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Friday, August 15, 1986

OPENING OF SESSION

At 9:51 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Teodoro C. Bacani.

Everybody remained standing for the Prayer.

PRAYER

BISHOP BACANI: God our Father, as we begin our work once more today, we ask You to give us a deeper consciousness of the fact that we are Filipinos, whom You have called not only to own our land and our natural resources, but to protect them not only for the present generation but for our posterity.

Grant, O Lord, that conscious of this, we may enact in this Constitution provisions that will truly be for the welfare of our people, and it will not only be class interest that we will promote, but the interest of the entire nation and of our future generations. We ask You this in the name of Jesus, the Lord. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present

Alonto Present Nieva Present

Aquino Present Nollado Present

Azcuna Present[*] Ople Present

Bacani Present Padilla Present

Bengzon Present[*] Quesada Present

Bennagen Present[*] Rama Present

Bernas Present Regalado Absent

Rosario Braid Present Reyes de los Present

Brocka Present Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion Present Sarmiento Present

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present[*] Tadeo Present

Gascon Present Tan Present[*]

Guingona Absent Tingson Present

Jamir Present Treñas Present

Laurel Present[*] Uka Present

Lerum Present[*] Villacorta Present[*]

Maambong Present[*] Villegas Present

Monsod Present

Commissioner Ahmad Domocao Alonto is on official mission.

The President is present.

The roll call shows 34 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we dispense with the reading of the Journal of the previous session.

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from Mr. Guillermo A. Castasus of 127 R. Berroya St., San Vicente, San Pedro, Laguna, suggesting that in the acquisition of lands, particularly agricultural lands, and on retaining ownership of landholdings, anyone who cannot guarantee the land's productivity has no reason for holding on that land, much less to acquire more.

(Communication No. 552 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Luis A. Quibranza of 1564 Labra Street, Caballes Compound, Guadalupe, Cebu City, transmitting his proposal on National Covenant for consideration by the Constitutional Commission.

(Communication No. 553 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Ms. Marisse C. Reyes, Correspondence Secretary, Office of the President of the Philippines, Malacañang, transmitting the following letters from: Mr. Prudencio S. Serrano, 748 Don M. Marcos Ave., Mati, Davao Oriental, submitting suggestions for consideration in the Constitutional Commission; Mr. Eliezer J. Fortunato, 83 Chico St., Quirino District, Quezon City, proposing a federal form of government; Mr. Ramon Santillan, 303 Ziga Ave., Tabaco, Albay, suggesting inclusion of a provision in the Constitution regarding increased pension and government-subsidized health care program for elders; and Mr. Troadio Fuentes, Immaculate Conception Parish, Ozamis City, suggesting the inclusion of religion in the school curriculum.

(Communication No. 554 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Mr. Victor A. de la Cruz and three others, all of Filamer Christian College, Roxas City, urging the Constitutional Commission to incorporate in the Constitution the inviolability of the separation of the Church and State.

(Communication No. 555 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Minister Candu I. Muarip of the Office of Muslim Affairs and Cultural Communities, N. de la Merced Bldg., corner West and Quezon Avenue, Quezon City, submitting a compilation of proposals and resolutions adopted by Muslim professionals, academicians and scholars, and expressing the hope that these proposals which embody the general sentiments and common aspirations of the people be incorporated in the Constitution.

(Communication No. 556 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Mr. Isabelo F. Magalit of KONFES, 4 Malinis St., U.P. Village, Diliman, Quezon City, and thirty-nine (39) other signatories, submitting a position paper recommending that the text of the 1973 Constitution (Art. XV, Sec. 8) on the teaching of religion in public schools be retained and incorporated in the new Constitution.

(Communication No. 557 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Eighteen letters with eight thousand eight hundred sixteen (8,816) signatories with their respective addresses, all seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 558 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Ishmael F. Mohammed of Suite 4 QB, ODC Bldg., Legaspi Village, Makati, Metro Manila, seeking the adoption of measures that will give the prisoners among the Filipino Muslims the privilege to observe fasting inside the prison during the month of Ramadan, exempting them from hard labor for thirty days, feeding them at dawn and at sunset and secluding them from other prisoners of another faith.

(Communication No. 559 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Bishop La Verne D. Mercado, General Secretary of the National Council of Churches in the Philippines, 879 EDSA, Quezon City, transmitting the NCCP's various proposals for the resolution of the problems and issues besetting our nation today.

(Communication No. 560 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from the Misamis Oriental Public School Teachers and Employees Association, Inc., Cagayan de Oro City, requesting provisions in the Constitution prohibiting incumbent elective officials to run for any elective position unless resigned and that political campaigns be sponsored by the COMELEC and financed by the parties of the candidates.

(Communication No. 561 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Communication with one hundred fifty signatories with their respective addresses, all seeking to include a referendum/plebiscite on the issue of statehood U.S.A. in a proclamation calling for local elections.

(Communication No. 562 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Vicente A. Galang, Presidential Staff Director, Malacañang transmitting Resolution No. 3 of the Antique Small Landowners Association, requesting the Constitutional Commission to incorporate in the Constitution the specific number of hectares of land a private person or corporation may possess.

(Communication No. 563 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 496

(Article on National Economy and Patrimony)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we take up for consideration the Article on National Economy and Patrimony in the period of amendments.

THE PRESIDENT: Is there any objection that we proceed to consider on Second Reading the proposed Resolution on the National Economy and Patrimony? (Silence) The Chair hears none; the motion is approved.

SUSPENSION OF SESSION

MR. RAMA: Madam President, in accordance with our procedure to enable the Commissioners who desire to present amendments to have a conference with the Committee Chairman and Committee members, I move that we suspend the session.

THE PRESIDENT: The session is suspended.

It was 10:02 a.m.

RESUMPTION OF SESSION

At 10:40 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Madam President, I ask that Commissioner Ople be recognized to present amendments.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

May I propose an amendment to Section 1. May I also make of note that I have consulted the Committee on the National Economy and Patrimony concerning this proposed amendment to Section 1, and the text that I will read is the negotiated result, subject to confirmation by the Chairman of the Committee. It reads as follows: "Section 1. The State shall develop a self-reliant, DYNAMIC and independent national economy. The goals of the national economy are a more equitable distribution of income and wealth, a sustained increase in the amount of goods and services produced by the nation for the benefit of the Filipino people . . ."

There is a recommendation to drop the subsequent phrase and sentence because these will be addressed later in the second paragraph. May I continue reading the text: . . . AND AN EXPANDING PRODUCTIVITY AS THE KEY TO RAISING THE STANDARDS OF LIVING FOR ALL ESPECIALLY THE POOR.

THE STATE SHALL ESTABLISH POLICIES THAT PROMOTE NATIONAL INDUSTRIALIZATION AND FULL EMPLOYMENT BASED ON SOUND AGRICULTURAL DEVELOPMENT AND AGRARIAN REFORM THROUGH INDUSTRIES THAT MAKE FULL USE OF THE NATIONAL ENDOWMENT IN BOTH HUMAN AND NATURAL RESOURCES AND WHICH ARE FULLY COMPETITIVE IN BOTH THE DOMESTIC AND EXTERNAL ENVIRONMENTS. HOWEVER, THE STATE SHALL PROTECT FILIPINO ENTERPRISES AGAINST UNFAIR COMPETITION.

That is a Committee amendment to my amendment. The text goes on to read: "IN THE PURSUIT OF THESE GOALS all economic sectors AND REGIONS shall be given optimum opportunity to develop and a broader-based ownership of private enterprises, INCLUDING BOTH THE CORPORATE AND THE COOPERATIVE OR SOCIAL SECTORS shall be encouraged."

May I request the Committee's consideration.

THE PRESIDENT: What does the Committee say?

MR. VILLEGAS: Commissioner Monsod will give the response.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, the Committee is prepared to accept the amendments of Commissioner Ople, but may we suggest two deletions. One is the word "NATIONAL" because the sentence that the Committee itself suggested, which is "THE STATE SHALL PROTECT FILIPINO ENTERPRISES AGAINST UNFAIR FOREIGN COMPETITION" already covers the idea of the word "NATIONAL." Second, in the sentence where it says "INCLUDING BOTH THE CORPORATE AND THE COOPERATIVE OR SOCIAL SECTORS," we believe that many people may not understand what "OR SOCIAL SECTORS" mean. However, we are prepared to accept the word "COOPERATIVE" or say "SIMILAR ENTERPRISES shall be encouraged," if it is acceptable to the Commissioner.

MR. OPLE: Yes, I am prepared to accept the amendment of the Committee, provided it is understood that in omitting the words "NATIONAL" before "INDUSTRIALIZATION," it is still the intent of this Commission, particularly of the Committee, that Filipino entrepreneurs and leaders of business and industry, and not any other group, shall lead in the industrialization of the country which is stated here as a goal.

MR. MONSOD: That is why we used the words "Filipino enterprises."

MR. OPLE: Yes, in that context, I accept the amendment, Madam President.

BISHOP BACANI: Did the Commissioner read the word "DYNAMIC"?

MR. OPLE: Yes, it is proposed to be inserted between the modifier "self-reliant" and the phrase "independent national economy."

Does the Committee want a brief explanation for this proposal?

MR. VILLEGAS: Please proceed.

MR. OPLE: There are two contrasting examples of a self-reliant and independent national economy. Let us say, Taiwan or Korea epitomizes the first type — it is self-reliant and independent, but it is dynamic. The other group of self-reliant and independent economies that I have in mind, by way of contrast, is Burma. Burma is almost an economic autarky by policy, that is to say, until recently when it decided to join the rest of the world economy. It is static, not dynamic.

So, you can have a self-reliant and independent national economy which is almost static and stagnant I am for inserting this modifier of DYNAMIC to insure that self-reliance and independence will generate not less, but more economic dynamism in its interaction, especially with the rest of the world economic environment.

It is in that sense that I made the proposal, Madam President.

BISHOP BACANI: Madam President, it seems that "DYNAMIC" is an unnecessary surplusage because the very last sentence, for example, of the same paragraph speaks of "EXPANDING PRODUCTIVITY AS THE KEY TO RAISING THE STANDARDS OF LIVING FOR ALL ESPECIALLY THE POOR," and then the following paragraph further amplifies or explains the dynamism that is required of the national economy. Hence, it would seem to be unnecessary.

MR. OPLE: Madam President, I will not press for the adoption of this amendment if it is understood that the vision of a self-reliant and independent national economy that leads this paragraph refers to a state of economy that is dynamic and not static; then I am willing to have this word omitted. In other words, I accept the committee amendment if it is a committee proposal.

BISHOP BACANI: Thank you.

MR. SUAREZ: Madam President, in other words, Commissioner Ople is amenable to the suggestion that we delete the word "DYNAMIC," but with the understanding that the meaning of dynamism, insofar as the national economy is concerned, as it is proposed and elaborated on this morning, would be stated in the record.

MR. OPLE: The Gentleman has described exactly my position.

MR. SUAREZ: Thank you.

The Committee would like to clear up certain expressions used in the proposed amendment to Section 1. For example, with regard to the phrase "EXPANDING PRODUCTIVITY," does this refer to all sectors, like agricultural, industrial, commercial sectors of productivity?

MR. OPLE: Yes, Madam President. Many economic theories, regardless of their ideological commitments or lack of depth, barely converge on the perception that productivity is what makes the difference between a mediocre nation and a highly successful nation in economic terms.

Productivity in Japan and in the United States is about 20 times higher than the productivity in the Philippines. This tends to be reflected in the level of wages and incomes. That is the reason why I think it is very important that we establish productivity as a national goal, as a key to raising the standards of living for all but especially for the poor and the underprivileged.

MR. SUAREZ: Thank you.

My other question refers to the Commissioner's reference to industrialization in relation to agrarian reform. Is the Commissioner thinking in terms of anchoring the industrialization on the agrarian economy and agrarian reform?

MR. OPLE: Yes. The expectation, Madam President, is that agrarian reform will release tremendous new forces and energies and also activate idle capital that is locked up in an antiquated feudal system. These forces, therefore, will actually promote the industrialization of the country, restructure the social and economic framework, thereby achieving equity through social justice. At the same time, the process of industrialization is facilitated.

MR. SUAREZ: Madam President, this particular phrase is practically or substantially a transposition of what would have been Section 9, proposed by the Commissioner in the Article on Social Justice.

MR. OPLE: Yes, Madam President. The gist of the first two sections I presented to the Committee as new amendments actually had been merged into Section 1, with the original formulation that Commissioner Suarez himself introduced in a recent meeting of the Committee on the National Economy and Patrimony.

MR. SUAREZ: Thank you.

What about the Commissioner's explanation of the use of the phrase "THE NATIONAL ENDOWMENT IN BOTH HUMAN AND NATURAL RESOURCES"? Can the Commissioner please elaborate?

MR. OPLE: Yes, Madam President.

This supports the self-reliant and independent national economy set out in the first sentence of Section 1 in the sense that national endowment means what God has given us and this includes the human resource potential of the country. It also speaks of a commitment to put the process of industrialization and modernization in the hands of Filipino talent because we are called upon to make full use of the national endowment in both human and natural resources. Originally, the reference to "natural resources" was industries that would optimize the use of indigenous resources. But I think it has now been transformed into a better statement in the sense that the "THE NATIONAL ENDOWMENT" which comprises all of those now appears here as a key clause.

MR. SARMIENTO: Madam President, would Commissioner Ople favor the deletion of the words "THE NATIONAL ENDOWMENT," so that the lines will read, "INDUSTRIES THAT MAKE FULL USE OF BOTH HUMAN AND NATURAL RESOURCES," for simplicity? The Commissioner's explanation states that the national endowment would cover both human and natural resources.

MR. OPLE: Yes, but then it also helps fix human and natural resources in a frame, which I think is possessive, nationalistic, because we speak of both of these as "THE NATIONAL ENDOWMENT."

MR. SARMIENTO: So, will the Commissioner agree to the deletion of the words "THE NATIONAL ENDOWMENT"?

MR. OPLE: If the Committee makes an amendment out of that, I would not shed a few tears over it.

MR. SUAREZ: Madam President, since the Committee is prepared to use Commissioner Ople's proposal as the basis for drafting Section 1, there is need to clarify the terms being used here. May I refer the Commissioner to the clause "AND WHICH ARE FULLY COMPETITIVE IN BOTH THE DOMESTIC AND EXTERNAL ENVIRONMENTS." When the Commissioner refers to "EXTERNAL ENVIRONMENTS," I suppose he is referring to industries of other countries. Is our understanding correct, Madam President?

MR. OPLE: Not exactly, Madam President. When we say that these industries are fully competitive in both the domestic and external environments, we want to emphasize again self-reliance and independence as the attributes of industries that should be supported for this purpose. Let us begin with the domestic environment. If they are not competitive, they will penalize the consumers with shabby products that cost too much. I think we are very concerned that the industries that will become the engines of the industrialization and modernization of this country should be fair to our consuming public. They should be able to offer products that are competitive in quality and price, since virtually under protected conditions our consumers have no choice. They can be paying for a shirt which costs 50 percent less in Taiwan but whose quality is higher. And so it refers, first of all, to the protection of the consuming public relative to the producers. Secondly, it also refers to the ability of our industries to earn foreign exchange, where they are in a position to do so, by providing high quality, high performance, low-cost products in the markets of the world, where the opportunities are available only to those who are prepared to take advantage of them.

MR. SUAREZ: That is the meaning the proponent attributes to the phrase "external environments."

MR. OPLE: Yes, Madam President.

MR. SUAREZ: The last clarification question would be with respect to the protection of Filipino enterprises against unfair foreign competition. Although this is a Committee suggestion, would the proponent be able to give examples of what would constitute unfair foreign competition?

