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Saturday, September 13, 1986

CALL TO ORDER

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

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Ms. Christine Tan, to wit:
With the Indian poet, Rabindranath Tagore, let us pray:
"Where the mind is without fear and the head is held high;
Where the knowledge is free;
Where the world has not been broken up into fragments by narrow domestic walls;
Where words come out from the depth of truth;
Where tireless striving stretches its arms towards perfection;
Where the clear stream of reason has not lost its way into the dreary desert sand of dead habit;
Where the mind is led forward by Thee into ever-widening thought and action
Into that heaven of freedom, my Father, let my country awake."

Amen.

ROLL CALL

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

Bacani, T. C.

Nolledo, J. N.

Bennagen, P. L.

Ople, B. F.

Bernas, J. G.

Padilla, A. B.

Rosario Braid, F.

Muñoz Palma, C.

Calderon, J. D.

Rama, N. G.
De Castro, C. M.
Regalado, F. D.
Colayco, J. C.
De los Reyes, R. F.
Concepcion, R. R.
Rigos, C. A.
Davide, H. G.
Rodrigo, F. A.
Garcia, E. G.
Romulo, R. J.
Guingona, S. V. C.
Suarez, J. E.
Jamir, A. M. K.
Sumulong, L. M.
Laurel, J. B.
Tadeo, J. S. L.
Maambong, R. E.
Tan, C.
Monsod, C. S.
Tingson, G. J.
Nieva, M. T. F.
Treñas, E. B.
Uka, L. L.
Villegas, B. M.
Villacorta, W. V.

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

The following Members appeared after the Roll Call:

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

Natividad, T. C.

Bengzon, J. F. S.

Quesada, M. L. M.

Foz, V. B.

Sarmiento, R. V.

Gascon, J. L. M. C.

Mr. Rosales was sick.

Mr. Alonto and Ms. Aquino were absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 882 — Constitutional Commission of 1986

Letter from Mr. Antonio A. Balgos of Villa Rica, Banica, Roxas City, expressing doubts whether the new Constitution will be ratified because of the inclusion of controversial and divisive issues, suggesting therefore that in the plebiscite, there must be only one "yes-no" vote on the main body of the draft which includes all "non-controversial" sections and separate "choice" votes by the people to allow them to select between two opposing versions of controversial sections

TO THE COMMITTEE ON AMENDMENTS AND TRANSITORY PROVISIONS

Communication No. 883 — Constitutional Commission of 1986

Letter from the officers and members of the Commission on Population, NCR Office, expressing their support on the basic primacy of human dignity and freedom in individual decisions concerning family planning

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 884 — Constitutional Commission of 1986

Letter from Mr. Geronimo R. Cruz of 34 Lilac, SSS Village, Marikina, Metro Manila, suggesting that the completed Constitution, when presented to the electorate for approval, should exclude the controversial provisions of the Article on National Economy and Patrimony so that the voter will just approve/disapprove (a) the whole Constitution without said provisions and (b) approve/disapprove only such controversial provisions

TO THE COMMITTEE ON AMENDMENTS AND TRANSITORY PROVISIONS

Communication No. 885 — Constitutional Commission of 1986

Letter from Dr. Frank Y. Arcellana, President of the National Organization Against Nuclear Power and Nuclear Weapons (N.O. Nukes), requesting for a few minutes of the Constitutional Commission's time during the first day of its deliberations on the Declaration of Principles for the consideration of the Constitutional Commission so as to make a formal presentation of the first batch of signatures that it has gathered as part of the campaign for the inclusion of "nuclear-free" provisions in the new Constitution

TO THE STEERING COMMITTEE

Communication No. 886 — Constitutional Commission of 1986

Letter from Mr. Pedro R. Feliciano of 117 Quezon Avenue, Angono, Rizal, submitting for consideration various proposals regarding the establishment of national, provincial, city, and municipal museums; the rule of command responsibility; the Philippine flag; and the collection of taxes

TO THE STEERING COMMITTEE

Communication No. 887 — Constitutional Commission of 1986

Letter from Mr. Teotimo Ponce Rosaceña of 1191 Sto. Rosario Street, Pandacan, Manila, suggesting, among others, that if school personnel decide to go on strike, their application should be filed before the opening of classes and displayed in places accessible to the viewing public

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 888 — Constitutional Commission of 1986

Letter from Mr. Felino C. Marcelo of Taytay, Rizal, urging the Constitutional Commission to incorporate in the Constitution a provision on the inviolability of the separation of Church and the State

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 889 — Constitutional Commission of 1986

Communication from Ms. Edna S. Galia, transmitting Resolution No. 65, s. 1986 of the Sangguniang Bayan of Catarman, Camiguin, suggesting to the Constitutional Commission to reserve the title "President" to the President of the Republic only

TO THE COMMITTEE ON THE EXECUTIVE

Communications Nos. 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901 and 902 — Constitutional Commission of 1986

Letters seeking to incorporate in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from:

- Two hundred ninety-three students of St. Joseph's College, Quezon City, with their respective addresses
- Dr. Nelo L. Conol and fifty-nine other residents of Cagayan de Oro City
- Dr. Gerard Perlas and sixty-two other concerned citizens of Caloocan City
- Ms. Vivian Fraga and twenty-six other concerned residents of Barangay No. 32, Legaspi City
- Twenty-six students and teachers of St. Raphael's Academy, Legaspi City
- One hundred forty-six students of Aquinas University, Legaspi City
- Mr. Cesar C. Bilbao and one hundred ninety-one signatories from the Asian Development Bank

- Six thousand five hundred-eleven signatories from U.P.-P.G.H. and other hospitals, U.S.T., U.P., San Miguel Corporation, and government employees
- Three hundred fifty-three concerned citizens working at International Packaging, Inc., Libis, Quezon City
- Ms. Ma. Lourdes T. Pektipekit and one thousand two hundred eighty-nine other signatories from Cebu City
- One thousand three hundred eighty concerned citizens from Malita, Davao del Sur
- Nine hundred twenty-eight signatories from different schools, colleges, and universities in Metro Manila
- Vice Mayor Hector Ruiz of Olongapo City and four hundred forty-nine other concerned citizens of the city

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

Communications Nos. 903 and 904 — Constitutional Commission of 1986

Letters urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines, from:

- Mr. George N. Capaque
Inter-Varsity Christian Fellowship
P.O. Box 2094, Manila

- Ms. Ruth Pujadas and three others
Making Evangelical Church
Parang, Maguindanao

TO THE COMMITTEE ON GENERAL PROVISIONS

UNFINISHED BUSINESS: CONTINUATION OF CONSIDERATION OF COMMITTEE REPORT NO. 36 ON PROPOSED RESOLUTION NO. 537

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Committee Report No. 36 on Proposed Resolution No. 537 submitted 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.

At this juncture, in reply to the Chair's query on the procedure to be followed for the morning session, Mr. Rama stated that as agreed upon, the speakers will take turns on the issue of the military bases after which, the Body will proceed to the interpellations.

Thereupon, the Chair recognized Mr. Guingona as the first speaker.

REMARKS OF MR. GUINGONA

Mr. Guingona manifested that he had written his views on the military bases issue on a six-page paper, portions of which, upon his request and there being no objection, were ordered by the Chair to be reproduced in the day's Journal, to wit:

There are those who would wish to dismantle the U.S. military bases in the Philippines upon the ratification of the proposed Constitution. Any attempt by the Philippines to unilaterally abrogate the said Agreement would be violative of *pacta sunt servanda*, a fundamental principle of international law which holds that obligations of international agreements should be discharged in good faith. If we abrogate unilaterally, we would project for our

country an image of international delinquency. Those favoring immediate dismantling cite the principle of *rebus sic stantibus* which says that a treaty ceases to be binding when an essential change in circumstances in which it was concluded has occurred. But in order that the said principle would be applicable, it would require a substantial change in circumstances as to seriously jeopardize the existence of the State, a requirement which obviously does not exist.

