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Friday, August 8, 1986

OPENING OF SESSION

At 9:45 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 Gregorio J. Tingson.

Everybody remained standing for the Prayer.

PRAYER

MR. TINGSON: Our dear loving Heavenly Father, we realize only too well that "unless the Lord builds the house, they labor in vain who build it."

We are mandated to build a charter for our country that will stand the test of time and the changing tempers of men. We need wisdom, dear Lord, to do this task for we are but men with finite understanding and limited knowledge.

We confess that we do not have the wisdom of a Solomon, the wit and brilliance of an Aristotle, the deep insight of Jose Rizal, nor the homespun zing of a Will Rogers. But with the ever-available aid of the Holy Spirit, we now humbly beseech Thee not for tasks equal to our power but for power equal to our heavy task.

Father in heaven, we are humbled by the words of our Sublime Paralytic:

No matter how the government tries to renew itself, all of its efforts would amount to naught if there would be no corresponding change in the hearts of the people.

Help us, dear Lord, to come up with a Constitution that will, in essence, continually remind our people of the timely words of the Prophet:

If My people, who are called by My name, will humble themselves and pray and seek My face and turn from their wicked ways, then will I hear from heaven and will forgive their sin and will heal their land.

Help us to finish our new fundamental law in Thine own good time as we 48 Commissioners bear in mind that in

things major we should have unity, in things minor, liberty; but in all things always to demonstrate charity.

We adore Your Holy Name; we praise You for what You have done in and through us; and we petition Thee loving Heavenly Father, for a greater measure of Your instruction, inspiration and sanctification.

This is our individual and collective prayer in the wonderful and matchless name of our Lord and Savior Jesus Christ. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present Nieva Present

Aquino Present[*] Nollado Present[*]

Azcuna Present[*] Ople Present[*]

Bacani Present Padilla Present

Bengzon Present[*] Quesada Present

Bennagen Present Rama Present[*]

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present

Brocka Present[*] Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion Present Sarmiento Present

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present[*] Tadeo Present

Gascon Present[*] Tan Present

Guingona Absent Tingson Present

Jamir Present Treñas Present[*]

Laurel Present[*] Uka Present

Lerum Present[*] Villacorta Present

Maambong Present[*] Villegas Present

Monsod Present

The President is present.

The roll call shows 32 Members responded to the call.

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

The Assistant Floor Leader is recognized.

MR. CALDERON: Madam President, I move that we dispense with the reading of the Journal of yesterday's 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 and Committee Reports, the President making the corresponding references:

COMMUNICATIONS

Letter from Mr. Jovito A. Avancena of 25 Asteroid, Bel Air, Makati, Metro Manila, and three hundred ninety others with their respective addresses, seeking the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 491 — Constitutional Commission of 1986)

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

Letter from Mr. Tomas S. Tuazon of Motrico, La Paz, Tarlac, suggesting equal protection of the law for the rich and the poor to promote national unity.

(Communication No. 492 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Communication from Mr. Pelagio B. Estopia, proposing a parliamentary form of government with a bicameral legislature, that declaration of martial law and suspension of the writ of habeas corpus shall need confirmation of the legislature, and the nationalization of industries and the exploitation of natural resources.

(Communication No. 493 — Constitutional Commission of 1986)

To the Steering Committee.

Position paper of the Filipino-American Chamber of Commerce, P.O. Box 7258, San Francisco, California 94120, U.S.A., signed by its President, Mr. Juan G. Collas, Jr., suggesting among others that the new Constitution shall embody some features that can attract foreign capital, that regulation of foreign capital shall be left to legislation, and that Filipinos be allowed dual citizenship.

(Communication No. 494 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Norberto Navarro Caparas of 555 Kaunlaran Street, Barangay Commonwealth, Quezon City proposing an amendment to Section 11 of the Proposed Amendment to the Article on Social Justice, to wit: IN APPROPRIATE CASES, LANDS OWNED BY THE GOVERNMENT BUT WHICH HAVE ALREADY BEEN CONVERTED BY OCCUPANTS INTO A VIABLE COMMUNITY SHALL BE DONATED TO THEM SUBJECT TO CONDITIONS IN A LAW TO BE ENACTED BY THE LEGISLATURE.

(Communication No. 495 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Edmundo A. Damatac of Lallo, Cagayan, advocating that the incumbent President and Vice-President be given the chance to serve the six-year term for which they have been elected.

(Communication No. 496 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Communication jointly submitted by the Bagong Alyansang Makabayan, Society of Professionals for the advancement of Democracy, League of Filipino Students, Kapunungan san mag uuma sa Masbate, Simbahang Katoliko sa Barangay, Kabataan para sa Demokrasya Nasyonalismo, and Masbate People's Organization, all in Masbate, suggesting among others the following: (1) removal of the U.S. military bases in the Philippines, (2) abrogation of the U.S.-R.P. Mutual Defense Treaty, Military Assistance Agreement, R.P.-Japan Treaty of Amity, Commerce and Navigation; (3) right to strike and collective bargaining, and (4) creation of a human rights commission.

(Communication No. 497 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Cesar P. Nimez of Suba, Lilo-an, Cebu, transmitting a joint resolution adopted by various civic associations and organizations of Lilo-an, Cebu, containing among others the following proposals: (1) all title/lease contract documents of foreshore lands issued during the Marcos regime be revoked or declared null and void; (2) all foreshore land must be turned over to the municipal government where they are situated; and (3) all foreshore lands cannot be leased/titled for business purposes.

(Communication No. 498 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Roberto Lazaro of Mandaluyong, Metro Manila, advocating that the Philippines be one of the regular states of the United States.

(Communication No. 499 — Constitutional Commission of 1986)

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

COMMITTEE REPORTS

Committee Report No. 35 submitted by the Committee on the Legislative re Proposed Resolution No. 411 and Proposed Resolution No. 428 informing the Commission of their incorporation in Committee Report No. 22 on the Article on the Legislative Department, as reported out on July 7, 1986.

To the Archives.

Committee Report No. 36 on Proposed Resolution No. 537, prepared by the Committee on Preamble, National Territory, and Declaration of Principles, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE
DECLARATION OF PRINCIPLES,

recommending its approval.

Sponsored by Hon. Davide, Jr., Nollado, Sarmiento, Tingson, Bengzon, Jr., Aquino, de los Reyes, Jr., Rigos, Rosario Braid, Quesada, de Castro, Nieva, Villacorta, Rama, Bacani, Colayco, Calderon, Suarez, Ople, Gascon, Villegas, Rosales, Azcuna, Foz and Garcia.

To the Steering Committee.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 534

(Article on Social Justice)

Continuation

PERIOD OF AMENDMENTS

MR. ROMULO: I move that we continue the consideration of Committee Report No. 34 on Proposed Resolution No. 534. We are still in the period of amendments.

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

The honorable Chairman and members of the Committee will please occupy the front table.

At this juncture, may we acknowledge the presence of a good number of students from Maryknoll College, St. Scholastica's College, St. Joseph's College and St. Bridget's College. So, we welcome all these young people who have come to see our proceedings and to show their interest in the documents that we are drafting for our people.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: When we adjourned yesterday, we were in Section 8 and Commissioner Ople was discussing his amendment. Inasmuch as he is not here, may I ask the Committee if they are willing to defer consideration of Section 8 and move to Section 9.

THE PRESIDENT: What does the Committee say? Are we ready to proceed to Section 9?

MS. NIEVA: Yes, we are, Madam President.

MR. ROMULO: So, Madam President, may I ask that Commissioner Davide be recognized for his amendments

on Section 9.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Madam President, before we move on to Section 9, could we just have some clarifications on Section 8? Is Commissioner Ople here?

THE PRESIDENT: He is not yet here. So, we will defer it.

MS. QUESADA: My concern, Madam President, is about a member of the fishing industry called the kasama or the equivalent of the tenant. They are not covered in the provision on the preferential rights given to fishermen who we refer to oftentimes as the small boat owners. Actually, we are leaving out a particular sector which, I understand, composes one of the largest groups of this sector.

THE PRESIDENT: We will take that up when Commissioner Ople is here.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We actually have a proposed sentence there which will be an amendment to the amendment of Commissioner Ople. We are going to have it typed and distributed so that by the time he arrives, we can consider it.

THE PRESIDENT: So, can we then proceed to Section 9?

MR. MONSOD: Yes, Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The proposed amendment is only to transfer Section 9 to the Article on the National Economy and Patrimony which contains the general constitutional mandates or directives affecting all natural resources including agricultural, fishing and marine resources subject, of course, to the provisions on this particular Article. But since this would involve the main thrust toward industrialization, I think the proper situs for Section 9 is the Article on the National Economy and Patrimony.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I object to the deletion of Section 9.

MR. DAVIDE: This is not a deletion but merely a transfer to another Article.

MR. BENNAGEN: But it is a deletion from the Article on Social Justice.

MR. DAVIDE: Not from the Constitution.

MR. BENNAGEN: Yes.

MR. DAVIDE: It is still in the Constitution.

MR. BENNAGEN: I am interested in the provision as part of the Article on Social Justice for the important

reason that agrarian reform as well as the other reforms that have to be done in other areas, such as fishing and marine resources, should be done in relation to complementary processes of industrialization. We do not want to give the impression that the agrarian reform program is the terminal act. We want Congress to look at this as a part of the long-range process that ultimately could lead to some kind of industrialization without suggesting the type of industrialization that shall take place.

MR. DAVIDE: That would not be the effect, Madam President, because I am sure that the Committee on National Economy and Patrimony will have to consider all these. So, an integrated development plan would necessarily be under the Article on National Economy and Patrimony, but I am sure it will take into account the provisions of social justice.

MR. BENNAGEN: We have already dropped the word "integrated" partly because of its unsavory history.

MR. DAVIDE: Even so, may I request that Commissioner Villegas, who is Chairman of the Committee on National Economy and Patrimony, be recognized for a particular opinion on this matter?

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, thank you.

As I said during the period of interpellations, I think the section is really misplaced in the Article on Social Justice because the very question of balance among agriculture, industry and other sectors is a technical question that has to be addressed by a planning body or the legislature at a very specific moment of time. I do not think that it is a question of justice or injustice being committed. That is why, as I mentioned, Section 1 of the Article on the National Economy and Patrimony states the following:

The State shall develop a self-reliant and independent national economy. The goals of the national economy are more equitable distribution of income and wealth, full employment of humane, physical and technological resources and sustained increase in the amount of goods and service produced by the nation for the benefit of the Filipino people.

So, that addresses already the issue of whether or not we will produce goods for the basic needs of the people. It is stated very clearly that the goods, whether they be agricultural or industrial, should be produced for the benefit of the Filipino people, with priority to the welfare of the poor. In fact, that is very explicitly stated here. In the attainment of these goals, all economic sectors shall be given optimum opportunity to develop, and a broader ownership base of private enterprises shall be encouraged. So, the very question of how to develop the various sectors is already addressed in this Section 1 of the Article. That is why Section 9 is misplaced in the Article on Social Justice.

MR. BENNAGEN: I do not think that the section just read refers to the idea of linking the development of agriculture, fishing and marine resources, specifically with the idea of the complementary process of industrialization. No reference was made to the concept of a balanced agricultural and industrial development. That is not the intent. We are merely suggesting that in the process of doing reforms in agriculture, fishing and marine resources, we should not forget the objective of meeting the basic needs of the people, and eventually also the process of industrialization. It has happened that in the process of developing agriculture, fishing and marine resources, the primary consideration has been to respond to the demands of the external market at the expense of meeting basic needs such as food. And so, we are saying that it is a matter of social justice that in the process of agricultural, fishing and marine development, we should respond to the domestic needs of consumption rather than the needs of the export market.

We are saying that the proceeds from this development, as well as the proceeds from export, should be plowed

back to agriculture and industry. But we are not suggesting a kind of balanced agro-industrial development because we foresee the time that the development will take on a different course, even including the tertiary sector.

MR. VILLEGAS: But a very explicit statement was already made, that all goods produced in the nation shall be for the benefit of the Filipino people.

MR. BENNAGEN: Yes, but this could only refer to agricultural goods and not industrial goods.

MR. VILLEGAS: No, "goods" mean all kinds of goods.

MR. BENNAGEN: No, but we want a specific linkage of the development programs in agricultural, fishing and marine resources to meet our basic needs, export needs and the need for industrialization. What is important is not to give the impression that agrarian reform is a terminal act. Without this provision, pending the deliberation on the Ople proposal linking agrarian reform to industrial development, one gets the impression that we are only interested in agrarian reform. The history of agrarian reform all over the world tells us that the only successful agrarian reforms were linked with industrialization.

I think that also answers the apprehensions of many of us with respect to inheritance. For instance, the question has been raised that what happens if one only has something like 10, 15, 20 or even 50 hectares and he has five, seven or eight children? Eventually, we end up with very small plots that are no longer productive.

So, we are saying that if agrarian reform is accompanied by industrialization, the labor surplus would be absorbed by the industrial sector and would not necessarily result in fragmenting the already fragmented lands.

MR. VILLEGAS: I always have the impression that the body is very clear that the agrarian reform program is not in any way incompatible with industrialization. On the contrary, a lot of people are talking about how former landowners who are now going to receive just compensation can spend their money on starting industries and other nonagricultural activities. I think that was very, very clear in the minds of everyone. So, I really do not see any danger in having a section on agrarian reform which would give the impression that we are not interested also in industrialization. I do not see the need to make that linkage explicit.

MR. BENNAGEN: Our feeling is that it is necessary to put that here as a whole package. So, maybe we can put that to a vote.

MR. VILLEGAS: Yes.

MR. ROMULO: Before we put it to a vote, Commissioner Rosario Braid would like to be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, should Section 9 were to remain in the Article on Social Justice, may I offer an amendment which will read: THE STATE SHALL PROMOTE THE DEVELOPMENT OF AGRICULTURAL, FISHING AND MARINE RESOURCES TO MEET THE BASIC NEEDS OF THE PEOPLE PARTICULARLY THE SUBSISTENCE SECTORS AND THE PROMOTION OF SMALL- AND MEDIUM-SCALE ENTERPRISES TO ACHIEVE THE INDUSTRIALIZATION OBJECTIVE OF THE COUNTRY.

This is really to transpose the words "small- and medium-scale enterprises" from Section 10 and also to focus on the importance of the so-called "alternative economy" or "underground economy" of the underprivileged subsistence sectors.

MR. ROMULO: So, Madam President, may I ask that we vote on the Davide amendment first?

THE PRESIDENT: We will have to resolve the Davide amendment first, and then if the body resolves to keep Section 9 in the Article on Social Justice, the amendment of Commissioner Rosario Braid can be taken up.

So, are we now ready to vote on the proposed amendment of Commissioner Davide? Commissioner Davide seeks to transpose Section 9 of the Article on Social Justice to the Article on National Economy and Patrimony. The reasons have been explained particularly by Commissioner Villegas who is the Chairman of the Committee on National Economy and Patrimony.

MR. BENNAGEN: Madam President, we are willing to transpose Section 9 to the Article on National Economy and Patrimony provided the idea already expressed in Section 1 of the Article on National Economy and Patrimony will be so expanded as to accommodate the spirit of Section 9, of course, on the assumption that the Ople amendment will also be considered part of the Article since that takes care of the idea of linking agrarian reform with industrialization in a very precise sense.

MR. ROMULO: I ask that Commissioner Villegas be recognized, Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Yes, I think it can be incorporated in Section 1 and we will welcome specific amendments when the occasion arises.

THE PRESIDENT: So, the Committee on Social Justice can prepare its recommendation as to how the same will be drafted. How about the statement regarding Commissioner Ople's amendment?

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We have also discussed with Commissioner Ople the transposition of certain ideas introduced in the Article on Social Justice which are more appropriate in the Article on National Economy and Patrimony. And I think he is amenable to that provided that some ideas are incorporated in the Article on Social Justice which specifically refer to marginal or small fishermen. So, that has already been discussed among the proponents.

