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Friday, August 8, 1986

CALL TO ORDER

At 9:45 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Gregorio J. Tingson, to wit:

OUR DEAR LOVING HEAVENLY FATHER:

We realize only too well that "unless the Lord builds the house, they labor in vain who build it".

We are mandated to build a Charter for our country that will stand the test of time and changing tempers of men. We need wisdom, dear Lord, to do this task for we are but men with finite understanding and limited knowledge.

We confess that we do not have the wisdom of a Solomon; the wit and brilliance of an Aristotle; the deep insight of Jose Rizal, nor the homespun zing of a Will Rogers. But with the ever available aid of the Holy Spirit we now humbly beseech Thee not for tasks equal to our power but for power equal to our heavy task.

Father in heaven, we are humbled by the words of our Sublime Paralytic:

"No matter how the government tries to renew itself, all of its efforts would amount to naught if there would be no corresponding change in the hearts of the people."

Help us, Dear Lord, to come up with a Constitution that will, in essence, continually remind our people of the timely words of the Prophet:

"If my people, who are called by my name, will humble themselves and pray and seek my face and turn from their wicked way, then will I hear from heaven and will forgive their sin and will heal their land." (2 Chronicles 7:14)

Help us to finish our new fundamental law in Thine own good time as we forty-eight Commissioners bear in mind that in things major, we should have unity; in things minor, liberty; but in all things always to demonstrate charity.

We adore Your Holy Name: we praise You for what You have done in and through us; and we petition Thee, loving Heavenly Father, for a greater measure of Your Instruction, Inspiration and Sanctification.

This is our individual and collective prayer in the wonderful and matchless name of our Lord and Saviour Jesus Christ.

Amen.

ROLL CALL

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

Alonto, A. D. Quesada, M. L. M.
Bacani, T. C. Regalado, F. D.
Bennagen, P. L. De Los Reyes, R. F.
Bernas, J. G. Rigos, C. A.
Rosario Braid, F. Rodrigo, F. A.
Calderon, J. D. Romulo, R. J.
De Castro, C. M. Rosales, D. R.
Colayco, J. C. Sarmiento, R. V.
Concepcion, R. R. Suarez, J. E.
Davide, H. G. Sumulong, L. M.
Foz, V. B. Tadeo, J. S. L.
Jamir, A. M. K. Tan, C.
Monsod, C. S. Tingson, G. J.
Nieva, M. T. F. Uka, L.L.
Padilla, A. B. Villacorta, W. V.
Muñoz Palma, C. Villegas, B. M.

With 32 Members present, the Chair, declared presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R. Lerum, E. R.
Aquino, F. S. Maambong, R. E.
Azcuna, A. S. Natividad, T. C.
Bengzon, J. F. S. Nollado, J. N.
Brocka, L. O. Ople, B. F.
Garcia, E. G. Rama, N. G.
Laurel, J. B. Treñas, E. B.

P.M.

Gascon, J.L.M.C.

Mr. Guingona was absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS AND COMMITTEE REPORTS

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

Communication No. 491 — Constitutional Commission of 1986

Letter from Mr. Jovito A. Avanceña of 25 Asteroid, Bel Air, Makati, Metro Manila, and three hundred ninety others with their respective addresses, seeking the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception

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

Communication No. 492 — Constitutional Commission of 1986

Letter from Mr. Tomas S. Tuazon of Motrico, La Paz, Tarlac, suggesting equal protection of the law for the rich and the poor to promote national unity

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 493 — Constitutional Commission of 1986

Communication from Mr. Pelagio B. Estopia, proposing a parliamentary form of government with a bicameral legislature, that declaration of martial law and suspension of the writ of habeas corpus shall need confirmation of the legislature, and the nationalization of industries and the exploitation of natural resources

TO THE STEERING COMMITTEE

Communication No. 494 — Constitutional Commission of 1986

Position paper of the Filipino-American Chamber of Commerce, P.O. Box 7258, San Francisco, California, 94120, U.S.A., signed by its President, Mr. Juan G. Collas, Jr., suggesting among others that the new Constitution shall embody some features that can attract foreign capital, that regulation of foreign capital shall be left to legislation, and that Filipinos be allowed dual citizenship

TO THE STEERING COMMITTEE

Communication No. 495 — Constitutional Commission of 1986

Letter from Mr. Norberto Navarro Caparas of 555 Kaunlaran Street, Barangay Commonwealth, Quezon City, proposing an amendment to Section 11 of the Proposed Amendment to the Article on Social Justice, to wit:

IN APPROPRIATE CASES, LANDS OWNED BY THE GOVERNMENT BUT WHICH HAVE ALREADY BEEN CONVERTED BY OCCUPANTS INTO A VIABLE COMMUNITY SHALL BE DONATED TO THEM SUBJECT TO CONDITIONS IN A LAW TO BE ENACTED BY THE LEGISLATURE

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 496 — Constitutional Commission of 1986

Letter from Mr. Edmundo A. Damatac of Lallo, Cagayan, advocating that the incumbent President and Vice-President be given the chance to serve the six-year term for which they have been elected

TO THE COMMITTEE ON AMENDMENTS AND TRANSITORY PROVISIONS

Communication No 497 — Constitutional Commission of 1986

Communication jointly submitted by the Bagong Alyansang Makabayan, Society of Professionals for the Advancement of Democracy, League of Filipino Students, Kapunungan san Mag uuma sa Masbate, Simbahang Katoliko sa Barangay, Kabataan para sa Demokrasya at Nasyonalismo, and Masbate People's Organization, all in Masbate, suggesting among others the following: 1) removal of the U.S. military bases in the Philippines; 2) abrogation of the US-RP Mutual Defense Treaty, Military Assistance Agreement, RP-Japan Treaty of Amity, Commerce and Navigation; 3) right to strike and collective bargaining; and 4) creation of a human rights commission

TO THE STEERING COMMITTEE

Communication No. 498 — Constitutional Commission of 1986

Letter from Mr. Cesar R. Nimez of Suba, Lilo-an, Cebu, transmitting a joint resolution adopted by various civic associations and organizations of Lilo-an, Cebu, containing among others the following proposals: 1) all title/lease contract documents of foreshore lands issued during the Marcos regime be revoked or declared null and void; 2) all foreshore lands must be turned over to the municipal government where they are situated; and 3) all foreshore lands cannot be lease/titled for business purposes

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 499 — Constitutional Commission of 1986

Letter from Mr. Roberto Lazaro of Mandaluyong, Metro Manila, advocating that the Philippines be one of the regular states of the United States

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

COMMITTEE REPORTS**Committee Report No. 35 submitted by the Committee on the Legislative**

Re: Proposed Resolution No. 411 and Proposed Resolution No. 428

Informing the Commission of their incorporations into Committee Report No. 22 on the Article on the Legislative Department, as reported out on July 7, 1986.

TO THE ARCHIVES

Committee Report No. 36 on Proposed Resolution No. 357, prepared by the Committee on Preamble, National Territory and Declaration of Principles, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE DECLARATION OF PRINCIPLES

recommending its approval.

Sponsors: Hon. Davide, Jr., Nollado, Sarmiento, Tingson, Bengzon, Jr., Aquino, De los Reyes, Jr., Rigos, Rosario Braid, Quesada, De Castro, Nieva, Villacorta, Rama, Bacani, Colayco, Calderon, Suarez, Ople, Gascon, Villegas, Rosales, Azcuna; Foz and Garcia

TO THE STEERING COMMITTEE

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, the Chair acknowledged the presence in the gallery of students from Maryknoll College, St. Scholastica's College, St. Joseph's College and St. Bridget's College.

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 34 ON PROPOSED RESOLUTION NO. 634 ON THE ARTICLE ON SOCIAL JUSTICE

On motion of Mr. Romulo, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 634, entitled:

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

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

Upon request of Mr. Romulo, there being no objection, the Body temporarily deferred consideration of Section 8 in view of the fact that Mr. Ople, the proponent of the pending amendment, was not in the Session Hall.

REMARKS OF MRS. QUESADA

Mrs. Quesada expressed concern for a certain fishermen's organization known as KASAMA, because the sector is not covered by the provision giving preferential rights to marginal fishermen.

The Chair stated that the matter would be considered with Mr. Ople's proposed amendment.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to transpose Section 9 to the Article on National Economy and Patrimony which would contain the general constitutional mandates affecting all agricultural, fishing and marine resources.

Mr. Bennagen objected to the proposed transposition stating that reforms on agrarian, fishing and marine resources should be done in relation to the complementary processes of industrialization which should not be considered as ends in themselves but rather as catalysts of industrialization.

Mr. Davide contended that the Committee on the National Economy and Patrimony would have to consider all these factors in formulating the integrated development plan for the national economy.

At this juncture, Mr. Villegas, likewise, opined that the Section is indeed misplaced in the Article on Social Justice because the question of balance among agriculture, industry and other sectors is a technical one.

He pointed out that Section 1 of the Article on National Economy and Patrimony sets the goals of national economy which are: 1) more equitable distribution of income and wealth; 2) full employment of human, physical and technological resources; and 3) sustained increase in the amount of goods and services produced by the nation for the benefit of the Filipinos, with priority given to the welfare of the poor. He added that in the attainment of these goals, all economic sectors would be given optimum opportunity to develop, and encourage a broader ownership base of private enterprises. He stressed that this Section already addresses the question of how to develop agriculture and industry.

Mr. Bennagen pointed out that the Section does not explicitly refer to the concept of balanced agriculture and industrial development. He stressed that the reason why reforms are being initiated in the development of agriculture, fishing and marine resources is precisely to meet the basic needs of the domestic market and not to respond to the demands of the external market, hence, the development of such resources should be considered as a component of social justice.

Mr. Villegas maintained that there is already an explicit statement that all goods produced in the country would be for the benefit of the Filipino people.

Mr. Bennagen stressed that the Committee wanted a specific linkage in the development programs for agriculture, fishing and marine resources to meet the basic domestic needs; the demands for export; and the need for industrialization, so as not to make the impression that agrarian reform would be initiated as an end in itself, because successful agrarian reforms in the world were always linked to industrialization.