MR. OPLE: Let me start with a really critical problem. The dumping of excess goods in the Philippine market is a form of unfair competition. For example, when multinationals overcharge their Filipino partners in terms of royalties for some of their dubious technologies, that is a form of unfair competition. When they deny access to technology to their Filipino partners, that is highly discriminatory and, I think, unfair competition.

MS. AQUINO: Madam President.

MR. RAMA: Madam President, may I ask that Commissioner Aquino be recognized to amend the amendment.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Would the proponent be amenable to an amendment to his amendment?

MR. OPLE: With the greatest pleasure, if I like the amendment.

MS. AQUINO: I would propose to delete the word "UNFAIR" and substitute it with the words CONTROL AND IMPORT COMPETITION. Madam President, any competition, any foreign competition, is by itself unfair and unequal competition. Any foreign company that seeks to operate in the Philippine economy, considering the very small size of the Philippine economy and the relative level of underdevelopment, would, by itself, pose great danger to the possibilities of full development of that local industry. A small company based in Japan, or Korea, or the United States, conceding that it may not be nonmonopolistic in their country, once it begins to operate in our country is, by itself, a threat or a danger to the possibility of growth.

MR. OPLE: I will put this matter to the Committee which introduced this amendment to my amendment.

MR. SARMIENTO: Will Commissioner Aquino kindly restate her proposed amendment?

MS. AQUINO: My amendment would read: "HOWEVER, THE STATE SHALL PROTECT THE LOCAL INDUSTRIES FROM FOREIGN CONTROL AND IMPORT COMPETITION." It would, in effect, delete the word "UNFAIR" on the premise that any foreign competition is already by itself unfair and unequal competition.

MR. VILLEGAS: I regret that we will not be able to accept that amendment because it is constitutionalizing a specific situation that may not last forever. I think it is also unjust to think that Filipino enterprises, even assuming that temporarily they are infants and they have to be protected, which is the constitutional horizon, will forever and ever be needing protection. For example, I mentioned beer on another occasion. It would be ridiculous to say that San Miguel beer needs protection from other industries abroad. So, although we admit that there are legitimate infants that should be protected and that can continue because new infants will arise in the local industry, I do not think we should include in the Constitution a statement that all imports would constitute unfair competition to local industries.

MS. AQUINO: With all due deference to the position of the Committee and to Chairman Villegas, whom I believe has no peers in that field, the concern here is that there are certain givens that we have to assume — one is that we are an agricultural economy and unless there is complete and committed cuddling from the State and the government, we cannot transcend the limitations of an agricultural economy as evidenced now by our stagnant economy. My concern is that we cannot hope or we cannot even attempt to achieve a situation whereby we can

gear up the cycle of the development of domestic surplus accumulation and investment unless we protect the local industry and market from foreign intrusion, and here I refer to import competition.

MR. VILLEGAS: Yes.

MS. AQUINO: What I am saying is that, if we allow untrammelled import competition, we are just institutionalizing the decided advantage of the foreign competitors already in the market.

MR. VILLEGAS: We are not allowing untrammelled imports. Precisely, there is this provision that, in legitimate and meritorious cases, the State shall protect Filipino enterprises. But to make a sweeping statement that all Filipino enterprises shall forever and ever be protected from imports, I think, is unwarranted.

MR. OPLE: The Committee has acquired jurisdiction over this amendment now in the sense that they have accepted it except for some last minute proposed minor changes and, therefore, I submit to the wishes of the Committee.

MR. VILLEGAS: If Commissioner Aquino insists on the amendment to the amendment, we can throw it to the body.

MR. OPLE: But before we consider that, Madam President, may I just say that the amendment to the amendment introduced by the Committee itself and which reads: HOWEVER, THE STATE SHALL PROTECT FILIPINO ENTERPRISES AGAINST UNFAIR FOREIGN COMPETITION, looks to me like it is an umbrella statement for protecting Filipino enterprises against all manner of unfair competition, the exact forms of which may emerge later with greater clarity according to dynamic changes in the internal economic situation. But I do not put the regulation of imports as being beyond the pale of this protective umbrella, depending on the changing situations, meaning, Commissioner Aquino's own concern may already be subsumed actually in this sentence which, if I am allowed to read again, is as follows: HOWEVER, THE STATE SHALL PROTECT FILIPINO ENTERPRISES AGAINST UNFAIR FOREIGN COMPETITION.

BISHOP BACANI: Madam President.

MR. VILLEGAS: Commissioner Bacani.

BISHOP BACANI: I think the position of the Committee can be summed up in three sentences. First, that we are committed to the protection of Filipino enterprises. Second, we are against unfair competition with Filipino enterprises, but we also wish to assert that not each and every importation constitutes unfair competition.

MS. AQUINO: Madam President, I am assuming certain givens here, and by that I mean, no. 1, we have a very weak local industry that needs more than adequate and decisive protection by the State and the government. No. 2, the basic structures and framework of the local industry are wanting, sorely wanting, in terms of built-in and inherent machineries and framework that would allow it to fully develop. At this point, I am disturbed by the reluctance of the Committee. Apparently, there is a consensus on that trend already. But I am concerned and disturbed by the reluctance of the Committee to finally address the issue and decisively settle it in this provision.

MR. VILLEGAS: Madam President, the way the Commissioner puts it, she is going to prejudice millions and millions of consumers who may deserve lower prices and better qualities in instances when the infants never grow up. There is no questioning the legitimacy of the infant industry argument. But — and we would like to put this on record — the phrase "unfair foreign competition" also applies to situations when a certain local industry is still in a fledgling stage and it would be unfair to subject it to competition with the Goliaths of international trade. And so, that is definitely part of this phrase "unfair foreign competition." Even if the foreigners do not practice predatory pricing, even if there is no dumping, there are situations when we have to protect local industries when they are

legitimate infants. But if after 30 years an enterprise still claims to be an infant, we have prima facie evidence of child retardation. That is exactly what we would like to prevent — for child retardates in Philippine industry to adversely affect 55 million consumers today and 70 million consumers in the year 2000.

MS. AQUINO: May I be clarified on the contemplation of the phrase "unfair foreign competition"?

MR. VILLEGAS: We have enumerated them. First, in situations where industries are still fledgling or are still legitimate infants, they definitely should be protected against imports from countries that are already very advanced. Second, dumping is unfair competition, and there may be other areas of unfair competition which Congress will enumerate, and precisely these are so broad that there can be many other instances when fair competition can be proved on a case-to-case basis.

MS. AQUINO: What does the Committee contemplate in terms of measures to address this problem?

MR. VILLEGAS: There are many ways of protecting industries — tariffs, giving them quantitative restrictions, prohibiting the imports of certain items completely.

MS. AQUINO: Essentially import control.

MR. VILLEGAS: Yes.

MR. MONSOD: Madam President, may I just add that the intent of the Article is to protect the efficient Filipino producer or the infant Filipino producer. The intent is not to protect the market. There is a difference, Madam President. When we protect a market, we necessarily have to go into import controls, licensing or we may even have to go into price controls because we are protecting a market.

This is what happened early in our republic, and that is not what is contemplated. It is contemplated that legitimate, efficient Filipino enterprises should be protected but there is no guarantee. They should not be insulated from any kind of competition in the market because that leads to a lot of things we know are bad for the country. Import controls resulted in graft and corruption; it resulted in enterprises that survived for many years on subsidy from the consumers; it resulted in companies that are not economic in scale, and are inefficient after 20, 30 years. The people are the ones who pay for this protection on a permanent basis. Protecting the market also results in monopolies and monopoly profits, Madam President. If we are going to protect a market for certain terms that are engaged in monopoly prices, then we must also have price controls, we must also make sure that the State can nationalize these industries if they are inefficient or have many monopoly profits. Otherwise, we are penalizing the rest of the country.

MS. AQUINO: Madam President, I have no quarrel with healthy competition among and between Filipino entrepreneurs for so long as it is not cutthroat and it is not monopolistic. My concern is the decided advantage that is given to a foreign corporation the minute it intrudes into the local industry.

My amendment reads: "THE STATE SHALL PROTECT FILIPINO ENTERPRISES FROM FOREIGN CONTROL AND IMPORT COMPETITION." On the basis of the clarification, I am willing to delete the word "import." I would also seek to delete "UNFAIR" and substitute it with the word CONTROL. I submit, Madam President.

MR. OPLE: "UNFAIR FOREIGN COMPETITION" is the exact phrase.

MS. AQUINO: Yes. Delete the word "UNFAIR" and after the word "FOREIGN" insert the word CONTROL. So, my amendment should read: THE STATE SHALL PROTECT THE FILIPINO ENTERPRISES FROM FOREIGN CONTROL AND COMPETITION.

MR. MONSOD: Does the proponent realize that when she says "FOREIGN CONTROL AND COMPETITION," she is also saying foreign competition which is really protecting the market? This means protecting the market rather than protecting the producer. That is the meaning of the proponent's amendment, Madam President.

MS. AQUINO: There is a very clear reference to Filipino enterprises, which is direct . . . in strict linguistic contemplation is local industries.

MR. MONSOD: Yes. But the phrase "FROM FOREIGN CONTROL AND COMPETITION" really says protecting the market.

MS. AQUINO: Yes.

THE PRESIDENT: Does the Committee accept Commissioner Aquino's proposed amendment?

MR. VILLEGAS: It is not accepted by the Committee, Madam President.

THE PRESIDENT: How does the Committee propose to deal with this?

Commissioner Villegas, may the Chair be enlightened. There is an open letter addressed to the Commission, which has been published, and I would just like to be informed if this Section 1 now, as proposed by Commissioner Ople and, more or less, accepted by the Committee, answers to some degree the questions proposed in this open letter for industrialization, protectionism, and economic nationalism?

MR. VILLEGAS: Yes, Madam President. In our deliberation in the Committee this morning, we had fully considered the specific proposal. The thinking of the Committee is that we have definitely included all the considerations that were suggested. This very last phrase which talks about the State protecting Filipino enterprises against unfair foreign competition, we think, addresses frontally one of the issues brought up in this specific communication. The reference to industrialization, which is to balance agricultural development and agrarian reform, also addresses the issue of industrializing the Philippines. So, it is the thinking of the Committee that we have fully considered all the issues brought up in that communication, Madam President.

SUSPENSION OF SESSION

MR. RAMA: Madam President, may I ask for a suspension of the session for two minutes to compose these differences.

THE PRESIDENT: The session is suspended.

It was 11:17 a.m.

RESUMPTION OF SESSION

At 11:31 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Please clear the session hall of non-Commissioners.

Section 1, as proposed, as amended by Commissioner Ople, has been accepted with corresponding amendments offered by the Committee. May we know from the Floor Leader what decision we shall now take. Shall we vote on Section 1 without prejudice to accepting other amendments?

MR. SARMIENTO: Madam President, may I make this suggestion? There is a motion that we go to a caucus. But before going to caucus, may I suggest that we hear, first of all, the amendments to Section 1.

MR. OPLE: The number of amendments is actually overstated. I do not know of any amendment other than that proposed by Commissioner Aquino with respect to the sentence, which is a committee amendment to my amendment, and which reads: "HOWEVER, THE STATE SHALL PROTECT FILIPINO ENTERPRISES AGAINST UNFAIR FOREIGN COMPETITION." Other than that, I do not know of any other proposed amendment.

THE PRESIDENT: May we ask the Committee if there are other amendments to Section 1?

MR. RAMA: There are other amendments to the amendment, Madam President. May I ask that Commissioner Davide be recognized to present an amendment to the amendment.

THE PRESIDENT: We will allow the Commissioners who have amendments to Section 1 to submit their amendments so as to get the reaction of the Committee; or in other words, to give time to the Committee to deliberate on them.

Commissioner Davide is recognized.

MR. DAVIDE: Madam President, I have a few amendments on the proposed Section 1. On line 9, before "income," I seek to insert the word OPPORTUNITIES and add a comma (,) after.

MR. VILLEGAS: This is line 9.

MR. DAVIDE: Section 1 of the Ople amendment.

MR. VILLEGAS: Madam President, does Commissioner Ople accept that amendment?

MR. OPLE: "... distribution of OPPORTUNITIES, income and wealth"?

MR. DAVIDE: Yes.

MR. OPLE: This is a committee formulation. My only amendment here consisted of deleting the phrase "full employment of human, physical and technological resources."

MR. DAVIDE: So, I submit it to the Committee since this is really a reformulation of the entire Section 1.

MR. OPLE: Yes. May I suggest then that the Committee respond to that.

MR. VILLEGAS: Madam President, the amendment is accepted.

MR. DAVIDE: On the second to the last line of the first paragraph, I seek to delete the words "raising the" and substitute the same with the following: MAXIMUM ECONOMIC GROWTH AND RISING, so it will read, EXPANDING PRODUCTIVITY AS THE KEY TO MAXIMUM ECONOMIC GROWTH AND RISING STANDARDS OF LIVING FOR ALL. Then substitute the word "poor" with UNDERPRIVILEGED.

MR. OPLE: The idea of "MAXIMUM ECONOMIC GROWTH" is acceptable, but I would ask the Committee to help me look for a more suitable modifier to ECONOMIC GROWTH and MAXIMUM.

MR. VILLEGAS: Yes.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Madam President, there is a big difference between "RISING STANDARDS OF LIVING" and "RAISING THE STANDARDS OF LIVING." I think the import of Commissioner Ople in using the word "RAISING" is wise and advisable as against the use of the phrase "RISING STANDARDS OF LIVING."

MR. DAVIDE: Madam President, we submit that "RISING" is better than RAISING, because it is a continuing economic target. The standard of living keeps on rising; we do not just raise it from the level now.

MR. SUAREZ: True, but the significance of the use of the term "RAISING" is to elevate this underprivileged class by improving their standard of living. I do not know if the sense of the Committee coincides with the sentiments and thinking of Commissioner Ople in this regard, but that is how we read this particular phrase "RAISING THE STANDARDS OF LIVING" against the phrase "RISING STANDARDS OF LIVING."

MR. OPLE: Madam President, the idea of economic growth in terms of real GNP growth is already provided in that clause which says: "a sustained increase in the amount of goods and services produced by the nation for the benefit of the Filipino people . . ." and, therefore, to repeat "economic growth" in the context of productivity might be a redundancy. Moreover, "RAISING THE STANDARDS OF LIVING" is a more active formulation than "RISING STANDARDS OF LIVING." In that respect, I support the views of the Committee as expressed by Commissioner Suarez.

MR. DAVIDE: Madam President, I will not insist on the second amendment. I will insist only on the first.

BISHOP BACANI: Madam President.

THE PRESIDENT: Yes, Commissioner Bacani is recognized.

BISHOP BACANI: May I ask Commissioner Ople if instead of the words "STANDARDS OF LIVING" he will be amenable to using LEVELS OF LIVING, because even the poorest may have very high standards of living which may not be attainable and which may just lead to frustration. I think what the honorable Commissioner wants is RAISING LEVELS OF LIVING.

MR. OPLE: Yes, in this context they are synonymous and it is a choice, I suppose, for the Committee between "standards" and LEVELS. I would have no objection to replacing "standards" with LEVELS.

BISHOP BACANI: Thank you very much.

MR. DAVIDE: So, may we know the reaction of the Committee on the first amendment?

MR. VILLEGAS: Is the Gentleman referring to "MAXIMUM ECONOMIC GROWTH"?

MR. DAVIDE: Yes.

MR. VILLEGAS: We hesitate to accept that because it is not the objective of the Article on National Economy and Patrimony to maximize economic growth; besides, this has been an error of past development programs.

I think the reference here to a sustained increase, as mentioned by Commissioner Ople, in the amount of goods and services produced by the nation for the benefit of the Filipino people would capture better the real objective of the economy.

MR. DAVIDE: In short, that particular phrase would refer to the achievement of maximum economic growth.

MR. VILLEGAS: That is right, Madam President.

MR. DAVIDE: I will not insist on that clarification. But what about substituting the word "poor" with UNDERPRIVILEGED?