THE PRESIDENT: So, with the manifestation then of the Committee with respect to the transposition of Section 9 to the Article on National Economy and Patrimony, the amendment of Commissioner Davide should be considered withdrawn.

MR. DAVIDE: No, it was accepted by the Committee.

THE PRESIDENT: Was it accepted by the Committee?

MR. DAVIDE: Yes.

THE PRESIDENT: Is there any objection to the proposed amendment of Commissioner Davide with respect to Section 9 which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. ROMULO: Madam President, will Commissioner Ople manifest that he agrees with the statement of the Committee?

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

I do manifest my concurrence to the Committee's proposal to transfer to the Article on National Economy and

Patrimony the national context with respect to the exclusive reservation for the exploitation of our marine wealth by Filipino citizens especially the small fishermen. But ahead of that, Madam President, if I am now in the appropriate place, in behalf of the Committee which has indicated its prior agreement, I would like to read a modified amendment of Section 8. It is actually a joint formulation of the Committee and the proponent. After the clause "protection, development and conservation of such resources," add the following: THE PROTECTION SHALL EXTEND TO THE OFFSHORE FISHING GROUNDS OF SMALL FISHERMEN FROM FOREIGN INTRUSION.

With respect to the words "municipal fishermen" and after taking counsel with Commissioner Rodrigo, we felt that SMALL FISHERMEN would be more appropriate because there are parts of the country, for example, in Bulacan, which might be understood by municipal fishermen to refer to the "Propios" or the municipal fishponds owned by the municipal governments for their income.

So, if the Committee accepts that change, I would submit it, Madam President.

MS. NIEVA: Yes, the Committee accepts.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Point of clarification, Madam President. In Section 8, we used the term "marginal fishermen"; now we are using "small fishermen." Yesterday, I made a reservation to look into the meaning of "marginal." If the honorable President will allow me, I am ready to explain this.

THE PRESIDENT: May we know the result of the Commissioner's research?

MR. DE CASTRO: It is not exactly a research. It is just getting the full meaning of "marginal" which was used as an adjective to "fishermen." When we say "marginal," we mean a margin close to the limit; and more, particularly, in business it is referred to as marginal profit or marginal cost. But if I were to get the thinking is that the meaning of "marginal" is one living almost within the margin of the standard of living, then because if it is used as an adjective, such as in "marginal fisherman," he could be a fisherman today but a laborer tomorrow because he is within the margin of being a fisherman or something else. So, if the Committee's thinking is that the meaning of marginal is one living almost within the margin of the standard of living, then perhaps it may be used. My objection is the use of "small fishermen" and "marginal fishermen" in the same section. I suggest that the Committee use the same term in this section.

Thank you, Madam President.

THE PRESIDENT: What does Commissioner Ople say?

MR. OPLE: Madam President, in the interest of style, I think we need not be bound to one uniform word that is repeated everytime the concept of a small fisherman or a marginal one must be reflected. If Commissioner de Castro considers "small fishermen" as being synonymous with "marginal fishermen," then I think the problem will not arise.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

We will just address a few clarificatory questions to the Honorable Ople.

When we speak of "marginal," as correctly pointed out by the Honorable de Castro, it connotes the meaning of a standard of living; and when we speak of "small," we are referring to size. Upon the other hand, when we speak of "municipal," we are thinking in terms of a unit. That is why, for purposes of the record, it is necessary to give meaningful interpretations to these three terms as they are applied in the provisions of the Article on Social Justice, because the words "marginal" and "small" may be interchangeable but not in connection with "municipal." Is my understanding of the differentiation among these three terms correct?

MR. OPLE: Madam President, I think, if we were to look for the widest common denominator to all of these modifiers of "fishermen" — "marginal" in the sense that he stands at the very margin of existence, he stands on the very edge of life referring to his income and the needs of his family; and then the concept of "municipal fisherman"? which has all the jurisprudential support because this is really the technical term, except that this is geography-bound — then the common denominator would be "small fishermen." It is in that sense that this word is proposed to be used in the amendment.

MR. SUAREZ: Madam President, is the Commissioner suggesting that we employ the term "small"?

MR. OPLE: Yes, Madam President.

MR. SUAREZ: Thank you, Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, when we talk of the word "marginal," it is quite clear that everyone is thinking not of the act of fishing but the economic situation of the fisherman. I think that is a common understanding. As an alternative, the phrase "subsistence fisherman," which was earlier suggested by Commissioner Rosario Braid, is completely unambiguous. It is understood that one is referring to what Commissioner Natividad mentioned as "isang kahig, isang tuka."

MR. OPLE: I am willing to accept the amendment, Madam President, so that the word "subsistence" becomes the common denominator that I had spoken of earlier.

MS. NIEVA: Madam President.

THE PRESIDENT: Yes.

MS. NIEVA: As long as the small fishermen are accorded protection, we would abide by that word: "subsistence."

THE PRESIDENT: So, that is accepted.

MS. NIEVA: Yes.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Would Commissioner Ople yield to a question on his amendment on Section 8? Would this include protection from commercial fishermen in terms of complying with the seven-kilometer ban on commercial vessels? There is an existing ban on commercial vessels within seven kilometers from the shoreline.

MR. OPLE: The seven-kilometer ban is an administrative law that more or less fixed an arbitrary legal distance from the shoreline. Although my understanding of the seven-kilometer ban from the shore is that this is flexible because the coastlines of the country are not uniform in terms of the appropriateness of a seven-kilometer distance, the assumption is that in many cases, the fishing grounds within seven kilometers are most accessible to

the small, municipal or marginal or subsistence fishermen and that, therefore, no heavy trawlers, whether Filipino or foreign, should be allowed to fish in those waters. In this respect, I am not sure that commercial fishing vessels of Filipino citizens are banned.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: May I ask Commissioner Ople if his intent is really not to protect small fishermen even though they may not be subsistence fishermen? For example, in the case he mentioned in Zambales, I have been acquainted with them having worked there. There are fishermen who are not subsistence fishermen in the sense that they are not "isang kahig, isang tuka." They can be rather prosperous, and yet they would still need protection from foreign intrusion which the Gentleman is speaking about. And if he simply spoke of the subsistence fishermen, he would not be looking after the interest of a great portion of our Filipino population who would be reduced to the subsistence level if foreign intrusion were allowed to continue. At present, because they are able to fish, they are not in the subsistence level yet.

MR. OPLE: Madam President, the phrase "subsistence fishermen" should be used liberally in the sense that it should not be restricted to the poorest fishermen who are on the edge of existence day to day and who will perish if they do not fish tomorrow. I think it is a mistake to impute to many of our fishermen in places like Iba, Zambales the idea that they are rich fishermen. We are talking about varying degrees of self-sufficiency. There are no commercial or industrial nabobs in Iba, Zambales. Some fishermen may be a little bit more affluent than the others, but by the standard of the really big commercial fishing vessels, they are all subsistence fishermen. And so, the intent of the proposal is almost all-encompassing with respect to real and actual fishermen in the area who fish for a living.

THE PRESIDENT: Are we now ready to vote on the amendment?

MR. MAAMBONG: Madam President.

THE PRESIDENT: Yes.

MR. MAAMBONG: I wonder if Commissioner Ople or the Committee will accept the perfecting amendment by changing the word "from" to AGAINST. I was thinking it might be more emphatic. So, it would read "AGAINST foreign intrusion."

MR. OPLE: I will have no objection, Madam President.

MS. NIEVA: The Committee accepts, Madam President.

MR. MAAMBONG: Thank you, Madam President.

THE PRESIDENT: Are we ready to vote on this particular amendment?

MS. NIEVA: We are ready now for the voting.

THE PRESIDENT: Is there any objection to the proposed amendment of Commissioner Ople and the others, which was accepted by the Committee?

MR. BENNAGEN: Madam President, just for clarity.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: When we use the word "subsistence," as a logical process, we also protect the interests of the

small fishermen and this protection is not excluded by the use of the word "subsistence," which we should look at as small but through a kind of sociological and historical process, could be progressive but still small in relation to an ever-increasing scale of production.

MR. OPLE: Yes. And we do not intend to penalize them for their efficiency and success.

MR. BENNAGEN: Yes.

MR. OPLE: And so, I think it was in that context that I accepted the explanation of Commissioner Bacani earlier.

MR. BENNAGEN: It is also the sense that we should give the word "marginal" a sociological and historical process. What is marginal at some point could be progressive at a future time but still marginal.

MR. OPLE: Yes, it is in that relative sense that we deliberately employ the words "subsistence fishermen."

MR. BENNAGEN: Thank you, Madam President.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: In relation to the use of whatever word, our Chairman, while we were discussing briefly, pointed out that this does not mean that we will not protect the other fishermen as well. We are just emphasizing that we will protect the subsistence fishermen and, in the process, protect the interest of Filipino fishermen as well.

MR. OPLE: Yes, that consequence follows, Madam President.

MR. ROMULO: Can we have the amendment before we vote, Madam President?

THE PRESIDENT: Yes. Will the Chairman please read the sentence.

MS. NIEVA: The sentence will read: THE PROTECTION SHALL EXTEND TO THE OFFSHORE FISHING GROUNDS OF SUBSISTENCE FISHERMEN AGAINST FOREIGN INTRUSION.

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

Can we now proceed to vote on the entire Section 8?

MR. ROMULO: Madam President, there are still two registered speakers for amendments on Section 8. I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, relative to the statement of Commissioner Ople that the word "municipal" which has a technical meaning cannot be understood or can be misunderstood by our common people, I propose the following amendment on line 4, on the phrase "particularly municipal fishing grounds": delete the word "municipal" and in lieu thereof insert COMMUNAL; after "grounds," delete the period (.) and add FOR SMALL FISHERMEN, so that that phrase would read: "particularly COMMUNAL fishing grounds FOR SMALL FISHERMEN."

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We just want to ask Commissioner Rodrigo that if one were to read the entire first part would there be a redundancy? We are talking about the protection of the rights of subsistence fishermen especially those from local communities to the preferential use of the communal marine and fishing resources, both inland and offshore, and now we will also say "particularly . . ." What is the word, Madam President?

MR. RODRIGO: COMMUNAL. I will have no objection.

MR. MONSOD: Would it be repetitive?

MR. RODRIGO: My only objection here is the use of the word "municipal" because "municipal fishing grounds" can be misunderstood. As Commissioner Ople has said, in my home province of Bulacan, his hometown, the Municipality of Hagonoy, owns fishponds. I know that the Municipality of Paombong also owns fishponds. I know that the Municipality of Paombong also owns fishponds called "Propios." And so, when fishermen or people in Bulacan read "municipal fishing grounds," they will think that these refer to fishponds owned by the municipality, which is not the case.

MR. MONSOD: That is true.

MR. RODRIGO: But if the Committee will agree to the deletion of the whole phrase, I will have no objection.

MR. MONSOD: We think we see the problem there. May we ask Commissioner Ople, from whom this came from in the first place — the other day when he wanted to make particular mention of municipal fishing grounds — whether the use of the words "the communal marine and fishing resources" in the previous line already covered the intention he had the other day?

MR. OPLE: Yes. I do not think there is any intention to refer to the municipal "Propios" of the coastal towns of Bulacan, Madam President. On the point raised by Commissioner Rodrigo, the concern is really about the popular perception of what will mean in some parts of the country, including Bulacan, although I would like to assure Commissioner Rodrigo that this phenomenon known as the municipal "Propios" so far, according to my best knowledge, is still unique to the coastal towns of Bulacan, meaning, this is an innovative municipal income scheme which is not yet shared in other parts of the country. So, if there is any danger of popular misunderstanding, it will be confined to those towns in Bulacan that Commissioner Rodrigo has earlier enumerated.

Thank you.

MR. RODRIGO: Does the Committee intend to delete the whole phrase "particularly municipal fishing grounds"?

MS. NIEVA: Yes, we are asking this clarificatory question. If the words "communal marine and fishing resources, both inland and offshore" already would include the idea of municipal fishing grounds, then this particular phrase may be deleted to avoid misunderstanding.

MR. OPLE: Yes, I think so, Madam President.

MR. RODRIGO: So, I modify my amendment to delete the phrase "particularly municipal fishing grounds."

MS. NIEVA: The Committee accepts.

MR. OPLE: My only difficulty, Madam President, is that if the term "municipal fishermen" which has a very rich legal foundation in jurisprudence, it being the precise legal term, is encountered elsewhere in the Constitution, will Commissioner Rodrigo still raise the same concern and anxiety?

MR. RODRIGO: We understand the technical meaning of "municipal," but let us not forget that this Constitution

will be submitted to the people in a plebiscite and they may not understand "municipal fishing grounds." They might think that these are fishponds belonging to the municipality or these are fishing grounds if within the area of the municipality, which is not the intended meaning of "municipal" in this phrase.

MR. OPLE: So, in that context, I am glad to support the proposal of Commissioner Rodrigo, Madam President.

MR. RODRIGO: Thank you.

MS. NIEVA: Thank you. As we said before, we accede to the deletion of the phrase "particularly municipal fishing grounds."

THE PRESIDENT: The whole phrase will be deleted?

MS. NIEVA: Yes, Madam President.

THE PRESIDENT: Is there any objection to the deletion of the clause "particularly municipal fishing grounds" from Section 8? (Silence) The Chair hears none; the amendment is approved.

MR. ROMULO: Madam President, I ask that Commissioner de los Reyes be recognized.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, I would like to propose to the Committee to include within the ambit of protection what is known as fish workers or the kasama ng mga mangingisda.

I discovered from Commissioner Quesada and also from some complaints of small fishermen that in the same way that there is the sharing system or kasama system in agricultural lands, there is also such a thing among the small fishermen who, it would appear, are actually the most exploited class of fishermen, even more exploited than the marginal fishermen that we were talking about. And this kasama fishermen who comprise 45,000 of the total work force of commercial fishing operations are the former subsistence fishermen who were dislocated by the monopolizing and superior commercial operations of the big fishermen who own boats and all that. Thus, they find no alternative but to join the operations as fish workers. Their daily income is only about P5.00 a day, because like the kasama in agricultural land, all expenses are deducted from their share and this sharing arrangement, which is prevalent in municipal and commercial fishing, does put these fish workers or the kasama or small fishermen at a great disadvantage. And this is true in Bulacan, Sorsogon, Danao, Cavite, Laguna Lake, and others including Albay.

And so, my proposal, subject to style, of courses is to include a sentence somewhere in Section 8 that fish workers shall receive a just share of their labor in the enjoyment of marine and fishing resources. We shall include fish workers in the same manner that we included farmers, regular farm workers and seasonal farm workers in the agrarian reform. Thus, we protect everybody.

MR. OPLE: Madam President, will the Commissioner from Laguna yield to a question?

MR. DE LOS REYES: Yes, Madam President.

MR. OPLE: If these are the workers of commercial fishing vessels, should they not fall under the labor provision of the Article on Social Justice?

MR. DE LOS REYES: Ordinarily, they should fall under the provisions on labor, but from my knowledge, they are not covered by existing labor laws.

MR. OPLE: I would like to assert, Madam President, that there is no ground whatsoever why they should not be covered by labor laws when there is a very clear employer-employee relationship in commercial fishing

operations.

MS. AQUINO: Madam President, for the Committee.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: The Committee would like to be enlightened on the basis of a specific and expressed proviso that would address this particular group. Specifically, how significant is the group that Commissioner de los Reyes is referring to in terms of number? How significant are they as far as the specificity of their demands is concerned because, offhand, our perception is that they could be rightfully covered under "farm workers" or, parenthetically, the labor law might apply if there is an employer-employee relationship.

