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Wednesday, August 13, 1986

CALL TO ORDER

At 9:43 a.m., the Vice-President of the Constitutional Commission, the Honorable Ambrosio B. Padilla, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Vicente B. Foz, to wit:

Almighty God, give us the light to write a Constitution the people will know and like, neither too long nor too short but good for them. Give us the strength to carry on with humility though often we get carried away when we push our ideas too hard, and say words we don't really mean but hurt our fellow workers. Give us the time to reflect even as we rush our work to meet some crazy deadline, mindful that more than stringing together words and phrases, we write history and bind our people, that is, if they accept it. But Lord, please make them do.

Amen.

ROLL CALL

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

Aquino, F. S. Ople, B. F.
Azcuna, A. S. Padilla, A. B.
Bacani, T. C. Quesada, M. L. M.
Bengzon, J. F. S. Rama, N. G.
Bernas, J. G. Rigos, C. A.
Rosario Braid, F. Rodrigo, F. A.
Brocka, L. C. Romulo, R. J.
Calderon, J. D. Rosales, D. R.
De Castro, C. M. Suarez, J. E.
Colayco, J. C. Sumulong, L. M.
Concepcion, R. R. Tadeo, J. S. L.

Davide, H. G. Tingson, G. J.

Foz, V. B. Treñas, E. B.

Gascon, J. L. M. C. Uka, L. L.

Jamir, A. M. K. Villacorta, W. V.

Laurel, J. B. Villegas, B. M.

Monsod, C. S.

With 33 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R. Natividad, T. C.

Alonto, A. D. Nollado, J. N.

Bennagen, P. L. De los Reyes, R. F.

Garcia, E. G. Sarmiento, R. V.

Lerum, E. R. Tan, C.

Maambong, R. E.

Messrs. Guingona and Regalado and Mrs. Muñoz Palma were sick.

Mrs. Nieva was absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS AND COMMITTEE REPORT

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

Communication No. 528 — Constitutional Commission of 1986

Communication from Mr. Jose C. Laureta of 105 Paseo de Roxas, Makati, Metro Manila, recommending that Section (7)2 of Proposed Resolution No. 531 be deleted, and that the question whether the advertising industry should be nationalized be deferred and be left for determination by the legislative body

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 529 — Constitutional Commission of 1986

Letter from Mr. Emilio Y. Hilado, Jr. of P.O. Box 199, Bacolod City, suggesting among others the following: (1) that each provision as finally passed by the Committee be published in full in the major daily newspapers; (2) that provincial governors and municipal mayors be encouraged to conduct public hearings on each provision as approved by the Committee; and (3) publish each provision as it is finally passed by the Constitutional Commission

TO THE STEERING COMMITTEE

Communication No. 530 — Constitutional Commission of 1986

One hundred forty-one letters from students in Silang, Cavite, all seeking to include in the Constitution the following proposals: (1) a No-U.S. Military Bases Agreement; (2) an anti-nuclear power plant; (3) the promotion of Philippine sovereignty over our natural resources; and (4) a No-U.S. or any foreign intervention on Philippine Affairs

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

Communication No. 531 — Constitutional Commission of 1986

Communication from the Philippine Social Science Council, Inc., Don M. Marcos Avenue, U.P., Diliman, Quezon City, signed by its Chairman, Carolina G. Hernandez, and thirteen other officers and members endorsing favorably the proposal to grant regional autonomy to areas and populations with common historical, geographical, cultural, linguistic and ethnic characteristics

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 532 — Constitutional Commission of 1986

Letter from Ricardo Cardinal Vidal, Archbishop of Cebu, expressing his deep esteem and appreciation for the sacred task of writing a Constitution for the country, enclosing therewith a copy of the 1979 Pastoral Letter of the Philippine History on the Life of the Unborn Child, which may be of help in the deliberations of the Constitutional Commission

TO THE STEERING COMMITTEE

Communication No. 533 — Constitutional Commission of 1986

Position Paper of Siguion Reyna, Montecillo and Ongsiako stating the following: 1) Advertising agencies are not mass media; 2) No public policy is offended by the non-nationalization of advertising agencies; 3) Foreign owners have nothing to do with the content of advertisements, and hence, do not impose their own culture on us; 4) The existing constitutional provision on mass media is adequate to promote the purpose envisioned by the proposal; and 5) The nationalization of advertising agencies is best left to the wisdom of the legislature, which positions have been adequately discussed therein

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 534 — Constitutional Commission of 1986

Communication signed by Mr. Jorge Pelayo Albayda of 15 Moreno Street, Kabankalan, Negros Occidental, and one hundred ninety other signatories seeking the retention of the U.S. military bases in the Philippines even after the expiry date, saying that the presence of these bases is a boon to our economy, aside from providing security for the Philippines and Southeast Asia

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

Communication No. 535 — Constitutional Commission of 1986

Communication from the Cordillera People's Alliance transmitting a resolution signed by three thousand eight hundred thirty-six (3,836) people seeking a constitutional provision that would grant a regional autonomous government in the Cordillera

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 536 — Constitutional Commission of 1986

Letter from Mr. Ramon R. Leuterio of 105 P. Cruz Street, Mandaluyong, Metro Manila, urging the Constitutional Commission not to include in the Constitution controversial issues such as the U.S. military bases, abortion, nuclear-free Philippines, and expressing apprehension that the Constitution might be rejected if these are included

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

Communication No. 537 — Constitutional Commission of 1986

Letter from Mr. Catalino P. Arafles, President, Philippine Meteorological Society, 1424 Quezon Avenue, Quezon City, conveying full support to the Resolution incorporating in the Constitution an Article on Education, Science, Technology, Sports, Arts and Culture

TO THE COMMITTEE ON HUMAN RESOURCES

COMMITTEE REPORT

Committee Report No. 37 on Proposed Resolution No. 539, prepared by the Committee on Constitutional Commissions and Agencies, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON HUMAN RIGHTS,

recommending its approval in substitution of Proposed Resolution No. 365.

Sponsors: Hon. Foz, Rigos, Abubakar, Concepcion, De Castro, Jamir, Monsod, Nieva, Regalado, De los Reyes, Jr., Rodrigo, Villegas, Garcia and Sarmiento

TO THE STEERING COMMITTEE

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 34 ON PROPOSED RESOLUTION NO. 534 ON THE ARTICLE ON SOCIAL JUSTICE

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Committee Report No. 34 on Proposed Resolution No. 534, entitled:

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

Thereupon, Messrs. Monsod and Tadeo, Members of the Committee, made the following clarificatory refinements and/or modifications on the clean draft of the Article on Social Justice which, there being no objection, were approved by the Body.

By Mr. Monsod

1. On page 2, third paragraph of Section 3, substitute the phrase "the enforcement of" with AND SHALL ENFORCE, so that the phrase shall read: AND SHALL ENFORCE THEIR MUTUAL COMPLIANCE THEREWITH TO FOSTER INDUSTRIAL PEACE; and

2. On page 4, Section 9, on the sentence which reads "It shall also provide (promote) adequate employment opportunities to such citizens", the word should be PROMOTE and not "provide" inasmuch as the State would not provide the employment opportunities but promote them.

By Mr. Tadeo

1. On the meaning of "just compensation", in reply to Mr. Tadeo's inquiry whether the farmers would have to repay the subsidy to enable them to buy the land they till or whether such subsidy would be considered a grant, Mr. Bernas stated that, to his understanding, the subsidy would not have to be repaid since it is supposed to be a concrete implementation of the meaning given to social justice that those who have less in life should have more in law.

On Mr. Bacani's inquiry as to what would be the binding force of such opinion for purposes of future interpretation of the provision in the 1986 Constitution, considering that Mr. Bernas is not a member of the Committee on Social Justice, the latter replied that the interpretation would be based not so much on whether or not he is a member of the Committee but on the deliberations of the Commission from which he noted that the intention is to give justice to the owner even if it would be at the expense of the government to make the land affordable to the poor.

Mr. Monsod stated that the Records would attest support for the fact that the interpretation of Mr. Bernas is also the interpretation of the Committee.

2. On the meaning of "ecological, developmental or equity considerations" in Section 4, in reply to Mr. Tadeo's request for clarification thereof, Mr. Bennagen stated that although he did not introduce the amendment he did explain that the Body should bear in mind the ecological, development and equity needs.

To the proposal of Mr. Tadeo to insert after the word "ecological", the phrase PRO-PEOPLE DEVELOPMENT inasmuch as "developmental" could mean ejection of the tenant, Mr. Bennagen replied that the three considerations should go together — equity, developmental and ecological.

3. On the same Section 4 which provides that "The State shall respect the rights of small land-owners in determining retention limits", Mr. Tadeo observed that there has been some confusion in view of the existence of legislations such as RA 3844, RA 6389 and RA 6390 as well as PD No. 27. He stated that under the Decree, there is a retention limit of 7 hectares in which case the tenant cannot be ejected as long as there is a leasehold but that the tenant cannot also own the land. He noted that Mr. de los Reyes who introduced the amendment was not present. He then inquired whether under this provision, should the retention limit be determined at 7 hectares, the tenant can be ejected or, whether under Republic Acts 3844, 6389 and 6390 and PD No. 27 the leasehold may continue but the tenant may not own the land.

Ms. Aquino explained that the Committee's interpretation proceeds from the basic premise that to respect the retention limits of small landowners does not mean that they should necessarily be owner-cultivators but that they be allowed to maintain the leasehold arrangement with the tenants and, therefore, it does not follow that the tenant can be immediately ejected or evicted.

Mr. Bennagen, in addition, stated that it should also be qualified in terms of just share of the fruits of the land.

