by Commissioners de los Reyes, Bernas, Rosario Braid, Monsod and the committee.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Madam Presiding Officer.

MR. BENNAGEN: Madam Presiding Officer, I would suggest an amendment in view of the questions.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: Instead of "create the environment for," simply say "PROMOTE."

THE PRESIDING OFFICER (Sr. Tan): What does the proponent say, Commissioner Azcuna?

MR. MONSOD: The reason we did not put that is because we did not want to give the impression in this section that the State will actively be the prime mover for this because it is quite important in the field of communication and information that market forces and private initiative should be the prime movers and the engines for the growth and capability of Filipinos in this field. So, we wanted to take away the suggestion that the government must necessarily take an active part — promotional role. It was more important that it create a policy environment where this can grow out of its own initiative.

MR. BENNAGEN: I appreciate the concern but the verb "create" seems to me more powerful than simply "promote."

MR. AZCUNA: How about "provide"?

MR. MONSOD: How about "provide"?

MR. BENNAGEN: That is acceptable.

MR. MONSOD: Shall provide the environment.

THE PRESIDING OFFICER (Sr. Tan): Is that acceptable?

MR. MONSOD: That is acceptable, Madam Presiding Officer.

MR. OPLE: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Excuse me. Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Madam Presiding Officer. May I just address one question to Commissioner Monsod before we vote on it? If the Commissioner is aware, the UNESCO approved the creation of a New International Information and Communication Order or the NIICO. This UNESCO proposal approved by the Philippines proposed the formulation of national communication policies which will be participated in by all social sectors concerned through democratic consultation. It has also other proposals to make communication more responsive to the needs of our people. Will this UNESCO proposal of creating a New International Information and Communication Order be covered by these proposed amendments?

MR. MONSOD: Yes, Madam Presiding Officer. As a matter of fact, it would be very consistent with this section.

MR. SARMIENTO: Thank you, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam Presiding Officer. Will Commissioner Monsod entertain an amendment so that we make explicit the nature of the environment that is sought to be created by the State, meaning, as he himself has said, this is a policy environment. If that is the intention and to make the meaning clear, can we insert "policy" before "environment"?

MR. MONSOD: I would accept the amendment, Madam Presiding Officer.

MR. OPLE: Thank you, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam Presiding Officer. In one version of the amendment — and I refer to an earlier version — reference is made to the development of Filipino capability and the balanced flow of information within the country and with other countries. Somehow, that is lost in the amendment just read and the words have been substituted with the words "AND ACROSS THE COUNTRY." I do not think that the words "across the country" reflect faithfully the intent of using "with other countries."

FR. BERNAS: Madam Presiding Officer.

MR. AZCUNA: May I be recognized, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bernas is recognized.

FR. BERNAS: Along the lines of Commissioner Bennagen, in order to satisfy what he is looking for, may I suggest an amendment. Instead of saying "within and across the country" we say "INTO, OUT OF AND ACROSS THE COUNTRY."

MR. BENNAGEN: "INTO, OUT OF AND ACROSS THE COUNTRY." I think that is adequately formulated. Thank you, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): May we have the opinion of the committee?

MS. ROSARIO BRAID: Yes, we accept this formulation which we worked on with different amendments and different provisions suggested by different members of the committee, including Commissioners de los Reyes, Azcuna, Bernas, Monsod, myself and the committee.

Madam Presiding Officer, just for the record, we recognize the efforts of the New Information and Communication Order of which the Philippines has been a participant, for there has been a dozen policy meetings to this effect. There is an information communication policy even for science. So, we are happy that this provision recognizes the efforts that have been done for the past ten years.

THE PRESIDING OFFICER (Sr. Tan): Is the body ready to vote? Will the proponent please read?

MR. PADILLA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Padilla is recognized.

MR. PADILLA: Can we not just adopt the first sentence? "The State recognizes the vital role of communication and information in nation-building."

THE PRESIDING OFFICER (Sr. Tan): May we know what the proponent says?

MR. MONSOD: Madam Presiding Officer, I am sorry, I regret I cannot accept that amendment, precisely because there were several ideas that we wanted to mention explicitly here. Furthermore, the field of communication and information is a new and developing field and we found it necessary to mention certain principles involved in this industry.

