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Wednesday, September 24, 1986

OPENING OF SESSION

At 10:00 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 Jose C. Colayco.

Everybody remained standing for the Prayer.

PRAYER

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

ROLL CALL

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 Present
Rosario Braid Present Reyes de los Present [*]
Calderon Present Rigos Present
Castro de Present Rodrigo Present
Colayco Present Romulo Present
Concepcion Present [*] Rosales Absent
Davide Present Sarmiento Present
Foz Present Suarez Present
Garcia Present [*] Sumulong Present
Gascon Present [*] Tadeo Present
Guingona Present Tan Present
Jamir Present Tingson Present
Laurel Absent Treñas Present
Lerum Present [*] Uka Present
Maambong Present [*] Villacorta Present
Monsod Present [*]

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

The President is present.

The roll call shows 29 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

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

(Communication No. 969 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Mr. Bantas W. Suanding, OIC, Provincial Governor of Benguet, transmitting Resolution No. 53, s. 1986 of the Sangguniang Bayan of Bakun, Benguet, vehemently opposing the establishment of a Cordillera Regional Autonomy and instead favoring an administrative regionalization.

(Communication No. 970 — Constitutional Commission of 1986)

To the Committee on Local Governments.

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

(Communication No. 971 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Telegram from Mr. William Neves of Makati, Metro Manila, suggesting that a motto: "In God we Trust" be printed in our currency.

(Communication No. 972 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

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

(Communication No. 973 — Constitutional Commission of 1986)

To the Committee on Local Governments.

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

(Communication No. 974 — Constitutional Commission of 1986)

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

Communication from Mr. Florentino L. Ospick, San Fernando, La Union, saying that in the teaching of religion,

"15 Minutes A Day With the World's Greatest Book" will teach religion in public schools without offense, for it is acceptable by all Bible-reading Christians of all faiths.

(Communication No. 975 — Constitutional Commission of 1986)

To the Committee on Human Resources.

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

- Ms. Maria Rona T. Bueno
4 Scout Limbaga Street
Quezon City
- 108 signatories of the Brotherhood of Christian Businessmen and Professionals
- 2669 signatories from St. Paul College-Pasig, St. Paul Street corner Meralco Avenue, Pasig, Metro Manila
- Mr. Ricardo P. Boto and 78 other members of Jesus is Coming Christian Fellowship, 3rd Floor, Roma Building, Novaliches Plaza, Quezon City
- Ms. Mercedes Urmenita and 218 other vendors of 21 West Riverside Drive, San Francisco del Monte, Quezon City
- Mr. Andrew Oback and 48 other bar candidates
- Ms. Flora U. Kagaoan and 56 other employees of Quezon City Regional Health Office No. 4, Project 4, Quezon City
- Mr. Rogelio Manigza and 85 other employees, students and concerned citizens, Barrio Palanas, Visayas Avenue, Diliman, Quezon City
- Ms. Ving Casison and 277 other employees of the Philippine Airlines Comptroller's Office
- Mr. Amado Lucindo and 128 others, No. 5 Kalayaan, Gulod, Novaliches, Quezon City
- Mr. Felix T. Antonio and 90 other employees, No. 50-A Banana Road, Potrero, Malabon Metro Manila
- Ms. Elvira O. Nebre and 220 other employees from various government offices
- Ms. Jocelyn S. Gonzales and 98 other students from the "university belt"
- Ms. Carmina C. Mallari and 245 other school teachers from Pasig, Metro Manila
- Mr. Armando Egonio and 196 other concerned citizens from San Juan, Metro Manila
- Ms. Lita Diakono and 93 other concerned citizens from San Francisco del Monte, Quezon City
- Ms. Ma. Victoria A. Suarez and 102 other concerned citizens from
- Manila
- Mr. Pablo A. Atienza and 153 other concerned citizens with their respective addresses
- Dr. Joselito Matheus and 81 other physicians, interns, nurses, medical consultants and employees of the FEU Hospital
- Mr. Antonio H. Ceniza and 221 other concerned citizens with their respective addresses

- Mr. Jorge Quila and 179 other students from the University of the Philippines, Diliman, Quezon City
- Mr. Mateo F. Lagoy and 269 other employees, vendors and concerned citizens with their respective addresses
- Mr. Pio Aure and 150 other concerned citizens with their respective addresses
- N.C. Fernandez and 217 other staff members of the National Investment and Development Corporation, Makati, Metro Manila
- Ms. Virginia P. Adriano and 92 medical students from FEU and other concerned citizens with their respective addresses
- Ms. Gigi Martelino and 183 other concerned citizens with their respective addresses
- Ms. Delia C. Endaya and 118 other concerned citizens with their respective addresses
- Sister Maria Consuelo B. Billanes and 152 faculty members and high school students of Our Lady of Grace Academy, 12th Avenue, Caloocan City

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

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

Communication from 550 signatories expressing strong support for the approval of Proposed Resolution No. 272, incorporating in the new Constitution a separate article on the protection and promotion of the rights of the family.

(Communication No. 1004 — Constitutional Commission of 1986)

To the Committee on Human Resources.

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

(Communication No. 1005 — Constitutional Commission of 1986)

To the Archives.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we continue the consideration of the Article on the Declaration of Principles. We are in the period of amendments.

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

The body will now proceed to the consideration on Second Reading of the Article on the Declaration of

Principles.

The honorable chairman and members of the Committee on Preamble, National Territory, and Declaration of Principles will please occupy the front table.

MR. RAMA: Madam President, I ask that the committee chairman, Commissioner Tingson, be recognized.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, I ask that Commissioner Azcuna be recognized.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Madam President, we have some additional proposed sections which the committee has accepted. The first one is a proposal from Commissioner de Castro, to read as follows: "THE STATE SHALL TAKE POSITIVE AND EFFECTIVE MEASURES AGAINST GRAFT AND CORRUPTION IN ALL LEVELS OF GOVERNMENT AND SOCIETY."

We submit this to the body for discussion, possible amendments and voting.

MR. DE CASTRO: Madam President.

MR. RAMA: I ask that Commissioner de Castro be recognized.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: May I be allowed to say a few words on this proposal?

We know that graft and corruption is the very evil of our society today. We abhor it and everybody knows it. Even our President in Proclamation No. 3 states, and I quote:

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

This means that even our President recognizes the very evil of our society. And as I may add, this is the very evil which creates demoralization in our Armed Forces today. While high ranking officers are getting rich through graft and corruption, soldiers in lower ranks are being killed in the campaign against insurgency.

I am requesting that a mandate be made by our Constitution to recognize this very evil of our society and that we take positive and effective measures to eradicate it if possible.

Thank you, Madam President.

THE PRESIDENT: Are there any comments on this?

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: I would like to express my objection to the proposal just read. First, because I believe that this proposed provision would be better provided for in our statutory law. I do not think that the fundamental law should constitutionalize such words as "graft and corruption." Second, I believe the assumption of the proponent is that graft and corruption in our society will persist, perhaps endure and stay with us for a long time. This is

something which is perhaps debatable, because we have provided precisely quite a number of provisions in the Constitution that would make a public official and an employee realize that public service is a public trust.

We have provided for this in our Article on Accountability of Public Officers; we have even added a new office, the Office of the Ombudsman. I believe that because of our changes, the emphasis that we are now giving to values not only in society in general but particularly in our educational institutions, the time will soon come when graft and corruption will be reduced to such an extent that it would not be as visible as it is today.

Third, Madam President, I believe that, even granting for the sake of argument that we should institutionalize the concept, the proposed provision is expressed in a negative way. Perhaps it would be better to express it positively by reiterating or reincorporating in this provision on Declaration of Principles the provision found in Section 1 on the Article on Accountability of Public Officers which says that:

Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives

And, lastly, Madam President, the inclusion of graft and corruption in our Constitution might give the misimpression that the Filipino people essentially are dishonest people. Even if we were to take all the grafters in our government and count them and multiply the number by two in order to include the corrupters, I am certain that the total number would only be a small fraction of the 55 million people who, I daresay, are generally and fundamentally honest people, people of integrity.

Thank you, Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

I rise in support of the proposal of Commissioner de Castro and the committee. I think there should be no need to be embarrassed or to be ashamed about stating something about graft and corruption, because it is an accepted fact of life not only in underdeveloped but also in developed countries, though much more so in underdeveloped countries. We foresee that its degree will be exacerbated for some time, if we do not take strong and effective measures now. For instance, in an empirical study done by an international group of social scientists, the findings of which were published in the book, *Bureaucratic Corruption in Asia: Causes, Consequences and Controls*, to which I referred earlier during the deliberations on the Ombudsman, it was concluded that no anticorruption policy can be effective if it depends solely on legal and administrative measures. Then it goes on to say that the moral foundation of society and the active cooperation of its population in controlling corruption are more important.

As an important solution, they pointed out that emphasis should be on the improvement of the quality of life, the improvement of moral and value orientations, as well as, and very importantly, active participation of the community of people in anticorruption campaigns. I feel that we need this in the Declaration of Principles to remind us to be ever vigilant of the ills of graft and corruption which, if unchecked, can undermine any legitimate authority.

Thank you, Madam President.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President. I would like to thank Commissioner Bennagen.

Commissioner Guingona stated that my formulation is in the negative. Madam President, I am willing that this be overhauled because I am not used to good formulations in our Constitution. But I am only after the concept that graft and corruption must be eradicated from all levels of our society.

Mention has been made on the accountability of public officers. Section 2 of the Article on the Accountability of Public Officers speaks of graft and corruption only as one of the grounds for impeachment. Nothing has been said about eradicating this. Are we ashamed to eradicate this evil?

My proposed resolution was first referred to the Committee on Accountability of Public Officers. Then it was thrown to the Committee on Declaration of Principles. My only wish is to help our country eradicate this very evil.

Thank you, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Will the distinguished proponent of this section consider the following rewording?

MR. DE CASTRO: Gladly.

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

Thank you.

MR. DE CASTRO: Provided there is "graft and corruption" there, I will always accept it. (Laughter)

THE PRESIDENT: What does the committee say?

The Floor Leader is recognized.

MR. RAMA: Madam President, the body is ready to take a vote on that provision.

THE PRESIDENT: How about the committee? Has it not decided it yet this time?

MR. TINGSON: Madam President, we have taken this as part of our committee report and we approve it.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I propose another amendment after the Padilla amendment. After "maintain" we add "AND PROMOTE": "The State shall maintain AND PROMOTE honesty and integrity in the public service."

THE PRESIDENT: What does Commissioner Padilla say?

MR. PADILLA: I think the word "maintain" includes promotion. It may not be necessary. I will repeat my rewording, Madam President, subject to improvement by the other Members or the Style Committee: "THE STATE SHALL MAINTAIN HONESTY AND INTEGRITY IN THE PUBLIC SERVICE AND TAKE POSITIVE AND EFFECTIVE MEASURES AGAINST GRAFT AND CORRUPTION."

MR. TINGSON: That is accepted, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May we address a few clarificatory questions to Commissioner Padilla, Madam President?

MR. PADILLA: Gladly.

MR. SUAREZ: Thank you.

Is my understanding correct that the Commissioner is limiting his proposal to those engaged in the public service?

MR. PADILLA: Yes. The first sentence says, ". . . MAINTAIN HONESTY AND INTEGRITY IN THE PUBLIC SERVICE . . ."

MR. SUAREZ: Is this not going to apply to those who are not in the public service? If I understand it correctly, the general direction and impact of the original proposal of the Honorable de Castro is to embrace not only those engaged in public service but also those who are not engaged in public service. Now under the Commissioner's proposal we are limiting it.

MR. PADILLA: The other sectors of society should be covered by what we were stressing on education or moral integrity or moral standards, and that is for the education and improvement of our youth. It is understood that we want honesty and integrity, truth, etc., in our society. We have general provisions regarding education and regarding our society but when we talk of a campaign against graft and corruption in particular, we have to specify the public service.

MR. SUAREZ: So, we are clear as to the effect — that this mandate is limited to those who are in the public service?

MR. PADILLA: Of course, we would like honesty and integrity in business, in agriculture, in industry, in all human relations but with regard to this particular provision, it is intended to limit it against graft and corruption in the public service. Of course, we do not want graft and corruption in private business, for example, but that may not be necessarily included in this provision.

MR. SUAREZ: Thank you.

Time and again, the Commissioner has called our attention to the existence of RA 3019, RA 1379, and the Article on Accountability of Public Officers, including the creation of constitutional agencies, instrumentalities or bodies such as the Ombudsman or Tanodbayan and the Sandiganbayan. Does the Commissioner feel that this declaration is a culmination of all these measures which are designed to encourage public officers to live a public life of honesty and integrity?

MR. PADILLA: That is correct. The provisions on Accountability of Public Officers, the Ombudsman and even Education are all complementary in support of this principle of honesty and integrity in the public service.

MR. SUAREZ: Thank you.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Just for the record, I would like to ask Commissioner de Castro to enlarge in his explanatory note not just this malady, which has caused demoralization among officers and men of the Armed Forces, seriously affecting their efficiency in the campaign against insurgency, but to all public servants who have been

demoralized and whose quality of service to the people has been affected. I can say this very well in the health sector, having witnessed how graft and corruption has denied and deprived our people of the basic health services that they rightfully have claim on. So, I am just putting on record the malady of graft and corruption in all government offices, not just limited to the Commissioner's particular experience. But I fully support this principle to be enshrined in the Declaration of Principles.

MR. DE CASTRO: I thank Commissioner Quesada.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

This is partly a reaction to the interpellations by Commissioner Suarez on public service. I would like to say, in further support of the proposal, that even if the proposal is limited only to the public service, its social impact can be far-reaching. This is because those in the public service have sufficient visibility. They are highly visible in social life and, therefore, they provide role models for those outside of the public service whose moral suasion can indeed create a social transformation even in those outside of the public service.

So, when we limit the proposal merely to those in public service, we are not limiting the consequences of this kind of re-moralization to those within public service. We are, in fact, addressing ourselves also to the larger society.

Thank you, Madam President.

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Madam President, kaisa ako ni Commissioner de Castro sa kanyang layuning alisin ang graft and corruption sa ating lipunan. Pero gusto ko lamang pong linawin, ang pinag-uugatan ng graft and corruption ay isang sistema, isang istraktura. Ito ang nagtutulak mismo ng graft and corruption. Bunga rin ng isang istraktura kung bakit walang disiplina ang mga Pilipino. Sinasabi nga sa management na kung ano ang structure, ay siyang behavior, siyang attitude. Ang pinag-uugatan po ng graft and corruption ay ang sistemang mala-kolonyal at mala-feudal. Ipaliliwanag ko lang ito, Ginang Pangulo, sapagkat gusto kong ipakita sa aking mga kasamahan sa kapulungang ito ang pinag-uugatan ng graft and corruption.

Ang ibig sabihin ng mala-kolonyal ay bagamat sinasabing tayo ay malaya, sakop pa rin tayo ng Amerika dahil tayo ay sakop nila politically, economically and culturally. Sinasabi pa ring mala-feudal na nag-ugat sa feudalismo na ang lupa ay kinokontrol pa rin ng iilang tao, ngunit ang lupa ay hindi lamang napaukol sa iilan kung hindi ang lupa ay nagamit pa ng mga dayuhan bilang export-oriented o tagapagluwas ng hilaw na sangkap sa mga industrialisadong bansa at pagkatapos ang hilaw na sangkap ay ibabalik sa atin na finished product. Sinasabi pa ring mala-feudal sapagkat ang ating mga kapital ay ginagamit ng mga dayuhang ito hindi upang magtayo ng pabrika kung hindi dahil sa repatriation; inilalabas nila ito ng bansa sa halip na magtayo ng pabrika sa ating bansa. Ngayon, sa ganitong kalagayan nagdudulot ito ng tatlong saligang suliranin: una ang imperialismo, ang sistema ng lipunang pinaghaharian ng ilang monopolyo kapitalista; pangalawa ang burukrata kapitalismo na ang ibig sabihin ay ang pagpapayaman sa tungkulin, ang pagpapatakbo ng pamahalaan bilang negosyo; at ang pangatlo ang tinatawag nating "feudalismo." Ito rin ang dahilan ng pagtatanong ni Commissioner Rama tungkol sa kung ano ang ugat ng poverty. Ang tatlong saligang suliraning ito ang ugat ng poverty. Sinasabi nga nating "preferential option for the poor," ang tanong naman ng simbahang mulat: "Kapag naglingkod ka sa mga dukha, itatanong mo sa mga dukha: 'Bakit ba kayo naghihirap?'" Paano mo anyang iiwasan ang imperialismo? Ang burukrata kapitalismo at feudalismo ang siyang pinag-uugatan ng kahirapan. Ang sabi nga ng mulat na simbahan:

"Hindi na namin puedeng iwasan pa ang tatlong 'ismo.'"

Kaya, Ginang Pangulo, ipinaliliwanag ko lamang na kailan man hindi natin kayang sugpuin ang graft and corruption kahit na ilagay pa natin sa Declaration of Principles habang ang istrakturang mala-kolonyal at mala-feudal ay nananatili.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: May I also express my support for the proposal of Commissioner de Castro.

I would just like to say in support that in the draft pastoral letter of the Philippine Bishops in 1975 which contained an analysis of Philippine society, two salient characteristics of Philippine society were pointed out. The first salient feature is the widespread poverty and great suffering of the people, and the second is the demoralization of the people — "demoralization," meaning, not only the loss of morale but also and even more fundamentally the loss of morals. These two have a very close link with each other. The poverty of the people is bred by this demoralization in this two-fold sense. It has been pointed out in one study that graft and corruption has a public cost in the Philippines of at least P20 billion annually, and this cost is borne by the people.

And hence, I believe that it will be very necessary and very helpful, at least, to have in this Constitution an explicit provision on that, if only to serve also as a flag to wave for an increase of morale and morals in our country which will, in turn, alleviate our poverty.

I also would like to add, maybe to counterbalance what Commissioner Tadeo has said, that though structures are indeed very much at fault, even more fundamental than the structures are the human attitudes that have bred and are underlying those structures. And so the approach cannot be simply a change in structures but must be, at least, simultaneously a change in the selfish, egocentric attitudes of people.