Those who seek the non-renewal of the Military Bases Agreement contend that the Philippines should not renew the treaty because (1) the agreement is violative of our country's sovereignty; (2) the military bases serve as magnets for nuclear attack by Russia; (3) that the terms of the Agreement are unfavorable to us compared to the terms agreed upon by the U.S. with other countries where they also have military bases. Those who say that the existence of the military bases in the Philippines violates our country's sovereignty would conveniently ignore the fact that the Philippines entered into the Agreement in 1947 pursuant to Joint Resolution No. 4 of the Philippine Congress authorizing the President of the Philippines to negotiate with the President of the U.S. regarding the establishment of U.S. bases in the Philippines. It is a valid agreement because (1) the parties had the capacity to contract (2) the agents were duly empowered; (3) there was freedom of consent; and (4) the object was in conformity with international law. The Magsaysay-Nixon statement on July 3, 1956 contained in the first part thereof an assertion that the U.S. had always recognized Philippine sovereignty over the bases. The 1976 renegotiation was preceded by a U.S. announcement of its "clear recognition of Philippine sovereignty in its use of the Philippine military bases." The 1979 Agreement reiterated the previous Joint Statements that the U.S. military bases in the Philippines were Philippine military bases over which Philippine sovereignty extends. The fact that the U.S. uses and occupies the military bases with our consent do not at all deprive us of sovereignty in much the same way that an owner does not lose ownership over his property notwithstanding the fact that the same is used and occupied by the lessee.

It is contended that the bases serve as magnets for Russian nuclear attack. The fact is that these bases actually serve as deterrents to attack. But granting for the sake of argument that they are magnets, these bases are evidently weak magnets because they have been here for forty years. During all that time there had not been even a hint of a Russian attack. Besides, as former Congressman Marcial Pimentel said "In the event of a nuclear war, it is not necessary for a direct hit on a particular country to annihilate all her people. The radioactive fallout will be carried by the winds to all corners of the world under the 'nuclear-winter theory'. . . If the scientists are right, why worry about the bases as targets of nuclear attack. We will die ahead of the Thais and Malaysians by just a few weeks. That is not much of an advantage they have over us."

It is to be admitted that some of the terms of the Agreement, as amended, are not favorable to the Philippines if compared to U.S. agreements with other countries like Spain, Great Britain, Italy, Malaysia, Turkey and Greece. But let us not forget that this Agreement was entered into in 1947 shortly after the end of the last World War and before the other agreements concerning bases were concluded. We, in fact, had benefited from the actions of the U.S. about the time the Agreement was entered into — the U.S. liberation of our country from the Japanese as well as the extensive economic aid the U.S. had extended to us for the rehabilitation of our devastated country. It might be noted that this Agreement had undergone several reviews or revisions from 1956 to 1983, which resulted in the institution of about forty amendments to the original provisions. The Philippine flag flies over these military bases under Philippine sovereignty which now have a Filipino base commander. The Philippine laws have been made effective inside the bases — laws affecting taxes, labor, immigration, customs, natural resources and, subject to agreed exceptions, criminal jurisdiction over offenses committed therein. Let us not also ignore the fact that while much of what we are getting from the United States re the military bases are outright grants, a lot of the amounts which Spain and Greece are getting are long-term concessionary loans. Besides some of the onerous terms are of our own making. For example, Mr. Kissinger offered \$1 billion for the use of the military bases shortly before the

expiration of the term of President Ford after Ford lost in the presidential election. The \$1 billion was supposed to be divided on a 50-50 basis, 50% for military assistance and 50% for economic assistance. Marcos accepted the amount but only for military assistance without any economic aid component. Mr. Kissinger refused and the matter was dropped.

Aside from the rentals paid for the use of our military bases, there are other economic benefits that we derive — benefits enjoyed by families residing in the areas where the bases are located, benefits from savings that the government would otherwise have to spend without U.S. assistance. In 1985, the R.P. defense budget was \$437 million. Only Brunei spent less for defense. Even tiny Singapore spends more than we do. If military assistance were to be cut off, much of our spending would go to the payment of foreign loans and to the budget of the military and little would be left for government services in the areas of education, health and sanitation, housing, public works and many others. There is of course one added benefit as to salaries of Filipino workers in the bases amounting to \$82,885,042 a year, "the second largest payroll" in the Philippines after the Philippine government. The impact of sudden withdrawal of American forces from the Philippines, which could be misinterpreted to mean that we are leaning towards the Communist countries, could well bring about disastrous results to our country's heroic efforts towards economic recovery. Besides, let us not forget that we have a serious insurgency problem on our hands and we will need all the friendly assistance and support of our allies, including the United States.

Thereafter, elaborating on his stand, Mr. Guingona expressed agreement with the view advanced by Mr. Rodrigo that there should be no mention of military bases in the Constitution either for its retention or removal because of the need for a searching and in-depth study of all aspects of the issue — military, political, legal, social, economic and moral — which the Commission has not and could not undertake, first, because not all the data needed could be obtained, including classified data and, second, because the Commission's efforts are restricted by sheer volume of work and its many areas of concern — human rights, social justice, national economy and patrimony, the form and structure of government, the functions of officials, and education, among others — not to speak of the time constraint within which the Body shall complete its work.

He contended that studies should be left to the Executive and a decision could be made by the Executive, Congress and, if desired, by the people through a referendum.

Mr. Guingona then adverted to the statement of President Corazon C. Aquino which was published in the papers, categorically stating that she would not allow herself to be dictated upon by the United States. He stressed that he would not interpose any objection if after the suggested in-depth study, a decision is reached to remove the bases in 1991. On the other hand, he stated that if the decision is to allow the continuation of the bases, the Philippines should demand terms as favorable if not more favorable than those with Spain, Great Britain, Italy, Malaysia, Turkey and Greece, and a provision for a short term rental period of five years, renewable every five years thereafter.

Reacting to the statements of Mrs. Rosario Braid who spoke about the social evils spawned by the presence of the military bases in Angeles and Olongapo cities, Mr. Guingona stated that while he would not exculpate the members of the American Armed Forces concerned, it takes two to tango. He stated that neither would he cast the blame on the Filipino women who service these — servicemen most of whom are unhappy about their occupation, but he would blame the local authorities and the law enforcement agents for having failed to enforce the laws against prostitution and drug abuse. He opined that if law enforcement agents would only perform their duties faithfully and diligently, the vices complained of by Mrs. Rosario Braid would be considerably minimized since complete eradication may not be possible considering that prostitution and drug abuse have also proliferated in places where there are no bases.

Mr. Guingona asserted that all the Members are concerned with the welfare and security not only of this generation but of future generations, however, in assessing the issue they look at the same coin from two sides, one seeing tail and the other, head.

He noted that almost 50 years of Philippine-American relations have been cordial and satisfactory although misunderstandings were at times inevitable. He stressed that the United States has been fair with the Philippines as evidenced by the flexibility it has shown in dealing with it on the matter of the military bases. He stated that since 1974, there have been several reviews and about 40 amendments to the original agreement, the most significant of which was the Serrano-Bohlen Agreement of 1959 which reduced the 99-year lease to 25 years.

After the Japanese occupied the Philippines, he stated that America, through Gen. MacArthur, promised to return, and America did return in 1945 when it liberated the country from the Japanese occupation forces and granted Philippine independence a year later.