MR. DE LOS REYES: But, as found in the book Countryside Report by Lusa Research Staff which focused on five major industries: rice, coconut, sugar, fishing and abaca, basnig workers alone or trawl workers comprise 45,000 of the total work force of commercial fishing operations and there are those who merely rent small motorized bancas. It is true that these workers could be covered ordinarily by the provisions on labor, but then there is no specific mention of small fish workers. Inasmuch as we are discussing aquatic reform in the same way that we have given protection not only to tenant farmers but to regular farm workers which, as explained, refer to wage farm workers, as well as seasonal farm workers, I believe there is also a necessity for specifying protection to fish workers.

MR. OPLE: The term "fish workers" appears for the first time in the vocabulary of labor. This can refer to the workers assisting fish vendors in Divisoria, for example.

MR. DE LOS REYES: According to this definition, it includes bugadores, referring to fish haulers; maniniklis, fish sorters; and pescadores, fish haulers and sorters.

MR. OPLE: So, these are workers in the commercial fishing industry. The fish worker, who is undoubtedly valid in the context of this survey which looks like a socioeconomic survey, has gained no definite meaning in law and jurisprudence, unlike municipal fishermen. But, apparently, they exist as a class; or better yet as a subclass of the huge underclass of subsistence fishermen. I do not know if the concern of Commissioner de los Reyes should be accommodated specifically, or the Committee might want to record very clearly and definitively the intent of Section 8 as being able to embrace the problems and the need for social justice of this subclass of the fishing underclass.

Thank you, Madam President.

MR. DE LOS REYES: Madam President, although we can always place on record that Section 8 embraces fish workers, yet if it is not specifically provided in the Constitution, it will amount to nothing useful to these fish workers. These fish workers are usually hired on a temporary and contractual basis. They have no security of employment, for which reason their employment is hanging. Because of this, trawl owners maintain a firm hold over them. They are also being forced to do other jobs like painting and repairing of fishing gears without pay, and they are even obliged to dry fish for free. In other cases where the workers become physically disabled, the owner automatically retires him from his job without any compensation whatsoever, with no social security compensation. Therefore, although there has been no jurisprudence yet which states that there is such a thing as fish worker, I find nothing wrong in starting it now in this Constitution which we are promulgating. That is why we are revising and amending this Constitution to inject ideas. And since we are already in the process of protecting all marginal people, all people who are on the subsistence level — we have given protection to industrial labor; we have given protection to farm workers — I certainly find nothing objectionable in emphasizing also the rights of aquatic workers.

MR. MAAMBONG: Madam President.

MR. LERUM: Madam President, may I be allowed to ask some questions?

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: Commissioner de los Reyes spoke of exploitation. Who are exploiting these so-called fish workers? Do they have employers?

MR. DE LOS REYES: The owners of motorized bancas, the owners of the trawlers employ these people who are not given their just wage.

MR. LERUM: In that case, they are covered by the labor provision of this section. That is why I ask: Who are exploiting these people? If the Commissioner says that their employers are exploiting them, then there is the so-called employer-employee relationship and this is covered by the social justice provision that we are talking about now.

MR. DE LOS REYES: But even under the existing Labor Code, agricultural laborers are included, and yet this Commission found it necessary to classify agricultural workers as a different group. So, if the Gentleman's reasoning will be followed, there would have been no necessity to place in this report of the Committee on Social Justice any provision specifically dealing with agrarian reform, because agricultural laborers, like those laborers working in big haciendas, sugar mills and agri-business types like Canlubang, for example, are actually covered by the labor laws. I think the Gentleman knows that very well because he is the lawyer of the labor union in Canlubang. But we still provided for a separate section on agrarian reform to emphasize the rights in particular of land workers. And now, this proposal is an attempt also to emphasize the rights of the small fish workers, because in our desire to help the marginal fishermen or those who actually catch fish, we forget the fish workers.

MR. LERUM: May I call the Gentleman's attention to what we have already approved. We have provided for a living wage, and since this class of workers is covered, then they are entitled to a living wage. Maybe the trouble is in the implementation of the provisions of the Labor Code. Maybe these people are not organized, and so they are subject to exploitation.

MR. DE LOS REYES: They are forgotten. But if we place this in the Constitution, they will no longer be forgotten because our attention will be called to their specific plight. That is the sense.

MR. LERUM: They are not really forgotten because we are trying to organize them. As a matter of fact, we are now going into the organization of workers in fishing boats. But always there is that apathy on the part of the workers that it is better if they are not organized because if they are, they are afraid that immediately after organization, many of them will be dismissed. We have to remove this obstacle. But with regard to the Gentleman's concern, I can assure him that these workers are already covered by the provision on labor in the Article on Social Justice.

THE PRESIDENT: Commissioner Quesada is seeking recognition.

MS. QUESADA: Yes. Thank you, Madam President.

In the definition of fish workers, did Commissioner de los Reyes also include the kasama ng maliliit na mangingisda?

MR. DE LOS REYES: That is precisely the bulk of these fish workers.

MS. QUESADA: I think this particular group would differ from the commercial fish workers because these kasama ng maliliit na mangingisda are those who hire out their services to small boat owners, who may or may

not own a boat and whose remuneration comes in the form of a share in the catch after all the expenses in the production are deducted. This particular group, who would be the equivalent of tenants, are not covered by the Labor Code because they are not considered workers but are called kasama. Is that then a part of the definition of fish workers?

MR. DE LOS REYES: It is not only a part but the bulk of the definition of fish workers. But I did not state kasama anymore because kasama is usually associated with agricultural tenancy operation.

MS. QUESADA: But they compose the majority of what we call municipal fishermen.

MR. DE LOS REYES: Precisely, Madam President.

MS. QUESADA: Municipal fishermen in the Philippines, as of the 1982 data of the Countryside Report, comprise 72 percent or 574,000 of those employed in the fishing industry alone.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We support the sentiment behind the proposal of Commissioner de los Reyes. Some members of the Committee, however, feel that once we start enumerating, we might be excluding. For example, how do we treat the workers in poultry farms? What about the helpers in sari-sari stores who are exploited by the owners particularly foreign or Chinese store owners? We can go on and on and we are afraid that we might then go into too much detail for a Constitution.

However, I believe that the answer of Commissioner Lerum that they are deemed included in the Article on Social Justice might be adequate for Commissioner de los Reyes.

THE PRESIDENT: How about Commissioner Maambong?

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Thank you, Madam President.

Will Honorable de los Reyes entertain a question regarding his proposed amendment?

MR. DE LOS REYES: Gladly.

MR. MAAMBONG: I am constrained to rise because I come from an area where there are trawlers and purse seiners. I would like to inform the honorable Commissioner that in that area, most of the workers in trawlers and purse seiners are paid under a share system in the sense that whatever catch the trawler or the purse seiner will get, they have a certain percentage. And while they are at sea, they are given subsistence and that is charged to their share. That is in general terms.

There are also trawl owners who really pay them wages, just like what Commissioner Lerum has said, and probably those persons are covered by the Labor Code.

My question is this: Is the proposed amendment directed to those fishing workers in trawlers or purse seiners who are paid on a share system? And is the proposed amendment also intended to cover those using the same kind of fishing methods and who are paid under the system covered by the Labor Code? Are both these employees or shareholders of these fishing vessels covered?

MR. DE LOS REYES: They are covered. But as I was saying, although it is true that ordinarily they should I

covered under the Labor Code, the fact of the matter is that we concentrate our minds and energies on industrial laborers. The labor leaders do not have time for these small fish workers.

MR. MAAMBONG: As I said, I am concerned because most of the people living in my area, in the towns of Asturias, Tuburan and Balamban, are actually working in these trawlers, and they feel oppressed also because in the sharing, they only get so much of the catch, and if there is no catch at all — sometimes they do not have any catch at all — they do not get anything. At the same time, the expenses which they incur while they are on the vessel keep on growing every day, especially the subsistence; and that is why I also share this concern.

MR. MONSOD: Madam President, may we request a vote?

MR. ROMULO: May we have the amendment, Madam President, and then the vote?

THE PRESIDENT: The general concern seems to be that the matter proposed by Commissioner de los Reyes can be the subject of legislation, rather than being placed in the Constitution. So then, will Commissioner de los Reyes read his proposed amendment?

MR. DE LOS REYES: Yes, Madam President. Subject to style and relocation, it will read: FISHWORKERS SHALL RECEIVE A JUST SHARE OF THEIR LABOR IN THE ENJOYMENT OF MARINE AND FISHING RESOURCES. That is very simple.

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment of Commissioner de los Reyes, 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 13 votes in favor and 11 votes against; the amendment is approved.

MR. ROMULO: Madam President, there are no further registered speakers. I believe it is time to vote on Section 8 as a whole.

MS. NIEVA: Can we have the last sentence again, because there have been so many changes?

MS. AQUINO: Is there any definite formulation here?

MS. NIEVA: Yes, he had an amendment.

THE PRESIDENT: The amendment of Commissioner de los Reyes?

MS. NIEVA: We would like to have the amendment of Commissioner de los Reyes again.

MR. ROMULO: Having won a victory, he has disappeared.

THE PRESIDENT: I have a copy.

MR. ROMULO: Will Commissioner de los Reyes give his amendment which he just won?

THE PRESIDENT: We are giving a copy of the proposed amendment to the Chairman.

MR. DE LOS REYES: The new sentence will read: Fishworkers shall receive a just share of their labor in the enjoyment of marine and fishing resources.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MR. DE LOS REYES: As amended by Commissioner Ople, the sentence will read: "Fishworkers shall receive a just share of THE FRUITS of their labor."

MS. AQUINO: Madam President, with due respect to Commissioner de los Reyes, without intending to overturn the whole thing in the body, is he definite in that formulation because the impression we got is that he wanted it placed somewhere in Section 8 as a concept. Or should we place it as it is now formulated?

MR. DE LOS REYES: Yes, because Section 8 refers to marine and fishing resources. If we will repeat the words "marine and fishing resources," there will be redundancy. That is why I said this is subject to style. But as reworded now, it conveys the idea that we sought for.

THE PRESIDENT: Will it be the last sentence of the section?

MR. DE LOS REYES: It could be the last. No, I think it should be before the last sentence because the Ople amendment refers to intrusion of foreign investments.

MR. ROMULO: So, what is the amendment now? It seems to me we voted on something else.

THE PRESIDENT: It is just in placing it; that is only the form.

MR. DE LOS REYES: It is already the problem of Commissioner Rodrigo. (Laughter)

MR. MAAMBONG: Madam President.

THE PRESIDENT: In the meantime, can we have it on the last sentence while the Committee on Style decides where to put it?

MR. DE LOS REYES: Yes, Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MONSOD: Madam President, just a point of clarification. Are employers of trawlers included in fish workers?

MR. DE LOS REYES: Yes, that is the explanation.

MR. MONSOD: Also employees of large fishing companies?

MR. DE LOS REYES: Yes.

MR. DE CASTRO: Madam President.

MR. MAAMBONG: Madam President.

MR. DE CASTRO: Point of inquiry, Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Are we still amending what we have voted upon?

THE PRESIDENT: No, those are just clarifications.

MR. DE CASTRO: Or are we making some clarifications on what a fish worker is because there was an amendment by Commissioner Ople that we have voted upon?

MR. MONSOD: Madam President.

THE PRESIDENT: Yes.

MR. MONSOD: I think the Committee is being asked for purposes of styling in rewriting the sentence. We just want to know what is included because that might be of help to the drafters of the sentence.

For example, I have a question: Would workers in fish canneries be included in the word "fish workers"?

MR. DE LOS REYES: I think they are industrial workers.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I would just like to ask Commissioner de los Reyes a clarificatory question.

MR. DE LOS REYES: Yes.

MR. MAAMBONG: Would it not dilute his approved amendment if we use the words "fishing workers" because I feel that the term "fishworkers" is not really . . .

MR. DE LOS REYES: What word does the Gentleman want?

MR. MAAMBONG: Fishing workers.

MR. DE LOS REYES: Fishing workers?

MR. MAAMBONG: Yes. If it would dilute the intention, I will not press. I am just asking this question.

MR. DE LOS REYES: I am not a grammarian; if "fishing workers" is better, it means the same thing; it refers to fish.

MR. BENGZON: Can we not leave that to the Committee on Style?

MR. MAAMBONG: We can leave that to the Committee then.

Thank you.

THE PRESIDENT: Excuse me, let us have some order, please. There being some changes, I believe the Chair will submit the whole motion again to a vote because we do not know anymore what has been voted upon.

MR. ROMULO: Yes, Madam President. I think if we do not get the precise definition of "fish workers," then the whole voting process would be misunderstood.

SUSPENSION OF SESSION

THE PRESIDENT: The Chair will call for a suspension of the session for a few minutes. And Commissioner de los Reyes will please approach the Committee so to clarify this matter.

It was 11:08 a.m.

RESUMPTION OF SESSION

At 11:20 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Before we suspended the session, the Chair already indicated its reaction to the voting — that there has been some confusion on the issues involved in the proposed amendment of Commissioner de los Reyes. So, shall we have Commissioner de los Reyes read again his proposed amendments?

Commissioner Tan is recognized.

SR. TAN: Point of order, Madam President. I am all confused in this forest of amendments. I thought we had already finished the interpellation, and were supposed to be in the period of amendments. But then, we were questioning each other and amending and debating. That is why we got confused. And then, this fish story came in. It did not pass the Committee; it was not in the interpellation and we are supposed to vote. It is all confusing.

THE PRESIDENT: Where is Commissioner de los Reyes?

MR. ROMULO: Commissioner de los Reyes has sought refuge somewhere else.

THE PRESIDENT: We will have his proposed amendment as reworded or whatever, submitted.

Will Commissioner de los Reyes please state his proposed amendment because the Chair has resolved to submit it to another voting in view of the confusion of some of the Members?

MR. DE LOS REYES: May I ask the Secretariat to read what has been approved?

THE PRESIDENT: What we have here, the first version reads: "Fishworkers shall receive a just share from their labor in the enjoyment of marine and fishing resources." Then it was amended by Commissioner Ople, and it now reads: "Fishworkers shall receive a just share from THE FRUITS of their labor." Is this last statement correct?

MR. DE LOS REYES: Madam President, I just agreed to the Ople suggestion because I thought that this is just a matter of style. But if that amendment will cause confusion which will warrant another voting I will just stick by my former amendment and reject the Ople amendment. And I respectfully object to another voting because we have already won by a slight margin and we have worked hard for that amendment.

THE PRESIDENT: So then the provision reads: "Fishworkers shall receive a just share from their labor in the enjoyment of marine and fishing resources." Were there some questions being propounded by members of the Committee?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I voted in favor of the amendment but on deeper reflection, I realize that it is rather very confusing especially with the clarifications made later. So I am seeking for a reconsideration of the approval of the proposed amendment.

THE PRESIDENT: Is there any objection to the motion for reconsideration of Commissioner Davide just to eliminate all forms of confusion over this particular amendment? (Silence) The Chair hears none; the motion is approved and the matter is again submitted to the body.

Is there any further question from the Committee?

MR. MONSOD: May we request a vote, Madam President?

MR. DE LOS REYES: May I know from Commissioner Davide what particular answer to the interpellation caused the confusion?

MR. DAVIDE: The confusion arose out of the admission by the Commissioner that fish workers would even

apply to the so-called employees of big business engaged in fishing.

MR. DE LOS REYES: Not canneries, Madam President.

MR. DAVIDE: For instance, trawlers or purse seiners, or employees engaged as such would be considered fish workers. To my mind, they should be covered by the ordinary rules on labor legislation under which they would enjoy better benefits. Now, if we will reduce their category to that of an ordinary fish worker entitled only to a just share in the fruits of their labor, we would be treating them in a much lower category and, therefore, we would be reducing the benefits that they would be entitled to.

My understanding of the original proposal for which reason I voted was that they would refer still to the so-called marginal fish workers who, in certain areas like Southern Cebu, may become, in effect, partners in a bigger enterprise owned by the privileged class.

And so, I feel that we must have to distinguish the particular class of fish workers, whether fish workers of big capitalists or fish workers engaged only in marginal fishing.