Thank you.

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

THE PRESIDENT: Will Commissioner de Castro read the entire section?

MR. TINGSON: Madam President, this will now become Section 24 and the committee's recommendation for this section was based upon the proposal of Commissioner de Castro as amended by Commissioner Padilla: "THE STATE SHALL MAINTAIN AN INTEGRITY IN PUBLIC SERVICE AND TAKE POSITIVE AND EFFECTIVE MEASURES AGAINST GRAFT AND CORRUPTION."

VOTING

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

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

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

The results show 35 votes in favor, none against and 3 abstentions; the new section which is Section 24 is approved.

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

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, yesterday in my capacity as Acting Floor Leader, while we were considering Section 24 — renumbered already as Section 21 — which is on the right to grant asylum to foreigners, I inquired from the Chair whether this provision had already been approved when we considered the Bill of Rights. Considering the query of this Representation, Madam President, Commissioner Bernas, I think, moved for a suspension of the consideration of Section 21 in order that we could check the records.

Yesterday afternoon, Madam President, the office of the Secretary-General furnished us the record of the proceedings on this particular provision during the consideration of the Article on the Bill of Rights. And it appears on the record, Madam President, that, first, the formulation now in Section 21 is different from the formulation presented by Commissioner Nollado at that time, which I will now read for the record:

SECTION 10. FOREIGNERS PERSECUTED BECAUSE OF THEIR STRUGGLE IN DEFENSE OF HUMAN RIGHTS IN THE LIBERATION OF THEIR COUNTRY SHALL BE GIVEN ASYLUM IN THE PHILIPPINES AND THEIR EXTRADITION SHALL NOT BE ALLOWED.

This is found in the Journal of July 18, 1986 on page 9. After that, there were several inquiries from Commissioners Suarez, Ople, Rodrigo, Azcuna, Aquino and, finally, by Commissioner Maambong, and then Commissioner Guingona raised a point of order and this was the ruling of the Chair, on page 12 of the Journal of Friday, July 18, 1986:

At this juncture, Mr. Guingona raised a point of order, stating that the discussions should be deferred to the time when the Body considers the proposal under the Article on the Declaration of Principles.

The Chair ruled that the point was well taken. The parliamentary situation on this particular section, therefore, Madam President, was that it had never been taken up finally in the Bill of Rights. It was never approved when we were considering the same in the Bill of Rights and, therefore, we are not free to discuss it in the Declaration of Principles as an entirely new formulation. I would, therefore, suggest to the Floor Leader to put this now on the floor for consideration, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended for a few minutes.

It was 10:41 a.m.

RESUMPTION OF SESSION

At 10:49 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: I ask that Commissioner Tingson be recognized.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, during the recess I thought of suggesting that we delete Section 21. But as of now, Madam President, I ask that Commission Garcia be recognized.

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you, Madam President.

My understanding is that the committee has accepted the provision: "The Philippines, under the conditions laid down by law, shall grant asylum to foreigners who are persecuted in their country in defense of human rights and in the liberation of their country." What we have deleted is the last phrase: "And they shall not be extradited."

Yesterday, before we were interrupted, the discussion centered on Article XIV of the Universal Declaration of Human Rights, which states: "Everyone has the right to seek and to enjoy in other countries asylum from persecution." I later on read to the body Article I of the Declaration of Territorial Asylum which was, in fact, adopted by the General Assembly of the United Nations on December 14, 1967, which declares the basic principles governing practices relating to territorial asylum. At the same time, it was stressed that asylum is a peaceful and humanitarian act, and as such it cannot be regarded as unfriendly by any other State. It also governs the producers and the different restrictions and limitations by which it is the State granting asylum which must evaluate the grounds for the grant of that asylum.

So, therefore, I would like to propose that the body accept this proposal that has been read.

THE PRESIDENT: How would Commissioner Garcia formulate his proposed section? Is it exactly the same as is contained?

MR. GARCIA: Exactly, except for the last phrase: "The Philippines, under the conditions laid down by law, shall grant asylum to foreigners who are persecuted in their country in defense of human rights and in the liberation of their country."

THE PRESIDENT: Are there any comments?

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Madam President.

May I support the proposed amendment and may I be allowed to say a few words?

THE PRESIDENT: The Commissioner will please proceed.

MR. SARMIENTO: Madam President, during the past regime, the dark days of martial law, many of our brother Filipinos sought political asylum in the United States and Europe and many of these Filipinos who are now in the government were granted political asylum by those respective governments.

It is my submission, Madam President, that in the spirit of internationalism, if we were beneficiaries of the same kind of treatment in the past, we should not deprive other foreigners who in their struggle for human rights and liberation of their country are now being persecuted. I know some of these persons who sought political asylum because we assisted them and foreign governments responded to these applications favorably.

I wholeheartedly support this proposed amendment.

THE PRESIDENT: May I just have one question, Commissioner Sarmiento. Was it mandatory on the part of, let us say, the U.S. government to grant asylum?

MR. SARMIENTO: No, Madam President, the applicants have to fill in application forms and the U.S. government, if it deems it wise to approve that application, will grant political asylum to Filipinos.

THE PRESIDENT: But have there been cases that have been denied asylum?

MR. SARMIENTO: I am not aware of denials, Madam President because the applications that we handled were

approved by the U.S. government and other European governments.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, I would like to address some questions to Commissioner Azcuna.

MR. AZCUNA: Willingly, Madam President.

MR. MAAMBONG: I vaguely remember that there is such a thing as right of asylum which is a concept we studied when we took up public international law in law school. May I know from Commissioner Azcuna, who is an expert on this matter, if this right of asylum is given to an individual or given to a state?

MR. AZCUNA: As practiced in international law, Madam President, the right of asylum is a right of a state to grant or not to grant, while the Universal Declaration of Human Rights states that among the rights of individuals is the right of asylum. The practice has been to recognize this right as a right on the part of the State rather than that of the individual because not everything in the Universal Declaration of Human Rights is legally enforceable.

MR. MAAMBONG: In other words, this right of asylum is not supposed to be a demandable right on the part of a citizen of any country?

MR. AZCUNA: Yes, that is precisely the purpose of our proposal, so that at least in the limited area of freedom fighters there will be shelter which they can ask from our authorities.

MR. MAAMBONG: Madam President, with the formulation of the committee, will it become a demandable right on the part of a so-called freedom fighter from another country to demand from our country the right of asylum, if we approve the present formulation?

MR. AZCUNA: Our formulation says "under conditions laid down by law," Madam President. So, our Congress can lay down the parameters, criteria and limitations under which foreigners may claim asylum.

MR. MAAMBONG: Just two more points, Madam President. During the deliberation on this concept on July 18, which is practically the concept proposed at that time by Commissioner Nollado, Commissioner Ople mentioned that the proposal might legitimize the extension of Philippine hospitality to leaders of failed revolutions whose asylum in the Philippines could arouse indignation and reprisal from friendly countries in the region. How would the Commissioner answer this particular concern?

MR. AZCUNA: It will be, as I said, in the implementing law, because we have provided therein, "under conditions laid down by law." We could safeguard against that possible repercussion. Perhaps we can require reciprocity as a condition. There are many ways of doing it, and one of them is to require reciprocity.

MR. MAAMBONG: Finally, in the same deliberation of July 18, there was mention by Commissioner Romulo when he interposed the observation that whether or not someone is a freedom fighter in his country is never a black-and-white question. He was appalled by the suggestion that the request for asylum could override national interest. How would the Commissioner reply to this concern of Commissioner Romulo?

MR. AZCUNA: The implementing law will see to it that the determination of whether or not the applicant is a freedom fighter will be left to our Senate because we are the granting State and that all these should be consistent with the national interest.

MR. MAAMBONG: I have no further question, Madam President.

MR. RAMA: Madam President, I ask that Commissioner Jamir be recognized. Of the two Commissioners, he was the first to signal that he wanted to talk.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Madam President, I am against the inclusion of Section 21 in our Constitution. First, because it seems to me that this can be a sort of an open invitation for war against a friendly nation. For example, this provision states that we shall grant asylum to foreigners who are persecuted in their country. To me, that presupposes a finding on the part of our country that the country of origin of the refugee is persecuting him. By that we may be prejudging a friendly nation, for example, Malaysia or Indonesia or any member of the ASEAN. If we say that they are persecuting the person whom we are admitting or giving asylum to, a *casus belli* may arise.

Another thing, Madam President, is that under Commonwealth Act No. 613, otherwise known as the Philippine Immigration Act of 1940, the President is authorized to give asylum to foreigners for humanitarian reasons. I quote Section 47, paragraph (b):

For humanitarian reasons and when not opposed to the public interest, to admit aliens who are refugees, for religious, political or racial reasons in such classes of cases and under such conditions as he may prescribe.

I think that this provision is sufficient to guarantee asylum to a refugee in case the President of this country deems his admission proper. So, it will be a superfluity to constitutionalize this proposal of the committee.

Thank you, Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

I would like to make some few remarks in connection with this proposal, Madam President. It may happen that the President of the Philippines at that time is friendly to a dictator of a foreign country, and if there is no constitutional mandate for him to grant asylum to political prisoners who really deserve that asylum, then the President may not grant a well deserved asylum even if permitted by public international law. And so, Madam President, I would like to manifest before the Commission that this proposal now under consideration is a recommendation of Senator Lorenzo Tañada, who wrote each Commissioner a letter asking for approval of this provision. As we know, Senator Tañada is a lover of freedom.

The purpose, Madam President, is to show our solidarity with freedom fighters in foreign countries and to show our sincerity in our belief that the different freedoms guaranteed by our Bill of Rights should be held sacred and inviolable.

Thank you, Madam President.

THE PRESIDENT: Are there any other comments?

MR. GUINGONA: Madam President, may I direct the question to either Commissioner Nollado or Commissioner Garcia?

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: If this provision were not included in the Constitution, would it prevent our government from extending or granting asylum?

MR. GARCIA: It will not prevent individual governments, but what we were trying to establish definitely is that it is a guiding principle. It is, in fact, enshrined already in the Universal Declaration of Human Rights but we want to affirm it.

I would like to answer a fear which was stated earlier. In the Declaration of Territorial Asylum, Article I, subsection (3), which is one of the guiding principles regarding the granting of asylum, it precisely provides:

It shall rest with the State granting asylum to evaluate the ground for the grant of asylum.

It is an exercise of sovereignty of the State to so declare in granting this asylum to people who invoke Article XIV of the Universal Declaration of Human Rights. So I do not see why we should be afraid of such a universally accepted declaration. I think it is simply one of affirmation.

MR. GUINGONA: Are we not a signatory to that declaration?

MR. GARCIA: We are a signatory.

MR. GUINGONA: That is why, therefore, there is already the moral compulsion. Is there still a need to add it in our Constitution?

MR. GARCIA: Yes. I think it is, especially after, as Commissioner Sarmiento has stated, some of the important heroes in this country who had struggled for human rights, for liberation, had, in fact, themselves been exiles.

Enshrining it in our own Constitution, I think, also announces to the world that because we have not been liberated and because we have now achieved the protection of our own rights, we are willing to grant this to people who, on a selective basis and also based on national or on Philippine interests, meet the requirements for asylum. I find that putting this in our Constitution will make sure that, regardless of what is our government, this will be a permanent principle.

MR. GUINGONA: In view of the manifestation of Commissioner Garcia, Madam President, that the noninclusion in the Constitution would not at all prevent the government from extending or granting asylum, I would like to respectfully move to delete this provision.

THE PRESIDENT: Mr. Floor Leader, there is a motion to delete.

MR. RAMA: This is an anterior motion, so I move that we take a vote on the motion to delete of Commissioner Guingona.

VOTING

THE PRESIDENT: There is a motion to delete this proposed section on political asylum.

As many as are in favor of the motion of Commissioner Guingona to delete said proposed section, please raise their hand. (Several Members raised their hand.)

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

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

The results show 24 votes in favor, 14 against and 1 abstention; the motion to delete Section 21 is approved.

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

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, with the deletion of Section 21 of the original committee report, the proposed amendment now by Commissioner Padilla would be Section 24. The proposed Section 24 by Commissioner Padilla says: "THE MAINTENANCE OF PEACE AND ORDER, THE PROTECTION OF LIFE, LIBERTY AND PROPERTY, AND THE PROMOTION OF THE GENERAL WELFARE SHALL BE PURSUED BY THE STATE FOR THE ENJOYMENT BY ALL THE PEOPLE OF THE BLESSINGS OF DEMOCRACY."

THE PRESIDENT: The Vice-President is recognized.

MR. PADILLA: Madam President, this section as read by the chairman of the committee is, I think, self-explanatory. I do not believe there is a need for my further explaining this proposed section. It expresses peace and order and the protection of life, liberty and property and the promotion of the general welfare. Madam President, I did not mention the problem of insurgency. I did not mention the rather difficult problem of the NPA, the MNLF or other bad elements that may be classed under criminality or banditry. But, definitely, a country like ours must be based mainly on peace and order; otherwise, any effort to specify other principles in the Constitution and even all the other articles thereof may not be of significance unless the country and the people enjoy peace and order primarily. And peace and order will entail, as a consequence, the protection of life, liberty and property. Of course, these three words are mentioned in the Bill of Rights under due process of law, and that is, that no person shall be deprived of life, liberty or property. And the general welfare or the common good is the primary consideration in the exercise of the police power of the State. Unless we have these prerequisites as fundamentals, the people may not enjoy the blessings of democracy as also mentioned in the Preamble of the Constitution.

Thank you, Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: I would like to address this question to Commissioner Padilla. In the proposed Article on General Provisions, it is replete with this concept. I refer to Section 13, from lines 21 to 24, which says that the tasks of the Armed Forces of the Philippines are to preserve the sovereignty and territorial integrity of the nation, to participate in national development reconstruction and to insure public security and serve the interest of the people. It is also contained in Section 19, lines 8 to 12, wherein it says that it shall be the duty of the Armed Forces of the Philippines to remain loyal at all times and in all places to the people, obey the laws of the country and defend and preserve the sovereignty, safety and welfare of the people. Paragraph (b), lines 13 to 17 of Section 19 on page 5 of the General Provisions says that:

All officers and men of the Armed Forces of the Philippines shall take a solemn oath to defend and uphold the Constitution, protect the country and the people, and yield no loyalty to any person but to the people.

This concept is scattered all over the Article on General Provisions. Is it the Commissioner's intention that if we do approve this principle and include it in the Declaration of Principles, all these other sections in the General Provisions would become superfluous and, therefore, the Commissioner intends to delete them?

MR. PADILLA: Madam President, those proposed provisions, because they have not yet been approved, refer to the Armed Forces and mainly for the defense and security of the State. I believe that this basic principle should be in the Declaration of Principles rather than in the General Provisions, which is almost at the end of the Constitution.

MR. BENGZON: Therefore, the Commissioner's answer to my question then is "yes" because my question is: If we approve this proposed amendment and include this concept in the Declaration of Principles, then all these other provisions in the proposed Article on General Provisions would become superfluous and, therefore, the Commissioner would, at the proper time, move to delete them.

MR. PADILLA: I would have no objection to considering the deletion of some of those provisions in the General Provisions.

MR. BENGZON: Thank you.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

The provisions in the General Provisions read by the Honorable Commissioner Bengzon refer to the defense of the State. The proposal now of Commissioner Padilla refers to the maintenance of peace and order and the preservation of life and property. So, those are two different matters. When we talk of the maintenance of peace and order, we are talking of the police. When we talk of the defense of the State, we are talking of the Armed Forces and the whole country defending the State. Our main problem today, Madam President, is peace and order. Wherever we go, there is trouble or there is instability on peace and order. I think it is about time that we should put this in our Constitution so that everybody, every Filipino, will have to be concerned with his surroundings, with the peace and order in his community; otherwise, everything that we put in the Constitution such as free education, social justice and so on will be put to naught unless and until we have peace and order in our country.

Thank you, Madam President.

MR. BENGZON: Madam President, may I make one last statement?

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: I agree with the statements of Commissioner de Castro but this concept, Madam President, is inherent in the State. It belongs to the police power of the State. There is no need for us to include this and if it is for emphasis, then I guess we really have to throw it to the Commission for voting. That is my comment, Madam President.

MR. GASCON: Madam President.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Before we vote, I would like to speak against the proposal — not that the provisions are not laudable but that they are already contained in many parts of our Constitution. For example, the second concept, "the protection of life, liberty and property," is already enshrined in our Bill of Rights and "the promotion of general welfare" is also enshrined not only in the Article on Social Justice but in other articles such as the Article on Economy, et cetera. I feel that the proposal is superfluous and, therefore, I will have to vote against it.

THE PRESIDENT: Are we ready to vote now?

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: We are accepting this amendment of Commissioner Padilla if he could accept the reformulation of the committee of his amendment in trying to present it in a more positive way, namely: "THE STATE SHALL PURSUE THE MAINTENANCE OF PEACE AND ORDER, THE PROTECTION OF LIFE; LIBERTY AND PROPERTY, AND THE PROMOTION OF THE GENERAL WELFARE FOR THE ENJOYMENT BY ALL OF THE PEOPLE OF THE BLESSINGS OF DEMOCRACY."

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: There is no serious objection to the reformulation by the committee. I was just trying to avoid the phrase "the State shall pursue." I think instead of stressing on "the State," we should stress "the maintenance of peace and order."

THE PRESIDENT: So it is a matter of styling.

MR. PADILLA: Yes, a matter of style, Madam President. But I would prefer that this section start with "THE MAINTENANCE OF PEACE AND ORDER" because that is primordial. Without peace and order, we cannot speak of even our individual rights, much less talk of progress and prosperity. We cannot even speak of social justice or other provisions in the Constitution if this country will continue to be assailed by violations of the Penal Code, by murders, by carnappings, by hold-ups, by assaults against the constituted authorities, et cetera. I believe that the first most important part of government and of the citizens is the preservation, the maintenance and even the promotion of peace and order.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Padilla yield to a question before we vote?

MR. PADILLA: Gladly.

THE PRESIDENT: Commissioner Ople will please proceed.