Mr. Villegas opined that having a Section on agrarian reform in the Article on National Economy and Patrimony would not give rise to the impression that the country is not interested in industrialization because former landowners, after receiving their just compensation, would be encouraged to reinvest their money in new industries or in other nonagricultural activities.

Mr. Bennagen maintained that the Section be retained in the Article on Social Justice and asked for a vote on the proposal.

At this juncture, Mrs. Rosario Braid manifested that should Section 9 be retained in the Article on Social Justice, she would propose to reword the Section to read as follows: THE STATE SHALL PROMOTE THE DEVELOPMENT OF AGRICULTURAL, FISHING AND MARINE RESOURCES TO MEET THE BASIC NEEDS OF THE PEOPLE PARTICULARLY THE SUBSISTENCE SECTORS AND THE PROMOTION OF SMALL AND MEDIUM-SCALE ENTERPRISES TO ACHIEVE THE INDUSTRIALIZATION OBJECTIVE OF THE COUNTRY.

Mr. Romulo requested that the Body first vote on Mr. Davide's proposed amendment.

Thereupon, Mr. Bennagen manifested that the Committee would be willing to transpose the Section to the Article on National Economy and Patrimony provided that the idea expressed in Section 1 of that Article be expanded to accommodate the spirit of the Section including, if approved, Mr. Ople's proposed amendment linking agrarian reform with industrialization in very precise terms.

Mr. Villegas made the assurance that the Section could be incorporated with Section 1 of the Article on National Economy and Patrimony and amendments thereto would be considered at the proper time.

Mr. Monsod manifested that Mr. Ople would be amenable to the transposition of certain ideas introduced in social justice which are more appropriate in the Article on National Economy and Patrimony provided that those which specifically refer to marginal and small fishermen are retained in the Article on Social Justice.

In reply to the Chair's query whether the amendment should be considered withdrawn, Mr. Davide stated that the Committee had accepted its transposition.

There being no objection, the amendment was approved by the Body.

AMENDMENT OF MR. OPLE

At this juncture, Mr. Ople manifested that ahead of Mr. Davide's proposal, he had an amendment to Section 8, jointly formulated with the Committee, to add after the phrase "protection, development and conservation of such resources", the sentence THE PROTECTION SHALL EXTEND TO THE OFFSHORE FISHING GROUNDS OF SMALL FISHERMEN FROM FOREIGN INTRUSION. He stated that he and Mr. Rodrigo would prefer "small fishermen" to "municipal fishermen" since there are parts of the country like Bulacan, where "municipal fishermen" might be understood to relate to municipal fishponds owned by the municipal governments'

POINT OF CLARIFICATION OF MR. DE CASTRO

At this juncture, Mr. de Castro referred to the previous use of "marginal fishermen" in Section 8 but Mr. Ople's amendment would now use "small fishermen". He then adverted to his reservation to look into the meaning of "marginal" stating that his "research" showed that "marginal" refers to a margin close to the limit and, more particularly in business, to marginal profit or marginal cost.

He agreed with the Committee's use of the term in referring to the standard of living of the fishermen but stated that to use "marginal" to modify "fishermen" would be dangerous because it could lead to an interpretation later that a fisherman means laborer. He suggested uniformity in the use of terms, whether it be "marginal" or "small".

Mr. Ople opined, however, that for purposes of style, the Body need not be bound by a repetition of words and that no problem would arise if "small fisherman" is understood to be synonymous with "marginal fisherman".

INQUIRIES OF MR. SUAREZ

Mr. Suarez observed that Mr. de Castro correctly pointed out that "marginal" refers to the standard of living, "small" to the size and "municipal" to the unit. He stated that "marginal" and "small" may be used interchangeably but not in connection with "municipal". He asked Mr. Ople whether he agrees with the distinctions.

Mr. Ople stated that the word "marginal" is the denominator common to all the modifiers of "fisher. man" in the sense that he stands on the very edge of existence. He stated that the concept of a "municipal fisherman" has all the jurisprudential support, being a technical term, except for its geographic implication.

Mr. Suarez then inquired whether he would prefer the term "small", to which Mr. Ople agreed.

REMARKS OF MR. VILLEGAS

Mr. Villegas suggested the adoption of Mrs. Rosario Braid's suggestion to use "subsistence fisherman" not only to remove any ambiguity but also because it correctly describes Mr. Natividad's description of isang kahig, isang tuka, which suggestion was accepted by Mr. Ople.

Mrs. Nieva, on behalf of the Committee, accepted the amendment on the understanding that the small fisherman would be accorded protection.

INQUIRY OF MRS. ROSARIO BRAID

In reply to Mrs. Rosario Braid's query whether it would include protection from commercial fishermen in relation to the 7-kilometer ban on commercial vessels, Mr. Ople stated that said ban is flexible because the country's coastlines are not uniform. He stated that in many cases, the 7 kilometers pertain to those fishing grounds that are most accessible to the subsistence fishermen, hence, the ban against its use by heavy trawlers, whether Filipino or foreign. As to whether Filipino commercial fishing vessels are included in the ban, he stated that he was not certain of it.

INQUIRY OF MR. BACANI

Mr. Bacani stated that there are fishermen who could not be classified as "subsistence fishermen" but who, nevertheless, need the protection from foreign intrusion. He then asked Mr. Ople whether he intends to protect small fishermen who may not be "subsistence fishermen", to which Mr. Ople replied that "subsistence fishermen" should be used liberally to apply not only to the poorest fishermen.

AMENDMENT OF MR. MAAMBONG

Mr. Maambong proposed to change "from" to AGAINST to make the provision more emphatic, which proposal was accepted by Mr. Ople and the Committee.

REMARKS OF MR. BENNAGEN

Mr. Bennagen stated that the word "subsistence" would protect the interest of small fishermen. He stated that "small" connotes a sociological and historical process whereby fishermen grow and develop in terms of the ever-increasing scale of production. On the word "marginal", he stated that it is also a sociological and historical process which at some point could be progressive but still marginal in relation to the big fishermen.

REMARKS OF MR. BACANI

Mr. Bacani reiterated his point that the use of "subsistence" would not only extend protection to the subsistence fishermen but to all Filipino fishermen as well.

RESTATEMENT OF THE AMENDMENT, AS AMENDED

At this juncture, upon direction of the Chair, Mrs. Nieva read the sentence proposed to be amended, to wit: THE PROTECTION SHALL EXTEND TO THE OFFSHORE FISHING GROUNDS OF SUBSISTENCE FISHERMEN AGAINST FOREIGN INTRUSION.

There being no objection, the amendment was approved by the Body.

AMENDMENT OF MR. RODRIGO

Mr. Rodrigo stated that in relation to Mr. Ople's observation that "municipal" cannot be understood by the common man, he would propose on line 4, in the phrase "particularly, municipal fishing grounds", to substitute "municipal" with COMMUNAL, to delete the period (.) after "grounds" and to add FOR SMALL FISHERMEN, so that the phrase would read: PARTICULARLY COMMUNAL FISHING GROUNDS FOR SMALL FISHERMEN.

Mr. Monsod asked Mr. Rodrigo if his proposal would not make the provision redundant

Mr. Rodrigo pointed out that "municipal" is susceptible to misinterpretation since there are propios or fishponds owned and operated by municipal governments. He stated that he would have no objection if the Committee would agree to delete the whole phrase.

At this juncture, Mr. Monsod asked Mr. Ople if the phrase "the communal marine and fishing resources" would include the intendment he had mentioned in the previous session, to which Mr. Ople replied that the phrase does not refer to the propios which is a unique scheme in coastal towns of Bulacan and that should there be any misunderstanding on the matter, it would be confined only to these towns of Bulacan

In reply to Mr. Rodrigo's query whether the Committee would delete the phrase, Mrs. Nieva stated that the Committee would accede to the proposal if the phrase "the communal marine and fishing resources, both inland and offshore" would include municipal fishing grounds.

In reply to Mr. Ople's query whether Mr. Rodrigo would still have concern and anxiety should the term be encountered elsewhere in the Constitution, Mr. Rodrigo stated that he was satisfied with the explanations placed on record. However, he expressed preference for "municipal" because of its technical meaning, stressing that it is the people who would decide on its approval in the plebiscite. Mr. Ople expressed support for Mr. Rodrigo's proposal.

There being no objection, the Body approved the amendment.

AMENDMENT OF MR. DE LOS REYES

Mr. de los Reyes proposed, subject to style, the inclusion in Section 8 of a sentence stating that fish workers shall receive a just share of their labor in the enjoyment of manner and fishing resources. He stated that as in agricultural lands, the system of sharing or kasama obtains in fishing, which system affects the most exploited class of fishermen. He said that this system is prevalent in municipal and commercial fishing, to the disadvantage of the small fishermen.

In reply to Mr. Ople's query whether the proposal should rather fall under the provisions on labor since the fishermen adverted to are workers on commercial fishing vessels, Mr. de los Reyes stated that while it should ordinarily pertain to the provisions on labor, there are no existing labor laws on the matter.

Reacting thereto, Mr. Ople maintained that they should be covered by the labor laws because of the existence of an employer-employee relationship.

Ms. Aquino sought clarification on the basis of a specific and express proviso that would address this particular group — specifically on its significance in terms of number and specificity of its demands. She noted that the Committee's perception is that this group could be covered by the word "farmworker" or that the Labor Code might apply to it should there be an employee-employer relationship.

Mr. de los Reyes, in reply thereto, stated that according to "Countryside Report" which focuses on five major industries, namely: rice, coconut, sugar, fishing and abaca, basnig or trawl workers comprise 46,000 of the total work force in commercial fishing operations. Admitting that fishworkers could be covered by the provisions on labor, Mr. de los Reyes, however, observed that there is no specific mention of small fishworkers. He pointed out that aquatic reform should include protection to these fishworkers in the same manner that protection is extended to tenant farmers, regular and seasonal farmworkers in land reform.

In addition to Mr. Ople's remark that "fishworkers" includes workers assisting fish vendors, Mr. de los Reyes stated that the term also includes bugadores or fish haulers, maniniklis or fish sorters and pescadores or fish haulers and sorters.

