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Monday, August 25, 1986

OPENING OF SESSION

At 9:59 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Jose N. Nollado.

Everybody remained standing for the Prayer.

PRAYER

MR. NOLLEDO: Ama naming makapangyarihan, sa panahong ito ng hidwaan at di pagkakaunawaan ng mga inatasang bumalangkas ng Batas ng mga batas, ibaling po Ninyo ngayon din ang Inyong paningin sa aming lahat, saan man naroroon ang mga iba sa amin. Inyo pong pukawin ang aming mga isipan; Inyo pong ipatong at ipadama ang Inyong kamay sa puso ng bawat isa sa amin at Inyo pong ibulong sa amin na ang pagkakaisa ay kailangan sa kabila ng mga masalimuot na mga pangyayari at sa kabila ng mga paniniwalang di magkatugma.

Ang bawat isa sa amin, Ama, ay may sariling paninindigan na handang ipaglaban nang mapayapa. Kung sakaling kami'y makalimot sa aming mga sarili at maghari ang apoy ng pagkapoot at paghihiganti, Ama, gawin po Ninyo ang nararapat na sa wakas ay manatili ang tunay na pagmamahal at matapat na pagbibigayan.

Itulot po Ninyong ang aming mga suliranin ay malutas sa pamamagitan ng paghanap ng mga binagong alituntunin na tutugon sa adhikain hangga't maaari ng lahat sa amin. At kung ito'y hindi mangyari, sana, Ama ay maging mahinahon ang bawat isa sa amin sa pagtanggap ng mga pangyayaring hindi maiiwasan sapagkat panahon lamang ang makapagsasabi kung ang ginawa ng bawat isa sa amin ay tumpak o tunay na makabayan.

Hinihingi po namin ang mga ito sa ngalan ni Hesus. Siya nawa.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present Natividad Absent

Alonto Present Nieva Present

Aquino Present Nollado Present

Azcuna Present[*] Ople Present[*]

Bacani Present Padilla Present

Bengzon Present Quesada Absent

Bennagen Absent Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present[*]

Brocka Absent Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Absent

Concepcion Present Sarmiento Present

Davide Present Suarez Absent

Foz Present Sumulong Present

Garcia Present[*] Tadeo Absent

Gascon Present[*] Tan Present

Guingona Present Tingson Present

Jamir Present Treñas Absent

Laurel Present[*] Uka Present

Lerum Present[*] Villacorta Absent

Maambong Present[*] Villegas Present

Monsod Present

The President is present.

The roll call shows 31 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

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

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Communication from Mr. Marlowe O. Camello of 2323 West Beverly Blvd., Suite 204A, Los Angeles, California, U.S.A., proposing an Article in the new Constitution that barangay governments be transformed into Citizens' Investigative Bodies.

(Communication No. 626 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Arturo N. Abeando, Sr. of Pioneer Insurance and Surety Corporation, seeking inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 627 — Constitutional Commission of 1986)

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

Letter from Mr. Gene C. Sibayan of 48443 Spokane Place, Fremont, California, 94539, U.S.A., urging the retention of the United States Military Bases in the Philippines beyond 1991.

(Communication No. 628 — Constitutional Commission of 1986)

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: Madam President, I rise on a question of collective privilege.

THE PRESIDENT: We will have any privilege speech later in the day. We will proceed first with the Unfinished Business and this is the ruling of the Chair.

Is there any Unfinished Business, Mr. Floor Leader?

CONSIDERATION OF PROPOSED RESOLUTION NO. 496

(Article on National Economy and Patrimony)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: Madam President, the Unfinished Business is the period of amendments on the Article on National Economy and Patrimony.

THE PRESIDENT: Is the Committee on the National Economy and Patrimony ready to proceed with the continuation of the period of amendments? May we know from Commissioner Villegas.

MR. VILLEGAS: We are ready, Madam President.

THE PRESIDENT: May I request the members of the committee to please occupy the front table.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner de Castro be recognized as the first registered speaker.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

I have a proposal here for an additional section on the Article on the National Economy and Patrimony, and with the following proponents: Commissioners Azcuna, Concepcion, Rigos, Jamir, Tan, Treñas, Tingson, Foz, Maambong and de los Reyes, Jr. The proposed new section reads: "THE STATE SHALL PROMOTE THE PREFERENTIAL USE OF FILIPINO LABOR AND LOCALLY PRODUCED GOODS AND MATERIALS." This was formulated by this member of the committee in my attempt to enshrine in our Constitution the Filipino-first policy. May I explain for a while what is the Filipino-first policy, Madam President.

THE PRESIDENT: Please proceed.

MR. DE CASTRO: This proposal seeks to enshrine in our Constitution the Filipino-first policy enunciated in the following existing laws: Commonwealth Act No. 138, dated November 7, 1936, giving native products and domestic entities preference in the purchase of articles for the government; Republic Act No. 912, dated June 20, 1953, requiring the use under certain conditions of Philippine-made materials or products in the government projects or public works construction, whether done directly by the government or accorded new contracts; and Republic Act No. 5183, dated September 8, 1967, regulating the award of contracts for the supply to or procurement by in a government-owned or controlled corporation, company, agency or municipal corporation of materials, equipment, goods and commodities to contractor or bidder who are citizens of the Philippines or to a corporation or association, 60 percent of which is owned by Filipino citizens.

These laws shall give impetus to the production and use of Philippine products, especially in the manufacture of fertilizers, feeds for animals and poultry, meat, garments, et cetera. These will also lower the costs of importation and eventually increase the viability of our local industries with Filipino labor.

May I know the reaction of the committee.

THE PRESIDENT: What does the committee say?

MR. VILLEGAS: Commissioner Monsod will reply, Madam President.

MR. MONSOD: Madam President, the committee agrees with the sentiment behind the proposal. However, may we suggest the following: "THE STATE SHALL PROMOTE THE PREFERENTIAL USE OF FILIPINO LABOR, MATERIALS AND PRODUCTS." We do not have to say "LOCALLY PRODUCED GOODS."

Secondly, we would like to add the phrase "WITH MEASURES THAT HELP MAKE THEM COMPETITIVE IN THE MARKET." May we explain, Madam President.

I think the philosophy of Section 1 is for Filipino products and materials to be competitive. Sometimes, however, our industries are not competitive, not because of their own fault but because of other considerations. So, when we say "MEASURES THAT HELP MAKE THEM COMPETITIVE," we mean measures whereby we help Filipino entrepreneurs design their products, both in substance and appearance, so that they become more competitive. An example is the Design Center of the Philippines. Second, there is a Product Standards Agency in the Ministry of Trade and Industry which tests Filipino products and most of the time the results show that they are at least of the same quality or even better. This should be publicized so that Filipinos will know that Filipino products are just as good, if not better, than imported ones and remove the notion that only imported products are better.

Third, there is the question of research. There should be more money put in research. Korea spends 2 percent of its gross national product in technological research and product research to help its industries. We are not doing that. The budget for our National Science and Technology Authority is very small and that must be increased. It will help make Filipino products and materials more competitive by helping the industries with applied research. Fourth, trade fairs, for example, trade caravans or product caravans all over the country, can educate our public on how good Filipino products are. We can advertise their appearance, their packaging, their contents, their quality; and thereby inform our people that our products can stand comparison with all the products of the world. And by means of trade fairs abroad, we can also publicize our products and help our enterprises be more competitive in the market. Lastly, all the efforts of the government towards trade negotiations and bilateral agreements should be to try to lift protectionism in other countries so that our products will have a fair go at markets abroad.

Madam President, this is what we mean by helping our Filipino products and materials to be more competitive rather than shutting off the market. This is what we mean by helping the Filipino producers rather than protecting the market. So with the permission of Commissioner de Castro, if we can rewrite the section this way: "THE STATE SHALL PROMOTE THE PREFERENTIAL USE OF FILIPINO LABOR, MATERIALS AND PRODUCTS WITH MEASURES THAT HELP MAKE THEM COMPETITIVE IN THE MARKET," we will accept the amendments.

MR. DE CASTRO: Madam President, I admire the sympathy of Commissioner Monsod to this proposal and I am agreeable to the examination of the quality of goods that our local manufacturers will make. But I would request that we do not eliminate the words "LOCALLY PRODUCED GOODS" because these may imply importation of goods, when actually I am referring to those goods which we produce here. For example, the ingredients for the manufacture of fertilizers are available here. Tons and tons of fishmeal are imported by us for the manufacture of feeds for animals and poultry. Another import is coconut meal, which is an important ingredient in the making of feeds for animals and poultry. Despite the fact that we have enough production of corn, we still insist on importing cornmeal. Worst of all, we import copra meal which we are actually exporting.

So, I would like to keep the phrase "LOCALLY PRODUCED GOODS," subject to quality control, on our local industries.

MR. MONSOD: Madam President, when we say "Filipino products," we actually mean the same thing — locally-produced products. But if the Gentleman wants emphasis, we really do not mind keeping the phrase because we feel it means the same thing. So if the Gentleman prefers "LOCALLY PRODUCED GOODS," that is also acceptable to the committee.

MR. DE CASTRO: Thank you for accepting the amendment.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: May we ask the principal proponent of the amendment some questions?

MR. DE CASTRO: Gladly, Madam President.

THE PRESIDENT: Please proceed.

MR. FOZ: When we speak of preferential use, do we have in mind preferential use by the government, as well as the private sector?

MR. DE CASTRO: The word "PREFERENTIAL" was actually formulated by Commissioner Monsod and may I request him to answer the question.

MR. MONSOD: The answer is yes. As a matter of fact, there is the existing Flag Law which provides that Filipino contractors have a 15-percent advantage in government contracts. We are using the general rule here in order to emphasize the principle of preferential use. So, the answer to the question is yes.

MR. FOZ: Thank you.

I would like to find out if the suggestion of the committee, as articulated by Commissioner Monsod, has been accepted by the principal proponent regarding the transposition and change in the phraseology of the amendment.

MR. DE CASTRO: I accept it.

MR. FOZ: The proponent has accepted the change, so that the amendment will now read: "THE STATE SHALL PROMOTE THE PREFERENTIAL USE OF FILIPINO LABOR, MATERIALS AND LOCALLY PRODUCED GOODS WITH MEASURES THAT WILL MAKE THEM COMPETITIVE IN THE MARKET."

MR. DE CASTRO: We really want our locally produced products to have quality control so that the consumers may be induced to buy our locally produced products.

MR. FOZ: When we speak of "FILIPINO LABOR, MATERIALS . . ." does the descriptive word "FILIPINO" also refer to materials?

MR. MONSOD: Yes. One way to make our available materials more competitive is to make sure that the processing is done with the right technology. For example, when we mine coal, we must make sure that we do not mix too much clay. In the area of labor, we should have a lot of vocational courses, as well as seminars on upgrading skills so that our labor sector can offer better skills in the market.

Madam President, these are the measures that the government can undertake to make our materials more competitive.

MR. FOZ: Since Commissioner Monsod said that the word "FILIPINO" describes materials, would this idea include materials produced locally but by foreign-owned companies?

MR. MONSOD: Those foreign companies who are allowed to come in under the rules of the Board of Investments or the Constitution would also benefit from our promotion of Filipino products.

MR. FOZ: Does the term or descriptive word "FILIPINO" also refer to locally produced goods?

MR. MONSOD: Yes. In other words, the key concept here is value added; that in the case of materials, labor or products, the value added by Filipinos should be that the criterion and the quality should be improved so that they

are competitive in the market.

MR. FOZ: The principal proponent mentioned several existing laws in explaining the intendment of this amendment. Does the Gentleman mean that this amendment would not only cover the preferential use, as is now worded, of Filipino labor, materials and locally produced goods, but would also include in its coverage the awarding of contracts in the construction of projects, so that Filipino contractors — Filipino-owned construction companies — would enjoy a degree of preference over foreign entities or foreign bidders?

MR. MONSOD: Madam President, we just answered that the Flag Law provides a preferential treatment of 15 percent for Filipino contractors.

MR. FOZ: This amendment, therefore, has in mind the Flag Law.

MR. MONSOD: The amendment does not only have that in mind but all other measures that would make our Filipino products and materials competitive. The reason there is a 15-percent advantage in contract is because we recognize the fact that we are not manufacturers of heavy equipment, so that there is some penalty involved for Filipino contractors who bid for big projects. So, after a lot of calculations, they determined that the disadvantage Filipinos have for reasons beyond their control would be about 15 percent. This does not mean, however, that Congress cannot make that 50 percent if indeed the disadvantage is not of their making but are factors beyond their control. We are leaving that to Congress, but we are establishing the principle in the Constitution.

MR. FOZ: Madam President, if we change the word "PROMOTE" in the amendment to "PROVIDE FOR," would it mean any difference?

MR. MONSOD: The first word that was used was "encourage" and we used "PROMOTE." We would prefer the word "PROMOTE" because we think that it takes in the total aspect of making them competitive. We do not want everybody to keep on going back to the government saying, "You must provide for this; you must give us this; you must give us that." Yet we are supposed to have a lot of private initiative in the economy, and to fall back all the time on the government does not make our industries strong.

MR. FOZ: Thank you.

MR. DE CASTRO: Thank you, Madam President.

THE PRESIDENT: For the record, Commissioner de Castro has accepted the recommendation of the committee to add the phrase "WITH MEASURES THAT HELP MAKE THEM COMPETITIVE IN THE MARKET."

MR. DE CASTRO: Yes, Madam President, so that the additional section shall now read: "THE STATE SHALL PROMOTE THE PREFERENTIAL USE OF FILIPINO LABOR, MATERIALS AND LOCALLY PRODUCED GOODS WITH MEASURES THAT WILL MAKE THEM COMPETITIVE IN THE MARKET."

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I propose amendments to the accepted amendment? My amendment shall be a re-formulation of the amendment to read as follows: "IN ALL ECONOMIC ENDEAVORS, THE STATE SHALL PROMOTE THE PREFERENTIAL USE OF FILIPINO LABOR, DOMESTIC MATERIALS AND LOCALLY MADE PRODUCTS AND GOODS AND ADOPT MEASURES TO MAKE THEM COMPETITIVE."

THE PRESIDENT: What does the committee say?

MR. MONSOD: Madam President, we think the phrase "IN ALL ECONOMIC ENDEAVORS" is a surplusage

because we are on the Article on National Economy and Patrimony.

MR. DAVIDE: I will agree but my proposal is, instead of "WITH MEASURES," we say "AND ADOPT MEASURES TO MAKE THEM COMPETITIVE."