MR. DE LOS REYES: Am I to understand that fish workers employed by big capitalists are not exploited?

MR. DAVIDE: They are exploited, but we have the labor laws which will apply to them, and we have approved already the subdivision on labor.

MR. DE LOS REYES: This proposal covers what the Commissioner envisions. The fishing workers in Cebu are suffering under the exploitation of trawl operators, but if it includes also big-time capitalists, what is wrong in stating that fishing workers shall receive a just share of their labor?

MR. DAVIDE: That is the problem, because with a separate provision for them, it may be construed as making a separate provision for them with the possible interpretation that they are no longer within the scope of the provision on labor where the ordinary laborers really have greater benefits, advantages and privileges.

MR. MONSOD: Madam President, may the Committee be recognized?

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I believe that this matter has been discussed for almost an hour now. May we request a vote because all the arguments have already been ventilated in this body?

MR. DE LOS REYES: It was discussed, and we already won by two or three votes. The discussion has been prolonged because there was a motion for reconsideration. I already explained that this refers to *kasama ng maliliit na mangingisda* or simply *kasama*.

I yield to the Chair.

VOTING

THE PRESIDENT: The amendment reads: "FISHWORKERS SHALL RECEIVE A JUST SHARE FROM THEIR LABOR IN THE EMPLOYMENT OF MARINE AND FISHING RESOURCES."

Those in favor of this particular proposed amendment will please raise their hand. (Several Members raised their hand.)

Those against will please raise their hand. (Few Members raised their hand.)

The results show 19 votes in favor and 13 against; the amendment is approved.

MR. DE LOS REYES: May I go out, Madam President. I was about to answer a phone call when I was called.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: Perhaps we can now vote on Section 8 as a whole, Madam President.

THE PRESIDENT: Yes. Will the Chairman read the entire section as drafted.

MS. NIEVA: Yes, Madam President.

The body will notice that since we had many enumerations in the second part, we have changed some of the punctuation marks. Section 8 reads as follows:

The State shall protect the rights of subsistence fishermen, especially of local communities to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology, research, financial, production and marketing assistance, and other services. The State shall also protect, develop and conserve such resources. The protection shall extend to the offshore fishing grounds of subsistence fishermen against foreign intrusion Fish workers shall receive a just share from their labor in the enjoyment of marine and fishing resources.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I just would like to invite the attention of the Committee that before "provide" in the second sentence, there is the word also; and before "financial," there should be "and adequate," which were not read.

MS. NIEVA: The reason we removed the first "also" is that this was such a long enumeration that we felt we could cut some of the sentences.

MR. DAVIDE: It is all right, but what about the words "and adequate"?

MS. NIEVA: Yes. It should read "adequate financial."

THE PRESIDENT: Is there any objection to the entire Section 8 as read by the Chairman of the Committee? (Silence) The Chair hears none; the whole section is approved.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: There are no more sections under "Agrarian Land Reform" to be amended. I ask the Committee if it would now like to take up the Colayco amendment on the section on labor.

MS. NIEVA: May I just comment that the complete title is "Agrarian and Natural Resources Reform."

MR. OPLE: Madam President, apropos of this, may I reserve the right, together with Commissioner Bennagen, immediately afterwards, to propose an amendment, consisting of a new section under the group of sections denominated as "Agrarian and Natural Resources Reform."

Thank you.

MR. ROMULO: Madam President, I am asking the Committee if it would now like to take up the Colayco amendment.

MS. NIEVA: Yes.

MR. ROMULO: Since the Committee agrees, Madam President, I ask that Commissioner Colayco be recognized.

THE PRESIDENT: That refers to Section 3 (a), (b), (c) and (d).

Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

I realize that since my proposal I have become persona non grata to some members of the Committee. I want to assure them that in pushing for this amendment I share their sentiment for the cause of labor and that I am acting from a firm conviction that it will improve not only the form of our Constitution but, at the same time, enhance the cause of labor. Surely, personally, I do not think that in pushing for this reform, I am doing labor a disservice.

The body will notice that Section 3 starts like this: "It shall be the duty of the State to afford full protection to labor," and then it proceeds to enumerate the different rights which have been granted to the workers under current legislation. All these rights are enumerated in paragraphs (a), (b) and (c). When Commissioner Aquino interpellated me and asked me why this enumeration was felt to be necessary, she explained that it was the intention of the Committee to elevate the laws that have provided for these benefits to labor to a constitutional level. I have no quarrel with that, and I am sure that everybody else would like to afford to labor every possible protection available under our law. My reservation, as I expressed earlier, is that there would seem to be no need for this enumeration because these laws are a full guarantee, as they stand, for the protection of these rights are already in our law books.

But, as I mentioned earlier, we cannot ignore the growing complaint, if not attack, against the way we are formulating our Constitution, to the effect that we are unnecessarily using too many words, too many sentences, too many paragraphs which could be compressed probably in one or two sentences. And this particular comment is applicable to this present section. If the purpose of the Committee is to guarantee the rights heretofore granted by law to labor, we can do that in one sentence and, at the same time, accomplish what it wants us to do — to elevate the protection to labor to a constitutional level. And so, I came out with the first sentence which takes care of this. My proposal is for the first sentence to read like this: **THE STATE SHALL PROTECT ALL THE RIGHTS GRANTED BY THE LAW TO WORKERS.** That simple sentence is a mandate to future Congress. Do not touch; do not clip; do not diminish; do not repeal any of the laws which have been granted or which have been approved for the protection of labor. We cannot ask for a more emphatic and clear mandate to Congress to preserve, to maintain to protect all the rights granted by the law. As to the last sentence in paragraph (b), the Committee wants to emphasize, among other rights, the right of labor to participate in policy- and decision-making processes affecting its interest. This is good but I think my second sentence goes even beyond that because I say, **PROMOTE MUTUAL COOPERATION BETWEEN WORKERS AND THEIR EMPLOYERS** — this is the important phrase — **BASED ON SHARED RESPONSIBILITY.** The words **SHARED RESPONSIBILITY** mean nothing else but the right to share in decision-making after consultation; and if we want to go further, even the right to representation in the board.

These are concepts which may sound new to us, and I understand the concern, even impatience, of my friend, Commissioner Foz, that we should grant to labor everything possible. But we are not yet attuned to these concepts, although these concepts are now applied and accepted in other countries. Nevertheless, sooner or later, we will reach this. We will turn capital toward this. If I may use a favorite Visayan saying which I have managed to learn: "Hinay-hinay, basta kanunay." Let us go easy; we will reach that, we will get it; impatience will not help us nor will it help labor because we will only succeed in antagonizing capital. Little by little our capitalists or

employers are beginning to understand that it is their duty to share the benefits of their industries with labor.

The last paragraph, paragraph (d), of Section 3 says:

Regulate relations between workers and employers in a manner that recognizes the primacy of the rights of labor to its just share and the corresponding rights of business enterprises to realize their growth potential and reasonable returns on investments.

This is a very nice statement, but I believe it can be trimmed down. At first — I do not mind telling this body that I burned the midnight oil just to compress this, and at the same time, to retain the purpose of the Committee — I was tempted to use the phrase "decent living wage" appearing in paragraph (b) of this article. The phrase "decent living wage" was first used in, I think, the encyclical of Pope Leo XIII entitled, *Rerum Novarum*; living wage includes not only food and recreation; but social and religious opportunities not only for the worker but also for his wife and his family. But I did not think that this was enough and so I came with this expression: AND ENSURE THEIR JUST SHARE OF ALL THE FRUITS OF THEIR LABOR. The term "fruits" of labor covers not only their just wages and profit sharing, but also sharing in ownership because all these are fruits of their labor.

So I believe that in compressing the four paragraphs into the three sentences which I am proposing, I was able to retain the substance and the intent of the Committee.

I am, therefore, requesting the Committee to accept my proposal to trim down the wording of Section 3, and, if I may paraphrase the inimitable colleague of ours, Commissioner Uka: "What is one word less among friends?"

Thank you.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: On behalf of the Committee, first, we deeply regret that we cannot accept the proposal of Commissioner Colayco, although we view with enthusiasm the introduction of a new concept of "shared responsibility" which we could eventually want to incorporate in the draft. With due respect to Commissioner Colayco, we sincerely appreciate his concern; however, we are deeply disturbed by this preoccupation with brevity. It is already some kind of a short-lived atavism that is going a bit too far. The draft admittedly is too long but it is long because it precisely reflects the gains that have been made by the workers and the labor force in its thorough-going push-and-pull struggle for the assertion of their rights. In fact, the gains have been institutionalized in the 1935 and 1973 Constitutions. The minute we scuttle that, it amounts to no other interpretation but withdrawal. We could talk ourselves blue in the face and insist for the record that there is no intention to withdraw or diminish, but after they have been virtually institutionalized in the two fundamental documents, it would amount to nothing else than diminishment. It is our concern, because we have been exposed in the public hearings with the labor group, that all of the rights provided herein are their barest minimum and irreducible demands. It is our fear that the minute we touch it, history will judge us unkindly. The future generation will judge us harshly. It is our concern that if we sacrifice the sanctity of the mandate in the altar of brevity, we might end up scorned both ways.

MR. COLAYCO: May I answer?

MS. AQUINO: Yes.

MR. COLAYCO: I share the Commissioner's concern for the laborers because earlier, before I stood up, I tried to sound her out. I am referring now to Commissioner Aquino. I tried to sound her out on how we could get some

possible compromise, but she said the laborers would be disappointed if this litany of rights is not spelled out. But without sounding critical, we are not a Code Committee here. We are trying to frame a Constitution and we have to observe certain cardinal traditional norms which have been followed in almost all Constitutions.

The Constitution of India has been mentioned; but remember, India has millions and millions of people. We are only 55 million. That is why in the composition of the Constitution of India, there are several sections which are addressed to the different provinces and tribes, we might call them, which compose the entire nation of India.

At any rate, I do not think that the statement that the State shall protect all the rights granted by law to workers is a withdrawal from a higher or better position I think that this concrete, clear statement is a clearer mandate. Pardon me for citing a new statement on the question of brevity. The first quality, brevity, is to emphasize its uniqueness or distinctiveness in relation to ordinary forms of lawmaking. A Constitution is after all, rather different from a municipal ordinance on sewers and drains. A short text, by its very simplicity can also be more readily comprehended by the general public, and this facilitates national consensus building which is one of the prime objectives of democratic constitutionalism.

MS. QUESADA: Madam President, on behalf of the lay people in this Constitutional Commission, I would also like to express our sentiment after getting hold of the proposed amendment of Commissioner Colayco.

We said that the Constitution we are drafting is going to be a new one that would truly be reflective of the sentiments and aspirations of our people. We would like this to be a Constitution which ordinary individuals — nonlawyers, farmers, workers, urban poor, fishermen, fish workers, women, and even children — can easily understand, so that when they read the Constitution they do not have to dig up the Journal of the Commission to understand the intentions.

For example, with the proposed amendment which says: "THE STATE SHALL PROTECT ALL THE RIGHTS GRANTED BY THE LAW TO WORKERS," I, an ordinary worker, would not know just what these rights are if I have not even gotten hold of the Labor Code and if I do not know how to read as good as professionals. So, I would not really know just what the new Constitution has provided this time.

In our prayers, we often say, "Let those who have less in life have more in law." If a worker would not get hold of this provision, then he would very well ask, "What has the new Constitution granted me?" We say that labor has already enjoyed some of these rights and we would like to define and constitutionalize these rights which, as Commissioner Aquino has said, workers have won through their struggles.

So I feel that we should not only be concerned with brevity. It was the Commissioner himself who told me one day that he had researched on the different Constitutions and found out that not only India but many other countries have expressed the provisions of their Constitutions in the way that ordinary individuals would be able to understand. When we say it should be something that the public would be able to understand, still this amendment is not something an ordinary individual would be able to understand. One would have to refer to law books, Labor Code and to the minutes of this Constitution to find out just what are these rights referred to. So, I believe we should not really be concerned about making this section brief.

Romania's Constitution had 105 Articles; Portugal's, 29 pages and 143 Articles; Spain's, 58 pages and 169 Articles; Sweden's, 37 pages and 13 Chapters, Switzerland's, 26 pages and 123 Articles and so had many other countries' constitutions. As a matter of fact, our Article on Social Justice is quite short compared to the Article on the Executive which has 11 pages and the Article on the Judiciary which has more.

In the overriding concern about brevity and broadness, we may overlook the sentiments that went into the production of our work. So, we hope the Commissioner understands our feelings about cutting down to size this

important article for many workers.

MR. COLAYCO: It is a good thing the Commissioner brought up my comments to her earlier because to be honest with her, on my own, I undertook a little research since I heard outside comments that this particular article was rather lengthy. While I am not saying that I do not share the Commissioner's personal views notwithstanding what I told her and Chairman Nieva here who sounded that I had become almost a traitor to her, I find this particular section like an overloaded small vehicle.

Anyway, now that I have heard the comments and accepted the attitude of the Committee, may I make one very unusual and special request. Madam President, I hope that I will not be misunderstood here again. I understand that there are 17 members in this Committee alone, so that they alone will be sufficient to throw me to Kingdom Come insofar as this amendment is concerned. And I know, too, that like everyone else, they would not have any trouble about showing where their opinion lies. However, I feel that to afford a better assurance of freedom of expression of their choice, I would like to propose that the voting on my proposal be by secret balloting.

THE PRESIDENT: Does the Acting Floor Leader have anything to say?

MR. ROMULO: Yes, Madam President.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Before we vote, let me just also add these two notes: First, post factum after what we have done in the provision on agrarian reform which is also lengthy, to cut down this section on labor would now make its place in the Constitution so disproportionately small. Second, I am not a constitutional lawyer myself, but it seems to me that the cardinal rule in the making of a constitution should be its responsiveness to the people. I do not know whether we should follow a hard-and-fast rule regarding brevity and conciseness. I think the principle here should be rather the common good or the common welfare. And it does not seem that the common welfare is better served by making this already brief section briefer still.

Thank you, Madam President.

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: May I be allowed to ask Commissioner Colayco some questions? I understand that his purpose in proposing this amendment is to condense the provision of the proposed section which appears on the left of his proposal. Is that correct?

MR. COLAYCO: That is correct, Madam President.

MR. LERUM: In other words, as far as the Commissioner is concerned, he does not object to any provision appearing on the left of his proposal, but his only intention is to condense the same in just a few words. Is that correct?

MR. COLAYCO: That is correct, I have no objection to the substance.

MR. LERUM: So what is the use of a secret voting now, just for the purpose of condensing?

MR. COLAYCO: No, I mean there may be members of the Committee who may have their own opinion about this different from the other members of the Committee and the same with the rest of the Commissioners here.

MR. LERUM: Does the Commissioner mean to tell us that there are some Committee members who are afraid to expose their vote?

MR. COLAYCO: No, I am not saying that.

MR. LERUM: And also some Members of the Commission who are also afraid to express their vote in public?

MR. COLAYCO: I am not saying that.

MR. LERUM: I am very blunt about this because I want to be very clear about this portion. We are here representing our own sectors, and it is only correct that our sectors should know how we voted.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: As an observation during our caucus, if the body will recall, we did agree and approve that where the Committee does not accept an amendment, one may ask for a secret balloting.

THE PRESIDENT: Yes.

Believing that the request of Commissioner Colayco is meritorious, the Chair declares that such request is granted and that the voting on this proposed amendment will be done by ballot.

MR. SARMIENTO: Madam President.

MR. LERUM: Madam President, I am making a record that I am against secret voting on this proposal.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Before we vote, Madam President, may I briefly speak against the Colayco amendment?

THE PRESIDENT: Commissioner Sarmiento may proceed.

MR. SARMIENTO: This is from one who is not a member of the Committee on Social Justice.