MR. OPLE: I think the statement on "peace and order" addresses a very real and fundamental concern of most Filipinos today especially those who become victims of common crimes and those who cannot pursue their occupational activities or productive employment because of troubled situations in their localities.

There is, however, a general tone to this paragraph that seems to postulate peace and order as being a fundamental concern of the Constitution in the context of the pursuit of life, liberty and property. It may, however, evoke — as it is in the Declaration of Principles rather than in the Bill of Rights — certain great issues of our time because nobody can deny that in modern times the right to life and liberty and the right to property can often generate great conflicts. And I do recall in the New Deal period in the United States, when there was a great overhaul of some of the existing postulates in the Supreme Court of the United States, at one point even the minimum wage law was condemned as an invasion of the right to property and an unconstitutional misappropriation of the fruits of property.

I wonder if in this formulation we are not establishing a primacy of property rights over rights associated with life and liberty.

MR. PADILLA: Madam President, first, I believe that the proper place for a provision like this is in the Declaration of Principles and not in the Bill of Rights, because the Bill of Rights is a delimitation of governmental power against individual rights. In other words, the Bill of Rights guarantees the rights of every citizen or every person even as against the exercise of power of government which may be beyond its legal exercise.

With regard to property, this section speaks of, first, the right to life, second, liberty and only third, property. And that is the same classification mentioned in Section 1 of the Bill of Rights regarding due process of law and equal protection of the laws.

MR. OPLE: There is nothing in this formulation, Madam President, in the opinion of the author, that will, in any manner, put the rights in the Article on Social Justice that have already been granted, especially to farmers and tenants and workers; nothing in this formulation will be in conflict with any of those.

MR. PADILLA: There is nothing in conflict.

MR. OPLE: Thank you for that clarification.

MR. PADILLA: And, in addition, we are promoting the general welfare or the common good.

MR. GARCIA: Madam President.

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you very much.

First of all, I think this provision is out of place in the Declaration of Principles. This proposal addresses symptoms. I think I disagree with the analysis previously made by Commissioner de Castro which says that peace and order is the primary problem. It is very clear that poverty, powerlessness, the lack of jobs and justice, the lack of food and freedom are the basic problems of our people. And these, therefore, require social and economic justice and popular democracy as solutions.

I think putting this provision in the Declaration of Principles put a primacy on the police power of the State and, furthermore, encourages military solutions to what are justly social, economic and political problems.

I, therefore, differ with this provision.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Would the distinguished Vice-President accept an amendment to his proposal, that the wording would be "THE MAINTENANCE OF PEACE AND ORDER, THE PROTECTION OF LIFE, LIBERTY AND PROPERTY SHALL BE PURSUED BY THE STATE" because the expression "promotion of the general welfare" is very broad and is already included in the inherent power of the State, its police power.

MR. PADILLA: I regret I cannot accept the proposed amendment, although Commissioner Suarez might say that I am not following the Padilla formula of brevity and simplicity. However, if we eliminate those words that are sought to be eliminated, it may not be as clear and as explicit, especially when the last portion is also deleted. Because if it is just "BE PURSUED BY THE STATE," period (.), I think it is meaningful to ask why these things are necessary for the people, all the people, to enjoy the blessings of democracy.

And I think the repetition of the word "democracy" simply repeats what President Corazon Aquino in the United States has repeatedly said. So, I think it is better to keep the proposed section in its entirety.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Yes, Madam President. We are ready to vote, unless the Floor Leader has something else to say.

MR. RAMA: No. I wanted to move that we vote on the provision.

MR. TINGSON: Madam President, this would then be the proposed Section 24 as proposed by Commissioner Padilla: "THE MAINTENANCE OF PEACE AND ORDER, THE PROTECTION OF LIFE, LIBERTY AND PROPERTY, AND THE PROMOTION OF THE GENERAL WELFARE SHALL BE PURSUED BY THE STATE FOR THE ENJOYMENT BY ALL THE PEOPLE OF THE BLESSINGS OF DEMOCRACY."

VOTING

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

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

The results show 24 votes in favor and 12 against; the proposed Section 24 is approved.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Just for the record, I think that should be Section 25, not 24.

THE PRESIDENT: Section 25 — is that correct, Mr. Chairman?

MR. TINGSON: Madam President, I have another version here. Let me confer with Commissioner Maambong.

R. MAAMBONG: No, Mr. Chairman. I was only referring to the number of the section we just approved.

MR. TINGSON: Will that be Section 24?

MR. MAAMBONG: It should be Section 25; we just approved Section 24.

MR. AZCUNA: We have deleted Section 21.

MR. TINGSON: We have deleted Section 21, that is why Section 21 now would be about the supremacy of civilian authority over the military; Section 22 would be the separation of Church and State as inviolable; Section 23 would be the maintaining of honesty and integrity in public service, which we approved this morning; and Section 24 would be what we have just approved.

MR. MAAMBONG: That is correct, Madam President; I am sorry.

MR. RAMA: Madam President, I ask that the Chairman of the Steering Committee be recognized.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, just to digress a little from what we are doing, majority or a great number of our Commissioners filed Proposed Resolution No. 546, which urges the Commission to agree to conclude its work soonest but in no case later than October 15, 1986.

This was referred to the Steering Committee after the First Reading, and the chairman of the Steering Committee, upon seeing the number of Commissioners that have signed and after examining the names of the Commissioners that have signed, found that eight of the eleven members of the Steering Committee signed this resolution; whereupon, we are now presenting this Proposed Resolution No. 546 for the consideration of this body.

For the record, Madam President, may I respectfully enumerate the names of those who have signed this resolution: Commissioners Ople, Rama, de los Reyes, Natividad, Monsod, Tingson, Jamir, Regalado, Treñas, Uka, Concepcion, Sumulong, Padilla, Maambong, Calderon, Rigos, Romulo, de Castro, Rodrigo, Colayco, Lerum, Villegas, Alonto, Guingona, Bacani, Christine Tan, Gascon and this Representation.

So, I move that Proposed Resolution No. 546, which urges the Constitutional Commission to agree to conclude its work soonest but in no case later than October 15, 1986, be approved.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; Proposed Resolution No. 546 urging the Constitutional Commission to agree to conclude its work soonest, but in no case later than October 15, 1986, is approved unanimously.

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

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, could we please request that Commissioner Guingona be recognized.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Madam President, I have with me Proposed Resolution No. 531 which proposes to incorporate in the Constitution an Article on General Provisions. And I see that in Section 9 thereof, there is this provision. The first sentence of this Section 9 reads: "The State recognizes the vital role of communications and information in national development."

I would like to propose, Madam President, with the consent and approval of the honorable chairman and members of this committee that has Proposed Resolution No. 531, to transpose this provision to the Declaration of Principles. And I, therefore, propose that we add as another section this proposed provision: "THE STATE RECOGNIZES THE VITAL ROLE OF COMMUNICATIONS IN NATIONAL DEVELOPMENT."

THE PRESIDENT: What does the committee say?

MR. AZCUNA: The committee accepts, Madam President.

MR. GUINGONA: Thank you, Madam President.

MR. AZCUNA: "THE STATE RECOGNIZES THE VITAL ROLE OF COMMUNICATIONS IN NATIONAL DEVELOPMENT."

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Just an inquiry. Are there any other provisions in the Constitution approved or proposed that would operationalize this principle?

MS. ROSARIO BRAID: Yes, Madam President. In the Article on General Provisions which will be discussed after this article, we will operationalize this particular provision.

MR. MONSOD: Does the operationalization of this principle involve, as seems to be proposed, the establishment of an authority?

MS. ROSARIO BRAID: No, Madam President. It is very clear that the government role will be that of a facilitator of private development of communications facilities and resources.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I would like to be able to support this proposal on the basis of a sufficient understanding of what communications means. Does communications in this context pertain to, let us say, mass media and also telecommunications and the information industry including computers and communications? Does this term "communications" embrace all of those?

MS. ROSARIO BRAID: Yes, Madam President. It embraces all forms of media — mass media, small media, even nonmass media like audiovisual media and communications technology, computers and all sorts of technology.

MR. OPLE: So the entire information industry is also encompassed?

MS. ROSARIO BRAID: Yes, Madam President.

MR. OPLE: I hope this will also mean a high priority in the future for a telecommunications industry that will connect all the 7,110 islands of our archipelago.

MS. ROSARIO BRAID: That is the intent, knowing that it is very important to redistribute telecommunications or telephones throughout the country.

Thank you very much, Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President. Does communications here also include interpersonal communications?

MS. ROSARIO BRAID: Yes, Madam President, especially in terms of planning from below, which is very important now, in terms of integrating the communities for planning. It is very important that we mobilize small community groups and encourage them to discuss issues and this is where certain structures like community learning centers would come in.

MR. BENNAGEN: But the Commissioner is aware of this study done in India which showed that mass media and other forms of mass communications, including telecommunications, insofar as they relate to questions of national development, have not really contributed to greater equitable distribution of income, but instead have contributed to the maintenance of existing income inequalities. As a corollary, it is the interpersonal communications existing between and amongst people's organizations that have really contributed to national development.

MS. ROSARIO BRAID: Yes, Madam President. This is why such a provision will also mean changing or improving the content of the information that flow through these channels so that we have more balanced programs. This also means that we link mass media with interpersonal communications because mass media as they are do not work as effectively as when they are connected with small groups. So they are used to complement small group communications, particularly for development.

MR. BENNAGEN: It is the State that is expected to implement this promotion of interpersonal communications, including interorganizational communications?

MS. ROSARIO BRAID: The State will provide the climate wherein private initiative would develop but it could also provide incentives especially for small media in the rural areas.

MR. BENNAGEN: Thank you, Madam President.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you. Just a point of inquiry.

We have in the General Provisions under our Proposed Resolution No. 531, Section 9, which states: "The State recognizes the vital role of communications and information in national development." Do I understand that this portion of our report (I say "our" because I am a member of the committee) will be transposed to the Article on the Declaration of Principles?

MS. ROSARIO BRAID: Yes, Madam President.

MR. DE CASTRO: Thank you.

MS. ROSARIO BRAID: As chairman, I agreed because it is better that it be in the Declaration of Principles.

FR. BERNAS: Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, I would suggest that we defer consideration of this until we get to the General Provisions, and I say this for two reasons: First, there is an abundance of provisions about communications in the General Provisions; and, second, this present article is the Article on the Declaration of Principles which, as Commissioner Tingson so eloquently stated in his sponsorship speech, embodies the sections which state the general philosophical foundations of our Constitution. And this does not strike me as stating a principle but it is more in the line of implementation. So, to me, it would seem best to consider this together with the other provisions on telecommunications in the General Provisions so that it can be seen in its proper context. The effort that we had to say something about communications yesterday was already turned down by the body. And this, I believe, is better placed, if at all, with the rest of the provisions we have in communications in the General Provisions.

MS. ROSARIO BRAID: Madam President, I hope we will not have to belabor the importance of communications. If we accept that it is very important to promote honesty, peace and integrity, we must be able to provide positive models. And what is a more pervasive medium than the communications system for providing these models. We wanted to be very brief, but the fact that when we say "national development" we mean that communications will be used for all phases of development — social, cultural, political, economic development — knowing that it links all of these developmental phases together. So, I would plead to the Commission to put this article in the Article on the Declaration of Principles rather than in the Article on General Provisions. Being chairman of the Committee on General Provisions, I think the committee members will all agree to this.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, being a member of the Committee on General Provisions, of course, I would like to differ with the decision of the chairperson of the committee. But I would just like to indicate that in the Article on General Provisions, there are so many concepts on communications lumped up in Sections 9, 10, 11 and 12. I do not know if it is well advised to separate all of these. For example, in Section 9, we are talking of comprehensive communication policy, information system, communication industry; in Section 10, noncommercial forms of communications, noncommercial media, other forms; in Section 11, we have mass media, commercial mass media; in Section 12, we have broadcast and telecommunications franchises.

I just want to call the attention of my chairperson if it is well advised to separate this first sentence from the rest of all these provisions.

That is all, Madam President.

THE PRESIDENT: Are there any other comments, Mr. Floor Leader?

MR. RAMA: There is a previous motion of Commissioner Bernas to defer the consideration of this particular provision to an indefinite date, and I think a vote should be taken on that motion now.

MR. GUINGONA: Madam President, may I be clarified?

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Does this mean the Commission may still decide that after going through the specific provisions in the General Provisions, we would include this particular proposed provision in the Declaration of Principles?

FR. BERNAS: No.

MR. GUINGONA: It will preclude?

FR. BERNAS: It will preclude its inclusion in the Declaration of Principles, but it would not preclude its adoption in the General Provisions.

MR. GUINGONA: Therefore, I object to the motion, Madam President.

MR. RAMA: Then I move, Madam President, that we take a vote on the Bernas motion.

THE PRESIDENT: Will the Gentleman please restate the motion of Commissioner Bernas, so as to be clear to the Members of the body?

FR. BERNAS: The simple motion is that we defer consideration of this section until we get to the General Provisions, which has a wealth of provisions on communications, as indicated by Commissioner Maambong.

THE PRESIDENT: The section which was read by Commissioner Guingona on mass communications.

Commissioner Gascon is recognized.

MR. GASCON: I would like to object to the proposal of Commissioner Bernas because I believe that we have certain provisions in the Article on General Provisions expounding on this basic principle of communications. And, in fact, the whole world at this moment is entering into that stage of a new information order and I believe it is also high time that we have a piece, one general principle on information and communications, Madam President.

THE PRESIDENT: Will Commissioner Guingona please read the proposed section which is sought to be deferred.

MR. AZCUNA: "The State recognizes the vital role of communications in national development."

MR. GUINGONA: Madam President, may I say that if the fear is that if this particular provision would be deferred, then the Commission could disapprove the proposals in the General Provisions, I, myself, will join in the move to disapprove. It does not have any implications; it only says that the State recognizes the role. There is nothing here that could imply any possible involvement or control on the part of the State and any of the different areas of communications.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would appeal for an equal treatment in all other matters. We allowed transposition from the detailed provisions in the Article on the Declaration of Principles. So in this particular case, we should accord the request of the committee that that particular portion of the provision on General Provisions on communications be indeed placed in the Article on the Declaration of Principles because that is precisely the introduction, and the details are only provided in the specific Article on General Provisions. We did this to the Article on Social Justice, so I pray that we also do the same to the request of the committee.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I be allowed to modify my motion? My motion would be to defer discussion of this until we take up the Article on General Provisions and without prejudice to putting it back in the Article on the Declaration of Principles, if the body so decides.

THE PRESIDENT: Is there any objection to that? It is just a question of deferring consideration of this particular motion, but it does not necessarily close the whole matter.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: On the basis of the understanding that the discussion will be deferred after the discussion on General Provisions, the committee accepts.

MR. GUINGONA: Madam President, I also accept.

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

Is there any other business?

MR. RAMA: There are other new proposed provisions and I ask that Commissioner Tingson be recognized.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, there are about three more proposals presented to the committee, and one of them now would be proposed Section 25, again presented by Commissioner Ambrosio Padilla.

Excuse me, Madam President. Inasmuch as the Vice-President already had a victory this morning with one of his amendments, he said he would give way to others who have also presented amendments here. And so we request, Madam President, that the Chair please recognize a committee member, Commissioner Quesada.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Madam President, it is just as well that Commissioner Padilla will have his presentation this afternoon because our proposal is somehow linked with his. We are proposing to adopt the first line of the Article on National Economy and Patrimony. It is a principle we would like to enshrine in the Declaration of Principles, and this is: "THE STATE SHALL DEVELOP A SELF-RELIANT AND INDEPENDENT NATIONAL ECONOMY EFFECTIVELY CONTROLLED BY FILIPINOS." So following the process that we have adopted as a body, it will be left to the Committees on Sponsorship and Style to decide on the transposition. That is actually a lift-off of the first line, the flagship statement of the Article on National Economy. And we were thinking of then following this up with the statement or the proposal of Commissioner Padilla. It has something to do with the indispensable role of the private sector and private initiative but we will harmonize this proposal later this afternoon.

MR. AZCUNA: We accept.

THE PRESIDENT: So we will take this up this afternoon.

MR. AZCUNA: No, we will transpose right now.

THE PRESIDENT: Or later.

MS. QUESADA: It has already been accepted by the body. It is just putting up the first line and then letting the rest of the statement of Section 1 of the Article on National Economy remain.

MR. AZCUNA: The proposal is to place this Section 25 under the Declaration of Principles, Madam President: "THE STATE SHALL DEVELOP A SELF-RELIANT AND INDEPENDENT NATIONAL ECONOMY EFFECTIVELY CONTROLLED BY FILIPINOS."

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

MR. AZCUNA: Yes.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended for a few minutes.

It was 11:52 a.m.

RESUMPTION OF SESSION

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

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, we are ready to vote on the Quesada amendment.

MS. QUESADA: Madam President, following the Azcuna recommendation on the transposition, we will just introduce this as an amendment — as a new section — and let the Style Committee and Sponsorship Committee decide the rubrics or its sequencing.

THE PRESIDENT: The proposed section reads: "THE STATE SHALL DEVELOP A SELF-RELIANT AND INDEPENDENT NATIONAL ECONOMY EFFECTIVELY CONTROLLED BY FILIPINOS."

MR. AZCUNA: Yes, Madam President.

VOTING

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

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

The results show 30 votes in favor and none against; the proposed section is approved.

MR. RAMA: Madam President.

MR. OPLE: A point of inquiry, Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Is there a trend for committees to transpose the most significant parts of their flagship sections to the Declaration of Principles? Of course, I voted just like the others for this transposition. But if this is a trend, is there not a danger that we might impoverish the flagship sections of all the articles?

On the other hand, if we duplicate, would that not shock the sense of style of those who sit in the Committees on Style and Sponsorship?

MR. RAMA: Madam President.

THE PRESIDENT: The Chair would like to hear from the Committee on the National Economy and Patrimony because this involves said committee in reply to the inquiry of Commissioner Ople.

MR. OPLE: Yes. Also the other articles, Madam President.