MR. OPLE: I would have no difficulty about that, Madam President.

MR. VILLEGAS: I would just harmonize the word with all the other references in the Article on Social Justice and I think this will be more a matter of style.

MR. DAVIDE: On the second paragraph, I seek for the deletion of the words "establish policies that" so the first line will read: "THE STATE SHALL PROMOTE NATIONAL . . ."

MR. OPLE: I accept the amendment and I hope the Committee does, too.

MR. VILLEGAS: Yes.

THE PRESIDENT: May we have that again, Commissioner Davide?

MR. DAVIDE: It is just the deletion, Madam President, of the words "establish policies that." So, it will read: "THE STATE SHALL PROMOTE NATIONAL INDUSTRIALIZATION."

MR. OPLE: The policy is actually a vow of courtesy to the future Congress. But I think the elimination of this phrase actually strengthens the paragraph. So, I accept the amendment, Madam President.

MR. DAVIDE: That is the principal idea.

MR. VILLEGAS: Just a reminder: the Committee had suggested that we drop the qualifying word "NATIONAL" because it is already subsumed under Philippine enterprises.

MR. OPLE: I had accepted that amendment in the context of the additional last sentence which is a guarantee that the State shall protect Filipino enterprises against unfair foreign competition.

THE PRESIDENT: So, how will the sentence read now?

MR. DAVIDE: It will read: "THE STATE SHALL PROMOTE INDUSTRIALIZATION, FULL EMPLOYMENT BASED ON SOUND AGRICULTURAL DEVELOPMENT . . ."

THE PRESIDENT: Is the amendment accepted by the Committee?

MR. VILLEGAS: Yes, Madam President.

MR. DAVIDE: On the fourth line, after the word "full," insert AND EFFICIENT, and delete the phrase "the national endowment in both." So, it will read: "through industries that make full AND EFFICIENT use of human and natural resources. . ."

MR. OPLE: I have no objection, if the Committee agrees.

MR. VILLEGAS: The amendment is accepted.

MR. DAVIDE: I would make a reservation for amendments to Section 2 later.

MR. RAMA: Madam President, I ask that Commissioner Rodrigo be recognized to present an amendment to the amendment.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, I have a very simple amendment involving the deletion of one word, and that is the word "fully" on the second to the last line of paragraph 2, which modifies "competitive."

MR. OPLE: I accept the amendment, and I hope the Committee does, too.

MR. VILLEGAS: We do, Madam President.

MR. RODRIGO: Thank you.

MR. RAMA: Madam President, I ask that Commissioner Padilla be recognized.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: On the next line, will the proponent agree to substitute "external environments" with FOREIGN MARKETS so that the line will read: "competitive in both the domestic and FOREIGN MARKETS."

THE PRESIDENT: What does Commissioner Ople say?

MR. OPLE: I would not object, Madam President, to making the meaning more precise unless the Committee contemplates domestic and external environments as being able to encompass a wider range of factors than markets in which competitiveness shall be assured. May we hear from the Committee which has acquired jurisdiction over the amendment.

THE PRESIDENT: What does the Chairman say?

MR. VILLEGAS: We accept the amendment. "FOREIGN MARKETS" would really be synonymous with "external environments."

MR. PADILLA: Thank you.

MR. RAMA: Madam President, I ask that Commissioner Garcia be recognized to present an amendment.

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Madam President, actually, the basic thoughts that I want to incorporate have already been incorporated in the amendment presented on the floor; so it could simply be an alternative formulation. Utilizing the original draft, Commissioner Gascon and I feel that it could be strengthened by putting after the phrase "The State shall develop a self-reliant and independent national economy" the following: FOUNDED ON THE EFFECTIVE CONTROL BY FILIPINOS, OF THE ECONOMY AND OF INDUSTRIES VITAL TO THEIR NATIONAL INTEREST. That will be in the first sentence.

MR. OPLE: Will the Gentleman kindly repeat the amendment?

MR. GARCIA: FOUNDED ON THE EFFECTIVE CONTROL BY FILIPINOS, OF THE ECONOMY AND OF INDUSTRIES VITAL TO THEIR NATIONAL INTEREST.

THE PRESIDENT: This is a sentence of the Committee. So, what does the Committee say?

MR. OPLE: Yes, it is a Committee formulation and, therefore, I would like to refer the matter to the Committee.

THE PRESIDENT: Is the Committee ready to give its reaction to this proposed amendment of Commissioner Garcia?

MR. SARMIENTO: Madam President, may we address a few questions to Commissioner Garcia?

THE PRESIDENT: The Gentleman may proceed.

MR. SARMIENTO: May we know the meaning of "VITAL TO THEIR NATIONAL INTEREST"?

MR. GARCIA: Basically, we want an economy where Filipinos are in full command. At the same time, there are certain industries that later on we will see in some of the other articles which we would want to be reserved to Filipino control. The definition of that would depend, therefore, on enabling legislation to be enacted by Congress.

MR. SARMIENTO: May we know also the meaning of "EFFECTIVE AND FULL CONTROL"?

MR. GARCIA: No, we took out "FULL." "EFFECTIVE CONTROL" means that the decisions are in the hands of

Filipinos who are operating with the national interest in mind.

MR. SUAREZ: I take it that the Gentleman wants the effective control by Filipinos emphasized.

MR. GARCIA: Exactly.

MR. SUAREZ: But after "Filipinos," the Gentleman added "OF THE ECONOMY AND OF INDUSTRIES VITAL TO THEIR NATIONAL INTEREST" which we feel may already be included in the previous phrases like "self-reliant and independent national economy." So, I wonder whether we could just put a period (.) after the word "FILIPINOS" and then forget about the rest of the phrase such that the sentence would read: "The State shall develop a self-reliant and independent national economy FOUNDED ON THE EFFECTIVE CONTROL BY FILIPINOS." Would that be adequate to convey the Gentleman's thoughts on the matter?

MR. GARCIA: Of course, I feel that it would be more emphatic if we underscore the vehicles by which this control is to be exercised, basically through the economic control of the industries. But if the Committee is made to understand that this would include both the economy itself and the economic decisions, economic policy and the industries themselves, then I would accept this amendment.

MR. VILLEGAS: All the "how-to's" — how to make sure that this effective control will be exercised, for one, will be developed in the subsequent sections of this Article, like the 60-40 scheme or certain areas are limited only to Filipinos. So, I think that would be sufficient.

MR. GARCIA: Thank you.

MR. VILLEGAS: We accept the amendment.

MR. GARCIA: Thank you very much.

I would like to ask the honorable Commissioner Ople regarding the third paragraph — "broader-based ownership of private enterprises including both the corporate and the cooperative or social sectors shall be encouraged." This, I understand, has been accepted by the Committee.

MR. OPLE: Yes, Madam President, the Committee accepted the phrase with just one modification: the phrase "or social" was deleted on the ground that there is no familiarity as yet with the meaning of social sectors.

MR. GARCIA: Yes.

MR. OPLE: So, the provision reads: "including both the corporate and the cooperative sectors shall be encouraged."

MR. VILLEGAS: There is a final wording that we would like to read: "including both corporate ENTERPRISES AND COOPERATIVES OR SIMILAR ORGANIZATIONS."

MR. OPLE: This, I think, captures the essence of the original. So, I am willing to accept that amendment of the Committee.

MR. GARCIA: The reason I ask is that if I utilize the original draft, after the second sentence, the third sentence has a phrase which states: "in the attainment of these goals." I suggest that after "goals," insert the phrase: THE STATE SHALL PROMOTE THE INDUSTRIALIZATION OF THE NATION, FOSTER ECONOMIC NATIONALISM, AND ENCOURAGE BROADER-BASED OWNERSHIP AND MANAGEMENT OF ECONOMIC ENTERPRISES.

MR. VILLEGAS: Those objectives were incorporated in the second paragraph which states: "The State shall promote industrialization and full employment."

MR. GARCIA: So, those two other goals are accepted. Therefore, the phrase that I would then request to be included would be BROADER-BASED OWNERSHIP AND MANAGEMENT OF ECONOMIC ENTERPRISES.

MR. OPLE: That is acceptable to me, Madam President.

THE PRESIDENT: Where will this be inserted, Commissioner Garcia?

MR. GARCIA: In the third paragraph.

MR. VILLEGAS: Will Commissioner Garcia answer a specific question?

MR. GARCIA: Yes.

MR. VILLEGAS: How would the Gentleman define "broader management"?

MR. GARCIA: Basically, this would mean the participation of the different sectors involved in production. As I mentioned earlier in our discussion when I was requested to present the alternative vision, this would be flexible and would develop as economic development progresses. The forms would vary according to our stage of development.

MR. OPLE: Is Commissioner Garcia suggesting a form of participatory management?

MR. GARCIA: Yes. In other words, we open the field to further development where those who are members of production or those who cooperate or collaborate in production become participants more and more in decisions which somehow affect their lives.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: I think we rejected that in the labor section, and we have left the participation or methods of participation up to Congress. As far as we are concerned, ownership implies management; and we do not see why we have to expand that notion.

MR. OPLE: I am in favor of worker's participation at the level of the enterprise. I spoke about work councils, but that is my opinion and not the Committee's.

MR. ROMULO: As far as the acceptable concept is concerned, we have accepted that in the labor section under the Article on Social Justice.

MR. VILLEGAS: And the inclusion of the word "cooperative" would already introduce cooperative organization.

MR. GARCIA: I would like to insist that the importance of a broader-based ownership and management is essential. The fact is that we have different social sectors that are owners, for example, of a particular enterprise, they must not just be consulted but also be participants in charting the direction of this endeavor.

MR. OPLE: Commissioner Garcia is not thinking in a European concept of codetermination.

MR. GARCIA: No, as I said, there are many different stages and levels according to the state of economic development.

MR. OPLE: To reassure the Committee because I have already accepted it and we are now negotiating with the Committee, will the Gentleman give an example of a broader-based management in addition to the ownership of economic enterprises?

MR. GARCIA: One very concrete example right now — we actually have it in our own experience — is the people's

economic councils in particular areas which help chart the course of economic development in a particular zone. I think that is part of the thrust of the Ministry of Trade.

MR. OPLE: That is different from management of an economic enterprise.

MR. GARCIA: The other area, for example, is a newspaper business. As I mentioned in our caucus, a newspaper, rather than being in the hands of one family or one owner, should be in the hands of the people who produce that newspaper. Therefore, they should participate in the management and in charting the direction and the policies.

THE PRESIDENT: Commissioner Aquino seeks recognition.

MS. AQUINO: I would only like clarification on the concept of management. Does that take the nature of codetermination in corporate management, corporate planning and corporate acquisition of property, for example?

MR. GARCIA: Not necessarily. The point I want to establish is that we leave flexibility; we leave room for development so that when the organized associations of the different social sectors are more ready, they can be more willing participants in this effort. Then they could be incorporated. I feel that this provides room for that form of development.

MS. AQUINO: Without preempting judgment on that proposal, could this not be best resolved in the tenor of the deliberations in the Committee on Social Justice, but without prohibiting and without positively giving it compulsory constitutional mandate, the process shall open the dynamics of an evolution; meaning, for so long as we do not make an explicit prohibition, it is part and parcel of the dynamics of economic growth and processes?

MR. ROMULO: Madam President, the Committee believes that this was fully discussed in the labor section and, thus, we have a provision that the labor sector shall also participate in policy- and decision-making processes affecting their rights and benefits as may be provided by law.

We believe that that is a basic, conceptual decision made by the Commission, and all the ideas can be included in the phrase "as provided by law."

MR. GARCIA: Regarding the discussion yesterday, I was made to understand that the concept of a mixed economy is acceptable. Therefore, I would like to request that the social sector idea be retained in the draft presented as an amendment.

MR. VILLEGAS: I second the suggestion in that the phrase is so innovative, and that it can lend itself to all sorts of interpretation. That is why we thought it is more appropriate to mention one of the examples the Commissioner cited so that people can immediately have a basis for understanding what social sectors may mean.

MR. GARCIA: I would simply like to state the fact that yesterday when we were discussing both state and private, I think this polarization and dichotomy could perhaps be understood when we also recognized the fact that this sector could exist. In fact it does exist — the cooperative or the social sector. We can further clarify this in the experience of our people as more communal forms of ownership and participation evolve.

MR. VILLEGAS: The inclusion of cooperatives already opens the way for other types of social aggrupations. Since the Constitution has to be as clear as possible, we thought it would be better to include the Gentleman's explanation in the record and to say that similar organizations mean cooperatives and other forms of aggrupations.

MR. GARCIA: With a very popular experience of, let us say, newspaper ownership . . . let us say, Malaya, a cooperative ownership, social ownership.

MR. VILLEGAS: Yes.

MR. GARCIA: Does the Gentleman not think that recognizing it, therefore, will encourage such forms of broader-based ownership and the participation of people in economic enterprises?

MR. VILLEGAS: Precisely, that is a cooperative; so it is already included in the use of the word "cooperative."

MR. GARCIA: I feel that the word "social" would really give it a much broader acceptability since we recognize that fact.

MR. OPLE: Would the Committee have any difficulty about saying "ENTERPRISES AND COOPERATIVES OR SIMILAR SOCIAL ORGANIZATIONS"?

MR. VILLEGAS: An organization means social. But if the Gentleman wants to be redundant. . .

MR. OPLE: I think that will help accommodate. Commissioner Garcia's concerns.

MR. VILLEGAS: To have a more specific adjective, is the Gentleman referring to "not-for-profit organizations"?

MR. GARCIA: Not necessarily. For me, it is the form of economic organization. The problem here is when one uses the word "private," as I said yesterday, normally it tends to become very exclusive — those who are big and those who are strong; whereas, when one uses the word "social," the intent is of a much broader base — the association of workers, the association of peasants. It involves a much broader understanding and it is simply enlarging that and recognizing that as a fact of economic life and encouraging, therefore, that sector so that the conflict between private and State does not remain.

MR. OPLE: Has the Committee accepted the alternative wording of "COOPERATIVES OR SIMILAR SOCIAL ORGANIZATIONS"?

MR. VILLEGAS: The Committee still hesitates, regrettably, to accept the amendment because it is still too ambiguous.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: May I comment on that? Let us not forget that we are drafting a Constitution which shall be submitted to all our people, the electorate, for ratification. So, as much as possible, let us use words understood by the common man. Even I would not understand the definite scope of "social organization," a "social organization." So, let us please stick to words understood by most people.

MR. GARCIA: By the context of economic organization, when we say "social," it means that it is not limited to a private individual or a private concern that very often tends to exclude a very great part of our society, to exclude the majority. That is why when one uses the word "social," he is referring to collective communal organizations; it can be a trade union; it can be an association in a specific neighborhood; or it can be an association of owners of a newspaper because they are the workers of that concern.

Therefore, rather than what I consider to be limiting in the connotation of "private," we are expanding it to include a broader base of society.

I am sorry if I disagree with that statement because I think "ang panlipunang kilusan" should mean that people understand it, especially in the economic context we are referring to or speaking about.

MR. OPLE: The Committee, having the jurisdiction, is now invited to settle the matter.

MR. VILLEGAS: The Committee is of the opinion that a more understandable qualifier is SIMILAR

COLLECTIVE ORGANIZATIONS because the word "collective" is more appropriate in economic enterprises.

MR. GARCIA: It is acceptable, Madam President.

MR. OPLE: Then it is "SIMILAR COLLECTIVE ORGANIZATIONS."

MR. VILLEGAS: That is right.

MR. OPLE: I think that is as good as "SOCIAL ORGANIZATIONS."

MR. VILLEGAS: It is acceptable, yes. Thank you.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: The committee report as well as the proposed amendment of Commissioner Ople speaks of "private enterprises." But it seems that Commissioner Garcia would change the word "private" to "ECONOMIC." I object to that change.