Madam President, the classic formula in constitution-making is that a constitution should be clear, concise and comprehensive. But that classic formula should not be taken as a dogma. Constitution-making should respond to the signs of the times, to the clamor of the people. The clamor is that rights should be enumerated for their information and satisfaction. For instance, Madam President, I was with a group of workers and urban poor last night and they were very happy when they learned that they have these rights in our new Constitution. To compress this Constitution, to eliminate all these rights would, to me, make our people unhappy. That, to them, would be a big letdown. Dogmas and formulas should respond to the needs and the signs of the times. So, although I deeply appreciate the labors, the work of Justice Colayco, I appeal to him also to consider the clamor, the wishes of our people.

Thank you, Madam President.

THE PRESIDENT: Please distribute the ballots.

MR. DE LOS REYES: Madam President, before we proceed to vote, may I ask Commissioner Colayco one or two questions?

THE PRESIDENT: Commissioner de los Reyes may proceed.

MR. DE LOS REYES: The amendment says: "THE STATE SHALL PROTECT ALL THE RIGHTS GRANTED BY THE LAW." In other words, this refers to existing laws and laws that may be enacted.

MR. COLAYCO: That is correct.

MR. DE LOS REYES: Therefore, these laws could also be repealed or amended. And if we amend these laws, we will lose all these rights enumerated in Section 3 as proposed by the Committee.

MR. COLAYCO: That is correct. That is why my proposal says: THE STATE SHALL PROTECT ALL RIGHTS GRANTED BY THE LAW.

MR. DE LOS REYES: For example, there is a law which allows the workers to strike or to engage in concerted activities, then another law can be passed to repeal those rights.

MR. COLAYCO: Not if this sentence is approved.

MR. DE LOS REYES: Therefore, no law can be passed which shall remove all these rights?

MR. COLAYCO: That is correct.

MR. DE LOS REYES: That will take a constitutional amendment to remove or to take away from laborers all these enumerated rights.

MR. COLAYCO: That is correct.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I would like to oppose the amendment, and may I make a few statements in connection with that.

The Colayco amendment would give primacy to legislative enactments by saying that: "THE STATE SHALL PROTECT ALL THE RIGHTS GRANTED BY THE LAW TO THE WORKERS."

As a matter of fact, the amendment here even footnotes referring to the specific laws which the provision or the amendment would like the rights granted to be preserved. It bothers me because it would seem that the existing laws regarding these rights of labor might not at all be subject to repeal or even to amendment. In other words, there is an element here in the amendment that would make it difficult for Congress even to change what is now provided in existing laws.

If the Constitution would not specify the rights of labor, then what is the use of such a provision? We might as well have no provision at all and just depend on Congress to provide whatever are or should be the rights of labor.

I would like to remind my colleagues here that if we approve these amendments as proposed, then we would do away not only with paragraphs (b), (c) and (d), but also with (a). This is an amendment by substitution to the entire section on labor.

Thank you, Madam President.

THE PRESIDENT: Do all Commissioners have copies of the provisions of Section 3 as formulated by the Committee and which are sought to be substituted by Commissioner Colayco?

MR. ROMULO: Yes, Madam President.

THE PRESIDENT: Now in voting, may I request some assistance from the members of the Committee. What would they desire? Shall we vote separately for each of the sentences or shall we just vote for the entire substitution?

MS. NIEVA: I think it is the entire article.

MR. COLAYCO: It is the entire amendment, Madam President.

THE PRESIDENT: The body will vote on the entire amendment by substitution of Commissioner Colayco which reads: "THE STATE SHALL PROTECT ALL THE RIGHTS GRANTED BY THE LAW TO WORKERS, PROMOTE MUTUAL COOPERATION BETWEEN THEM AND THEIR EMPLOYERS BASED ON SHARED RESPONSIBILITY, AND ENSURE THEIR JUST SHARE IN THE FRUITS OF THEIR LABOR." If approved, it will substitute for Section 3, paragraphs (a), (b), (c) and (d) of the Committee's draft.

MR. DE LOS REYES: Madam Chairman, if we are for the amendment, we vote yes; and if we are against the amendment, we vote no. Is that it?

THE PRESIDENT: Yes, if the Commissioner is for the proposed amendment of Commissioner Colayco, put yes; if he is against, put no.

VOTING

At this juncture, ballot forms were distributed to the Commissioners. After the ballots were filled out, the same were submitted to the Secretary-General.

THE PRESIDENT: The Secretary-General says there are 45 Commissioners in the session hall.

MR. LERUM: Madam President, if the Secretary-General is looking for one ballot, I have it here and my vote is no.

THE SECRETARY-GENERAL: We request the Commissioner to submit his ballot.

THE PRESIDENT: The results of the voting show 13 votes in favor and 31 against; the proposed Colayco amendment is lost.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: We have not voted nor have we had amendments to Section 3 (c) and (d). We have registered speakers here for amendments on (c) and (d). However, I recall that before we took up this section on labor, Commissioner Ople had reserved his right to propose an amendment to Section 8. In view of the hour, I wonder if the Committee would allow that we take up that new section of Commissioner Ople; then after lunch we go back to Section 3.

May we hear from the Committee?

THE PRESIDENT: What is the proposed amendment of Commissioner Ople?

MR. ROMULO: He is ready to present his amendment to Section 8.

MR. OPLE: Am I recognized, Madam President?

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: This is actually a proposed new statement which probably can be another section immediately following Section 8. The proponents besides myself are: Commissioners Bennagen, de los Reyes, Romulo and Bengzon. It probably can be called the "industrialization statement" under agrarian reform and will replace Section 9 which, by agreement, has just been transposed to the Article on the National Economy and Patrimony. It reads as follows: THE STATE SHALL REDIRECT IDLE CAPITAL IN LAND UNLOCKED THROUGH AGRARIAN REFORM TOWARDS ACCELERATED INDUSTRIAL DEVELOPMENT AND EMPLOYMENT CREATION. BONDS OR OTHER FINANCIAL INSTRUMENTS ISSUED AS PAYMENT FOR LANDS

UNDER SECTION 5 OF THIS ARTICLE SHALL BE HONORED AS EQUITY IN GOVERNMENT INVESTMENTS OF THEIR CHOICE.

May I explain very briefly the principle behind this. Agrarian reform has a tremendous synergy: (1) it can liberate the tiller from the bondage of the soil; and (2) it can accelerate industrialization and employment expansion.

Accelerated industrialization is the other major goal of agrarian reform in modern times. However, landowners whose lands are expropriated find that after losing their lands, the bonds issued to them as payment by the government are next to useless. This new section will ensure that these bonds are actually converted into dynamic new capital for industrial growth and expansion of job opportunities.

And so, I ask that the Committee consider this proposal, Madam President.

MR. SARMIENTO: Madam President, may we request that copies of that proposal be distributed to the Members of the Commission.

THE PRESIDENT: Have copies been distributed?

MR. BENGZON: Copies have been distributed yesterday.

MR. SARMIENTO: We have no copies yet.

MR. OPLE: May I ask the Secretariat to reproduce the text of the amendment?

THE PRESIDENT: Shall we give the Committee time to deliberate on this particular proposed amendment?

MR. BENGZON: Madam President, the Committee would like to ask some questions, in addition to the observations made.

THE PRESIDENT: Please proceed.

MR. BENGZON: Is it also the intention to allow that these bonds, if bonds are indeed paid, be used for payment of taxes or loans from government corporations?

MR. OPLE: This is already an existing policy. However, I am sorry to report that its implementation has been extremely erratic.

MR. BENGZON: So, that is the intention of the amendment, in addition to what the Commissioner has already articulated.

MR. OPLE: Yes, that means that under this proposed section, bonds which normally constitute 90 percent of the payment to a landowner covered by land reform (the remainder being cash) will be raised to a more serious level as a negotiable instrument.

However, in the text of this proposed amendment what is given pride of place is the role of this new capital that should be honored as equity or shares of stock in government investments of their own choice.

MR. JAMIR: Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: May we request that we be furnished copies of the proposal before any further interpellations, so we can follow intelligently?

THE PRESIDENT: We have already instructed the Secretariat to reproduce copies.

MR. OPLE: If the Committee so desires, we can wait until the Secretariat delivers copies of the text. May I point out that the Committee had been furnished copies of this proposed amendment ahead of time. I hope the Committee confirms this.

MR. SUAREZ: Yes, the Committee itself had been furnished copies of his proposal, Madam President, but I doubt if the other Members had been furnished.

MR. OPLE: May I know the pleasure of the Acting Floor Leader while waiting for the copies of the proposed amendment? Would he like to propose some other activity for the Commission?

MR. ROMULO: Yes, I propose that we have lunch, Madam President.

MR. OPLE: I support the proposal, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: In order to afford the Members an opportunity to go over the draft, the Chair suspends the session for lunch. We will resume at 2:30 p.m.

It was 12:21 p.m.

RESUMPTION OF SESSION

At 2:43 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

May we ask the honorable Chairman and members of the Committee on Social Justice to please occupy the front seats.

May we know from the Floor Leader if the Committee is now ready to react to the proposed amendment of Commissioner Ople.

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

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

I think copies of this proposed amendment in its latest permutation have already been circulated by the Secretariat.

May I identify the proponents of this amendment: Commissioners Rustico de los Reyes, Ricardo Romulo, Jose Bengzon, Ponciano Bennagen, Adolfo Azcuna, Florenz Regalado, Christian Monsod and Regalado Maambong.

The amendment reads as follows: SECTION 9. THE STATE SHALL PROVIDE INCENTIVES TO LANDOWNERS TO INVEST THE PROCEEDS OF THE AGRARIAN REFORM PROGRAM SO AS TO PROMOTE INDUSTRIALIZATION, EMPLOYMENT CREATION AND PRIVATIZATION OF PUBLIC SECTOR ENTERPRISES. FINANCIAL INSTRUMENTS USED AS PAYMENT FOR LANDS SHALL BE HONORED AS EQUITY IN SUCH ENTERPRISES OF THEIR CHOICE.

This amendment may be denominated as the industrialization provision of agrarian reform. I think it fills a need in the Article on Social Justice in the sense that industrialization is really the other major goal of agrarian reform. And earlier on we talked about the power of synergy inherent in agrarian reform and, for that matter, social justice

as a whole to liberate the tiller from the bondage of the soil and also to release idle private capital now locked in the antiquated land system, so that it becomes available for industrialization and employment expansion. We all know, those who have taken a glance at the history of land reform in Japan, Taiwan and Korea, that the economic miracles that have taken place in those countries and have compelled the admiration of the whole world, to a large extent, were rooted in the earlier land reform program pursued by their governments.

And so that is the reason for this proposed new Section 9, Madam President. I would like to seek the Committee's approval of this amendment as now reworded.

MR. BENGZON: Madam President.

THE PRESIDENT: The Committee may please proceed.

MR. BENGZON: The Committee accepts the amendment.

BISHOP BACANI: Madam President, just a question for clarification. What is the meaning of "PROCEEDS" on line 3?

MR. OPLE: Madam President, "PROCEEDS" really refer to the proceeds that the landowners will recover through a just compensation program.

BISHOP BACANI: This is, therefore, the payment of the land?

MR. OPLE: Yes, Madam President.

BISHOP BACANI: Thank you.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, I would like to ask a few questions for clarification in the record.

The Commissioner will remember that he invited me to coauthor this proposal; and I said I like the objective of the proposal, but I was sorry I could not affix my signature because I wanted a clarification of the last sentence which reads: "FINANCIAL INSTRUMENTS ISSUED AS PAYMENT FOR LANDS SHALL BE HONORED AS EQUITY IN SUCH ENTERPRISES OF THEIR CHOICE." When I read the sentence, I immediately remembered the "Land Bonds" under the Marcos regime. The landowners, from whom the land was taken, were paid mostly in "Land Bonds," redeemable after 20 years. Does this last sentence mean that such kind of bonds come under the meaning of "FINANCIAL INSTRUMENTS" issued as payment for lands?

MR. OPLE: Yes, Madam President.

MR. RODRIGO: But we already burned our fingers with those "Land Bonds" during the Marcos regime. Is there a difference between these financial instruments provided for in this proposed section and the "Land Bonds" issued during the Marcos regime as payment for lands which were covered by land reform?

MR. OPLE: Madam President, financial instruments do refer to bonds as a mode of payment for lands covered by land reform. May I explain briefly that under P.D. No. 27, which placed all corn and rice lands under land reform, the mode of payment is 10 percent in cash and 90 percent in bonds. In Taiwan for rural land reform only, it is 70 percent in bonds and 30 percent in shares of stock in government corporations; and for urban land reform, there is a stipulation, if I remember right, of a 60-percent cash recovery for the landowner.

The last sentence in this proposed amendment will precisely correct the situation earlier complained of by

Commissioner Rodrigo.

MR. RODRIGO: Not only by me, Madam President.

MR. OPLE: Yes, by many thousands of landowners who feel that they were gypped by the government. After having surrendered their lands for cash bonds, they later found out that the cash bonds did not have the utility which they were made to believe they had. For example, although I knew that there were circulars sent to the government banks saying, "Please honor Land Bank bonds as collaterals for loans"; or "Please honor Land Bank bonds as offset payments for taxes or for arrears that have been incurred in previous loans," most of the boards of directors of government financial institutions did not honor those bonds, pleading as a reason their financial straits in which they found themselves at the time.

So, the last sentence here supporting the principles of the linkage between land reform and industrialization in the first part seeks to mandate the State or Congress, if we like, in the future to make sure that landowners who will lose their lands to the tillers under this land reform program will be given financial instruments in payment for their lands, including bonds that will have real utility. One way of giving more strategic development values to such bonds is to insure right here that these bonds will be honored as equity in public enterprises chosen by the landowners themselves.

May I give an example. There are not too many government corporations here making money now. In Taiwan, it is the opposite situation because almost all the government corporations are highly profitable. And so, it is also profitable for landowners that have been divested of their landholdings to put their bonds in these profitable corporations. But in our country there are not too many of these. There are, however, some attractive vehicles for investments. One example is the Land Bank of the Philippines which in 1985, when most banks did not make money, made more than P400 million in net earnings. That is the right vehicle immediately available for a bondholder, like Commissioner Soc Rodrigo, who lost some of his lands in Bulacan under P.D. No. 27.

MR. RODRIGO: All of my lands which were not too big.

MR. OPLE: So this is one way of redressing that admittedly deplorable and cavalier treatment given to Land Bank bonds in the past.

MR. RODRIGO: Under this provision, is it possible for Congress or the implementing agency to repeat what the Marcos regime did, to pay the landowners from whom lands were taken . . . 10 percent in cash and 90 percent in bonds?

MR. OPLE: There is no such specific mandate, Madam President.

MR. RODRIGO: But it would not be a violation of this section if the legislature or the implementing agency so prescribes?

MR. OPLE: I think all the development planners know that given the magnitude of the agrarian reform that now has to be financed through Congress in the coming years under the land reform provision of the Article on Social Justice, the government cannot pay in cash except partially for lands that will be acquired by it for distribution.

MR. RODRIGO: The question has not been answered categorically. My question is: Would it be a violation of this provision in the proposed Section 9 if Congress or the implementing agency again rules that lands taken from landowners will be paid 10 percent in cash and 90 percent in bonds?

MR. OPLE: It would not.

MR. MONSOD: Madam President, may the Committee reply because we have accepted the amendment.

MR. RODRIGO: Yes, please.

THE PRESIDENT: Commissioner Monsod may proceed.

MR. MONSOD: If the payments or payment terms to the landowners are similar to the previous program where the transfer value was 40-60 percent of the face value of the bonds, I think it has already been answered by this Committee, Madam President, that that would not constitute just compensation if that system were repeated by Congress. So it is the intent of the Commission to give this interpretation to the meaning of just compensation. And the problem that arose, if we will recall, was the question of the farmers' affordability and the answer was that that is where the State should probably step in to cover the difference between just compensation and what the farmers can afford. So the answer to the Commissioner's question is that the terms, as he described, would not constitute just compensation.