On the effects of alliance and neutrality, Mr. Guingona contended that an alliance would be useful in case of conventional war but in case of nuclear war the devastation would be so pervasive that it would affect all states, whether superpower or not, aligned or nonaligned, and whether or not they have military bases. He opined that it is the maintenance of a balance of power that will prevent the outbreak of a nuclear war. He pointed out that many factors have to be considered when one speaks of balance of power, one of the most vital being the ideological identity or similarity of value systems as in the case of the Philippines sharing the same value systems with the United States.

Mr. Guingona noted that Section 1 of the proposed Article affirms that the Philippines is a democratic state and firmly believes in democracy both as a form of government and as a way of life, an ideology which is categorically and unequivocally rejected by the communists. He stated that the idea of neutrality or neutralism, insofar as the cold war is concerned, disregards the manifest hostility of the communists, particularly Russia, to everything non-communist. He quoted Walter Lippman's *International Politics* which states that U.S. foreign policy is the shield of the Republic, "since the first concern of the makers of foreign policy in a sovereign national state is the achievement of the greatest possible security. The object must avoid isolation by becoming a member of an adequate combination. To be one against many is danger; to be among many against one is security".

On the matter of sovereignty, he stressed that there is no loss of sovereignty as a consequence of the existence of military bases in the country, occupation of which bases by the United States was effected with the people's express consent pursuant to the Bases Agreement of 1947, in the same way that there is no loss of sovereignty when the exercise of the right of extraterritoriality and extraterritoriality is permitted by reason of comity, treaty or convention. He stated that he knows no country, including Russia, which contends that Great Britain is a non-sovereign country despite the fact that there are military bases in Great Britain.

On the alleged unfavorable terms of the U.S. Military Bases Agreement, Mr. Guingona invited attention to the fact that the agreement was signed about 40 years ago and being the first bases agreement after the war, its terms would not be as favorable as the terms of later bases agreements. He stressed that "unfavorable terms" connote different perceptions, such as the observation that Spain receives \$412 million annually as against \$180 million annually for the Philippines. He pointed out that out of the \$412 million, only \$15 million are grants while in the case of the Philippines, the grants amount to \$120 million and the rest are given as credits and long-term concessionary loans which have to be repaid.

Mr. Guingona reserved the right to react on Sections 2, 3 and 4.

REMARKS OF MR. DE LOS REYES

Mr. de los Reyes stated that after the brilliant remarks of the Members who spoke ahead of him, he was tempted to desist from making his remarks as most of the things he intended to say had been practically covered by the previous speeches. He observed that the basis of Section 4 in the Article, appears to be Proposed Resolution No. 216 of which he is the author, but for one reason or another the Committee failed to acknowledge this matter in its report.

He pointed out that the arguments in support of the view of contending proponents could give the fainthearted nightmares. He stated that if it is true that the presence of military bases in the Philippines would make us inevitable targets of nuclear attacks or counterattacks by the enemy of the U.S., only the Soviet Union has the capability of doing it, since both the U.S. and Russia would be fighting for world supremacy and dominance of the ideologies they espouse.

Mr. de los Reyes observed that one view which deserves serious consideration is that as long as the "balance of terror" or the "balance of power" between the Soviet Union and the U.S. stays substantially equal, there is no reason to fear a nuclear attack from Russia and that the military bases are needed as a defense from internal subversion. He posed the question of whether the 47 Members are not being too presumptuous in trying to decide this life and death issue in three months on behalf of the 55 million Filipinos. He stressed that despite the brilliance, dedication, patriotism or nationalism of the Members, they do not have sufficient time nor the expertise of foreign policymakers to include a constitutional provision on this sensitive issue which, in effect, will render the Philippine foreign policy rigid and inflexible.

He observed that during the deliberations on the issue, several options have emerged, to wit: 1) dismantle the bases immediately; 2) call for a special plebiscite on whether or not they should continue; 3) allow the amended 1947 Military Bases Agreement to run its full term up to September 16, 1991 and either adopt a permanent policy against military bases in the country or renegotiate entirely new mutual defense and bases treaties with the U.S. He further stated that according to experts, the immediate dismantling would bring about grave economic, social and political repercussions which could permanently doom the Philippine efforts toward national economic recovery. He observed that the country is in such financial straits that it has been trying to attract investments to boost the economy. He inquired whether investors would be willing to invest in a country that unilaterally abrogates an existing agreement with another country.

The diverse views, he opined, merely indicate that the Commission is in no position to make a definite decision on the bases much less make a Constitutional provision inasmuch as it lacks thorough study. He also noted that this matter is usually left to the decision of the leadership.

On the argument that the country would be a likely target in case of nuclear war, Mr. de los Reyes stated that it is but logical to assume that the two superpowers at war would concentrate their respective attacks on the territory of their principal enemies inasmuch as this is where the seat of power is located; and that the people who would ultimately surrender would be in either country, and not in some distant Pacific islands. He stated that either country can blow each other's military bases in a distant foreign land to complete destruction but such would not lead to capitulation or surrender.

Moreover, he stressed that if the Russians were to kill the Filipinos to the last man, this would not bring America to its knees as long as the country and its people are substantially intact, and the same would hold true if the Americans were to kill all the Vietnamese to the last man. He posed the question of whether Russia would expend nuclear missiles to kill one or two million Filipinos, when it can drop them in America and kill the same number of Americans.

England and France, he observed, also possess nuclear weapons and are allies of the U.S. during World Wars I and II. He inquired whether it would not be more compelling for Russia to waste British and French lives than Filipino lives inasmuch as it would be possible that in case of war between these two superpowers, it would also bring in other countries with nuclear weapons. He contended that if the U.S. and Russia were to waste each other exclusively, it would mean the downfall of both and the emergence of new superpowers. He underscored that Russian and American strategists would not allow these self-defeating miscalculations.

He stated that on August 14, 1986, Messrs. Alexei Drugov and Dr. Victor Gorchagov, members of the Russian Presidium who visited the country, stated that Russia cannot assure that it will not attack the Philippines because of the American bases here. He opined that the statement could be the start of Russia's subtle psychopolitical campaign to persuade the Filipinos to clamor for the removal of American bases in the country. He stressed that Russia's track record in Vietnam, Cuba, Afghanistan, Kampuchea, Laos and in some South American and African countries would prove that the USSR cannot and will not help in the stabilization and progress of a republican or democratic country although it may go through the motion of trying to help. He maintained that the two Russians know only too well that without the American bases in the Philippines, the country cannot attract substantial foreign investments. He observed that America will not officially articulate this although the Filipino's stand on the issue of American military bases will definitely be one of the crucial factors in the foreign investors' decision to invest. He maintained that the Russians are aware that with the American bases out, the Philippines would be easy picking thereafter. He warned that the huge inflow of Russian hardwares and frontline technical consultants for the final phase of the communist master plan in the Philippines can be expected. He warned that in such situation, the Philippines would be another Cuba and the U.S Bases will be another Cam Ranh Bay.

He argued that logic would show that the Philippines is not a nuclear missile site but that it would not mean that the country is not targeted for conquest by Russia through its surrogates. The intrusion of communism all over the world would show this. He urged that the question of U.S. Military Bases be considered in this light and not on the possibility of a nuclear attack on the Philippines in case of war between the two superpowers.

The current pressure, he stated, is the continuous attacks from within by subversive forces and that most of the people think, that if such attacks reach a critical point, that point could easily tilt the balance of dominance in favor of subversives. He noted that under this circumstance the resources of the U.S. military bases may be placed at the disposal of the Philippine government and that these same people assume that U.S. military bases in a communist country is completely irreconcilable.