MR. MONSOD: Madam President, Commissioner Villegas is absent and we think that there is really nothing wrong with this. This is just affirming and putting it in the Declaration of Principles which we all agree to

anyway. I cannot answer for the other committees but a decision to transpose this will not detract from the Article on National Economy.

THE PRESIDENT: So the flagship will not be saddled.

MR. OPLE: There may be syntactical consequences for the following sentences in the same flagship section, but I suppose the committees themselves can look after that in the Committee on Style.

THE PRESIDENT: The Committee on Style will have more work.

MR. OPLE: Thank you.

MR. RAMA: Madam President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I just wanted to say that the Article on National Economy will then begin with Section 1 as: "The goals of the national economy are," and so on and so forth, so it really does not affect it.

Thank you.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Just a comment on the observation of Commissioner Ople on the possibility of impoverishing the articles. My idea of drafting a constitution would really have started from the definition of first principles but we were not able to do that for one reason or another. I think this is the rationale for transposing the so-called flagship provisions of the various articles to the Declaration of Principles, a task which we should have done ahead of the enabling articles. What is going to happen is that we are enriching the Declaration of Principles which is as it should be. As principles, they should constitute the richest contribution from this plenary hall.

Thank you, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: I suppose this will have to be taken from a case-to-case basis also.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: There is a formula for stopping this trend which is the subject of concern of Commissioner Ople with some reservation.

I move that we close the period of amendments of this Article on the Declaration of Principles with the reservation respecting the proposal of Commissioner Rosario Braid and the amendment of Commissioner Padilla who has stepped out.

THE PRESIDENT: Has the committee been consulted on this?

MR. RAMA: Yes, Madam President, the committee has been consulted, except for three reservations.

THE PRESIDENT: Yes, but why does the Gentleman have to close now if there are these reservations?

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

Mr. Chairman, where are these reservations? Can they not be handled at least this afternoon?

MR. TINGSON: That was what I wanted to say, Madam President. We are virtually finished as far as the committee is concerned, and to help allay the fears of Commissioner Ople, no one else has presented a similar proposal for transportation, as we call it.

So, Madam President, except for the reservation of Commissioners Padilla, Rosario Braid and Sarmiento, for this afternoon's session we are practically finished.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: On the matter of Commissioner Sarmiento, he and I have discussed this and he has told me that he is willing to forego his proposed amendment which reads: "THE STATE SHALL PROVIDE LIVELIHOOD OPPORTUNITIES FOR THE FILIPINO PEOPLE," as long as the committee will state clearly and in the record that this concept is contained in the Social Justice Article.

So, if we can have that statement, both from the Committee on Declaration of Principles and from Commissioner Monsod representing the Committee on the National Economy, then Commissioner Sarmiento has asked me to state that it is all right and he is not going to pursue it.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Yes, we would like to assure the proponents of this new section that the amendment "THE STATE SHALL PROVIDE LIVELIHOOD OPPORTUNITIES FOR THE FILIPINO PEOPLE" will be contained not only in the Social Justice Article but also in Section 9 of the Declaration of Principles which states:

The State shall promote a just and dynamic social order that will insure the prosperity and independence of the nation and free the people from poverty through policies that provide social services and promote full employment, a rising standard of living and an improved quality of life for all.

So, we feel that that would be a surplusage.

MR. MONSOD: Madam President

THE PRESIDENT: How about Commissioner Monsod?

MR. MONSOD: Also in the National Economy where we talk about more equitable distribution of opportunities, income and wealth, and in Social Justice where we talk about the commitment to create economic opportunities based on the freedom of initiative and principle of self-reliance.

MR. RAMA: Madam President, with those two reservations, I move that we close the period of amendments on this Article on the Declaration of Principles.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I am sorry there was a suggestion I made earlier to the committee that the provisions as they

are now approved should be put forward in such a manner that all the principles should start first and the policies later. Now, I do not know if the committee is prepared to submit that to the Committee on Sponsorship, but if the committee will not do that, then the Committee on Sponsorship, Subcommittee on Rubrics, will have to do it for the committee. But I would rather that the committee do it so that there will be no further misunderstanding later on as to what principle should come first in the matter of sequencing.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: We are actively considering that because that is an excellent idea and we will ask the technical help of Commissioner Maambong.

MR. RAMA: I ask for a vote on my motion.

VOTING

THE PRESIDENT: As many as are in favor of the motion to close the period of amendments on this proposed Article on the Declaration of Principles, please raise their hand. (Several Members raised their hand.)

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

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

The results show 28 votes in favor, 1 against and 1 abstention; the motion to close the period of amendments is approved.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I just wanted to manifest that I had also made a reservation and since it is in line with the proposals of Commissioner Padilla and Commissioner Quesada, I will just sit down with them on the same thing.

MR. RAMA: Madam President, there is an unfinished business which the chairman of the Committee on Education, Science and Technology, Sports, Arts and Culture would like to request to be taken up. This is a motion to vote on Second Reading on the Article on Education, Science, Technology, Sports, Arts and Culture.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. MONSOD: Before we act on that, I just wanted to say that I had made a reservation with respect to the consolidation of the section on culture. There were certain repetitions on that, and I was wondering if we should resolve that first. I was talking to Commissioner Bennagen about it.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: The reservation was for the incorporation of a concept of popularization which is part of the last section — I can no longer recall the number — into the section in which it will be most appropriate. Unfortunately, I do not have the copy with me right now.

MR. MONSOD: Yes. Madam President, I also had a formulation which I wanted to take up with Commissioner Bennagen.

THE PRESIDENT: Then can we proceed to the voting on Second Reading?

MR. MONSOD: Subject to this, Madam President. We were trying to cut down the four or five paragraphs into two paragraphs.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I have here a copy of the Article on Education, Science, Technology, Arts and Culture with the notation on the upper right hand corner "As Amended." I would suppose that this is the copy that we are going to approve today but I noticed, Madam President, that on page 6 under "Science and Technology," Section 2, between the words "inventors" and "technologists," my amendment which was approved inserting the word "RESEARCHERS" disappeared. I wonder if this can be intercalated now before we put this article to a vote on Second Reading.

MR. RAMA: I ask that the chairman of the Committee on Education be recognized.

THE PRESIDENT: The chairman of the Committee on Education is recognized.

MR. VILLACORTA: The clarification is accepted, Madam President.

THE PRESIDENT: So, Mr. Chairman, are we ready to vote on the committee report on Second Reading?

MR. VILLACORTA: Madam President, I think Commissioner Gascon has a point to raise.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Madam President, on the provision with regard to assistance, scholarships, grants, et cetera, we had already discussed these with Commissioner Guingona who is the chairman of the Subcommittee on Education. When we decided on the term "subsidy," it was clear what the intent was — to provide for those underprivileged to continue their education. And so, to make it much clearer, I think it is already in the record for purposes of Congress. The committee is proposing that the term "subsidy" be substituted with "DEMOCRATIZED SUBSIDY," Madam President.

MR. MONSOD: No.

MR. GASCON: That was the intent, Madam President, as it was discussed when we approved the proposal on subsidy and that is also in relation to the other provisions on that particular section.

MR. MONSOD: Madam President, I was the one who proposed that amendment and I would object to the insertion of the word "democratized."

THE PRESIDENT: Because of these different manifestations, Mr. Floor Leader, the Chair believes that we will have to defer voting on Second Reading on this particular matter.

MR. RAMA: We have to defer. So, Madam President, I withdraw my motion until such time that they are ready.

THE PRESIDENT: Thank you.

MR. OPLE: Madam President, I was about to endorse the proposal of the Chair because it turns out that there is another proposed amendment complementary to the de Castro amendment in the Declaration of Principles which

merely deals with a principle of full public disclosure in the affairs of government. But we hope to make the text available this afternoon.

Thank you, Madam President.

MR. RAMA: Madam President, there is another item.

I move that we vote on Third Reading on the resolution to incorporate in the new Constitution a separate article on Social Justice. This has been ready since August 13, when the copies were distributed to the Commission.

THE PRESIDENT: The chairman is not here.

MR. RAMA: The chairman, Commissioner Nieva, is here now.

I move, Madam President, that we vote on Third Reading on the Article on Social Justice.

THE PRESIDENT: The Chair requests Commissioner Romulo to preside at this point.

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

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Romulo): The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA: It seems that the committee members are not yet ready to present for Third Reading the Article on Social Justice. So, I move that we suspend the session until two thirty this afternoon.

THE PRESIDING OFFICER (Mr. Romulo): The session is suspended.

It was 12:12 p.m.

RESUMPTION OF SESSION

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

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed.

Will the Floor Leader explain the parliamentary situation now.

MR. RAMA: Mr. Presiding Officer, we have closed the period of amendments on the Article on the Declaration of Principles subject to two reservations: 1) a reservation by Commissioner Ople, and 2) a reservation made by Commissioner Padilla. Commissioner Padilla made the first reservation.

May I ask that Commissioner Padilla be recognized to present his amendment.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Padilla is recognized.

MR. PADILLA: Mr. Presiding Officer, I had submitted a proposal to the committee and I believe a copy has been furnished the Members of this Commission for a section as a policy under the Declaration of Principles to read: "THE STATE RECOGNIZES THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR IN NATIONAL DEVELOPMENT, ENCOURAGES PRIVATE INITIATIVE AND FREE ENTERPRISE, ACKNOWLEDGES THE NEED FOR INVESTMENTS BOTH DOMESTIC AND FOREIGN FOR ECONOMIC PROGRESS AND SOCIAL BENEFITS FOR ALL THE PEOPLE." That is the proposed section.

THE PRESIDING OFFICER (Mr. Colayco): Does the Gentleman want to explain his proposition?

MS. QUESADA: Mr. Presiding Officer, could we just ask Commissioner Padilla how this would dovetail with some of the basic principles already contained in the National Economy provision? It has something to do with private initiative. How do we harmonize this with how it was expressed in the provision? That would be contained in Section 1, paragraph 3, to wit:

In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives and similar collective organizations, shall be encouraged to broaden the base of their ownership.

Then Section 2 of the National Economy Article would also have something to do with private enterprise:

The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, 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.

So, more or less, these are the details but how would the Gentleman want it expressed in a more general way and phrased as a principle?

MR. PADILLA: The situation, Mr. Presiding Officer, is that in considering my proposal, we do not have to transpose anything that has already been approved under the Article on National Economy and Patrimony. Of course, it is not worded the same way. Probably, there is a similar objective and that is precisely why this can be carefully considered by the committee and the members, because it does not conflict, but is consistent with the provisions of the Article on National Economy.

MS. QUESADA: Would the Gentleman be willing to accept some amendments?

MR. PADILLA: Yes, Mr. Presiding Officer. We never take the attitude that our proposal is unalterable. I have always been receptive to suggestions especially if they are improvements.

MS. QUESADA: Commissioner Azcuna helped in this formulation without qualifying whether it is domestic or foreign investments: "THE STATE SHALL RECOGNIZE THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR, ENCOURAGE PRIVATE INITIATIVE AND PROVIDE INCENTIVES TO NEEDED INVESTMENTS."

MR. PADILLA: And the Commissioner does not want the phrase "FOR ECONOMIC PROGRESS AND SOCIAL BENEFITS FOR ALL THE PEOPLE"?

MS. QUESADA: That goes without saying that these are supposed to be for economic progress. We have had several formulations that already expressed our desire for economic progress and social benefits for all the people. So it might really be redundant.

MR. PADILLA: Instead of saying "THE STATE SHALL," why not just say "THE STATE RECOGNIZES" instead of "SHALL RECOGNIZE."

MS. QUESADA: Yes.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Let us allow them to finish first.

MS. QUESADA: I think the committee accepts.

MR. PADILLA: That is essentially the section with some change of minor phraseology. And if that is the feeling of the committee, to avoid further discussion, and if acceptable to the other members, I will yield.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Ople is recognized.

MR. OPLE: Am I recognized, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Colayco): Yes.

MR. OPLE: Thank you. I welcome this proposed amendment. But I think in the spirit of the entire Constitution, there may have to be certain qualifications inserted mainly on the side of social equity to balance the role of private initiative and enterprise in national development. Will Commissioner Padilla consider an additional phrase in the earlier part of that sentence, so that it will read: "THE STATE RECOGNIZES THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR IN NATIONAL DEVELOPMENT CONSISTENT WITH SOCIAL EQUITY, ENCOURAGES PRIVATE INITIATIVE AND ENTERPRISE IN A MIXED ECONOMY AND ACKNOWLEDGES THE NEED FOR INVESTMENTS FOR ECONOMIC PROGRESS AND SOCIAL BENEFITS FOR ALL THE PEOPLE."

MR. PADILLA: I have no particular objection. It follows the sense of my section.

THE PRESIDING OFFICER (Mr. Colayco): What does the committee say?

MS. QUESADA: I see Commissioner Monsod standing. Perhaps he is going to amend the amendment.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Monsod is recognized.

MR. MONSOD: I just wanted to observe that the balancing phrase of social equity may not be necessary because we have to take a look at the entire Article on the Declaration of Principles. The balance should be in the context of the entire article and not in every section. Social justice is affirmed; the right of labor is affirmed and this provision, as I see it, is a balancing provision to other articles, to other sections in the article which already promotes the social aspect of development. So I was wondering if it is still necessary to put "SOCIAL EQUITY" in this specific section because we did not do that in the labor section, for example. We said that there must be an affirmation on labor and that the balancing should be done in another section. That is the reason why I myself reserved the right to introduce a section that will balance these other articles, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): What does Commissioner Ople say?

MR. OPLE: We were thinking of the Declaration of Principles as a general framework, that is to say, we establish the directive principles of the entire Constitution and that is the reason I thought that if there is an opportunity to establish a balance right in this section, then we should not forego it. But if the committee accepts Commissioner Monsod's interpretation that this section is also in effect controlled by the entire Article on the Declaration of Principles, I will have no serious objection to eliminating the proposed amendment.

THE PRESIDING OFFICER (Mr. Colayco): May we hear from the committee?

MR. MONSOD: Thank you, Mr. Presiding Officer.

MS. QUESADA: We have no objections to putting in the record the interpretations of Commissioner Monsod to include what the Gentleman has just proposed.

MR. OPLE: Yes, if it is understood that this is included in the intent of the committee and of the Commission, then I will not press for the amendment, Mr. Presiding Officer.

MR. AZCUNA: It is so included.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. DAVIDE: I just would like to get some clarifications. This morning we lifted from the Article on National Economy and Patrimony the first sentence of Section 1 thereof, which states that the Philippines shall promote a self-reliant and independent economy effectively controlled by Filipinos. The independent and self-reliant character of such an economy is detailed very clearly in the same article and the proposal now is all embodied in the Article on National Economy. Could not the committee agree that the concept sought to be inserted now in the Article on the Declaration of Principles is well implemented in the Article on National Economy and Patrimony and that, therefore, it would not be necessary since we took the first sentence of Section 1 of National Economy and brought it to the Declaration of Principles?

MS. QUESADA: The body has always been concerned about brevity. The committee would like to throw this to the body for their consideration — whether they would like this contained in the Declaration of Principles or would leave it to the detailed provisions in the Article on National Economy and Patrimony.

MR. RAMA: Mr. Presiding Officer, the body is ready to vote on that amendment.

THE PRESIDING OFFICER (Mr. Colayco): Will the committee please read the entire section as amended?

MS. QUESADA: "THE STATE SHALL RECOGNIZE THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR, ENCOURAGE PRIVATE ENTERPRISE AND PROVIDE INCENTIVES TO NEEDED INVESTMENTS."

MR. PADILLA: Instead of "SHALL RECOGNIZE," we say "RECOGNIZES."

MS. QUESADA: "THE STATE RECOGNIZES THE INDISPENSABLE ROLE OF THE PRIVATE SECTOR . . ."

VOTING

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

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

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

MR. MONSOD: Mr. Presiding Officer, I am voting for.

THE PRESIDING OFFICER (Mr. Colayco): The results show 20 votes in favor and 9 against; the amendment is approved.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Ople be recognized for the last amendment.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Ople is recognized.

MR. OPLE: Mr. Presiding Officer, this amendment is proposed jointly by Commissioners Ople, Rama, Treñas, Romulo, Regalado and Rosario Braid. It reads as follows: "SECTION 24. THE STATE SHALL ADOPT AND IMPLEMENT A POLICY OF FULL PUBLIC DISCLOSURE OF ALL ITS TRANSACTIONS SUBJECT TO REASONABLE SAFEGUARDS ON NATIONAL INTEREST AS MAY BE PROVIDED BY LAW."

Can I take just a minute to explain this, Mr. Presiding Officer? Elsewhere in the draft Constitution, we call on the government to avoid conflicts of interest — and these are found in the Articles on the Executive and on

Accountability of Public Officers — and to report such conflicts in the case of Members of Congress in the Article on the Legislative.

In the United States, President Aquino has made much of the point that the government should be open and accessible to the public. This amendment is by way of providing an umbrella statement in the Declaration of Principles for all these safeguards for an open and honest government distributed all over the draft Constitution. It establishes a concrete, ethical principle for the conduct of public affairs in a genuinely open democracy, with the people's right to know as the centerpiece.

I submit, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): What does the committee say?

MS. ROSARIO BRAID: Mr. Presiding Officer, could we just ask one or two questions?

MR. OPLE: Very gladly, Mr. Presiding Officer.

MS. ROSARIO BRAID: Mr. Presiding Officer, how would this provision reinforce Section 6 of the Bill of Rights in terms of the right to know if it would be subject to safeguards with exceptions and limitations as may be provided by law? This provision is based on the public's right to know, which is information. How does this support or complement Section 6?

MR. OPLE: This is a mandate on the State to be accountable by following a policy of full public disclosure. For example, information concerning loans contracted by the government ought to be made available. Public officials should follow this policy by submitting their statements of assets and liabilities and making them available for public scrutiny, not merely storing them in the archives, which is what happens most of the time. It means that when one is a Member of Congress the head of his own law office, who sponsors a bill which can aggrandize his own clients, ought to say so or at least forbear the opportunity to sponsor this bill himself. Therefore, this establishes a kind of ethical principle for public officials as well so that this can be a great deterrent to conflicts of interest in government, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Jamir is recognized.