4. On the meaning of "incentives" and "voluntary land sharing" in the provision which states "The State shall

further provide incentives for voluntary land sharing", in reply to Mr. Tadeo's query whether the provision would not violate the principles of agrarian reform and the right of the landless farmers to the land they till inasmuch as this could be a loophole which the landowners might invoke, Mr. Monsod pointed out that during the deliberations, it was explained that "incentives" would be incentives to facilitate and accelerate the agrarian reform program as well as to include other areas which might not be considered included. The sentence, he stressed, cannot impair, obstruct, or diminish the agrarian reform program and that the grant of such incentives to give full expression to the program would be a matter between the government and the landowners.

Mr. Bengzon, clarifying the meaning of "fair market value" in view of Mr. Tadeo's reference to a case which interpreted "just compensation" in relation to PD No. 27, stated that the intention of the Committee which was adopted by the Body is to define "just compensation" as the fair market value of the property which is determined by the various market forces or that definition articulated by the Supreme Court before the issuance of the decree.

Mr. Bernas, also to clarify "just compensation", noted that although in the floor deliberations the Body adopted the principle of fair market value in general, in the deliberations on PD No. 27, which was the subject of the decision cited by Mr. Tadeo, it was stated that unless that decree is challenged, fair market value could be as specified thereunder. He noted that the meaning of fair market value or just compensation was not challenged at all and that "just compensation" was seen as "fair market value."

On the matter of "voluntary land sharing", Mrs. Rosario Braid explained that this is a privilege given to landowners in terms of tax exemptions and would be open to both tenants and non-tenants. She noted that the Legislature can include provisions which would prevent loopholes.

On the interpretation of ecological, developmental and equity considerations, Mr. Monsod clarified that these three factors need not always be cumulative, such that because of equity considerations, Congress may allow a farmer to divide his 50 hectares of land to his 10 children; with ten hectares each, instead of subjecting it to agrarian land reform, to which Mr. Tadeo added that it refers to a situation where there is no tenant involved.

INQUIRY OF MR. JAMIR

In reply to Mr. Jamir's inquiry as to which interpretation on just compensation would be accepted by the Commission, Mr. Bengzon pointed out that Mr. Bernas agreed that the matter be submitted to the Body. However, he maintained that just compensation should be interpreted as articulated by the Supreme Court in its decisions prior to Presidential Decree No. 76. He opined that even if the interpretation of PD No. 76 subsists, that is, the fair market value of the property as determined by various market forces, the Commission may and should determine the meaning of just compensation.

Likewise, Mr. Bernas explained that the interpretation of just compensation should always be in the context of the Article on Social Justice whereby the disadvantaged could easily acquire lands in accordance with law. He noted that just compensation refers to the prima facie determination of legislative authority, that is, based on the assessed value or the tax declaration of the owner, whichever is lower. He added, however, that it is still within the authority of the Supreme Court to determine whether it is really just compensation in the context of social justice, so that the farmer obtaining the land would not be paying more than what is just compensation.

Mr. Bengzon observed that there would be no actual conflict between his interpretation and that of Mr. Bernas as far as the intent of the Article is concerned, because what they were trying to point out was that just compensation should not be disadvantageous to both the farmer and the landowner, whereby the State must step in to fill up the difference of what the farmer could not afford and what is just compensation to the landowner. He pointed out, however, that the conflict lies in the definition of just compensation by the Committee and the definition under

P.D. No. 76 as interpreted by the latest Supreme Court decision.

In this connection, Ms. Aquino opined that the interpretation of Mr. Bengzon would be correct as far as the power of eminent domain for public use is concerned, but in the case of conflict as to what is just compensation relative to land reform, the Constitutional mandate states that the interpretation should be settled in favor of the bias for land for the farmers.

Thereupon, the Chair adverted to Mr. Concepcion's remark that the same terms in the Constitution should have uniform meaning, such that just compensation should refer to what is due the landowner, as interpreted by the Supreme Court and not as referred to by PD No. 76.

Mr. Bernas then affirmed that just compensation should be seen in the context of land reform. He also pointed out that the three inherent powers of the State, namely, police power, power of taxation, and power of eminent domain, involve certain laws for the citizen who must always give necessary contribution to society. In this regard, he explained that the starting formula for land reform which is always for the benefit of the underprivileged, is contained in PD No. 76. He further stated that, when the value of the land in accordance with said Decree is not questioned by the owner, then there is just compensation. But he noted that when the owner challenges the prices then the Supreme Court may declare that there is no just compensation and the State would pay for the difference, and if the State could not pay for it, then it may impose on the owner acceptance of what may be less than the market value which the farmer could afford.

In the event the State could not pay for the difference, Mr. Bengzon noted, however, that the State should also proceed with the implementation of land reform, and it should look for ways and means to compensate the landowner, whether in cash or in bonds.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 10:31 a.m.

RESUMPTION OF SESSION

At 10:42 a.m., the session was resumed.

MANIFESTATION OF MR. BERNAS

On the meaning of just compensation, Mr. Bernas pointed out that the traditional definition of "market value" should not obstruct the implementation of agrarian land reform. He underscored that if the farmer could only afford to pay the assessed value or its tax declaration, the State should make up for the difference with real market value, to which Mr. Bengzon agreed.

REMARKS OF MR. BENNAGEN

At this juncture, Mr. Bennagen clarified that it is the Committee's understanding that while ecological, developmental and equity considerations should all be taken together, in some cases, equity consideration should be given priority.

APPROVAL ON SECOND READING OF THE ARTICLE ON SOCIAL JUSTICE

Thereafter, submitted to a vote and with 32 Members voting in favor, none against and two abstentions, the Body approved on Second Reading the Article on Social Justice, as amended.

COMMITTEE REPORT NO. 24 ON PROPOSED RESOLUTION NO. 496 AND COMMITTEE REPORT NO. 32 ON PROPOSED RESOLUTION NO. 533 ON THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY

On motion of Mr. Rama, there being no objection, the Body proceeded to the consideration, on Second Reading, of the following Committee Reports, as reported out by the Committee on National Economy and Patrimony, to wit:

Committee Report No. 24 on Resolution No. 496, entitled:

Resolution to incorporate in the new Constitution an Article on National Economy and Patrimony; and

Committee Report No. 32 on Resolution No. 533, entitled:

Resolution to incorporate in the Article on National Economy and Patrimony a provision on ancestral lands.

Thereupon, the Chair recognized Mr. Villegas and the members of the Committee for the sponsorship.

REQUEST OF MRS. QUESADA

At this juncture, Mrs. Quesada requested the Committee on Local Governments to give information as to the result of the caucus held during the previous day for the benefit of the Cordillera group.

Relative thereto, Mr. Nollado announced the decision of the Body to grant autonomy to Cordillera and Muslim Mindanao and that the Committee, during the morning meeting, had adopted certain amendments in compliance with the guidelines set forth by the caucus.

Mr. de Castro objected to whatever the Committee had adopted during said meeting on the ground that he was not informed of the change in schedule

SPONSORSHIP REMARKS OF MR. VILLEGAS

Thereafter, sponsoring the proposed Article on National Economy and Patrimony, Mr. Villegas stated that the first two sections contain principles that would serve as constitutional guidelines for the various branches of government in the promotion of the common good in the economic sphere.

He explained that Section 1 sets economic self-reliance as the primary objective of development but this does not mean economic autarchy but rather the avoidance of mendicancy in the international economic community. He stated that independence refers to freedom from undue foreign control of the national economy especially of strategic industries such as the development of natural resources and public utilities. He said that the section also enumerates the three traditional goals of every national economy giving prominence to "equitable distribution of income and wealth" as the first objective of national economic development. He stated that the goal of reducing economic inequality is explicitly reiterated in order to grant priority and afford preferential option for the poor as far as production of goods and services is concerned.

Mr. Villegas explained that the reference to the national product for the "benefit of the Filipino people" guarantees that national development efforts shall give priority to the needs of the local population as against foreign consumers without unduly tying the hands of policy-makers on the appropriate balance between production for

domestic market and for export. He stated that the constitutional mandate is cognizance of the fact that the Philippines is rich in resources and a populous nation in which export does not have to play as vital a role as it did in Japan, Korea and Singapore.

He also explained that equal opportunities for all economic sectors to develop are guaranteed by the Constitution with the word "optimum" used to suggest sufficient flexibility to policy-makers to decide on the appropriate balance at any stage of the development process.

He explained that Section 2 presents the two principles of subsidiarity and solidarity. He added that what could be performed efficiently and competently by individuals and private groups should not be absorbed by the State. He stressed that the State would play a subsidiary role — it would only intervene when private initiative is helpless because of the complexity and magnitude of the problem.

He pointed out that the principle of solidarity clashes with the principle of laissez faire which glorifies free enterprise as the road to economic prosperity for all when experience has shown that there is no invisible hand which automatically promotes the common good in an environment where everyone is encouraged to pursue his selfish economic interests. He stressed that without necessarily constitutionalizing a specific economic policy, the phrase "private enterprise" best connotes the type of economy described in Section 2. He stated that "private" includes not only the business sector but also voluntary organizations, cooperatives, foundations and other associations.

He explained that the principle of solidarity in Section 2 envisions a situation where all economic agents in the private sector contribute to the common good with the State bound to promote distributive justice and to intervene when the common good so demands; the limitations to private property and private enterprise is also reiterated in the proviso in the section.