Mr. Ople observed that fishworkers are engaged in commercial fishing but as a class of workers, they do not have definite identification in law and jurisprudence, unlike municipal fishermen. He noted, however, that as a subclass of the underclass of subsistence fishermen, they do exist. He expressed doubt whether the amendment of Mr. de los Reyes would be accommodated or whether the Committee would record the intent of Section 8 to provide for these fishworkers.

In reply thereto, Mr. de los Reyes stated that although the Body could place on record that Section 8 embraces fishworkers, it would serve no purpose if this is not specifically provided in the Constitution. He noted that this type of workers have no security of employment and are not entitled to social security as they are hired on temporary or contractual basis. He observed that trawl owners maintain a firm hold over these fishworkers and in case such workers become physically disabled, the owner retires them without compensation. He maintained that in the absence of jurisprudence which would recognize the fishworkers, he finds nothing wrong in initiating it in the Constitution being formulated. He noted that the Body is already in the process of protecting all marginal people such as the industrial laborers and farmworkers, and manifested that he finds nothing objectionable in emphasizing the rights of aquatic workers.

INQUIRY OF MR. LERUM

On Mr. Lerum's query as to who are exploiting the fishworkers, Mr. de los Reyes stated that the owners of motorized bancas and trawlers who are employing these fishworkers have been exploiting them.

Mr. Lerum noted that inasmuch as there exists an employee-employer relationship, the fishworkers would be covered by the social justice provision.

Mr. de los Reyes contended that the Labor Code covers agricultural laborers yet the Commission had found it necessary to classify these farmworkers as a different group. In line with Mr. Lerum's reasoning, he maintained that there is no need to place in the Article any provision on agrarian land reform. He observed, however, that the Body had provided a separate Section on agrarian land reform to emphasize the rights of agricultural workers. He stressed that his proposal is an attempt to emphasize the rights of small fishworkers.

Mr. Lerum called attention to the provision on living wage which had been approved and stated that fishworkers would be entitled to this wage. He observed that trouble may lie in the implementation of the provisions of the Labor Code and opined that the reason for the exploitation of fishworkers is probably because they are unorganized.

Mr. de los Reyes argued that placing a provision on small fishworkers in the Constitution would call attention to their plight, and that consequently, they would no longer be forgotten.

Assuring that fishworkers are covered by the provision on labor in the Article, Mr. Lerum informed that there were efforts to organize these workers. He noted, however, that there was apathy among the workers who believed that it would be better to remain unorganized inasmuch as once organized, many of them would be dismissed from their jobs. He added that this obstacle must be removed.

INQUIRY OF MRS. QUESADA

Mrs. Quesada inquired if the definition of fishworkers would include the "kasama ng maliliit na mangingisda". She informed that this particular group differs from commercial fishermen because the "kasamas" hire out their services to small boat owners and that their remuneration comes in the form of a share in the catch-after all expenses of production have been deducted. She stated that the "kasamas" would be the equivalent of tenants who are not covered by the Labor Code inasmuch as they are not considered workers.

Replying thereto, Mr. de los Reyes stated that the "kasamas" constitute the bulk of fishermen although the term is usually associated with agricultural tenancy operation. He affirmed that they comprise the majority of municipal fishermen.

Mrs. Quesada informed that municipal fishermen as of the 1982 data of "Countryside Report" comprise 72% or 574,000 of those employed in the fishing industry.

Mr. Monsod, on behalf of the Committee, stated that while the Committee supported the sentiment behind the proposal of Mr. de los Reyes, once specific workers are enumerated, the others may be excluded. He warned that the Body might get into too much detail and opined that the answer of Mr. Lerum would be adequate for the purpose mentioned by the proponent.

INQUIRY OF MR. MAAMBONG

Mr. Maambong informed that in that part of Cebu where he comes from, most of the workers in the trawlers and purse seiners are paid under a share system and that while they are at sea, these workers are given subsistence charged to their share. Mr. Maambong then inquired whether the amendment would cover fishworkers who receive wages and would be under the Labor Code.

Mr. de los Reyes replied that both fishworkers would be covered. He noted that although such workers should be covered by the Labor Code, they have been forgotten by labor leaders who have directed their energies and efforts to industrial workers.

Mr. Maambong manifested his concern for these workers, especially those in the towns of Asturias, Tuburan and Balamban, who have been oppressed because in the system of sharing, they would be entitled only to a certain percentage of the catch. He added that on days when there are no catch at all, the fishworkers would not receive anything but at the same time, he noted, they would still incur expenses while on board the fishing vessels.

At this juncture, Mr. Monsod requested for a vote on the proposed amendment.

The Chair noted that the general concern seemed to be that the proposed amendment of Mr. de los Reyes could be the subject of legislation rather than a Constitutional provision.

VOTING ON MR. DE LOS REYES' AMENDMENT

Thereafter, Mr. de los Reyes stated his amendment, subject to style and relocation, to wit: FISHWORKERS SHALL RECEIVE A JUST SHARE OF THEIR LABOR IN THE ENJOYMENT OF MARINE AND FISHING GROUNDS.

Submitted to a vote, and with 13 Members voting in favor and 11 voting against, the proposed amendment was approved by the Body.

Requested by the Committee to restate the amendment so this can be incorporated, Mr. de los Reyes presented a modified amendment, to wit: FISHWORKERS SHALL RECEIVE A JUST SHARE OF THE FRUITS OF THEIR LABOR.

Ms. Aquino inquired whether Mr. de los Reyes was definite on the formulation inasmuch as he stated that the amendment should be placed in Section 8 as a concept or whether the amendment should be placed as reformulated.

Mr. de los Reyes replied that it should be placed in Section 8, adverting to marine and fishing resources. As reworded, he stated, it would convey the idea. He noted that "marine and fishing resources" would be redundant.

INQUIRY OF MR. MONSOD

For clarification, Mr. Monsod inquired whether fishworkers would cover employees of trawlers as well as employees of large fishing companies, to which, Mr. de los Reyes affirmed that both are fishworkers.

Mr. Monsod stated that the Committee could formulate the provision for purposes of styling, and inquired on the scope of the provision.

In reply to Mr. Monsod's query whether workers in fish canneries would be included under the term "fishworkers," Mr. de los Reyes stated that these workers are industrial workers.

At this juncture, Mr. Maambong proposed to change "fishworkers" to "fishing workers" if it would not dilute the approved amendment. Mr. Bengzon advised that the matter be left to the Committee on Style.

Thereupon, the Chair, in view of the changes made on the original amendment, stated that the new formulation would be submitted to a vote inasmuch as the Body could not decide what had been voted upon.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 11:08 a m.

RESUMPTION OF SESSION

At 11:20 a.m., the session was resumed.

Upon resumption of session, the Chair explained the parliamentary situation.

POINT OF ORDER

At this juncture, Ms. Tan raised a point of order on the ground that the discussions had led to confusion.

RESTATEMENT OF MR. DE LOS REYES' AMENDMENT

Thereupon, the Chair restated the two versions of Mr. de los Reyes' amendments, to wit:

FISHWORKERS SHALL RECEIVE A JUST SHARE FROM THEIR LABOR IN THE ENJOYMENT OF MARINE AND FISHING RESOURCES.

and

FISHWORKERS SHALL RECEIVE A JUST SHARE FROM THE FRUITS OF THEIR LABOR.

Mr. de los Reyes stated that he agreed with Mr. Ople's suggestion because he thought it was just a matter of style but, should it cause confusion that would require another voting, he would just adhere to his original amendment, thereby rejecting Mr. Ople's modification. He then interposed an objection to another voting.

RECONSIDERATION OF APPROVAL OF MR. DE LOS REYES' AMENDMENT

On motion of Mr. Davide, there being no objection, the Body reconsidered the approval of Mr. de los Reyes amendment.

In reply to Mr. de los Reyes' query as to what specific answer in the interpellation caused the confusion, Mr. Davide stated that the confusion arose out of the admissions by the proponent that "fishworkers" would even

apply to employees of big businesses engaged in fishing which, he opined, should be covered by ordinary rules on labor legislation under which they would enjoy better benefits. He stated that entitling the ordinary fishworker to only a just share in the fruits of his labor would be treating him in a much lower category and reducing the benefits he would be entitled to.

SECTION 8. - THE STATE SHALL PROTECT THE RIGHTS OF SUBSISTENCE FISHERMEN, ESPECIALLY OF LOCAL COMMUNITIES TO THE PREFERENTIAL USE OF THE COMMUNAL MARINE AND FISHING RESOURCES, BOTH INLAND AND OFFSHORE. IT SHALL PROVIDE SUPPORT TO SUCH FISHERMEN THROUGH APPROPRIATE TECHNOLOGY, RESEARCH, ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE, AND OTHER SERVICES. THE STATE SHALL ALSO PROTECT, DEVELOP AND CONSERVE SUCH RESOURCES. THE PROTECTION SHALL EXTEND TO THE OFFSHORE FISHING GROUNDS OF SUBSISTENCE FISHERMEN AGAINST FOREIGN INTRUSION. FISHWORKERS SHALL RECEIVE A JUST SHARE FROM THEIR LABOR IN THE ENJOYMENT OF MARINE AND FISHING RESOURCES.

Submitted to a vote and there being no objection, the Body approved Section 8, as amended.

Mrs. Nieva also invited attention to the new title

which should read AGRARIAN AND NATURAL RESOURCES REFORM instead of "Agrarian Land Reform".

RESERVATION OF MR. OPLE

At this juncture, Mr. Ople manifested that, together with Mr. Bennagen, he would make a reservation to propose an amendment to add a new section under "Agrarian and Natural Resources Reform".

PROPOSED AMENDMENT OF MR. COLAYCO

At this juncture, upon inquiry of Mr. Romulo, the Committee agreed to take up Mr. Colayco's proposed amendment on Section 3.

Thereupon, Mr. Colayco manifested that he shares the Committee's sentiment for the cause of labor but that his amendment would improve not only the form of the Constitution but also enhance the cause of labor.

On the enumeration in Section 3 of the different rights granted to the workers under current legislations, Mr. Colayco stated that during the period of interpellations, Ms. Aquino explained that the enumeration was necessary in order to elevate the laws benefiting labor to a constitutional level. He stated, however, that there is no need for this enumeration because the laws guarantee the protection of these rights that are already in the statute books. He adverted to complaints that the Commission is formulating a Constitution that unnecessarily uses too many words which, he opined, applies to Section 3.