THE PRESIDENT: Is that acceptable?

MR. VILLEGAS: We accept the amendment, Madam President. I think the words "DOMESTIC MATERIALS" also make it clearer.

MR. MONSOD: That is a good amendment, Madam President; we accept it.

MR. VILLEGAS: Madam President, the amendment now reads as follows: "THE STATE SHALL PROMOTE THE PREFERENTIAL USE OF FILIPINO LABOR, DOMESTIC MATERIALS AND LOCALLY PRODUCED GOODS AND ADOPT MEASURES THAT HELP MAKE THEM COMPETITIVE."

MR. RAMA: Madam President, Commissioner Tingson would like to say something before we vote.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, I am glad to cosponsor with Commissioner de Castro this particular amendment, if only to further strengthen the overriding philosophy and thinking of this Commission that our national economy and patrimony is a gift from God for Filipinos, and we have the full right to use and enjoy their benefits; and, further, to demonstrate that we are, in the language of our Con-Com President, writing a charter that is pro-Filipino, pro-people and pro-God.

Thank you, Madam President.

THE PRESIDENT: Are we ready to vote?

MR. RAMA: We are ready to vote, Madam President.

VOTING

THE PRESIDENT: The new section has been read by the honorable chairman of the committee.

As many as are in favor of this proposed new section, which has been accepted by the committee, please raise their hand. (Several Members raised their hand.)

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

The results show 27 votes in favor and none against; the new section is approved.

MR. MONSOD: Madam President, one of the proponents is not here, but there is one amendment which the committee has already indicated to him that we would accept. How shall we handle that, Madam President? Can it be a committee amendment but the authorship of the amendment is attributed to Commissioner Ople?

THE PRESIDENT: Is there only one author?

MR. VILLEGAS: No, Madam President. The proponents are Commissioners Ople, Natividad, de los Reyes, Maambong, Davide and Azcuna.

MR. SARMIENTO: Madam President, may we ask for a deferment of the consideration of that section until Commissioner Ople arrives? He may have comments on that proposal.

Thank you.

THE PRESIDENT: So, we will defer consideration.

MR. MONSOD: We submit, Madam President.

MR. RAMA: Madam President, the next registered proponent of an amendment is Commissioner Sarmiento. I ask that he be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, may I propose this amendment which will be a new section to the Article on National Economy and Patrimony. The proposed section reads: "THE USE OF FILIPINO DUMMIES TO DEFEAT THE CONSTITUTIONAL AND LEGAL PROVISIONS ON NATIONAL ECONOMY AND PATRIMONY SHALL RESULT IN FORFEITURE IN FAVOR OF THE STATE OF FOREIGN EQUITY AND ITS INCREMENTS AND IN PERPETUAL DISQUALIFICATION OF THE DUMMY TO PRACTICE HIS PROFESSION IN ADDITION TO CRIMINAL RESPONSIBILITY." Madam President, this is cosponsored by Commissioners Nollado, Foz, Davide, Guingona, Tan and Uka. May I briefly explain the reason behind this amendment?

THE PRESIDENT: Please proceed.

MR. SARMIENTO: Madam President, it is useless to talk of Filipino equity of 60 percent of our natural resources as a gift from God, or of a Constitution that is pro-Filipino, pro-people and pro-God, when dummies — many of them Filipinos and some of whom are lawyers of multinationals — allow themselves to be willing partners in the flagrant violation of our Constitution. Madam President, to us, the use of dummies will circumvent the 60-40 sharing scheme in our Constitution. If circumvented, this will mean the foreign domination of our economy. The late Senator Claro M. Recto warned us of the dangers of foreign domination. He said, and I would like to quote him:

A country dominated by foreigners enriches the foreigners, a few of the nationals, but seldom its workingmen. Our country, therefore, is poor; its workingmen are poor, and many thousands are jobless, mainly because we have had an alien-dominated economy and political life for more than four centuries now. If the Filipinos had been independent from foreign domination in those four centuries, with the tremendous natural resources in their homeland, they would surely have found better ways of developing their economic assets to achieve a high standard of living and prosperity for all elements of the population, including the mass of workingmen.

So, Madam President, we humbly ask that the committee accept this proposed new section.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Madam President, as one of the cosponsors of the proposed amendment of Commissioner Sarmiento and others, may I be allowed to speak in favor of the proposed amendment?

THE PRESIDENT: Please proceed.

MR. GUINGONA: As a backgrounder, Madam President, I expressed my view last Saturday that to me the ideal ratio in favor of foreign investors would be the ratio as contained in the original report of the committee, which is one-third. When Commissioner Davide stood up to propose the amendment of that ratio to 75-25, I had the impression that it was some sort of a quantum leap and it was another extreme to the extreme of 60-40. And so for a while I had thought of abstaining, but, finally, I decided to vote in favor of the 75-25 ratio. One of the reasons was precisely because I believe or concur with the observation of Commissioner Davide that it is highly possible that although on paper the foreign investors would have a minority ownership, the fact of the matter is that, the

actual ownership could be more than 40 percent through Filipino dummies.

When I speak of foreign investors, may I please clarify, Madam President, that I do not allude to American investors only because I believe that in the foreseeable future, we will not only have a sprinkling, but quite a number of foreign investors who are not Americans — Chinese, Japanese, Arab investors. I believe with Commissioner Davide that there is less chance of control, even with the help of Filipino dummies, if the ratio is fixed at 75-25. At 60-40, all that the foreign investors have to do is solicit 11 percent Filipino-dummy participation. This is a part of life that we cannot close our eyes to.

This has happened before and will happen again in the future and the consequence would be very disadvantageous to the Filipinos, as alluded to by Commissioner Sarmiento. First, I still believe we should be concerned about the effect on the national security of too much foreign involvement, particularly in such activities as telecommunications. Second, if a foreign investor decides to invest in the Philippines, the project would not only be profitable but highly so, and I would prefer that less profits go to foreigners who are more entitled to bring the same out of the country than the Filipinos. Third, I believe we should make it clear, that while we certainly welcome foreign investments, these foreign investments are welcome only under our terms, and one of these is the prohibition suggested under the Sarmiento, et al. amendment.

Thank you, Madam President.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Will Commissioner Guingona yield to a few questions?

MR. GUINGONA: Gladly, Madam President.

MR. RODRIGO: Madam President, I agree that we should prevent the use of dummies; that we should condemn those who allow themselves to be used as dummies. In fact, we have anti-dummy laws, but my question is whether or not we should highlight the condemnation of Filipino dummies in our Constitution. This will imply that there is a plague of dummies in the Philippines. Will this not cast an ugly reflection on our people? Should our condemnation of dummies be in our Constitution and not in mere legislation?

MR. GUINGONA: I have explained why we believe that this amendment should be constitutionalized. I do not believe that that will be a reflection; it is merely a preventive measure. It is a safety measure to which our Filipino people are entitled.

MR. RODRIGO: One of the criticisms of this Constitutional Commission is that we are trying to practically legislate. Even if we have such a provision in the Constitution, it would need legislative implementation. We cannot provide in the Constitution what penalty should be imposed. Should it be prison correccional, prison mayor? This will wait for legislation. In fact, we already have anti-dummy laws. So, why enshrine this in the Constitution? Does the Gentleman know of any country whose Constitution singles out the act of being dummies for condemnation in the Constitution?

MR. GUINGONA: Madam President, may I react?

MR. RODRIGO: Yes.

MR. GUINGONA: I do not agree that this is purely a legislative matter to be considered by the legislature or by Congress. But even granting, for the sake of argument, that it is so, we know very well that we have passed quite a number of provisions here which under our criteria are legislative in character. I do not see why we should make

an exception of this very important provision.

MR. RODRIGO: I was not happy about some of these provisions which I thought should be left to legislation, but, in this particular case, I have the added misgivings that it might cast an ugly image on our people. It might create the impression that "dummyism" is so prevalent in the Philippines that we had to have a provision in the Constitution against this. I just want to have this on record.

MR. GUINGONA: Thank you, Madam President.

THE PRESIDENT: Are there any other comments?

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Madam President, as one of the cosponsors of the provision, may I be permitted to speak in favor of the amendment?

THE PRESIDENT: Please proceed.

MR. NOLLEDO: Thank you, Madam President.

We have the Anti-Dummy Law which is Commonwealth Act No. 108, as amended by RA No. 6082, violation of which will mean merely forfeiture of the rights, privileges and franchise. It is agreed among lawyers, even among all Filipinos, Madam President, that the Anti-Dummy Law has proven to be ineffective. I quote Mr. Romero, an economist and columnist, who said in his column that it is useless to talk of the 60 percent-40 percent equity without an accompanying measure that will condemn and give appropriate punishment for violations of the provisions on national economy and patrimony. To constitutionalize this provision against dummies will accord great importance to it. We, therefore, ask the government to strengthen the fight against the employment of dummies who are guilty of a crime as heinous as treason. This cannot discourage foreign investments because when aliens come to invest here, they should do so in good faith, in the thought that they come here to respect our laws and not to prostitute Filipinos who are willing to be Judases for mercenary reasons.

Madam President, if our government will just meticulously investigate, it will be revealed that there are law offices, most of them in Makati, whose members are willing to be dummies in exchange for fat retainer's fees. Shame on them. We need to constitutionalize safeguards against the violations of constitutional provisions designed to protect the interest of Filipinos in the wealth of the nation.

THE PRESIDENT: Is the committee ready to react?

Commissioner Concepcion is recognized.

MR. CONCEPCION: Madam President, I have made my stand from the very beginning of our sessions against means and ways that will evade the provision on conservation of natural resources. Perhaps we will recall that when we took up the question of citizenship, I already warned the Commission that the biggest door for the circumvention of the provisions of natural resources was by naturalization as citizens of the Philippines. And so, I then suggested that we adopt a stricter policy on naturalization, but that appeal did not seem to have any effect. I suppose that with so many aliens that have been so easily naturalized by corrupt public officials, which is no secret, I am afraid that we are wasting our time on these protestations of Filipinism, Filipinization or nationalism. The biggest door to circumvent the limitations to the conservation of our natural resources is the naturalization of foreigners. We have to be strict in the application of our naturalization law, which is far from being so, particularly in its implementation. Of course, insofar as sanctions are concerned, I do not know of any

Constitution in the world that provides for sanctions. The Constitution is meant to provide the structure of the government and the guidelines. Imposing sanctions is not a simple matter of punishing law violators. One of the strongest arguments of the Amnesty International against the death penalty is that the statistics all over the world show that the death penalty has not reduced the crime incidence in any part of the world. What is more important is the adoption of preventive measures. A sanction imposed by the Constitution for the violation of a provision thereof is too rigid to meet the demands of the conditions, and other factors relevant to the need of proportionality between the harm done and the remedy provided therefor.

I cannot agree to the idea of including in the Constitution a provision providing for sanctions.

Thank you.

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: On behalf of the committee, we accept the basic concepts of Commissioner Sarmiento. However, there is another set of amendments proposed by Commissioners Ople, Bennagen, Maambong and Quesada who are not here. So, we would like to ask Commissioner Sarmiento if he is willing to defer his amendment so that he can work with the other proponents.

SUSPENSION OF SESSION

MR. SARMIENTO: Madam President, may we request a suspension of about three minutes?

THE PRESIDENT: The session is suspended.

It was 10:51 a.m.

RESUMPTION OF SESSION

At 11:04 a.m., the session was resumed with the Honorable Francisco A. Rodrigo presiding.

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

The Floor Leader is recognized.

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

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

MR. SARMIENTO: Mr. Presiding Officer, the committee objected to the use of "FILIPINO DUMMIES" and so, during the conference, we made a reformulation of this additional section to read as follows: "THE VIOLATION OF THE PROVISIONS OF THIS ARTICLE SHALL RESULT IN FORFEITURE IN FAVOR OF THE STATE OF FOREIGN INVESTMENT AND ITS INCREMENTS IN ADDITION TO CRIMINAL RESPONSIBILITY."

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

MR. MONSOD: Mr. Presiding Officer, as Commissioner Romulo said, there is another amendment that was proposed by Commissioners Quesada, Ople and Maambong. We were appealing to the proponents to harmonize these two views because they really are addressed to the same act. The proposal of Commissioner Quesada reads: "ACTS WHICH CIRCUMVENT OR NEGATE ANY OF THE PROVISIONS OF THIS ARTICLE SHALL BE DEALT WITH BY LAW." We propose that we add the phrase: "ARE INIMICAL TO THE NATIONAL INTEREST."

The reason why we are proposing this is that we have approved in Section 5 of the Article on Citizenship a section which says: "Dual allegiance of citizens is inimical to the national interest and shall be dealt with by law." The act that we are talking about here of being dummies partakes of the same nature of dual allegiance, where the citizens' allegiance to the country is not unqualified. Therefore, in constitution-making it would be good to align these two provisions so that both of them are addressed to the same type of problem.

MR. SARMIENTO: Mr. Presiding Officer.

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

MR. SARMIENTO: Mr. Presiding Officer, may I just reply to the remarks made by the honorable Commissioner Monsod about realigning it with the other provisions of the Constitution.

When we tackled the section on local autonomy, there was this question that we are legislating. The honorable Commissioner Bernas, a well-known constitutionalist and my idol, said that we cannot frame a Constitution in a vacuum. We have to contend with realities, with present situations. So, we have to make adjustments. We should not treat constitution-making as dogmatic; that it should be brief and concise. We should respond to the signs of the times.

So, to me, the national economy is the lifeblood of our people and we should give more teeth to safeguards.

MR. MONSOD: We agree that the act is against the national interest. All we are saying is that by making a very strong statement of principle in the Constitution, we are mandating Congress to act accordingly. And this is a Congress that really represents the people; they are voted by the people and they are answerable and accountable to the people. For example, there may be other penalties that are available to Congress so why are we just saying "FORFEITURE"? Maybe there are more severe penalties that Congress will study and look into, but it is not for us at this time to prescribe the penalties for such a crime. There is already the Anti-Dummy Law, which can be improved and implemented properly, unlike in the past. But just because it was not implemented does not mean that we should constitutionalize the penalties.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Rodrigo): As the Chair sees the situation, there are three proposals: one by Commissioner Sarmiento, the other by Commissioners Quesada, Ople, et al., and the other by the committee, which is to synchronize the two proposals.

The Chair believes that this can be reconciled if we suspend the session for a few minutes.

The session is suspended for a few minutes.

It was 11:08 a.m.

RESUMPTION OF SESSION

At 11:13 a.m., the session was resumed.

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

MR. RAMA: Mr. Presiding Officer.