This Article, if the Commissioner would notice, starts with the words "SHALL PROVIDE INCENTIVES." So there is a mandate to the Congress that the value of the payments and the terms of conversion should be such that there would be an incentive for the landowners to invest in these enterprises, and a conversion value of 50 percent of the face value would not be an incentive.

MR. RODRIGO: Madam President, I am sorry but question has not been answered yet categorically. So let me give a specific case. Let us say that the land of a certain landowner is taken under land reform. The government determines its value and arrives at the conclusion that the "just compensation" is P100,000. Would it be a violation of this proposed section if the implementing agency tells the owner: "All right, I will pay you only P10,000 in cash and P90,000 in bonds"?

MR. MONSOD: Madam President, it would not be just compensation if the terms of the bonds are such that the present value would not be equal to P100,000. If the interest, for example, on the bonds is way below the market rate of interest so that the present value of the stream of payments under the bond issue would be much lower than the balance of P90,000, it would not constitute just compensation.

MR. RODRIGO: But it is possible to pay only 10 percent in cash and 90 percent in bonds regardless of the interest on the bonds.

MR. MONSOD: That would be possible here because I think when you pay full value, it can be in many forms and combinations. It can be all in cash, it can be payment terms over a period, but it must approximate the present value that is given to the market price of the land.

MR. RODRIGO: The sentence further reads: "SHALL BE HONORED AS EQUITY IN SUCH ENTERPRISES OF THEIR CHOICE." Does the word "ENTERPRISES" mean public enterprises, or does it include private enterprises?

MR. MONSOD: I think this would have to be read in connection with the first sentence where the phrase "PRIVATIZATION OF PUBLIC SECTOR ENTERPRISES" appears because that is within the power of the government to accept any exchange of the financial instruments for equity shares of these corporations.

MR. RODRIGO: Public corporation.

MR. MONSOD: "PUBLIC SECTOR ENTERPRISES." In the case of private sector enterprises, I do not think that the government has the power to direct or command private sector enterprises to accept the bonds as exchanged. However, if the value of the bonds is such that the present value reflects the real values, then it is possible because then there would be no loss for private enterprises to accept it in order to accelerate the broad participation of co-ownership of their companies.

MR. RODRIGO: In short, if the bonds are invested in government corporations, it can be compulsory for a government corporation to accept these bonds if that corporation is the choice of the landowner. Is that right? If it is a public corporation?

MR. MONSOD: That is right.

MR. RODRIGO: But, if it is a private corporation?

MR. MONSOD: It cannot be compulsory. In that case, market forces will have to operate and that is where the value of the bonds will be a consideration.

MR. RODRIGO: But, if the private enterprise opts to accept, can it accept?

MR. MONSOD: That would be the operation of the market.

MR. RODRIGO: In short, as regards to public corporation it is compulsory to accept the bonds as equity; but in regard to private corporation, it is optional. Is that correct?

MR. MONSOD: Yes.

MR. RODRIGO: But the problem is that I do not know of any public or government corporation in the Philippines which is making money, except perhaps the Land Bank. But can the Land Bank accommodate all the land bonds that will be issued for land reform?

MR. MONSOD: Madam President, it is not exactly correct to say that there are no public sector enterprises other than the Land Bank. By the way, there are six banks and the other five, if I recall it correctly, are all making money. ComBank is making money; Union Bank is making money; then, of course, National Steel Corporation is making money — it is going to make, I think, over P500 million this year. There are several companies that are profitable, although we read only about the unprofitable ones.

MR. RODRIGO: Yes, I am not an economist but I read about the billions upon billions of indebtedness of the PNB and the DBP.

Thank you very much.

MR. BENGZON: The Committee reiterates its acceptance.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: The issue has been amply debated, but Commissioners Colayco and Davide have some questions before we take a vote.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

My question is addressed either to Commissioner Ople or to the Committee. The proposal says, "THE STATE SHALL PROVIDE INCENTIVES." Will the payment be mainly in the form of financial instruments?

MR. MONSOD: Yes.

MR. COLAYCO: Can the Committee spell out its idea of what these incentives are going to be for the guidance of Congress?

MR. MONSOD: Let me just give one example but which is not exhaustive. This would be in the pricing of the shares of the public sector enterprises, in the terms of payment of the shares of these private firms.

MR. COLAYCO: I want figures. The bad experience of Commissioner Rodrigo and others has shown that the 10-percent cash payment was just a drop in the bucket of the price paid. Does the Committee intend to follow the same percentage of cash payment?

MR. MONSOD: When we answered Commissioner Rodrigo, we said that it is not really a question of whether it is paid in cash or not. Even if it is paid only 10 percent in cash, the problem in the previous system was that the balance of 90 percent was payable over a long period of time at a very low interest rate, so that the present value of that bond was way below the real value of the property. Now, even if we have long-term payment and its balance is in bonds, if the interest rate on the bonds is such that the present market value of the bonds equals the price of the land, it is possible to exchange that in the free market, even in the private sector, because then there will be a market for such bonds. When the government unloads these public sector enterprises, then it is possible, in addition to giving them the real value in terms of bonds, that the pricing of the shares is such that it gives an incentive for them to buy those shares.

MR. COLAYCO: Does the Gentleman think that his ideas will sufficiently guide the legislature to avoid past mistakes?

MR. MONSOD: There are, I think, enough records of this Commission which define just compensation.

MR. COLAYCO: Thank you.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: I had previously discussed this matter with Commissioner Monsod, and I just want it to be on the record. With respect to the incentives that will be given to holders of these land bonds, among other things, will these land bonds be acceptable for the payment of taxes of the landowner concerned, and for the payment, let us say, of loans from government banks?

MR. BENGZON: This was already articulated in the affirmative by Commissioner Ople this morning, and we reiterate that it is the intention of the Committee to be such.

MR. REGALADO: In other words, whenever it is an obligation in favor of the government or of any of its owned or controlled corporations or banks, as the case may be, this will be among the incentives for the acceptance of these land bonds.

MR. BENGZON: It is not only among the incentives but it is the intent of the Committee in proposing this section here, that that be one of the consequences.

MR. REGALADO: Thank you.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

I seek enlightenment on some of the ramifications of this proposed section. Would we now allow the landowner to negotiate the financial instruments, and for the person to whom it is negotiated to avail of the rights provided for under Section 9, or shall it be a personal right?

MR. MONSOD: It is our understanding that bond or financial instruments representing proceeds under the agrarian reform program would be negotiable instruments.

MR. DAVIDE: And would the transferee or indorsee of that financial instrument be allowed to exercise the right under Section 9?

MR. MONSOD: Yes, precisely because if we can create a market for those bonds and financial instruments, it would give incentives for more investments.

MR. DAVIDE: The second question is on public sector enterprises: Will the reference of this be only government-owned and controlled corporations or their subsidiaries?

MR. MONSOD: Yes. That is the meaning in this sentence, because the government would not have the power to oblige private sector enterprises to accept these bonds.

MR. DAVIDE: Even corporations exercising quasi-public functions, like public utilities?

MR. MONSOD: That would then be a matter of public policy on which enterprises would be privatized.

MR. DAVIDE: In other words, Section 9 will be interpreted to mean that Congress will have the freedom or the liberty to include quasi-public utilities or corporations as one of the entities in which the landowner may use as equity the financial instruments issued to them in payment for the land.

MR. MONSOD: If that is within the context of the privatization program of government, they would be included.

MR. DAVIDE: With this particular section, we not only institutionalize the bonds which were used in payment under the agrarian reform program, but also enshrine the right of Congress to require payments for lands taken under the agrarian reform program by way of bonds. Could it exclusively be bonds?

MR. MONSOD: No. I think the reason why we used the word "financial instruments" is that we did not want to preempt the possible range of financial instruments that could be issued under the agrarian reform program.

MR. DAVIDE: So, financial instruments may include any negotiable instrument for that matter — certificate of indebtedness, promissory notes, and other instruments.

MR. MONSOD: Yes.

MR. DAVIDE: Thank you.

MR. RAMA: Madam President, Commissioner Rosario Braid seeks to be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Just a clarificatory question. Would "ENTERPRISES OF THEIR CHOICE" mean that we give the landowners the freedom to choose from all available enterprises or does the State suggest vital enterprises?

MR. MONSOD: Madam President, what we mean is within the number or the range of enterprises which the government has decided would be privatized. Then the landowners or the holders of these instruments make a choice from among those enterprises. It is not the landowners who direct which public sector enterprises will be privatized.

MS. ROSARIO BRAID: Since industrialization is the goal, should we not qualify it by saying a VITAL enterprise so that we could not just allow everyone to make free choices?

MR. MONSOD: That might be an unnecessary adjective there because there are other sections in the Constitution that define more clearly and in more detail the areas or the manner by which the government can get involved in industrialization. This would not be the article for that definition.

MS. ROSARIO BRAID: Lastly, in the spirit of brevity, could this not be shortened to mean the same thing? This appears to be a long provision. I think by capturing the concept of cooperation with private enterprise and the goal, as well as the purpose for the investment, could we rephrase it in some other way?

MR. MONSOD: Does the Commissioner have any suggestions?

MS. ROSARIO BRAID: I do not know if this amendment captures the meaning I wish to convey: THE STATE IN COOPERATION WITH THE PRIVATE SECTOR SHALL PROMOTE INDUSTRIALIZATION BY EMPLOYMENT CREATION AND PRIVATIZATION OF PUBLIC ENTERPRISES. TOWARDS THIS END, IT SHALL PROVIDE INCENTIVES TO LANDOWNERS WHO INVEST PROCEEDS FROM AGRARIAN REFORM BOND ON VITAL ENTERPRISES.

MR. MONSOD: Madam President, the second sentence would convey the ideas we have here but the first sentence sounds like a general statement that might belong in the Declaration of Principles and State Policies or in the Article on the National Economy and Patrimony. If we count the words, there are about the same as in the original.

MS. ROSARIO BRAID: Madam President, I withdraw the amendment.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: I would like to ask a question of my fellow member of our Committee.

This is meant to be an incentive. Now I would like to ask a similar question to the one that I asked yesterday regarding land reform. Supposing a landowner does not want to take advantage of this incentive and then he says, "I will not sell my land until you give me cash and that is the only one that I will accept." Will the landowners prevail or can they be forced to accept these financial instruments other than cash?

MR. MONSOD: During yesterday's discussions, we defined the agrarian reform program in terms of the exercise of police, power, because in this case there is a higher level of objective and value than the landowner's option to hold on to the private property. In that case, to refuse to participate or to allow the land to be part of the agrarian reform program merely on the basis of the fact that he wants all payments in cash probably would not be allowed. However, the owner is entitled to ask that the just compensation be really that.

BISHOP BACANI: Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Commissioner Lerum seeks to be recognized.

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: Madam President, I just want to ask a few questions.

I agree with the purpose to the effect that it will liberate the tiller from the bondage of the soil. That is the first purpose. The second purpose is to release idle capital locked up in the antiquated land system and therefore

accelerate industrialization and employment expansion. I am just curious — what is this capital that is locked up in this system? Will the sponsor kindly explain this?

MR. OPLE: Madam President, there is a lot of potential capital locked up in a land system which does not encourage productivity. For example, just to cull from some of the most recent examples under P.D. No. 27, there are many landed estates in rice and corn that were broken up, and so I am speaking of absentee landowners. By the coverage of the land reform program, this largely idle capital of the absentee landowner which relies on the tenants' efforts to generate production, is released in terms of the compensation given him. So that this gives him the opportunity to transform his role from an absentee landowner not really connected with the productive process, a virtual parasite of society, into an entrepreneur or perhaps even just as an investor. In the case of Taiwan, within five years from the inauguration of its land reform program, NT\$2 billion was released to industry as a result of the agrarian reform program which otherwise would have been capital lying dormant in the land.

MR. LERUM: The Gentleman is referring to Taiwan, but we are talking about the Philippines. Does this locked-up capital refer to the payment that should have been received by the landowner?

MR. OPLE: Yes, the proceeds of agrarian reform.

MR. LERUM: But according to the statement of the Gentleman, the 90 percent which should have been paid to the owner in bonds is almost worthless, so where is this locked-up capital that we are talking about?

MR. OPLE: In the first place, Commissioner Lerum would like to outlaw any reference to the experience of a foreign country and I think that is less than courteous, especially when one sits in a committee. I deplore that.

MR. LERUM: I am sorry if that is the impression of the Gentleman. but I have to ask the question because in the proponents own explanatory statement, the 90 percent that was paid in bonds is worthless. So, I want to find out where this locked-up capital is.

MR. MONSOD: May the Committee answer, Madam President?

THE PRESIDENT: Please proceed.

MR. MONSOD: There are many ways to look at this but assets can either be in the form of land, bonds or cash. Cash is the easiest to use in terms of investments. When the agrarian reform program is implemented and the landowner exchanges bonds for his land, the bond is closer to liquidity than land. As we have stated before, if it is in the form of bonds and it really constitutes just compensation so that it bears the market rate of interest, that becomes a highly liquid asset that can be negotiated and, therefore, may be used as payment for equity, thereby increasing investment in the country in new or ongoing enterprises. I think that is the sense in which locked-up capital is referred to. It is really locked-up if it is not available for investments.

MR. RAMA: Madam President, there has been sufficient debate and discussion on the matter.

MR. LERUM: May I be allowed to reply?

MR. RAMA: May I ask that we take a vote.

THE PRESIDENT: Mr. Floor Leader, may we give a chance to Mr. Lerum to reply if he is satisfied with the response of Commissioner Monsod? Is Commissioner Lerum satisfied with the explanation?

MR. LERUM: No; I have to make a reply, Madam President.

Ordinarily that is so. But in the case of the bonds paid by the government to the landowner, these are not new capital but indebtedness to the landowner, so we did not create any capital. My contention is that there is no such

locked-up capital because the bond represents indebtedness of the government to the owners of the land which was given to the tillers of the soil. That is my point.

MR. MONSOD: I am sorry, but I do not agree with the Gentleman.

MR. LERUM: I am through, Madam President.

MR. MONSOD: When we talk about capital, we have to distinguish between different types of assets. And usually in economics when we talk about investment, it is the creation of new productive enterprises or new productive assets. What we are saying here is, that is possible because then there would now be money available to finance new productive assets.

THE PRESIDENT: Does Commissioner Maambong have anything to say?

MR. MAAMBONG: Yes, Madam President. In fact, I am one of the proponents of Section 9, but I would like to present to the Committee a perfecting amendment to delete the words "SO AS" after the word "PROGRAM" in the third line so that it will read: "THE STATE SHALL PROVIDE INCENTIVES TO LANDOWNERS TO INVEST THE PROCEEDS OF THE AGRARIAN REFORM PROGRAM TO PROMOTE INDUSTRIALIZATION."

Would that be acceptable?

MR. MONSOD: We accept, Madam President.

MR. MAAMBONG: Thank you, Madam President.

MR. RAMA: Madam President, may we now take a vote on Section 9?

THE PRESIDENT: Does everybody have a copy of this proposed amendment of Commissioner Ople and several others?

MR. BENGZON: Everybody has a copy, Madam President.

VOTING

THE PRESIDENT: Those who are in favor of the proposed Section 9 of the Article on Social Justice, please raise their hand. (Several Members raised their hand.)

Those who are against, please raise their hand. (No Member raised his hand.)

Those who are abstaining, please raise their hand. (One Member raised his hand.)

MR. RODRIGO: Please register my abstention.

THE PRESIDENT: The results show 30 votes in favor, none against, and 1 abstention; the amendment is approved.

MR. RAMA: Madam President, Section 3 of this Article has not yet been fully amended. May I ask that Commissioner Regalado be recognized.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

My proposed amendment will be on Section 3, paragraphs (c) and (d). With respect to paragraph (c), it is more of a perfecting amendment on the last clause which says: "and enforce mutual compliance thereof" — I propose to

change "thereof" to THEREWITH, because one complies with something and not of something.