MR. PADILLA: Let the Congress decide this matter of communication considering all the other criteria or standards of development. Then it starts, "To this end, the State shall . . ." although the word "create" is changed to "provide" and "to foster the policy, et cetera." Actually this role of communication and information is not the

first or primary duty or function of the State. Commissioner Monsod himself said that this must be the product of development of other forces like the private sectors, the market reactions and so forth. Why should we be so detailed on the second sentence which is very long and its terms are very vague? They are not at all clear nor specific. And I believe that it is better left to the judgment of the Congress to vitalize, because it says "recognizes the vital role" for Congress to perform that function, leaving the matter to its discretion and judgment, depending upon future circumstances and we might even say the improvements that might come with communication in due time.

MS. ROSARIO BRAID: Madam Presiding Officer, we do not accept the proposal of Commissioner Padilla because this provision explicitly states an orientation and a philosophy which we would like to underscore. And the first phrase is not adequate in explaining the kinds of structure and the kinds of philosophy that we would like communication to be reoriented to.

MR. MONSOD: Madam Presiding Officer, may we now request for a vote?

THE PRESIDING OFFICER (Sr. Tan): The Chair believes that the subject has been thoroughly discussed. Will the proponent please read the revised section?

MR. MONSOD: "THE STATE RECOGNIZES THE VITAL ROLE OF COMMUNICATION AND INFORMATION IN NATION-BUILDING. TO THIS END, THE STATE SHALL PROVIDE THE POLICY ENVIRONMENT FOR THE FULL DEVELOPMENT OF FILIPINO CAPABILITY AND THE EMERGENCE OF COMMUNICATION STRUCTURES SUITABLE TO THE NEEDS AND ASPIRATIONS OF THE NATION AND THE BALANCED FLOW OF INFORMATION INTO, OUT OF AND ACROSS THE COUNTRY IN ACCORDANCE WITH THE POLICY THAT RESPECTS THE FREEDOM OF SPEECH AND OF THE PRESS."

THE PRESIDING OFFICER (Sr. Tan): May we know the opinion of the committee?

MS. ROSARIO BRAID: Yes, we accept this amended version of our proposal.

THE PRESIDING OFFICER (Sr. Tan): Is there any objection?

MR. PADILLA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Padilla is recognized.

MR. PADILLA: I made a suggestion which I want to make in the form of an amendment to just limit it to the first sentence and delete the second long sentence.

THE PRESIDING OFFICER (Sr. Tan): It was not accepted by the committee, Commissioner Padilla.

MR. PADILLA: It was not accepted, and I would like the same to be submitted to a vote by the body.

THE PRESIDING OFFICER (Sr. Tan): So, we will vote first on the amendment of Commissioner Padilla to delete everything except the first sentence.

MR. MONSOD: Yes, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): As many as are in favor of the deletion, please raise their hand. (Few Members raised their hand.)

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

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

The results show 4 votes in favor, 19 against and 2 abstentions; the amendment to delete is lost.

MR. MONSOD: Madam Presiding Officer.

MR. BENNAGEN: Madam Presiding Officer.

MR. MONSOD: We now have to vote on the section, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Yes, we will now vote on the section. The stand of the committee is for the section.

Is there any objection? (Silence) The Chair hears none; the section is approved.

MR. BENNAGEN: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: If I recall right, during the deliberations on the Article on Declaration of Principles, mention was made as to whether we should have a statement on communications in the Article on Declaration of Principles, and I think there was a deferment on that decision. May I know what the parliamentary situation is in relation to this provision and the Article on Declaration of Principles?

THE PRESIDING OFFICER (Sr. Tan): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Bernas be recognized. He is more knowledgeable on that.

FR. BERNAS: The first sentence of this section was a sentence that was proposed during the consideration of the Article on Declaration of Principles, then I moved that we defer consideration of this sentence until the time when we consider the Article on General Provisions and without prejudice to throwing the first sentence back to the Article on Declaration of Principles, if the body so decides.

MR. MONSOD: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: May we vote on the entire section first, and then, if necessary, we can put to the floor the question of whether we transpose the first sentence.

THE PRESIDING OFFICER (Sr. Tan): May I know which section please?

MR. MONSOD: We are still talking about the same section, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): The vote is already finished.

MR. GUINGONA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Guingona is recognized.

MR. GUINGONA: May I reiterate my previous motion to which Commissioner Bernas referred in his manifestation that the first sentence be transposed to the Article on Declaration of Principles.

MR. BENNAGEN: I support that motion.

THE PRESIDING OFFICER (Sr. Tan): The Floor Leader is recognized.

MR. RAMA: Madam Presiding Officer, may I ask that Commissioner Bernas be recognized to present an amendment to Section 9.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bennagen is recognized.