MR. JAMIR: Mr. Presiding Officer, I would like to ask the proponent about the coverage of this term "all."

Suppose there are banks that would like to give loans to the Philippines under certain conditions which they would not like their competitors to know. Will this not prevent the consummation of such loans or the granting of such loans?

MR. OPLE: When these loans are invested with a color of public interest, I suppose they are covered, but if there is no strong color of public interest, it will be covered by the exception in the last clause "reasonable safeguards on national interest," which includes national security.

MR. JAMIR: That is all my worry, that it might prevent the consummation of certain financial transactions if there are secret clauses in the provision that the lender would not like other banks to know.

MR. OPLE: This will not apply to the secrecy of banking transactions except insofar as there is a court order.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you. May I ask the Gentleman a few questions?

MR. OPLE: Very gladly.

MR. SUAREZ: Thank you.

When we declare "a policy of full public disclosure of all its transactions" — referring to the transactions of the State — and when we say the "State" which I suppose would include all of the various agencies, departments, ministries and instrumentalities of the government

MR. OPLE: Yes, and individual public officers, Mr. Presiding Officer.

MR. SUAREZ: Including government-owned and controlled corporations.

MR. OPLE: That is correct, Mr. Presiding Officer.

MR. SUAREZ: And when we say "transactions" which should be distinguished from contracts, agreements, or treaties or whatever, does the Gentleman refer to the steps leading to the consummation of the contract, or does he refer to the contract itself?

MR. OPLE: The "transactions" used here, I suppose, is generic and, therefore, it can cover both steps leading to a contract, and already a consummated contract, Mr. Presiding Officer.

MR. SUAREZ: This contemplates inclusion of negotiations leading to the consummation of the transaction?

MR. OPLE: Yes, subject only to reasonable safeguards on the national interest.

MR. SUAREZ: Thank you.

Will the word "transactions" here refer also to treaties, executive agreements and service contracts particularly?

MR. OPLE: I suppose that is subject to reasonable safeguards on national interest which include the national security.

MR. SUAREZ: A classic example of this would also refer to issuance of timber or log concessions by the Minister of Natural Resources.

MR. OPLE: Most definitely, Mr. Presiding Officer.

MR. SUAREZ: And we would want this to be disclosed to the public periodically, I suppose.

MR. OPLE: Yes, both periodically according to a system that the government will establish and as may be provided by law, and also upon reasonable demand of the public, Mr. Presiding Officer.

MR. SUAREZ: I see. Therefore, when we speak of "full public disclosure," we are not thinking in terms of publishing all of these supposed transactions, negotiations, contracts or agreements in the newspapers?

MR. OPLE: The Congress may provide that all public officers should submit their statements of assets and liabilities as may be required by law for public scrutiny. That means to say there will be a publication.

MR. SUAREZ: And since this is not self-executory, this policy will not be enunciated or will not be in force and effect until after Congress shall have provided it.

MR. OPLE: I expect it to influence the climate of public ethics immediately but, of course, the implementing law will have to be enacted by Congress, Mr. Presiding Officer.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I briefly speak against this proposed amendment? I have no quarrel with Commissioner Ople that the thrust of this amendment is to promote and nurture ethical principle in the conduct of public affairs. I humbly submit, however, that this thrust will be fruitless, considering the clause "subject to safeguards on national security." Mr. Presiding Officer, this is the very same concept which was used and exploited by the past era in justifying its actions, for instance, in proclaiming martial law, in arresting persons, in the issuance of letters of instructions and decrees. This could be the very same excuse that could be used by any State and any government to defeat the purpose that we want to achieve, and that is to have a full public disclosure of all its transactions.

MR. OPLE: Mr. Presiding Officer, this has to be subject to reasonable safeguards on national interest, including national security because we do not want to be reckless about national security. It is possible that national security had been in all purpose pretext to commit crimes.

But I think we also know that we have to presume the good faith and regularity of the government. And in this case, the burden of proving a color of national interest or security will rest on the public officials or the government authorities concerned.

FR. BERNAS: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bernas is recognized.

MR. OPLE: May I just proceed to complete my thought, Mr. Presiding Officer, with the indulgence of Commissioner Bernas?

THE PRESIDING OFFICER (Mr. Colayco): Please proceed.

MR. OPLE: In the Bill of Rights, under Section 6, we also used that qualification. May I read briefly? It states:

Access to official records, and documents, and papers pertaining to official acts, transactions or decision, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bernas is recognized.

FR. BERNAS: Mr. Presiding Officer, may I just have one simple question? And it is precisely in connection with Section 6 of the Bill of Rights. It would seem to me that the precise same policy that is sought to be enunciated in the amendment is already embodied in Section 6.

MR. OPLE: This is a wider scope, I believe, Mr. Presiding Officer, because one of the objectives it wishes to serve is the development of a higher level of ethical practice in the government. So that it is addressed to the public's right to know, but at the same time it would put all public officers within the compass of a duty to disclose their own conflict of interest when this arises or to make available information, such as statements of assets and liabilities and net worth, as a matter of obligation under this provision. But I think my coauthor, Commissioner Rama, would like to supplement that answer.

MR. RAMA: There is a difference, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Is Commissioner Bernas satisfied?

FR. BERNAS: Just one observation, Mr. Presiding Officer. I want to comment that Section 6 talks about the right of the people to information, and corresponding to every right is a duty. In this particular case, corresponding to this right of the people is precisely the duty of the State to make available whatever information there may be

needed that is of public concern. Section 6 is very broadly stated so that it covers anything that is of public concern. It would seem also that the advantage of Section 6 is that it challenges citizens to be active in seeking information rather than being dependent on whatever the State may release to them.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rama is recognized.

MR. RAMA: There is a difference between this provision under the Declaration of Principles and the provision under the Bill of Rights. The basic difference is that the Bill of Rights contemplates coalition between the rights of the citizens and the State. Therefore, it is the right of the citizen to demand information. While under the Declaration of Principles, the State must have a policy, even without being demanded by the citizens, without being sued by the citizen, to disclose information and transactions. So there is a basic difference here because of the very nature of the Bill of Rights and the nature of the Declaration of Principles.

MR. OPLE: I think this offers a splendid symmetry to Section 6, Mr. Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you. I would only like to make a clarification from the proponent before I ask questions. Do I understand that full public disclosure of all transactions is subject to safeguards on national interest as provided for by law?

MR. OPLE: Yes, Mr. Presiding Officer. Originally this was "national security" but Commissioner Regalado proposed to change it to "national interest."

MR. DE CASTRO: The Gentleman stated that "national interest" includes "national security," is that right?

MR. OPLE: Yes, definitely, Mr. Presiding Officer.

MR. DE CASTRO: And there is still a last proviso in his proposal which says, "as provided for by law," is that right?

MR. OPLE: "As may be provided by law."

MR. DE CASTRO: Thank you. I have no more questions.

MR. NOLLEDO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you.

Will Commissioner Ople please yield to a few questions?

MR. OPLE: Very gladly, Mr. Presiding Officer.

MR. NOLLEDO: Does the Gentleman agree with me that not all transactions of the government affect the public interest?

MR. OPLE: I would say that potentially any transaction of the State would affect the public interest, at least potentially.

MR. NOLLEDO: There may be certain contracts entered into by the government with private parties where the

public interest is not necessarily involved. For example, a government-owned or controlled corporation has certain contracts with private entities on construction, supplies, etc., where national or public interest is not directly involved, will that situation be covered by his provision?

MR. OPLE: If there is no color of public interest, since the government corporation the Commissioner speaks of may be performing its tasks on the basis of a proprietary function rather than a governmental function then I suppose that until proven otherwise, this is regular; this is uncontroversial. Therefore, this need not be the subject of an obligation to publish the transaction.

But may I point another example. Most of our local governments borrowed heavily from the Land Bank of the Philippines and the Development Bank of the Philippines to build public markets and the experience shows that these public markets, these transactions, later on became focal points of local political disputes because of alleged kickbacks. And at that time, I was a member of the Land Bank board, and I initiated a full disclosure policy. So that in the case of a municipality in Nueva Ecija, the full transaction with respect to a public market should be posted conspicuously right there in the municipal building and that, I assure the body, Mr. Presiding Officer, corrected a lot of these problems. The public then knew what the base data were and they themselves could compute whether kickbacks were received or not by the local officials, and if there was something to be suspicious about, then a dialogue could take place with the mayor and the municipal council.

MR. NOLLEDO: Mr. Presiding Officer, I notice here that the initiative of full disclosure is on the part of the State. Is that not overburdening the State? I think that the general proposition is that all interested individuals in any part of the country should have access to public records. Then the initiative in that situation will come from private parties, but here we will be giving the government the burden of fully disclosing all its transactions. That would be very costly and will truly overburden the State.

MR. OPLE: Mr. Presiding Officer, may I refer Commissioner Nolleto to the exact text. It says:

The State shall adopt and implement a policy of full public disclosure of all its transactions.

This really means not only the State as a corporate entity but also the public officers serving the State. And that means, I suppose, in the case of Congress and the Cabinet, and the boards of government-owned and controlled corporations, perhaps flag officers of the Armed Forces of the Philippines, they should be obliged by law to publish and not merely submit to the archives their statements of assets and liabilities so that the people can exercise the right to know and to judge. Right now there is no law requiring this. And just recently, President Aquino and her Cabinet ministers submitted their statements of assets and liabilities for publication. That was an act of disclosure, but this was done voluntarily and, therefore, we are now taking cognizance of this as a very commendable act. In other jurisdictions like the United States and the United Kingdom, the first thing a President does when he assumes office is to release to the press his statement of net worth, and this is true of the entire Cabinet and of all the Members of the Senate and of the House of Representatives.

MR. NOLLEDO: With respect to full disclosure of assets and liabilities, the Gentleman also presented a proposal on this when we considered the report of the Committee on Accountability of Public Officers and his proposal was approved by the Commission. And so will this proviso duplicate that proposal?

MR. OPLE: This is an umbrella statement. It offers a splendid symmetry, as I said, to Section 6 in the Bill of Rights. It complements the obligation we have imposed on Members of Congress to state whether there are potential conflicts of interests when they sponsor bills.

MR. NOLLEDO: Thank you.

Will the Gentleman be amenable to an amendment, a reasonable amendment, that will lessen the burden of the

government in complying with this provision?

MR. OPLE: I am eager to listen to the proposed amendment.

MR. NOLLEDO: I would suggest the following: "THE STATE SHALL PURSUE A POLICY OF FULL DISCLOSURE OF ALL ITS TRANSACTIONS INVOLVING THE PUBLIC INTEREST, SUBJECT TO SAFEGUARDS ON NATIONAL SECURITY."

MR. OPLE: The amendment is gladly accepted, Mr. Presiding Officer.

MR. NOLLEDO: Thank you, Mr. Presiding Officer, and I hope the committee will accept this provision, as amended.

MS. ROSARIO BRAID: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: May I just ask one or two questions, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Colayco): Please proceed.

MS. ROSARIO BRAID: As the Gentleman mentioned, the government will take initiative in making disclosure and I suppose this will be published in the newspapers or mass media.

MR. OPLE: In the case of the statement of assets and liabilities or of net worth of public officers, I think the law will determine the manner of publication. But I think it is sufficient that every public officer in that category releases, according to law, his statement of assets and liabilities so that there will be no compulsion on the press to publish it.

THE PRESIDING OFFICER (Mr. Colayco): The proposal involves the issue of whether the transactions of the government should be subject to disclosure. We are now discussing the statement of assets and liabilities of individual officials and, therefore, it is out of context.

Will the Gentlemen please get back on the subject on hand?

MR. OPLE: It is part of the context, Mr. Presiding Officer; it is included.

MS. ROSARIO BRAID: Mr. Presiding Officer, may I continue? If the subject would, therefore, be transactions that are of public interest, we assume that everybody has a right to know. And if the media or channels that carry these are, obviously, the newspapers that reach only 10 percent of the population, how about the 90 percent of the population? Are they not entitled to know? Will this also be interpreted in simple language that will be carried over the radio? Messages will be simplified and will be discussed by rural communities such as barangay councils, so that the people may know and discuss and participate and give their feedback. Does this imply that the information will be simplified so that 90 percent of the people who are outside the gambit of the regular channels of communication have the right also to participate?

MR. OPLE: Yes. As Commissioner Rosario Braid knows, because she is an expert on this subject, the newspapers may have a limited reach. Generally, the radio, which has a more all-encompassing scope, takes its information from the newspapers. So I think I will not downgrade the ability of the Philippine Inquirer or Pilipino Ngayon, for example, to disseminate this information even indirectly by means of the radio and television channels which take their information from the newspapers for the simple reason that they cannot afford the high cost of news gathering, Mr. Presiding Officer.

MS. ROSARIO BRAID: Yes. And lastly, Mr. Presiding Officer, will the people be able to participate? Will the

government provide feedback mechanisms so that the people can participate and can react where the existing media facilities are not able to provide full feedback mechanisms to the government? I suppose this will be part of the government implementing operational mechanisms.

MR. OPLE: Yes. I think through their elected representatives and that is how these courses take place. There is a message and a feedback, both ways.

MS. ROSARIO BRAID: In this way, the committee gladly accepts, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. DAVIDE: I would like to get some clarifications on this. Mr. Presiding Officer, did I get the Gentleman correctly as having said that this is not a self-executing provision? It would require a legislation by Congress to implement?

MR. OPLE: Yes. Originally, it was going to be self-executing, but I accepted an amendment from Commissioner Regalado, so that the safeguards on national interest are modified by the clause "as may be provided by law."

MR. DAVIDE: But as worded, does it not mean that this will immediately take effect and Congress may provide for reasonable safeguards on the sole ground of national interest?

MR. OPLE: Yes. I think so, Mr. Presiding Officer. I said earlier that it should immediately influence the climate of the conduct of public affairs but, of course, Congress here may no longer pass a law revoking it, or if this is approved, revoking this principle, which is inconsistent with this policy.

MR. DAVIDE: The only possible ground for the withholding of disclosure would be national security and it would still be subject to such reasonable safeguards as Congress may provide. Mr. Presiding Officer, will the Gentleman not consider this as inconsistent with Section 6 of the Bill of Rights because under the provisions on the Bill of Rights, the limitations are not limited to national interest alone?

MR. OPLE: This will not, in any manner, impose a limitation on the scope of Section 6 in the Bill of Rights. We are referring here to an obligation of the State to follow and within its own realm enforce a policy of full public disclosure.

MR. DAVIDE: Which will prevail, Mr. Presiding Officer, Section 6 or his proposed amendment?

MR. OPLE: With respect to actions initiated by citizens for information from the government, in Section 6 of the Bill of Rights, there is nothing here that will constrain the exercise of that right.

MR. DAVIDE: The Gentleman's proposal is really related to Section 6. As a matter of fact, Section 6 is actually a compliance of the proposed directive to be included in the Article on the Declaration of Principles.

MR. OPLE: Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer, we notice that in his proposal the limitation is very, very restrictive and that is only in relation to national interest. However, in Section 6 Congress may provide any limitation. So in the matter of interpreting now, between Section 6 and his proposal, which shall prevail?

MR. OPLE: With respect to the right of citizens to information from the government, when the citizens initiate request for such information, there is no question that the coverage of Section 6 is primary.

MR. DAVIDE: If we approve his proposal, Mr. Presiding Officer, there is no need in Section 6 for a citizen to assert because it is already a duty of the State to fully and publicly disclose all its transactions.

MR. OPLE: Yes. That is why I said this offers a splendid symmetry to the right of the citizen in Section 6 because it obliges the State to adopt and implement a policy of full public disclosure even without the citizenry demanding such disclosure in specific instances.

MR. DAVIDE: That is correct.

MR. OPLE: This is a general policy.

MR. DAVIDE: Precisely, Mr. Presiding Officer, that is correct because it would no longer be necessary for the citizen to make a demand since the State will have to fully and publicly disclose all its transactions.

MR. OPLE: We cannot anticipate the millions of transactions in which citizens will be involved thereby urging the government to release information in specific cases for their own personal interest. This is a policy on a more general claim and it is a constructive notice as well. And so I think the fears of Commissioner Davide are not well-founded in the sense that there is no conflict but a great complementarity and what I call a splendid symmetry between this obligation of the State for full public disclosure and the right of the citizens to get the information they seek from the State.

THE PRESIDING OFFICER (Mr. Colayco): The Chair wishes to advise Commissioner Davide that he has taken more than four minutes of the time of the proponent.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Monsod is recognized.

MR. MONSOD: Mr. Presiding Officer, the answers of the committee have resulted in certain reservations in my mind. On the one hand, we seem to be saying, as interpreted by the committee, that this puts a responsibility on the government to establish a network or mechanism by which these transactions can be disclosed to the public. On the other hand, we are saying that there may be limitations in the public interest. If we put these two things together, these translate into a selective dissemination of information through a government network. That sounds to me like the OMA.

MR. OPLE: Mr. Presiding Officer, I think Commissioner Rosario Braid, in behalf of the committee, accepted my interpretation that the feedback process she spoke of could be satisfied by the elected representatives of the people which is certainly how this process works. There is a message and a feedback. Let us say the Members of Congress including sectoral representatives are in close touch with their constituencies and if there is any, let us say, very important issue of public interest involved with the obligation for full public disclosure, then there will be a feedback from the elected representatives of the people.

MR. MONSOD: Mr. Presiding Officer, we remember that during the past 15 years, barangay officers who are elective officers were the ones that were used to disseminate selective information. And it worries me the way this provision is worded; it gives the government a basis for saying, "Well, we need this network and we will communicate through elective officials." That would be barangays and that was one of the problems that we had in the network of the Office of Media Affairs.

THE PRESIDING OFFICER (Mr. Colayco): Before we proceed further, will the Gentleman restate the amended proposal so that the body can follow the discussion?

MR. OPLE: Yes, Mr. Presiding Officer.

MS. ROSARIO BRAID: Mr. Presiding Officer, may I just make one last sentence?

I think when we talk about the feedback network, we are not talking about public officials but also network of

private business on community-based organizations that will be reacting. As a matter of fact, we will put more credence or credibility on the private network of volunteers and voluntary community-based organizations. So I do not think we are afraid that there will be another OMA in the making.