THE PRESIDENT: May I have that again, Commissioner Regalado? What line please?

MR. REGALADO: The fourth line of Section 3, paragraph (c), page 2, Madam President.

THE PRESIDENT: The Commissioner proposes to change the word "thereof" to "THEREWITH."

MR. REGALADO: Yes, Madam President.

THE PRESIDENT: Is that accepted?

MR. BENGZON: It is a matter of style, Madam President; we accept.

THE PRESIDENT: Let us vote on the amendment first. Is there any objection to the proposed amendment of Commissioner Regalado to change the word "thereof" to "THEREWITH." (Silence) The Chair hears none; the amendment is approved.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May we make a request from the Floor Leader?

The principal author of this section, Commissioner Aquino, had to be called outside on a long distance call and we would like to wait for her. Can we defer on the others and just proceed with Urban Land Reform and Housing?

MR. REGALADO: This is Section 11?

MR. MONSOD: Yes.

MR. REGALADO: So, I will just defer my proposed amendment to paragraph (d) of Section 3.

MR. MONSOD: Thank you.

MR. RAMA: Madam President, I ask that Commissioner Foz be recognized to amend Section 11.

MS. NIEVA: Madam President, before we go to the amendments from the others, I would like to explain some minor changes that we would like to propose on Section 11.

This is on the line that says: "a continuing urban land USE and Housing program. "First of all, "Housing" should be with a small h. And we would like to add the phrase IN COORDINATION WITH THE PRIVATE SECTOR, and then, "will MAKE decent housing."

MR. FOZ: Madam President, our amendment will also affect the same line.

MS. NIEVA: As Chairperson of the Committee, may I be allowed to continue?

THE PRESIDENT: Please proceed.

MS. NIEVA: The rest of the sentence shall read: "continuing urban land USE and housing program that IN COORDINATION WITH THE PRIVATE SECTOR will MAKE decent housing"; and then here we add: "AND SERVICES AVAILABLE at affordable cost to deserving low-income citizens in urban centers and resettlement areas."

The reason for this is that we realize the magnitude of the housing problem in the country. We know that at this stage, there is a nationwide backlog representing just the households in slums and blighted areas estimated at

992,000 households and these blighted areas are 80 percent privately owned. Of these 992,000 squatter households, some 282,000 are in Metro Manila. The studies have shown that these sites, in order to be upgraded, will cost approximately P543 billion, while the balance of the households will have to be resettled in various government resettlement sites and this again will cost P828 million. It is also estimated that every year, 20,000 home lots have to be developed over the next 10 years, and this again cost approximately P460 million. This is just for Metro Manila where one-third of the urban poor dwellers are located.

A similar situation is evident in the 19 major regional urban centers outside Metro Manila for some 213,000 squatter households living in slum areas. An estimate showed that more than P3 billion will be needed to upgrade these areas in the provinces. So, in view of this, and we have supporting statistics here, we realize that the problem of making decent housing and services available cannot be done by government solely. In fact, we feel that the government's main job is to make the opportunities present and provide what they call new approaches of sites and services and development of improved infrastructure, leaving the matter of direct housing opportunities to the private sector, which includes the people themselves, the different landowners, land developers, financing institutions, and for them to cooperate and work together to solve this problem that is not only a Philippine problem, but is the problem of all urban centers throughout the world.

Therefore, we would like to put the phrase IN COORDINATION WITH THE PRIVATE SECTOR so as to make it clear that our intention here is not for the government alone to be responsible for answering and addressing this very serious problem of our urban poor dwellers in the country.

THE PRESIDENT: Mr. Floor Leader, who is the first in the list?

MR. RAMA: Commissioner Foz has the floor.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: We would like to propose an amendment for the entire Section 11 in the form of an amendment by substitution. Let me read the proposed amendment, Madam President. It says: "The State shall ESTABLISH AND IMPLEMENT AN URBAN LAND REFORM PROGRAM TO PROMOTE THE RENEWAL, DEVELOPMENT AND MODERNIZATION OF HUMAN COMMUNITIES FOR THE COMMON GOOD. IT SHALL PURSUE A SOCIAL HOUSING PROGRAM TO MAKE decent housing AND OTHER COMMUNITY SERVICES AVAILABLE TO deserving low-income citizens."

First of all, the amendment seeks to reinstate the word "REFORM" as part of the term "urban land REFORM program." The term "urban land use," Madam President, has a limited implication. Basically, it has to do only with zoning function, and does not cover the other components of an urban land reform program. The usual components of an urban land reform program are the following: First, to liberate human communities from blight, congestions and hazards and to promote their development and modernization; second, to bring about the optimum use of land as a national resource for public welfare rather than as a community of trade subject to price speculation and indiscriminate use third, to provide equitable access to and opportunity for the use and enjoyment of the fruits of the land fourth, to acquire such lands as are necessary to prevent speculative buying of land for public welfare; and finally, to maintain and support a vigorous private enterprise system responsive to community requirements in the use and development of urban lands. These are the reasons why we propose the reinstatement of the word "REFORM" to constitute urban land reform and not only use.

This amendment is being submitted not only to yours truly but also in collaboration with Commissioners Sarmiento, Treñas, Tan and Villegas.

As to the statement of Commissioner Nieva that the provision of housing to low-income citizens should be,

collaboration with the private sectors, there is actually no controversy about that. That is all very well understood in this provision, Madam President. We would like to hear the response of the Committee to the proposed amendment.

MS. NIEVA: Madam President, there is some discussion here and a recommendation that we first take the first proposal, the first amendment, changing the term "urban land USE" to "urban land REFORM." We would like to throw this to the body because even the Committee is divided on the choice of words.

MR. FOZ: Madam President, I would like to make clear that "urban land USE" is a very limited concept.

It consists mainly of zoning. It does not involve provision for housing and acquisition of land which may be necessary for the government to implement its housing program for the low-salaried citizens.

MR. MONSOD: Madam President, may we just have a short reply?

If we look at the wording of the Committee, it is "urban land USE and housing program." Nonetheless, we would like to ask the judgment of the body on whether we should use the word "USE" or "REFORM."

MR. FOZ: May we add the information that the present Constitution already provides for an urban land reform program. So, if we use the word "USE," we are now backtracking. This is withdrawing from the original concept now institutionalized in the present Constitution.

MR. BENGZON: Madam President, may we hear from Commissioner Tan who is a member of the Committee and who proposed this particular section.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: I really did not propose this particular section. I was just in agreement with certain parts but I welcome this section. The first part is the change of the word "REFORM" from "USE" because land use could be applied to anybody. While if we say "REFORM," it means to say that land has been used unjustly, so, we are trying to reform. So, I welcome "reform." But as to the other two, I would suggest that instead of simply saying "TO MAKE decent housing and other community facilities available," we say "TO make decent housing AND BASIC COMMUNITY FACILITIES OR SERVICES AVAILABLE." One could have a swimming pool, like what is in the BLISS projects, but would not have the "basic" running water in the washroom. I consider the use of the term "low income" not good, because "low income" is relative. An army soldier could be in the low-income group as a squatter could also be in that group. Perhaps a better word would be UNDERPRIVILEGED; but I welcome the way this has been revised.

Thank you.

MR. RAMA: Madam President, Commissioner Villegas would like to comment on the same amendment.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Could I just supplement the reason why I think the word "REFORM" in "urban land REFORM" should stay? I think it has to be clear that we are giving the State the authority to expropriate large urban tracts of land for redistribution to deserving citizens in the spirit of agrarian reform. So, I think the State cannot only expropriate large agricultural lands; it can also expropriate large urban lands for the common good.

MR. MONSOD: Yes.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 3:41 p.m.

RESUMPTION OF SESSION

At 3:57 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, the proponents have reached a meeting of the minds. I ask that Commissioner Foz be recognized.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Madam President, after consultation with the Committee, as well as with other Commissioners, including Commissioners Treñas, Sarmiento, Tan, Rama, Villegas and de los Reyes, we have come up with a common formulation on Section 11, and which the Committee is accepting.

So, I would like to read for the benefit of the Committee the entire provision, as reworded or reformulated.

THE PRESIDENT: Please proceed.

MR. FOZ: "The State shall BY LAW and for the common good undertake a continuing program OF urban land REFORM and housing IN COORDINATION WITH THE PRIVATE SECTOR that will MAKE decent housing AND BASIC SERVICES AVAILABLE at affordable cost to UNDERPRIVILEGED AND HOMELESS CITIZENS in urban centers and resettlement areas."

That is the amendment to Section 11, Madam President.

MR. BENGZON: Madam President, we are accepting the suggestion of Commissioner Nollado that instead of "COORDINATION" we use the word COOPERATION which better reflects the idea of the Committee — "IN COOPERATION WITH THE PRIVATE SECTOR."

MR. NOLLEDO: Madam President, I will explain.

THE PRESIDENT: Please proceed.

MR. NOLLEDO: Madam President, I would like to be recognized.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: I would like to explain why I suggested the word "COOPERATION" instead of "COORDINATION." When we coordinate, we talk only of efforts. The word "COORDINATION" may preclude investments. So, I recommended to the Committee that instead of "COORDINATION" we should use the word "COOPERATION." I think Commissioner Foz will understand.

MR. FOZ: So, the Gentleman would exchange "COORDINATION" for "COOPERATION"?

MR. NOLLEDO: Yes, because I feel that "COOPERATION" is a stronger term than "COORDINATION."

MR. FOZ: But is it not the other way around?

MR. NOLLEDO: I do not think so.

MR. FOZ: Coordination is a stronger term than cooperation, because with coordination there is involvement of efforts and also money — funds, while with cooperation, the private sector will just say, "we agree," but there is no involvement, no commitment.

MR. NOLLEDO: I do not think so, because when we coordinate, we coordinate only efforts on the part of either side. But when we use "COOPERATION," then cooperation may include investments, efforts and other factors. I would even recommend COLLABORATION — the original word that the Gentleman used.

MR. FOZ: Actually, the word "COORDINATION" was suggested by the Committee.

MR. NOLLEDO: That is why I explained to the Committee and the Committee accepted my suggestion.

MR. FOZ: In that case, we also accept, Madam President.

MR. NOLLEDO: Thank you, Madam President.

MS. QUESADA: Madam President, I really feel I have to react to this watering down of this particular provision, when the original that the Committee presented was "SHALL REGULATE." But when we say, "BY LAW," that subjects it to legislation which removes the mandate that all along we have wanted the urban poor to enjoy as a form of social justice.

MR. MONSOD: Madam President, may we just answer our colleague because the reason we agreed to the removal of the words "regulate the ownership" is that the general rule on "regulation, acquisition, ownership, use and disposition of property and its increment" is already stated in Section 1. Therefore, the general rule affects all the sections on Social Justice. So it do not dilute or diminish because the general rule is very strong and is in the first section.

MR. FOZ: And in addition, the term "urban land REFORM" involves the idea of regulation.

THE PRESIDENT: How does the section read now?

MR. RAMA: Madam President, Commissioner will read the complete text.

MR. FOZ: The provision reads as follows: "The State shall BY LAW and for the common good undertake a continuing program of urban land REFORM and housing IN COOPERATION WITH THE PRIVATE SECTOR that will MAKE decent housing AND BASIC SERVICES AVAILABLE at affordable cost to UNDERPRIVILEGED AND HOMELESS citizens in urban centers and resettlement areas."

MR. RAMA: Madam President, before we vote would like to explain briefly why I asked that the word "deserving" be deleted and that instead we add the words "HOMELESS citizens" after "UNDERPRIVILEGED AND," the reason being that there are underprivileged citizens that have homes by inheritance Our main concern here are the homeless citizens who live on the sidewalks, on top of garbage dumps and shacks. So, that is the explanation why I inserted the words "AND HOMELESS citizens." May I ask that we now take a vote, Madam President?

THE PRESIDENT: Just to clarify: we also have the proposed amendment of Commissioner Treñas.

MR. TREÑAS: Madam President, we have incorporated all our ideas.

VOTING

THE PRESIDENT: Those in favor of this particular amendment on Section 11, please raise their hand. (Several Members raised their hand.)

Those against, please raise their hand. (Few Members raised their hand.)

The results show 35 votes in favor and 2 against, amendment is approved.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Sarmiento be recognized to amend Section 12.

MR. SARMIENTO: Madam President, my amendment is an amendment by deletion. May I propose that we delete the words "with valid claims" after "dwellers"?

MS. NIEVA: We have taken that out.

MR. MONSOD: Madam President, that has been taken out.

MR. BENGZON: We have taken that out.

MR. SARMIENTO: Thank you, Madam President.

MS. NIEVA: We also deleted the words "due process," and instead we use "IN ACCORDANCE WITH law."

MR. SARMIENTO: Will Commissioner Nieva kindly repeat that.

MS. NIEVA: Line 3 reads as follows: "Urban poor dwellers shall not be evicted nor their dwellings demolished EXCEPT IN ACCORDANCE WITH law AND ALWAYS IN A JUST AND HUMANE MANNER." But I think we have not yet finished it.

MR. SARMIENTO: May I be clarified on why we removed the words "due process" and replaced these with the word "LAW" instead?

MR. BENGZON: It is a redundancy. If it is in accordance with law, it means to say it is with due process.

MR. SARMIENTO: Thank you.

My other amendment on Section 12 is for the retention of the lines originally deleted by the Committee, and these are the words "and their involvement in its planning and implementation."

Madam President, I conferred with a group of urban poor and they asked that these lines be retained because they wanted to participate not only in the planning but also in the implementation. These two lines, they said, are crucial lines which ought to be retained.

THE PRESIDENT: What does the Committee say?

MR. BENGZON: Will the Commissioner kindly repeat that?

MR. SARMIENTO: My suggestion, Madam President, is for the retention of the lines "and their involvement its planning and implementation" because this settlement will definitely affect the urban poor numbering more than one million in Metro Manila. So they are suggesting — and I hope the Committee will accept this proposal — that we retain the words, "and their involvement in its planning and implementation."

MR. BENGZON: Madam President, the reason that was deleted is that there is already that understanding when we inserted the word "consultation."

MR. SARMIENTO: But for clarity — and what are two lines among friends — I propose that we retain these. After all, this was the original proposal of the Committee for the inclusion of these two lines. May I suggest, therefore,

that we retain the same.

MR. BENGZON: The situation we are really trying to avoid is that, if after all the planning which is done by the government in consultation with these people, they ultimately refuse to be resettled, then everything will have gone to waste. After all, this phrase is already covered in the word "consultation."

MR. SARMIENTO: Anyway, if the real intent of the Committee is for that consultation to cover their involvement in planning and implementation, then I withdraw my amendment.

MR. BENGZON: Thank you very much.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

May I inquire from the Committee whether the words here, "urban poor dwellers shall not be evicted," refer to the squatters?

MS. NIEVA: Yes.

MR. DE CASTRO: Under existing law, squatters are per se illegally occupying the land.

MR. BENGZON: That is why we say, "IN ACCORDANCE WITH LAW," because if he is a squatter, under the law, he is a nuisance per se.

MR. DE CASTRO: Yes.

MR. BENGZON: He can be evicted because of the very fact that he is a nuisance per se, which is in accordance with law. However, the eviction will have to be in a just and humane manner, not in the manner by which, for example, the squatters in the Tatalon Estate were evicted or were attempted to be evicted.

MR. DE CASTRO: I will agree on the use of "JUST AND HUMANE MANNER." But when we say that they cannot be evicted nor their dwellings demolished except in accordance with law would that force the poor owner of the land being squatted on to go to court to evict them?

MR. BENGZON: That is why I say that if the illegal squatters are a nuisance per se, an eviction, without going to court, would be in accordance with law.

MR. DE CASTRO: Yes. So, the owner of the land on which they are squatting will have to go to court to evict them. Is that right under this provision?

MS. NIEVA: Yes.