MR. BENNAGEN: I move that we transpose the first sentence of what is now Section 9 in the Article on Declaration of Principles. Communication is the base of human interaction and we need to have a statement in this regard in the Article on Declaration of Principles.

MR. MONSOD: Madam Presiding Officer.

MR. GUINGONA: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Guingona is recognized.

MR. GUINGONA: Madam Presiding Officer, I made the same motion earlier. I would, therefore, join Commissioner Bennagen in that motion of his.

MR. MONSOD: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: I just wanted to ask that if the body votes for transposition, is it understood that the first three words of the second sentence will be deleted?

MS. ROSARIO BRAID: Yes.

MR. MONSOD: Thank you.

THE PRESIDING OFFICER (Sr. Tan): May we know the opinion of the committee?

MS. ROSARIO BRAID: Yes, we accept, Madam Presiding Officer.

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

MR. RAMA: I ask that Commissioner Bernas be recognized.

FR. BERNAS: Madam Presiding Officer, I move for the deletion of Section 10 on the ground that all of these are already contained in what we have just approved.

MR. BENGZON: I second the motion.

THE PRESIDING OFFICER (Sr. Tan): May we know the opinion of the committee on the deletion of Section 10?

MS. ROSARIO BRAID: We do not accept, Madam Presiding Officer, because Section 10 operationalizes the general principle in Section 9. I think in this day of communication technology, we would like to underscore its importance in education and also in the development of self-reliant rural communities. We want a balanced development in the sense that while we are developing the new communication technology, we would like also to ensure that development in the rural communities happen at the same time.

MR. OPLE: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Ople is recognized.

MR. OPLE: I support the amendment of Commissioner Bernas provided he agrees that the intent of Section 10 be recognized as part of the intent of the previous section that we have just approved.

FR. BERNAS: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bernas is recognized.

FR. BERNAS: Precisely, I was saying that this Section 10 would have been necessary, if we had preserved the original Section 9. But as Section 9 has been reformulated, Section 10 becomes unnecessary because Section 9 already speaks of full environmental development of Philippine capability, structures suitable to the needs and aspirations of the nation and balanced flow of information. So all of what is in Section 10 is already covered by the new formulation which we just approved.

MR. RAMA: Madam Presiding Officer, the issues had been joined. I ask that we take a vote on the motion to delete Section 10, a motion by Commissioner Bernas.

THE PRESIDING OFFICER (Sr. Tan): Is the body ready to vote?

MR. NATIVIDAD: May I ask one question of Commissioner Bernas?

THE PRESIDING OFFICER (Sr. Tan): Commissioner Natividad is recognized.

MR. NATIVIDAD: How about subsection 2 of Section 10?

FR. BERNAS: That is included in the deletion, Madam Presiding Officer.

MR. NATIVIDAD: "The State shall protect the public from misleading, harmful, deceptive and colonial advertising, labelling and other forms of misrepresentation." Are we going to delete this?

FR. BERNAS: I would have moved for the deletion of that under any circumstances because I think it is offensive to freedom of expression anyway.

MR. NATIVIDAD: Madam Presiding Officer, the Gentleman's view is that if we protect the public from misleading, harmful, deceptive, colonial advertising, it collides with the freedom of expression.

FR. BERNAS: What would be the meaning of misleading, harmful, deceptive and colonial advertising? As I said in my earlier manifestation, as far as freedom of speech and of press is concerned, the only two things which are not protected are libel and obscenity. Everything else, including stupidity, is protected as far as expression is concerned.

MR. RAMA: Madam Presiding Officer, the body is ready to vote.

VOTING

THE PRESIDING OFFICER (Sr. Tan): As many as are in favor of deleting Section 10, please raise their hand. (Several Members raised their hand.)

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

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

The results show 22 votes in favor, 6 against and 2 abstentions; Section 10 is deleted.

MR. RAMA: Madam Presiding Officer.

MR. GUINGONA: Madam Presiding Officer, I have a point of inquiry.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Guingona is recognized.

MR. GUINGONA: My question would be addressed to the chairmen or members of the committees of the Constitutional Commission. This is in reference to the exchange that we had earlier between Commissioner

Bengzon and I where he suggested that I was out of order. But I had stated my objection because he made a reservation to propose another motion and I was just making a reservation to object. So if at all there was anyone being out of order, it would seem that it was Commissioner Bengzon who was out of order for making the reservation.