He observed that the fear of the silent majority is the terror that would follow or accompany the "socialist transformation" of a defeated democratic country which might well mean "liquidation". For this reason, many think that the U.S. Military Bases would be the last bastion of democracy in the Philippines.

He urged the Commission to avoid writing in the Charter the abolition of the military bases to allow, if necessary, the duly elected leadership to refer the issue directly to the people.

He adverted to a statement made by a seasoned diplomat and statesman who suggested that it is a strategic approach to consider various courses of action from the point of view of their bearing upon major objectives and inquired how this approach can be availed of if the Constitution itself straitjackets foreign policy.

On the country's declaration as a nuclear-free zone, Mr. de los Reyes contended that this is undebatable as with or without the bases, no Filipino in his right mind would want his country to be used as a dumping place for nuclear weapons. He stated that in addition to the explanation made by Mr. Azcuna, a statement of this principle in the Constitution would be a manifestation of the country's sentiment against the deadly arms race among the superpowers.

Adverting to an article of C.P. Snow originally printed by the Harvard Nuclear Study Group and reprinted in the New York Times on August 17, 1981, entitled "Risk of Disaster or a Certainty", Mr. de los Reyes quoted:

"We are faced with an either/or situation and we have not much time. The 'either' is acceptance of a restriction of nuclear armaments. The 'or' is not a risk but a certainty. It is this: There is no agreement on tests. The nuclear arms race between the United States and the Soviet Union not only continues but accelerates. Other countries join in. Within, at most, six years, China and six other states have a stock of nuclear bombs. Within, at most, ten years, some of these bombs are going to go off . . . That is a certainty."

He pointed out that an absolute vision of the nuclear future exists and becomes more widespread and which counsels that a nuclear holocaust is inevitable unless a complete nuclear disarmament is achieved. This prediction, he maintained, is not of the world enduring efforts to achieve security but an "either/or" future, meaning either complete success or complete failure; either global peace and disarmament or nuclear holocaust. He stressed that Section 4 should be a reminder to the superpowers that the Philippines does not need their nuclear weapons in any part of its territory — with or without the bases.

He quoted from Jonathan Schell in his article in *The Fate of the Earth*, "If we are honest with ourselves, we have to admit that unless we rid ourselves of our nuclear arsenals, a holocaust not only might occur but will occur if not today, then, tomorrow; if not this year, then the next. We have come to live on borrowed time; every year of continued human life on earth is a borrowed year; every day a borrowed day".

At this juncture, Mr. Nollado sought to interpellate Mr. de los Reyes but was reminded by the Chair that as per agreement, the period of interpellations would follow the remarks and speeches of the Members.

REMARKS OF MR. VILLACORTA

Mr. Villacorta strongly defended the inclusion of the issue of military bases in the Constitution. He stated that foreign affairs and sovereignty are fundamental concerns that should be resolved in the basic law of the land. The argument to leave sensitive concerns to government inasmuch as the Members of the Commission were appointive, he observed, if followed might mean that the Commission cannot mandate anything about equally sensitive matters such as the national economy, bill of rights, education and other major concerns.

He maintained that the Commission cannot shirk from the responsibility and forego the opportunity to restore the nation's sovereignty. He argued that leaving the option to government is giving no option at all because, prostrate as the country is in the midst of the current economic crisis, the government would not be in a position in 1988 or 1991 to renegotiate for better terms, much less for the abrogation of the bases agreement.

Mr. Villacorta stated that the abrogation of the U.S. Military Bases Agreement and the declaration of a neutral, nonaligned and nuclear-free policy have a place in the Constitution and even only in such form, it would already be a great service to the long-suffering people.

Mr. Villacorta argued that as long as the United States has bases in the country, it would always intervene in Philippine domestic affairs, ensure that it will dominate the Philippine economy, culture and educational system. He opined that the U.S.'s primordial interest in the Philippines is the maintenance of its bases, and consequently, it shall always seek to guarantee that the Philippine political configuration and economic directions are under its effective control and manipulation.

Mr. Villacorta urged that this is the time to liberate the country from the foreign element, the parasite, the leech which bleeds the country and arrests its national growth and development. The Constitution, he observed, is supposed to embody the people's dreams and aspirations, and terminate the country's servitude. He opined that the

agreement can be terminated on the basis of *clausula rebus sic stantibus*, the Roman law principle that allows a nation to withdraw from its treaty obligations if the circumstances under which the treaty was signed have substantially changed.

Thereafter, he quoted from the *Principles of Public International Law* written by Dr. Ian Brownley, fellow of Oxford University, who spoke on the rule of law as expressed by the International Commission, in Article 44, paragraph 2:

"When a fundamental change has occurred with regard to a fact or situation existing at the time when the treaty was entered into, it may be invoked as a ground for terminating or withdrawing from the treaty if: (a) the existence of the fact or situation constituted an essential basis of the concept of the parties to that treaty, and (b) the effect of the change is to transform in an essential respect the character of the obligations undertaken in that treaty."

Dr. Brownley went on to say:

"The majority of modern warfare accepts the doctrine of *rebus sic stantibus* which is reflected in this provision as in municipal systems; so in international law, it is recognized. The changes frustrating the object of an agreement, apart from actual impossibility, may justify its termination."

The conditions under which the military bases agreement was signed, he noted, have substantially changed from the time the bases agreement took effect when the country was still a U.S. colony and there were no nuclear weapons. He observed that today the country is a sovereign and independent nation and that the right to self-determination, independence and sovereignty of the Filipino people can be asserted in the Constitution.

He stated that it is evident, in spite of the U.S. refusal to either confirm or deny the presence of nuclear weapons in the Philippines, that there are nuclear weapons in the U.S. bases here or else why should the U.S. spend millions of dollars every month in maintaining its biggest bases outside the U.S. territory. He stated that such weapons pose a direct and real threat to the survival and safety of the Filipinos and would invite nuclear attack from U.S. adversaries.

The Soviet Union, he opined, or any other superpower does not aim their missiles at random targets around the world but at those which play a major role on behalf of the U.S. and threaten the Soviet Union. He stated that according to the U.S. military planners themselves Soviet SS-20s, intermediate-range and nuclear-equipped missiles located in Soviet Asia, are aimed at South Korea, Japan and the Philippines particularly at the U.S. military bases therein. Such missiles, he noted, are not aimed at Singapore, Burma or Thailand.

He adverted to the U.S. Information Service publication (1986) entitled: *Background on the Bases*, pages 10 to 11, to wit:

"The U.S. facility of Subic Bay is the primary port claiming area and logistics support base for the U.S. Seventh Fleet which operates in the Western Pacific and the Indian Ocean. It contains the major supply depot for the fleet, serves as a crucial communication link for U.S. naval forces in the region, offers ship repair capabilities, second to none in the Pacific, operates an airfield for the Seventh Fleet's carriers strike force, and provides training in all phases of naval warfare for American and Philippine forces.

"Clark Airbase hosts the headquarters of the U.S. 13th Airforce and Clark facilities serves as a staging point for strategic airplanes in the Indian Ocean, including the island of Diego Garcia; permits constant surveillance of the choke points, the Malaccas-Sunda-Lombok Straits and handle large-scale aircraft deployments from the U.S. in case of emergency; maintains the program of air combat readiness; provides training and up-grading of aircrew from the United States to the Philippines and other friendly countries."

He noted that Alexei Drugov, head of the Afro-Asian Solidarity Committee of the Soviet Union who visited the Philippines recently said "that the Philippines will not be spared in the event of a global war among the world superpowers because countries keeping weapons would be potential targets". He noted that this statement was in the set of clippings provided by Mr. de Castro. He also referred to other statements made by the Soviet diplomat.