MR. VILLEGAS: We will retain the word "private."

MR. PADILLA: Probably, as a matter of form, the words "both the" and "and the" be eliminated so that the line would read: "private enterprises, including corporate enterprises, cooperatives and other . . ."

MR. OPLE: I accept the amendment which improves upon this sentence, Madam President.

MR. RAMA: Madam President, I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

SUSPENSION OF SESSION

MR. SARMIENTO: Madam President, it is past twelve o'clock. I move for a suspension of the session and that we go to a caucus after lunch to consider all the amendments proposed by the Commissioners. We suggest that the Secretariat type all the amendments for our consideration.

THE PRESIDENT: The session is suspended until two-thirty in the afternoon.

It was 12:07 p.m.

RESUMPTION OF SESSION

At 3:00 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: May we call on Commissioner Villacorta to be recognized.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, I move that the record of today's caucus be incorporated in the Record of the Constitutional Commission.[*]

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: We would like to continue the consideration of the Article on National Economy and Patrimony.

There are no more registered speakers to amend Section 1, so I move that we take a vote on Section 1.

THE PRESIDENT: May we proceed to take a vote on Section 1, Mr. Chairman?

MR. VILLEGAS: Madam President, we would like Commissioner Ople to read the full text.

MR. OPLE: Before I proceed to read the text, may I acknowledge the fact that the proponents of these amendments include the following: Commissioners Natividad, de los Reyes and Maambong. Amendments to the amendments from Commissioners Bacani, Bennagen, Garcia, Gascon, Azcuna and Davide were incorporated. Again, with respect to the last parts of the text that I will read, the proponents are Commissioner Garcia and the Committee itself.

So, the text reads as follows: "The State shall develop a self-reliant and independent national economy EFFECTIVELY CONTROLLED BY FILIPINOS. The goals of the national economy are a more equitable distribution of OPPORTUNITIES, income and wealth, a sustained increase in the amount of goods and services produced by the nation for the benefit of the Filipino people, AND AN EXPANDING PRODUCTIVITY AS THE KEY TO RAISING THE QUALITY OF LIFE, FOR ALL, ESPECIALLY THE UNDERPRIVILEGED."

MR. VILLEGAS: Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Just one change; I think we omitted "Filipino people" because it is too repetitive.

MR. OPLE: No, I think I did mention that "produced by the nation for the benefit of the Filipino people."

MR. VILLEGAS: No, we remove "Filipino" so that it will be "for the benefit of the people."

MR. OPLE: The second paragraph reads as follows: THE STATE SHALL PROMOTE INDUSTRIALIZATION AND FULL EMPLOYMENT BASED ON SOUND AGRICULTURAL DEVELOPMENT AND AGRARIAN REFORM, THROUGH INDUSTRIES THAT MAKE FULL AND EFFICIENT USE OF HUMAN AND NATURAL RESOURCES, AND WHICH ARE COMPETITIVE IN BOTH DOMESTIC AND FOREIGN MARKETS. HOWEVER, THE STATE SHALL PROTECT FILIPINO ENTERPRISES AGAINST UNFAIR FOREIGN COMPETITION AND TRADE PRACTICES. The last sentence is an amendment by Commissioner Padilla.

The third paragraph reads: IN THE PURSUIT OF THESE GOALS, ALL ECONOMIC SECTORS AND REGIONS SHALL BE GIVEN OPTIMUM OPPORTUNITY TO DEVELOP, AND A BROADER-BASED OWNERSHIP OF PRIVATE ENTERPRISES, INCLUDING CORPORATIONS, COOPERATIVES, AND SIMILAR COLLECTIVE ORGANIZATIONS SHALL BE ENCOURAGED.

VOTING

THE PRESIDENT: As many as are in favor of Section 1, please raise their hand. (Several Members raised their hand.)

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

The results show 33 votes in favor and none against; Section 1 is approved.

MR. RAMA: Madam President, I ask that Commissioner Davide be recognized to amend Section 2.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

I have the following amendments to Section 2: The first is to delete the word "Since," then capitalize the "t" in "the." Then in lieu of the comma (,) following "function," insert the word AND and delete the phrase "in the private sector." Change "include" to INCLUDING and add CORPORATE ENTERPRISES, COOPERATIVES, AND OTHER SIMILAR COLLECTIVE ORGANIZATIONS. Delete "enjoy the freedom" and change it to HAVE THE RIGHT. After "to," insert the word OWN followed by a comma (,).

MR. VILLEGAS: Is Commissioner Davide working on the Ople amendment?

MR. DAVIDE: Yes, Madam President.

MR. VILLEGAS: So, he is working on Section 2 of the Ople amendment?

MR. DAVIDE: Yes. Then on the second from the last line, delete "always, however." So the entire section will read as follows: "THE use of property bears a social function, AND all economic agents shall contribute to the common good. Individuals and private groups, INCLUDING CORPORATE ENTERPRISES, COOPERATIVES, AND OTHER SIMILAR COLLECTIVE ORGANIZATIONS shall HAVE THE RIGHT to OWN, establish and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands."

MR. OPLE: I accept the amendment, Madam President.

THE PRESIDENT: What does the Committee say?

MR. VILLEGAS: Just to harmonize with the first section, I think the enumeration would be "INCLUDING CORPORATIONS."

MR. DAVIDE: CORPORATE ENTERPRISES.

MR. VILLEGAS: Yes, but we will use "CORPORATIONS."

MR. DAVIDE: "CORPORATIONS," yes.

MR. VILLEGAS: Yes, the amendment is accepted.

MR. DAVIDE: Thank you.

MR. RAMA: Madam President, there is no registered speaker on Section 2, so I move that we take a vote.

THE PRESIDENT: Will Commissioner Davide read the whole Section 2 with the proposed amendments?

MR. DAVIDE: "THE use of property bears a social function, AND all economic agents shall contribute to the common good. Individuals and private groups, INCLUDING CORPORATE ENTERPRISES, COOPERATIVES, AND SIMILAR COLLECTIVE ORGANIZATIONS shall HAVE THE RIGHT to OWN, establish and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands."

THE PRESIDENT: Is there any objection to Section 2? (Silence) The Chair hears none; Section 2 is approved.

MR. RAMA: Madam President, I ask that Commissioner de los Reyes be recognized to amend Section 3.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: On Section 3, Madam President, line 24, between the words "farming" and "in," insert the words WITH PRIORITY TO SUBSISTENCE FISHERMEN AND FISH WORKERS, to make it consistent with the Article on Social Justice. So, the whole sentence will read as follows: "The Congress may by law allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming WITH PRIORITY TO SUBSISTENCE FISHERMEN AND FISH WORKERS in rivers, lakes, bays, and lagoons."

MR. VILLEGAS: We accept the amendment.

MR. DE LOS REYES: Thank you.

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

MR. RAMA: Madam President, I ask that Commissioner Rosario Braid be recognized to present an amendment to Section 3.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, Commissioner Bacani and myself had earlier filed a resolution which would include AIRWAVES AND RADIO FREQUENCIES as part of the natural resources.

I have here a defense on why they should be considered part of the natural resources. I will just summarize this paper and submit it for the record.

But I just want to emphasize that broadcasting is a very important social force in our present life. There are 308 radio stations in the country and 44 television stations, including replay and relay stations. These stations generated a gross billing of P812 million in 1985.

Most of these broadcasts reach four out of every five Filipinos daily, but their content generally leaves much to be desired which is usually soap operas and trivial programs. Because of this, concern has been shown by many sectors about the power these programs have in influencing the values, lifestyles and attitudes of the people.

Just an hour ago, we were discussing economic nationalism and I submit that the important area that should be attended to is the area of changing our cultural values so that we make ourselves more nationalistic consumers. In other words, there should be preference for puto and locally made products instead of hamburger or products of imported brands. Most of these influences are due to advertising and the mass media.

THE PRESIDENT: Where does Commissioner Rosario Braid propose to insert "AIRWAVES AND RADIO FREQUENCIES"?

MS. ROSARIO BRAID: I propose to insert it on line 5 after "energy."

THE PRESIDENT: What does the Committee say?

MR. VILLEGAS: We cannot accept the amendment, and so we would like to bring it to the floor for voting.

THE PRESIDENT: Does Commissioner Rosario Braid insist? May we know the reason for not accepting, Commissioner Villegas?

MR. VILLEGAS: We have discussed this fully in public hearings. Defining what airwaves are is very complex

and technical. The consensus was that it is very difficult to control airwaves. There was a secondary reason: since airspace is traditionally included in the Article on National Territory, airwaves could already be subsumed under airspace.

MS. ROSARIO BRAID: Madam President, may I just argue further. In the Batasang Pambansa, there was a proposed bill — Parliamentary Bill No. 5078 — which states that the radio frequencies spectrum being public property, its enjoyment is granted as a privilege by the State and should be administered in the public interest and in accordance with international agreements and conventions.

Earlier, several experts have recognized airwaves as a social resource which should be regulated. The aim of this resolution is to insure that radio frequencies do not just get passed on from one owner to the other without the State providing criteria on who should be allocated these frequencies. It has been a common practice in the past that once a broadcast station stops operating, the owner sells the frequency for several million pesos. This should not be done because, as we said, airwaves, being a public domain, should be given back to the State which then allocates them on the basis of criteria — based on public interest, broader-based ownership and management, and so forth. It is for this reason that we feel they should be included as a public resource and should fall under natural resources. I submit this is controversial, but I would like to get this opportunity to give the Committee more arguments.

MR. VILLEGAS: There is no disagreement on the principle that airwaves should be regulated by the government, and effectively they are, by the Bureau of Telecommunications. There are so many regulations. The only bone of contention is to include them under the Article on National Economy and Patrimony. There must be a very specific way of actually measuring them and defining them, and that is where the disagreement lies. So, we would rather leave it to the generic phrase "air space" and make it clear that we want the State to regulate what the Commissioner is concerned about — airwaves, frequencies, radio frequencies. But the moment we start including them in the same category as forests or timberland, I think we will give our legislature a big problem, for example, in defining quantitatively what the term "airwaves" is.

MS. ROSARIO BRAID: Will the Committee accept a provision in the Article on National Economy and Patrimony since, I think, this would fall under that Article?

MR. VILLEGAS. : The Committee thinks it would be sufficient to put on record that in talking about national economy and patrimony, we included airwaves without actually enumerating them specifically in the provision.

MS. ROSARIO BRAID: On the basis of that, I withdraw the amendment.

THE PRESIDENT: Thank you.

MR. RAMA: Madam President, may I remind the Commissioners of our agreement in the caucus that the new procedure would be that if an amendment is accepted by the Committee, the proponent need not and shall not argue his amendment anymore, unless he is asked by the Committee to explain his amendment that has been accepted.

THE PRESIDENT: If the amendment has been accepted.

MR. RAMA: Yes, Madam President.

May I ask that Commissioner Gascon be recognized.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Thank you, Madam President.

On page 2, line 25, in view also of my previous interpellations with regard to the issue of concurrence of Congress, I would like to propose my amendment now.

MR. VILLEGAS: Madam President.

THE PRESIDENT: What is the pleasure of Commissioner Villegas?

MR. VILLEGAS: There may be a previous amendment to that. The Jamir amendment is previous to that.

MR. GASCON: I will defer to Commissioner Jamir.

THE PRESIDENT: Commissioner Jamir is recognized. We are still on Section 3.

MR. JAMIR: Yes, Madam President. With respect to the second paragraph of Section 3, my amendment by substitution reads: THE PRESIDENT MAY ENTER INTO AGREEMENTS WITH FOREIGN-OWNED CORPORATIONS INVOLVING EITHER TECHNICAL OR FINANCIAL ASSISTANCE FOR LARGE-SCALE EXPLORATION, DEVELOPMENT AND UTILIZATION OF NATURAL RESOURCES ACCORDING TO THE TERMS AND CONDITIONS PROVIDED BY LAW.

MR. VILLEGAS: The Committee accepts the amendment. Commissioner Suarez will give the background.

MR. JAMIR: Thank you.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Will Commissioner Jamir answer a few clarificatory questions?

MR. JAMIR: Yes, Madam President.

MR. SUAREZ: This particular portion of the section has reference to what was popularly known before as service contracts, among other things; is that correct?

MR. JAMIR: Yes, Madam President.

MR. SUAREZ: As it is formulated, the President may enter into service contracts but subject to the guidelines that may be promulgated by Congress?

MR. JAMIR: That is correct.

MR. SUAREZ: Therefore, that aspect of negotiation and consummation will fall on the President, not upon Congress?

MR. JAMIR: That is also correct, Madam President.

MR. SUAREZ: Except that all of these contracts, service or otherwise must be made strictly in accordance with guidelines prescribed by Congress?

MR. JAMIR: That is also correct.

MR. SUAREZ: And the Gentleman is thinking in terms of a law that uniformly covers situations of the same nature?

MR. JAMIR: That is 100 percent correct.

MR. SUAREZ: I thank the Commissioner.

MR. JAMIR: Thank you very much.

MR. ROMULO: May we suggest that Commissioner Jamir get together with Commissioner Sarmiento or maybe he can propose the amendments now.

MR. SARMIENTO: May I be recognized, Madam President?

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: After the words "terms and conditions provided by law," may I suggest the inclusion of the words **BASED ON REAL CONTRIBUTIONS TO THE LONG-TERM GROWTH OF THE ECONOMY**.

MR. JAMIR: My amendment has been accepted by the Committee, so I would suggest that the Committee answer the Gentleman's question.

MR. ROMULO: The Committee accepts the amendment of Commissioner Sarmiento.

MR. SARMIENTO: I thank the Commissioner.

THE PRESIDENT: May we have the amendment of Commissioner Sarmiento again?

MR. SARMIENTO: Yes, Madam President.

The amendment will read as follows: "THE President may enter into **AGREEMENTS** with foreign-owned corporations involving either **TECHNICAL** or financial assistance for large-scale **EXPLORATION, DEVELOPMENT** and utilization of natural resources **ACCORDING TO** the terms and conditions provided by law, **BASED ON REAL CONTRIBUTIONS TO THE LONG-TERM GROWTH OF THE ECONOMY**."

MR. ROMULO: We accept the amendment, Madam President.

THE PRESIDENT: The amendment is accepted.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: May we just add the word **GENERAL** to describe "terms and conditions" because Congress cannot be expected to lay down detailed terms and conditions for the contracts to be entered into between the executive department and the foreign-owned corporation. Congress can only lay down general guidelines.

MR. ROMULO: The Gentleman wants to add the word "GENERAL"?

MR. FOZ: Yes, Madam President.

MR. ROMULO: Does Commissioner Sarmiento accept that? We have no objection.

MR. SARMIENTO: May I hear the amendment.

MR. FOZ: It merely consists of the insertion of the word **GENERAL** before "terms."

MR. VILLEGAS: I think the Committee will accept the amendment to the amendment.

MR. ROMULO: We accept the amendment.

MR. SARMIENTO: I yield, Madam President, to the amendment.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Thank you, Madam President.

On Section 3, line 5, the word "forests" appear. The old laws used to refer to "timberlands"; forests are only part of timberlands and there may be timberlands without forests. So, would the Committee be agreeable to accepting an amendment to add after the word "forests" OR TIMBERLANDS?

MR. VILLEGAS: We accept the amendment.

MR. CONCEPCION: Thank you, Madam President.

Line 16 of the same section reads: "agreements shall be for a period of twenty-five years." Does this mean it must be exactly twenty-five years or perhaps less? Is this merely a maximum? In other words, would the Committee accept an amendment to insert NOT MORE THAN before "twenty-five years"?

MR. SUAREZ: May we just clarify that. If we put that descriptive phrase to read: "for a period of NOT MORE THAN twenty-five years," then how can we harmonize it with the next phrase which reads: "renewable for not more than twenty-five years"? I think we should harmonize the two together.