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

SR. TAN: Mr. Presiding Officer, in the beginning when I was listening, I was all for the provision. At the least it would not be harmless. But now that it is explained, I just think of my little place with the barangay captain. The barangay captain just tells us half truths or lies. And unless the concept is changed, I am afraid I would vote against the proposal.

MR. OPLE: I think this will also apply, Mr. Presiding Officer, to the affairs of barangays. There is an obligation for the barangay council to disclose, let us say, what it does to the constituency. There are barangay maintenance funds, for example, which are very often the subjects of disputes and suspicions on the part of barangay members. I think this will help correct that situation.

THE PRESIDING OFFICER (Mr. Colayco): Will Commissioner Ople restate the amended proposal now?

MR. OPLE: Yes, thank you, Mr. Presiding Officer.

As amended, the section reads: "THE STATE SHALL ADOPT AND IMPLEMENT A POLICY OF FULL PUBLIC DISCLOSURE OF ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST, SUBJECT TO REASONABLE SAFEGUARDS ON THE NATIONAL INTEREST AS MAY BE PROVIDED BY LAW."

THE PRESIDING OFFICER (Mr. Colayco): Mr. Floor Leader, is the body ready to vote?

MR. RAMA: Yes, Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. DAVIDE: I would like to propose an amendment. The proposed amendment would be to insert before "the" the following: "SUBJECT TO REASONABLE CONDITIONS PRESCRIBED BY LAW," then delete the words "shall adopt and implement" and instead use the words "ADOPTS AND IMPLEMENTS." Then put a period (.) after "transactions." So that the whole amendment will read: "SUBJECT TO REASONABLE CONDITIONS PRESCRIBED BY LAW, THE STATE ADOPTS AND IMPLEMENTS A POLICY OF FULL PUBLIC DISCLOSURE OF ALL ITS TRANSACTIONS."

MR. OPLE: "INVOLVING PUBLIC INTEREST."

MR. DAVIDE: There is no need because it is subject to conditions as may be prescribed by law.

MR. OPLE: Except for retaining, as recommended by Commissioner Nollado, the phrase "INVOLVING PUBLIC INTEREST," we accept the amendment.

MR. DAVIDE: It is acceptable, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): What does the committee say?

MS. ROSARIO BRAID: We accept, Mr. Presiding Officer.

MR. RAMA: The body is now ready to vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Will the Gentleman please read the amended proposal again?

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

VOTING

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

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

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

The results show 25 votes in favor, 4 against and 1 abstention; the amendment, as amended, is approved.

MR. OPLE: Mr. Presiding Officer, with the leave of the Floor Leader, may I just put on record that the coauthors of this amendment are as follows: Commissioners Ople, Rama, Davide, Nollado, Treñas, Romulo Regalado and Rosario Braid.

Thank you.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Sarmiento be recognized for a point of clarification.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Mr. Presiding Officer, yesterday I submitted a copy of my proposed amendment to the committee which reads: "THE STATE SHALL PROVIDE LIVELIHOOD OPPORTUNITIES FOR THE FILIPINO PEOPLE." May I know the status of this amendment?

THE PRESIDING OFFICER (Mr. Colayco): What does the committee say?

MS. QUESADA: It has already been presented earlier this morning by Commissioners Romulo and Bengzon.

MR. SARMIENTO: Unfortunately, I was absent, so I was not able to participate in the deliberations this morning. I expressed reservations that it should be discussed in my presence. So may I just know the stand of the committee on this point?

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: Just a point of information. In the absence of Commissioner Sarmiento, the Chairman of the Steering Committee, Commissioner Bengzon, stood up and informed the Chair that this particular formulation of Commissioner Sarmiento will not be insisted on if the content of the formulation is covered by other sections or other provisions of what is being discussed on the floor. And with that understanding, Commissioner Bengzon withdrew the formulation of Commissioner Sarmiento as a proposed amendment. I do not know if Commissioner Sarmiento will confirm the delegated authority he gave to Commissioner Bengzon to make that manifestation. If he does not confirm it, then he can very well proceed with his own formulation now. But that is exactly what happened, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): What does Commissioner Sarmiento say?

MR. SARMIENTO: Mr. Presiding Officer, may I just know from the committee the sections that have been

mentioned this morning which cover this proposed amendment?

MS. QUESADA: We stated that the intention of Commissioner Sarmiento's proposal would actually be covered in Section 7 of the Article on the Declaration of Principles which reads:

The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

So this livelihood concept would actually be covered in the idea of promoting full employment for the citizens.

MR. SARMIENTO: Will it also be covered by that section which states that the State shall promote comprehensive rural development?

MS. QUESADA: That would also be covered in Section 13 which states: "The State shall promote comprehensive rural development and agrarian reform" — rural development covering livelihood projects like the KKK and all other projects that would enhance people's capacity to earn a living.

MR. SARMIENTO: Will it be covered also by that section which states that the State shall promote social justice in all phases of development?

MS. QUESADA: Yes, definitely that will be part of social justice.

MR. SARMIENTO: We have an existing national livelihood program being pursued by the government. Does it mean that the State will now support and assist this existing national livelihood program of the government?

MS. QUESADA: If that is going to enhance our efforts in social justice, definitely, livelihood projects will be part of these national efforts.

MR. SARMIENTO: With those explanations and clarifications, Mr. Presiding Officer, I am satisfied and I am, therefore, withdrawing my proposed amendment.

MS. QUESADA: Thank you.

MS. ROSARIO BRAID: Mr. Presiding Officer, may I just make a statement?

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: The committee agreed on combining an earlier provision which we will withdraw because it is covered by the areas mentioned by the Commission and this would specify and concern small-and medium-scale industries, productivity and entrepreneurship. With the understanding that these are all covered by the provisions already noted, we withdraw this committee proposal.

Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: Since there are no more amendments and no reservations on this Article on the Declaration of Principles, we will vote on the article on Second Reading only after the full text or clean text shall have been distributed among the Members. There is just one short closing statement that the chairman would like to make. So I ask that Commissioner Tingson be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Tingson is recognized.

MR. TINGSON: The total sections approved under the Article on the Declaration of Principles would be 27 in all. May I just request that in the future printing of our committee report, Proposed Resolution No. 216 authored by Commissioner Rustico de los Reyes will please be included on the very first page. Also in the name of our committee and on behalf of our ailing chairman, Commissioner Decoroso Rosales, we are pleased to note that in answer to our plea and prayers enunciated during our sponsorship speeches, the debates and the atmosphere have been not acrimonious but harmonious and we are very happy about that. So, thank you very much, Mr. Presiding Officer and our colleagues.

MR. RAMA: Mr. Presiding Officer.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Padilla is recognized.

MR. PADILLA: Considering that there are 27 sections and in line with the suggestion of Commissioner Maambong, will the committee consider some subheadings, namely; first, principles; second, policies; and probably third, aspirations?

MR. TINGSON: Mr. Presiding Officer, we have already considered and accepted the suggestion and today we have officially approached Commissioner Maambong to be our technical assistant on that particular phase of our work.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader may proceed.

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

MR. RAMA: The chairman of the Committee on Education has informed me that there are no more impediments to the body's voting on Second Reading on the Article on Education, Science, Technology, Arts and Culture, except for one reservation which has been made by Commissioner Monsod.

I move that we vote on Second Reading on the Article on Education, Science, Technology, Arts and Culture.

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

As many as are in favor, 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 32 votes in favor and none against; the Article on Education, Science, Technology, Arts and Culture is approved on Second Reading.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: May we now take up for consideration the proposed resolution to incorporate in the new Constitution a separate article on Family Rights.

May I ask that the chairman and the members of the Committee on Family Rights take their seats in front for sponsorship.

THE PRESIDING OFFICER (Mr. Colayco): Will the Secretary-General read the title of the new article?

THE SECRETARY-GENERAL: Resolution No. 542, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS.

THE PRESIDING OFFICER (Mr. Colayco): Will the chairman and members of the committee please move forward and take their respective seats.

MR. VILLACORTA: Mr. Presiding Officer, with the indulgence of the Floor Leader, I was just informed by the Secretariat that, as a matter of procedure, we should have called the attention of the body to this new version of the sections on the Article on Education, Science, Technology, Sports, Arts and Culture based on the reservation of the Honorable Monsod. We have come up with a compromise and copies of the revised sections have been distributed to everyone.

I think this version has to be submitted to a vote.

MR. RAMA: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Is that an amendment to the article that we have just approved?

MR. VILLACORTA: Yes, Mr. Presiding Officer. I was not aware of the proper procedure that is why I did not ask for a vote on this.

THE PRESIDING OFFICER (Mr. Colayco): I see.

MR. VILLACORTA: Commissioner Bennagen also would like to mention that on the last line of Section 1, after the word "free," there should be no comma.

May we request for a vote on this?

MR. RAMA: Will the Gentleman please read the provisions before we take a vote?

MR. VILLACORTA: Mr. Presiding Officer, I would like to read the entire set of sections, if I may.

THE PRESIDING OFFICER (Mr. Colayco): The Gentleman may proceed.

MR. VILLACORTA: "SECTION 1. The State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression."

This is Section 1 as approved by the body when we were discussing the Article on Education.

"SECTION 2. Arts and letters shall enjoy the patronage of the State. The State shall conserve, promote and popularize the nation's historical and cultural heritage, artistic creations and resources.

"SECTION 3. All the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition.

"SECTION 4. The State shall recognize, respect and protect the rights of indigenous cultural communities to preserve and enrich their cultures, traditions and institutions. It shall consider these rights in the formulation of national plans and policies.

"SECTION 5(a). The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, scholarships, grants and other incentives, and community cultural centers and

other public venues.

"(b). The State shall encourage and support researches and studies on the arts and culture."

Basically, these are the sections approved during the amendment period, Mr. Presiding Officer, when we were discussing the report of the Committee on Human Resources.

THE PRESIDING OFFICER (Mr. Colayco): Are all the Commissioners furnished with copies?

MR. VILLACORTA: Yes, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: For the record, before we vote, I would just like to ask the chairman of the committee whether there is no material variance between the present formulation and the formulation which we approved on Second Reading a few minutes ago.

MR. VILLACORTA: Yes, Mr. Presiding Officer, there is no material variance between the original page 7 which contained the sections under the title: Arts and Culture, and this new version.

MR. MAAMBONG: Actually, it is only a matter of style on what the Gentleman is presenting now.

MR. VILLACORTA: Yes, basically the amendments of Commissioner Monsod pertain to style.

MR. MAAMBONG: My second point, Mr. Presiding Officer, is that in the sections that we approved earlier on the Article on Education, Science, Technology, Arts and Culture, the numbering that we have indicated is Section 1 for every division. But the standard procedure that we have adopted is to number the whole article sequentially to the last. We do not go back to Section 1, for example, in Education. I am just asking the chairman's permission whether he would allow the Committee on Sponsorship in the procedure we have adopted to renumber sequentially from Section 1 up.

MR. VILLACORTA Certainly, Mr. Presiding Officer, the committee will allow that.

MR. MAAMBONG: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): For proper procedure, the Chair believes that the new provisions should be submitted to a vote because they are, in effect, an amendment of the original.

MR. RAMA: Yes.

MR. VILLACORTA: Yes, Mr. Presiding Officer, it is a substitution of the other sections.

MR. RAMA: I move, Mr. Presiding Officer, that we approve these restyled Sections 1 to 5 under the title: Arts and Culture.

THE PRESIDING OFFICER (Mr. Colayco): I think we should first reconsider the approval on Second Reading of this article which we can enter in lieu of the old provisions.

MR. RAMA: We have already approved this article on Second Reading. We have only restyled certain sections.

THE PRESIDING OFFICER (Mr. Colayco): Is this amendment only on the style?

MR. VILLACORTA: Basically, Mr. Presiding Officer, it is an amendment on style.

THE PRESIDING OFFICER (Mr. Colayco): The substance is the same?

MR. VILLACORTA: Yes, Mr. Presiding Officer, the material content is the same.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: I move that we approve these restyled sections as read by the chairman of the Committee on Education — Section 1 to Section 5 under the title: Arts and Culture.

VOTING

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

As many as are in favor of the newly styled provisions, 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 27 votes in favor and none against; the new provisions are approved.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, may I address a question to the chairman of the Committee on Human Resources, the honorable Commissioner Villacorta?

Mr. Presiding Officer, I forgot to ask the Gentleman — this will not affect whatever we have taken up — in the present formulation he has submitted there is a new formulation for Section 5, subparagraphs (a) and (b) but there is no (c). However, there is a subparagraph (c) in Section 5 which we approved on Second Reading. I just want to find out whether Section 5, subparagraph (c) remains in the text.

MR. VILLACORTA: Mr. Presiding Officer, will the Gentleman please read Section 5, subparagraph (c) because I do not have that in my possession now?

MR. MAAMBONG: Subparagraph (c), which is not found in the new formulation, reads: "The State shall promote and support the popularization and dissemination of our cultural traditions and significant artistic creations of individual artists and communities." My query is whether this will remain or not. It does not really matter to me as long as this is clarified.

MR. VILLACORTA: Mr. Presiding Officer, with the assistance of the Honorable Monsod, we have incorporated subparagraph (c) of Section 5 in Section 2. So we have here the idea of popularization and, moreover, with respect to parks and public venues, we have incorporated that in Section 5, subparagraph (a).

MR. MAAMBONG: Therefore, subparagraph (c) of Section 5, which we approved on Second Reading, will no longer appear.

MR. VILLACORTA: It will no longer appear, Mr. Presiding Officer.

MR. MAAMBONG: Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 542

(Article on Family Rights)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: I move that we consider Committee Report No. 39 on Proposed Resolution No. 542 as reported out by the Committee on Social Justice and Committee on Human Resources.

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

Consideration of Proposed Resolution No. 542 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 542, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS.

(The following is the whole text of the proposed resolution per C.R. No. 39.)

JOINT COMMITTEE REPORT NO. 39

The Committee on Social Justice and the Committee on Human Resources to which was referred Proposed Resolution No. 272, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF THE FAMILY,

introduced by Hon. Nieva, Bacani, Muñoz, Palma, Rigos, Gascon and Guingona, have considered the same and have the honor to report it back to the Constitutional Commission of 1986 with the recommendation that the attached Proposed Resolution No. 542, prepared by the committees, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS,

be approved in substitution of Proposed Resolution No. 272 with the members of the committees, together with Hon. Muñoz Palma, Rigos and Guingona as authors thereof.

(Sgd.)

Wilfrido V. Villacorta

(Sgd.) Serafin V.C. Guingona

Chairperson Member

Committee on Human Resources

(Sgd.) Ma. Teresa F. Nieva (Sgd.) Efrain B. Treñas

Chairperson Member

Committee on Social Justice

(Sgd.) Jose Luis Martin C. Gascon (Sgd.) Christian S. Monsod

Vice-Chairman Member

Committee on Social Justice

(Sgd.) Lugum L. Uka (Sgd.) Lino O. Brocka

Vice-Chairman Member

Committee on Human Resources

(Sgd.) Jaime S. L. Tadeo (Sgd.) Jose E. Suarez [**]

Member Member

(Sgd.) Felicitas S. Aquino [**] (Sgd.) Blas F. Ople

Member Member

(Sgd.) Minda Luz M. Quesada [**] (Sgd.) Eulogio R. Lerum

Member Member

(Sgd.) Teodoro C. Bacani (Sgd.) Ponciano L. Bennagen [**]

Member Member

(Sgd.) Edmundo G. Garcia (Sgd.) Francisco A. Rodrigo [**]

Member Member

(Sgd.) Christine Tan (Sgd.) Cirilo A. Rigos

Member Member

(Sgd.) Jose F.S. Bengzon, Jr. [**] (Sgd.) Florangel Rosario Braid

Member Member

PROPOSED RESOLUTION NO. 542

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS.

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled, To incorporate in the New Constitution a separate Article on the Protection and Promotion of the Rights of the Family, with the following provisions:

ARTICLE __**Family Rights**

SECTION 1. The State shall actively promote the total human development — social, economic, political, cultural, and spiritual — of the Filipino family.

SECTION 2. The State shall defend the following fundamental rights of the family:

- a) The right to life from the moment of conception, and of special protection and assistance while in the age of minority.
- b) The right of spouses to found a family in accordance with their religious beliefs and convictions and the requirements of responsible parenthood.
- c) The primary right of parents to educate their children in conformity with their moral or religious beliefs, and to receive from the State the necessary aid and assistance to perform their educational role properly.
- d) As spouses, both man and woman shall enjoy equal rights before the law, which shall not be discriminatory in favor or against either sex.
- e) The right of family wage earners to a decent family living wage.
- f) The right to assistance in times of special need.
- g) The right of the elderly to be cared for within the family, according to Filipino tradition.

PROPOSED RESOLUTION NO. 542

(AS AMENDED)

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS.

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled, To incorporate in the new Constitution a separate article on the protection and promotion of the Rights of the Family, with the following provisions:

ARTICLE __**FAMILY RIGHTS**

SECTION 1. The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.

SECTION 2. Marriage as an inviolable social institution is the foundation of the family and shall be protected by the State. The State shall respect the family as an autonomous social institution.

SECTION 3. The State shall defend

- a) The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood.

- b) The right of children to assistance including proper care and nutrition and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development.
- c) The right of the family to a family living wage and income.
- d) The right of families and family association to participate in the planning and implementation of policies and programs that affect them.

SECTION 4. The family has the duty to care for its elderly members but the State may also do so through just schemes of social security.

MR. RAMA: I ask that Commissioner Nieva be recognized to make a sponsorship remark on the Article on Family Rights.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Nieva is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER NIEVA

MS. NIEVA: Mr. Presiding Officer, in this Constitution, we have risen to the defense of the rights of the individual, of women, of children. The rights of the person, however, have a fundamental social dimension in the institution of the family. The family as a natural society exists prior to the State or any other community. Thus, Pope John Paul II has rightly said that the future of humanity passes by way of the family. From this it follows that the family possesses, as given by the Author of nature Himself, certain inherent and inalienable rights which are intrinsic to its very existence and perpetuity. Many cultures, particularly in highly technologized countries, have become desensitized to His deeply human realities. In some countries, in fact, it appears that the family as a basic and fundamental institution has ceased to be a priority concern of the State. While history affirms the family's indispensable role as primary educator, economic provider, cultural mediator and spiritual formator, the rights of the family are often ignored and even undermined by legal, social and economic structures and programs.