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

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

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

MR. SARMIENTO: Mr. Presiding Officer, during our conference, the committee proposed some amendments to our proposal. The reformulated section will read as follows: "ACTS WHICH CIRCUMVENT OR NEGATE ANY OF THE PROVISIONS OF THIS ARTICLE SHALL BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS AS MAY BE PROVIDED BY LAW."

MR. GUINGONA: Mr. Presiding Officer, may I request Commissioner Sarmiento to elaborate on the words "CIVIL AND CRIMINAL SANCTIONS"?

MR. NOLLEDO: Mr. Presiding Officer, I will ask only one question to aid him in the elaboration.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Sarmiento may yield if he so desires.

MR. SARMIENTO: Gladly, Mr. Presiding Officer.

MR. NOLLEDO: Thank you.

Just one question, Mr. Presiding Officer. Does the civil sanction include the forfeiture of foreign investments and its increments?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. NOLLEDO: Thank you.

MR. MONSOD: The committee agrees with the proponent that that is one of the sanctions that may be prescribed by Congress.

THE PRESIDING OFFICER (Mr. Rodrigo): Is the body now ready to vote on the amendment?

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Regalado is recognized.

MR. REGALADO: Mr. Presiding Officer, point of information apropos of the comment of Commissioner Monsod that the forfeiture of foreign investments and its increments may be so provided by Congress. That is actually so provided right now — that any person who commits a criminal offense will be subject to the subsidiary penalty of confiscation and forfeiture under Article 45 of the Revised Penal Code.

MR. NOLLEDO: Now, Mr. Presiding Officer, may I react?

THE PRESIDING OFFICER (Mr. Rodrigo): Yes, Commissioner Nolleddo.

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

It is true that the sanctions are also provided for in existing laws but these are mere statutes which can be amended, repealed or modified. We are providing a constitutional basis for the punishment of dummies, Mr. Presiding Officer.

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

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

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: May I be allowed to introduce a very minor amendment? Instead of "MAY," I propose the word "SHALL."

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

MR. MONSOD: Why not just say "AS PROVIDED BY LAW"?

MR. DAVIDE: "AS PROVIDED BY LAW," so we delete "MAY BE."

MR. MONSOD: Yes.

MR. DAVIDE: I agree.

MR. MONSOD: Thank you.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bacani is recognized.

BISHOP BACANI: I ask not as a member of the committee, but I would just like to be clarified because it seems to me, from the questioning of Commissioner Nollado, forfeiture is certainly included among those sanctions that will be provided by law. It seems that the comment of Commissioner Monsod says it may be included by law. What is the exact sense of the amendment of Commissioner Sarmiento?

MR. NOLLEDO: Mr. Presiding Officer, we are leaving it to Congress to determine whether that sanction may be provided for. But that is an urgent message to Congress to adopt forfeiture when warranted by the circumstances.

BISHOP BACANI: Thank you.

MR. MONSOD: We agree with that interpretation.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Aquino is recognized.

MS. AQUINO: Just for the record, may we ask Commissioner Sarmiento to clarify with us the coverage of the acts which would amount to a circumvention of the prohibition in the Constitution, to provide enough impetus for statutory implementation.

MR. SARMIENTO: Gladly, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Sarmiento will please proceed.

MR. SARMIENTO: The sanctions will cover all acts of dummyism.

MS. AQUINO: No, not the sanctions but the acts which would amount to circumvention.

MR. SARMIENTO: It will cover all acts of dummyism. For instance, 1) those who have in their names or under their control a right, franchise, privilege or property, the exercise or enjoyment of which is expressly reserved by the Constitution to Filipino citizens or to Filipino-controlled corporations or who permit the use, exploitation or enjoyment of such right, franchise, privilege or property by a person or corporation not possessing the requisites prescribed by the Constitution; 2) those who transfer or convey such right, franchise, privilege or property to a person or corporation not qualified under the Constitution; 3) those who, in any manner, permit or allow any person or corporation not qualified under the Constitution to acquire, use, exploit or enjoy such right, franchise, privilege or property which is expressly reserved by the Constitution to Filipino citizens or to corporations controlled by them; and lastly, 4) those who permit or allow nonqualified persons to intervene in the management,

operation, administration or control of such right, franchise, privilege or property either as officer, employee or laborer.

MS. AQUINO: Thank you, Commissioner Sarmiento.

For the record, these are acts which would, in effect, be constitutionally prohibited without us providing for that expressly in the article, and when violated, these are subject to criminal punishment by imprisonment or fine, and as previously clarified, forfeiture of the property.

Thank you, Mr. Presiding Officer.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: Will Commissioner Sarmiento answer one or two questions before the committee calls for a vote?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Sarmiento may answer if he so desires.

MR. SARMIENTO: Gladly, Mr. Presiding Officer.

MR. OPLE: In the enumeration of specific acts, did the Commissioner use dummyism?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. OPLE: Yes, that is plain enough. I do not know if we can find that in the dictionary, but the meaning is very plain to me. It seems that all of these acts are attributed to one party — the one that allows himself to be a dummy and, therefore, only this party will be subject to criminal and civil prohibitions.

MR. SARMIENTO: No, it will also cover those persons who initiated the commission of dummyism. It will include foreigners who profit from such prohibited acts, including those who knowingly abet, assist or aid in their planning or perpetuation, who are also criminally liable as their dummies.

MR. OPLE: That is very reassuring because in the original formulation of the Quesada amendment, we actually had written "in conspiracy with foreign interest," and I think in the negotiations, this phrase got lost. But I think it is very reassuring that where the act of dummyism has been abetted by a foreign investor, then he can also be impleaded in a criminal and civil action.

MR. SARMIENTO: That is correctly stated, Mr. Presiding Officer.

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

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Foz): Commissioner Foz is recognized.

MR. FOZ: May we ask the main proponent of the amendment a question?

MR. SARMIENTO: Gladly, Mr. Presiding Officer.

MR. FOZ: The Commissioner mentioned those who assist or collaborate in the commission of the offense of dummyism, as he calls it. Does he have in mind persons like lawyers and accountants and other professionals who would have a hand in the commission of such offense?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. FOZ: Thank you.

MS. AQUINO: Mr. Presiding Officer, just one last clarification.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Aquino is recognized.

MS. AQUINO: Just a query to Commissioner Sarmiento. The enumeration he has read to us is the coverage of the Anti-Dummy Law which was passed according to the advice of Commissioner Calderon when he was still a student — that must be more than half a decade or century ago. Is this enumeration not exclusive?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MS. AQUINO: And the contemplation of the acts which can be interpreted to circumvent the constitutional prohibition could be expanded to accommodate the sophisticated and insidious subtleties of dummyism that have been devised recently.

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

MS. AQUINO: In other words, the statutory implementation of this provision is not limited to the interpretation according to the Anti-Dummy Law which is antiquated already?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MS. AQUINO: Thank you.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: May I be allowed to ask one clarificatory question? What are prohibited in the proposed section would be acts which would negate or circumvent the provisions on the Article on National Economy and Patrimony and Provision on Ancestral Lands. But we know for a fact, Mr. Presiding Officer, that in the various sections under this article, we have mandates directed to the Congress of the Philippines to enact the necessary legislation precisely to promote or enhance the national economy or patrimony or to protect Filipino enterprises, the last of which is to promote the preferential right of Filipino labor. Suppose Congress fails in this task, would the Members of Congress be liable under this section?

MR. MONSOD: No, Mr. Presiding Officer.

MR. DAVIDE: I ask because that would be the best way of negating precisely the Article on National Economy and Patrimony — the failure of Congress to act as mandated.

MR. MONSOD: Mr. Presiding Officer, that is not contemplated in this article. The accountability of Congress is in the elective process and in the reserve rights of the people to change the laws and to change them from their office.

MR. DAVIDE: Thank you for that clarification.

MR. TINGSON: Mr. Presiding Officer.

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

MR. TINGSON: I have a parliamentary inquiry that may help our body. I notice that although it is so obvious that the presiding officer is not a female, we sometimes say "Madam President" and some "Mr. Presiding Officer." Whenever our lady President gives up the Chair for somebody, is it not within the parliamentary rule that we can always address the chair as "Mr. President," whether or not he is the actual Con-Com President?

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair at this moment is not ready to answer that question because our President is absent. (Laughter)

MR. TINGSON: I am just wondering. I just asked that to simplify matters.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Guingona is recognized.

MR. GUINGONA: I am aware, of course, that as mentioned by Commissioner Aquino, the acts of circumvention mentioned here would not be exclusive and, therefore, the sanctions that may also be mentioned here would obviously not be exclusive. But I asked the honorable Commissioner Sarmiento for an elaboration of the civil and criminal sanctions, and Commissioner Nolleto has specified forfeiture and Commissioner Aquino added fine and imprisonment. I recall that earlier there was mention of disqualification.

I wonder, without prejudice to other sanctions, whether the honorable Commissioner Sarmiento would like to elaborate on that same question that I asked.

MR. SARMIENTO: Yes, without prejudice to the perpetual disqualification of the dummy to practice his profession.

THE PRESIDING OFFICER (Mr. Rodrigo): Is the body ready to vote on the amendment which has been accepted by the committee?

MR. VILLEGAS: Yes, Mr. Presiding Officer. Let me read the final version: "ACTS WHICH CIRCUMVENT OR NEGATE ANY OF THE PROVISIONS OF THIS ARTICLE ARE INIMICAL TO THE NATIONAL INTEREST AND SHALL BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS AS PROVIDED BY LAW."

VOTING

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

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

The results show 32 votes in favor, one against and no abstention; the proposed section is approved.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, the last registered proponent of an amendment is Commissioner Rosario Braid. I ask that she be recognized.

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

MS. ROSARIO BRAID: Mr. Presiding Officer, I have a new provision which I would like to submit to the body. Earlier, I had submitted this to the committee, which felt that the provision may not be appropriate and may be better handled in legislation. But my cosponsor, Commissioner Regalado, helped me in refining the provision, which I hope is now acceptable. It reads: "THE STATE SHALL ENCOURAGE TECHNOLOGICAL INDEPENDENCE, REGULATE TECHNOLOGY TRANSFER AND ENSURE MUTUAL BENEFITS FOR BOTH PRODUCER AND RECEIVER COUNTRIES."

May I give a little background on this, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Commissioner will please proceed.

MS. ROSARIO BRAID: As we know, most Third World countries, including the Philippines, are often at a disadvantage in terms of technology transfer. In the Philippines, particularly, the disadvantages have been in terms of cost, loss of control of the local citizens over decisions and the unsuitable characteristics of the technology received. There is a lack of effective, indigenous and scientific and innovative capacity which, in itself, is a symptom of underdevelopment.

The cost has been not only in terms of direct payments for technology in the form of royalties and license fees, but also in terms of practices like over-invoicing and under-invoicing of imports, which have really amounted to large costs often absorbed by the developing country.

By technology, I mean here technology of hardware such as equipment from producer to receiver countries. It could also take the form of intellectual property such as what is seen in terms of patents, copyrights, formulas, designs, trademarks, franchises and manufacturing rights.

May I quote from a paper, "Critique on Technology Transfer," written by the Deputy Minister of Trade and Industry, Lilia Bautista:

In 151 agreements, there were 124 restrictive clauses, although restrictive clauses are not allowed in these agreements. These restrictive clauses are those which restrict the use of technology supply after the expiry of the agreement, those which require payments for patents and other industrial property rights after expiration, termination or invalidation, and those which restrict technology recipient from access to continued improvements in techniques.

There are about nine or ten of these which I will submit for the record, but I will not bore the listeners. What I am saying is that 124 out of 151 agreements have restrictive clauses, and these, therefore, facilitated the problem now faced by the developing country which fails to benefit from the technology know-how.

As a matter of fact, if I may continue to read, it states:

The U.S. particularly is in the business of selling royalties to countries which already have technocratic and intellectual support to demand, and it is not in the business of selling pure information such as know-how and show-how to the LDCs — less developed countries. Multinationals are more interested in setting up direct affiliates and withdrawing branch earnings than in turning information over to less developed countries.

So these sellers of information products, such as royalties, do not turn over patented processed information and techniques; rather, they hire out multinational consultants and managers to assist less developed countries in their domestic operations.

What happens is that we are deprived of the know-how, and in terms of outflow of foreign investments, from 1961 to 1980 it has been negative. It is estimated that the sum of \$951 million is the total sum of outflow of earnings.

According to Ms. Bautista, and I quote:

... Foreign investors are not the best users of domestic resources. Several domestic industries such as coconut oil, cigars, leather products, ready-made clothings and others are more efficient users of domestic resources.

So what I am saying is that there is very little transfer of technology because of the control of transnational corporations. The position of transnational corporations is due to the worldwide systems of operations. They are reluctant to engage in local sourcing that might initially be less profitable and to part with technologies over which they have monopolistic control. This is true not only in manufacturing industries but also in cultural

information such as film and television rights.

So I propose, Mr. Presiding Officer, that we have a provision on technology transfer because the present board, the Technology Transfer Board, which is an interagency body with representatives from the Ministry of Trade and Industry, the Central Bank of the Philippines, the Philippine Patent Office, the NEDA, the National Science Technology Authority and the Technology Resource Center, has not really functioned the way it should in terms of preventing restrictive clauses in technology transfer agreements.

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say on the proposed amendment?

MR. VILLEGAS: There is another amendment proposed by Commissioner Ople in which Commissioner Rosario Braid is one of the cosponsors. We would like to incorporate her appropriate technology into this total provision on promoting the development of appropriate Philippine technology.

May I call Commissioner Rosario Braid's attention that we already had approved under Section 3 a statement which states: "The State shall promote the development and use of local scientific and technical resources." So this is one very important provision under Section 3, and we can definitely include the Commissioner's appropriate technology in Commissioner Ople's amendment.

MS. ROSARIO BRAID: Mr. Presiding Officer, as long as the amendment of Commissioner Ople, of which I am a cosponsor, really addresses itself to the promotion of a potential pool of entrepreneurs.

My provision focuses more on the need for regulation in the existing Technology Transfer Board because of such practices like the violation of technology transfer agreements in the form of restrictive clauses which, of course, results in benefits which always accrue to the producer country. So if this is included in the amendment, I will be happy to withdraw this proposed provision and incorporate it in the other provision.

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

MR. VILLEGAS: Thank you.

MR. RAMA: Mr. Presiding Officer, while the committee is having a conference with Commissioners Ople and Rosario Braid, may I ask that Commissioner Calderon be recognized?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Calderon is recognized.