Mr. Colayco pointed out that if the purpose of the Committee was to guarantee the rights heretofore granted by law to labor, it could accomplish its objective in just one sentence. He then proposed the first sentence of his amendment to read THE STATE SHALL PROTECT ALL THE RIGHTS GRANTED BY THE LAW TO WORKERS, which sentence would constitute a mandate to the future Congress to preserve, maintain and protect the rights granted to labor by the laws.

With respect to the last sentence in Section 3(b) which refers to the right of labor to participate in policy and decision-making processes affecting their interests, Mr. Colayco presented the second part of his amendment, to wit: PROMOTE MUTUAL COOPERATION BETWEEN WORKERS AND THEIR EMPLOYERS BASED ON SHARED RESPONSIBILITY. He explained that shared responsibility means no more than the right to share in

decision-making after consultations and, to go further, even to representation in the board of directors of the corporations.

With respect to Section 3(d), Mr. Colayco opined that it could be trimmed down to read **AND ENSURE THEIR JUST SHARE OF THE FRUITS OF THEIR LABOR**. He stated that the fruits of labor cover not only just wages or profit-sharing but also sharing in ownership, all of which are fruits of labor.

Mr. Colayco maintained that in compressing the four paragraphs into the three sentences he had proposed, he had been able to retain the substance and intent of the Committee.

Finally, adverting to Mr. Uka's rhetoric — what is one word less among friends — Mr. Colayco urged acceptance of his amendments by the Committee.

Responding thereto, Ms. Aquino manifested the Committee's nonacceptance of Mr. Colayco's amendments, stating that although the Committee viewed with enthusiasm the introduction of a new concept on shared responsibility which it would even want to incorporate in the draft, the Committee is deeply concerned by this preoccupation of brevity. She maintained that the draft, although admittedly too long, reflected the gains made by the workers and the labor force in their struggle for the assertion of their rights, which gains, she stressed, had already been institutionalized in the 1935 and 1973 Constitutions. She stated that the scuttling of these gains would lead to no other interpretation than the withdrawal of what had been virtually institutionalized.

Ms. Aquino stressed that the rights provided in the draft are the barest minimum and irreducible demands of the labor groups who participated in the public hearings. She warned that they would judge the Commission very unkindly if these rights were touched just for the sake of brevity.

Replying thereto, Mr. Colayco stated that he tried to offer a compromise but he was turned down because of the Committee's fear that the laborers would be disappointed if this litany of rights would not be spelled out. Without sounding critical, he stated that the Constitutional Commission is not a "Code Committee" but a body tasked to frame a new Constitution and in doing so, it must observe certain cardinal traditional norms which have been followed by almost all Constitutions. He pointed out that India, which was cited as having a long Constitution, has a bigger population than the Philippines aside from the fact that it is composed of diverse tribes and sectors which their Constitution should address to.

Commenting on the statement that his proposal is a withdrawal from a higher and better position, Mr. Colayco maintained that it is more concrete and conveys a clearer mandate.

Thereupon, he read a statement on the question of brevity, to wit:

"The first quality, brevity, is to emphasize its uniqueness or distinctiveness in relation to ordinary forms of lawmaking. A Constitution is, after all, rather different from a municipal ordinance on sewers and drains. A short text can also by its very simplicity be more readily comprehended by the general public and this facilitates that national consensus building. That is one of the prime objectives of democratic constitutionalism."

REMARKS OF MRS. QUESADA

Mrs. Quesada stressed that the new Constitution which the Body is tasked to draft should be truly reflective of the sentiments and aspirations of the people and in doing so, the Constitution should be drafted in such a way that an ordinary individual, be he a non-lawyer, farmer, worker, urban poor, fisherman or even a child, should be able to understand its intentions without referring to the Journal of the Commission.

Mrs. Quesada admitted that she herself could not understand the proposed amendments without reading the Labor

Code and, with more reason, that the other ordinary layman would not know what the new Constitution provides beyond what had already been granted.

Mrs. Quesada cited several countries that have long Constitutions and pointed out that the provisions of the Article on the Executive, as well as on the Judiciary, are even longer than the provisions of the Article on Social Justice.

Finally, Mrs. Quesada stated that brevity and broadness should not be the overriding concern of the Body which should concern itself with the sentiments and aspirations of the people as reflected in the provisions of the original draft.

REPLY OF MR. COLAYCO

Replying thereto, Mr. Colayco invited attention to comments that the proposed Article on Social Justice is somewhat lengthy, which could be compared to a small vehicle overloaded with cargo.

Mr. Colayco then proposed that voting on his proposed amendments be done through secret balloting in order to have better assurance of freedom of choice.

COMMENTS OF MR. BACANI

Mr. Bacani pointed out that the lengthy provisions on agrarian reform would make the provisions on labor disproportionately small if reduced. He opined that the cardinal rule in constitution-making is responsiveness to the people and service in the interest of the common welfare. He added that the Body should not follow the hard and fast rule on brevity and conciseness.

INQUIRY OF MR. LERUM

Upon inquiry of Mr. Lerum, Mr. Colayco affirmed that he had no objection to the substance of the provisions as drafted and it was only his intention to condense them.

On the rationale of the request for secret balloting if the only purpose is to condense the provisions, Mr. Colayco stated that even Members of the Committee could differ in opinion but he did not mean to imply that they are afraid to cast their votes publicly.

Mr. Lerum, however, maintained that the sectors which the Members represent have a right to know how the latter would vote.

POINT OF INFORMATION OF MR. ROMULO

Mr. Romulo, on a point of information, recalled that when the Body met in caucus, it was agreed that a Member may request for a secret balloting if the Committee does not accept his amendment.

RULING OF THE CHAIR

Thereupon, the Chair ruled that voting be done by secret ballot.

OBJECTION OF MR. SARMIENTO TO MR. COLAYCO'S PROPOSED AMENDMENTS

Speaking against Mr. Colayco's proposed amendments, Mr. Sarmiento stated that the classic formula in constitution-making is that a Constitution should be clear, concise and comprehensive but which formula, he opined, should not be taken as dogma. He maintained that constitution-making should respond to the signs of the

times and to the people's clamor for an enumeration of their rights. He warned that compressing these rights would make the people unhappy and, perhaps, take it as a big letdown. He appealed to Mr. Colayco to reconsider his proposal as a response to the wishes of the people.

INQUIRY OF MR. DE LOS REYES

In reply to Mr. de los Reyes' queries, Mr. Colayco affirmed that the phrase "shall protect all the rights granted by law" means that no law can be passed removing any of the rights enumerated in the original draft and that it would take a constitutional amendment to remove these rights from the laborers.

Mr. Lerum manifested for the record that he was against secret balloting.

OBJECTION OF MR. FOZ TO MR. COLAYCO'S PROPOSED AMENDMENT

Mr. Foz noted that the amendment would give primacy to legislative enactments in the sense that it would make it difficult for Congress to change what has already been provided in existing laws because they may no longer be amended or repealed. He maintained that the provision would be useless without the specification of the rights of labor, because then any right of labor would depend on whatever Congress would provide. He pointed out that Mr. Colayco's amendment, being an amendment by substitution, would do away with the other subparagraphs of the Section.

VOTING ON MR. COLAYCO'S PROPOSED AMENDMENT

Before the voting, the Chair clarified that the Body would be voting on the entire amendment of Mr. Colayco.

Thereupon, the Body voted through secret balloting. The result of the voting showed 13 Members voting in favor and 31 against.

The Chair declared Mr. Colayco's proposed amendment lost.

PROPOSED AMENDMENT OF MR. OPLE

In lieu of Section 9, which was transferred to the Article on National Economy and Patrimony, Mr. Ople proposed a new Section 9, to read:

SECTION 9. - THE STATE SHALL REDIRECT IDLE CAPITAL IN LAND UNLOCKED THROUGH AGRARIAN REFORM TOWARDS ACCELERATED INDUSTRIAL DEVELOPMENT AND EMPLOYMENT CREATION. BONDS OR OTHER FINANCIAL INSTRUMENTS ISSUED AS PAYMENT FOR LANDS UNDER SECTION 5 OF THIS ARTICLE SHALL BE HONORED AS EQUITY IN GOVERNMENT INVESTMENTS OF THEIR CHOICE.

He underscored that agrarian land reform could liberate the farmers from the bondage of the soil, and could accelerate industrialization and employment expansion. He pointed out, however, that landowners whose lands are expropriated find the bonds issued to them by the government useless.

In view thereof, he opined that his proposal would ensure that said bonds would be converted into dynamic capital for industrial growth and expansion of job opportunities.

Thereupon, on request of Mr. Sarmiento, the Chair directed the Secretariat to furnish the Members copies of Mr. Ople's proposed amendment.

INQUIRY OF MR. BENGZON

In reply to Mr. Bengzon's query on whether it is the intent of the proposal to allow the use of bonds as payment for taxes or loans from government corporations, Mr. Ople stated that although it is the existing policy, it was not properly implemented. He stressed that with his proposal, bonds would constitute 90 per centum of the payment to the landowner, and the remainder, which is in cash, would be issued as a negotiable instrument.

He also pointed out that the capital would be honored as equity or share of stock in government investments of the landowners' own choice.

At this juncture, Mr. Jamir observed that copies of the proposed amendment had not yet been distributed.

SUSPENSION OF SESSION

Thereupon, on motion of Mr. Romulo, the Chair suspended the session until two-thirty in the afternoon in order to allow the Members time to go over Mr. Ople's proposal.

It was 12:21 p.m.

RESUMPTION OF SESSION

At 2:43 p.m., the session was resumed.

AMENDMENT OF MR. OPLE JOINTLY WITH MESSRS. DE LOS REYES, ROMULO, BENGZON, BENNAGEN, AZCUNA, REGALADO, MONSOD AND MAAMBONG

Mr. Ople proposed to change the entire Section 9 with the following:

SECTION 9. - THE STATE SHALL PROVIDE INCENTIVES TO LANDOWNERS TO INVEST THE PROCEEDS OF THE AGRARIAN REFORM PROGRAM SO AS TO PROMOTE INDUSTRIALIZATION, EMPLOYMENT CREATION AND PRIVATIZATION OF PUBLIC SECTOR ENTERPRISES. FINANCIAL INSTRUMENTS USED AS PAYMENT FOR LANDS SHALL BE HONORED AS EQUITY IN SUCH ENTERPRISES OF THEIR CHOICE.