Mr. Villacorta noted that the dangers of a nuclear accident are ever present and that if the country mothballed the Bataan Nuclear Plant because its safety cannot be assured, then the country should also be aware of the perils of a national holocaust which may be triggered off by accidents in the military bases.

Thereafter, he adverted to the Time Magazine issue of May 12, 1986 which contains an account of the consequences of the nuclear accident at Chernobyl, to wit:

"At distances of perhaps 3 to 4 miles, victims stood a 50/50 chance of surviving though not without bone marrow and gastro-intestinal tract damage. People living 5 to 7 miles from the accident could experience nausea and other symptoms but would be unlikely to die. Smaller amounts of radiation within a range of 60 miles from the site would result in significantly increased deaths from leukemia and other forms of cancer during the next 30 years. People living 200 miles or more from the accident would run much smaller risks . . . Up to 60 square miles of Soviet farmland is likely to remain severely contaminated for decades unless steps are taken to remove the tainted top soil. Reason: Cesium 137 and strontium 90, 2 radioactive particles spewed by the blaze decay very slowly. It would take decades for the ground to be free of them . . ."

He pointed out that if an accident in a nuclear plant is horrifying, the consequences would be worse in case of accident inside a military base. He stated that as a matter of fact an accident about five years ago involving a Japanese and another ship extensively polluted the China Sea even if the Japanese ship did not carry any nuclear weapon.

Mr. Villacorta also noted that the social ills and diseases and widespread prostitution, juvenile delinquency, drug abuse, child prostitution, and increasing cases of venereal diseases within the vicinity of the U.S. military bases in Clark and Subic should be enough reasons to convince the Filipino people that whatever mercenary uses the bases rentals bring do not compensate for the irreparable social and moral costs to the country.

Adverting to the sermon of Msgr. Bacani the previous day, Mr. Villacorta affirmed that mental and decision-making processes are conditioned by personal experiences, and warned against illusions that are buttressed by vested self-interest and parochial premises based on limited experiences. He urged the Members of the Commission to recognize facts and not to be moved by emotions or bloc affiliations.

He stated that although the Filipino people had been taught that America is the country's liberator, first from the Spaniards and later from the Japanese, the people should learn from experience and from the axiom "there are no permanent friends nor permanent enemies, only permanent interests." He noted that the United States would not always be an ally, stating that at the height of the Sabah controversy, it sided with Great Britain which was supporting Malaysia and reportedly allowed British warplanes to refuel inside Clark Air Base.

Mr. Villacorta urged the Members of the Commission to transcend personal friendship with the Americans considering that the mandate of the Filipino people dictates that the Commission give precedence to the interest of the Philippines. He pointed out that even Mr. Rodrigo in his poems inquired whether it is the force of the oppressor or the tolerance of the oppressed that is the root of slavery, although he underscored the inner strength of a united people. He said that Mr. Rodrigo also stated in his poem that the Motherland should desire as a mother desires the foremost welfare of her children before the benefit of her neighbor, and if people truly love this nation, they should be willing to fight and defend it against the colonizer who steps on the people's honor and freedom.

Finally, he cited the Exodus which speaks of the Israelites who were complaining about their fate in the desert and

saying they would prefer to be slaves in Egypt, but Moses told them not to be afraid and to stand their ground and see what the Lord would do to save them.

He urged that after being freed by the February revolution, the Filipino leave the cage of slavery.

REMARKS OF MR. LAUREL

Mr. Laurel stated that the Constitution has been said to be the imprisonment of the past and the unfolding of the future, but if the Commission would adopt the provision on the U.S. military bases in the Constitution, it would not imprison the past but the future.

He believed that many things could happen between the present and 1991 when the RP-US Bases Agreement will expire, and only then could the Philippines decide to take side or not to take side with any country at all. He quoted a poet who said, "Only the event will teach us in its hour."

He agreed with Mr. Rodrigo that it would be premature and unwise to take a definite stand now because it would hamstring the people's decision and perhaps foreclose the future. He pointed out that the Commission would not know what the people would like in 1991, whether or not to continue with the bases agreement.

He also admonished the Members against the tyranny of labels, such as those who favor the removal of U.S. bases being called "nationalists" and those against them "pro-Americans", which, to him, is unfair. He stated that like his paternal grandfather who served as delegate to the Malolos Congress and as Minister of Interior of the Aguinaldo government, and like his father who never set foot on any American base, he is a nationalist as all the Members of the Commission are, not pro-American nor anti-American. He added that it is not right to go by labels and it is too simplistic to view things as either black or white, good or bad.

Finally, he stressed that all the Members of the Commission are first and foremost Filipinos, but should not decide for the future Filipinos who have their own rights different from the rights of the Filipinos today. He appealed for resiliency and flexibility necessary in making future decisions.

He, therefore, expressed support of Mr. Rodrigo's proposal not to include a provision on U.S. military bases in the Constitution.

REMARKS OF MR. ROMULO

Mr. Romulo underscored that the issue is not whether the country should adopt a policy of neutrality but whether such policy should be enshrined in the Constitution.

He opined that the question of neutrality does not belong to the Constitution because it is a mere policy consideration in the conduct of foreign affairs which is susceptible to change.

He pointed out that the classic international law concept of neutrality is already obsolete in today's circumstances, and the current meaning given to neutrality is non-alignment. He explained that the idea of non-alignment was born out of the cold war between the United States and the Soviet Union which from the start had a chameleon-like quality used to justify contrary intents and purposes. He cited the United Arab Republic and Cuba as pro-Soviet neutrals, while Yugoslavia, Sri Lanka and Iraq as pro-West neutrals. He stated, however, that with the emergence of the People's Republic of China, a third kind of neutrality was born, such that some small Southeast Asian countries are pro-China neutrals.

In this connection, Mr. Romulo narrated an anecdote about three superior generals of the Franciscan, Dominican and Jesuit orders who, arguing about the merits of their patron saints and in order to settle the question as to who

is the greatest among St. Francis, St. Thomas and St. Ignatius Loyola, went to the Basilica of St. Peter to ask the Lord's opinion, and a note came from above that stated, "I am neutral. I take no sides. Signed, Jesus Christ, S.J. (Society of Jesus)."

He pointed out, however, that nonaligned countries did not stop accepting aid from either country, and after the Havana Summit in 1979, the Nonaligned Movement suffered from erosion of credibility, integrity and moral stature. He stated that Burma pulled out of the movement because of Cuba's manipulation of the conference to unseat the government of democratic Kampuchea. He recalled that in 1983, Singapore was constrained to issue the assessment on the Nonaligned Movement, stating that "its past is one which we can be justly proud of; its present condition, however, does it no credit; and finally, if it persists in its present course, its future will be one of shameful oblivion."

Moreover, Mr. Romulo pointed out that in its recently concluded meeting in Zimbabwe, Singapore and other member-countries again complained that majority of the members of the Nonaligned Movement were sparing the Soviet Union, while castigating the United States for every conceivable crime they could imagine.

He stated that based on historical facts, nonalignment means neutrality but it is a policy depending on how they perceive their national or regional interests at a given time, considering that nations have no permanent friends or enemies, but only permanent interests. He urged that a pragmatic approach to neutrality be adopted.

He observed that although it was appropriate for the Philippines to join the other ASEAN nations in declaring Southeast Asia as a zone of peace, freedom and neutrality on the basis of a long term goal for the entire region, such policy could be withdrawn any time if the country's interest so dictates.

He also quoted Mr. Francisco Tatad who said,

"A statement banning military bases and proclaiming a policy of nonalignment is a statement of national policy which one administration may favor and another may reject. It is a purely political question which must be addressed by whichever party is in power, according to its program of government and how it interprets its mandate. To write that in the Constitution is to consecrate a permanent and inflexible solution to a dynamic question that is subject to volatile change."