QUESTION OF PRIVILEGE OF COMMISSIONER CALDERON

MR. CALDERON: Mr. Presiding Officer, I rise on a question of collective privilege.

I stand up to articulate the sense of outrage and dismay that I personally and the majority of this Commission, collectively, fell over the campaign of vilification and calumny that has been launched against us by certain Members of this Commission.

In a joint statement released to the press by five Members of this Commission and reported out in yesterday's papers, they claimed, and I quote:

The democratic ideals and nationalist aspirations of the Filipino people no longer stand a chance in that deliberative body.

The deliberative body they mean is, of course, this Constitutional Commission. The worst of it, Mr. Presiding Officer, is that even certain sectors of the media seemed to be falling into a propaganda trap. One newspaper yesterday headlined: "Nationalist Con-Com men resigning." While the word "Nationalist" is enclosed in quotation

marks, indicating that it may not be the truth, how many of the ordinary newspaper readers will take note of the difference?

Another newspaper headlined in giant letters: "Ten Con-Com Members to resign," and under it is a drop head in big bold letters: "Over Anti-Filipino Provisions." This time there are even no quotation marks, which indicates that the headline writer agrees that those provisions we passed here are indeed anti-Filipino and he is passing on this bias to the public.

The implication of all this, Mr. Presiding Officer, is that we in the majority who opposed their stand are undemocratic and antinationalist. This is a scurrilous aspersion designed to deceive our people into thinking that the Members of this Commission who, because of the congruence of their votes, have become the majority in this Chamber are engaged in a conspiracy to sell the Filipino people in our country down the river to the multinationals.

Likewise, it is a distorted and mean propaganda gimmick designed to deceive our people into thinking that they who form the minority in this Chamber, they who failed to convince the greater number to vote with them, are, nevertheless, the true champions of democracy and nationalism.

I stand here, Mr. Presiding Officer, to unmask this deception. They claim to be for democracy and rail against what they call the tyranny of the majority. Is not democracy, Mr. Presiding Officer, the principle that the majority rules. Why then cannot these colleagues submit to the will of the majority of this Commission as expressed in the collective vote of the Members? Or, is the democracy they claim another kind of democracy, the kind of democracy that is meant when the world is appended to the names of countries that are socialistic or communistic such as the People's Democratic Republic of this and that?

They claim they are nationalistic. Do they have a monopoly of nationalism, of patriotism, of love of country? Are they the only ones who love the Philippines and the Filipinos? What about our President, former Supreme Court Justice, Cecilia Muñoz Palma? How about former Senators Ambrosio Padilla, Francisco "Soc" Rodrigo, Ahmad Domocao Alonto, Decoroso Rosales and Lorenzo Sumulong? How about the religious leaders, Pastors Cirilo Rigos and Gregorio Tingson of the Protestant Church and Bishop Teodoro Bacani of the Catholic Church? How about our Muslim brothers, former Senator Ahmad Domocao Alonto, Commissioners Yusup Abubakar and Lugum Uka. How about Former Speaker Jose B. Laurel, Jr. and Commissioners Jose Bengzon, Jr., Alberto Jamir, Christian Monsod, Ricardo Romulo, Bernardo Villegas, Crispino de Castro, Jose Colayco and Florenz Regalado? How about the political oppositionists, Commissioners Blas Ople, Teodulo Natividad, Rustico de los Reyes and Regalado Maambong? How about former Chief Justice Roberto Concepcion and Floor Leader Napoleon Rama? Are these people and the others whom I failed to mention any less nationalistic than the self-proclaimed patriots who do not have the grace to accept a parliamentary defeat?

Some of our colleagues here, notably, Floor Leader Napoleon Rama, Commissioner Rodrigo and myself, actually suffered incarceration in the hands of the dictator, Mr. Marcos, because of our fight for the restoration of democracy and nationalism. Where were these self-proclaimed fighters for democracy and nationalism during those dark days? And yet, Mr. Presiding Officer, we do not proclaim to the world that we have a monopoly of nationalism and love for democracy.

As a matter of fact, we believe in the democratic principle that the marketplace of ideas should be open even to those ideas that we oppose; open even to those ideas that we abhor. But ascribing based motives to the other side, just because we do not win the votes, is the most undemocratic practice in the world.

These people, Mr. Presiding Officer, claim that they are doing their best to cooperate, but it has become apparent

that their proposals are not judged on their merits but on the basis of black politics.

This is a most undemocratic and dangerous attitude, Mr. Presiding Officer. It implies that they alone possess what is meritorious, what is correct and what is true. How about us who do not agree with them? Even in the Supreme Court, disagreements are resolved by the vote by which everybody afterwards abides. Can they not understand that this practice of democracy — finding the collective will by majority vote — observed even in the Supreme Court should also be followed in this parliamentary body and out there among our people through general elections?

But they claim that they are the only ones who are right. They claim they alone possess the key to the recovery of this nation. They claim when they are rejected in the voting, that there is a conspiracy against the Filipino people. Who authorized them in the first place to speak for the people? By what right do they arrogate unto themselves the title of nationalists, progressives and lovers of democracy when they could not even abide with grace and politeness to the will of the majority? They claim they are trying to cooperate, and yet they behave so brazenly when they are defeated in a vote. Does this mean that they will cooperate with us only for as long as we accept their proposals and that the moment we reject their proposals, they will no longer cooperate? By their conduct, Mr. Presiding Officer, the answer to this question seems to be in the affirmative.

In the future, it is possible that through our vote or through violence these people may capture the government of this country. By their conduct and the way in which they interpret democracy, heaven help us when that day comes.

In the meantime, Mr. Presiding Officer, we are still living in a democracy under our definition, not theirs.

I, therefore, wish to remind them of a portion of my prayer I said here sometime ago:

As crucial issues are submitted to the vote, fortify us, Almighty God, with humility in victory, with grace in defeat, and with the wisdom to understand that every vote in this Chamber is a vote of conscience intended to achieve the common will, and certainly, not a partisan stand designed to defeat a foe. For in this Chamber, O Lord, there are no foes, only colleagues in the common endeavor to structure the foundation of this nation.

In short, Mr. Presiding Officer, I appeal to them: Let us vote against each other, but let us not call each other names, nor claim a monopoly of nationalism and of merit.

I thank you.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

In line with what the Honorable Calderon stated, allow me to state for the record what Mr. Adlai Stevenson said about patriotism:

Patriotism is not the sudden and frenzied outburst of emotion, but the tranquil and steady dedication of a lifetime.

Thank you, Mr. Presiding Officer.

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

MR. RAMA: I ask that Commissioner Ople be recognized to present his joint amendment with Commissioner Rosario Braid.

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

MR. OPLE: Mr. Presiding Officer, after a conference with the proponents of the similar amendment and the members of the committee — I am referring to the other proponents, Commissioner Rosario Braid who had taken the floor earlier, in association with Commissioners Regalado, Rigos, Nollado, Maambong, Guingona, Bennagen, de los Reyes, and Natividad — I think we are now in a position to present a consolidated amendment to read as follows: "THE STATE SHALL AIM BY LAW AND POLICY TO PROMOTE THE SUSTAINED DEVELOPMENT OF A NATIONAL TALENT POOL OF FILIPINO ENTREPRENEURS, SCIENTISTS, MANAGERS, PROFESSIONALS, HIGH-LEVEL TECHNICAL MANPOWER AND SKILLED WORKERS OR CRAFTSMEN IN ALL FIELDS. THE STATE SHALL PROMOTE APPROPRIATE TECHNOLOGY AND REGULATE TECHNOLOGY TRANSFERS FOR THE NATIONAL BENEFIT.

THE PRACTICE OF ALL PROFESSIONS IN THE PHILIPPINES SHALL BE LIMITED TO FILIPINO CITIZENS SAVE IN CASE OF RECIPROCITY BASED ON EQUALITY WITH THE CITIZENS OF FOREIGN COUNTRIES AS MAY BE PRESCRIBED BY LAW."

May I know the committee's response to this amendment as consolidated?

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

MR. VILLEGAS: Could Commissioner Ople discuss the second portion, the practice of profession which I think needs a little more discussion?

MR. OPLE: This was incorporated from previous amendments of Commissioners de los Reyes, Nollado and Rigos. With the Commissioner's permission, may I call on anyone of them to reply to the questions of the committee.

MR. VILLEGAS: This is the paragraph which reads: "THE PRACTICE OF ALL PROFESSIONS IN THE PHILIPPINES SHALL BE LIMITED TO FILIPINO CITIZENS SAVE IN CASE OF RECIPROCITY BASED ON EQUALITY WITH THE CITIZENS OF FOREIGN COUNTRIES AS MAY BE PRESCRIBED BY LAW."

MR. OPLE: May I call on Commissioner Nollado to answer any question concerning the second paragraph?

MR. NOLLEDO: Do I understand it right that the Commissioner would like the second paragraph to be deleted?

MR. VILLEGAS: No, to be elaborated upon for discussion.

MR. NOLLEDO: The second paragraph reads: "THE PRACTICE OF ALL PROFESSIONS IN THE PHILIPPINES SHALL BE LIMITED TO FILIPINO CITIZENS SAVE IN CASE OF RECIPROCITY BASED ON EQUALITY WITH THE CITIZENS OF FOREIGN COUNTRIES AS MAY BE PRESCRIBED BY LAW." Actually, the original proposal included the words "absolute equality," but we understand that that seems to be impossible to attain so we deleted the word "absolute." We just put "EQUALITY" which means that it should be of substantial equality. The word "RECIPROCITY" is interrelated with the word "EQUALITY," and our purpose here is to lend more importance to the provision that the patrimony and the economy of the nation must be under the control of Filipinos. And in the exercise of rights, privileges or concessions under the provisions on the Article on National Economy and Patrimony, necessarily, the exercise of the profession is also involved. So we have to align the exercise of the profession with the exercise of rights and privileges. That is the reason we are not deleting this provision; we are insisting. If the Chairman will consider it favorably, we will be grateful.

MS. ROSARIO BRAID: Mr. Presiding Officer.

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

MS. ROSARIO BRAID: I am one of the proponents of an earlier proposed resolution with other cosponsors which include Commissioners Foz, de los Reyes, Maambong, Natividad, Nolledo, Ople, Rigos and also the President herself, President Cecilia Muñoz Palma. The rationale given us by a group from various sectors — engineering, architecture, medicine, public accountancy and others — in their position paper shows that there are reports of illegal practice by aliens in the Philippines in the medical, engineering, accountancy and architectural professions. Their reports show rampant violations of professional practice, for instance, where loans are obtained from foreign sources to finance local projects. The package would include technical services which could be rendered satisfactorily by Filipino engineers and architects. On grants-in-aid by foreign countries, especially the Japanese government, such would also include technical services much to the detriment and prejudice of Filipino professionals. In turn, foreign engineers go with the project in order to assure the supplier of the initial success of the operation of the machineries and to provide the necessary guarantees. While this is acceptable, this must not extend to services beyond the initial operation as the Filipino engineers are in a position to render the required services. It has also been rumored that a big hospital in Quezon City has been inviting foreign doctors, Chinese doctors, to become and are, in fact, presently members of its operational staff. During the past regime, one of the bigger problems in the medical profession was the practice of inviting and allowing doctors who were formerly Filipinos but who subsequently became American citizens to come to the Philippines and practice their profession here. They were allowed to go to the countryside to treat and give medical help. This practice of allowing unlicensed doctors has given the impression that our rural folks shall only depend upon Balikbayan doctors.

This group feels that unless we have a provision to this effect, it would be to the detriment of the local Filipino professionals.

So this is the background of this provision.

MR. ROMULO: Mr. Presiding Officer, I would like to ask some questions of the proponents.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Romulo is recognized.

MR. ROMULO: Thank you. Let me preface my remarks by saying that I do not mind foreign competition but I would like to point out a consequence to the legal profession which I would like you to take into account. As I said, I have no objection to it, but suppose a Filipino lawyer who has had 12 years of practice and who graduated from either the UP or Ateneo may be allowed to practice law in New York provided he is of good moral character, and so on, would we allow the reciprocal right? I know that the Integrated Bar of the Philippines is against this. Personally, as I say, I do not mind. I feel equal to any foreign competitor.

MR. OPLE: Mr. Presiding Officer, may I just report that according to the latest consensus of the proponents, we now would like to eliminate the whole clause: "SAVE IN CASE OF RECIPROCITY BASED ON EQUALITY WITH THE CITIZENS OF FOREIGN COUNTRIES AS MAY BE PRESCRIBED BY LAW." The second paragraph will now read: "THE PRACTICE OF ALL PROFESSIONS IN THE PHILIPPINES SHALL BE LIMITED TO FILIPINO CITIZENS SAVE IN CASES PRESCRIBED BY LAW."

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

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

MR. VILLEGAS: The amendment is accepted, Mr. Presiding Officer. Could we just make some minor amendments, Mr. Presiding Officer? We think "BY LAW AND POLICY" is a surplusage. So the paragraph would now read: "THE STATE SHALL PROMOTE THE SUSTAINED DEVELOPMENT OF A NATIONAL TALENT POOL OF FILIPINO ENTREPRENEURS, SCIENTISTS, MANAGERS, PROFESSIONALS, HIGH-LEVEL TECHNICAL MANPOWER AND SKILLED WORKERS OR CRAFTSMEN IN ALL FIELDS."

THE STATE SHALL PROMOTE APPROPRIATE TECHNOLOGY AND REGULATE TECHNOLOGY TRANSFER FOR THE NATIONAL BENEFIT.

THE PRACTICE OF ALL PROFESSIONS IN THE PHILIPPINES SHALL BE LIMITED TO FILIPINO CITIZENS SAVE IN CASES PRESCRIBED BY LAW."

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

MR. VILLEGAS: The amendment is accepted, Mr. Presiding Officer.

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

THE PRESIDING OFFICER (Mr. Rodrigo): Are we ready to vote, honorable Floor Leader?

MR. RAMA: The body is ready to vote. There are no more comments.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor of the proposed amendment, please raise their hand. (Several Members raised their hand.)

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

The results show 26 votes in favor, none against and no abstention; the proposed amendment is approved.

The Floor Leader is recognized.

MR. RAMA: For the last proponent of an amendment, Mr. Presiding Officer, I ask that Commissioner Sarmiento be recognized.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: Mr. Presiding Officer, there are more proponents for amendments and some of them are not with us today. As a courtesy to them, I think we should reserve their right to make amendments when they are present in our sessions. So let us not close the period of amendments.