MR. CONCEPCION: Yes. We may say, for instance, NOT EXCEEDING.

MR. BENGZON: Just to clarify, Madam President, when the Commissioner proposes to insert the words "NOT MORE THAN" on line 16, he means he is not for renewal, or is he?

MR. CONCEPCION: No.

MR. BENGZON: So what he really wants to say is that in the first period it should not exceed twenty-five years.

MR. CONCEPCION: Neither should the second. Pardon me.

MR. BENGZON: Neither should the second, but the Commissioner agrees that it should be renewable for another period of not more than another twenty-five years?

MR. CONCEPCION: Exactly.

MR. SUAREZ: Madam President, after reflection, would changing the word "shall" to MAY be reflective of Commissioner Concepcion's thinking?

MR. CONCEPCION: I did not get it, Madam President.

MR. SUAREZ: Suppose we change the word "shall" to MAY, will this be accurately reflective of the Commissioner's thinking regarding this matter?

MR. CONCEPCION: Yes. I have no objection to it.

MR. SUAREZ: In other words, the sentence will read: "Such agreements MAY BE for a period of twenty-five years, renewable for not more than twenty-five years . . ."

MR. CONCEPCION: I accept.

MR. SUAREZ: Thank you.

MR. CONCEPCION: Thank you, Madam President.

MR. RAMA: The amendment has been accepted by the Committee.

THE PRESIDENT: The amendment has been accepted by the Committee. May we first vote on the last paragraph?

MR. GASCON: Madam President, that is the point of my inquiry.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Commissioner Jamir had proposed an amendment with regard to special service contracts which was accepted by the Committee. Since the Committee has accepted it, I would like to ask some questions.

THE PRESIDENT: Commissioner Gascon may proceed.

MR. GASCON: As it is proposed now, such service contracts will be entered into by the President with the guidelines of a general law on service contracts to be enacted by Congress. Is that correct?

MR. VILLEGAS: The Commissioner is right, Madam President.

MR. GASCON: According to the original proposal if the President were to enter into a particular agreement, he would need the concurrence of Congress. Now that it has been changed by the proposal of Commissioner Jamir in that Congress will set the general law to which the President shall comply, the President will, therefore, not need the concurrence of Congress every time he enters into service contracts. Is that correct?

MR. VILLEGAS: That is right.

MR. GASCON: The proposed amendment of Commissioner Jamir is in indirect contrast to my proposed amendment, so I would like to object and present my proposed amendment to the body.

MR. VILLEGAS: Commissioner Gascon will please proceed.

MR. BENGZON: Madam President, can we not vote first on the amendment proposed by Commissioner Jamir since that is the one on the floor?

MR. GASCON: Yes, but perhaps to clarify my option, may I at least present my amendment prior to our voting?

THE PRESIDENT: Yes, the Chair thinks we should hear the amendment first.

MR. BENGZON: In other words, Commissioner Gascon will speak en contra, because if the amendment of Commissioner Jamir is defeated, then the Gascon amendment will come in.

MR. GASCON: Yes, it will be up to the body.

I feel that the general law to be set by Congress as regard service contract agreements which the President will enter into might be too general or since we do not know the content yet of such a law, it might be that certain agreements will be detrimental to the interest of the Filipinos. This is in direct contrast to my proposal which provides that there be effective constraints in the implementation of service contracts.

So instead of a general law to be passed by Congress to serve as a guideline to the President when entering into service contract agreements, I propose that every service contract entered into by the President would need the concurrence of Congress, so as to assure the Filipinos of their interests with regard to the issue in Section 3 on all lands of the public domain. My alternative amendment, which we will discuss later, reads: **THAT THE PRESIDENT SHALL ENTER INTO SUCH AGREEMENTS ONLY WITH THE CONCURRENCE OF TWO-THIRDS VOTE OF ALL THE MEMBERS OF CONGRESS SITTING SEPARATELY.**

MR. VILLEGAS: Madam President, Commissioner Bengzon wants to say something.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: The reason we made that shift is that we realized the original proposal could breed corruption.

By the way, this is not just confined to service contracts but also to financial assistance. If we are going to make every single contract subject to the concurrence of Congress — which, according to the Commissioner's amendment is the concurrence of two-thirds of Congress voting separately — then (1) there is a very great chance that each contract will be different from another; and (2) there is a great temptation that it would breed corruption because of the great lobbying that is going to happen. And we do not want to subject our legislature to that.

Now, to answer the Commissioner's apprehension, by "general law," we do not mean statements of motherhood. Congress can build all the restrictions that it wishes into that general law so that every contract entered into by the President under that specific area will have to be uniform. The President has no choice but to follow all the guidelines that will be provided by law.

MR. GASCON: But my basic problem is that we do not know as of yet the contents of such a general law as to how much constraints there will be in it. And to my mind, although the Committee's contention that the regular concurrence from Congress would subject Congress to extensive lobbying, I think that is a risk we will have to take since Congress is a body of representatives of the people whose membership will be changing regularly as there will be changing circumstances every time certain agreements are made. It would be best that to keep in tab and attuned to the interest of the Filipino people, whenever the President enters into any agreement with regard to such an important matter as technical or financial assistance for large-scale exploration, development and utilization of natural resources or service contracts, the people's elected representatives should be on top of it.

MR. RAMA: Madam President, may I ask Commissioner Jamir to restate his amendment so we can vote on it intelligently.

MR. BENGZON: Madam President, may I just reply for the record before we ask for a vote?

THE PRESIDENT: Please proceed.

MR. BENGZON: First of all, I think there should be a presumption that we should trust Congress; second, that is precisely the reason we need people like the Commissioner to insure that we elect the right people to both Houses of Congress; third, we should allow flexibility because of changing conditions. If it turns out that the terms of the previous contract are not to the best interest of the country anymore, then Congress can always change it.

MR. GASCON: They can change the general law?

MR. BENGZON: Certainly, they can change it.

So with those comments, Madam President, we are ready for a vote.

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

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Madam President, my amendment, as amended by Commissioners Foz and Sarmiento, reads as follows: "THE PRESIDENT MAY ENTER INTO AGREEMENTS WITH FOREIGN-OWNED CORPORATIONS INVOLVING EITHER TECHNICAL OR FINANCIAL ASSISTANCE FOR LARGE-SCALE EXPLORATION, DEVELOPMENT AND UTILIZATION OF NATURAL RESOURCES ACCORDING TO THE GENERAL TERMS AND CONDITIONS PROVIDED BY LAW BASED ON REAL CONTRIBUTIONS TO THE LONG-TERM GROWTH OF THE ECONOMY."

MR. GASCON: May I ask a question? If such amendment is approved, will that be prejudicial to anyone who would like to seek amendment to the amendment later on?

THE PRESIDENT: No, once this is approved, any Commissioner can again propose amendment to this last

paragraph as approved. So it is better for us to approve first this proposed amendment of Commissioners Jamir, Sarmiento and Foz.

MR. SUAREZ: Madam President, if Commissioner Gascon has any proposed amendment to the amendment, he might as well do it now before voting.

MR. GASCON: Madam President, can I ask for a suspension for a few minutes?

MR. OPLE: Madam President, we do not need to suspend the session. If Commissioner Gascon needs a few minutes, I can fill up the remaining time while he completes his proposed amendment. I just wanted to ask Commissioner Jamir whether he would entertain a minor amendment to his amendment, and it reads as follows: THE PRESIDENT SHALL SUBSEQUENTLY NOTIFY CONGRESS OF EVERY SERVICE CONTRACT ENTERED INTO IN ACCORDANCE WITH THE GENERAL LAW. I think the reason is, if I may state it briefly, as Commissioner Bengzon said, Congress can always change the general law later on to conform to new perceptions of standards that should be built into service contracts. But the only way Congress can do this is if there were a notification requirement from the Office of the President that such service contracts had been entered into, subject then to the scrutiny of the Members of Congress. This pertains to a situation where the service contracts are already entered into, and all that this amendment seeks is the reporting requirement from the Office of the President. Will Commissioner Jamir entertain that?

MR. JAMIR: I will gladly do so, if it is still within my power.

MR. VILLEGAS: Yes, the Committee accepts the amendment.

MR. JAMIR: I join the Committee.

MR. OPLE: Thank you very much, Madam President.

MR. VILLEGAS: Will Commissioner Ople give us his text please?

THE PRESIDENT: How does it read now?

MR. VILLEGAS: Will Commissioner Ople read it again?

MR. OPLE: Subject to styling by the Committee, it reads as follows: THE PRESIDENT SHALL SUBSEQUENTLY NOTIFY CONGRESS OF EVERY SERVICE CONTRACT ENTERED INTO IN ACCORDANCE WITH THIS PROVISION.

THE PRESIDENT: Is that a new sentence?

MR. OPLE: Yes, Madam President.

THE PRESIDENT: It has been accepted by the Committee.

We are giving Commissioner Gascon time to complete his amendment.

SR. TAN: Madam President, may I ask a question?

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Am I correct in thinking that the only difference between these future service contracts and the past service contracts under Mr. Marcos is the general law to be enacted by the legislature and the notification of Congress by the President? That is the only difference, is it not?

MR. VILLEGAS: That is right.

SR. TAN: So those are the safeguards.

MR. VILLEGAS: Yes. There was no law at all governing service contracts before.

SR. TAN: Thank you, Madam President.

MR. SARMIENTO: Madam President, may I be recognized?

THE PRESIDENT: Yes, Commissioner Sarmiento is recognized.

SUSPENSION OF SESSION

MR. SARMIENTO: May I move for the suspension of the session for at least two minutes to consolidate the amendments?

THE PRESIDENT: May I request our guests not to enter the session hall because the Commissioners are in caucus.

The session is suspended.

It was 3:41 p.m.

RESUMPTION OF SESSION

At 4:00 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. MAAMBONG: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: I ask that Commissioner Gascon be recognized.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Madam President, I believe there are some proposed amendments to the Jamir amendment prior to our voting on it so I would like to ask the Acting Floor Leader who will be presenting those amendments.

THE PRESIDENT: What are the other proposed amendments?

MR. GASCON: Commissioner Sarmiento will be presenting some amendments to the Jamir amendment.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, after conferring with my colleagues, we decided to come up with these amendments mutually acceptable to all. So, after the words "CONDITIONS PROVIDED BY LAW," add **BASED ON REAL CONTRIBUTIONS TO THE ECONOMIC GROWTH AND GENERAL WELFARE OF THE COUNTRY.**

MR. VILLEGAS: The amendment is accepted, Madam President.

MR. SARMIENTO: I have another amendment which was accepted by the Committee. After "COUNTRY," add **IT SHALL BE THE POLICY OF THE STATE TO PROMOTE, DEVELOP AND EMPLOY LOCAL SCIENTIFIC AND TECHNOLOGICAL RESOURCES CONSISTENT WITH THE PURPOSE OF CONSERVING THE GENERATED WEALTH FOR UTILIZATION BY THE PEOPLE.**

MR. VILLEGAS: Would the Commissioner repeat that?

MR. SARMIENTO: It reads: "IT SHALL BE THE POLICY OF THE STATE TO PROMOTE, DEVELOP AND EMPLOY LOCAL SCIENTIFIC AND TECHNOLOGICAL RESOURCES CONSISTENT WITH THE PURPOSE OF CONSERVING THE GENERATED WEALTH FOR UTILIZATION BY THE PEOPLE."

MR. VILLEGAS: Would the Commissioner explain what he means by "GENERATED WEALTH"?

MR. SARMIENTO: This is actually a provision attached to all service contracts. This is a common provision. It could mean conserving the natural resources. That could be the interpretation of "GENERATED WEALTH FOR UTILIZATION BY THE PEOPLE."

THE PRESIDENT: Does this follow the Ople amendment?

MR. VILLEGAS: After the Jamir amendment, Madam President.

THE PRESIDENT: But there was a new sentence submitted by Commissioner Ople which has been accepted by the Committee.

MR. OPLE: That has to do with the notification to Congress of all service contracts entered into under the provision of that Article.

But I think the Chair might be referring to an earlier amendment I had submitted which the Committee was considering favorably. It dealt with the proposal of Commissioner Bennagen regarding the sustained development of a national talent pool of entrepreneurs, scientists, managers, professionals and skilled workers or craftsmen in all fields, which shall be a shared responsibility of the State and the private sector.

I do not know if Commissioner Sarmiento might consider combining his amendment on scientific manpower.

MR. BENNAGEN: Madam President.

MR. VILLEGAS: Commissioner Bennagen would like to be recognized.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I suggest that that be a separate section because it has a broader coverage. Whereas, if it would be part of the Sarmiento, et al proposal, it could refer in a more limited manner to the exploitation of natural resources.

MR. OPLE: Yes, I agree with Commissioner Bennagen. In this connection, we are concerned with service contracts and the exploitation of natural resources.

MR. BENNAGEN: Yes.

MR. OPLE: And I think the amendment, where we have joined our formulations, would pertain to a broader field of activities, especially in connection with industrialization.

MR. BENNAGEN: Yes.

MR. OPLE: Thank you.

MR. SARMIENTO: Maybe we can simplify my proposed amendment, so that it will read: IT SHALL BE THE POLICY OF THE STATE TO PROMOTE, DEVELOP AND EMPLOY LOCAL SCIENTIFIC AND TECHNOLOGICAL RESOURCES.

THE PRESIDENT: Is that still part of Section 3?

MR. SARMIENTO: Yes, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Could it not be properly accommodated either in the Article on Declaration of Principles and State Policies or in the Article on Human Resources because it would not be germane to the Article on National Economy and Patrimony which we are now treating?

MR. VILLEGAS: I think the intention here, if I understand the amendment to the amendment, is to make sure that when these technical and scientific services are rendered by foreigners there would be a deliberate attempt to develop local talents so that we are not forever dependent on these foreigners. Am I right?

MR. DAVIDE: So it is in relation to the service contracts?

MR. VILLEGAS: Exactly. I think that is the intention, am I right?

MR. SARMIENTO: Yes, Madam President.

MR. DAVIDE: Can it not be stated that the general law providing for service contracts shall give priority to the adjective of Commissioner Sarmiento's amendment? It should be in the law itself.

MR. VILLEGAS: That is why it says, "IT SHALL BE THE POLICY OF THE STATE" immediately following the statement about Congress.

MR. GASCON: Madam President, I would like to be clarified as to the amendment of Commissioner Jamir so that I will know whether or not I should stick to my position.

MR. VILLEGAS: Madam President, the Jamir amendment, as amended, reads: THE PRESIDENT MAY ENTER INTO AGREEMENTS WITH FOREIGN-OWNED CORPORATIONS INVOLVING EITHER TECHNICAL OR FINANCIAL ASSISTANCE FOR LARGE-SCALE EXPLORATION, DEVELOPMENT AND UTILIZATION OF NATURAL RESOURCES ACCORDING TO THE GENERAL TERMS AND CONDITIONS PROVIDED BY LAW BASED ON REAL CONTRIBUTIONS TO THE ECONOMIC GROWTH AND GENERAL WELFARE OF THE COUNTRY. IT SHALL BE THE POLICY OF THE STATE TO PROMOTE, DEVELOP AND EMPLOY LOCAL SCIENTIFIC AND TECHNICAL RESOURCES. THE PRESIDENT SHALL SUBSEQUENTLY NOTIFY CONGRESS OF EVERY CONTRACT ENTERED INTO IN ACCORDANCE WITH THIS PROVISION.

THE PRESIDENT: Did the Commissioner read the portion "GENERAL WELFARE OF THE COUNTRY"?

MR. VILLEGAS: Yes, Madam President. ". . . CONTRIBUTIONS TO THE ECONOMIC GROWTH AND GENERAL WELFARE OF THE COUNTRY."

THE PRESIDENT: Does Commissioner Gascon insist on his proposed amendment?