Mr. Villegas also stated that the Article restated the regalian doctrine that all natural resources belong to the State and the exploration, development and utilization of such resources are limited to corporations, at least 60% of the voting stock of which is owned by Filipinos, with agreements for the development of such resources limited to 50 years which is considered long enough to attract both local and foreign investors. He pointed out the innovation in this regard which is the small-scale utilization of natural resources like small-scale gold or coal mining.

Mr. Villegas added that in the classification of lands of the public domain, the categories in the 1935 Constitution were adopted namely, agricultural, forest and timber and mineral lands with the suggestion to add national parks as the fourth category so that certain forest lands could be preserved permanently for ecological and recreational purposes. He pointed out that the size of agricultural lands that could be leased by private corporations is limited to a maximum of 1,000 hectares; individual citizens could lease a maximum of 500 hectares or they could acquire by purchase or homestead an area of not more than 24 hectares. He stressed that these are the limits beyond which Congress cannot go by altering the size of lands of the public domain which may be developed, held or acquired by or leased to any qualified individual, corporation or association. He stressed that all these are subject to the requirements of land reform, as contained in the provisions of the Article on Social Justice.

He added that the Committee had also limited the ownership of lands to Filipino citizens with the exception of natural-born citizens who had lost their citizenship, who are allowed to own residential lands not to exceed an area of 1,000 square meters. He stated that there were some Committee Members who disagreed with such a restrictive policy and made reservations to present amendments at the proper time and that the Committee was also divided on the question of foreign participation in the ownership of public utilities with the majority deciding to increase the minimum Filipino ownership to 66-2/3 from the existing 60%.

The National Economic and Development Authority (NEDA), he stated, had been removed as a constitutional body and may be abolished by Congress if the need for it no longer exists. He explained that it was the consensus in the Committee that an economic planning agency should not be constitutionalized since formal economic planning is not an indispensable part of managing the national economy, however, if Congress provides otherwise, the existing NEDA would function as the planning agency under the Executive.

He stated that the central monetary authority has been retained as a constitutional body.

He stated that provisions on land reform and social justice had been transposed to the new Article on Social Justice but, despite this, the whole Article on National Economy and Patrimony is permeated with the spirit of social justice.

Finally, he stated that Committee Report No; 32 on the matter of ancestral lands was also included in the Article.

INTERPELLATION OF MR. BENNAGEN

In reply to Mr. Bennagen's query on the meaning of "undue foreign control" in the interpretation of an independent national economy, Mr. Villegas stated that undue foreign control is one which: 1) sacrifices national sovereignty; or 2) sacrifices the welfare of the Filipinos in the economic sphere. He added that "undue" was added because if the ratio of 60/40 capital ownership needed for the development of natural resources would be retained then the 40% foreign capital would involve some measure of control. He stated that an amendment to improve the phraseology would be welcome at the proper time.

MOTION OF MR. RAMA

At this juncture, Mr. Rama moved that the interpellations be limited to the morning and afternoon sessions only, in deference to the general sentiment of the Body and the Chairman of the Committee on Rules.

Mr. Bengzon, however, observed that it would be unfair to the Committee and the other Members if the rule would be applied immediately because two hours had already been lost in the morning session. He suggested that the rule be applied starting with the afternoon session.

Mr. Rama accepted the suggestion.

The Chair, however, stated that the Body could continue with the interpellation and consider the motion later.

Mr. Rama withdrew his motion.

INTERPELLATION OF MR. NOLLEDO

On Mr. Nolleto's query on the meaning of "full control" in Section 3, Mr. Villegas stated that it proceeds from the statement that all natural resources are owned by the State which, in turn, could delegate its control over natural resources through lease or alienation.

On whether the State could change the decision of a governing board of a corporation in the exercise of its "full control", Mr. Villegas replied that it cannot if the decision is within the context of the contract.

On whether the small-scale utilization of natural resources must be done only by individual Filipino citizens, Mr. Villegas stated that "small-scale" refers to single proprietorship or individuals. He explained that "large scale", on the other hand, refers to capital-intensive activities like copper mining and that export producing companies could be considered large-scale. He stated that the basis for the equity requirement is voting stock.

Mr. Nollado observed that it is based on the subscribed capital stock which Mr. Villegas confirmed.

On whether the Committee had adopted the grandfather rule whereby a corporation is allowed to invest in another corporation, Mr. Villegas answered in the affirmative.

On whether additional Filipino capital is needed, Mr. Villegas also answered in the affirmative.

Mr. Nollado stated that Filipino doctors who had embraced American citizenship had voiced out their sentiments to delete "1,000 square meters" as the maximum limit for owning residential lots by granting Congress the prerogative to determine the maximum limit. He inquired whether the Committee would be amenable to his proposed amendment to read as follows: NOTWITHSTANDING THE PROVISIONS OF SECTION 6 OF THIS ARTICLE, A NATURAL-BORN CITIZEN OF THE PHILIPPINES WHO HAS LOST HIS PHILIPPINE CITIZENSHIP MAY BE A TRANSFEREE OF PRIVATE LANDS SOLELY FOR RESIDENTIAL PURPOSES.

Replying thereto, Mr. Villegas stated that the Committee was divided on the issue and that it would welcome any proposed amendment on the matter.

On whether the Committee had adopted any provision on idle lands, Mr. Villegas stated that the matter is implied in the statement that "all these provisions are subject to the requirements of land reform" leaving Congress to decide on the question based on all the principles articulated in the Article on Social Justice.

INTERPELLATION OF MR. AZCUNA

On Mr. Azcuna's query whether it would not be better to make the National Economic and Development Authority (NEDA) dependent upon the socio-economic thinking of the Executive branch, Mr. Villegas explained that that is the spirit of Section 8, lines 7 and 8, but that the Committee would welcome suggestions for the rephrasing of said Section to avoid confusion.

On Section 14, regarding combinations in restraint of trade, Mr. Azcuna asked the Committee if it would not be better to limit this to domestic trade so that the State would not be precluded from forming cartels for its export products as retaliatory measures against predatory trade practices of foreign countries, Mr. Villegas replied that the remedy is implied in the first sentence of the Section adverted to.

With respect to Section 12 on the need to define "vital industries" to forewarn the private sector on its scope, Mr. Villegas stated that since it is difficult for the Body to decide what vital industries include, the same should be left to Congress to determine. Mr. Bengzon added that the phrase "people's security against external aggression" explains Mr. Azcuna's concern.

INTERPELLATION OF MR. DE LOS REYES

In reply to Mr. de los Reyes' query whether lines 18 to 24 of Section 3 should be interpreted in relation to Section 7 of the Article on Social Justice, Mr. Villegas answered in the affirmative.

Mr. Villegas also confirmed that "small-scale utilization of natural resources" also refers to "small-scale cooperative fish farming" and preferential rights are given to subsistence fishermen.

With respect to Resolution No. 432 coauthored by Messrs. de los Reyes, Maambong, Ople and Natividad and Resolution No. 412 authored by Mrs. Rosario Braid, Mr. Villegas explained that they were referred to the Committee on General Provisions.

In reply thereto, Mrs. Rosario Braid stated for the Record that her Committee never received these Resolutions and that they may have been lost along the way.

Mr. Villegas then stated that the Committee would be willing to entertain amendments on the specific issue.

INTERPELLATION OF MR. RODRIGO

Mr. Rodrigo asked the Committee what "in trust" on the last sentence of the Report means, addressing the query to Mr. Bennagen.

Mr. Bennagen stated that it means "not to individuals outside of the community".

On how the individuals within the community could own lands, Mr. Bennagen replied that the provision accepts a wider range of ownership from individuals to families then to groups of families to the community.

On whether it would be possible for ancestral lands to be eventually owned individually by members of the community, Mr. Bennagen stated that history shows that this has not taken place unless a radical change in the social system is effected.

On whether there is a constitutional prohibition to reserve ancestral lands as communal ownership rather than individual ownership, Mr. Bennagen replied that the spirit of the provision is to that effect, while recognizing the minor variations in ownership. He stated that there are types of lands that could be owned individually, by families and by clans.

Mr. Rodrigo observed an inconsistency between the previous statement and the last sentence of the provision, to which Mr. Bennagen clarified that the apparent inconsistency is due to the reference to proprietary rights which includes the whole range of rights he mentioned earlier within the framework of that particular community.

INTERPELLATION OF MR. RAMA

Mr. Rama observed that Section 14 speaks of State regulation and prohibition of monopolies for public interest. He pointed out that in Japan, tobacco which is hazardous to health, was converted by the State into a beneficial industry. He observed that the second sentence of the Section seems to contradict Mr. Villegas' statement that the State is not prohibited from setting up monopolies.

On whether there is need for a phrase allowing the State to set up monopolies for the common good, Mr. Villegas stated that the second sentence of Section 14 should be interpreted in the contest of an anti-trust legislation, jurisprudence on which states that where combinations in restraint of trade or unfair competition prejudices the consumers, the law would come in. He stated, however, that there are certain monopolies which favor the consumers because of the economies of scale, whereby resources are not duplicated but regulated by the State.

Mr. Villegas confirmed that the State would not be prohibited from setting up monopolies for the common good.

INTERPELLATION OF MR. TINGSON

Mr. Tingson expressed concern for denuded forests and inquired whether the Committee had considered a ten-year or twenty-year logging ban on endangered forest lands except for domestic purposes.

Mr. Villegas, in reply thereto, pointed out that Section 5 provides for forest limits to be determined by law which could not be diminished. He also stated that national parks have been added and that the ban to log therein is perpetual.

On whether the Committee would consider an amendment to set a period upon ratification of the new Constitution to complete the logging ban on endangered forests to curb any possibility for Members of Congress to circumvent this provision, Mr. Villegas replied that the Committee would welcome any proposal on the matter.