MR. RAMA: We are not yet closing the period of amendments because there is one more amendment.

MR. OPLE: I have reserved with the Floor Leader and with the committee the opportunity to just complete this amendment.

MR. RAMA: In that case, I ask that Commissioner Ople be recognized to complete his amendment.

MR. OPLE: Thank you very much, Mr. Presiding Officer.

I now refer to a new section previously accepted by the committee several days ago. May I just point out that for purposes of numbering, the committee may have the plenary power to put it in the right location.

Mr. Presiding Officer, the new section reads as follows: "THE STATE SHALL PROTECT THE NATION'S MARINE WEALTH IN ITS TERRITORIAL WATERS AND ECONOMIC ZONES AND RESERVE ITS USE AND ENJOYMENT EXCLUSIVELY TO FILIPINO CITIZENS." I just wanted to point out that this amendment first appeared in the draft Article on Social Justice with respect to fishermen, and the committee then persuaded the proponents to wait until the Article on National Economy and Patrimony could be deliberated upon so that the amendment could be considered for inclusion in that article.

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

MR. VILLEGAS: The amendment is accepted, Mr. Presiding Officer. This was fully discussed during the discussion on the Article on Social Justice.

MR. OPLE: Thank you very much.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I would like to seek some clarifications, otherwise I will present an amendment.

The first clarification is on marine wealth. Does it include the submarine wealth?

MR. OPLE: Yes, it does.

MR. DAVIDE: So this is taken to include the nation's wealth in areas below the marine areas or what we call the submarine areas?

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

MR. DAVIDE: So it includes the seabed.

MR. OPLE: Yes, Mr. Presiding Officer.

MR. DAVIDE: And insofar as territorial waters are concerned, is it the contemplation of the Commissioner that this includes the territorial sea because under the Article on National Territory, we distinguished between territorial waters and territorial sea?

MR. OPLE: Yes, Mr. Presiding Officer. Definitely, the territorial sea is included.

MR. DAVIDE: And regarding these economic zones, does the Commissioner refer to the exclusive economic zones under the Convention on the Law of the Sea?

MR. OPLE: Yes, the 200-mile economic zone as provided for in the Convention on the Law of the Sea, Mr. Presiding Officer. It is, of course, understood that there are situations where the Philippine government may have to negotiate with neighboring countries the actual delimitations of these economic zones in accordance with the prevailing international practice.

MR. DAVIDE: So in the light of this admission and to just clarify the provision, I would like to propose the following amendments: after "WATERS," insert a comma (,) and the following words: "TERRITORIAL SEAS," and before "ECONOMIC," insert the word "EXCLUSIVE" and delete the "S" in "ZONE," so the entire section will lead: "THE STATE SHALL PROTECT THE NATION'S MARINE WEALTH IN ITS TERRITORIAL WATERS, TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE AND RESERVE ITS USE AND ENJOYMENT EXCLUSIVELY TO FILIPINO CITIZENS."

MR. OPLE: I accept the amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): I think the amendment has been accepted by the committee also.

MR. VILLEGAS: Yes, Mr. Presiding Officer, the amendment has been accepted.

MR. OPLE: For the record, may I just indicate the proponents of this amendment: Commissioners Jamir, Natividad, de los Reyes, Maambong, Davide and Azcuna.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bacani is recognized.

BISHOP BACANI: May I just ask whether this provision, as stated, will prohibit foreigners from using our waters even if they pay a certain rent?

MR. OPLE: I am afraid that this section will not allow that.

BISHOP BACANI: It will not allow even with an agreement.

MR. OPLE: Yes. The sort of treaty obligation just entered into by Quiribas with the Soviet Union, wherein for a rent of \$2 million a year they acquired fishing rights in the territorial waters of these countries, will be, in my opinion, prohibited by this section.

BISHOP BACANI: I just want to make that clear for the record, Mr. Presiding Officer.

MR. OPLE: Thank you.

MR. CONCEPCION: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Concepcion is recognized.

MR. CONCEPCION: I just want to call attention to the fact that the waters within the economic zone are part of the high seas. The exclusive economic zone refers to the exploitation of the seabed. The waters above that portion form part of the high seas and are subject to the general principles of international law.

MR. OPLE: Yes, Mr. Presiding Officer, we agree with this construction by the Supreme Court's Chief Justice.

THE PRESIDING OFFICER (Mr. Rodrigo): Let that be on record.

Are we now ready to vote on the proposed amendment?

MR. ROMULO: Yes, we are ready, Mr. Presiding Officer.

VOTING

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

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

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

The results show 26 votes in favor, none against and one abstention; the amendment is approved.

MR. OPLE: May I present my final proposed amendment now, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Ople may proceed.

MR. OPLE: This section, which I believe has also been given prior clearance by the committee, reads as follows: "IN THE INTERNATIONAL FIELD, IT SHALL BE THE RESPONSIBILITY OF THE STATE TO HELP INDUSTRIES ATTAIN ACCESS TO TECHNOLOGY, MARKETS AND FINANCE. FOREIGN INVESTMENTS, DETERMINED TO BE NECESSARY TO THE COUNTRY'S ECONOMIC DEVELOPMENT ACCORDING TO THE NATIONAL DEVELOPMENT PROGRAM, MAY BE WELCOME TO SUPPLEMENT THE PRIMARY ROLE OF DOMESTIC ENTERPRISES."

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

MR. MONSOD: Mr. Presiding Officer, we have a slightly different formulation from what we received before from Commissioner Ople, so may we have a few minutes with him?

SUSPENSION OF SESSION

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

MR. OPLE: Thank you very much.

It was 12:09 p.m.

RESUMPTION OF SESSION

At 12:12 p.m., the session was resumed.

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

MR. OPLE: Mr. Presiding Officer, after a conference with the committee and the other proponents, including Commissioner Nollado, we have arrived at the following text and we propose this as another section: "FOREIGN INVESTMENTS DETERMINED TO BE NECESSARY TO THE COUNTRY'S ECONOMIC DEVELOPMENT MAY BE ENCOURAGED WITHIN THE FRAMEWORK OF THIS ARTICLE."

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

MR. OPLE: May I point out that the framework of this article includes Section 9 which vests in the Congress of the Philippines the power to raise to the highest level the equity participation of Filipino businessmen in all investment areas.

THE PRESIDING OFFICER (Mr. Rodrigo): Does the committee accept the amendment?

MR. VILLEGAS: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Are we ready to vote on the amendment?

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: May I just ask some questions? Does the Commissioner believe that this provision would be necessary since, in the various sections of the Article on National Economy and Patrimony, we have, in effect, directly or indirectly, allowed foreign investments? Is there no better encouragement than allowing a 40-percent participation in the development, exploitation of natural resources, as well as in public utilities? And also in Section 1, we also provide for foreign competition provided it is fair. So, I believe, it is not necessary to put that in the Constitution because it could be easily gleaned from the various sections that foreign investments are welcome.

MR. OPLE: Mr. Presiding Officer.

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

MR. DAVIDE: On the contrary, with that provision, it would look that we are providing for inconsistent propositions. On the one hand, we encourage adequate protection to the Filipino entrepreneurs and yet in another section we say that we will encourage foreign investments.

BISHOP BACANI: The note in the end says: "WITHIN THE FRAMEWORK OF THIS ARTICLE."

MR. OPLE: Mr. Presiding Officer, this is putting all foreign investments in the future under the constitutional bridle of all the regulatory provisions within the Article on National Economy and Patrimony.

THE PRESIDING OFFICER (Mr. Rodrigo): I think the proposed amendment has been discussed sufficiently.

MS. ROSARIO BRAID: Could our amendment be read again?

THE PRESIDING OFFICER (Mr. Rodrigo): There is a request that the amendment be read again.

MS. ROSARIO BRAID: Could the entire provision be read also?

MR. OPLE: The amendment reads, and this is the text agreed upon by the various proponents and by the committee: "FOREIGN INVESTMENTS DETERMINED TO BE NECESSARY TO THE COUNTRY'S ECONOMIC DEVELOPMENT MAY BE ENCOURAGED WITHIN THE FRAMEWORK OF THIS ARTICLE OF THE CONSTITUTION."

All the rest have been deleted on the basis of the information furnished me before I arrived, that Commissioner de Castro had offered an amendment that was accepted, which partly meets the objective of the deleted sentence.

MS. ROSARIO BRAID: May I be given one minute?

The first sentence actually is a provision that would encourage self-reliance within the region in terms of helping developing countries, like the Philippines, work with like-minded states in the same status of development to come up with some schemes of their own — preferential trade schemes, development of local technology — better adapted to the conditions of a developing country. This is a provision that is really close to the hearts of those who would like to see more appropriate innovations happening within regions in the same level of technological and economic state. By taking this sentence out, we will leave it only to the legislature to either work along this line, which is really what I meant when I said greater ASEAN, greater South to South trade, Third World-country cooperation in technology development, generation and transfer.

MR. MONSOD: If the Commissioner remembers, yesterday we approved a proposal on trade policy which states that the State shall promote a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity. Also, during the interpellations and explanations of the article, we already included the concepts of multicountry, multilateral arrangements, common market provisions, suppliers and buyers getting together to improve terms of trade, and so on, which are within the purview of forms and arrangements of exchange. However, we do not think it is appropriate to put a provision in the Constitution that will explicitly be interpreted as a mandate to form cartels, because it invites retaliation.

MS. ROSARIO BRAID: Yes, I will agree with the latter statement, but I would like also to state for the record that the problem in the developing countries, even despite their economic, social, political, cultural development, is the problem of their relationship with an international economic order which is inequitable; and that even if we do not constitutionalize it, we would like to put it on record that developing countries, like the Philippines, should work towards the transformation of the inequitable international trade system. A step towards this direction, without promoting cartelization, is to work quietly with like-minded countries towards coming up with the generation of appropriate technology, appropriate preferential trade policies, so that in the final analysis we will not continually be dependent on the international world order which is tied up to inequality.

MR. MONSOD: We agree with the Commissioner's opinion, and we are glad that she has suggested to put it on record as amply discussed for the future Congress to look into.

Thank you.

MS. ROSARIO BRAID: Thank you.

MR. SARMIENTO: Mr. Presiding Officer.

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

MR. SARMIENTO: May I say a few words? With due respect to Commissioner Ople, I wish to support the stand of Commissioner Davide that this is a surplusage. May I just add to the record my stand on foreign investments by quoting again our foremost nationalist Claro M. Recto regarding his stand on foreign investments. Mr. Recto said:

What we need are foreign loans, not foreign investments. Capital is always necessary in economic development. Other things being equal, the greater the capital, the larger the production and the faster the rate of economic growth.

In our present state, considering the scarcity of Filipino capital, there is a need for foreign capital if we expect any acceleration in our economic development, but the foreign capital needed is for the purchase of capital goods which we cannot produce or manufacture locally. Foreign capital, in excess of what is necessary to meet this particular need, will do us more harm than good. I have repeatedly stressed my preference for foreign loans at reasonable rates of interest. They are not the substitute for internal financing, but merely, a complement. It will take care only of those functions that internal financing cannot at present perform, such as the procurement of capital goods. But under any and all circumstances, foreign loans should be preferred to foreign direct investments because the latter mean foreign ownership of the business and the profits.

Our opposition to foreign direct investment is not the result of a purely emotional nationalism. In fact, such a chauvinistic attitude devoid of all economic substance could even prove harmful in such cases. Economic substance may be simply described as the industrialization of the country by Filipino capitalists and is not simply the prevention of industrialization by foreign capitalists; it is the exploitation of our natural resources by Filipino capital; the development and strengthening of Filipino capitalism and not of foreign capitalism; it means an increase of the national income, but not allowing it to go mostly to non-Filipinos.

With that, Mr. Presiding Officer, I would like to interpose my objection to the proposed amendment of Commissioner Ople.

MR. OPLE: Mr. Presiding Officer, I have the highest respect and admiration for the authority just quoted by Commissioner Sarmiento. However, it may be appropriate to bring up this analysis to more contemporary times. I think if today we are a victim of the debt crisis and we look in vain for concrete results of all these borrowings of many years, it is perhaps because we had adopted the tendency of our sister countries in Latin America to rely almost absolutely on loans and very much less on foreign investments. In the case of the so-called economic miracle countries of East Asia, they had followed the reverse. They had emphasized foreign investments especially where these came in in terms of capital goods. At a certain stage, we cannot yet manufacture capital goods in our country. And it is precisely at that point that we need help from the more advanced countries so that we can acquire these capital goods.

There are two ways of acquiring capital goods: first, we bring them in. And when we do not have the money, we have to rely on foreign loans or foreign investments; and, secondly, we fabricate our own machine tools right here, with capital goods made by our own industry. I think at this point in time when we are not yet able to manufacture our own capital goods, we need some help from overseas. May I reiterate my original position that when we say, "FOREIGN INVESTMENTS DETERMINED TO BE NECESSARY TO THE COUNTRY'S DEVELOPMENT MAY BE ENCOURAGED WITHIN THE FRAMEWORK OF THIS ARTICLE," I have in

mind all the regulatory provisions in the whole Article on National Economy and Patrimony which, therefore, will attach the phrase within the framework of this article as controls to any foreign investments in the future.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Aquino is recognized.

MS. AQUINO: I have to take a strong exception to the amendment being proposed by Commissioner Ople, and may I add something to the comments of Commissioner Sarmiento. The proposal is not only a surplusage. It reeks of serious danger. On the one hand, it can be interpreted as providing the constitutional restraint for the influx of foreign investors; on the other hand, with the subtleties of constitutional interpretation, it could also be interpreted as a constitutional breakwater or some kind of a refuge for foreign investments. It is not for us; it is not up to us, the Davids, to be protecting the Goliaths.

MR. OPLE: There is nothing here that can support such a saturnine view of the statement on foreign investments. First of all, this must be determined to be in the interest of the country, to be necessary to the country's economic development. And, second, that being settled and foreign investments having been allowed to come in, they are then subject to the entire range of constitutional controls that are explicitly set forth in the Article on National Economy and Patrimony. Anyway, that is how, as proponent, I interpret this amendment.

MR. NOLLEDO: Mr. Presiding Officer.

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

MR. NOLLEDO: I would like to make a clarificatory statement here because my name was mentioned by Commissioner Ople. I merely suggested to the committee the use of the term "WITHIN THE FRAMEWORK OF THIS ARTICLE" without concurring with the amendment. So, I want to save the provision from disaster.

Thank you.

MR. OPLE: I submit, Mr. Presiding Officer.