MR. GASCON: I objected to that amendment and after listening to it again, I feel that I still object on basic principles, that every service contract to be entered into by the President should be with the concurrence of Congress. I had earlier presented a proposed amendment of "CONCURRENCE OF TWO-THIRDS VOTE OF ALL THE MEMBERS OF CONGRESS," but at this point in time, perhaps to simplify choices, since basically the proposal of Commissioner Jamir is to set a general law with regard to service contracts, my proposal is to require concurrence of Congress every time a service contract is to be made.

THE PRESIDENT: That is clear now. So can we proceed to vote?

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: Madam President, I have the permission of the Acting Floor Leader to speak for only two minutes in favor of the amendment of Commissioner Gascon.

THE PRESIDENT: Commissioner Nolleto may proceed.

MR. NOLLEDO: With due respect to the members of the Committee and Commissioner Jamir, I am in favor of the objection of Commissioner Gascon.

Madam President, I was one of those who refused to sign the 1973 Constitution, and one of the reasons is that there were many provisions in the Transitory Provisions therein that favored aliens. I was shocked when I read a provision authorizing service contracts while we, in this Constitutional Commission, provided for Filipino control of the economy. We are, therefore, providing for exceptional instances where aliens may circumvent Filipino control of our economy. And one way of circumventing the rule in favor of Filipino control of the economy is to recognize service contracts.

As far as I am concerned, if I should have my own way, I am for the complete deletion of this provision. However, we are presenting a compromise in the sense that we are requiring a two-thirds vote of all the Members of Congress as a safeguard. I think we should not mistrust the future Members of Congress by saying that the purpose of this provision is to avoid corruption. We cannot claim that they are less patriotic than we are. I think the Members of this Commission should know that entering into service contracts is an exception to the rule on protection of natural resources for the interest of the nation and, therefore, being an exception it should be subject whenever possible, to stringent rules. It seems to me that we are liberalizing the rules in favor of aliens.

I say these things with a heavy heart, Madam President. I do not claim to be a nationalist, but I love my country. Although we need investments, we must adopt safeguards that are truly reflective of the sentiments of the people and not mere cosmetic safeguards as they now appear in the Jamir amendment. (Applause)

Thank you, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Let us proceed to vote.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Our guests at the gallery are requested not to applaud or do anything which will disturb the session of the Commission.

MR. MAAMBONG: Madam President, may I ask that Commissioner Colayco be recognized, but I would like to remind him that he has only one minute under the three-minute rule; Commissioner Nolleto has consumed two minutes.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

I support in substance the position taken by Commissioners Gascon and Nolleto. Let me point out the original thinking of the Committee itself. The second paragraph of Section 3 reads: "The President with the concurrence of Congress, by special law . . ." In other words, the original thinking of the Committee here was really to put some safeguards, but it turned around and agreed to delete the safeguards. These special contracts will probably involve

oil and mineral land explorations. These will, therefore, involve millions.

One of the reasons given for the deletion of "the concurrence of Congress" is that it may open the system to payola. This fear can also be entertained the other way. The President acts only upon the advice of his advisers, and if Congress can be bribed, a group of people can be bribed much more easily. But I am not thinking of that; I am simply thinking of human error. Probably Congress can anticipate the period, say, that the exploration should not exceed a certain period, and set standards. But as to the share of our government, for instance, there can easily be a mistake of judgment. There is no way that Congress can anticipate the discretion that should be used or the guidelines that should govern the thinking or the decision of the President. And for this reason, I believe that some kind of a safeguard or mechanism should be inserted in the system to obviate or at least reduce the possibility that our government may be too negligent in accepting the terms of the explorer. That is why I agree with the thinking of the two Commissioners who spoke ahead of me that we should retain the original plan of the Committee. However, personally, I would put it at a MAJORITY of either the Lower House or the Upper House.

I submit, Madam President.

MR. SUAREZ: Madam President, just a point of clarification.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Maybe this should be addressed properly to the Acting Floor Leader since he was a Member of the Batasang Pambansa. On the assumption that we will pass this resolution requiring the President to get the concurrence of Congress by special law, does it mean a special law or only a resolution on the part of both Houses?

MR. MAAMBONG: I can hardly be considered an authority but if the Commissioner is asking for my personal opinion, I think it should be a law.

MR. SUAREZ: So it will have to pass through the presentation of a bill approving the terms and conditions of a service contract to be entered into by the President?

MR. MAAMBONG: That is my thinking, because the usage of the resolution is quite limited.

MR. SUAREZ: Could it not take the form of a simple resolution passed by the majority of the Members of Congress approving the service contract or disapproving it, as the case may be?

MR. MAAMBONG: I already gave my answer. For example, one usage of a resolution is to allow a certain person to accept a title of nobility. That is only one subject of a resolution, but this is a matter which is mandated by the Constitution so I feel a resolution will not do. It has to be a law. But I could be wrong; this is just my personal opinion.

MR. SUAREZ: That is why we are trying to clear this up in the event the Gascon amendment would be approved by the body.

MR. GASCON: Madam President, for a point of order.

We are discussing the Jamir amendment. So if we vote "yes" in favor of the Jamir amendment, then my objection will become moot and academic. Commissioner Suarez was inquiring as to the possibilities that will occur with the concurrence of Congress; that is, if we vote against the Jamir amendment. So I would like to make a motion for a vote on the Jamir amendment with the clarification that if it is not approved, then we will go to my amendment, which requires the concurrence of Congress instead of a general law.

Thank you.

MR. ROMULO: Madam President, if I may just comment.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: On the inquiry of Commissioner Suarez, I think this would be analogous to a grant of franchise by Congress. If we will recall, that has always been by law and it specifies the taxability, the rights and obligations of the franchisee. In this case, I feel a general law would specify the sharing and other pertinent terms and conditions, so it could provide enough safeguards.

MR. MAAMBONG: Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President. This is an amendment to the Jamir amendment and also to the Ople amendment. I propose to delete "NATURAL RESOURCES" and substitute it with the following: MINERALS, PETROLEUM AND OTHER MINERAL OILS. On the Ople amendment, I propose to add: THE NOTIFICATION TO CONGRESS SHALL BE WITHIN THIRTY DAYS FROM THE EXECUTION OF THE SERVICE CONTRACT.

THE PRESIDENT: What does the Committee say with respect to the first amendment in lieu of "NATURAL RESOURCES"?

MR. VILLEGAS: Could Commissioner Davide explain that?

MR. DAVIDE: Madam President, with the use of "NATURAL RESOURCES" here, it would necessarily include all lands of the public domain, our marine resources, forests, parks and so on. So we would like to limit the scope of these service contracts to those areas really where these may be needed, the exploitation, development and exploration of minerals, petroleum and other mineral oils. And so, we believe that we should really, if we want to grant service contracts at all, limit the same to only those particular areas where Filipino capital may not be sufficient, and not to all natural resources.

MR. SUAREZ: Just a point of clarification again, Madam President. When the Commissioner made those enumerations and specifications, I suppose he deliberately did not include "agricultural land"?

MR. DAVIDE: That is precisely the reason we have to enumerate what these resources are into which service contracts may enter. So, beyond the reach of any service contract will be lands of the public domain, timberlands, forests, marine resources, fauna and flora, wildlife and national parks.

MR. SUAREZ: In other words, the Commissioner is limiting the extension of technical or financial assistance.

MR. DAVIDE: Only to those resources.

MR. SUAREZ: I thank Commissioner Davide for the clarification.

THE PRESIDENT: Commissioner Calderon is recognized.

MR. CALDERON: When the Commissioner talks about the search for mineral oil, is he referring to offshore or onshore?

MR. DAVIDE: Both.

MR. CALDERON: Under the regalian doctrine, the government could grant concessions to all agricultural lands or any property of the public domain.

MR. DAVIDE: The report of the Committee would limit agricultural land only for possible alienation which could only be done by leases and by homesteads.

MR. CALDERON: Under the regalian doctrine, the government could grant leases to all lands, whether private or public, because anything under the soil is supposed to be owned by the State.

MR. DAVIDE: Not of private land.

Under the same section, in the opening paragraph, the Commissioner will notice that except for lands of the public domain, natural resources cannot be alienated, and with respect to lands of the public domain, only by leases or homesteads not exceeding 24 hectares and, of course, to Filipino citizens.

MR. CALDERON: Because under our present laws, private lands are not exempt from the regalian doctrine. In other words, the State can enter into contract involving private lands.

MR. DAVIDE: That is basic to the principle of ownership by the individual. He can enter into contracts, however, subject to the control now of the State in view of social justice.

MR. CALDERON: Frankly, I am not satisfied with the Commissioner's reply because if an oil concessionaire, for instance, will have to enter into a contract with the private landowner, there will be delays in the development of our oil resources.

MR. DAVIDE: No, the mineral that the Commissioner is talking about could belong to the State.

MR. CALDERON: I am talking about oil.

MR. DAVIDE: Oil belongs to the State, not to any particular individual.

MR. CALDERON: Yes. So, we follow the regalian doctrine.

MR. DAVIDE: So, if there is a service contract for the exploration of oil, it must be with the State which is supposed to be allowed under the Jamir proposal.

MR. CALDERON: Even if it covers private lands?

MR. DAVIDE: Certainly, because these are minerals.

MR. CALDERON: Yes. With that, I am satisfied.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

MR. MAAMBONG: May we now ask the Committee to respond to the amendment to the amendment of Commissioner Jamir?

MR. VILLEGAS: We accept the amendment on the premise that service contracts are really primarily for minerals, petroleum and other mineral oils. All other types of public lands, whether agricultural or timber, and marine resources are subject to other provisions in this Article.

MR. MAAMBONG: Madam President, may we ask Commissioner Davide to read the full text including his amendment because there seems to be some confusion here?

MR. DAVIDE: I was not able to get all the other amendments. But my first amendment would only be to change "NATURAL RESOURCES" to MINERALS, PETROLEUM AND OTHER MINERAL OILS.

MR. VILLEGAS: Madam President, the entire Jamir amendment, as amended, reads: "THE PRESIDENT MAY ENTER INTO AGREEMENTS WITH FOREIGN-OWNED CORPORATIONS INVOLVING EITHER TECHNICAL OR FINANCIAL ASSISTANCE FOR LARGE-SCALE EXPLORATION, DEVELOPMENT, AND UTILIZATION OF MINERALS, PETROLEUM AND OTHER MINERAL OILS ACCORDING TO THE GENERAL TERMS AND CONDITIONS PROVIDED BY LAW BASED ON REAL CONTRIBUTIONS TO THE ECONOMIC GROWTH AND GENERAL WELFARE OF THE COUNTRY."

We have introduced a slight change.

MR. DAVIDE: The proposed amendment on the Ople amendment would be to substitute "SUBSEQUENTLY" with the phrase WITHIN THIRTY DAYS FROM ITS EXECUTION.

MR. OPLE: I gladly accept the amendment, Madam President.

MR. VILLEGAS: So, to continue: "THE PRESIDENT SHALL WITHIN THIRTY DAYS FROM ITS EXECUTION NOTIFY CONGRESS OF EVERY CONTRACT ENTERED INTO IN ACCORDANCE WITH THIS PROVISION."

MR. DAVIDE: And the last amendment is just to delete "-OWNED" in "FOREIGN-OWNED" on the first line so it reads: "WITH FOREIGN CORPORATIONS," because it may be a corporation with a little Filipino contribution or capital.

THE PRESIDENT: Is that accepted?

MR. VILLEGAS: So it reads: "THE PRESIDENT MAY ENTER INTO AGREEMENTS WITH FOREIGN CORPORATIONS."

MR. DAVIDE: Yes.

MR. MAAMBONG: Madam President, we are ready to put it to a vote.

THE PRESIDENT: How about the additional sentence of Commissioner Sarmiento? Was it read?

MR. VILLEGAS: Yes, it is included, Madam President. It says: "IN SUCH AGREEMENTS, THE STATE SHALL PROMOTE, DEVELOP AND EMPLOY LOCAL SCIENTIFIC AND TECHNICAL RESOURCES."

MR. GASCON: Madam President, just for clarification.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: We will be voting for or against, is that correct?

THE PRESIDENT: Yes, for or against.

MR. GASCON: If we vote against, that means we are in favor of the concurrence of Congress for every service contract?

THE PRESIDENT: Not necessarily.

MR. GASCON: Thank you, Madam President.

VOTING

THE PRESIDENT: As many as are in favor of this proposed amendment of Commissioners Jamir, Sarmiento, Ople, Davide, and others, please raise their hand. (Several Members raised their hand.)

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

Are there any abstentions?

MR. SUAREZ: I abstain, Madam President.

MR. BENNAGEN: I abstain, Madam President.

THE PRESIDENT: The results show 21 votes in favor, 10 against, and 2 abstentions; the amendment is approved.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

MR. MAAMBONG: I ask that Commissioner Treñas be recognized for an amendment on line 14.

THE PRESIDENT: Commissioner Treñas is recognized.

MR. TREÑAS: Madam President, may I propose an amendment on line 14 of Section 3 by deleting therefrom "whose voting stock and controlling interest," and in lieu thereof, insert THE CAPITAL so the line should read: "associations at least sixty percent of THE CAPITAL is owned by such citizens."

MR. VILLEGAS: We accept the amendment.

MR. TREÑAS: Thank you.

THE PRESIDENT: The amendment of Commissioner Treñas on line 14 has been accepted by the Committee.

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

MR. VILLEGAS: Madam President, the Committee would just like to go back to the Jamir amendment for a change in style. Just for the record, it has reference to the amendment of Commissioner Sarmiento. We would like that amendment to read as follows: IN SUCH AGREEMENTS THE STATE SHALL PROMOTE THE DEVELOPMENT AND USE OF LOCAL SCIENTIFIC AND TECHNICAL RESOURCES.

THE PRESIDENT: Was that included in the vote?

MR. VILLEGAS: Yes, Madam President.

THE PRESIDENT: Who is next?

MR. MAAMBONG: I ask that Commissioner Davide be recognized for an anterior amendment to Section 3.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I have a few minor amendments, Madam President.

THE PRESIDENT: The Commissioner may proceed.

MR. DAVIDE: On line 5, after "forests" insert a comma (,) and the word WILDLIFE followed by a comma (,). And then change the "e" in "faune" to "A", to read FAUNA.

MR. VILLEGAS: Could Commissioner Davide just explain why he is introducing WILDLIFE when "flora and fauna" are both wildlife?

MR. DAVIDE: No, not necessarily, because it may also be marine flora and fauna, and fauna would refer to the animal kingdom so we have to go beyond. These are not the only part of our natural resources; the birds, and so on, are also wildlife.

MR. VILLEGAS: All right.

MR. MAAMBONG: Just a moment, Madam President. Is that accepted?

MR. AZCUNA: May I be recognized?

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Madam President, I believe that fauna includes wildlife. If the term "flora and fauna" was intended to replace the term "wildlife" in the 1973 Constitution, I fear that there might be a redundancy if we mention both "wildlife" and "flora and fauna." I think we should choose between one or the other.

MR. DAVIDE: I submit, Madam President, that "wildlife" is even broader, so instead of "flora and fauna" we use the word WILDLIFE.

MR. VILLEGAS: Commissioner Bennagen, our naturalist, has something to say.

MR. BENNAGEN: May I offer an observation. "Flora and fauna" is a broader term and "wildlife" would be included within the concept of "flora and fauna," but I agree to the inclusion of "WILDLIFE," specifically to refer to endangered species. It could be considered national treasure, for emphasis.

MR. DAVIDE: Yes, so the Committee accepts WILDLIFE?

MR. BENNAGEN: Let us now give that emphasis that is required especially with respect to endangered species.

THE PRESIDENT: Is that accepted?

MR. VILLEGAS: We accept the amendment.

THE PRESIDENT: It is accepted. So let us proceed to vote on that line first.