Mr. Villegas also invited Mr. Tingson's attention to the results of the public hearings stating that the forestry sector had voiced out technical issues such as what areas should be maintained as forests in perpetuity and the types of trees to be planted. He stated that the Body had no time and resources to make explicit statements on forest policies.

Mr. Tingson, while expressing agreement with Mr. Villegas' explanation, stated that it would be feasible to provide a time limit for the ban.

On whether the Committee would be amenable to reconsider the 1,000 square meter limit for those who had lost their Filipino citizenship in owning lands for residential purposes, Mr. Villegas stated that his Committee would welcome amendments on the matter.

Mr. Tingson stated that as an evangelist, he had gone around the country and observed that non-profit corporations such as churches, schools and colleges have occupied lands belonging to the public domain and that these entities are not allowed to purchase even 2,000 square meters of land. He inquired whether churches, schools and non-profit entities are embraced in the phrase "qualified individuals, corporations or associations", in reply to which Mr. Villegas referred Mr. Tingson to line 5 of the Section adverted to.

INTERPELLATION OF MR. DAVIDE

Mr. Davide observed that except for lands of the public domain, all other natural resources could not be alienated and that lands of the public domain could be leased by private corporations with the required ownership by Filipino citizens. He also observed that only the State can exploit, develop, explore and utilize these natural resources or enter into a joint venture, co-production or production-sharing.

On whether, upon the approval of the Constitution, no timber or forest concession, permit or authorization could be exclusively granted to any citizen of the Philippines nor to any qualified corporation, Mr. Villegas answered in the affirmative.

On its effect on the licenses or concessions previously granted by the government to private corporations and individuals, Mr. Villegas stated that they would be deemed repealed.

Mr. Villegas confirmed that with respect to fisheries on Section 3, the right is subject to the preferential rights granted to marginal fisherman.

On the proposed Section 11 in relation to the same provision in the 1935 and 1973 Constitutions, Mr. Villegas explained that after discussing the Section with the U.P. Law Group, the Committee is amenable to the adoption of the old provision.

Mr. Davide suggested the adoption of the provision of the 1973 Constitution because under the proposal, it could be interpreted to mean that these corporations could be organized by whatever means, to which Mr. Villegas agreed.

Mr. Suarez agreed with Mr. Davide's observation on the possibility of proliferation of corporations which may be violative of Section 11. He affirmed that government-owned or controlled corporations under the proposal would have to be organized by means of special charters. He further affirmed that subsidiaries of government-owned or controlled corporations should be organized under a special law, otherwise they would become private corporations. Mr. Suarez stated that the Committee would be willing to entertain amendments to Section 11 to take care of the possible collision with certain provisions approved earlier especially on the prohibition of government officials and employees to hold office in government-owned or controlled corporations.

As to what would happen to existing government-owned or controlled corporations organized under the Corporation Law, Mr. Monsod explained that under Section 11, it is the intent of the Committee that all government-owned and controlled corporations need not be organized under original charters. He affirmed that corporations organized under the Corporation Law would be considered private corporations consistent with the provisions earlier approved particularly the sections which made a distinction between government corporations under an original charter and those organized under the Corporation Law.

On the possibility that this would open the floodgates to circumvention of the doctrine that public office is a public trust because then the government could circumvent it by merely organizing private corporation but ostensibly a government corporation under the Corporation Law, Mr. Monsod explained that it is Congress which should make the distinction in the sense that if a government-owned or controlled corporation would exercise governmental function it should be organized under a special charter and if it is to exercise proprietary functions, it should be organized under the Corporation Law.

On Section 15 regarding franchises, certificates or any other form of authorization for the operation of public utilities, Mr. Davide noted that it does not contain the restriction originally provided for in the 1973 Constitution. He inquired whether under the proposal, a franchise, a certificate or any form of authorization may be exclusive in character and if so whether it would not violate the thrust against monopolies.

Replying thereto, Mr. Suarez opined that the proliferation of public utilities engaged in a certain public service might lead to more problems for the nation, although it is possible that two or more public utilities engaged in one particular public service, would be conducive to keener competition and better public service.

On the suggestion to restore the qualification that said franchise, certificate or authorization should not be exclusive in character, Mr. Monsod agreed that in some instances, non-exclusivity may be good for the public but in other instances exclusivity is necessary. He cited the fact that while electric power may come from a single grid but go through different distribution companies, power generation may be a natural activity that could be operated by only one company. Mr. Davide, however, pointed out that the provision as worded does not embody the inherent character of a particular franchise, certificate or authority.

On the rationale for not providing a maximum period or life term for the franchise, certificate of authority, Mr. Villegas stated that this should be left to Congress because of the many conditions in different public utilities which the Commission could not determine. Additionally, Mr. Suarez pointed out the possibility that when a public utility is given a certain period to operate, the dismantling of the services after such period expires would prejudice the public.

Mr. Davide maintained that the Constitution should fix a certain limit but grant Congress the power to allow a renewal, in order to prevent the granting of a perpetual right to a particular entity.

On Section 14, on the rationale for not providing a qualification as to the nature of the monopoly unlike in the 1935 and 1973 Constitutions which prohibit private monopolies, Mr. Villegas explained that the word "regulate" was used to mean that there could be monopolies as long as they are regulated. He affirmed that the State is given the option to grant absolute prohibition or partial prohibition by virtue of such regulation. He further affirmed that with the deletion of the word "private", the government could be prohibited from engaging in a monopoly in order to prevent the repetition of the Marcos regime government monopolies in disregard of public interest. Mr. Villegas disagreed to include a provision prohibiting the government from engaging in monopoly except in certain areas, stating that there are areas where the State should intervene by being involved in monopolies for the public good. Additionally, Mr. Monsod explained that there should be a distinction between natural monopolies and structural monopolies in the sense that the latter are monopolies not because of the nature of their activities

but because of the nature of the market. He pointed out several instances wherein the State may be the appropriate vehicle for such a monopoly.

INTERPELLATION OF MR. COLAYCO

On Section 8, on Mr. Colayco's query as to what persons or professions are referred to by the term "private sector", Mr. Monsod explained that the term should be read in relation to the private sectors which have relevance to the plan involved, so that those who are not involved in the plan should not be consulted.

On the decision of NEDA Minister Solita Monsod on import liberalization, Mr. Monsod affirmed that appropriate consultations had been conducted with the sectors which stand to be affected thereby. Moreover, Mr. Villegas assured that Minister Concepcion was consulted on the matter.

On whether the NEDA, being an independent planning agency of the government, formulated such decision on import liberalization, Mr. Monsod stated that being independent means that the NEDA, under the present law, is independent of the legislature because it is under the Office of the President, with the President as Chairman thereof.

On Section 10, which embodies the Committee's recommendation that majority of the members of the central monetary authority should come from the private sector, Mr. Monsod informed that during the Committee hearings, there were proposals to change the composition of the governing body not only of the Monetary Board but also of the NEDA. He stated that unlike the 1973 Constitution, the proposal would not constitutionalize the NEDA because it is the Committee's intention to leave to Congress whether NEDA would still be needed later on. He stressed that the idea is to have less government and more private sector initiative. He explained that by not constitutionalizing the NEDA, the legislature would have more room not only to revise the composition of its governing body but also to abolish the agency if, in its judgment, it is no longer needed.

INTERPELLATION OF MRS. ROSARIO BRAID

Mrs. Rosario Braid noted that the proposed Article did not explicitly express her concern on the need of re-examining the economic development program within the international economic order. She stated that at the proper time, she would propose amendments that would allow the country to cooperate with Third World countries in working towards more equitable international trade relationship. She explained that her proposals would relate to the problem of technology transfer and the wider participation of the people in economic planning.

Mrs. Rosario Braid also noted the deletion of airwaves and radio frequencies from the provisions on natural resources although it was agreed that ownership of telecommunications systems should be placed in the Article on General Provisions. She intimated that she would propose the inclusion of airwaves as a national patrimony.

Replying thereto, Mr. Villegas stated that the Committee discussed the question of airwaves and came out with two conclusions, one of which was that air space is already included in the provisions on natural resources. He pointed out that the technological complexities of airwaves would be open to disputes as to how the country would control it.

INTERPELLATION OF MR. BERNAS

On Mr. Bernas' query regarding Section 4, third sentence thereof which states "No private corporation or association may hold alienable lands of the public domain except by lease, not to exceed 1,000 hectares in area", Mr. Villegas affirmed that although jurisprudence is not very clear on the reason for this provision, the intent is to prevent large landholdings, as in the case of the *Iglesia ni Cristo* which was not allowed by the Supreme Court to

acquire a mere 313 square meter lot because it would violate such provision, in reply to which, Mr. Bernas advised the Committee to include a provision that would take care of such a situation.

Mr. Bernas stated that in the same provision, the prohibition applies to lands of the public domain. In this connection, he inquired as to when does a land of the public domain become land of the private domain or cease to be land of the public domain. He pointed out several conflicting decisions on this matter, among them a decision which says that public land ceases to be public only when the title is issued, and another decision which states that it ceases to be public land when all the requirements for the acquisition of public land have been fulfilled even if physical issuance of the title has not yet been effected.

Replying thereto, Mr. Villegas stated that the matter was taken up in the Committee and that it would be willing to entertain amendments on the provision.

In this connection, Mr. Colayco adverted to the Land Registration Act which provides that the President may, from time to time, declare certain parcels of public land open for private acquisition, to which, Mr. Bernas responded that such a provision would be in violation of the proposed Constitution because the declaration of the President would only be by virtue of a statutory act. Mr. Bernas stressed that the problem is whether a land which has become private could be acquired by a corporation. He pointed out that as far as private individuals are concerned, they could acquire alienable public lands but private corporations could not. He suggested that the Committee consider an amendment to exempt from the prohibition acquisition for non-profit purposes.