Mr. Romulo opined that the art of diplomacy is to move events carefully and shape them whenever possible so that a nation does not face an impossible choice, and as stated by Walter Lippman, a policy in foreign relations, as in all other relations, has been formed only when commitments and power have been brought into balance, otherwise, it would be confined to the objectives that are not translated into concrete actions and specific results.

He also pointed out that flexibility and pragmatism should be considered in the evaluation of the idea of a nuclear-free Philippines, and the following questions are therefore relevant in seeking the answers to this issue:

- By adopting a nuclear-free policy in the Constitution, do we not unnecessarily restrict our defense options?
- Can we really insulate our country from the effects of a nuclear confrontation, whether limited or worldwide, among the superpowers on the basis of what we write in the Constitution?
- Is not the use of nuclear arms solely dependent on the self-interest of the superpowers, and therefore, simply declaring ourselves to be nuclear-free will not prevent them from using atomic weapons on us when it suits them to do so?
- In the event atomic weapons proliferate, especially among small nations, is it not possible that solely for the purpose of self-defense, and abhorrent as the thought may be, the country may be forced to equip its armed forces with nuclear weapons?

- Would not a nuclear-free policy be illusory unless countries in the region also join the nation in such a declaration, and more importantly, that together we have the means to enforce the declaration?
- Since there are presently ongoing discussions between the governments of ASEAN regarding the precise position the region should take in the question of nuclear weapons, would not a unilateral declaration on the country's part be premature?

Mr. Romulo further quoted Mr. Tatad, to wit: "No Filipino should relish these questions, but they need to be asked and answered before the government takes any demarche. As a self-respecting country, we must respect every effort to end our security dependence on the United States. This means ultimately, doing away with the American presence in Clark and Subic, but no one has been able to demonstrate that this is the time to do it."

In closing, Mr. Romulo cited a University of the Philippines Report, dated August 21, 1986, stating that, "All regions were against the inclusion in the Constitution of a provision on the military bases, neutrality and nuclear weapons." He added that the participants simply felt, according to the report, that "these issues should be left to the political leadership in the Executive and Legislative branches."

REMARKS OF MS. TAN

Ms. Tan stated that there has been an extensive debate on the presence of the military bases in the country and she concurs with most of the reasons given against their presence while at the same time respecting the opinions of those who hold contrary views. She added that her reasons may not be legal or scientific, logical, critical or creative, nor the results of sessions and conventions she had attended during the past five years as a member of the Anti-Bases Coalition and Nuclear-Free Philippines, for figures could be easily cited, words of great men quoted, the law expounded but these altogether may not always be genuine, much less, able to bear the scrutiny of God.

She explained that there may come a moment in one's life when a word from God could change the flow of a nation's life. She added that one may fail to recognize it or tragically escape from it, but she expressed her hope that the Body would not escape from it.

Additionally, Ms. Tan stated that she would not speak from external authority but from the inner depths of her soul which people call conscience or the voice of God. As a sister of the Good Shepherd, a religious order which has existed for more than two centuries, helping the moral deviants and morally-depraved persons or groups regain their self-respect and dignity, she would present a moral viewpoint on the presence of American military bases.

She stressed that the reality today is that the American military bases in Clark, Subic, Camp John Hay and other facilities, have lured thousands of Filipino women into a life of prostitution. She pointed out that the bases have spawned dishonor, rape, exploitation, social diseases in a magnitude far more monumental than Sodom and Gomorrah on which God rained fire as punishment. She added that one cannot look upon this undisturbed for this is sin, societal sin, nor can one pretend that he does not see it.

Ms. Tan also pointed out that the second reality is that the American bases, through nuclear testing, continually mangle the lives of island inhabitants and have been used as staging areas to kill, murder and bomb the country's Asian neighbors like the Vietnamese and the Koreans. She opined that this is murder and sin.

She stated that when she thinks of these bases, she wonders why she is totally against them when she has no children or grandchildren to be concerned about, properties or position to keep, interest to protect. She said that the answer comes with clarity of mind and priorities: Asians before Americans; honor before money; other lives

before personal fears, for the voice of conscience within confirms that the military bases have been instruments of sin and evil for Asians which should be resisted now before it is too late.

In conclusion, Ms. Tan recalled that a marginal man once said: "What does it profit a man if he gains the whole world but suffer the loss of his immortal soul?" In the same vein, she asked what does it profit Filipinos if they gain the bases and the country would have a better economy and so-called security, but lose, in exchange, the purity of the country's women and the lives of its Asian neighbors? She stated that perhaps the mistake she would make in voting against the presence of nuclear arms and military bases is that she has taken the words of Jesus Christ seriously.

REMARKS OF MR. BENGZON

Mr. Bengzon stated that since the fall of man the world has been fraught with conflicts — conflicts in the world of plants, in the animal kingdom and among human beings. He added that the world swirls amidst intrigues and greed between the powerful and the weak, the learned and the unlettered, a cycle seemingly eternal, interrupted only by streaks of volatile peace and God's miracle.

He added that the Philippines is strategically located and desired by powers at great cost. He pointed out that those who advocate the charting of the country's future to a definite and almost irretrievable course and direction argue the following: 1) the presence of the U.S. military facilities or any other foreign military facility, now or in the future, violates the principle of neutrality; 2) the presence of the U.S. military bases makes the country an inevitable target of nuclear attack or counterattack by any enemy of the U.S. and there is no adequate defense against nuclear missiles; 3) such nuclear attack can start either by deliberate design or accident such as human error, miscalculation or computer breakdown; 4) the presence of such bases contribute to the mal-development of the Philippine economy because the U.S. pays Filipino workers in the bases only 1/4 of what it pays Japanese workers, 1/2 of what it pays Korean workers, and 1/8 of what it pays American workers doing the same kind of work and productivity; 5) huge tracts of land are kept unproductive because of the bases instead of being converted to peaceful use by Filipino entrepreneurs; and 6) the good values of Filipinos are destroyed in areas around military bases since they have caused widespread smuggling, drug abuse and prostitution.

Mr. Bengzon pointed out that those who advocate the opposite view say the following: 1) the presence of the U.S. military bases deter, rather than attract attack, since in the course of 40 years after World War II, no country with U.S. bases and mutual defense treaties has been attacked; 2) the question of whether military bases constitutes an infringement on national sovereignty really depends on the nature of the agreement since countries like Great Britain, Spain, Italy, Turkey, Japan, Malaysia and Singapore are still considered sovereign states despite the presence of U.S. bases in their soils; 3) the social and moral issues associated with the bases such as drug abuse and prostitution must be addressed by the various agencies of government; 4) the imbalance of the salary scale of the Filipino employees and their American counterparts could be subject to negotiations; and 5) there is no certainty that the area occupied by the military bases would become really productive if converted into commercial, industrial or agricultural lands.

Mr. Bengzon, however, noted that the real issue is not whether or not the bases should be allowed to remain in the country but whether the Body should chart the country's future to a course of unparalleled inflexibility or allow the Members of the Legislature the ease and latitude of full trust and discretion.

He stressed that nothing should be stated in the Constitution that would foreclose any option, now or in the future, for the following reasons: 1) while the draft provision, as worded, does not speak directly of the presence of U.S. bases on Philippine territory, there is no doubt that it has specific reference to the abrogation of the RP-US Military Bases Agreement which should not be done because it binds the succeeding generations of Filipinos who

would have no leeway to interpret, construe and act within the provision to suit the needs and exigencies of their own time; 2) as a matter of pragmatism, the crucial question of terminating the military bases agreement warrants and deserves a separate and more comprehensive research, study and discussion which the appointive Members of the Body have neither the time nor the expertise; 3) in all democratic countries of the world, with a few exceptions, foreign policy direction is a prerogative of the Executive branch of government and there is no reason to depart from the Philippine tradition that the President determines foreign policy; and 4) foreign policy directions are always determined in the interest of the nation.