Mr. Ople explained that his proposal would make agrarian reform in the Article on Social Justice as the catalyst of industrialization since social justice, as a whole, liberates the farmer from the bondage of the soil and releases idle private capital for industrialization and employment expansion. He pointed out that economic miracles took place in Japan, Taiwan and Korea largely because of the land reform programs pursued by their governments.

Mr. Bengzon accepted the proposal.

On Mr. Bacani's query as to the meaning of "proceeds", Mr. Ople replied that it refers to the just compensation for the lands of the dispossessed landowners.

On whether land bonds issued by Mr. Marcos as payment of just compensation to the landowners could be considered "financial instruments", Mr. Ople replied that it does refer to bonds as a mode of payment. He explained that under PD No. 27, the mode of payment was 10% cash and 90% to bonds. He pointed out, however, that the first sentence of the proposed amendment would rectify whatever error there may be in the original scheme of payment under the land reform program of the previous regime. He cited, as an example, the Land Bank of the Philippines which made more than P400 million net earnings last year as one of those enterprises which landowners could immediately use as a vehicle for investing their bonds.

On Mr. Rodrigo's query whether it is possible for Congress or the implementing agency to repeat what Mr.

Marcos did, Mr. Ople replied that there is no such specific mandate.

On whether it would be a violation of Section 9 if Congress or the implementing agency would again prescribe the rule that lands taken from landowners should be paid 10% cash and 90% bonds, Mr. Monsod replied that payment terms similar to those in the previous regime would not constitute just compensation. He pointed out that there is a mandate to Congress that the value of the payments and the terms of conversion should be such that there would be an incentive for the landowners to invest in enterprises. He opined that a conversion value of 50% of the face value would not be considered as an incentive. He stressed that it would still be possible for a landowner to be paid 90% bonds and 10% cash as long as the payment approximates the value given to the market price of the land.

On whether "enterprises" includes private enterprises, Mr. Monsod stated that in relation to the phrase "privatization of public sector enterprises", it means public enterprises although private companies could also accept such bonds. He agreed with Mr. Rodrigo's observation that when it comes to public enterprises the acceptance of bonds as equity is compulsory while in the case of private companies it is optional depending upon the operation of market forces.

On whether there are government corporations, aside from the Land Bank, which are making profits, Mr. Monsod mentioned COMBANK, Union Bank and National Steel Corporation as some of the government corporations presently making profits.

In reply to Mr. Colayco's query as to what the "incentives" would be, for the guidance of Congress, Mr. Monsod cited, as an example, the pricing of shares of government corporations. He added that even if the payment is 10% cash and 90% bonds, there would still be just compensation if the interest rate on such bonds is such that the present market value of the bonds equals the price of the land. He stressed that this would be an incentive because the landowners could sell or exchange those bonds in the free market. He explained further that the records of the Commission, particularly those referring to just compensation, would sufficiently guide the Legislature and prevent it from committing the same mistakes in the past.

On Mr. Regalado's query whether the landowner could use the bonds for the payment of taxes and loans from government banks, Mr. Bengzon stressed that these are not only incentives but are in fact the consequences intended by the Committee in accepting the proposal.

On Mr. Davide's query whether the landowner would be allowed to negotiate the "financial instruments", Mr. Monsod explained that the bonds or financial instruments representing the proceeds of the agrarian reform program are negotiable instruments under Section 9.

Mr. Monsod affirmed that "public sector enterprises" refers only to government-owned or controlled corporations, because the government does not have power to compel private corporations to accept the bonds. He pointed out, however, that Congress could include quasi-public corporations like those in public utility services as some of those entities in which the landowner could invest his bonds if they would be included within the contest of the privatization program. He added that "financial instruments" that would be issued under the agrarian reform program may include certificates of indebtedness, promissory notes and others.

On Mrs. Rosario Braid's query whether the landowner has the freedom to choose which enterprises he would invest his bonds in, Mr. Monsod explained that he could choose only from those which the government has decided to privatize.

On the proposal to insert VITAL before "enterprises", Mr. Monsod stated that the adjective may be unnecessary because there are other provisions in the Constitution which define more clearly the areas or manner by which the

government would be involved in industrialization.

Mrs. Rosario Braid stated that for the sake of brevity, she would reword the entire Section to read:

SECTION 9. - THE STATE IN COOPERATION WITH THE PRIVATE SECTOR SHALL PROMOTE INDUSTRIALIZATION, EMPLOYMENT CREATION AND PRIVATIZATION OF PUBLIC ENTERPRISES. TOWARDS THIS END, IT SHALL PROVIDE INCENTIVES TO LANDOWNERS WHO INVEST PROCEEDS FROM AGRARIAN REFORM BOND ON VITAL ENTERPRISES.

Mr. Monsod stated that the first sentence is a general statement which properly belongs to the Article on Declaration of Principles and State Policies or the Article on National Economy and Patrimony, besides, the proposed amendment is as long as the original.

Mrs. Rosario Braid withdrew her proposal.

On Mr. Bacani's query whether the landowner could refuse the incentive and insist on being paid in cash, Mr. Monsod adverted to the previous day's discussion that the program was defined in terms of the exercise of police power and that the aims of the program is on a higher plain of objectives or values than a landowner's right to hold on to his property, thus a landowner may not refuse participation in the program on the basis of a demand to be paid in cash. He stated, however, that a landowner may ask that the just compensation be paid in cash.

INQUIRY OF MR. LERUM

Mr. Lerum agreed that land reform aims to: 1) liberate the tiller from the bondage of the soil, and 2) release idle capital locked in the antiquated land reform system, to accelerate industrialization and expand employment. He then asked Mr. Ople what capital is locked in the system.

In reply, Mr. Ople stated that the land reform program would break up landed estates and transform the landowners to entrepreneurs or investors, as in the case of Thailand where two billion NT dollars were released to industry in five years' time. He affirmed that locked-up capital refers to the payment that the landowner should have received for his land.

Mr. Lerum, however, adverted to Mr. Ople's previous remark that 90% was paid in almost worthless bonds, thus, he observed that there was no locked-up capital to speak of, to which, Mr. Monsod replied that assets may either be in the form of land, bonds or cash. Mr. Monsod stated that bonds, being closer to liquidity than land, may be negotiated or used as equity, thereby increasing investment in new or ongoing enterprises, provided that said bonds bear the market rate of interest.

Reacting thereto, Mr. Lerum stated that bonds paid by the government to the landowner is not new capital but indebtedness of the government to the landowner, so no new capital is created.

Mr. Monsod disagreed, stating that types of assets should be differentiated and that in economics, investment refers to the creation of new productive enterprises or new productive assets.

AMENDMENT OF MR. MAAMBONG

The Committee accepted Mr. Maambong's perfecting amendment to delete "so as" after "program" on the third line.

RESULT OF THE VOTING

Submitted to a vote, and with 30 Members voting in favor, none against and 1 abstention, the Body approved the amendment.

Mr. Rodrigo abstained.

AMENDMENT OF MR. REGALADO

As proposed by Mr. Regalado and accepted by the Sponsor, the Body approved on Section 3(c) to substitute "thereof" with THEREWITH.

MANIFESTATION OF MRS. NIEVA

At this juncture, Mrs. Nieva manifested that minor changes were made on Section 11. She stated that on the phrase "a continuing urban land USE and Housing program", "housing" should be with a small "h" and the phrase IN COORDINATION WITH THE PRIVATE SECTOR should be added after it.

She stated that the Committee had realized the magnitude of the housing problem from studies which showed that the problem cannot be solved solely by the government. She stated that the government's main function is to open opportunities leaving direct housing to the private sector which includes the people, landowners, land developers and financing institutions in cooperation with each other.

PROPOSED AMENDMENT OF MR. FOZ

Mr. Foz proposed to substitute Section 11 with the following:

SECTION 11. - THE STATE SHALL ESTABLISH AND IMPLEMENT AN URBAN LAND REFORM PROGRAM TO PROMOTE THE RENEWAL, DEVELOPMENT AND MODERNIZATION OF HUMAN COMMUNITIES FOR THE COMMON GOOD. IT SHALL PURSUE A SOCIAL HOUSING PROGRAM TO MAKE DECENT HOUSING AND OTHER COMMUNITY SERVICES AVAILABLE TO DESERVING LOW-INCOME CITIZENS.

He stated that his amendment seeks to reinstate the word "reform" as part of the phrase "urban land reform program" since "use" has a limited implication. He stated that "use" implies zoning which does not cover the other components of urban land reform which are: 1) to liberate human communities from blight, congestion and hazards, and to promote their development and modernization; 2) to bring about the optimum use of land as a national resource for public welfare rather than as a commodity of trade subject to speculation and indiscriminate use; 3) to provide equitable access and opportunity to the use and enjoyment of the fruits of the land; 4) to acquire such lands as are necessary for public welfare to prevent speculative buying of land; and 5) to maintain and support a vigorous private enterprise system responsive to community requirements in the use and development of urban lands.

He stated that the amendment was proposed by Messrs. Sarmiento, Treñas, Villegas and Ms. Tan. Adverting to Mrs. Nieva's statement that the housing program should be made in collaboration with the private sector, he stated that there is no controversy about it.

On the change from "use" to REFORM, Mrs. Nieva stated that the matter should be submitted to the Body since the Committee Members are divided on the term to be used.

Mr. Monsod invited Mr. Foz' attention to the phrase "urban land use and housing program" but agreed that the matter be presented to the Body.

Mr. Foz stated that the word "use", in effect, is a withdrawal from the original concept.

Ms. Tan clarified that she is not one of the proponents of the section but is in agreement with certain parts thereof. On the change from "use" to REFORM, she stated that land use could be applied to anybody while REFORM means that land has been used unjustly. On the two other proposed amendments, she suggested that the phrase should read "TO MAKE decent housing AND BASIC COMMUNITY FACILITIES OR SERVICES AVAILABLE", stating that without "basic", even swimming pools could be constructed in BLISS projects where there is no running water for the washrooms.