Mr. Villegas stated that Section 10 of the 1973 Constitution enabled President Marcos to have tremendous leeway in declaring public lands as alienable and that it is for this reason that the Committee suggested going back to the 1935 Constitution for the definition with the exception of national parks.

INTERPELLATION OF MR. GASCON

On Section 1, line 13, Mr. Gascon inquired whether it would provide for a democratization of access to natural resources, noting that when opportunities are open to all, those who have more tend to get more while those have less tend to accumulate less.

Mr. Villegas, in reply thereto, stated that the sections on social justice relative to agrarian and natural resources reform show that the 1986 Constitution would provide wider access to natural resources and that Section 3 of the Article on National Economy and Patrimony on small-scale utilization of natural resources and cooperative fish farming would bear this out. Mr. Suarez, author of the omnibus provision, affirmed this as the thrust of the particular section.

Mr. Villegas also affirmed that "concurrence" in Section 3 would mean simple majority of both Houses. With reference to the proposal of Mr. Gascon to provide for two-thirds vote of Congress, Mr. Villegas noted that it could be introduced as an amendment. He further explained that the Committee opted for majority vote in view of the greater scarcity of capital and that the Committee wanted to make it easier to tap such financial assistance for large-scale exploration, development and utilization of natural resources.

On Section 9, Mr. Gascon raised the possibility of reversing the Section in the sense that instead of having a provision reserving certain areas for Filipinos as Congress may prescribe, there should be a provision which would allow Congress to prescribe certain areas where foreign investments may enter. He stated that Congress must first explicitly state what areas are open to investment by foreigners, to which Mr. Monsod replied that although the sentiment is clear, there may be operational problems. He observed that the proposal would, in effect, state that the economy is closed except for certain areas which Congress may specify. He also noted that it would send a wrong message on the kind of economy, a private initiative economy and not a state-dictated

economy, which the Philippines has.

With reference to Section 13, Mr. Gascon inquired what the term "national emergency" means, to which Mr. Villegas replied that it refers to threats from external aggression, calamities or natural disaster. As to whether "national emergency" may cover strikes and riots, Mr. Bengzon answered that they would, if they are of such proportions as to paralyze government service.

On the same Section, Mr. Gascon inquired how the takeover by the State of privately-owned utility or business affected with public interest would operate and in such event whether the former owners would be compensated for their loss. Mr. Villegas clarified that the takeover is only temporary and there would be no need to transfer ownership and furthermore it would last only during the state of emergency. He affirmed that owners who would be deprived of operating their property must be justly compensated.

On Section 10, Mr. Gascon asked if the word "independent" in the phrase "The Congress shall establish an independent central monetary authority" would mean free from the dictates of foreign and local interests or it implies that the monetary authority would pursue nationalist self-reliant cause for the common good. Mr. Villegas answered that "independent" applies to all undue control or influence — whether local or foreign interests as well as from any branch of the government.

On Section 15 which states "under the laws of the Philippines at least two-thirds of whose voting stock or controlling interest is owned by such citizens", Mr. Villegas affirmed that it would refer to public utility. As to Mr. Gascon's proposal to increase ownership to 75% to ensure the interest of the common good, Mr. Bengzon stated that if proposed, the Committee would consider it.

INTERPELLATION OF MR. JAMIR

On Section 3, with reference to the phrase "special law", Mr. Jamir inquired whether this would mean that everytime a contract is entered into with a foreign-owned corporation, it would be necessary for Congress to enact a law for that specific purpose, Mr. Suarez replied that as presently worded, that is the meaning of the provision. He informed that some Committee members felt that Congress should take the initiative of formulating the terms and conditions, subject to the approval of the President. He stated that the Committee was still deliberating on the provision to improve its wording.

With reference to the phrase "foreign-owned corporation", Mr. Jamir inquired if this means a corporation organized under the laws of a foreign country, Mr. Suarez answered in the affirmative.

Mr. Jamir inquired whether a corporation formed in the State of California by a group of Filipino citizens would be considered a foreign-owned corporation and thus subject to a special law in case it wants to engage in technical or financial assistance to the Philippine government, to which Mr. Suarez replied that the situation envisioned by Mr. Jamir is a corporation owned by Filipinos but is foreign-based, while the provision would apply to foreign-owned corporations. He affirmed, however, that if the foreign-owned corporation was organized under foreign laws by non-citizens of the Philippines, this provision would apply.

INTERPELLATION OF MR. NATIVIDAD

With reference to Section 10, Mr. Natividad inquired whether the government could lose control of monetary and fiscal policies because the provision states that "majority of the members of the governing board of the independent central monetary authority shall come from the private sector", Mr. Villegas, in answer thereto, stated that the provision would prevent a recurrence of the experience during the Marcos regime when the fiscal authorities, who sided with the Executive branch, were able to control monetary policies, a situation which led to

disastrous consequences. The word "independent", he stressed, would mean independent from the Executive branch.

On the apprehension of Mr. Natividad that this provision may result in the loss of government control over monetary and fiscal policies, Mr. Villegas informed that this matter was fully discussed with Governor Fernandez and members of the Central Bank as well as people from the financial community. He explained that Congress may decide that the "representatives" of the private sector may actually be appointed full time governors and may work for the government such as the case of the Federal Reserve System of the United States. He reiterated the need for the monetary board to be independent of the Executive.

Mr. Natividad observed that the Body is establishing a very primordial duty of the government, that of a central monetary authority, yet it would place this power in the hands of the majority of representatives from the private sector.

On Mr. Villegas' observation that the provision took into account the sectors affected by certain policies and the contention that the Government's interests would be protected by the Governor of the Central Bank, Mr. Natividad observed that as presiding officer, the Governor could be outvoted by the majority of the members of the Monetary Board. He manifested his preference for the government to retain control, stating that as one of the authors of the resolution, the outcome was quite different from what had been advocated on the matter. He stated that he could foresee a future situation where a hostile private sector may throw a monkey-wrench on the monetary policies.

Replying thereto, Mr. Monsod made a distinction between the two policies — monetary policy which is an accommodating rather than an initiating function and fiscal policy which is more an initiating function. He stated that the Committee, in including this provision, sought to reduce the direct control and interference of such entities as the Ministry of Finance or some officials who are directly involved in the Executive function of the government in the Monetary Board. He noted that at present there are five government ministers out of seven members in the Board and that there is an imbalance because the Board may be completely subservient to the fiscal or budgetary requirements of government and thus lead to distortions in the system. He noted that the Committee felt the need for independence on the monetary side so as to provide balance although the monetary function may not be able to provide this balance if the fiscal function is very active.

Mr. Natividad inquired, in view of the conversion into equity of the foreign debt, if this would signify the opening of the country to foreign investors and would, therefore, come in conflict with Section 9. Mr. Suarez, replying thereto, explained that the conversion of the debt equity should correspond only to the limitations imposed by law, meaning 40 per cent, unless Congress imposes a higher percentage which would be allowed by Section 9. As the situation presently stands, he stated that such conversion to equity is limited to the forty per cent participation of foreign corporations.

Mr. Monsod further clarified that there was only one instance in which that right had been availed of and that was in the case of the conversion into equity of Interbank, in which case the maximum ownership of forty per cent for a commercial bank was applied.

To avoid any conflict or misinterpretation, Mr. Bengzon suggested "capital stock" as the better term.

Mr. Suarez explained that there were three criteria submitted — (1) with respect to the authorized capital stock; (2) with respect to the voting rights; and (3) with respect to management. He added that the Committee is still refining the provision.

On Section 5, Mr. Natividad observed that the government has always reserved lands for national parks but has

done nothing to protect them. He stressed the need for a direct Constitutional mandate to the Legislature to protect national parks.

On the matter of franchises, Mr. Natividad asked whether these would be issued by the Legislature to which, Mr. Villegas answered in the affirmative. Mr. Natividad observed that should this practice be continued, the Philippines would always have an inefficient communications system. He manifested his intention to speak against a given franchise because of his experience with Congress, particularly with reference to the granting of franchises.

SUSPENSION OF SESSION

The Chair suspended the session until two-thirty in the afternoon.

It was 12:44 p.m.

RESUMPTION OF SESSION

At 2:35 p.m., the session was resumed.

Upon resumption of session, Mr. Maambong stated that the Body was still in the period of interpellations.

Thereupon, the Chair recognized Mr. Villegas, as Chairman of the Committee on the National Economy and Patrimony, and the members of the Committee for the interpellations.

INTERPELLATION OF MR. DE CASTRO

In reply to the observation of Mr. de Castro on the absence of a provision on the use of local goods and materials, like in China and Japan where goods carry local labels and trademarks, Mr. Monsod pointed out that the first sentence of Section 1 provides for self-reliant and independent economy. Mr. Romulo added that the matter of labels and trademarks should be covered by legislations and not by the constitutional provisions.

On Mr. de Castro's contention that Section 1 only provides for self-reliance which is short of nationalism, Mr. Monsod stated that the Committee would welcome any suggestion on the matter. But he underscored that Section 1 also provides for the full utilization of local resources and the sustained increase in the amount of goods and services produced by the country, for the foremost benefit and welfare of the Filipino people.

Mr. de Castro maintained that Section 1 does not expressly provide for such priority to locally manufactured goods. He stated that he would present a proposal to that effect at the proper time.