Is there any objection to the proposed amendment of Commissioner Davide? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: On line 9, Madam President, before the word "and" after the comma (,), insert EXPLOITATION.

MR. VILLEGAS: Madam President, following the recommendation in the UP draft, we omitted "exploitation" first of all because it is believed to be subsumed under "development" and secondly because it has a derogatory connotation.

MR. DAVIDE: I will not insist, but this one I hope the Committee will immediately accept.

On lines 14 and 15, delete the clause "at least sixty percent of whose voting stock or controlling interest is" and substitute the same with WHOSE CAPITAL STOCK IS WHOLLY, so it will read: "associations WHOSE CAPITAL STOCK IS WHOLLY owned by such citizens."

THE PRESIDENT: What does the Committee say?

MR. VILLEGAS: The Committee cannot accept the proposal precisely because we voted in favor of 60 percent.

MR. DAVIDE: May I be allowed to explain the proposal?

MR. MAAMBONG: Subject to the three-minute rule, Madam President.

MR. DAVIDE: It will not take me three minutes.

The Commission had just approved the Preamble. In the Preamble we clearly stated there that the Filipino people

are sovereign and that one of the objectives for the creation or establishment of a government is to conserve and develop the national patrimony. The implication is that the national patrimony or our natural resources are exclusively reserved for the Filipino people. No alien must be allowed to enjoy, exploit and develop our natural resources. As a matter of fact, that principle proceeds from the fact that our natural resources are gifts from God to the Filipino people and it would be a breach of that special blessing from God if we will allow aliens to exploit our natural resources.

I voted in favor of the Jamir proposal because it is not really exploitation that we granted to the alien corporations but only for them to render financial or technical assistance. It is not for them to enjoy our natural resources. Madam President, our natural resources are depleting; our population is increasing by leaps and bounds. Fifty years from now, if we will allow these aliens to exploit our natural resources, there will be no more natural resources for the next generations of Filipinos. It may last long if we will begin now. Since 1935 the aliens have been allowed to enjoy to a certain extent the exploitation of our natural resources, and we became victims of foreign dominance and control. The aliens are interested in coming to the Philippines because they would like to enjoy the bounty of nature exclusively intended for the Filipinos by God.

And so I appeal to all, for the sake of the future generations, that if we have to pray in the Preamble "to preserve and develop the national patrimony for the sovereign Filipino people and for the generations to come," we must at this time decide once and for all that our natural resources must be reserved only to Filipino citizens.

Thank you.

MR. MAAMBONG: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Unless the Committee would like to respond, we ask that the matter be put to a vote.

MR. VILLEGAS: Just a short response.

This matter of ownership has been fully discussed in the Committee with all the public hearings possible and the conclusion that 60-percent Filipino ownership is a sufficient guarantee that the national welfare is going to be preserved. Secondly, when we talk about shortage of domestic capital, this is most acute in the exploration and development of natural resources because it is in these activities that there is very high risk, especially in oil exploration. It would prejudice not only the people who are not going to be employed by these types of corporations that would not be able to attract the necessary capital but it would also prevent the utilization of natural resources for the present generation in order to help them develop their talents and skills through education and other development programs.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Two points actually are being raised by Commissioner Davide's proposed amendment. One has reference to the percentage of holdings and the other one is the basis for that percentage. Would the body have any objection if we split it into two portions because there may be several Commissioners who would be willing to accept the Commissioner's proposal on capital stock in contradistinction to a voting stock for controlling interest?

MR. VILLEGAS: The proposal has been accepted already.

MR. DAVIDE: Yes, but it was 60 percent.

MR. VILLEGAS: That is right.

MR. SUAREZ: So, it is now 60 percent as against wholly owned?

MR. DAVIDE: Yes.

MR. SUAREZ: Is the Commissioner not insisting on the voting capital stock because that was already accepted by the Committee?

MR. DAVIDE: Would it mean that it would be 100-percent voting capital stock?

MR. SUAREZ: No, under the Commissioner's proposal it is just "CAPITAL" not "stock."

MR. DAVIDE: No, I want it to be very clear. What is the alternative proposal of the Committee? How shall it read?

MR. SUAREZ: It will only read something like: "the CAPITAL OF WHICH IS FULLY owned."

MR. VILLEGAS: Let me read lines 12 to 14 which state:

. . . enter into co-production, joint venture, production sharing agreements with Filipino citizens or corporations or associations at least 60 percent of whose CAPITAL is owned by such citizens.

We are going back to the 1935 and 1973 formulations.

MR. DAVIDE: I cannot accept the proposal because the word CAPITAL should not really be the guiding principle. It is the ownership of the corporation. It may be voting or not voting, but that is not the guiding principle.

MR. SUAREZ: So, the Commissioner is insisting on the use of the term "CAPITAL STOCK"?

MR. DAVIDE: Yes, to be followed by the phrase "WHOLLY owned."

MR. SUAREZ: Yes, but we are only concentrating on the first point — "CAPITAL STOCK" or merely "CAPITAL."

MR. DAVIDE: CAPITAL STOCK?

MR. SUAREZ: Yes, it is "CAPITAL STOCK."

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 4:41 p.m.

RESUMPTION OF SESSION

At 4:42 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Commissioner Davide is to clarify his point.

MR. VILLEGAS: Yes, Commissioner Davide has accepted the word "CAPITAL" in place of "voting stock or controlling interest." This is an amendment already accepted by the Committee.

We would like to call for a vote on 100-percent Filipino versus 60-percent Filipino.

MR. ALONTO: Is it 60 percent?

MR. VILLEGAS: Sixty percent, yes.

MR. GASCON: Madam President, shall we vote on the proposed amendment of Commissioner Davide of "ONE HUNDRED PERCENT"?

MR. VILLEGAS: Yes.

MR. GASCON: Assuming that it is lost, that does not prejudice any other Commissioner to make any recommendations on other percentages?

MR. VILLEGAS: I would suggest that we vote on "sixty," which is indicated in the committee report.

MR. GASCON: It is the amendment of Commissioner Davide that we should vote on, not the committee report.

MR. VILLEGAS: Yes, it is all right.

MR. AZCUNA: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: May I be clarified as to that portion that was accepted by the Committee.

MR. VILLEGAS: The portion accepted by the Committee is the deletion of the phrase "voting stock or controlling interest."

MR. AZCUNA: Hence, without the Davide amendment, the committee report would read: "corporations or associations at least sixty percent of whose CAPITAL is owned by such citizens."

MR. VILLEGAS: Yes.

MR. AZCUNA: So if the Davide amendment is lost, we are stuck with 60 percent of the capital to be owned by citizens?

MR. VILLEGAS: That is right.

MR. AZCUNA: But the control can be with the foreigners even if they are the minority. Let us say 40 percent of the capital is owned by them, but it is the voting capital, whereas, the Filipinos own the nonvoting shares. So we can have a situation where the corporation is controlled by foreigners despite being the minority because they have the voting capital. That is the anomaly that would result there.

MR. BENGZON: No, the reason we eliminated the word "stock" as stated in the 1973 and 1935 Constitutions is that according to Commissioner Rodrigo, there are associations that do not have stocks. That is why we say "CAPITAL."

MR. AZCUNA: We should not eliminate the phrase "controlling interest."

MR. BENGZON: In the case of stock corporations, it is assumed.

MR. AZCUNA: Yes, but what I mean is that the control should be with the Filipinos.

MR. BENGZON: Yes, that is understood.

MR. AZCUNA: Yes, because if we just say "sixty percent of whose capital is owned by the Filipinos," the capital

may be voting or nonvoting.

MR. BENGZON: That is correct.

MR. AZCUNA: My concern is the situation where there is a voting stock. It is a stock corporation. What the Committee requires is that 60 percent of the capital should be owned by Filipinos. But that would not assure control because that 60 percent may be nonvoting.

MS. AQUINO: Madam President.

MR. ROMULO: May we vote on the percentage first?

THE PRESIDENT: Before we vote on this, we want to be clarified first.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I would suggest that we vote on the Davide amendment which is 100-percent capital, and if it is voted down, then we refer to the original draft which is "capital stock" not just "capital."

MR. AZCUNA: The phrase "controlling interest" is an important consideration.

THE PRESIDENT: Let us proceed to vote then.

MR. PADILLA: Madam President.

THE PRESIDENT: The Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA: The Treñas amendment has already been approved. The only one left is the Davide amendment which is substituting the "sixty percent" to "WHOLLY owned by Filipinos."

Madam President, I am against the proposed amendment of Commissioner Davide because that is an ideal situation where domestic capital is available for the exploration, development and utilization of these natural resources, especially minerals, petroleum and other mineral oils. These are not only risky business but they also involve substantial capital. Obviously, it is an ideal situation but it is not practical. And if we adopt the 100-percent capital of Filipino citizens, I am afraid that these natural resources, particularly these minerals and oil, et cetera, may remain hidden in our lands, or in other offshore places without anyone being able to explore, develop or utilize them. If it were possible to have a 100-percent Filipino capital, I would prefer that rather than the 60 percent, but if we adopt the 100 percent, my fear is that we will never be able to explore, develop and utilize our natural resources because we do not have the domestic resources for that.

MR. DAVIDE: Madam President, may I be allowed to react?

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I am very glad that Commissioner Padilla emphasized minerals, petroleum and mineral oils. The Commission has just approved the possible foreign entry into the development, exploration and utilization of these minerals, petroleum and other mineral oils by virtue of the Jamir amendment. I voted in favor of the Jamir amendment because it will eventually give way to vesting in exclusively Filipino citizens and corporations wholly owned by Filipino citizens the right to utilize the other natural resources. This means that as a matter of policy, natural resources should be utilized and exploited only by Filipino citizens or corporations wholly owned by such citizens. But by virtue of the Jamir amendment, since we feel that Filipino capital may not be enough for the development and utilization of minerals, petroleum and other mineral oils, the President can enter into service

contracts with foreign corporations precisely for the development and utilization of such resources. And so, there is nothing to fear that we will stagnate in the development of minerals, petroleum, and mineral oils because we now allow service contracts. It is, therefore, with more reason that at this time we must provide for a 100-percent Filipinization generally to all natural resources.

MR. VILLEGAS: I think we are ready to vote, Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Madam President, we ask that the matter be put to a vote.

THE PRESIDENT: Will Commissioner Davide please read lines 14 and 15 with his amendment.

MR. DAVIDE: Lines 14 and 15, Section 3, as amended, will read: "associations whose CAPITAL stock is WHOLLY owned by such citizens."

VOTING

THE PRESIDENT: As many as are in favor of this proposed amendment of Commissioner Davide on lines 14 and 15 of Section 3, please raise their hand. (Few Members raised their hand.)

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

The results show 16 votes in favor and 22 against; the amendment is lost.

MR. MAAMBONG: Madam President, I ask that Commissioner Davide be recognized once more for further amendments.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

This is just an insertion of a new paragraph between lines 24 and 25 of Section 3 of the same page. It will read as follows: THE GOVERNING AND MANAGING BOARDS OF SUCH CORPORATIONS SHALL BE VESTED EXCLUSIVELY IN CITIZENS OF THE PHILIPPINES.

MR. VILLEGAS: Which corporations is the Commissioner referring to?

MR. DAVIDE: This refers to corporations 60 percent of whose capital is owned by such citizens.

MR. VILLEGAS: Again the amendment will read . . .

MR. DAVIDE: "THE GOVERNING AND MANAGING BODIES OF SUCH CORPORATIONS SHALL BE VESTED EXCLUSIVELY IN CITIZENS OF THE PHILIPPINES."

REV. RIGOS: Madam President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: I wonder if Commissioner Davide would agree to put that sentence immediately after "citizens" on line 15.

MR. ROMULO: May I ask a question. Presumably, it is 60-40?

MR. DAVIDE: Yes.

MR. ROMULO: What about the 40 percent? Would they not be entitled to a proportionate seat in the board?

MR. DAVIDE: Under my proposal, they should not be allowed to sit in the board.

MR. ROMULO: Then the Commissioner is really proposing 100 percent which is the opposite way?

MR. DAVIDE: Not necessarily, because if 40 percent of the capital stock will be owned by aliens who may sit in the board, they can still exercise their right as ordinary stockholders and can submit the necessary proposal for, say, a policy to be undertaken by the board.

MR. ROMULO: But that is part of the stockholder's right — to sit in the board of directors.

MR. DAVIDE: That may be allowed but this is a very unusual and abnormal situation so the Constitution itself can prohibit them to sit in the board.

MR. ROMULO: But it would be pointless to allow them 40 percent when they cannot sit in the board nor have a say in the management of the company. Likewise, that would be extraordinary because both the 1935 and the 1973 Constitutions allowed not only the 40 percent but commensurately they were represented in the board and management only to the extent of their equity interest, which is 40 percent. The management of a company is lodged in the board; so if the 60 percent which is composed of Filipinos, controls the board, then the Filipino part has control of the company.

I think it is rather unfair to say: You may have 40 percent of the company, but that is all. You cannot manage, you cannot sit in the board." That would discourage investments. Then it is like having a one hundred-percent ownership; I mean, either we allow a 60-40 with full rights to the 40 percent, limited as it is as to a minority, or we do not allow them at all. This means if it is allowed, we cannot have it both ways.

MR. DAVIDE: The aliens cannot also have everything. While they may be given entry into subscriptions of the capital stock of the corporation, it does not necessarily follow that they cannot be deprived of the right of membership in the managing or in the governing board of a particular corporation. But it will not totally deprive them of a say because they can still exercise the ordinary rights of stockholders. They can submit their proposal and they can be heard.

MR. ROMULO: Yes, but they have no vote. That is like being represented in the Congress but not being allowed to vote like our old resident Commissioners in the United States. They can be heard; they can be seen but they cannot vote.

MR. DAVIDE: If that was allowed under that situation, why can we not do it now in respect to our natural resources? This is a very critical and delicate issue.

MR. ROMULO: Precisely, we used to complain how unfair that was. One can be seen and heard but he cannot vote.

MR. DAVIDE: We know that under the corporation law, we have the rights of the minority stockholders. They can be heard. As a matter of fact, they can probably allow a proxy to vote for them and, therefore, they still retain that specific prerogative to participate just like what we did in the Article on Social Justice.

MR. ROMULO: That would encourage dummies if we give them proxies.

MR. DAVIDE: As a matter of fact, when it comes to encouraging dummies, by allowing 40-percent ownership to come in we will expect the proliferation of corporations actually owned by aliens using dummies.

MR. ROMULO: No, because 40 percent is a substantial and fair share and, therefore, the bona fide foreign investor is satisfied with that proportion. He does not have to look for dummies. In fact, that is what assures a genuine investment if we give a foreign investor the 40 percent and all the rights that go with it. Otherwise, we are

either discouraging the investment altogether or we are encouraging circumvention. Let us be fair. If it is 60-40, then we give him the right, limited as to his minority position.

MR. MAAMBONG: Madam President, the body would like to know the position of the Committee so that we can put the matter to a vote.

MR. VILLEGAS: The Committee does not accept the amendment.

THE PRESIDENT: The Committee does not accept.

Will Commissioner Davide insist on his amendment?

MR. DAVIDE: We request a vote.

THE PRESIDENT: Will Commissioner Davide state his proposed amendment again?

MR. DAVIDE: The proposed amendment would be the insertion of a new paragraph to Section 3, between lines 24 and 25, page 2, which reads: "THE GOVERNING AND MANAGING BODIES OF SUCH CORPORATIONS SHALL BE VESTED EXCLUSIVELY IN CITIZENS OF THE PHILIPPINES."

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, may I just say that this Section 3 speaks of "co-production, joint venture, production sharing agreements with Filipino citizens." If the foreign share of, say, 40 percent will not be represented in the board or in management, I wonder if there would be any foreign investor who will accept putting capital but without any voice in management. I think that might make the provision on "coproduction, joint venture and production sharing" illusory.