Mr. Bengzon stated that although it is true that sovereignty and survival are not for sale nor for lease, it is also true that they could not be given away through sheer neglect and false pride since nobody is certain that the country, by, itself, could fill the vacuum left by the Americans and truly defend its shores from internal and external aggression by solely relying on its own armaments and logistics.

Additionally, he stated that the Body is not in a position to decide the issue for it does not possess the expertise, time and data needed for an in-depth study to arrive at an intelligent and wise decision for the interest of the country and the future generations to come. He stressed that it would be sheer irresponsibility and a disservice to the country of the highest caliber if the Body would tie down the hands of the future government and future generations. He added that the country's interests and relations with its ASEAN neighbors should also be taken into consideration before making any decision on the matter. He also stated that since the subject matter must be embodied in a treaty, the Legislature would have to give its concurrence thereto.

Finally, Mr. Bengzon appealed to the Members of the Body to refrain from charting the country's destiny to a course of unparalleled inflexibility. He stressed that the subject matter involves the country's survival and sovereignty so the Body must allow the flexibility of time, decision and trust in the patriotism and greatness of the country's elected leaders. He reiterated that nothing should be stated in the Constitution that would foreclose any of the country's options and flexibility.

REMARKS OF MR. OPLE

Commenting on Sections 3 and 4, Mr. Ople stated that he would like to approach the issues with profound humility because the issues are not only momentous in their implications and ultimate significance for the Filipino people but are also wrapped up in tremendous complexity. He paid tribute to those who spoke for the illuminating points they have raised which he said impressed him because of the strength of their convictions. He stated that the Members are faced with one of two choices: 1) whether the question shall be debated on its merits; whether the Bases Agreement shall be abrogated by the Constitution; whether the status of neutrality shall be forged together with other states in the region; whether the Philippines shall be declared a nuclear-free territory; or 2) the stand of those who would like to delete Section 3, such as Mr. Rodrigo, on the ground that it will preempt the Philippine government.

Mr. Ople stated that the Members are presumed to possess the competence to pass upon the issue which he said pertains to the legal competence of the Body but he observed that beyond the technical boundaries of such competence, the previous speakers expressed doubt that the Commission would be exceeding its reach by deciding on the issue in Sections 3 and 4, which doubt rests on a certain dutiful regard for the competence of the Philippine Government to exercise its own judgment at the proper time or, as stated by President Aquino, to keep the options of the Government open until or beyond 1991.

He stated that originally, he was inclined to call for a decision on the merits of the issues so that the will of the majority may be determined instead of passing it to President Aquino or to the Filipino people through a referendum. He stated that this course is still open but that he was increasingly impressed by the points raised by

Members who think that action on these issues might pull a preemptive strike against the Government. He stressed that the Constitution, once ratified, would be above the Government while the Constitutional Commission of 47 persons could not elevate itself above such Government.

He observed that the Commission is also time-bound and is therefore obliged to take account of the realities in which the Body must function. Assuming that the Constitution is ratified together with Section 3, he stated that it would imply that the Government would be mandated to terminate the Bases Agreement irrevocably and without recourse by 1991. He stated that the Government would immediately seek a status of neutrality, persuading all the powers in the region such as the United States, the Soviet Union, China, Japan and Vietnam to guarantee the country's neutrality, without which, the status would be essentially deceptive or illusory.

He also pointed out that approval of Section 4 would mandate the Government to prohibit immediately the stationing of any nuclear weapon on Philippine soil, and depending on how it would be construed, to prohibit forever the development of a nuclear power industry as a substitute for fuel in the country. If on the other hand, it is disapproved, he expressed the view that no serious consequence for the country and for other countries would ensue.

He stated that if the provision is taken out of the Constitution, as advocated by Messrs. Rodrigo and Laurel, then there would be disengagement of the issues but it will alert the nation that a great debate on these issues is about to take place with all the segments of the citizenry taking part in it. He noted that another consequence would be that President Aquino and the Government would face 1988 or 1989 and 1991 itself with great confidence and equanimity. In this connection, he expressed agreement with the observation that owing to the circumstances then obtaining, the Commonwealth of the Philippines was literally coerced into agreeing in 1946 to a treaty of general relations with the United States arising from U.S. Joint Resolution No. 93 under which President Roxas agreed not only to preserve but also expand the existing U.S. military and naval reservations in the Philippines. He stated that this was reaffirmed and expanded in 1947 when the Military Bases Agreement was consummated and further enhanced in 1951 with the conclusion of the Mutual Defense Treaty between the Philippines and the United States. He, however, bewailed the fact that while the Philippines regards it as a treaty ratified by the Philippine Senate, from the standpoint of the Americans it is only an Executive Agreement since the U.S. Senate did not even take cognizance of it. Thus, he said, while the Philippines insists on calling it rentals, the U.S. official lexicon is aid on which they participate in decision-making with respect to its disbursement through the USAID.

For this reason, Mr. Ople stated that he favors the Rodrigo-Laurel approach as one which would give the government the strongest political leverage since 1898. He maintained that there is in the words of the American Declaration itself a long trail of usurpations and abuses which could not be corrected if the Philippines unilaterally renounces the only meaningful bargaining leverage with the United States through the imminent deadline of the Military Bases Agreement in 1991. He stressed that this bargaining leverage should be conserved, developed and wielded as a legitimate weapon at the proper time to correct the historic inequalities in Philippine-American relationship.

Mr. Ople stated that he visualized a national debate shaping up as a result of the Body's initiative to put the bases issue, neutrality and nuclear weapons in the agenda of the Commission and the debate would most likely center on survival which, unfortunately for most people, is an oversimplified concept dividing the wall between the communists and the democrats. He called attention to the revised program of the National Democratic Front (NDF), issued last December 1985 which contains a statement that if a coalition government took over the Philippines under a national democratic regime, they would not rule out negotiations on the American bases, which means that the NDF entertains the possibility of negotiating on the future of American bases if they are able to hold more advanced political positions. He stressed that there is no reason why the Body should not leave

the option to the Philippine Government to make the decisions on the bases issue at the proper time.

Mr. Ople also pointed out that what the country would get out of the bases in terms of economic returns as against the social costs must also be considered. He stated that when he was in Washington, American officials had intimated to him their expectation for a more aggressive Philippine Government position concerning the bases' rental which they consider as pathetic.

Mr. Ople pointed out that there are 20,000 prostitutes in Olongapo City not because of the bases but because of the mass poverty of the people. He stressed that poverty is a great enemy and many inspired provisions in the new Constitution could help the people accelerate their conquest of mass poverty, ignorance and disease, especially with the use of technology, capital and markets through which the country may become prosperous on its own strength, power, initiative and inspiration and not through the crutches of others. He pointed out that prosperity and freedom generally have a correlation. He stressed that democracy requires a certain measure of economic viability and a certain level of per capita income to support its great ideals of equality, liberty and honesty.

Finally, Mr. Ople supported the position taken by Messrs. de los Reyes and Azcuna that Section 4 could stand apart from Section 3. He stated that he is prepared to support a statement of principle for a nuclear-free national territory of the Philippines and also to support a transitory provision that would make certain that the issues which the Body may not have resolved on their merits would be brought to the people at the proper time for them to decide.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento spoke in favor of the Committee's position on the bases issue and opposed Messrs. de Castro's and Rodrigo's motion to delete the proposal.