INTERPELLATION OF MR. GARCIA

Mr. Garcia opined that the Article on National Economy and Patrimony would be as crucial and important as the Article on Social Justice because they share the same objectives. He posed some queries on how to move towards economic democratization while safeguarding the provisions of the Article on Social Justice.

He observed that there was a strong move towards privatization, but he pointed out that distinction should not only be made between what is private and public, but also between what is private and social. He believed that the social groups should also be considered in the economic distribution system.

In view thereof, he suggested that Section 1 should include the concept of mixed economy such that in addition to private enterprise, the social sector, composed of cooperative ventures and aggroupment of large communities, like the peasant and labor groups, would be recognized in the attainment of economic democratization.

Furthermore, he noted that there should be economic and national priorities that would safeguard independent economic development and defend against external forces that would dilute the national interest.

Specifically, he stated that Sections 9 to 14 should clearly provide for the reservation of traditional priority areas to Filipino interest. He underscored that the monetary authority should be extended to allow participation of the social sector rather than limiting it to private banking participation. He also suggested that there should be sectoral representation in the banking system so that not only the interest of private cronies would be benefitted, as in the past regime, but also the public interest.

In reply, Mr. Villegas stated that the Committee would welcome suggestions to express preferential treatment for the poor. He assured, however, that social justice would be an organic part of the Article on National Economy and Patrimony.

He clarified that the word "private" is not limited to profit-making business groups but includes cause-oriented groups, cooperatives, and nongovernmental organizations. He underscored that Section 2 provides that the use of property is a social function which calls for the contribution of all economic agents to the common good.

Finally, he stated that it is up to Congress to decide on private representation in the Monetary Board. He opined that it is possible that the majority of the members of the board would come from the private sector which includes labor and farming sectors.

Mr. Bennagen also pointed out that he suggested the term "mixed economy" to describe the whole range of economic subsystems within the overall Philippine economy. He added that the Committee, however, felt that the concept is already embodied in the Article in relation to cooperatives, ancestral lands, private sector participation and role of the State. He opined that the relationship does not give a strong impression and therefore he would present an amendment on the matter at the proper time.

Mr. Villegas stressed that the freedom of initiative is limited by the duty of the State to promote distributive justice and to intervene when the common good so demands.

Mr. Garcia, however, maintained that he is concerned not simply with the dichotomy between private and public, the individual and the State but also the recognition of the social sector or cooperatives as agents of development in order to create more people involvement, greater social base for ownership and enjoyment of the fruits of labor. He stressed that if there is only private initiative, those who have the greatest amount of resources would end up controlling the economy. He added that there must not only be nationalization but also socialization through recognition and protection of the social area.

Mr. Bengzon pointed out that the reason why the Body opted to include a separate Article on Social Justice is precisely to emphasize the social aspect of the use of property in the development of national economy. He stressed that the Article on National Economy and Patrimony deals principally with the means and manner on how revenues are going to be generated and how development is going to be made in order that the necessary support could be mustered.

In addition, Mr. Monsod stated that the Committee is trying to balance the Article on Social Justice and the Article on National Economy and Patrimony with the aspect of equity and distribution included in the former while the requirements for efficiency and productivity and wealth creation emphasized in the latter.

Mr. Garcia explained that the social area or aspect he adverted to refers to the association of workers, peasants or low wage earners who come together and become the creators of wealth or who control property or industry which should neither be controlled by the State nor the individual entrepreneur.

On Mr. Monsod's query whether the cooperative should continue to control the production of a steel company, for example, in times of war in order to attain the common good, Mr. Garcia stated that certain industries should be controlled by the State such as strategic and vital industries. He explained that he merely thought of industries like shoemaking or newspaper publishing which could be owned by the workers therein.

Mr. Monsod manifested that the Committee would be receptive to any suggestion that would expand the coverage of Section 2 to include cooperatives and the sectors Mr. Garcia mentioned.

Mr. Garcia, however, expressed doubt whether his vision could be accommodated in the Article by mere change of phraseology.

Mr. Monsod stressed that when the Committee formulated the Article it did so with a distinct preference for private initiative, but if Mr. Garcia proposes that it should have a different orientation by leaning towards socialism, he stated that it is a different thing altogether. He added that the Committee had included the cooperatives in the concept of private groups but it does not subscribe to a system where the assets for production are in the hands of the State in the name of the people.

Mr. Garcia explained that he merely wanted to give encouragement and recognition to the social sector as the catalyst of economic development.

At this juncture, Mr. Bacani opined that Mr. Garcia is creating a dichotomy between "private" and "social" which the Committee does not want to do. He stressed that in the thinking of the Committee "private" includes the socialized sector in contra-distinction to the public or governmental sector.

INTERPELLATION OF MR. OPLE

On Mr. Ople's query whether "self-reliant and independent" in Section 1 means that the country would go towards economic isolation, Mr. Villegas stated that that is not the intent of the Committee.

Mr. Ople explained that he posed the query merely to ensure that the country would not embark on economic autarchy during a time of global economic interdependence considering that countries like Japan, Korea and Taiwan attained economic success because they competed for and grabbed their fair share of the global markets.

On Mr. Ople's suggestion that a section on productivity be inserted in the Article inasmuch as productivity is its main concern, Mr. Villegas stated that he would welcome the amendment at the proper time.

INTERPELLATION OF MRS. QUESADA

Preliminarily, responding to Mrs. Quesada's request that the Committee continue to entertain interpellations in the next day's session to enable the Members to review more thoroughly the concepts enunciated in the Article, Mr. Villegas gave the assurance that interpellations would continue the next day. Additionally, Mr. Bengzon stated that clarificatory questions may be asked in the period of amendments on points related to amendments that may be proposed.

On Mrs. Quesada's query on the meaning of "common good" as used in the Article, Mr. Villegas explained that the phrase is even more applicable to the marginalized sectors than the phrase "general welfare" which was used by the majority to inflict injustices on the minority. He explained that "common good" is a phrase in social philosophy which defines it as the social order which enables individuals and society to attain fullest development economically, politically, culturally and spiritually.

Mr. Villegas agreed with Mrs. Quesada's observation that the general term of reference for "common good" is

"public interest".

As to what would be the parameters of decisions made for the "common good", Mr. Villegas opined that in the field of economics, decisions must be made in consideration of the welfare of everyone and not to summarily dismiss the interest of special groups although the public interest may sometimes require decisions in favor of the majority.

In the case of the Cordillera, on whether "common good" was served when the Chico Dam was constructed, Mr. Villegas opined that it was not, and for this reason the Article on Social Justice was included in the Constitution to ensure that the rights of indigenous tribes in relation to public works projects are respected. He added that this would also hold true to the welfare of indigenous tribes near the Pantabangan Dam.

As to how the concept of "common good" would relate to the whole nation, Mr. Villegas stated that everyone's welfare must be considered whenever a decision is to be made. He stressed that this does not mean that the government could no longer make a decision in favor of the majority but whenever such a decision is made it must not be oblivious of the good of the minority. He stressed that while the government may exercise its power of eminent domain, it must see to it that the inhabitants of the expropriated property are properly resettled.

On whether the parameter of economic growth shall be used, Mr. Villegas stated that Section 1 clearly indicates that economic growth is not the only objective of national economy.

On whether the conservation of income is embraced in the concept of common good, Mr. Villegas stated that the phrase "the amount of goods and services produced by the nation for the benefit of the Filipino people" captures that concept.

On whether the phrase "productive enterprises or the employment of the income to create our wealth and produce our capital goods" applies to the third part of the first sentence, Mr. Villegas stated that all possible resources should be exhausted before resorting to outside help.

On the rationale behind the transposition of the different sections referring to the NEDA, Mr. Villegas stated that the order followed in the Committee Report is more logical.

On whether the phrase "to all economic agents in the private sector" includes foreign private sectors, Mr. Villegas stated that the Committee did not intend to explicitly include foreign groups but the 60-40 provision on natural resources implies their inclusion.

On the safeguards against possible foreign control on co-production, Mr. Villegas stated that the deletion of "service contracts" from the provision was the first attempt to avoid the abuses committed by the previous regime in circumventing the 60-40 arrangement. He also stated that lines 25 to 30 provides that Congress must concur with the President on arrangements involving technical or financial assistance for large scale exploration, development and utilization of natural resources.

On whether Section 1 contradicts Section 9 because while the former speaks of self-reliance, the latter opens the possibility of foreign investment, Mr. Villegas stated that Congress could stipulate a higher rate with respect to Section 9.

On the exclusion of the term "traditional" which appeared in the 1973 Constitution, Mr. Villegas stated that the term is ambiguous since what is traditional today may not be traditional tomorrow.

On whether local entrepreneurs would be prejudiced by the fact that inclusion of interests in legislation entails lobbying, Mr. Romulo stated that the provision does not intend to change the intendment of the Constitution and the law as far as national equity is concerned and that the ratio indicated shall remain, although Congress could

increase the same.

On whether the Constitution should be silent about the limitations on the areas of investment that foreign investors could get into, Mr. Villegas stated that all the traditional areas included in the 1973 Constitution were included in the provision.

(At this juncture, the Presiding Officer relinquished the Chair to Mr. Rigos.)

INTERPELLATION OF MS. TAN

On Section 8, Ms. Tan observed that there are no definite guidelines or principles in the framing and implementation of national development which gives rise to system of lobbying. She stated that the provision would be much clearer if it would enunciate the principles which Mr. Lichauco enumerated, namely decolonization, industrialization and economic democratization.

On the mandatory consultations provided for in Section 8, Mr. Ople stated that he proposed the inclusion of labor and peasant organizations to make sure that private sectors would include not only entrepreneurs but also representatives of labor and peasant organizations. He stated that the President is obliged to consult not only with government agencies but also with private sectors such that the NEDA planning process requires consultation with the different sectoral organizations.