We Filipinos are truly a family-centered culture and this is one of our real strengths as a nation. We are poor in many ways but not in our instinctive love and commitment to family life. Our core family values may yet prove to be our greatest contribution to the rest of the contemporary world where family life has been continually eroding.

The typical Filipino couple's major concern is their children, their children's welfare, education and their future. In turn, their children care for their elderly parents in personal and sacrificing ways that are increasingly disappearing in many contemporary cultures. Such a deeply human family system as ours deserves to be enhanced and preserved not only for the sake of our own country but even for the sake of the rest of the world. It deserves the fullest support and protection from the State. Without such protection and support, we may inevitably capitulate to the powerful forces from without and witness the gradual collapse of our Filipino family system.

I would end this brief introduction by adverting to a new and significant dimension of the family as an agent of social change and its potential for the social transformation and development of society. Society and the State are, therefore, called upon to protect the rights of families to participate, in cooperation with other families, in concerted action in defense of its rights and responsibilities, in the development of society and in the planning, formulation and implementation of family policies and programs that affect them.

As we draft our new Constitution, we have this singular opportunity and responsibility to explicitate our commitment to the Filipino family through safeguarding its inalienable rights and enhancing its total development in all spheres of life — social, economic, political and spiritual.

Mr. Presiding Officer, the original proposed article, the Article on Family Rights, consisted of many sections.

However, many of these provisions have already been taken care of by the Articles on the Declaration of Principles, Social Justice and Education. So we have before us a very abbreviated proposed article which we hope the body will consider favorably this afternoon.

Section 1 reads as follows: "The State shall actively promote the total human development of the Filipino family."

Section 2 says:

The State shall defend the following:

- a) The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood;
- b) The right of all children to assistance and special protection from all forms of neglect, cruelty and exploitation;
- c) The right of the family to a decent family living wage; and
- d) The right of the elderly to family care, according to Filipino tradition.

I understand there is an amendment that Commissioner Gascon would like to add to Section 2.

MR. GASCON: Yes. As we can see in our tables, there is a proposal to move as the first subsection of Section 2 the following: "THE INSTITUTION OF MARRIAGE AS THE FOUNDATION OF THE FAMILY." That would read, therefore: "The State shall defend the following: a) THE INSTITUTION OF MARRIAGE AS THE FOUNDATION OF THE FAMILY" and then go on with "b) The right of the spouses to found a family . . . and then "c) The right of parents to educate their children . . . d) The right of family wage earners to a decent family living wage and e) The right of the elderly to be cared for within the family . . ."

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. DE CASTRO: May I ask the committee a few questions. "SECTION 1. The State shall actively promote the total human development — social, economic, political, cultural, and spiritual — of a Filipino family." What does it mean?

MS. NIEVA: I think in the previous discussions we have had on total human development, we meant all aspects of the social, economic, spiritual, intellectual, cultural life of the person and the family. In this case, it is the entire family.

MR. DE CASTRO: "Actively promote." What does it mean? Is there an inactive promotion?

MS. NIEVA: Would the Commissioner want to qualify that in another way? We would welcome his suggestion if he thinks "actively promote" is a redundancy.

MR. DE CASTRO: I am really having some difficulty.

Our civil law speaks of marriage as an inviolable social institution. Will that not be better than "the institution of marriage as the foundation of the family," or "the marriage as a social institution"?

MR. GASCON: We recognize that, Mr. Presiding Officer. In fact, if the Commissioner wishes to present during the period of amendments the term "social institution of marriage," I do not believe that the committee will object.

MS. NIEVA: The wording of the Civil Code on this is stated in Art. 216 which says: "The family is a basic social institution which public policy cherishes and protects."

MR. DE CASTRO: "Marriage is not a mere contract but an inviolable social institution," according to the Civil

Code and I think that will be much better than "the institution of marriage."

MR. GASCON: There will be no objection, Mr. Presiding Officer, to that terminology.

MR. DE CASTRO: Now, on Section 2(d), "The right of the elderly to be cared for within the family . . ." What does this mean, the elderly of the family?

MS. NIEVA: Yes, we are referring here particularly to them.

MR. DE CASTRO: They are members of the family.

MS. NIEVA: There is a trend in westernized countries where the tendency is to reject or send the elderly to old folks homes and such institutions because the economic or social setup in the community will not allow them to maintain their elderly in their own homes. Whereas, in the Philippines I think we would not think of that possibility of sending our aged parents to wither away in the loneliness of old folks homes and so forth.

MR. DE CASTRO: In Switzerland the elderly are given some help by the State instead of sending them to the homes for the aged, et cetera. And also the family takes care of the elderly. Does the Commissioner intend to include in the provision that the State shall care for the elderly?

MS. NIEVA: In cases where there would be such need. For example, there might be families who may not be in an economic position to properly take care of their elderly, since they themselves are in economic straits. Maybe that might envision in the future some kind of assistance from the State to help the families take care of their own elderly; and it will be even cheaper.

MR. GASCON: Mr. Presiding Officer, what we wish to discourage is the impersonal care being given to elderly people when they are sent to these old folks homes and forgotten by their families themselves, these basic families which they founded.

MR. DE CASTRO: When the Commissioner talks of "elderly," how old is that? I am 74 years old, am I an elderly? Shall my children take care of me? Will the State? I am hearing some answers at the rear, but I do not hear the answer of the commissioner.

MS. NIEVA: We are given some support from the floor.

It really depends. I think the Gentleman knows the kind of elderly people we are referring to here — the ones who are incapacitated and cannot take care of themselves.

MR. DE CASTRO: Is that answer relayed to the Commissioner by somebody on the floor?

MR. GASCON: Mr. Presiding Officer, when we speak of "elderly" these are those who are no longer as productive as they used to be in the family but have the right to the care from the family which they have supported for a long period of time. But at that point, when they can no longer support the family, I think the family, in turn, should look for ways and means to support them and the State should be encouraged to support families taking care of their elderly in the Filipino tradition.

THE PRESIDING OFFICER (Mr. Colayco): The Chair is giving a one -minute extension to Commissioner de Castro.

MR. GASCON: That is the point, Mr. Presiding Officer. When we speak of "elderly" here, they are those who have reached that stage in their lives when they can no longer support themselves and would, in fact, need support from their family.

MR. DE CASTRO: There is one thing more that I would like to ask the Chair. We are given three minutes, but

actually my question lasts only less than a minute and the answer is much, much longer.

THE PRESIDING OFFICER (Mr. Colayco): That has been taken into account. Since the Gentleman started, five minutes has elapsed so I have deducted two minutes.

MR. DE CASTRO: Thank you.

I am not articulating with the committee, but certainly now by Filipino tradition, we are taking care of our elders. Does the Commissioner need to write that in the Constitution?

MS. NIEVA: We are not writing it for the present. As we say, the Constitution is for future generations also, and with the trend in the modern, urbanized world, the elderly are beginning to be set aside because they are no longer as helpful as before.

MR. DE CASTRO: Thank you, I think the Chair is having sharp eyes on me.

THE PRESIDING OFFICER (Mr. Colayco): Thank you.

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

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Nolledo is recognized for three minutes.

MR. NOLLEDO: Thank you, Mr. Presiding Officer. Does the three-minute period include the answers of the members of the Committee?

THE PRESIDING OFFICER (Mr. Colayco): No, it will be adjusted.

MR. NOLLEDO: Thank you. In Section 1, we talk of the Filipino family. What is the composition of the Filipino family?

MS. NIEVA: There are different models, I think.

MR. NOLLEDO: May I ask the Commissioner a more detailed question. Am I right if I say that we are adopting the provision of Article 217 of the Civil Code of the Philippines which states:

Family relations shall include those:

- (1) Between husband and wife;
- (2) Between parent and child;
- (3) Among other ascendants and their descendants;
- (4) Among brothers and sisters.

MS. NIEVA: Basically, yes, that would be the definition of a Filipino family.

MR. NOLLEDO: So the committee adopts the definition of the family as found in Article 217 of the present Civil Code?

MS. NIEVA: Yes, we do.

MR. NOLLEDO: With respect to the words "found a family" on Section 2 (a), and the words "in accordance with their religious convictions and the demands of responsible parenthood," is the Commissioner referring to procreation of children?

When the Commissioner talks of "found a family," she may be referring to procreation of children, am I correct?

MS. NIEVA: Yes, Mr. Presiding Officer, we are referring to that specifically.

MR. NOLLEDO: That the State shall defend the rearing of these children in accordance with religious convictions of the spouses and the demands of responsible parenthood, am I correct?

MS. NIEVA: Yes, Mr. Presiding Officer.

MR. GASCON: Mr. Presiding Officer, it would also mean that the State shall defend their primary right to determine how many children they wish to have, and there should be no law that will encourage the State to tell a family "you can only have one child or two children."

That is not the implication of this right of the family to found or the parents to found how many children they really want. That is why we have the term "in accordance with their religious convictions and the demands of responsible parenthood."

When we speak of "responsible parenthood," we mean to encourage them. When they decide to have so many children, it would also be dependent on their capability of sustaining such a family.

MR. NOLLEDO: And when you talk of children in Section 2, letter (b), do you refer to minors?

MR. GASCON: Yes.

MR. NOLLEDO: Or those under parental authority?

MS. NIEVA: Yes, definitely. I think we refer to all types of children. Even children born, perhaps, out of wedlock or children who are adopted; children who are orphaned. So, we are thinking of all children.

MR. NOLLEDO: Mr. Presiding Officer, with respect to Section 2(c), when the Commissioner talks of the right of the family to a decent family living wage, what does she mean by this? Is it employment by any member of the family by a third person?

MS. NIEVA: Yes. We are thinking in terms of a wage that will allow a family to live a decent human life. That means, with the necessary social services, housing, health, education and all the basic needs of a family.

MR. NOLLEDO: I think, Mr. Presiding Officer, we are aware of the principle that when children render services while they are minors, they need not be compensated.

MS. NIEVA: No, we are not referring to that at all; we are referring to employment by a third party.

MR. NOLLEDO: My last question is with respect to the Gascon amendment, just inserted now. It reads: "Sec. 2(e). The institution of marriage as the foundation of the family in effect shall be defended by the State." Can the Commissioner give examples of the ways by which the State may defend the institution of marriage as the foundation of the family? Does it do away with divorce?

MR. GASCON: I guess it would discourage divorce. However, this will be subject to existing customary and traditional laws. In fact, it is to my knowledge that divorce is being practiced in, let us say, the Cordilleras or Muslim Mindanao.

MR. NOLLEDO: No, excluding Muslim Mindanao or the Cordilleras. Is Congress prevented from passing a divorce law with respect to Christian Philippines, if we adopt the provision that the State shall defend the institution of marriage as the foundation of the family?

MR. GASCON: What I mean when I encourage this proposal, "defend the institution of marriage," and if the proposal will be pushed through, "the social institution of marriage," is to emphasize that those who wish to marry and establish a family have the right to expect from society the moral, educational, social and economic conditions which will enable them to exercise their right to a mature and responsible marriage.

So, it is more a positive thing, that when we speak of defending the social institution of marriage, the society must encourage marriage by insuring the other conditions which will help support the basic institution or social institution of marriage.

Furthermore, what would be emphasized is that marriage cannot be contracted, except by free and full consent; encouragement of these basic traditions which we connect with the term "marriage."

However, this is my personal opinion. I would personally discourage divorce in our culture.

MR. NOLLEDO: Does the provision outlaw live-in relationship? (Laughter)

MS. NIEVA: It certainly does not encourage this, because if we are going to encourage all kinds of unions, then we will have problems in society like the one of delinquent children and even major criminals, most of whom come from broken homes. Studies of psychologists and educators have really enough empirical evidence on this. So, I think we want to save society from the ravages of antisocial young people and adults who come from homes that were not really the kind of institution and environment that promote the well-being of people.

MR. GASCON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Is Commissioner Nolleddo through?

MR. GASCON: I would like to respond also to that. However, Mr. Presiding Officer, although this provision does not encourage that, it is also a reality that there are certain people who found families without the formalities of marriage not because of anything else but primarily because of socio-economic reasons. I was talking to Sister Christine Tan a while ago and she was mentioning to me that it is a reality that there is the poor, who cannot even go into formal marriage because of their socio-economic condition. But this provision does not wish to discriminate them but rather it merely emphasizes that the State must create a condition whereby marriage will prosper and flourish even among the poor. But, of course, when we speak of this, it is not meant to discriminate or to antagonize those who come from the poorer classes of society. That is the intention, Mr. Presiding Officer.

MR. NOLLEDO: Thank you, Mr. Presiding Officer.

MR. SUAREZ: Mr. Presiding Officer, may we be recognized?

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you. We will not address the interpellations to the members of the committee but will the Honorable Nolleddo oblige with a few questions?

MR. NOLLEDO: Mr. Presiding Officer, with pleasure.

MR. SUAREZ: Mr. Presiding Officer, we are family men and I assure that we are both interested in maintaining the solidarity of the family.

MR. NOLLEDO: If we can help it.

MR. SUAREZ: Yes, subject to that exception. Now, because the Commissioner cited Article 217 of the Civil Code as descriptive of the family institution, may I call the Commissioner's attention to the preceding article, Mr. Presiding Officer, Article 216, which is wonderfully worded. May I read it, Mr. Presiding Officer? It says, "The family is a basic social institution which public policy cherishes and protects" and that is also the thrust in the Article on Family Rights. Does the Commissioner agree with me, Mr. Presiding Officer?

MR. NOLLEDO: I agree with Commissioner Suarez, Mr. Presiding Officer.

MR. SUAREZ: The Commissioner enumerated the instances in Article 217 of the new Civil Code which covers what would be relevant to family relations. May I call the Commissioner's attention also to Article 218, which reads:

The law governs family relations. No custom, practice or agreement which is destructive of the family shall be recognized or given any effect.

The Commissioner will find that very effective and all-covering, Mr. Presiding Officer.

MR. NOLLEDO: Yes, but that provision is no longer absolutely true in view of the constitutional provision that indigenous customs and traditions should be respected by the State and in view of the passage of the decree of Mr. Marcos on Muslim personal law where divorce is recognized.

MR. SUAREZ: So, the Commissioner feels that it should go beyond this provision appearing under Article 218, that is why the Commissioner is in favor of a constitutional precept governing family rights? Is this why mention was made regarding the problem involving the indigenous personal relations, traditions or customs, Mr. Presiding Officer?

MR. NOLLEDO: Yes, Mr. Presiding Officer. Even under the 1973 Constitution there is a similar provision enjoining the State to protect the indigenous customs and traditions.

MR. SUAREZ: Now, let me go to another article which is Article 219, and it reads:

Mutual aid both moral and material shall be rendered among members of the same family. Judicial and administrative officials shall foster this mutual assistance.

Does the Commissioner think this has to be covered by another constitutional provision?

MR. NOLLEDO: Yes, I think that can be adequately covered by Section 2 of the report of the Committee on Human Resources on family rights, Mr. Presiding Officer, because of the introductory part which says, "The State shall defend the following," and the wordings below sufficiently cover Article 219 of the Civil Code.

MR. SUAREZ: Referring to "mutual aid " among members of the same family.

MR. NOLLEDO: Like for example "the right of the elderly to family care" and "the right of children to assistance and the special protection." I understand that the word "protection" here should also cover protection from the family.

MR. SUAREZ: Let me call your attention finally to the provisions of Article 220 of the same new Civil Code, reading:

In case of doubt, all presumptions favor the solidarity of the family. Thus, every intendment of law or facts leans towards the validity of marriage, the indissolubility of the marriage bonds, the legitimacy of children, the community of property during marriage, the authority of parents over their children, and the validity of defense for any member of the family in case of unlawful aggression.

Does the Commissioner think this is also covered by Section 2 of the proposed Article on Family Rights?

MR. NOLLEDO: I think this should be covered because of the words "shall defend," especially in relation to the amendment of Commissioner Gascon, the institution of marriage as the foundation of the family.

In addition to his observation, Mr. Presiding Officer, I would like to state that really there is an intendment of the law towards the validity of marriage, because even in legal separation, if he will remember, both of us are lawyers, there will be a suspension on the proceeding, a "cooling off" period. I think the State is not receptive to

the petition for legal separation, and the State will exert all efforts towards a compromise, if he remembers. And if he refers to Article 222 of the Civil Code which he is now holding, it states:

No suit shall be filed or maintained between members of the same family unless it should appear that earnest efforts toward compromise have been made, but that the same have failed, subject to the limitations in Article 2035.

MR. SUAREZ: Thank you. My last question is: This chapter is captioned "THE FAMILY AS AN INSTITUTION" and enumerates Articles 216 to 222. Does the Commissioner feel that in spite of these codal provisions, we need a constitutional declaration of principle of some sort?

MR. NOLLEDO: I feel so, Mr. Presiding Officer, because I think we have to underscore the importance of the family as a basic social institution and that importance must be raised to the level of a constitutional provision.

MR. SUAREZ: Thank you for the clarification, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, may I ask that Commissioner Bernas be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bernas is recognized.

FR. BERNAS: Just one question, and I am not sure if it has been categorically answered. I refer specifically to the proposal of Commissioner Gascon. Is this to be understood as a prohibition of a general law on divorce? His intention is to make this a prohibition so that the legislature cannot pass a divorce law.

MR. GASCON: Mr. Presiding Officer, that was not primarily my intention. My intention was primarily to encourage the social institution of marriage, but not necessarily discourage divorce. But now that he mentioned the issue of divorce, my personal opinion is to discourage it, Mr. Presiding Officer.

FR. BERNAS: No. My question is more categorical. Does this carry the meaning of prohibiting a divorce law?

MR. GASCON: No, Mr. Presiding Officer.

FR. BERNAS: Thank you.

MR. RAMA: May I ask that Commissioner Quesada be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Quesada is recognized.