He noted that after the experience with a tyrant and .after the removal of this tyrant through people power, the country is in the process of redefining and reshaping the course of the people's lives through this new Constitution which would hopefully usher in a new era of peace, freedom and independence.

Mr. Sarmiento observed that it behooves the Members to consider and use the lessons acquired through the dark years of martial law as guidelines in defining the Constitution. These lessons, he stated, have moved the Body to enshrine in the proposed Constitution specific provisions limiting the powers of the Chief Executive in declaring a state of emergency as well as other provisions aimed at preventing the recurrence or emergence of another dictator and that they have, moreover, paved the way for incorporating in the new Constitution provisions on human rights and social justice.

He stated that through the years of martial law, the U.S. bases were used by the U.S. Government to justify its open and wholesale support of the Marcos dictatorship which dictatorship caused the arrest and detention of thousands of Filipinos, among them, several Members of the Constitutional Commission, and the death and martyrdom of Ninoy Aquino. He informed that in the four years following the imposition of martial law from 1973 to 1976, U.S. military aid to Mr. Marcos totalled US\$166.3 million, 106 percent more than the total aid for the preceding four-year period from 1969-1972 of US\$80.8 million. In 1976, military aid averaged US\$40 million, in contrast to the pre-martial law average of US\$20 million. He observed that before martial law, the Philippines had no access to U.S. foreign military sales credit program which was opened only in 1974 and that by 1976, the country's foreign military sales credit reached US\$17 million. He informed that arms sales by the U.S. to the Philippines in the four-year period immediately after martial law was US\$72.1 million, nine times the figure of sales in the preceding 20-year period.

He stated that on March 10, 1977, despite the much publicized Carter's Human Rights Crusade, the Assistant

Secretary of State for East Asia and Pacific Affairs, Richard Holbrooke, defended the military aid program to the Philippines on the following grounds:

" U.S. security and military facilities in the country continue to serve important national interest just as they did during World War II and during the war in Vietnam. They contribute significantly to the maintenance of stability in Southeast Asia and to the American ability to keep vital sealanes open in the event of hostility. They contribute to America's stability to meet her obligations under the bilateral mutual defense pact with the Philippine Government. The Philippines regards military aid as a manifestation of continued U.S. interest in and commitment to the defense of that country and as an important factor in the American contribution to bilateral security relationship.

He noted that Holbrooke disclosed that ". . . the U.S. is troubled by human rights abuses in the Philippines and that such concern had been relayed to the Philippine Government along with the U.S. view that there should be marked improvement in the situation . . . but considering the Philippines' strategic importance, we don't believe that security or economic assistance should be reduced because of the human rights problem."

The American defense strategy under Carter, he noted, underscored the importance of the U.S. bases in the Philippines which merely echoed the basic elements of the Nixon Doctrine similarly provided in the Ford Pacific Doctrine otherwise known as the "favored defense and deployment strategy" combined with "total force" concept in defense planning. Inasmuch as the U.S. bases remain essential links in the forward bases structure, the Carter administration, he stated, continued extensive military aid to the Marcos government despite massive human rights violations.

Mr. Sarmiento maintained that as long as these bases remain, the U.S. shall always interfere in Philippine internal affairs. He adverted to a statement of President Eisenhower in a press conference on November 5, 1958 to wit:

"Everything we do in the foreign field has for its basic purpose our national security, our national prosperity. We are not doing these things in the foreign field as a matter of altruism and charity. We are trying to keep an atmosphere in the world in which we, Americans, can live, in which we can hope at least finally to bring down some of our armament cost and where we, Americans, can prosper."

He noted that Senator Fulbright, appearing before the Symington Subcommittee hearings in 1969, stated, "We are not really there to protect the Philippines. We are there to serve our own purposes."

Mr. Sarmiento opined that the bases are instruments for foreign intervention and constitute a serious, unforgivable, condemnable and sacrilegious violation of Philippine sovereignty and dignity as a people. He informed that specific provisions of the Agreement effectuate continued U.S. monopoly over the country's security agreements, control Philippine foreign relations, ensure enlistment of Philippine manpower into the U.S. armed forces, guarantee mobilization of U.S. military forces throughout the country and institute a region of extraterritoriality for U.S. military personnel to place them beyond the reach of Philippine courts.

The U.S. bases, he maintained, constitute a threat to the survival of the Filipinos as they are a major storage point for tactical nuclear weapons in the Western Pacific and because they are targets of nuclear attack. He stated that a nuclear attack would mean total destruction of Clark and Subic and that the radioactive fallout resulting therefrom would cause incurable injuries to present and future generations of Filipinos living within 100 to 200 kindred kilometers from the center of detonation. In addition, he stated that it would cause immediate death to thousands, lingering death to many more and that thousands of hectares of land would become uninhabitable for generations.

Mr. Sarmiento underscored the need for a specific Constitutional provision banning foreign bases in the Philippines to protect the sovereignty and dignity of the people. He argued that the Constitution, as the supreme law of the land, provides guidelines including prohibitions on Government and Government officials to ensure the

protection of the interest of the people at all times regardless of who assumes office and that the banning of foreign bases is one restriction that should not be left solely to the discretion of government as it involves the inalienable rights of the people to survive and shape their future.

He pointed out that renunciation of war as an instrument of national policy is an inflexible and restrictive provision in the 1935 and 1973 Constitutions and nobody objected. He noted that the Japanese Constitution not only renounces war but also renounces the threat or the use of force as a means of settling disputes with other nations; and that other Constitutions such as those of Iran and Cuba as well as the German Basic Law also contain restrictive, inflexible provisions. In this vein, he asked why the Philippines cannot also have a restriction against foreign bases when the Filipinos' survival as a people is at stake.

In closing, he adverted to the statement of Claro M. Recto, the father of the 1935 Constitution, to wit:

"Let not Macaulay's traveler from New Zealand, exploring the spectral ruins of Manila, in the course of his post-atomic war peregrinations, and cautiously testing the radioactive waters of the Pasig, from the broken arches of the Quezon Bridge, have cause to ponder that in those shattered tenements and poisoned fields and rivers, once lived a nation unique in the annals of mankind, free men who put their liberties on the auction block, a sacrificial race with a mysterious urge to suicide, who, being weak and weaponless, took upon themselves the quarrels of the strong, and having been warned of their abandonment, still persisted in their lonely course, and whose brutalized and monstrously deformed survivors, scrambling with stunted limbs in the infected debris of their liberated cities, had forgotten even the echo of the memory of the strange illusion for which their race had fought and perished."

At this juncture, Mr. Romulo informed that the other speakers had manifested their preference to deliver their remarks on Monday.

CORRECTION ON THE PRAYER OF MR. SUAREZ IN THE JOURNAL OF THE PREVIOUS SESSION

Mr. de Castro manifested that the Journal of the previous session contained a prayer of Mr. Suarez in which reference was made to him as having applied for the position of security guard at the Subic Bay shipyards. He informed that he approached Mr. Suarez and called the latter's attention to the need to correct this error. He noted that although Mr. Suarez had promised to make the necessary corrections he had not done so.

Mr. de Castro stressed that he had always advocated truth and frankness and that he even espoused the insertion of the word "truth" in the Preamble. He underscored the need for truth in the Commission.

Mr. Nollado interposed to state that Mr. Suarez called him a "jungleman" to which statement he did not object as it was said in a light vein.

At this point, the Chair stated that the matter would be referred to Mr. Suarez for clarification.

ADJOURNMENT OF SESSION

Upon motion of Mr. Romulo, there being no objection, the Chair adjourned the session until nine-thirty in the morning of Monday, September 15, 1986.

It was 12:37 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President
Approved on September 15, 1986

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