I have gone over the records, Madam Presiding Officer — although I have asked the Secretariat to check the deliberations further — but in the session of July 15 where this matter was taken up, it clearly shows that the Commission had decided not to consider Section 7 anymore as suggested by Commissioners Foz and Maambong that:

. . . this section is already included in the General Provisions approved by the Committee on General Provisions. So I would see no need to have this amended.

I am referring to the statement of Commissioner Foz in response to a manifestation by Commissioner Aquino who wanted to amend Section 7 and who said:

Unless the Gentleman's idea is just to transfer this to the General Provisions, because the way the General Provisions was approved in that committee, there is a substantial difference.

Commissioner Foz asked for clarification and Commissioner Maambong said:

It is indeed true, as stated by Commissioner Foz, that there is a parallel provision of Section 7 in the General Provisions with a slight difference. I would like to read the exact configuration of this provision as the Committee on General Provisions has approved it.

And he read the same provision that was deleted this morning. He added:

Considering the statement of Commissioner Foz that we might have to transfer this provision to General Provisions, our job here as far as this committee is concerned will be much simpler.

If the Committee will just say now that we will transfer it to General Provisions, then we do not have to talk about it as of this moment and Commissioner Foz would defer to the Committee on General Provisions.

And then there was nothing else said except for Commissioner Maambong's reply which states:

All right. In that case, I understand that there was already a Section 8 by Commissioner Ople. That Section 8 would probably become Section 7 now.

And sometime at the end of the session the Article on Constitutional Commissions relating to Common Provisions and the Civil Service Commission was approved by a vote of 25 in favor and none against.

Therefore, my question is: Which is the correct status now? Will this Section 7 be transferred to General Provisions or will it remain? It does not show in this record that I have that it has been retained in the Article on Constitutional Commissions.

MR. MONSOD: May I answer, Madam Presiding Officer.

MR. BENGZON: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bengzon is recognized.

MR. BENGZON: Madam Presiding Officer, the body has approved Section 7 under the Civil Service Commission. It has been approved on Second Reading; it has been approved on Third Reading, therefore, that is final.

MR. MONSOD: Madam Presiding Officer.

MR. BENGZON: Today the body approved Section 3 of the Article on General Provisions. That is the situation, Madam Presiding Officer; that is final unless the rules are suspended and the whole thing is reopened.

So, there is no doubt; there is no ambiguity. Therefore, I do not think that we should go back to the discussion, Madam Presiding Officer.

MR. GUINGONA: My question, Madam Presiding Officer, is that the provision that is referred to is contrary to the records of our Commission. Whether we have approved it or not, whether our approval would already mean that we would ignore completely what appears in our records is what I am asking. Does this justify our ignoring what has actually transpired and what we have actually voted upon, and as I said, that the vote was 25 in favor and none against?

Of course, this is still subject to further review by our Secretary-General, but I am asking this question to be clarified because these records that I have clearly show that the intention of the Commission at that time was to transfer the provision from the Article on Constitutional Commissions-Civil Service Commission.

MR. MONSOD: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Monsod is recognized.

MR. MONSOD: Madam Presiding Officer, Section 7 is already installed in the Article on Constitutional Commissions under the Civil Service section; it has been passed on Third Reading. So we can assume that the decision of this body is to leave it there.

We have now approved a paragraph in this General Provision which may be transposed in order to complete the thought or the sense of Section 7.

Therefore, I do not think that there is any need really to talk about procedures here. There is a lot of flexibility in the rules for us to handle it. We are just wasting time, Madam Presiding Officer, on this procedural question.

MR. OPLE: Madam Presiding Officer, may I suggest that the Chair and the Commission take full note of the statement of Commissioner Guingona so we can proceed to the consideration of the remaining items.

THE PRESIDING OFFICER (Sr. Tan): The Chair takes full note of the intervention of Commissioner Guingona.

The Floor Leader is recognized.

MR. RAMA: Madam Presiding Officer, I ask that Commissioner Regalado be recognized to amend Section 11.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam Presiding Officer.

I would just like to propose an amendment, by deletion, to the second paragraph of Section 11, specifically lines 21 and 27 thereof, insofar as the words "commercial telecommunication" are concerned. In other words, this Representation would like to have the words "commercial telecommunication" deleted from the coverage of paragraph 2, and if I be allowed, I would like to explain my reason for this.

I was originally toying with the idea of not having to propose this amendment by deletion. As a matter of fact, I had explored the possibility with Commissioner Rosario Braid before about this particular aspect. However, after major reflection, and research, I find that to maintain this phrase "commercial telecommunication" or to include it within the ambit of Section 11, paragraph 2, would be objectionable both substantively and procedurally.