MR. VILLEGAS: Since the body is divided, I think we would like to put this to a vote.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): We will vote.

As many as in favor of the proposed amendment, please raise their hand. (Several Members raised their hand.)

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

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

It appears we do not have a quorum; and so, I ask the Sergeant-at-Arms to please ring the bell to call the other Members to the Chamber.

MR. NOLLEDO: There is a quorum.

THE PRESIDING OFFICER (Mr. Rodrigo): So, we have a quorum. The results show 12 votes in favor, 10 against and 2 abstentions; the proposed amendment is approved.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: May I reserve my right to ask for a reconsideration later? Although I voted against, I will try to muster enough strength to be able to secure the proper motion for reconsideration perhaps in the afternoon.

THE PRESIDING OFFICER (Mr. Rodrigo): Anybody who voted in favor has up to tomorrow to move for a reconsideration.

MR. SARMIENTO: May I join the manifestation of Commissioner Davide, Mr. Presiding Officer?

Thank you.

RULING OF THE CHAIR

THE PRESIDING OFFICER (Mr. Rodrigo): It is stated in the Rules that it shall be in order for a Member who voted with the majority to move for the reconsideration thereof up to tomorrow or the succeeding session day.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: The committee would like to make a suggestion here.

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

MR. MONSOD: Last Saturday, a phrase was introduced by Commissioner Davide in Section 15 which states: "NOR SHALL SUCH FRANCHISE, CERTIFICATE OR AUTHORIZATION BE EXCLUSIVE IN CHARACTER FOR A PERIOD OF NOT LONGER THAN TWENTY-FIVE YEARS, RENEWABLE FOR NOT MORE THAN TWENTY-FIVE YEARS." I believe his purpose was to align this with a section on the Article on Natural Resources. The committee would like to ask for a review of this phrase because by the nature of a "public utility," it has to be exclusive most of the time. When we have a telephone company, a power company and such, we do not set up three sets of wirings for three telephone companies to be in the area. Precisely, the nature of a "public utility" is that it is a natural monopoly; otherwise, it would be too expensive for the country and for the consumers.

I also believe that when we talk about "public utilities," telephone companies and power companies, they normally have a life longer than 50 years. A dam that is built in order to generate electricity lasts for hundreds of years. A telephone company, for example, that lasts in the stock exchange does it with the hope that over time, it can build a clientele in order to raise funds and build goodwill in the stock market. This is a source of capital. So, we feel that perhaps this phrase does not apply to a "public utility" because by the nature of a "public utility," these limitations are contrary to their operation. We would like to request a reconsideration of this phrase.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: That particular amendment was introduced by me, and the idea was not basically to align it with the provision regarding the exploitation and utilization of natural resources. This particular provision, which I introduced, already existed as early as 1935. Under the 1935 Constitution, and which was reiterated in the 1973 Constitution, we had this particular provision on public utilities. It is now Section 5 of Article XIV of the 1973 Constitution. It reads:

No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty percentum of the capital of which is owned by such citizens, nor shall such franchise,

certificate or authorization be exclusive in character or for a longer period than fifty years.

I only split the 50-year maximum period provided for in the 1973 Constitution as well as in the 1935 Constitution by making it 25 years renewable for not more than 25 years, or, therefore, a total of 50 years.

There must be a limit to these certificates or franchises. It cannot be perpetual, otherwise we will constitutionalize a monopoly in favor only of existing public utilities like the Manila Electric Company (MERALCO) and the Philippine Long Distance Telephone Company (PLDT). There must be a time limit because monopoly is prescribed not only by the provision of the present Constitution but also by the previous Constitution.

MR. MONSOD: If I understand correctly, the limit of 50 years was being harmonized with the Corporation Law — that the life of a corporation should not exceed 50 years. I believe that is really the origin of that provision.

So there are two aspects here. On the question of "exclusive in character," there are some public utilities that are naturally exclusive in character and some which are natural monopolies. Perhaps we can add the phrase "FOR A PERIOD AS MAY BE DETERMINED BY LAW" so that there will be a recognition of the different types of enterprises that engage in public utilities. An ice plant, for example, should not even exist for 50 years. But a power company and a telephone company may need to exist for more than 50 years. As a matter of fact, the longer it is, the more we attract public stockholders in the company.

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair wants to know if Commissioner Monsod is going to file a motion for reconsideration.

MR. MONSOD: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Has the motion been filed?

MR. MONSOD: No, but the committee will make the motion; we are just reserving it in case it is too late or there are not enough Commissioners in the Assembly.

MR. DAVIDE: I would like to reserve my right to object to any such motion, Mr. Presiding Officer.

MR. GUINGONA: Parliamentary inquiry, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Guingona is recognized.

MR. GUINGONA: I wonder if under the Rules, the committee can ask for reconsideration. My understanding is that the motion for reconsideration must be made by a Member or a Commissioner who has voted in favor of the provision.

MR. VILLEGAS: All of us voted for it.

MR. MONSOD: The committee voted for it but we had a rather confused stage of deliberations last Saturday and it was not subjected to full debate.

THE PRESIDING OFFICER (Mr. Rodrigo): I think there is a suggestion that we defer consideration of this amendment until this afternoon.

MR. MONSOD: Yes.

MR. VILLEGAS: Yes.

THE PRESIDING OFFICER (Mr. Rodrigo): Therefore, is there a motion to suspend?

SUSPENSION OF SESSION

MR. JAMIR: I move that we suspend the session until two-thirty this afternoon.

THE PRESIDING OFFICER (Mr. Rodrigo): There is a motion to suspend the session until two-thirty in the afternoon.

Is there any objection? (Silence) The Chair hears none; the session is suspended until two-thirty this afternoon.

It was 12:39 p.m.

RESUMPTION OF SESSION

At 2:54 p.m., the session was resumed.

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

The Acting Floor Leader is recognized.

MR. BENNAGEN: May I request the members of the committee to take their seats in front. May I request that Commissioner de los Reyes be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Mr. Presiding Officer, I was one of those who voted for the Ople amendment on placing something in the Constitution about foreign investments.

I respectfully move for a reconsideration of the said amendment. Lest the Commissioners think that the four opposition Members of this Commission have not remained united, I would like to inform the honorable Presiding Officer that this is with the consent of Commissioner Ople who will say something about the matter.

THE PRESIDING OFFICER (Mr. Rodrigo): There is a motion to reconsider the approval of the said amendment.

MR. OPLE: May I say a few words, Mr. Presiding Officer?

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

MR. OPLE: Upon further reflection, on this section on foreign investments which is now detached from the context of the fuller paragraph that had earlier been submitted to the committee and which, as it stands right now, might be susceptible to misunderstanding, I have decided to support the motion for reconsideration. I look forward to a vote that will result in the withdrawal of this amendment on the ground that the sense of this section is already expressed in other portions of the Article on National Economy and Patrimony.

Thank you.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: May Commissioner Ople answer a few questions?

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

MR. DE CASTRO: Does the Commissioner intend to withdraw his amendment?

MR. OPLE: Yes.

MR. DE CASTRO: May we know why?

MR. OPLE: On the ground that the sense of this amendment is already expressed in the other provisions of the Article on National Economy and Patrimony.

MR. DE CASTRO: Having read the whole Article on National Economy and Patrimony, has the Commissioner not recognized right from the very beginning when he introduced his amendment that it is already provided in the other provisions of the article?

MR. OPLE: Yes, I had a vague sense of this being already reflected, especially in Sections 1, 9 and 15. The original formulation submitted to the committee was the following:

In the international field, the State shall help national industries attain access to technology market and finance. Foreign investments may be welcome to supplement the primary role of domestic resources and initiative and within the framework of this Article.

However, through the mill of consultations with the committee, the text, as earlier approved, has come out and it now reads: "Foreign investment may be encouraged within the framework of Article 15 of this Constitution."

As I said, upon further reflection, and following consultations with those who voted earlier for this amendment, including Bishop Bacani and Commissioner de los Reyes, I have come to the conclusion that this amendment is better left out than made explicit in the article.

MR. DE CASTRO: Do I understand that before the Commissioner filed the proposed amendment, he did not study it as he is saying now? (Laughter)

MR. OPLE: Mr. Presiding Officer, I think the tendency of the questioning is loaded with innuendos that I am unable to accept.

MR. DE CASTRO: It is not loaded, Mr. Presiding Officer. I voted for the amendment and it pains my heart to see the author of that amendment not having studied fully before introducing the same.

May I know what happened during the meridian hour for Commissioner Ople to withdraw his amendment?

SUSPENSION OF SESSION

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

It was 3:01 p.m.

RESUMPTION OF SESSION

At 3:03 p.m., the session was resumed.

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

There is a motion to reconsider the approval of an amendment. Is it of the whole section or just a part of the section?

MR. OPLE: The whole section which is just a brief sentence, Mr. Presiding Officer.

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

Is the amendment withdrawn now? The amendment is going to be withdrawn because we have just reconsidered

the voting.

MR. MONSOD: Yes, it has been reconsidered. Just to formalize the withdrawal, I guess we have to vote to have it withdrawn.

MR. DE LOS REYES: Mr. Presiding Officer, I respectfully move that we withdraw the amendment.

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

The Floor Leader is recognized.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: This is just a point of clarification. Mention was made here by Commissioner de los Reyes, when he made a motion for a reconsideration of the vote, that there are four of us here who are opposition Members of the Commission. With the permission of my colleagues, I would just like to explain that we are not really the opposition Members of this Commission. However, we were appointed from the list coming from the opposition party. We may be the opposition to this administration outside of the Commission, but I think Commissioner de los Reyes and the rest would agree with me that as far as this Commission is concerned, we are not the opposition Members of this Commission.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): That comment is duly noted.

The Floor Leader is recognized.

MR. RAMA: Commissioner Monsod would like to be recognized.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: Just before we broke up for lunch before the recess, we were discussing Section 15 with respect to the clause "NOR SHALL SUCH FRANCHISE, CERTIFICATE OR AUTHORIZATION BE EXCLUSIVE IN CHARACTER OR FOR A PERIOD OF NOT LONGER THAN TWENTY-FIVE YEARS, RENEWABLE FOR NOT MORE THAN TWENTY-FIVE YEARS." During lunch, we consulted with the lawyers on the jurisprudence of this section which has been there since 1935, and also with the proponent of this amendment, Commissioner Davide. We believe that we may have a compromise on how to clarify the meaning of this phrase and I would like to ask Commissioner Davide if he can restate and explain to us the jurisprudence on this phrase. Perhaps, we can resolve this issue with the explanation of Commissioner Davide.

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

MR. DAVIDE: The clause in question reads as follows "NOR SHALL SUCH FRANCHISE, CERTIFICATE OR AUTHORIZATION BE EXCLUSIVE IN CHARACTER OR FOR A PERIOD OF NOT LONGER THAN TWENTY-FIVE YEARS, RENEWABLE FOR NOT MORE THAN TWENTY-FIVE YEARS." In the provision, on which this particular section is based, that is Section 5 of Article XIV of the 1973 Constitution, the limit is made specifically at not more than fifty years. I would have no objection to a modification of that particular clause I introduced by merely incorporating the language of the 1973 Constitution or the 1935 Constitution, meaning to say, that it would now read as follows: "NOR SHALL SUCH FRANCHISE, CERTIFICATE OR

AUTHORIZATION BE EXCLUSIVE IN CHARACTER OR FOR A PERIOD OF NOT LONGER THAN FIFTY YEARS." And then, insofar as the jurisprudence is concerned, the unrippled jurisprudence on the basis of the provision of the 1935 Constitution is left intact.

So there is no need to state for the record what is the settled jurisprudence on the matter because we have a wealth of jurisprudence on these provisions of the 1973 and 1935 Constitutions.

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

MR. MONSOD: We agree with the position of Commissioner Davide both with respect to the issue of the words "EXCLUSIVE IN CHARACTER" and with respect to the term "FRANCHISE" as stated in the 1973 Constitution. So we are agreeable to going back to the language of the 1973 Constitution. That should resolve any questions or issues on the matter.

THE PRESIDING OFFICER (Mr. Rodrigo): Shall we recall the amendment of a section that was already approved before?

MR. MONSOD: Yes.

THE PRESIDING OFFICER (Mr. Rodrigo): So this will call for a motion for reconsideration.

MR. MONSOD: Yes.

MR. SARMIENTO: Mr. Presiding Officer.

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

MR. SARMIENTO: Before we vote on the motion for reconsideration, may I address one question to Commissioner Davide? The Commissioner's original proposal was to limit the period of 25 years.

MR. DAVIDE: But renewable for a period not longer than 25 years. Therefore, it has a total of 50 years.

MR. SARMIENTO: So, this amendment is not different from the Commissioner's original proposal.

MR. DAVIDE: The only difference is that the original "franchise, certificate or authority" must be for "twenty-five years," but there is an option to have it renewed for another 25 years.

MR. SARMIENTO: Thank you.

MR. DAVIDE: Under the proposal now, we will just follow the jurisprudence interpreting the 1973 and the 1935 constitutional provisions.

MR. SARMIENTO: And the Commissioner's reason for adopting this new formulation is because of settled jurisprudence on the matter.

MR. DAVIDE: Among others; and besides we are talking about public utilities. Perhaps an original period of 25 years may not be very sufficient. Anyway, it would not be exclusive in character and, moreover, it is subject to further conditions that the franchise, the certificate or the authority shall be subject to repeal, amendment or modification, or alteration.

MR. SARMIENTO: When the Commissioner says "BE EXCLUSIVE IN CHARACTER," will he kindly enlighten us on this point?

MR. DAVIDE: It simply means that there is no monopoly granted to any franchise holder to operate the public utility.

MR. SARMIENTO: Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there a motion to reconsider?

MR. RAMA: Yes, Mr. Presiding Officer.

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

MR. RAMA: There is a motion for reconsideration which has to be voted on.

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair has not yet heard any motion for reconsideration.

MR. MONSOD: The committee moves for a reconsideration of the approval of Section 15.

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

MR. MONSOD: May the committee have the floor?

THE PRESIDING OFFICER (Mr. Rodrigo): The committee may have the floor.

MR. MONSOD: The committee proposes that the phrase "FOR A PERIOD OF NOT LONGER THAN TWENTY-FIVE YEARS, RENEWABLE FOR NOT MORE THAN TWENTY-FIVE YEARS," be amended to go back to the wording of the 1973 Constitution: "OR FOR A PERIOD OF NOT LONGER THAN FIFTY YEARS."

THE PRESIDING OFFICER (Mr. Rodrigo): This is a committee amendment.