VOTING

THE PRESIDENT: If the Chair is not mistaken, that was the same point expressed by Commissioner Romulo, a member of the Committee.

As many as are in favor of the Davide amendment, please raise their hand. (Few Members raised their hand.)

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

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

The results show 14 votes in favor, 20 against and 1 abstention; the Davide amendment is lost.

MR. MAAMBONG: Madam President, may I be recognized to present my own amendment?

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Actually I am only pursuing the amendment presented by Commissioner Concepcion, and I have his permission to proceed with it.

On line 16, Madam President, after the word "period" delete the word "of."

MR. GARCIA: Madam President, I have an anterior amendment. I have already informed the Floor Leader.

THE PRESIDENT: The Commissioner has an anterior amendment.

MR. MAAMBONG: On what line would the Commissioner propose his anterior amendment?

MR. GARCIA: It is actually on the same item, line 14, a primary amendment regarding the percentage of capital stock and controlling interest. It is on the same item where Commissioner Davide presented his amendment, but this time I would like to raise it.

MR. MAAMBONG: Madam President, with the indulgence of Commissioner Garcia, our procedure is that primary amendments to approved amendments will be taken up later. Mine is an amendment to the provision which is now indicated in the committee report. So if Commissioner Garcia does not mind, we can take that up after my amendment. It is very short, anyway.

THE PRESIDENT: The Chair recognizes Commissioner Maambong. He may now proceed.

MR. MAAMBONG: Thank you, Madam President.

As I was saying, on line 16, change the word "of" between the words "period" and "twenty-five" to NOT EXCEEDING, so the whole line would read: ". . . agreements shall be for a period NOT EXCEEDING twenty-five years, renewable for not more than twenty-five years . . ."

THE PRESIDENT: What does the Committee say?

MR. VILLEGAS: The amendment is accepted.

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

MR. MAAMBONG: Madam President, may I ask that Commissioner Ople be recognized for his amendment.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Madam President, I propose a brief new section after line 30, immediately preceding Section 4. I think we are still on Section 3, so probably I can give way to another proponent.

MR. MONSOD: Yes.

MR. MAAMBONG: I ask that Commissioner Garcia be recognized, Madam President.

THE PRESIDENT: We have not yet approved the entire Section 3.

MR. VILLEGAS: Madam President, Commissioner Garcia has another amendment to Section 3.

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: My amendment is on Section 3, the same item which Commissioner Davide tried to amend. It is basically on the share of 60 percent. I would like to propose that we raise the 60 percent to SEVENTY-FIVE PERCENT so the line would read: "SEVENTY-FIVE PERCENT of whose CAPITAL is owned by such citizens."

THE PRESIDENT: What does the Committee say?

SUSPENSION OF SESSION

MR. VILLEGAS: The Committee insists on staying with the 60 percent — 60-40.

Madam President, may we ask for a suspension of the session.

THE PRESIDENT: The session is suspended.

It was 5:07 p.m.

RESUMPTION OF SESSION

At 5:31 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader, Commissioner Sarmiento, is recognized.

MR. SARMIENTO: Commissioner Garcia still has the floor. May I ask that he be recognized.

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you very much, Madam President.

I would like to propose the following amendment on Section 3, line 14 on page 2. I propose to change the word "sixty" to SEVENTY-FIVE so, this will read: "or it may enter into co-production, joint venture, production sharing agreements with Filipino citizens or corporations or associations at least SEVENTY-FIVE percent of whose CAPITAL stock or controlling interest is owned by such citizens."

MR. VILLEGAS: This is just a correction. I think Commissioner Azcuna is not insisting on the retention of the phrase "controlling interest," so we will retain "CAPITAL" to go back really to the 1935 and 1973 formulations.

MR. BENNAGEN: May I suggest that we retain the phrase "controlling interest"?

MR. VILLEGAS: Yes, we will retain it.

THE PRESIDENT: Are we now ready to vote?

MR. SARMIENTO: Yes, Madam President.

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment of Commissioner Garcia for "SEVENTY-FIVE" percent, please raise their hand. (Few Members raised their hand.)

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

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

The results show 16 votes in favor, 18 against and 1 abstention; the Garcia amendment is lost.

MR. SARMIENTO: Madam President, may I ask that Commissioner Foz be recognized.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: After losing by only two votes, I suppose that this next proposal will finally get the vote of the majority. The amendment is to provide for at least TWO-THIRDS.

MR. SUAREZ: It is equivalent to 66 2/3.

THE PRESIDENT: Will the Commissioner repeat?

MR. FOZ: I propose "TWO-THIRDS of whose CAPITAL is owned by such citizens." Madam President, we are referring to the same provision to which the previous amendments have been suggested. First, we called for a 100-percent ownership; and then, second, we called for a 75-percent ownership by Filipino citizens.

So my proposal is to provide for at least TWO-THIRDS of the capital to be owned by Filipino citizens. I would like to call the attention of the body that the same ratio or equity requirement is provided in the case of public utilities. And if we are willing to provide such equity requirements in the case of public utilities, we should at least likewise provide the same equity ratio in the case of natural resources.

MR. VILLEGAS: Commissioner Romulo will respond.

MR. ROMULO: I just want to point out that there is an amendment here filed to also reduce the ratio in Section 15 to 60-40.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: The 60 percent which appears in the committee report has been repeatedly upheld in various votings. One proposal was whole — 100 percent; another one was 75 percent and now it is 66 2/3 percent. Is not the decision of this Commission in voting to uphold the percentage in the committee report already a decision on this issue?

MR. FOZ: Our amendment has been previously brought to the attention of the body.

MR. VILLEGAS: The Committee does not accept the Commissioner's amendment. This has been discussed fully and, with only one-third of the vote, it is like having nothing at all in decision-making. It can be completely vetoed.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: This is an extraordinary suggestion. But considering the circumstances that the proposals from the 100 percent to 75 percent lost, and now it went down to 66 2/3 percent, we might go down to 65 percent next time. So I suggest that we vote between 66 2/3 and 60 percent. Which does the body want? Then that should be the end of it; otherwise, this is ridiculous. After this, if the 66 2/3 percent will lose, then somebody can say: "Well, how about 65 percent?"

THE PRESIDENT: The Chair was made to understand that Commissioner Foz' proposal is the last proposal on this particular line. Will Commissioner Foz restate his proposal?

MR. FOZ: My proposal is "TWO-THIRDS of whose CAPITAL or controlling interest is owned by such citizens."

VOTING

THE PRESIDENT: We now put Commissioner Foz' amendment to a vote.

As many as are in favor of the amendment of Commissioner Foz, please raise their hand. (Few Members raised their hand.)

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

The results show 17 votes in favor, 20 against, and no abstention; the amendment is lost.

MR. SARMIENTO: Madam President, since there are no more proponents of amendments on Section 3, may I ask that the Chairman of the Steering Committee be recognized.

MR. OPLE: Before the Chairman of the Steering Committee responds, may I make a manifestation that I have

informed the Committee and the Floor Leader that I would like to propose an amendment by insertion immediately following Section 3 tomorrow morning?

THE PRESIDENT: Would that be a new section?

MR. OPLE: Yes, as a new section, Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: May I remind the body that, per agreement, we will discuss the Article on Local Governments tomorrow. Then we will go back to the Article on National Economy and Patrimony on Monday.

MR. VILLEGAS: Can we vote on the whole Section 3?

MR. BENGZON: Madam President, the Chairman is now requesting a vote on the entire Section 3 as amended. I think we have copies of the amendments.

MR. SARMIENTO: May we ask the Chairman to read the entire section.

MR. OPLE: Yes, I am going to make the same request.

Thank you, Madam President.

MR. VILLEGAS: The entire Section 3 reads: "All lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. Such activities may be directly undertaken by the State, or it may enter into co-production, joint venture, production sharing agreements with Filipino citizens or corporations or associations at least sixty percent of whose capital or controlling interest is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigations, water supply, fisheries or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant. The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming with priority to subsistence fishermen and fish workers in rivers, lakes, bays, and lagoons.

"The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum and other mineral oils according to the general terms and conditions provided by law based on real contributions to the economic growth and general welfare of the country.

"The President shall subsequently notify Congress of every contract entered into in accordance with this provision within thirty days from its execution. In such agreements, the State shall promote the development, and use of local scientific and technical resources."

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

MR. SARMIENTO: Madam President, I ask that the Chairman of the Steering Committee be recognized in connection with the resolution for the Constitutional Commission to congratulate former Senator Tañada.

THE PRESIDENT: Commissioner Bengzon is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 538
(Congratulating Senator Tañada for His Philippine Legion of Honor Award)

PERIOD OF SPONSORSHIP AND DEBATE

MR. BENGZON: I move that we consider Proposed Resolution No 538.

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

Consideration of Proposed Resolution No. 538 is now in order. With the permission of the body, the Secretary-General will read the whole text of the resolution.

THE SECRETARY-GENERAL: Proposed Resolution No. 538, entitled:

RESOLUTION FOR THE CONSTITUTIONAL COMMISSION TO CONGRATULATE SENATOR TAÑADA

WHEREAS, the Republic of the Philippines has accorded Senator Lorenzo Martinez Tañada its highest award, the Philippine Legion of Honor, with the degree of Chief Commander, in recognition of "his uncommon wisdom and steadfast devotion to the principles of justice, freedom and democracy to which this nation was founded";

WHEREAS, the Constitutional Commission draws inspiration from the example and achievements of the "Grand Old Man of Philippine Politics" who has always taken the leadership in the movement for human rights, nationalism and social justice and who was one of the prime movers of the campaign that successfully overthrew the dictatorship; and

WHEREAS, the Constitutional Commission takes special cognizance of the distinct honor given to Senator Tañada and appreciates the Government's conferment of the highest state award long due him; Now, therefore, be it

Resolved by the Constitutional Commission in session assembled, To officially extend its warmest congratulations to Senator Lorenzo M. Tañada for having been conferred the Philippine Legion of Honor with the degree of Chief Commander, by her Excellency, President Corazon C. Aquino.

(Sgd.) Wilfrido V. Villacorta (Sgd.) Yusup R. Abubakar

(Sgd.) Christine Tan (Sgd.) Cecilia Muñoz Palma

(Sgd.) Adolfo S. Azcuna (Sgd.) Joaquin G. Bernas

(Sgd.) Vicente B. Foz (Sgd.) Christian S. Monsod

(Sgd.) Jose E. Suarez (Sgd.) Bernardo M. Villegas

(Sgd.) Minda Luz M. Quesada (Sgd.) Hilario G. Davide, Jr.

(Sgd.) Lugum L. Uka (Sgd.) Decoroso R. Rosales

(Sgd.) Napoleon G. Rama (Sgd.) Ambrosio B. Padilla

(Sgd.) Jose B. Laurel, Jr. (Sgd.) Cirilo A. Rigos

(Sgd.) Teodoro C. Bacani (Sgd.) Edmundo G. Garcia

(Sgd.) Florangel Rosario Braid (Sgd.) Efrain B. Treñas

(Sgd.) Teodulo C. Natividad (Sgd.) Rene V. Sarmiento

(Sgd.) Felicitas C. Aquino (Sgd.) Lorenzo M. Sumulong
(Sgd.) Jose D. Calderon (Sgd.) Jose Luis Martin C. Gascon
(Sgd.) Rustico F. de los Reyes, Jr. (Sgd.) Gregorio J. Tingson
(Sgd.) Jose C. Colayco (Sgd.) Jaime S.L. Tadeo
(Sgd.) Regalado E. Maambong (Sgd.) Ricardo T. Romulo
(Sgd.) Alberto M.K. Jamir (Sgd.) Roberto R. Concepcion
(Sgd.) Ahmad Domocao Alonto (Sgd.) Jose F.S. Bengzon, Jr.
(Sgd.) Blas F. Ople (Sgd.) Eulogio R. Lerum
(Sgd.) Francisco A. Rodrigo (Sgd.) Crispino M. de Castro
Florenz D. Regalado (Sgd.) Ponciano L. Bennagen
Ma. Teresa F. Nieva (Sgd.) Jose N. Nollado
Lino O. Brocka

ADOPTION OF PROPOSED RESOLUTION NO. 538

(Congratulating Senator Tañada for His Philippine Legion of Honor Award)

MR. BENGZON: I move that Proposed Resolution No. 538 be adopted in toto.

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

Proposed Resolution No. 538 is adopted unanimously.

MR. GARCIA: Madam President.

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Madam President, have we finished voting on Section 3? I ask because some of us wanted to vote and to object.

THE PRESIDENT: Is the Commissioner suggesting that the body vote by raising of hands?

MR. GARCIA: Yes, we will cast our negative votes.

VOTING

THE PRESIDENT: As many as are in favor of Section 3 as read by the honorable Chairman of the Committee, please raise their hand. (Several Members raised their hand.)

As many as are against Section 3, please raise their hand. (Few Members raised their hand.)

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

The results show 24 votes in favor, 13 against and 1 abstention; Section 3 is approved.

Commissioner Tan is recognized.

SR. TAN: Madam President, may I say something?

THE PRESIDENT: The Commissioner may proceed.

SR. TAN: I admire the diligence of the Committee and I have no doubt about their pro-Filipino attitude and their knowledge of economics, but what I cannot resolve is what happens if that 60-percent Filipino capital were so great and the 40-percent foreign capital to explore our natural resources were so great also? I cannot resolve why with the 60-40 we became so poor. I rather be idealistic by allowing only Filipinos to explore our seas than continue being this poor while giving foreigners 40 percent and allowing them to explore or maybe to rape our natural resources. (Applause)

THE PRESIDENT: Mr. Floor Leader, is there any other business?

MR. GASCON: Madam President, this is with regard to Section 1. I would like to make a motion for a reconsideration of Section 1 for just one thing, nothing much really but maybe we can tackle it on Monday. It is with regard to industrialization as indicated in Section 1 (2) which states:

The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform.

I was thinking that we should review this in the sense that there might be some industries which are not based on agricultural development and agrarian reform. In that context, maybe just to broaden our concept of industrialization, I am filing a motion for reconsideration so that perhaps we could widen the concept of industrialization. We should not limit any longer. That is my only point, if I may reserve that right.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I think the word "industrialization" is not synonymous with industries.

MR. GASCON: That is right. My point of contention is that when the provision says "industrialization based on sound agricultural development and agrarian reform," we might be limiting our industrialization to this.

MR. MONSOD: No, "industrialization" is a generic term. It does not say "industries based on sound economic development." It says "industrialization."

THE PRESIDENT: This was discussed during the caucus, was it not?

MR. VILLACORTA: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: I would like to join Commissioner Gascon in asking for a reconsideration of Section 1 for another reason. I think that during the . . . (Stricken off the record by the Chair on August 16, 1986.)

THE PRESIDENT: So, we will take this up on Monday.

MR. VILLACORTA: Yes, Madam President.

Thank you.

MR. MONSOD: No, Madam President. There is a suggestion that there has been . . . (Stricken off the record by the Chair on August 16, 1986.)

MR. VILLACORTA: . . . (Stricken off the record by the Chair on August 16, 1986.)

MR. MONSOD: . . . (Stricken off the record by the Chair on August 16, 1986.)

MR. VILLACORTA: . . . (Stricken off the record by the Chair on August 16, 1986.)

MR. MONSOD: . . . (Stricken off the record by the Chair on August 16, 1986.)

MR. VILLACORTA: . . . (Stricken off the record by the Chair on August 16, 1986.)

THE PRESIDENT: We will ask the Secretariat to have the proceedings of the caucus transcribed by Monday.

ADJOURNMENT OF SESSION

MR. SARMIENTO: Madam President, I move that we adjourn the session until nine o'clock tomorrow morning.

THE PRESIDENT: The session is adjourned until nine o'clock tomorrow morning.

It was 5:52 p.m.

[*] Appeared after the roll call

[*] See appendix

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