Mr. Villegas stated that the matter involves so many issues which should be left to Congress to determine.

Reacting thereto, Ms. Tan stated that the same principles were observed during the past years and that the number of paupers have increased through all these years. She stressed that if the provision would not be definite about it, the problem of poverty would not be solved.

On Section 9, Ms. Tan, likewise expressed the same apprehension about its indefiniteness, to which Mr. Villegas replied that the Committee would welcome any suggestion to make the provisions less indefinite.

Mr. Ople agreed with Ms. Tan's observation on the lack of economic policy statement on industrialization, stating that it should be included in the provision.

INTERPELLATION OF MR. FOZ

Mr. Foz expressed support for the inclusion of provisions regarding industrialization. However, he observed that Section 8 is vague in the sense that the 1973 Constitution was better worded than the draft provisions which downgraded the NEDA.

Mr. Monsod stated that central planning may be necessary at an early stage but may not be necessary later. He stated that since the Constitution would be in effect for a long period of time, the Committee felt that the reference to planning as the central theme of the Article on National Economy and Patrimony may not be appropriate.

Reacting thereto, Mr. Foz stated that even if the economy progresses, in whatever stage the national economy finds itself in, there has to be some kind of central planning by the State or the government.

Mr. Monsod stated that there are many kinds of planning such as total planning and indicative planning. He stated that the Committee had considered the possibility of having a council of economic advisers which would exclude a centralized planning function should the economy become more developed. He stressed that the provision was made flexible to attune itself to the needs of the circumstances.

On whether it is for such reason that the social and economic planning is vested in the President, Mr. Monsod

explained that the provision merely recognizes the fact that introduction and recommendation of the economic program is primarily an executive function. He stressed that matters which properly pertain to the heads of the different Ministries of the Executive Branch refer to the "President" since the Ministers are her alter egos.

On the role of the President in the NEDA, Mr. Monsod stated that she is the Chairman of the said office.

At this juncture, Mr. Foz registered his reservation to ask more questions.

INTERPELLATION OF MR. SARMIENTO

Mr. Sarmiento commented that there should not be too much emphasis on the role of the private sector in economic development because today's Filipino capitalists by and large do not believe in industrialization and are composed mostly of merchants, bankers, miners and plantation owners whose interests stand to be inconvenienced or prejudiced by an industrialization program. He stated that giving undue emphasis on the private sector decreases the role of the State as a direct and active participant in economic development, in contrast to its active role in the economic development of countries such as Japan, Taiwan, Korea, Singapore and China.

Mr. Sarmiento then inquired whether the Committee would be amenable to the suggestion to use the word MINORITY instead of the word "majority" in order to give the State more participation and more say in the development of the country.

Replying thereto, Mr. Villegas stressed that the word "private" refers to all types of social groupings that are not part of the government and this includes cooperatives, labor organizations and even private monetary organizations so that it may be possible that the representative of the private sector might come either from labor or farmers' organizations. He observed that the apprehension of some Members on the word "private" comes from the semantic connotation. He stated that it was the sense of the Committee that the Monetary Board should not be predominantly in the hands of the Executive because of the dangers of the fiscal and monetary authorities being in incestuous relationship which actually happened during the Marcos regime when these fiscal managers could do anything they wanted because they were completely monopolizing the decision-making of the Monetary Board.

Mr. Monsod stated that some objectives of industrialization mentioned are valid, but he questioned the propriety of imposing upon the government the direct hand in industrialization when in fact it is unable to deliver efficiently, services and goods that are properly within its functions.

Additionally, Mr. Villegas told the Body of the Committee's decision to delete some references made to neighboring countries because as was explained by Mr. Villacorta, these countries achieved high levels of growth at tremendous human cost, dictatorship and authoritarian leadership. He stressed that the government should not use these countries as models because it is trying to balance human rights and economic rights.

Mr. Ople opined that any moral proprium should not be attached to the private sector if it is understood within the context of the ambitions of the people to become successful entrepreneurs. He stated that this context should relate to the Calvinist values which means that hard work is great in the sight of God and the rewards of hard work are also great in the sight of God. He pointed out that the most prosperous societies on earth are those that have successfully combined "state activism or state intervention" with the unmatched dynamism of private initiative. He stressed that the private sector should be given the recognition and the encouragement that it deserves considering that it is the engine on which the country would depend for the development of the country and the generation of wealth that could be equitably shared among Filipinos.

Mr. Ople pointed out the P200 billion worth of non-performing assets in the government's portfolio at present

which compelled it to resort to borrowing and then to equity swap. He opined that the Committee should not apologize for the accent it placed on the role of Filipino entrepreneurs in the development of the country under the Article on National Economy and Patrimony.

Mr. Villegas stated that the Committee would welcome amendments to restore references to indigenous entrepreneurs in order to make the meaning of private sector even clearer.

Additionally, Mr. Monsod stated that it was the government corporations that went down the drain faster and what sustained the economy were the small and medium-scale industries.

Mr. Bennagen stated that cronyism, in its derivative function of feudalism, relied too much on non-market and extra-economic forces, and along this line, there were no management expertise aside from surplus capital which never flowed back to investment because the focus was the ostentatious infrastructure projects.

INTERPELLATION OF MR. BENNAGEN

On Section 1, with reference to "broader-based ownership of private enterprises", Mr. Villegas explained that in order to broaden ownership, there should be wider participation of the people through cooperatives or through corporations that are open to thousands of stockholders and this should basically be limited to Filipino citizens.

On Section 2, Mr. Bennagen observed that the first sentence thereof is more of a statement of aspiration. He then inquired as to how this provision is expected to operate in relation to the Article on Social Justice, considering that when it refers to the use of property, it must have a social function. He opined that property has a certain historical specificity that at certain stages, it does perform to serve the common good but in other stages, it does not necessarily contribute to the common good such that there must be some kind of state intervention to take place. He then inquired as to what are envisioned to be the modes of intervention in relation to distributive justice.

In reply, Mr. Villegas stated that it would either be, the government taking over the business or it regulates, by law, a specific industry. He opined that charitable organizations supported by the State could also be one way by which it could intervene.

On the other modes of State intervention that would truly respond to the provisions on social justice without violating the complementarity of private initiative and the State, Mr. Villegas cited as an example the State subsidizing just compensation when farmers could not afford to pay the whole price. He, likewise, cited taxation as a way of redistributing income which could be considered as state invention.

Finally, Mr. Bennagen made a reservation to make follow-up questions when the Body would take the provisions on control and ownership.

INTERPELLATION OF MR. TADEO

Mr. Tadeo endorsed the suggestion of Ms. Tan and Messrs. Foz and Sarmiento to include industrialization in the Article on National Economy and Patrimony to strengthen the base of the economy. He stressed that if land reform is properly implemented, it would strengthen the purchasing power of the farmers thereby granting them social justice they deserve. He warned that in the absence of industrialization and the continuing implementation of the policy on import liberalization, the agrarian reform program would become useless and there would come a time when the government would be unable to respond to the needs of its growing population.

Mr. Tadeo deplored the sad economic situation of the country. He stated that the overdependence of the country on imported goods has cost the country \$1 billion aside from the fact that there are millions of Filipinos who are unemployed. He stressed that the economic foundation of the country should be strong and took exception to the

belief that the strength of the economy should depend on the Legislature. He maintained that the Constitution, as the supreme law of the land, should mandate the Congress to institute the proper implementing laws. He then asked the Committee to consider possible amendments that would give emphasis to national industrialization.

Replying thereto, Mr. Villegas stated that the Committee is encouraging the Members to introduce amendments that would refer to industrialization.

INTERPELLATION OF MS. AQUINO

In her interpellation, Ms. Aquino stated that she was expecting the Committee to address itself to the urgent need of setting up a definitive mandate on industrial policy that is dynamic and active to stir up a domestic cycle of surplus accumulation and investments. She stressed the need of encouraging the creation of industries that would produce capital goods by encouraging small entrepreneurs and competition, and at the same time allowing the State to support investments in large-scale entrepreneurship.

In reply, Mr. Villegas stated that the Committee thought that a statement giving the optimum opportunity to develop all economic sectors was enough, but if it is the desire of the Body to explicitate such statement, the Committee would definitely welcome such amendment.

Mr. Monsod stated that when the Committee discussed the question of industrialization, it was confronted with the question as to whether the government should be involved directly with these activities despite the great demands on the government to deliver social services and the fact that a great amount of government resources have been used to finance corporations, equity contributions and the like. He raised the problem of determining the role of the private sector and the public sector in the economic development which is a bigger issue than just mentioning industrialization as part and parcel of the national economy.

Ms. Aquino pointed out that the country is wallowing in a neocolonial history and it is economically based on agriculture. She stressed the fact that the Philippines is like the vegetable garden of the whole of Asia and despite being rich in natural resources, it is dormant, underdeveloped and mismanaged. These, she stated, are givens which do not yield to strategy or tactical planning in terms of economy.

Mr. Monsod, citing the need for flexibility in the Article, stated that the Committee did not give due course to the suggestion that the strategy to be enunciated provide for a complete program for agricultural development and the shelving of industrialization for a while inasmuch as the Constitution would last for a long time and that eventually the country may achieve a fully developed agriculture that is subsidized by the State, similar to the United States.

Ms. Aquino stated that she had no quarrel with Mr. Monsod on this matter but stressed the need to clearly define the framework of industrial growth in the Article. She added that there is no need to go into the mechanics of data management or programming.