Section 11, paragraph 2 of the proposed article, seeks to provide a 66 2/3 Filipino equity in commercial telecommunication establishments. I feel that this should not be included because we have already approved the Article on National Economy, Section 15 of which provides for 60-40 percent equity in favor of Filipinos insofar as corporations engaged in public utilities are concerned.

My researches show that as early as 1913 and even up to now, commercial telecommunications have always been considered as public utilities. Starting with RA 2307 in 1913, then to RA 3108 in 1917, and then the Public Service Act — Commonwealth Act No. 146 — in 1936, and Presidential Decree No. 1 in 1972, the term "public utility" always included telecommunications establishments.

Therefore, if we still have to consider this in the present proposed article, the proposed Section 11, paragraph 2, would contravene Section 15 of the Article on National Economy and Patrimony which has already been approved by this body.

Furthermore, it cannot be argued that the present inclusion of "telecommunication establishments" in Section 11, paragraph 2 would be to make an exception of that establishments because the records will show, even from the Journals, that when Section 15 of the Article on National Economy and Patrimony was discussed, the main subject and that is the only subject debated upon between Commissioners Romulo, Rosario Braid and Davide, was precisely the telecommunications industry. And the vote there was in favor of a 60-40 percent equity.

Likewise, when the discussions were on Section 13, on national economy, Commissioner Bernas also suggested an exception regarding the telecommunications industry. And the committee also turned down the suggestion of Commissioner Bernas.

On procedural objections also, it would appear that Section 11, paragraph 2, formerly Section 7, paragraph 2 of the original committee report, by including telecommunication establishments, in effect, seeks a reconsideration of Section 15 of the Article on National Economy and Patrimony which we have already approved. This is, therefore, indirectly an attempt to seek a reconsideration of that section we have already approved. And, regretfully, that is prohibited under Rule IX, Section 42 of our rules.

So, on both substantive and procedural considerations, I regret that I am constrained to move for the deletion of the words or the phrase "commercial telecommunication establishments" in Section 11, paragraph 2.

Thank you, Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bengzon is recognized.

MR. BENGZON: Madam Presiding Officer, may I ask a question of Commissioner Regalado.

The Commissioner is seeking the deletion of the phrase "commercial telecommunication establishments" on line 12. Is he not also seeking the deletion of the phrase "and commercial telecommunications" on line 27?

MR. REGALADO: Both, Madam Presiding Officer. As I have already mentioned, I refer to the words "commercial telecommunications" on line 21 and to the phrase "and commercial telecommunications" after the word "advertising on line 27. Both phrases on lines 21 and 27 are covered in my motion for amendment by deletion.

MR. BENGZON: Thank you.

MR. NOLLEDO: May I make some comments, Madam Presiding Officer?

THE PRESIDING OFFICER (Sr. Tan): Commissioner Nolleddo is recognized.

MR. NOLLEDO: I do not disagree with Commissioner Regalado that commercial telecommunications is a public utility. It was already shown in the interpellations in yesterday's session. But we are making an exception of the 60-40 percent equity, considering the nature of telecommunication as one involving the national interest, particularly the national security. We explained here that in the 1935 Constitution, we observed the 60-40 percent equity. In the 1973 Constitution, we also observed the 60-40 percent equity.

We felt that with respect to commercial telecommunications, we would like to make an exception to the general rule of the 60-40 percent equity. And we thought that the two-thirds and one-third is an improvement. It is a little bit of an increase in favor of Filipino participation.

In the past two Constitutions, there was no improvement at all; there was no trend to recognize more participation on the part of the Filipinos. So we are making that an exception. And during the discussion on public utility, foreign equity in commercial telecommunications was mentioned; it was mentioned only as an example. We do not deny that telecommunications is really a public utility.

Thank you, Madam Presiding Officer.

MR. RAMA: Madam Presiding Officer, we are ready to vote. Since this issue has been debated on back and forth, even in previous sessions; therefore, I ask that we take a vote on the motion of Commissioner Regalado.

THE PRESIDING OFFICER (Sr. Tan): Will Commissioner Regalado please repeat the motion?

MR. NOLLEDO: May we know, Madam Presiding Officer, what particular portions of lines 19 to 28? Is he deleting only "commercial telecommunications" or is he deleting subparagraph 2, lines 19 to 25?