MS. QUESADA: Thank you, Mr. Presiding Officer.

In the Commissioner's revised formulation, he did not spell out the areas of total human development, but in the previous formulations, he included "spiritual development of the Filipino family." Just exactly how does he envision the State's actively promoting the spiritual development of the Filipino family?

BISHOP BACANI: There is already a constitutional provision, for example, through the educational system regarding the development of moral character, the instilling of ethical and moral values. There is also a provision in our Constitution for optional religious instruction. And then there is the general provision for freedom of worship and religion. The maintenance and safeguarding of this will be ways by which the spiritual development of the family is promoted.

MS. QUESADA: But it is with the understanding that the State shall not impose on the family the choice of how they will develop the family spiritually.

BISHOP BACANI: No, I do not think that that is the contemplation at all, that there will be a definite mode by which this spiritual development will be promoted.

MS. QUESADA: Another question would be the choice of the word "defend" instead of the words "promote, protect, encourage," which we have been using in the past. Why was the choice for the term "defend" used in Section 2?

MS. NIEVA: We were thinking in terms of defending these rights against encroachment of forces that would work against the welfare of the family. We can always add the words "enhance" or "promote." We would welcome whatever amendments the Commissioner may want to make to strengthen this provision.

MS. QUESADA: Yes. I was thinking of more positive terms instead of "defending" because "defending" seems to imply that there is an assault on the rights of the family.

MS. NIEVA: While the family we contend is the victim of assault in many ways, we do not necessarily cling to the use of the word "defend."

MS. QUESADA: So the Committee will be amenable to possible amendments?

MS. NIEVA: We will be very open to a more positive term, if the Commissioner wants.

MS. QUESADA: Now, on Section 2(b), it is stated: "the right of spouses to found a family in accordance with their religious beliefs and convictions. . ." Why is the right of spouses limited to found a family in accordance with their religious convictions? Are there not any other considerations in the exercise of this right?

MS. NIEVA: Yes, there are, the educational rights and all the other rights, but we were hesitant to be accused of being repetitious, therefore, we did not want to include the other basic rights that belong to the family. But if the Commissioner has a formulation that would include this and would be acceptable to the body, we would be very glad to accept such an amendment.

MS. QUESADA: Yes, because by spelling out only the religious convictions as the basis of this right of spouses to found a family and also the demands of responsible parents, some other considerations which have been spelled out are not included. So, maybe there is a need to amend this formulation.

MS. NIEVA: Yes, we adhere to that, but we were at a loss as to how to include the other important aspects without being accused of redundancy.

MS. QUESADA: My third question is on the ideas of the kind of assistance that the children have the right to receive from the State.

MS. NIEVA: I think this would include educational, physical, moral, health care and all aspects of the development of children.

BISHOP BACANI: There is one proposed amendment which has been submitted to us about the type of assistance that can be given, and it says: "CHILDREN SHALL HAVE THE RIGHT TO PROPER CARE, NUTRITION, A RELEVANT, NON-SEXIST AND QUALITY EDUCATION, AS WELL AS PROTECTION FROM EXPLOITATION AND MENTAL AND PHYSICAL ABUSE."

MS. QUESADA: Yes. I was wondering if we could spell this out since we would like people to know just what kind of support children should have instead of just affording special protection against neglect, cruelty and exploitations. Maybe, we could be more explicit in the kind of assistance we should give to the children.

MR. VILLACORTA: Mr. Presiding Officer, as a matter of fact, several Commissioners are proposing that in lieu of "assistance," we place "PROPER CARE AND NUTRITION" to be more explicit.

MS. QUESADA: Yes. When the time comes maybe we could work out a formulation. And, finally, I was

wondering why there is no mention of any right of women and girls in the family which should be strengthened in this particular section. I am thinking particularly of how women, the wife or the girls in the family, may be freed from the role that has been traditionally assigned to them, to take care of tasks which the male members of the family, for example, do not share, like cooking, housekeeping and even taking care of the children. These have been relegated through all these years to women. So, would the committee be amenable to a resolution or a provision that would try to liberate our women and girls in the family from the bondage of these domestic roles?

BISHOP BACANI: We will consider that, Mr. Presiding Officer, but remember the provision regarding the fundamental equality of men with women or of women with men that has already been passed by the Commission. And I was telling Commissioner Nieva that the group of Mrs. Shahani, when they came here, was objecting precisely to the putting of the provision on the equality of women within the context of the family. I do not know for what reason.

MS. QUESADA: Yes. I would think that it would be not just that. It would be an equal right of boys and girls, members of their family to learn some of the basic things that would make the family more cohesive and share in the responsibility of parenthood and of bringing up a wholesome family life. So it is not really in the context of just girls but I suppose that men and boys in the family should also be given a reorientation in the roles. This is one area which I think has been overlooked because we have accepted this as a tradition that should not be changed.

MS. ROSARIO BRAID: So the Commissioner can propose an amendment to that effect when the time comes. That is right.

MS. QUESADA: Yes. So when the time comes, we shall introduce some amendments.

MS. ROSARIO BRAID: Yes, Mr. Presiding Officer.

MS. QUESADA: That is all that I have to ask, Mr. Presiding Officer.

MS. ROSARIO BRAID: Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA: I move that we suspend the session for a few minutes.

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

The session is suspended.

It was 4:53 p.m.

RESUMPTION OF SESSION

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

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Tingson be recognized to interpellate for three minutes.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Tingson is recognized.

MR. TINGSON: Mr. Presiding Officer, my two or three questions would only be directed to the bachelor member of the committee who, of all people, and I am happy for that, thought of adding the very important amendment, the institution of marriage as the foundation of the family. Mr. Presiding Officer, Commissioner Gascon, of course, agrees with what the Scriptures say that marriage is an honorable thing and that it is truly the foundation of a successful, happy, fulfilled family. Does the Commissioner agree?

MR. GASCON: Yes, Mr. Presiding Officer.

MR. TINGSON: Mr. Presiding Officer, does the Commissioner look forward to participating in this very important and sacred institution known as marriage?

MR. GASCON: Not necessarily, Mr. Presiding Officer. I am still contemplating on my proper vocation.

MR. TINGSON: I see. I am warning the Commissioner of something that is irresistible for a good-looking Commissioner like him. However, it is not a warning; it is more of an advice that it is an honorable thing to get into. I am just wondering, Mr. Presiding Officer, about the title of this Article, "Family Rights." Can we not make this "Family Rights AND RESPONSIBILITIES"? It seems to me that we should inculcate in the minds of the husbands and the wives and the members of their family that we do enjoy rights, but that those rights will be meaningless without our fulfilling our respective responsibilities. Would it not be better if we so reformulate the short article and somehow include along with rights, responsibilities?

MS. NIEVA: I do not see any objection to that except that then we would have to probably reformulate the whole section to include all the different responsibilities of the family and that might be unwieldy.

Do we have a quorum?

MR. TINGSON: Mr. Presiding Officer, if we do come to the conviction that truly there ought to be responsibilities along with rights, I think this particular article on family would be more meaningful to us.

Back to our bachelor Commissioner, I am sure we all agree with the statement which says: "no success elsewhere could ever compensate for failure at home." Is that the reason why the Commissioner states that the institution of marriage is the foundation of the family?

MR. GASCON: What the Commissioner just read was with regards to the principle of encouraging the firmness of the family, and I personally believe that marriage encourages a strong family although, there have been also instances where families which were not founded on marriage have been successful. But I agree with the Commissioner's statement fully, Mr. Presiding Officer, that there is a lot of merit in developing values and proper prospectives in the family which would be beneficial to society in the long run.

MR. TINGSON: Did I get the Commissioner right, Mr. Presiding Officer, when he said there are happy families that are not founded on marriage?

MR. GASCON: There may be, Mr. Presiding Officer. However, as I said, marriage as an institution encourages the development of a strong and firm family.

MR. TINGSON: But certainly, the amendment here which says: "the institution of marriage as the foundation of the family," is a positive suggestion that the family should be based on people who are married to each other, man and wife, and not just living together without the sanctity of marriage.

MR. GASCON: Yes, Mr. Presiding Officer.

MR. TINGSON: Now, finally, I heard Commissioner Maambong tell a story to some of us the other day and I wonder if the Commissioner agrees that he and his wife, since they were married, have never quarreled because, according to Commissioner Maambong, before they got married, he had an understanding with his wife that all minor decisions will be exclusively the right of the wife and all major decisions will be his. Does the Gentleman agree with what he said that minor decisions mean how many children to raise and what house to buy, and how much bank account to put in the bank, the education of their family — those are all minor decisions according to him and he does not interfere with his wife. Then we asked him what major decision means? "Well," he said, "my exclusive privilege is to decide whether the Philippines should join the United Nations and whether there should be martial law again and so forth and so on." But probably, he was just telling a joke. But the point is, does the bachelor Commissioner think that real good marriages are based on respect for each other and, if possible, taking nothing so seriously but making the wife smile now and then and the husband do the best that he can — as the head of the family, to provide adequately?

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: May I remind Commissioner Tingson that his three-minute time was up five minutes ago.

MR. TINGSON: I submit, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Thank you very much.

MR. GASCON: Mr. Presiding Officer, may I respond to that. Basically, I believe that one of the basic things that we should encourage in the development of a family is love and partnership, and I think the success of a family is based on that — the proper values encouraged within the home.

THE PRESIDING OFFICER (Mr. Colayco): Mr. Floor Leader, who is the next speaker?

MR. RAMA: May I ask that Commissioner Bennagen be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Mr. Presiding Officer. I just would like to ask a few questions. May I know the understanding of the committee on the word "marriage," since there seems to be a premise here that that is left unstated?

MS. NIEVA: Generally, I think the accepted definition of marriage is the union of a man and a woman.

MR. BENNAGEN: Is that the same thing as the folk norm of "nagsama sila"?

MS. NIEVA: I think not. We are not defining marriage as just an agreement between the two spouses without the State's sanction.

MR. BENNAGEN: In other words, in terms of the state's defense of the right, all marriages that are not subject to religious or legal rituals are not part of this defense by the State?

MS. NIEVA: Mainly we are talking here of marriage as generally known, yes.

MR. BENNAGEN: Is that forcing all spouses to undergo a certain legal or religious ritual but not folk ritual as in the concept of "nagsama"?

MS. NIEVA: No. In order to receive protection of the State, I think not.

MR. BENNAGEN: Is the assumption that only marriages through legal and religious rituals can be successful

marriages?

MS. NIEVA: We are saying that, in general, marriages are founded on the full consent of spouses.

MR. BENNAGEN: Is it not merely a Christian, middleclass bias?

MS. NIEVA: We are saying that other cultures may have other traditional models of marriage and family life, and we respect them.

MR. BENNAGEN: May I know what the committee means by "religious convictions"?

MS. NIEVA: Let us take the Catholic viewpoint. We do not believe that the State has the right to dictate the number of children and impose a certain method by which one can maintain the number of children in a family.

MR. BENNAGEN: Does religious conviction include convictions of animists and pantheists?

MS. NIEVA: If that is their faith, if that is what they firmly believe in, I suppose that is their firm religious conviction and the State should respect that.

MR. BENNAGEN: Thank you.

MS. NIEVA: Provided it is not against the law.

MR. BENNAGEN: Given the idea of "promoting" and "defending," what could be expected by the family from the State? And what if the State cannot meet these expectations?

MS. NIEVA: What we are saying is that the State should exert efforts to promote or defend these goals in the same way that in social justice and in education we had all these provisions that we said the State should promote.

MR. BENNAGEN: For instance, a very recent study by the Center for Research and Communications, headed by Commissioner Bernardo Villegas, claims that the threshold wage of a Metro Manila family is around P5,868 per month.

MS. NIEVA: Yes. When we are thinking of the right of the family, we are not saying here that it is only one wage earner who should earn enough to maintain the whole family.

MR. BENNAGEN: Yes. Even given that, considering the annual income or monthly income of Filipino families, what can families below this wage bracket do in relation to their claims on the State, assuming that this is passed?

MS. NIEVA: I think we take this in the same way we take the provisions on labor, that there should be all of these just remunerations. What can labor do if they do not receive these just wages?

MR. BENNAGEN: I think that is a different case because if one is a laborer, then that laborer can make claims on capital. But this one is the right of the family to a decent family living wage. And it is the State which is expected to defend that right.

MS. NIEVA: To defend or to promote. I think what we want here is to emphasize that the families have a right to live decent human lives.

MR. BENNAGEN: I think there is no problem about that.

MS. NIEVA: Therefore, the State should do everything in its power to help the family achieve that goal.

MR. BENNAGEN: What if the State cannot meet that?

MS. NIEVA: I do not think we are giving any sanctions here; we are not providing for any sanctions from the

State.

MR. BENNAGEN: Will this not set into motion a kind of revolution of rising expectations?

MS. NIEVA: I think, then we can apply the same argument that the Gentleman is giving.

MR. BENNAGEN: Yes, but this is a family making claims on the State. When we speak of labor, it can claim its right in relation to capital.

MS. NIEVA: What we mean is that the family can claim just as students can claim free tertiary education when the State cannot afford. We were saying that this will be all dependent on what the State has in its power to provide.

MR. BENNAGEN: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Thank you.

MR. RAMA: Mr. Presiding Officer, the next registered speaker is Commissioner Ople, but he has graciously waived his right at the request of the Floor Leader because he said he would like to shorten the proceedings, and maybe because three minutes is not enough for the usual Ople utterance. So, thank you, Commissioner Ople.

May I call on Commissioner Rosario Braid to ask two or three questions.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Mr. Presiding Officer, I think one of the basic decisions we have to make is whether this will be a full article or whether these will be provisions under one of the articles, which will also determine the kind of amendments we will make: whether to expand it and to come up with the more amplified omnibus provision.

And so, with this, can I just ask a few questions. I suppose in Section 1, "total human development" means here that we acknowledge the family as the basic social institution; that it would provide the moral, intellectual foundation, orientation for a fully developed personality, that it is also the stronghold of emotional stabilization in addition to material and physical needs.

If this becomes an article, I hope that it could look at the values that we want to preserve as well as the values that we would like to reorient.

For instance, we find that if we have to move to some of the desired goals as found in our Preamble and the other provisions, we must be able to honestly look at some of the values that we would like to reorient or restructure. For instance, the rigidity in family roles in terms of husband-wife relationship which leads sometimes to even lack of communication between husband and wife, where one is relegated to particular responsibilities or work spheres; or letting the school undertake the entire socialization process. The parents say: "let the school do the teaching." Or in middle class families: "let the yayas do all the socialization."

Also, the closeness in family ties or solidarity which we all take pride in could also be a negative value, when it fosters nepotism in the business sphere.

So that while we welcome unity and stability and familialism, we must make sure that at some point, we promote independence, self-reliance and objectivity. Because in the final analysis all these problems we talk about in terms of graft and corruption are really extension of negative values in the family.

Since we have recognized women's equality, we must begin to monetize women's value as housekeepers. I think women would like to see monetized value on their contributions to the home. Lastly, Mr. Presiding Officer, I hope

the question of whether this will be a full article will be resolved.

MR. GASCON: Mr. Presiding Officer, my personal opinion, I think, is shared by the other members of the committee. The issue of the family deserves the due recognition of this body through, perhaps, the institutionalization of an article on family rights; that as much as we have established already the institutions — the governmental institutions of the Judiciary, the Legislative, the Executive — we should also recognize very clearly the family as a basic social institution which is the basis for other institutions — governmental or private.

MS. ROSARIO BRAID: Yes.

MR. GASCON: The issue is the recognition of that basic social institution of the family and its contribution to society.

MS. ROSARIO BRAID: I would agree. Therefore, could we accommodate not only just rights but also some desired reorientation and direction in education and other areas of concern, particularly value orientation?

MS. NIEVA: We would welcome suggestions or amendments, Mr. Presiding Officer.

MS. ROSARIO BRAID: Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, before we close the period of sponsorship and debate, I ask that Commissioner Maambong, the last speaker, be recognized to ask two questions.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, my name was mentioned by Commissioner Tingson. I did tell the story which he retold to the Commission. But I cannot claim paternity to the story; it was only told to me by a happily married friend.

Mr. Presiding Officer, my main concern in this family rights is only to make sure that whatever we say here will not conflict with the Civil Code.

For example, under Section 1 we say: "promote total human development." As stated already by Commissioner Suarez and Commissioner Nollado, in all the provisions of the Civil Code, the thrust of the Civil Code is always towards solidarity. And I would suggest that perhaps we can incorporate that in Section 1.

Just to prove this point, may I state that under our Civil Code, in violation of the freedom of contract, two married people cannot enter into a contract for legal separation. They cannot even dissolve the conjugal partnership of gains.

In the case of annulment or an action for legal separation, this is the only case that I know of — a civil case, where the fiscal is duty bound to go to court in order that there will be no collusion between the parties. And that proves that the thrust of the Civil Code is on solidarity.

Second, Commissioner Gascon formulated this provision — "the institution of marriage as the foundation of the family."

I would like to call the Commissioner's attention, however, that under the Civil Code, it is not the institution of marriage which is being defended by the Civil Code, it is marriage as an inviolable social institution, under Article 52. So, it is a matter of rewording it.

Finally, we have here several rights under Section 2. I would just like to call the attention of the committee that when we speak of rights, there are supposed to be corresponding duties. And I cannot relate the rights to duty. For example, the right of children to assistance, against whom shall children have the right to assistance?

We can settle this later on, but in the Civil Code we have all the rights under parental authority, under care, education of children and so forth. Probably, when we go to the particular rights, we can also particularize who the persons are who will be duty bound or liable for these rights.

Thank you.

MS. NIEVA: Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, I move that we close the period of sponsorship and debate.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none, the motion is approved.

ADJOURNMENT OF SESSION

MR. RAMA: Mr. Presiding Officer, many of those who interpellated would like to have some time to formulate their amendments, particularly Commissioner Rosario Braid. I move that we adjourn the session until tomorrow.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none, the session is adjourned until nine-thirty, tomorrow morning.

It was 5:44 p.m.

[*] Appeared after the roll call.

[**] With reservation.

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