Is there any objection to the amendment?

MR. MONSOD: There is a request to read the amendment.

THE PRESIDING OFFICER (Mr. Rodrigo): The Commissioner may proceed.

MR. MONSOD: The whole sentence will now read: "No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least SIXTY PERCENT of whose CAPITAL is owned by such citizens, NOR SHALL SUCH FRANCHISE, CERTIFICATE OR AUTHORIZATION BE EXCLUSIVE IN CHARACTER OR FOR A PERIOD OF NOT LONGER THAN FIFTY YEARS." The amendment is: "OR FOR A PERIOD OF NOT LONGER THAN FIFTY YEARS," in lieu of the phrase "FOR A PERIOD NOT LONGER THAN TWENTY-FIVE YEARS, RENEWABLE FOR NOT MORE THAN TWENTY-FIVE YEARS."

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Regalado is recognized.

MR. REGALADO: I think, as read by the chairman, there is a double negative: "NOR SHALL SUCH franchise, certificate, or authorization BE EXCLUSIVE IN CHARACTER OR FOR A PERIOD OF NOT LONGER THAN ..."

MR. MONSOD: I am sorry. It should be: "OR FOR A LONGER PERIOD THAN FIFTY YEARS. That is the wording in the 1973 Constitution.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: I will read the precise provision of Section 5 of Article XIV which I heard the committee said that they are going to adopt. It says: "NOR SHALL SUCH FRANCHISE, CERTIFICATE OR AUTHORIZATION BE EXCLUSIVE IN CHARACTER OR FOR A LONGER PERIOD THAN FIFTY YEARS."

Is this amendment acceptable to the committee?

MR. MONSOD: Yes.

MR. MAAMBONG: That is it.

MR. MONSOD: We have just repeated the 1973 Constitution.

MR. MAAMBONG: Yes.

MS. ROSARIO BRAID: Mr. Presiding Officer.

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

MS. ROSARIO BRAID: Mr. Presiding Officer, since we are completing the entire section, there is a last phrase which is an amendment.

MR. MONSOD: That is still there; we are only changing a phrase.

VOTING

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

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

The results show 22 votes in favor, 4 against and no abstention; the amendment is approved.

Commissioner Monsod is recognized.

MR. MONSOD: Mr. Presiding Officer, the committee would like to seek a reconsideration of the approval of Section 10, which talks about the central monetary authority. The second sentence of Section 10 reads: "They," referring to the members of the board, "shall be subject to the same disabilities and disqualifications as members of the constitutional commissions." Since this amendment was passed, we have realized that the disabilities and disqualifications of the members of the constitutional commissions are such that they refer to people who are full-time employees or members of the commission. And, therefore, there are such restrictions like they cannot occupy any other elective or appointive office, and so on and so forth. These are the sections on the constitutional commissions.

In the case of the Monetary Board, right now the members from the private sector are on a part-time basis and the ex-officio members occupy other appointive offices in the government. And, therefore, there might be an inconsistency here and we should leave to Congress the definition of the qualifications and disqualifications appropriate to the board that Congress may provide. As of now, these are part-time members of the Monetary Board and, therefore, the disqualifications and disabilities of the constitutional commissions would not really be applicable to them. So, we would like to ask a reconsideration of the approval of this section and delete the sentence so that the qualifications and disqualifications will be left to Congress. We already have the general qualification of probity, integrity and patriotism, and it might not be proper for us to apply the same provision in

the constitutional commissions.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: May I know from the committee if there are other sections which shall be considered after we have approved this?

MR. MONSOD: These are the only two that we are seeking for a reconsideration.

MR. DE CASTRO: Is Section 10 the last?

MR. MONSOD: I believe so, at least from the committee's point of view.

MR. DE CASTRO: So, there may be some more to be considered because the Gentleman's answer is "I believe."

MR. MONSOD: The committee does not have any more; we do not know if other Commissioners have.

MR. DE CASTRO: Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): Is Commissioner Monsod filing a formal motion now to reconsider?

MR. MONSOD: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): There is a motion to reconsider the approval of Section 10.

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

MR. DE CASTRO: Mr. Presiding Officer, I request that it be read again so that we may raise our objections if there is something in our notes that do not conform with what we voted for.

THE PRESIDING OFFICER (Mr. Rodrigo): We just voted for a reconsideration; now the amendment will be submitted. What is the proposed amendment?

MR. MONSOD: The amendment that the committee would like to propose is the deletion of the sentence "They shall be subject to the same disabilities and disqualifications as members of the constitutional commissions."

MR. DE CASTRO: How will the section read now?

MR. MONSOD: The section will read exactly the same except for the removal of that sentence, Mr. Presiding Officer: "The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens of known probity, integrity, and patriotism, the majority of whom shall come from the private sector." The next sentence will now read: "The authority shall provide policy direction in the areas of money, banking, and credit," and so on, and so forth, up to the end of the article.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I was the proponent of that particular amendment which is now sought to be deleted. In lieu of its deletion, may I be allowed to present a modified proposal? I propose the following: "THEY SHALL LIKEWISE BE SUBJECT TO SUCH OTHER QUALIFICATIONS AND DISABILITIES AS MAY BE PRESCRIBED BY LAW."

MR. MONSOD: That is acceptable to us, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Is the body ready to vote on the amendment, as amended?

MR. MONSOD: Could the Commissioner repeat the amendment, Mr. Presiding Officer?

MR. DAVIDE: The amendment will read: "THEY SHALL LIKEWISE BE SUBJECT TO SUCH OTHER QUALIFICATIONS AND DISABILITIES AS MAY BE PRESCRIBED BY LAW."

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection to the amendment?

Commissioner Foz is recognized.

MR. FOZ: Mr. Presiding Officer, before the latest amendment of Commissioner Davide was presented, I would have asked, in connection with the deletion of his previous amendment which would have extended the disqualifications and disabilities of the members of the constitutional commissions to the members of the Monetary Board, whether or not this deletion would mean that the regular members of the board would no longer be subject to any disqualifications or disabilities. But since the latest amendment would provide that a law may be passed providing for certain disabilities and disqualifications, the question now would be whether this set of disqualifications and disabilities would apply to both the regular members as well as members coming from the private sector.

MR. MONSOD: Mr. Presiding Officer, that will be up to Congress.

MR. FOZ: Perhaps, a relevant question is: What is the status of the Monetary Board, let us say, compared with a constitutional body such as the Commission on Elections? Is it on the same level or higher or is it under the Office of the President?

MR. MONSOD: Madam President, it is not the same because under this section, it is Congress who organizes or establishes the Monetary Board. Secondly, even the present law establishes it as an independent monetary authority.

MR. FOZ: Is it an independent monetary authority?

MR. MONSOD: Yes.

MR. FOZ: But it does not enjoy the same rank or status of, let us say, the Commission on Elections?

MR. MONSOD: No, it does not, Madam President. As a matter of fact, one of the issues that will arise if we keep that provision is how we remove them from office because impeachment is only available to those officers enumerated in the Constitution by virtue of the Regalado amendment.

MR. FOZ: So I was thinking that if it would enjoy the same ranking and status of a constitutional body, then its members should really be subject to the same disqualifications and disabilities of members of the constitutional commissions.

Thank you.

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

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): Is the Chamber ready to vote on the amendment?

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

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

The results show 21 votes in favor and none against; the amendment is approved.

Since the whole section was reconsidered, we now vote on the whole section as amended.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: There are actually, I think, one or two amendments.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection to the whole section as amended? (Silence)
The Chair hears none; the whole section, as amended, is approved.

MR. VILLEGAS: Section 10.

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

MR. RAMA: Commissioner Monsod would have something to say about this amendment.

MR. MONSOD: There is one more amendment here that has been submitted by some of our colleagues, but most of the proponents are not here. As a courtesy to them, can we just reserve this for them in case they want to bring this up? We can vote on the entire article, but perhaps we should just keep the matter open with respect to this one.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: May we know from the committee who of those proponents are now absent?

Commissioner Monsod still speaks of an amendment, but the proponents are absent.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de Castro is propounding a question to Commissioner Monsod.

MR. MONSOD: Mr. Presiding Officer, I am sorry. What was the question?

MR. DE CASTRO: The proponents of that amendment whom the Commissioner mentioned are now absent. Who are they, please?

MR. MONSOD: There are a number of them; three are here but the others are not. This amendment was submitted by Commissioners Sarmiento, Bennagen, Villacorta, Quesada, Tadeo, Garcia, Gascon, Tan, Suarez and Aquino. We are discussing this with the proponents who are here and we may have a solution in a little while, so if the Gentleman will bear with us for a while.

MR. DE CASTRO: How long shall we wait for those who are absent?

SUSPENSION OF SESSION

MR. MONSOD: May we ask for a suspension?

THE PRESIDING OFFICER (Mr. Rodrigo): The session is suspended for a few minutes.

It was 3:27 p.m.

RESUMPTION OF SESSION

At 3:30 p.m., the session was resumed.

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

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: The proponents of the amendment on fiscal and monetary systems who are here are withdrawing this amendment; however, the committee requests that we do not close the period of amendments and move on to other agenda at this time. Maybe we can resume and close the period of amendments tomorrow. That is a request of the committee.

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

Commissioner Colayco is recognized.

MR. COLAYCO: I think it would be a better policy for the committee to fix definitely the date, say, tomorrow.

MR. VILLEGAS: Yes, tomorrow afternoon.

MR. MONSOD: Yes.

THE PRESIDING OFFICER (Mr. Rodrigo): So, definitely, until tomorrow.

MR. MONSOD: By tomorrow morning, Mr. Presiding Officer.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: Is it understood that the committee is open until tomorrow to receive proposals for amendments?

MR. MONSOD: Just for the amendment that we discussed briefly with, I believe, Commissioner Garcia, and we would like to give him an opportunity to present it by tomorrow.

MR. OPLE: Is it possible that when we do restrict amendments to specified individual Commissioners, this can raise of discrimination against the others?

MR. MONSOD: Mr. Presiding Officer, there are no amendments on board and this is in the nature of a reservation.

MR. OPLE: Yes, I have no further amendments but I am thinking of the rights of other Commissioners who, between now and tomorrow, may receive their own illuminations so that they will consider new proposals for the committee; there should be no prejudice to them.

Thank you, Mr. Presiding Officer.

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

MR. COLAYCO: Mr. Presiding Officer.

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

MR. COLAYCO: Mr. Presiding Officer, the understanding is until tomorrow noon?

MR. MONSOD: Yes, Mr. Presiding Officer.

MR. COLAYCO: Thank you.

MR. RAMA: Mr. Presiding Officer, there is just one unfinished item. We have not voted on Section 15 as a whole section, so I move that we vote on Section 15 as amended.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): There is a motion to vote on Section 15 as amended.

As many as are in favor of Section 15 as amended, please raise their hand. (Several Members raised their hand.)

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

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

The results show 21 votes in favor, 3 votes against and 1 abstention; Section 15 is approved.

MR. RAMA: Mr. Presiding Officer, in view of the reasons stated by Commissioner Monsod, I move that we defer the closure of the period of amendments until tomorrow at noon on the Article on National Economy and Patrimony.

MR. DAVIDE: Parliamentary inquiry, Mr. Presiding Officer.

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

MR. DAVIDE: The committee also submitted Committee Report No. 32. May we know what is the status of this particular committee report?

THE PRESIDING OFFICER (Mr. Rodrigo): Will the committee chairman answer that?

MR. VILLEGAS: It was part of the interpellations and the period of amendments. We have not received any amendment to that specific provision unless some people have reserved amendments. If there are amendments, they can be among those additional amendments that can be taken up tomorrow.

MR. DAVIDE: Yes, Mr. Presiding Officer, I would like to submit a supplemental motion on the reservation — this committee report providing for one section on the national economy for ancestral lands.

MR. VILLEGAS: Mr. Presiding Officer, we can take it up right now.

MR. DAVIDE: I move that the body be also given until noon tomorrow to submit any proposed amendment to this single section proposal.

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

MR. VILLEGAS: Or we may be able to take it up now if some people have amendments.

MR. BENGZON: Does Commissioner Davide have any amendment?

MR. DAVIDE: For the moment, I have none, Mr. Presiding Officer, because in the deliberation on amendments, we never considered Committee Report No. 32. I thought this was even deleted already by the committee from its report.

MR. VILLEGAS: No, we did consider it. In fact, I remember a question asked by Commissioner Rodrigo about it to Commissioner Bennagen.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: Just a minor parliamentary inquiry. In the assumption that this Section 1 of Committee Report No. 32 will be approved, will this be assigned a section number sequentially with the rest of the article?

MR. VILLEGAS: Yes, Mr. Presiding Officer.

MR. MAAMBONG: Thank you.

SUSPENSION OF CONSIDERATION OF RESOLUTION NOS. 496 AND 533
(Article on National Economy and Patrimony and Provision on Ancestral Lands)

MR. RAMA: Mr. Presiding Officer, I reiterate my motion to defer consideration of the Article on National Economy and Patrimony until tomorrow noon including the deferment of the closure of the period of amendments and, of course, the item mentioned by Commissioner Davide.

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

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bengzon is recognized.

MR. BENGZON: In view of the ruling of the Chair that we defer consideration of the additional amendments to the Article on National Economy and Patrimony, before we move to another subject or to the next article for discussion, I move that we go on Third Reading on the Article on the Executive which has been ready since last week.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection?

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Before we proceed to the Third Reading of the Article on the Executive, I would like to call attention to page 2, paragraph 4 which reads:

The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the members of the Congress.

This is part of what I questioned last time and when I checked the transcript of August 6, 1986, I found out in the answer of Commissioner Regalado that the joint session of Congress shall vote separately, not the majority vote of all the members. It is the majority vote of each House voting separately.

THE PRESIDING OFFICER (Mr. Rodrigo): Yes, that is duly noted.

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Regalado is recognized.

MR. REGALADO: That matter was brought to my attention by Commissioner de Castro. I checked it and the word "not" did not appear. So, actually it is the situation of both Chambers of Congress voting jointly and the Journal has also been correspondingly corrected. There is only one instance where the two Chambers vote

separately; that is, in the matter of the disability of the President and the determination thereof.

MR. DE CASTRO: Before we vote on this, may I request the Secretary-General for the transcript of August 6, 1986 where I particularly asked this question and the answer is, "voting separately." Let us wait for the transcript of August 6, 1986.

THE PRESIDING OFFICER (Mr. Rodrigo): It is also the opinion of the Chair that if we have a bicameral legislature, as we propose in this Constitution, whenever we mention "Congress voting," it is deemed to be voting separately.