On the word "available", she stated that "low income" is relative. She suggested that UNDERPRIVILEGED is more appropriate but that she welcomed the way the section was revised.

Supplementing the arguments for the retention of REFORM, Mr. Villegas stated that it has to be stated clearly that the State is given the authority to expropriate large tracts of urban land for redistribution to deserving citizens in the spirit of agrarian reform.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 3:41 p.m.

RESUMPTION OF SESSION

At 3: 51 p.m., the session was resumed.

Mr. Foz informed that after consultations with the Committee and the other proponents, namely: Messrs. Treñas, Sarmiento, Ms. Tan, Messrs. Rama, Villegas and de los Reyes, they had arrived at a common formulation to amend Section 11, which amendment had been accepted by the Committee.

Section 11 shall read as follows:

THE STATE SHALL BY LAW AND FOR THE COMMON GOOD UNDERTAKE A CONTINUING PROGRAM OF URBAN LAND REFORM AND HOUSING PROGRAM IN COORDINATION WITH THE PRIVATE SECTOR THAT WILL MAKE DECENT HOUSING AND BASIC SERVICES AVAILABLE AT AFFORDABLE COST TO UNDERPRIVILEGED AND HOMELESS CITIZENS IN URBAN CENTERS AND RESETTLEMENT AREAS.

Mr. Bengzon advised that the Committee had accepted the suggestion of Mr. Nollado to use COOPERATION instead of "coordination" inasmuch as it would better reflect the idea of the Committee with respect to cooperation with the private sector.

Mr. Nollado, in explaining his amendment, stated that coordination would only refer to efforts and may preclude investments. He maintained that cooperation in a stronger term.

Mr. Foz noted that it would be the other way around inasmuch as there would be coordinated involvement of efforts and funds while cooperation would not elicit involvement or commitment.

Mr. Nollado maintained that cooperation may cover investments and other factors but that coordination would only involve efforts. He stated that he would even recommend "collaboration" which was the original word used by Mr. Foz. Thereafter, Mr. Foz accepted the amendment.

Mrs. Quesada, reacting thereto, objected to the amendment, stating that the original words "shall regulate" had

been amended to BY LAW, thus, subjecting it to legislation and removing the mandate.

Mr. Monsod explained that the reason for removing the phrase "regulate the ownership" is that the general rule on "regulation, acquisition, ownership, use and disposition of property and its increment" is already stated in Section 1 and would, therefore, affect all the other sections in the Article on Social Justice. He noted that it does not dilute or diminish the provision.

Mr. Foz observed that the term "urban land reform" involves the idea of regulation. Thereafter, on direction of the Chair, Mr. Foz restated the amendment.

Explaining the rationale of his amendment which replaced the word "deserving" with UNDERPRIVILEGED AND HOMELESS, Mr. Rama stated that there are underprivileged citizens who have homes acquired through inheritance. The main concern, he stressed, would be the homeless citizens who live in sidewalks, on top of garbage dumps and in shacks.

Upon inquiry of the Chair, Mr. Treñas informed that his amendment as well as the amendments of other proponents on Section 11 had been incorporated.

VOTING ON THE AMENDMENT OF MESSRS. FOZ, TREÑAS, SARMIENTO, MS. TAN, MESSRS. RAMA, VILLEGAS AND DE LOS REYES

Submitted to a vote, and with 35 Members voting in favor and 2 against, the amendment was approved by the Body.

PROPOSED AMENDMENT OF MR. SARMIENTO

On Section 12, Mr. Sarmiento proposed to delete the phrase "with valid claims" after the word "dwellers". Mrs. Nieva informed that the phrase had been taken out as well as the words "due process" which had been substituted with IN ACCORDANCE WITH LAW. The Section as presently formulated would read: URBAN POOR DWELLERS SHALL NOT BE EVICTED NOR THEIR DWELLINGS DEMOLISHED EXCEPT IN ACCORDANCE WITH LAW AND ALWAYS IN A JUST AND HUMANE MANNER.

On Mr. Sarmiento's query, Mr. Bengzon explained that the phrase "due process of law" had been replaced by IN ACCORDANCE WITH LAW because it is a redundancy. He noted that if it is in accordance with law, it would mean observance of due process.

Mr. Sarmiento proposed to retain the clause "and their involvement in its planning and implementation" which had been deleted by the Committee. He remarked that he had conferred with a group of urban poor who had asked that the lines be retained because they would like to participate in the planning and implementation. He added that resettlement would affect the urban poor in Metro Manila which numbers more than one million.

Mr. Bengzon explained the rationale for the deletion stating that the word "consultation" would include participation in planning and implementation. He stressed that the Committee was trying to avoid a situation where, after all the planning of the government in consultation with the urban poor, all efforts would go to waste should they refuse to be resettled.

Mr. Sarmiento withdrew his amendment with the understanding that it is the intention of the Committee that consultation would include the involvement of the urban poor in planning and implementation.

PROPOSED AMENDMENT OF MR. DE CASTRO

On being informed that "urban poor dwellers" would also include squatters, Mr. de Castro stated that under existing laws, squatting is illegal per se, to which, Mr. Bengzon replied that a squatter is a nuisance per se and could be evicted in accordance with law, but the eviction would have to be in a just and humane manner.

Mr. de Castro pointed out that the clause "they cannot be evicted nor dwellings demolished except in accordance with law" would force the owner of the land occupied by squatters to go to court to evict the squatters.

Mr. Bengzon clarified that even if the squatters are nuisance per se, the eviction would be done in a just and humane manner.

Mr. Regalado further clarified that a "professional squatter" or one with no valid claim whatsoever, could be considered a nuisance per se and the owner of the land does not need to go to court but could report to the municipal or health authorities and seek the aid of the police to evict the squatter. However, in the case of a nuisance per accidens, he stressed that before eviction, there must be a determination of the facts and that judicial recourse could be necessary. He added that the owner himself, under the law on property, is entitled to use reasonable force in defense of his property whenever there is a clear and patent infringement of his property rights.

Mr. de Castro inquired as to how a "professional squatter" could be distinguished from a "non-professional squatter". He noted that the Body might be constitutionalizing squatterism. He agreed with the need to follow a just and humane manner in evicting them but noted that requiring the owner of the land to go to court so that such eviction could be carried out would be punishing the landowner who may be as poor as the squatter himself.

Reacting thereto, Mr. Bengzon stated that even without the particular paragraph, a squatter, unless he is a nuisance per se, could not be evicted without due process.

On Mr. de Castro's proposal to amend the provision by deletion of the first sentence, to wit: "Urban poor dwellers shall not be evicted nor their dwellings demolished except in accordance with law and always in a just and humane manner," Mr. Brocka observed that the question is not whether the squatters are illegal or professional but that they should be given protection. The particular Section, he stated, is premised on the fact that urban poor dwellers are human beings and should be protected by law. He stressed that they should not be driven away like animals and evicted in the manner it was done in the past, resulting in the death of some people. He maintained that the phrase "in accordance with law" would give them protection.

Reacting thereto, Mr. de Castro stated that he did not say that the urban poor or squatters are animals or that they should be evicted in an unjust manner. He reiterated that he is questioning the provision inasmuch as it would constitutionalize squatterism.

The Sponsor did not accept the amendment.

Submitted to a vote, and with 1 Member voting in favor and 30 against, the amendment was lost.

AMENDMENTS OF MR. DAVIDE

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved the following amendments, one after the other:

- 1) On Section 11, after the Foz' amendment, add the following sentence: IT SHALL ALSO PROVIDE ADEQUATE EMPLOYMENT OPPORTUNITIES TO SUCH CITIZENS.

Mr. Davide stated that this amendment was coauthored by Messrs. Nollado, Sarmiento, Foz, Bennagen and Ms. Tan.

2) On Section 12, between the words "urban" and "poor", insert AND RURAL.

In reply to Mr. Bennagen's query, Mr. Davide agreed that his proposal would include the rural communities threatened by huge infrastructure projects.

PROPOSED AMENDMENT OF MR. REGALADO

On the same Section 12, Mr. Regalado proposed to substitute the words "Urban poor dwellers" with UNDERPRIVILEGED URBAN DWELLERS, to make it more encompassing.

Mr. Sarmiento pointed out that urban poor dwellers would refer to those who are financially poor and deprived of basic necessities such that urban poor would cover the underprivileged. He further stated that the present Constitution speak of "urban poor", which term had been used for decades.

Mr. Regalado pointed out, however, that underprivileged urban dwellers necessarily include the poor. He contended that the mere fact that the term "urban poor" was used in the 1973 Constitution does not mean that it has already an inflexible and rigid jurisprudential meaning.

Additionally, Mr. Foz stated that the term "urban poor" was mentioned not only in the 1973 Constitution but also in volumes of books on real estate development and, therefore, an accepted term among developers all over the world. He expressed support for retaining the term "urban poor".

Thereupon, Mr. Regalado withdrew his amendment on the understanding that the term would have reference not only to the financial but also to other aspects of life.

AMENDMENTS OF MR. REGALADO

Mr. Regalado proposed the following amendments:

1) On the same Section 12, line 3, delete the word "always".

The Sponsor accepted the amendment.

2) On line 6, between the words "with" and "the" insert THEM AND; and between "communities" and "to", insert WHERE THEY ARE.

Mr. Regalado stated that his proposal would effect a dual consultation between the community and the urban poor in their own community and for the other community to explain whether their resources would accommodate any resettlement areas. He stated that the pronoun "them" would refer to the urban or rural dwellers who are going to be relocated.

In reply to Mr. Davide's query, Mr. Regalado stated that the word used is "consultation" such that the communities could not reject or override a governmental policy.

In reply to Mr. Maambong's query, Mr. Regalado stated that there would be a dual consultation between the communities where the urban or rural dwellers belong and the communities where they would be relocated.

In reply to Mr. Bennagen's query on the meaning of "consultation", Mr. Regalado stated that it would mean what the Committee originally intended it to be, making adequate information available to all concerned so that decisions could be made on the basis of the best available information.

The Sponsor accepted the amendment.

MR. SARMIENTO'S AMENDMENT TO THE AMENDMENT

Mr. Sarmiento proposed to change "urban or rural dwellers" to URBAN AND RURAL POOR DWELLERS as a consequence of Mr. Davide's amendment.