Noting that the Committee would be willing to accept amendments or suggestions in this regard, Mr. Monsod stated that the issue is a mixture of private and public sector intervention of participation in the economy.

REMARKS OF MR. BENNAGEN

Mr. Bennagen, reacting to the discussion, noted that the people had not gone beyond the character of the state during the Marcos years and had failed to make a shift in paradigm even after the February revolution. He stated that during the Marcos years there was a dictatorship which was an alliance between a fraction of the economic elite and a fraction of the political elite, which alliance should have been dismantled after the February event. He

noted that the country is moving into a new alliance with a broader range of participants including private sector groups, cause-oriented groups, and civic organizations in both political and economic exercises, that could encourage an economic creativity which were absent during the Marcos years.

Mr. Bennagen observed that in the past regime there was a lot of distortions in capital accumulation which should have been minimized, even eliminated, by now. He stated that the country is prepared to have a new alliance — between government and the wide range of private sector participants.

REMARKS OF MR. GARCIA

Mr. Garcia remarked that the Body had been zeroing in on three concepts, namely public, private and ultimate objectives which had been the source of misunderstanding among the Members. He stated that the country had been gripped by the political trauma of martial law years where the whole idea of public or state enterprises had evolved a peculiar meaning to most people. He noted that in those years there was a dictatorship which was kleptocratic, unresponsive and unaccountable but was not independent. He maintained that there had been a change to a more popular and majoritarian kind of state which could now be in the hands of people.

On the matter of private enterprise, he stated that the Committee was trying to utilize the concept and had expanded it so much. He adverted to Asia Brewery which he maintained could be considered private if owned by Lucio Tan or the workers in his company although there would be a very big difference. He raised the question whether such group could be referred to as private sector or private groups. He noted that in a sense it is private but, if it is owned by the workers, it could be an area of social property. On the other hand, if Asia Brewery is neither owned by the State nor by Lucio Tan, one individual or one family, it is an area of social property. He stressed that this is the concept he sought to introduce — social sector, social property, social area.

On the matter of ultimate objectives which was raised by Ms. Aquino, he observed that the Body was not simply working on a document but on a statement of ultimate objectives. He stated that the Body would want a self-reliant and independent national economy which could be pursued firstly through central planning and secondly through some form of industrialization which could be managed on the country's own terms and resources as well as the ability to maintain a trading relationship with not one or two but with many different and diverse countries until the country becomes independent. He stressed that what the Body was aspiring for in this Article would be a supplement, a very strong support for the social justice provision or a vision of an ultimate objective and a framework.

Thereafter, he proposed that after the period of interpellations, in order to enable the Members to unify their thoughts, to go to a caucus as had been done with the Article on Local Governments. He stated that the Body should be able to evolve an Article on the economy which could uplift the welfare of the people and hasten the economic recovery. He added that it would not be merely debating the proper wordings but more importantly a discussion of the ultimate vision.

Mr. Monsod stated that what the Body needed were options from the other Members which could provide the process of development appropriate for the country. Mr. Bengzon suggested that the discussions could start with the proposal of Mr. Garcia inasmuch as the Body would need other ideas, other than the Committee Report.

Upon inquiry, Mr. Bengzon informed that as agreed upon, the Body would go back to the Article on Local Governments on Friday morning.

Mr. Monsod, at this juncture, informed the Chair that the Committee would be willing to have a caucus the next day for the purpose stated by Mr. Garcia who suggested that it could be held after the period of interpellations.

Thereupon, the Chair suggested that Mr. Garcia and other Members consult the Committee on the possibility of holding a caucus late in the day or sometime the next day.

Mr. Ople recalled that on motion of the Chairman of the Steering Committee, the Body had earlier approved a proposal to devote two sessions to the period of interpellations on the Article on Economy and National Patrimony. He proposed that the Body proceed as scheduled, unless it would want to reverse its previous decision.

REMARKS OF MRS. ROSARIO BRAID

Mrs. Rosario Braid noted that, like other members, she would want the document to contain more of short, medium and long-term strategies and directions. She cited the need for entrepreneurship and small-scale industry, the need to attend to the informal sector, the need for comprehensive planning, the need for protection to agriculture and industry. She also took note of the seeming lack of vision for the future in terms of a direction for an independent national economic growth.

REMARKS OF MR. PADILLA

Mr. Padilla observed that Section 6 of the Article is a restatement of the provisions found in the 1935 and 1973 Constitutions, which provide that “save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations or associations qualified to acquire or hold lands of the public domain.” He also noted that aliens could not acquire private agricultural lands and are, therefore, disqualified from owning residential lands in accordance with the decision in the case of *Krivenko vs. Register of Deeds*, 79 Phil. 461. He stated that the Committee included an exception found in Section 15 of the 1573 Constitution in favor of a natural-born citizen who has lost Philippine citizenship but may be a transferee of private lands solely for residential purposes. Under the Committee Report, he observed that the area may not exceed 1,000 square meters.

Mr. Padilla informed the Committee that he filed a proposed resolution which would permit, under conditions to be prescribed by law, foreign investors engaged in the manufacture of export products, as certified by the Board of Investments, to acquire, hold or own private lots with limited area required for the operation of such enterprises. He stressed that one of the potent factors towards economic reconstruction would be foreign investors in industrial enterprises, especially of export-oriented products produced with local materials and labor which would require private lots for the establishment and operation of their manufacturing plants.

Reacting to the remarks of Mr. Padilla that the Committee did not consider his proposal, Mr. Villegas informed that it was considered during the full deliberations attended by the export-oriented sector and real estate sector. He noted that the Committee decided, although there was no consensus, that it was not an indefensible ingredient in attracting foreign capital. He stated that the Body could decide this matter should Mr. Padilla want to introduce an amendment to that effect.

Mr. Padilla inquired whether to attract foreign investments, this exception to the general rule that private lands are to be reserved exclusively to citizens, to which he agrees, should be allowed.

Replying on behalf of the Committee, Mr. Suarez stated that the points raised by Mr. Padilla were taken up in the public hearings conducted by the Committee. He stated that one of the arguments was that all such enterprises could flourish and prosper under a lease agreement and that there would be no need for the exporter or a foreign investor to own the land on which the industry would have to be set up. He added that one of the proposed solutions is a long term lease as had been done at the Export Processing Zone wherein certain portions were leased to companies like Ford Philippines, Mattel and others. He stated that the Committee would be pleased to

entertain an amendment at the proper time.

Mr. Padilla, in reply thereto, pointed out that there should be no apprehension over the matter inasmuch as the lots are permanent, immovable real estate and any improvements thereon would remain as assets of the country.

Mr. Padilla stressed that the State should first provide the private sector the opportunities and incentives on productivity because unless there are goods and services to speak of, there would be nothing to distribute. He stated that the government should enter into fields of enterprise which the private sector is hesitant to enter, but not to compete with private business, in order to provide work opportunities for those who need industrial entrepreneurs. He underscored that entrepreneurs are the greatest factor in increasing productivity.

He opined that this Commission should be pragmatic and realistic instead of dreaming an ideal society. He commended the government's priority in agriculture, but added that industrialization should follow, whereby, small and medium-size enterprises by Filipino private initiative should be encouraged. He said that he was not advocating for more investments by multinationals.

INTERPELLATION OF MR. BROCKA

Mr. Brocka expressed the same apprehensions as Mr. Sarmiento and Ms. Aquino on the unclear economic policies provided in the Article on National Economy and Patrimony.

He observed that certain provisions as presented lack honesty as to their real intent. Citing the Article on Social Justice, he said he was expecting some candid explanations that it would really have preferential treatment for the poor, or that land reform would mean taking away lands from the rich.

On the Article on National Economy and Patrimony, he inquired as to the meaning of the term "common good" which was also used in some other provisions. He stated that the term seems to be an excuse to neutralize the fears of some sectors regarding the implementation of certain provisions of the Constitution. He suggested that a clear definition of the term be given so that the laymen could easily understand it.

Furthermore, adverting to the proposal of some businessmen on industrialization, protectionism and Filipinization of the economy, he also urged that a clarification be made on said policies which he said were strange to a layman like him.

In reply, Mr. Villegas explained that "common good" refers to the social order which enables every member of society to attain his full development, economically, politically, culturally and spiritually. He pointed out that it could be substituted by the terms "public interest" or "general welfare" especially in the Article on National Economy and Patrimony because there are situations in the economic sphere when the will of the majority could be legitimately followed without completely ignoring the welfare of the minority.

On the proposal of some businessmen, Mr. Villegas opined that it would be presumptuous to speak on behalf of said businessmen. Mr. Brocka stated that he was not asking the Committee to define the proposal, but requesting for the opinion of the Committee on the proposal and its implications.

Mr. Villegas pointed out that the Committee would be willing to lecture on the issues but certain specific questions, like the relationship with the International Monetary Fund, should be left to legislation.

Mr. Brocka maintained that the Constitution must provide for clear-cut economic policies for the ordinary people to understand, and there must be some degree of honesty in explaining the real implications of the provisions.

MOTION TO STRIKE OFF THE RECORD

At this juncture, on motion of Mr. Ople, there being no objection, the word “shit” in “bullshit” which was mentioned by Mr. Brocka in the course of his interpellation was stricken off the Record.

SUSPENSION OF CONSIDERATION OF THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY

Thereafter, on motion of Mr. Maambong, there being no objection, the Body suspended consideration of the Article on National Economy and Patrimony.

ADJOURNMENT OF SESSION

On motion of Mr. Maambong, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of the following day.

It was 5:28 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) AMBROSIO B. PADILLA

Vice-President

Approved on August 14, 1986

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