MR. REGALADO: As I have stated and reference should be made to page 3 of the committee report, I am referring to the words "commercial telecommunication" appearing under Section 11, paragraph 2, line 21, which reads: "No franchise, certificate or any other form of authorization for the operation of advertising establishments." Delete the words "AND COMMERCIAL TELECOMMUNICATION." So that what will be left will be "advertising establishments," and on line 27, delete also the phrase "and commercial telecommunication" so that this last sentence will read, "The governing and management body of every entity engaged in advertising shall in all cases be controlled by citizens of the Philippines."

MS. ROSARIO BRAID: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Yes. In view of the representation of some of the Members who are not here with us and who specifically requested that this be taken up on Monday, and since we need to take up the previous paragraphs, could we request deferment of this particular subsection until Monday.

MR. RAMA: I suggest, Madam Presiding Officer, that we take a vote on this because we have been debating on the same issue for many sessions already.

MS. ROSARIO BRAID: Madam Presiding Officer.

MR. SARMIENTO: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: In our earlier discussion, we took up telecommunications as part of public utilities. We have not even scratched one-tenth of the whole implication of telecommunication technology particularly in the way it has been used in the Marcos regime where its linkage with all the transnational and business corporations,

propped up by technology of communications, particularly communications, has really caused all of these things that we are experiencing now in terms of the siphoning of dollars and all the negative consequences of dismantling the cronyism. So, because of this, can we give the others who are here the opportunity to present data on how DOMSAT, PHILCOMSAT, PLDT and other transnational corporations have performed over the past 20 years and this is the request that many of us would like to make. In other words, like the bases issue, this is a very important issue.

MR. SARMIENTO: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Sarmiento is recognized.

MR. SARMIENTO: I will not delve on the merits of Commissioner Regalado's proposal. May I just support the stand of Commissioner Rosario Braid. In the past, Madam Presiding Officer, we granted the request of the committee for the deferment of certain issues. I recall that the Committee on Declaration of Principles deferred consideration of two sections on women because at that time Commissioner Aquino was not here, so the body approved that suggestion. Considering that in the past, we have been following that tradition, may we also consider the appeal of our colleague, Commissioner Rosario Braid.

Thank you, Madam Presiding Officer.

MR. RAMA: Madam Presiding Officer, this is not a new issue. Secondly, there has not been any formal reservation to postpone consideration just because some people are not around. The only justification is that if there is no quorum. It would set a very bad precedent, particularly now that we have overshot our deadline, to postpone just because some people would like to present later the data.

So, I ask that we vote on the motion of Commissioner Regalado.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Garcia is recognized.

MR. NOLLEDO: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Garcia is recognized.

MR. GARCIA: Thank you, Madam Presiding Officer.

I simply would like to question the procedure. The Commissioner is now proposing a deletion of a part of subsection 2 of Section 11. We have not even discussed Section 1 which should be the proper procedure. We have not even touched subsection 1 and the three paragraphs under that subsection, and yet we are now rushing to subsection 2. I do not see the logic of this procedure.

JMR. BENGZON: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Bengzon is recognized.

MR. BENGZON: I do not think there is anything unusual about the procedure. Commissioner Regalado is the one registered with the Floor Leader to present an amendment and he was recognized but it happens that his amendment is on Section 2.

MR. GARCIA: Yes, but we are doing this I think in a logical manner.

MR. BENGZON: Therefore, we can take this up and then if there are other Members who would want to propose amendments to the other parts of Section 11, paragraph 1, we will entertain them.

MR. GARCIA: Is it not the normal procedure to do this by paragraphs and, therefore, we are now in Section 11

and we should start with paragraph 1.

MR. COLAYCO: Madam Presiding Officer.

THE PRESIDING OFFICER (Sr. Tan): Commissioner Colayco is recognized.

SUSPENSION OF SESSION

MR. COLAYCO: May I ask for a suspension of the session so that we can reconcile the different views, Madam Presiding Officer?

THE PRESIDING OFFICER (Sr. Tan): The session is suspended.

It was 12:40 p.m.

RESUMPTION OF SESSION

At 12:42 p.m., the session was resumed.

THE PRESIDING OFFICER (Sr. Tan): The session is resumed.

ADJOURNMENT OF SESSION

MR. RAMA: Madam Presiding Officer, in view of the request of the chairman of the committee that we defer the consideration of Section 11, I ask that we adjourn until Monday at nine-thirty in the morning.

THE PRESIDING OFFICER (Sr. Tan): The session is adjourned until Monday at nine-thirty in the morning.

It was 12:42 p.m.

[*] Appeared after the roll call.

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