Mr. Bennagen pointed out that there is no necessity to qualify rural dwellers with the adjective "poor" because in case of massive relocation, even those who are not really poor would be included in the relocation.

Thereupon, Mr. Sarmiento withdrew his amendment.

MR. MAAMBONG'S AMENDMENT TO THE AMENDMENT

Mr. Maambong proposed to amend the amendment by substituting the words "urban or rural" with SUCH to avoid a repetition of the phrase "urban or rural dwellers".

Mr. Sarmiento pointed out that the proposed substitution would bring the Committee back to the problem of reference to urban and rural poor dwellers which the Committee did not accept.

Thereupon, Mr. Maambong desisted from his amendment.

The Committee sustained the original proposal of Mr. Regalado, and there being no objection, the same was approved by the Body.

VOTING ON SECTION 12

Mrs. Nieva restated the provision on Section 12, to wit:

SECTION 12. - URBAN OR RURAL POOR DWELLERS SHALL NOT BE EVICTED NOR THEIR DWELLINGS DEMOLISHED EXCEPT IN ACCORDANCE WITH LAW AND IN A JUST AND HUMANE MANNER. NO RESETTLEMENT OF URBAN AND RURAL DWELLERS SHALL TAKE PLACE WITHOUT ADEQUATE CONSULTATION WITH THEM AND WITH THE COMMUNITIES WHERE THEY ARE TO BE RELOCATED.

Submitted to a vote, and with 34 Members voting in favor and 1 against, the entire Section 12 was approved by the Body.

SUSPENSION OF SESSION

On motion of Mr. Monsod, the session was suspended.

It was 4:37 p.m.

RESUMPTION OF SESSION

At 5:14 p.m., the session was resumed with the Honorable Regalado E. Maambong presiding.

Mr. Rama asked that Ms. Aquino be recognized.

REFORMULATION OF SECTION 3

Upon resumption of session, Ms. Aquino presented the reformulation of Section 3, to wit:

SECTION 3. - THE STATE SHALL AFFORD EVERY PROTECTION TO LABOR AND PROMOTE FULL

EMPLOYMENT AND EQUALITY OF EMPLOYMENT OPPORTUNITIES FOR ALL.

IT SHALL GUARANTEE THE RIGHTS OF ALL WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND NEGOTIATIONS, PEACEFUL AND CONCERTED ACTIVITIES INCLUDING THE RIGHT TO STRIKE IN ACCORDANCE WITH LAW. THEY SHALL BE ENTITLED TO SECURITY OF TENURE, JUST AND HUMANE CONDITIONS OF WORK, A LIVING WAGE, AND TO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS AND BENEFITS AS MAY BE PROVIDED BY LAW.

THE STATE SHALL PROMOTE THE PRINCIPLE OF SHARED RESPONSIBILITY BETWEEN WORKERS AND EMPLOYERS IN SETTLING THEIR DISPUTE THROUGH THE PREFERENTIAL USE OF VOLUNTARY MODES, INCLUDING CONCILIATION, AND THE ENFORCEMENT OF THEIR MUTUAL COMPLIANCE THEREWITH.

THE STATE SHALL REGULATE THE RELATIONS BETWEEN WORKERS AND EMPLOYERS, RECOGNIZING, FOREMOST, THE RIGHT OF LABOR TO ITS JUST SHARE AND THE CORRESPONDING RIGHT OF BUSINESS TO REASONABLE RETURNS ON INVESTMENTS, EXPANSION AND GROWTH.

AMENDMENT OF MR. RIGOS

As proposed by Mr. Rigos and accepted by the Sponsor, the Body approved, on the fourth paragraph of Section 3 as reformulated, third line, to insert a comma (,) between the words “share” and “and”.

PROPOSED AMENDMENT OF MR. REGALADO

On the fourth paragraph, third line, Mr. Regalado proposed to change the word “corresponding” to EQUIVALENT.

He observed that the word “corresponding” is vague and the word EQUIVALENT would express the equality of both workers and employers before the law.

In reply, Mr. Bacani stated that the committee would prefer the word “corresponding” because the provision does not speak of equality before the law but of the parallelism on the right of labor to its just share and the right of business enterprise to reasonable returns on investments.

MR. DAVIDE’S PROPOSED AMENDMENT TO MR. REGALADO’S AMENDMENT

On the same paragraph, Mr. Davide proposed, on the second line, to change the word “labor” to WORKERS, and on the third line, to change “business enterprises” to EMPLOYERS, to be consistent with the use of “workers” and “employers” in the preceding line, as well as in the preceding paragraph, which Mr. Regalado accepted.

However, Ms. Aquino insisted on the retention of the words “labor” and “business enterprise”.

Mr. Regalado contended the term “business enterprise” would not apply to nonprofit schools which is considered an employer.

Thereupon, Mr. Azcuna proposed the substitution of “business enterprises” with PRIVATE ENTERPRISES, in reply to which Mr. Bacani observed that the government enterprises would not be included in “private enterprises”. Mr. Ople agreed with Mr. Bacani’s observation.

At this juncture, the Chair suggested that Messrs. Davide, Regalado and Azcuna confer on their amendments with the Committee.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 5:30 p.m.

RESUMPTION OF SESSION

At 5:35 p.m., the session was resumed.

AMENDMENT OF MR. REGALADO

Upon resumption of session, as proposed by Mr. Regalado and accepted by the Sponsor, the Body approved the retention of the word “labor” on the second line, and the deletion of the word “business” on the third line.

However, Ms. Aquino did not accept the change of “corresponding” to EQUIVALENT because the latter would diminish the meaning of “foremost” in the second line.

Mr. Regalado insisted on his proposal to change “corresponding” to EQUIVALENT.

Submitted to a vote, and with 13 members voting in favor and 20 against, the proposed amendment was lost.

AMENDMENT O MR. DAVIDE

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved the amendment on the third paragraph o Section 3, line 2, between the words “employers” and “in”, to insert the phrase AND THE PREFERENTIAL USE OF VOLUNTARY MODES; to and “s” to “dispute”; and to delete the words “through the use of voluntary modes” on lines 2 to 3.

AMENDMENT OF MR. SARMIENTO JOINTLY WITH MR. FOZ

On the fourth paragraph o Section 3, line 3, Mr. Sarmiento, jointly with Mr. Foz, proposed to insert the words IN THE FRUITS OF PRODUCTION between “share” and the comma (,).

He explained that the word “share” would be incomplete because it could refer to share in ownership, management or profit of enterprise.

The sponsor accepted the proposed amendment, and there being no objection, the amendment was approved by the Body.

AMENDMENT O MR. PADILLA

On the fourth paragraph, Mr. Padilla proposed to delete the word “foremost” in the second line, and the word “corresponding” on the third line.

Mr. Padilla explained that the benefits of industrial peace should be share by both labor and management because the share of labor in the fruits of production is mutually dependent on the corporation’s reasonable return on investment or profits. He opined that “foremost” and “corresponding” do not really add to the realization o industrial peace and more productivity.

Mr. Bacani pointed out that the two words should be retained for their psychological impact in situations where the prices of raw materials are raised but management would not increase the salary o its workers.

Mr. Padilla stressed that the provisions should deal with reality and not merely for psychological effects, to which,

Mr. Bacani replied that the psychology of people, the way they react or look at things, is part of reality.

Thereupon, the proposal was submitted to a vote with 18 Members voting in favor and 17 against, the same was approved by the Body.

AMENDMENT OF MR. DAVIDE

As proposed by Mr. Davide and accepted by the Sponsor, on the first sentence of Section 3, after the word "afford", the Body approved the change of the word "every" to FULL.

AMENDMENT OF MR. FOZ

Mr. Foz proposed to insert the phrase IN THE PROMOTION OF INDUSTRIAL PEACE after "therewith" in the third paragraph.

Ms. Aquino accepted the proposal in principle, stating that the repetition of PROMOTION in the same paragraph sounds awkward.

Mrs. Rosario Braid proposed to change "promotion" to ACHIEVEMENT.

Mr. Foz proposed REALIZATION instead of "promotion".

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

AMENDMENT OF MRS. QUESADA

Mrs. Quesada proposed to retain the original first provision of Section 3 which reads as follows: THE STATE SHALL AFFORD FULL PROTECTION TO LABOR, LOCAL AND OVERSEAS, ORGANIZED AND UNORGANIZED, AND PROMOTE FULL EMPLOYMENT AND EQUALITY OF EMPLOYMENT OPPORTUNITIES FOR ALL.

INQUIRY OF MR. JAMIR

In reply to Mr. Jamir's query whether Mrs. Quesada had moved for a reconsideration of the proposed amendment, Mr. Rama stated that indeed there should have been a motion for reconsideration.

MODIFICATION OF MR. FOZ' AMENDMENT

At this juncture, Mr. Foz requested the Committee to reconsider his approved amendment inserting IN THE REALIZATION OF INDUSTRIAL PEACE after "therewith" in the third paragraph.

He then proposed to change "realization" to INTEREST, and, later, to FURTHERANCE.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 5:59 p.m.

RESUMPTION OF SESSION

At 6:00 p.m., the session was resumed.

Upon resumption of session, Mr. Foz proposed to substitute "realization" with FOSTER.

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

MS. AQUINO'S REPLY TO MR. JAMIR'S INQUIRY

On Mr. Jamir's pending inquiry, Ms. Aquino explained that there was no motion for reconsideration because as agreed in the previous session, Mr. Colayco, per his reservation, would reformulate the provisions drafted by the Committee.

Thereupon, Mr. Jamir made a reservation to amend Section 5 in the next day's session.

The Chair took note of the reservation.

APPROVAL OF MRS. QUESADA'S AMENDMENT

Thereafter, the Committee accepted Mrs. Quesada's amendment.

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

AMENDMENT OF MR. GASCON

Mr. Gascon proposed to restyle the last sentence of the second paragraph of Section 3, to wit: THEY SHALL BE ENTITLED TO SECURITY OF TENURE, JUST AND HUMANE CONDITIONS OF WORK, AND A LIVING WAGE. THEY SHALL ALSO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS AND BENEFITS AS PROVIDED BY LAW.