The Floor Leader is recognized.

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

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

Meanwhile, we defer the consideration of the Article on the Executive on Third Reading.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: In any assembly of this type, debates sometimes result in an unintended results. This happened last week and after much reflection over the weekend, we all know that when communications break down, everybody has some shortcomings. I committed my share of impatience in the heat of the debate. I assure my colleagues who are not here that the friendship we have developed these past two-and-a-half months is not diminished by our disagreements on some issues. We have voted together more times than we have disagreed, and those moments, particularly in our sponsorship of the Article on Social Justice are memorable to me because they remind me that we have many more things in common in our aspirations and love for this country.

I would like to say to my colleagues who are absent that their expertise and ideas are needed to enrich our collective effort. There is a reservoir of goodwill and respect for them in this Commission, most especially from this Member. I am sure there are other issues we will not agree on, but I join the appeal of Commissioner Calderon for their return and look forward to working with them. I must say that we already miss the lively debates and the challenge of the enlightened compromise.

Honorable Members of this Commission, we are trying to help bind the wounds of a nation with this Constitution. Let us start with ourselves in this Commission.

Thank you.

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

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

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Romulo is recognized.

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

In a deliberative body like ours, particularly one whose membership represents a wide spectrum of political, social and economic opinions and beliefs, there is bound to be a clash of ideas which at times can become heated. Last Saturday was one of those days.

I believe, Mr. Presiding Officer, that such occasions should not prevent a continued exchange of ideas amongst us, granting, however, each other's good faith and sincerity in the espousal of our varied views which I am certain

each of us believe is for the national welfare.

May I say, therefore, that I hope the absence of some of our colleagues will only be temporary, not only for the sake of unity but also in the interest of providing balance in our deliberations and input of ideas. So for these reasons, Mr. Presiding Officer, I would welcome their return.

Thank you.

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

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

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

MR. TINGSON: Mr. Presiding Officer, I for one do not wish to waste a single minute more of our precious time, considering that our deadline is fast approaching, but our sacred work on behalf of our anxious people cannot brook interference by reasons probably that could be personal like personal differences. Rather, let us accept that in a democratic assembly such as ours, there will always be healthy differences of opinion. Yes, we will disagree, but we do not have to be disagreeable. Let us not stubbornly impose our will upon others who probably are just as honest and as well-meaning and just as patriotic. I do maintain — I, for one — that all the 48 Commissioners in this Commission are true Filipinos who are nationalistic and patriotic. But there are always, may I repeat, honest differences of opinion. In the words of our inimitable fellow Commissioner Lugum Uka, when we impose our will on others, it will no longer be democracy, but "democracy." We do not want that.

So, Mr. Presiding Officer, here are words of wisdom from the Holy Scripture which are God-bred and useful for teaching, rebuking, correcting and training and for righteousness:

If you are angry, do not sin by nursing your anger. Do not let the sun go down with you still angry. Get over it quickly, for when you are angry, you give a mighty foothold to the devil. Stop being mean, bad-tempered and angry; quarreling, harsh words and dislike of others should have no place in your lives. Instead, be kind to each other, tender-hearted, forgiving one another, just as God has forgiven you.

St. Paul writes of the greatest virtue, love, which covereth a multitude of mistakes and sins:

Love is patient, love is kind, love does not envy, it does not boast. Love is not proud, nor is it rude. It is not self-seeking, it is not easily angered and it keeps no record of wrongdoing on the part of others. Love does not delight in evil, but rejoices with the truth. Love always protects, always trusts, always hopes, always perseveres. And now, these three remain: faith, hope and love, but the greatest of these is love.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer.

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

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

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bacani is recognized.

BISHOP BACANI: Mr. Presiding Officer, in a deliberative body like this, which represents so many interests, it is almost inevitable that a crisis would occur. But, precisely, because a severe crisis has come upon our Commission, we are given the very great opportunity to demonstrate that healing and reconciliation are possible in the midst of crisis and despite crisis. And that is why, without pointing any accusing finger on anybody, I think it is best for us at this present time to each examine ourselves and ask what we have failed to do in this moment

that has brought about this crisis.

I just like to suggest some particular aspects of this which we might particularly look into. Aside from the very conflict of ideas that occur, there is the undeniable fact that many of us are tired at this particular time. And maybe we can reduce the tension and move towards reconciliation better by reconsidering our hours of work in this Commission. It may be that the physical aspect of the proceedings is taking its psychological toll already.

Thank you very much.

MR. RAMA: Mr. Presiding Officer, there is a previous motion to vote on the Article on the Executive on Third Reading.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection?

Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Let us now vote on Third Reading.

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: In voting on the Article on the Executive, it is understood that the second sentence of Section 17 thereof has already been transposed to the provisions on the Article on Local Governments, because the engrossed copy still contains that sentence.

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair is not aware of that.

MR. DE LOS REYES: That is the nature of my parliamentary inquiry, Mr. Presiding Officer.

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Regalado is recognized.

MR. REGALADO: I precisely raised that point just about three sessions ago because that change eliminating the second sentence took place when I was in the hospital. And when I came back here, I found out that in the Journal there was a statement that had been agreed upon and that sentence under the Executive Department with respect to supervision over local governments was to be transposed to the Article on Local Governments, minus the phrase "as provided by law." It was so confirmed, when I made the parliamentary inquiry, that there was such an agreement and that was, I understand, approved by the Commission — the matter of the transposition with the elimination of the phrase "as may be provided by law." So that the present section now in the Article on the Executive shall be sans that particular sentence. But it should be in the Article on Local Governments.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I seem to recall that it is not the entire second sentence that should be transposed to the Article on Local Governments. It is only with respect to the general supervision. The clause "and shall take care that all laws shall be executed" should be retained or should remain in the Article on the Executive.

MR. DE CASTRO: Mr. Presiding Officer, I have my records here about Section 17 of the Article on the Executive which states:

The President shall have control of all the executive departments, bureaus and offices. He shall exercise general supervision over all local governments as may be provided by law and shall take care that the laws be faithfully executed.

The second sentence which states: "He shall exercise general supervision over all local governments as may be provided by law," is deleted. And so, what is left now is what Commissioner Davide is saying:

The President shall have control of all the executive departments, bureaus, and offices and shall take care that the laws be faithfully executed.

That is the sentence, as approved then by the Commission, on Section 17 of the Article on the Executive.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair seems to remember now because I was the one who called attention to the duplication. And so, I think Commissioner de Castro is right that only the last sentence regarding supervision over local governments is going to be transposed but the rest of the section remains.

MR. DE CASTRO: Yes.

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

MR. MAAMBONG: Mr. Presiding Officer, the three of us seem to be in agreement as to that transposition. So, probably, we can ask the Vice-Chairman of the Committee on the Executive on this formulation: there would be no change on the first sentence of Section 17. It would read the same way:

The President shall have control of all the executive departments, bureaus and offices and shall take care that the laws be faithfully executed.

MR. REGALADO: In other words, there will be two sentences.

MR. MAAMBONG: One sentence only, Mr. Presiding Officer. After the word "offices," continue with the words "and shall take care that the laws be faithfully executed." Would that be all right?

MR. REGALADO: Of course. I understand that was approved by the Commission. There will be no objection on our part.

THE PRESIDING OFFICER (Mr. Rodrigo): Anyway, the records will show that very accurately.

With that understanding, are we ready to vote on Third Reading?

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: My inquiry about the Congress is not yet clarified because the transcript of August 6 shows that they are voting separately. If we can delay for a while until we get the August 6 transcript, perhaps this can be clarified.

MR. REGALADO: I had that verified, Mr. Presiding Officer, when Commissioner de Castro raised the question, and I recall stating that the Chairman was initially of the impression that they shall be voting separately, but the committee said that they should be voting not separately; in other words, jointly. When I looked at the transcript, the word "not" was not there, so I caused it to be corrected; otherwise, the sentence would have no sense. The original impression of the chairman was that they would be voting separately; but the committee said, "it should not be voting separately but jointly." Because of the situation, as we discussed it in the committee, since there is a

tie and if the two chambers should vote separately and the Senate holds for candidate A, while the House of Representatives holds for candidate B, then the tie will not be broken. And that was the reason why, and I recall that the Commissioner was calling our attention when we were defending the Article on the Executive, pointing out that it has always been the practice in Congress that the two Houses always vote separately; but then we have explained that for purposes of this draft Article on the Executive, we have agreed and the Commission eventually approved that in all voting procedures of both Chambers, they shall be voting jointly except only in one instance, in the matter on the issue of disability wherein they shall vote separately.

THE PRESIDING OFFICER (Mr. Rodrigo): Is it the interpretation of this particular section referred to by Commissioner de Castro that Congress here will vote separately?

MR. REGALADO: No, Mr. Presiding Officer. With respect to Section 4, that will be "voting jointly."

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Rodrigo): The session is suspended for a few minutes. The records will be the best evidence.

It was 3:57 p.m.

RESUMPTION OF SESSION

At 4:11 p.m., the session was resumed.

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

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: They have not yet resolved the confusion regarding certain sections on the Article on the Executive. So, I move that we defer consideration of the said article for voting on Third Reading until another date.

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

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, up for consideration and scheduled this afternoon after the Article on National Economy and Patrimony is the Article on Human Resources. But the Chairman of the Committee on Human Resources, Commissioner Villacorta, is not yet here, so I move that we give him the opportunity to sponsor the Article on Human Resources tomorrow morning.

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

MR. RAMA: Mr. Presiding Officer, there is no more item for consideration.

MR. BENGZON: Mr. Presiding Officer, the Article on Social Justice is also up for Second Reading. However, the chairperson has requested that the voting on Third Reading be postponed for tomorrow morning also. And, therefore, I join the Floor Leader in his motion to postpone the sponsorship and interpellation on the Article on Human Resources until the first hour tomorrow morning.

MS. NIEVA: Mr. Presiding Officer.

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

MS. NIEVA: May I just make a slight correction. We ask for the postponement to Wednesday because we are still waiting for the Minutes.

MR. BENGZON: Yes, Wednesday. And I keep forgetting that tomorrow is not Wednesday. Tomorrow we will take up the Article on Human Resources at nine-thirty.

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

MR. FOZ: Mr. Presiding Officer.

MR. RAMA: Commissioner Foz wishes to be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Foz is recognized.

MR. FOZ: On behalf of the Committee on Constitutional Commissions and Agencies, we would like to be informed when our report on the proposed Commission on Human Rights can be scheduled for discussion on the floor.

MR. BENGZON: We will have to finish the various articles that are already on schedule. Then, we will schedule the "pahabol" reports.

MR. FOZ: It is a very short report.

MR. BENGZON: So, as scheduled, the body would take up the Article on Human Resources together with the Articles on Family Rights and Education, because they are all lumped together. After that, we will take up the Article on the Declaration of Principles, the General Provisions, and the Transitory Provisions. As soon as we finish with all of these, then we can schedule the additional reports.

Thank you.

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

MR. RAMA: Mr. Presiding Officer.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Guingona is recognized.

MR. GUINGONA: Regarding the matter on family rights, I think it was agreed by the various committees that this must be handled by the Committee on Social Justice.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bengzon is recognized.

MR. BENGZON: Commissioner Teresa Nieva will sponsor that, but it was agreed that the Article on Family Rights will be considered together with the article on Human Resources. That was the understanding. Perhaps at that time Commissioner Guingona was already in the hospital.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bacani is recognized.

BISHOP BACANI: I remember very distinctly that in a caucus the body agreed to handle the Article on Family

Rights after the Article on the Declaration of Principles, the reason being that there is a provision there regarding the "unborn" which has a less controversial form in the Article on the Declaration of Principles than in the Article on Family Rights.

MR. BENGZON: This is the first time I heard that because I was made to understand that the Article on Family Rights, which was originally under the Article on Social Justice, would be considered together with the Article on Human Resources. So, it is only now that there is this proposal.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bacani is recognized.

BISHOP BACANI: I am certain of this because the first motion was to move the Article on the Declaration of Principles to the very end, and I move that instead of that the Article on Family Rights be put after the Declaration of Principles.

MR. BENGZON: It does not really matter to the Steering Committee. All I am just saying is that the Steering Committee has been made to believe all along by the two committees — Human Rights and Social Justice — that this matter on the Article on Family Rights be tucked on with the Article on Human Resources.

MR. REGALADO: Mr. Presiding Officer.

MR. BENGZON: May I ask now the chairperson of the Article on Social Justice what she has to say about this?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Regalado is recognized.

MR. REGALADO: Mr. Presiding Officer, that was precisely the subject of my parliamentary inquiry yesterday morning, as to which committee will handle that particular committee report, and then the session was suspended and then later the President suggested that I move to defer the resolution of my parliamentary inquiry until the two committee chairmen shall have conferred. So, we are still waiting for that decision.

MR. BENGZON: What I understood — and the Steering Committee was made to understand — is that the discussion of the proposed separate Article on Family Rights will be tucked on together with the Article on Human Resources. The Article on Human Resources will be sponsored by the chairman of the Committee on Human Resources. After that, the chairperson of the Committee on Social Justice will take over and propose the proposed separate Article on Family Rights. That was what the Steering Committee was made to believe all along. It does not matter with the Steering Committee one way or the other. If they do not want to tuck it on with the Article on Human Resources and they want to put it at the very end, that is all right with the Steering Committee. We want a decision now.

THE PRESIDING OFFICER (Mr. Rodrigo): Instead of discussing this matter in open session, can the different chairmen or interested parties take this up with the chairman of the Steering Committee?

MR. BENGZON: Yes, we are open to that; it is just that I do not like this football business.

BISHOP BACANI: Mr. Presiding Officer, we are not saying that the sponsorship will change hands; it is just the location of it.

MR. BENGZON: Can we talk about that, Mr. Presiding Officer?

BISHOP BACANI: Yes.

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

MR. RAMA: There is nothing in the agenda that can be discussed this afternoon, so I move that we adjourn until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection?

Commissioner Bacani is recognized.

BISHOP BACANI: I just like to refer Commissioner Bengzon to the August 18 schedule given to us where there is a clear indication of the location of the Article on Family Rights.

ADJOURNMENT OF SESSION

THE PRESIDING OFFICER (Mr. Rodrigo): We will take it up with Commissioner Bengzon.

Is there any objection to the motion to adjourn? (Silence) The Chair hears none; the session is adjourned until tomorrow at nine-thirty in the morning.

It was 4:20 p.m.

[*] Appeared after the roll call

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