Mr. Gascon stated that the rewording of the last two sentences is intended to make it clear that the clause "as may be provided by law" refers only to participation in policy and decision-making and not to security of tenure. He stated that this was Mr. Bernas' amendment.

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

AMENDMENT OF MR. FOZ

As proposed by Mr. Foz and accepted by the Sponsor, the Body approved the insertion of a comma (,) after "activities" in paragraph two of Section 3.

Thereafter, Ms. Aquino read the whole Section 3, as amended, to wit:

SECTION 3. - THE STATE SHALL AFFORD FULL PROTECTION TO LABOR, LOCAL AND OVERSEAS, ORGANIZED AND UNORGANIZED, AND PROMOTE FULL EMPLOYMENT AND EQUALITY OF EMPLOYMENT OPPORTUNITIES FOR ALL.

IT SHALL GUARANTEE THE RIGHTS OF ALL WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND NEGOTIATIONS, PEACEFUL AND CONCERTED ACTIVITIES, INCLUDING THE RIGHT TO STRIKE IN ACCORDANCE WITH LAW. THEY SHALL BE ENTITLED TO SECURITY OF TENURE, HUMANE CONDITIONS OF WORK, AND A LIVING WAGE. THEY SHALL ALSO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS AND BENEFITS AS MAY BE PROVIDED BY LAW.

THE STATE SHALL PROMOTE THE PRINCIPLE OF SHARED RESPONSIBILITY BETWEEN WORKERS AND EMPLOYERS AND THE PREFERENTIAL USE OF VOLUNTARY MODES IN SETTLING DISPUTES INCLUDING CONCILIATION, AND THE ENFORCEMENT OF THEIR MUTUAL COMPLIANCE THEREWITH TO FOSTER INDUSTRIAL PEACE.

THE STATE SHALL REGULATE THE RELATIONS BETWEEN WORKERS AND EMPLOYERS, RECOGNIZING THE RIGHT OF LABOR TO ITS JUST SHARE IN THE FRUITS OF PRODUCTION AND THE RIGHT OF ENTERPRISES TO REASONABLE RETURNS ON INVESTMENTS, EXPANSION AND GROWTH.

Thereupon, the entire Section 3 was submitted to a vote and with 34 Members voting in favor and none against, the same was approved by the Body.

In explaining his affirmative vote, Mr. Colayco stated that he agrees with the main thrust of the section but would want to make of record his belief that the Body had been too profligate and generous with words.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 6:11 p.m.

RESUMPTION OF SESSION

At 6:16 p.m., the session was resumed.

Upon resumption of session, Mr. Rama manifested that the Members had reached a consensus to proceed to the subtitle on Women.

Thereupon, the Chair recognized Mr. Romulo.

AMENDMENT OF MR. ROMULO

Mr. Romulo proposed to combine Sections 16 and 17 into one section to read as follows:

THE STATE SHALL PROTECT THE WORKING WOMEN BY PROVIDING SAFE AND HEALTHFUL WORKING CONDITIONS, PARTICULARLY RELATING TO THEIR MATERNAL FUNCTION, AND SUCH OTHER FACILITIES AS WILL RELEASE THEIR ENERGIES AND TALENTS FOR THE SERVICE OF THE NATION.

Ms. Aquino accepted the amendment on behalf of the Committee.

Mrs. Rosario Braid proposed the inclusion of a phrase favoring the disadvantaged or illiterate women in terms of working conditions.

Ms. Aquino did not accept the proposed amendment stating that it is a surplusage.

Mrs. Rosario Braid stated that working women usually connotes working in the formal economy, and that there are many women who do not really work therein such as part-time workers for which safe working conditions should also be provided.

Asked by the Chair whether she would insist on her amendment, Mrs. Rosario Braid stated that she would not mind withdrawing it if a provision could be formulated on behalf of the marginal women.

The Chair suggested that Mr. Romulo's amendment should first be considered before considering

Mrs. Rosario Braid's proposed amendment.

Mr. Ople proposed to add OPPORTUNITIES after "facilities" to complete the sense of the sentence.

Mr. Sarmiento proposed ENHANCE instead of "release" but Mr. Ople stated that enhancement is an additive to

improve without changing.

Mr. Sarmiento proposed RELEASE AND ENHANCE. Mr. Ople, however, stated that it will diminish the meaning of "release".

The Chair stated that the proposed reformulation should be presented to the Committee since it had already accepted Mr. Romulo's amendment.

Ms. Aquino, however, referred the matter to Mr. Romulo, being the original proponent.

At this juncture, however, Mrs. Muñoz Palma commented that she could not see the need of facilities to release the energies since the energies are there, although the facilities would perhaps make the energies more productive. Mrs. Muñoz Palma suggested ENHANCE as a better word.

Mr. Sarmiento added that "release" has a malicious connotation.

Mrs. Nieva inquired what Mr. Romulo's preference was, to which the latter replied that he was trying to compress the idea but that his original wording was "liberate".

Mrs. Nieva observed that welfare and well-being would not be encompassed therein.

Mr. Romulo suggested HARNESS THEIR ENERGIES AND TALENTS.

Mrs. Nieva commented that she is more concerned about the welfare and well-being of women since the provisions would be on social justice.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Romulo, the Chair suspended the session.

It was 6:27 p.m.

RESUMPTION OF SESSION

At 6:31 p.m., the session was resumed.

Upon resumption of session, Mr. Romulo manifested that he and the Committee had agreed on a common amendment.

Thereupon, Ms. Aquino read the proposed amendment, to wit:

THE STATE SHALL PROTECT THE WORKING WOMEN BY PROVIDING SAFE AND HEALTHFUL WORKING CONDITIONS, TAKING INTO ACCOUNT THEIR MATERNAL FUNCTIONS, AND SUCH FACILITIES AND OPPORTUNITIES THAT WILL ENHANCE THEIR WELFARE AND WELL-BEING TO REALIZE THEIR FULL POTENTIAL IN THE SERVICE OF THE NATION.

There being no objection, the Body approved the amendment.

APPROVAL OF SECTION 16

Mr. Rama manifested that there are no more proponents for the section on Women. He asked that the Body vote on the new Section 16.

Submitted to a vote, and there being no objection, Section 16 was approved by the Body.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to add a sentence to Section 18 on Minors, to read:

INFANTS, PARTICULARLY ORPHANS AND ABANDONED CHILDREN, ARE LIKEWISE ENTITLED TO THE SPECIAL PROTECTION OF THE STATE.

Mr. Gascon proposed to delete "particularly" stating that orphans and abandoned children may not necessarily be infants.

Mr. Davide accepted the amendment.

Mrs. Nieva, on behalf of the Committee, accepted the amendment.

There being no objection, the Body approved the amendment.

Mr. Davide read the entire Section as follows:

THE STATE SHALL PROVIDE SPECIAL PROTECTION TO MINORS, ESPECIALLY WORKING MINORS, AND SHALL PROHIBIT THEIR EXPLOITATION AND INSURE THEIR FULL DEVELOPMENT. INFANTS, ORPHANS AND ABANDONED CHILDREN ARE LIKEWISE ENTITLED TO THE SPECIAL PROTECTION OF THE STATE.

Mr. Monsod suggested that it be read THE STATE SHALL PROVIDE SPECIAL PROTECTION TO MINORS. . to avoid using the word "special" twice.

Mr. Davide accepted the suggestion, on the basis of which, he restated the entire Section 18, to read:

THE STATE SHALL PROVIDE SPECIAL PROTECTION TO INFANTS, ORPHANS, ABANDONED CHILDREN AND MINORS, ESPECIALLY WORKING MINORS, AND SHALL PROHIBIT THEIR EXPLOITATION AND INSURE THEIR FULL DEVELOPMENT.

Mr. Tingson stated that there is a worldwide movement to discourage minors from working. He observed that the provision refers to working minors.

Replying thereto, Mr. Davide explained that in the Philippines, persons below 21 years are still classified as minors but those above 13 or 14 are allowed to work, for whom special protection should be accorded.

Mr. Maambong suggested the use of "minors" which he said includes working minors, nonworking minors as well as sick minors, to which, Mr. Davide replied that "minors" should be distinguished from "infants".

Mr. Monsod stated that he was only suggesting the deletion of "especially working minors" because "special protection to" already appears in the provision.

In reply to Mr. Suarez' query whether "working minors" refers to minors under the Labor Code, Mr. Davide answered in the affirmative, stating that it applies to apprentices. He likewise stated that minor young girls who are forced by some entrepreneurs to do indecent acts and appear at indecent shows are covered by his proposal. He also affirmed that newsboys are covered by the protection, because of the phrase "especially working minors".

Mr. Sarmiento invited attention to the fact that the Article on the Declaration of Principles and State Policies contains a provision on minors and children which could be a repetition of the provision.

Mr. Davide stated that if the provision in the Declaration of Principles and State Policies is only a copy of the 1973 provision, the concept of the proposed section is different from it.

Thereupon, Mr. Tingson read the provision in the proposed Article on the Declaration of Principles and State

Policies, as follows:

"The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution. The State shall equity protect the life of the mother and the life of the unborn from the moment of conception. The natural right and duties of parents in the rearing of the youth for civic efficiency in the development of moral character shall receive the aid and support of the government."

Mr. Tingson stated that the last paragraph of Section 10 reads as follows:

"The State shall protect children from all forms of neglect, cruelty and exploitation particularly in conditions harmful to their physical, mental or moral well-being."

Mr. Davide then proposed to delete the heading from the Social Justice provisions to be transposed to the Article on the Declaration of Principles and State Policies. He likewise made his reservation for possible amendments on the provision read by Mr. Tingson.

With the clarification made, Mr. Sarmiento manifested the withdrawal of his parliamentary inquiry.

Upon inquiry of the Chair, Mr. Bengzon informed that the Committee had agreed to transfer it to the Declaration of Principles and State Policies.

Thereafter, Mr. Rama noted that there are two more sections to be amended, namely, Sections 19 and 20.

Mrs. Nieva, at this juncture, requested adjournment as the amendments may involve a number of proposals.

ADJOURNMENT OF SESSION

On motion of Mr. Rama, there being no objection, the Chair declared the session adjourned until nine o'clock in the morning of the following day.

It was 6:47 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on August 9, 1986

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