MR. DE CASTRO: Suppose the poor owner does not have the means to go to court because litigation is costly, will he then have to live with the situation that what he owns he does not have? With the statement "urban poor dwellers shall not be evicted nor their dwellings demolished EXCEPT IN ACCORDANCE WITH LAW AND ALWAYS IN A JUST AND HUMANE MANNER," we are forcing the owner of the land to go to court, in accordance with law for the eviction. If the owner has no money because court litigation is quite expensive, then we are liable to have a small landowner ending up without any land at all.

MR. BENGZON: Madam President, may we request Commissioner Regalado to explain this.

MR. REGALADO: Thank you, Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: As we were saying, a professional squatter with no valid claim whatsoever can be considered a nuisance per se. And in the abatement of a nuisance per se as distinguished from a nuisance per accidens, the owner does not have to go to court. He can report to the municipal authorities or to the health authorities or he can seek the aid of the police authorities. If, on the other hand, it is a nuisance per accidens which requires a determination of facts, then that will be the time when judicial recourse will be necessary. Also, the owner himself, under the law on property, is entitled to use a reasonable cost in defense of his property, whenever there is a clear, patent infringement upon his property rights. Now, this does not compel the owner to go to court. If it is a nuisance per se, all he has to do is to seek the help of the local authorities.

MR. DE CASTRO: Madam President, may I make some remarks on Commissioner Regalado's remarks.

Commissioner Regalado speaks of professional squatters, who are to him a nuisance per se. When he finds a squatter, that is a nuisance per accidens to him. Now, how can we determine whether or not he is a professional squatter? In the first place, when we see a man squatting on our property, it is illegal per se from the very beginning. What about in the city where somebody occupies your land which measures up to 250, 300 or 350 square meters? How can the owner determine whether he is a professional squatter or just a mere squatter? We are constitutionalizing squatting. I will really agree on a humane and just manner of evicting them, but to require the owner of that land to go to court so that he can comply in accordance with law, will be too much punishment for the poor owner who is perhaps as poor as the squatter himself.

MR. BENGZON: Madam President, to begin with, even at this moment or even without this particular paragraph, one cannot get a squatter out unless one sues him in court, unless, as we said, the squatter is a nuisance per se. And if he is a nuisance per se or a professional squatter, the landowner does not have to go to court, as explained by Commissioner Regalado.

MR. DE CASTRO: That is my main difficulty.

MR. BENGZON: That depends already upon the facts of the case. We cannot put all of those exceptions and explanations in here, except the ones that are in the Journal.

MR. DE CASTRO: I would then make an amendment by deleting the first sentence of Section 12 because we are constitutionalizing squatting in this Constitution.

MR. BENGZON: Would the Gentleman propose his amendment then so that we can act on it?

MR. DE CASTRO: I suggest that the following first sentence of Section 12 be deleted: "Urban poor dwellers shall not be evicted nor their dwellings demolished EXCEPT IN ACCORDANCE WITH LAW AND ALWAYS IN A JUST AND HUMANE MANNER," the reason being that we are constitutionalizing here squatting whether it is professional squatters or just mere squatters. We have no reason to constitutionalize what is nuisance per se or what is nuisance per accidens.

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

THE PRESIDENT: Commissioner Brocka is recognized.

MR. BROCKA: I would like to make a comment on Commissioner de Castro's comments on this. We are not out to find out, I think, in this particular section whether or not they are illegal or professional squatters. This particular section is premised on the fact that they are human beings and should be protected by law. They should not be driven away like animals, in the way the demolition of shanties was done in the past wherein a group of army or military or security guards would just come, without due process of law. In certain cases, some people

have been killed . An example has already been cited in the case of the Tatalon Estate.

The particular section is premised on the fact that squatters, whether they are there illegally or not, whether they are professionals or not, are human beings. It is not their fault that they are poor. Under the law, they should be protected. That particular protection is what we are asking under this section on social justice.

MR. DE CASTRO: Madam President, it has been accepted by the Committee that when we talk of urban poor dwellers, we refer to squatters. I do not say that they are animals; neither do I say that they should be driven like such. But what I am questioning, Madam President, is why we are constitutionalizing squatting. So, I do recommend that the first sentence in Section 12 be deleted.

Thank you.

THE PRESIDENT: Does the Committee accept the amendment by deletion?

MS. NIEVA: No, the Committee does not accept, Madam President.

VOTING

MR. RAMA: May we take a vote on this?

THE PRESIDENT: Those in favor of the proposed amendment of Commissioner de Castro to delete the first sentence of Section 12, please raise their hand. (One Member raised his hand.)

Those against, please raise their hand. (Several Members raised their hand.)

The results show 1 vote in favor and 30 against; the amendment is lost.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, before going to Section 11 or 12 in the draft, may I be allowed to go back to Section 11 after the Foz amendment. With the permission of the Commission, we failed to answer a basic demand and a basic right for the urban poor a dwellers and resettlement dwellers.

I seek to add, after the Foz amendment, the following sentence with the permission of the Commission: IT SHALL ALSO PROVIDE ADEQUATE EMPLOYMENT OPPORTUNITIES TO SUCH CITIZENS. This is an amendment jointly proposed by Commissioners Nollado, Sarmiento, Foz, Bennagen and Tan. Perhaps, in the euphoria of our desire to answer the needs of the urban poor dwellers, we forgot one very important and significant assistance which we should give to them.

MS. NIEVA: Madam President, the original committee report carried the phrase "employment-generating economic activity." Yes, that is very important.

MR. DAVIDE: Would the Committee willingly accept this amendment?

MS. NIEVA: We are accepting that amendment.

THE PRESIDENT: Will the Commissioner please repeat the amendment.

MR. DAVIDE: It is to place a new sentence after the Foz amendment: IT SHALL ALSO PROVIDE ADEQUATE EMPLOYMENT OPPORTUNITIES TO SUCH CITIZENS. Commissioners Foz, Sarmiento, Nollado, Tan and Bennagen are coauthors.

THE PRESIDENT: Is there any objection to this proposed amendment which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: On Section 12 of the proposed draft, I am constrained to present this amendment because my past is haunting me. I come from a very poor rural community. But at the start of Section 12, we only speak of the urban poor dwellers. So, I seek to insert between "urban" and "poor" the words AND RURAL.

MR. BENNAGEN: May we ask the proponent what to include under the category of "rural poor"?

MR. DAVIDE: The same as the "rural poor" referred to in the phrase "No resettlement of URBAN OR RURAL DWELLERS" appearing in the second sentence. These are the rural poor.

MR. BENNAGEN: Would these include also rural communities that are threatened by huge infrastructure projects?

MR. DAVIDE: Certainly.

MR. BENNAGEN: Thank you, Madam President.

MS. NIEVA: The Committee gladly accepts the amendment.

MR. DAVIDE: Thank you.

THE PRESIDENT: Is there any objection to the proposed amendment which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

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

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

Still on Section 12 of the draft proposal: we have a little difficulty in the conception of urban poor dwellers. I, therefore, propose an amendment to read UNDERPRIVILEGED URBAN DWELLERS because when we speak of poor or poverty, it is generally conceived in terms of their financial capacity. But financial capacity alone is not the only consideration. There may be other factors to consider in classifying an underprivileged urban dweller. So, in lieu of "urban poor dwellers" and to have a broader scope which will include the poor, I propose that we use the phrase UNDERPRIVILEGED URBAN DWELLERS to make it a little more encompassing.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: The Honorable Regalado did not read the recently accepted amendment. It should read: URBAN AND RURAL POOR DWELLERS.

MR. REGALADO: Yes, but I am after the change of the word from "poor" to UNDERPRIVILEGED for the reasons I have given, and the word is more encompassing.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I just be allowed to make a comment on the proposed amendment? When we speak of urban poor dwellers, we speak of those who are financially poor and deprived of basic necessities. So, I think "urban poor" would cover the word "UNDERPRIVILEGED," since "urban poor" has achieved a meaning. It has

been used for years, for decades. So, if the proponent uses "UNDERPRIVILEGED URBAN DWELLERS," then that would be creating confusion. Even the present Constitution speaks of "urban poor."

MR. REGALADO: My view of it is that when we speak of underprivileged urban dwellers, that necessarily includes the poor. Now, the mere fact that "urban poor" is used in the 1973 Constitution does not mean to say that it has had an inflexible and rigid jurisprudential meaning. I want it expanded to more than just the financial capacity of a person.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: The term "urban poor" is mentioned not only in the 1973 Constitution but in volumes and volumes of books on real estate development. It is accepted term even among developers all over the world. So, I think we should stick to the term "urban poor."

MR. REGALADO: Provided, however, that it me not only the financial but also other aspects of where they are underprivileged or at a disadvantage and provided that the Committee will accept it.

MS. NIEVA: Yes.

MR. REGALADO: I will yield to the use of the word "urban poor."

MR. BENGZON: With that understanding, Madam President.

MR. REGALADO: With regard to the third line which says, "EXCEPT IN ACCORDANCE WITH LAW AND ALWAYS," I propose the deletion of the word "ALWAYS" because it is redundant. The third line already says "EXCEPT IN ACCORDANCE WITH LAW AND IN A JUST AND HUMANE MANNER."

MS. NIEVA: We accept, Madam President.

MR. BENGZON: We accept.

MR. REGALADO: On the fifth line, I propose insert THEM AND between the words "with" and "the" and after "communities," add WHERE THEY ARE that the amended portion will now read: "or rural dwellers shall take place without consultation with THEM AND the communities WHERE THEY ARE to be relocated." We will give the communities where they are going to be transferred a say on whether or not they should be placed in that particular community. In other words, we provide a dual consultation with community and with the urban poor in their own community. Also, this will provide a chance for the other community to which they are going to be relocated to explain whether their resources or their situation would accommodate so many in the resettlement areas.

MS. NIEVA: Madam President, does "THEM" to entire communities, because here we have in mind entire communities that have to be relocated and resettled because of infrastructure projects like dams?

MR. REGALADO: No. The use of the pronoun "them" has for its antecedent the urban or dwellers. There must be prior consultation, of course, with the urban and rural dwellers. So the word "them" has reference to the urban or rural dwellers who are going to be relocated. The second addition is also a consultation with the community to which the going to be relocated. So, it is not just the government saying, "We will transfer you here," without giving that other community where they are intended to be relocated the opportunity also to say, "Well, this is our present situation. We have these problems ourselves."

They may not have enough arrangements for giving employment as has already been adopted in the amendment

of Commissioner Davide. So, at least there should be a consultation with the community where the settlers are going to be relocated, aside from the consultation with those who are going to be relocated.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Would the proponent yield to one question?

MR. REGALADO: Yes, gladly.

MR. DAVIDE: What if the community to which they will be relocated rejects? Would it mean the failure of the resettlement plan or program?

MR. REGALADO: No. The word we used here is only "consultation." They cannot reject or override a governmental policy, but at least that community can prepare to accept these people or to ventilate also the possible problems, because being members and residents of that community, they are also in a position to inform the authorities why it would not be advisable. If, however, the authorities insist, then it is only a question of consultation.

MR. DAVIDE: So just for the record, it is not really a right granted to the communities to where they will be relocated.

MR. REGALADO: No.

MR. DAVIDE: If the other community will reject, the government can still insist.

MR. REGALADO: Yes, because the word used here is "consultation" only. The government can also learn from those who have been living in those areas for years and who know what the possible situation would be, if these urban poor are transferred to those communities.

THE PRESIDENT: What does the Committee say?

MR. BENGZON: Will the Commissioner read the proposal again?

MR. REGALADO: In other words, this last sentence would be: "No resettlement of urban or rural dwellers shall take place without consultation with THEM AND the communities WHERE THEY ARE to be relocated."

MR. MAAMBONG: Madam President, just one more point.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: In the original formulation, it is my understanding that the one to be consulted is the communities where the urban or rural dwellers are. With this amendment, the communities to be consulted are the communities where they are to be relocated. Is that correct?

MR. REGALADO: No, there will be dual consultation.

MR. MAAMBONG: Both?

MR. REGALADO: Both.

MR. MAAMBONG: Thank you.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: May I ask the proponent one clarificatory question as to the meaning of "consultation"? I ask this because in our experience, the government makes claims to consultation but it merely goes through the motion of consultation. We would like to envision here a consultation that would provide the communities adequate information on who are the relocatees and where they will be going.

MR. REGALADO: The word "consultation" was proposed by the Committee, so it is for the Committee to give its own interpretation as to the extent, the scope, the effect, the means and the modes of consultation.

MR. BENNAGEN: I mentioned that because we feel that consultation should be qualified in terms of making adequate information available to those who are concerned so that decisions are made on the basis of the best available information.

MR. REGALADO: Yes.

MR BENNAGEN: That is the meaning we have here.

MR. REGALADO: Yes, as the Committee originally intended the word "consultation" to mean.

MR. BENNAGEN: Thank you, Madam President.

MR. BENGZON: Will the Gentleman read the amendment again, please?

MR. REGALADO: The last sentence of Section 12 will read: "No resettlement of urban or rural dwellers shall take place without consultation with THEM AND the communities WHERE THEY ARE to be relocated."

MS. NIEVA: We accept the amendment, Madam President.

THE PRESIDENT: What happens to the last phrase?

MS. NIEVA: The last phrase — "and their involvement in its planning and implementation" — was already eliminated.

THE PRESIDENT: That was eliminated already.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Before we put the matter to a vote, will the proponent yield to an amendment as a consequence of the Davide amendment? So, the sentence will read: "No resettlement of urban AND rural POOR dwellers. . ." This is in consonance with line 1.

MR. REGALADO: The amendment is accepted.

MR. BENNAGEN: May I just say something?

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: We may not have to qualify rural dwellers with the adjective "POOR" because in cases where there is massive relocation, like relocations brought about by construction of dams, even those who are not really rural poor are included.

MR. SARMIENTO: With that explanation, I withdraw my amendment.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: To avoid the repetition of the word "urban" or "rural," will Commissioner Regalado accept an amendment to his amendment which will read: "No resettlement OF SUCH dwellers." Thus, we eliminate the words "urban or rural" and insert SUCH.

MR. REGALADO: That amendment is accepted insofar as I am concerned but that is the wording of the Committee so I think they should be consulted.

MR. SARMIENTO: Madam President, we go back to the same problem because if we say SUCH, we referring to "urban and rural poor dwellers." So, I think we should retain "urban and rural dwellers."

MR. MAAMBONG: I agree.

MS. NIEVA: Madam President, we retain the original phraseology.

THE PRESIDENT: So, what we have now is the Regalado amendment.

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

MR. RAMA: Madam President, there are no more registered proponents of amendments to this provision, so may I ask that we take a vote on the whole provision.

THE PRESIDENT: Will the Chairman now read Section 12.

MS. NIEVA: Section 12 now reads as follows: "Urban and rural poor dwellers shall not be evicted nor their dwellings demolished except in accordance with law and in a just and humane manner. No resettlement of urban and rural dwellers shall take place with adequate consultation with them and with the communities where they are to be relocated."

THE PRESIDENT: Is there any objection to Section 12 as read by the honorable Chairman of Committee on Social Justice?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I heard the Committee Chairman reading "urban and rural dwellers." It should be "or."

BISHOP BACANI: Madam President, just for verification. Do the records show the words "without consultation" or "without adequate consultation"?

THE PRESIDENT: "Without adequate consultation."

BISHOP BACANI: Thank you.

VOTING

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

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

The results show 34 votes in favor, 1 against and no abstention; Section 12 is approved.

MR. RAMA: Madam President, I ask that Commissioner Nollado be recognized to amend Section 13 which is now Section 12 under the subtitle "health."

THE PRESIDENT: Commissioner Nollado is recognized.

MR. MONSOD: Madam President.

THE PRESIDENT: What is the pleasure of Commissioner Monsod?

SUSPENSION OF SESSION

MR. MONSOD: We had deferred considering the last two paragraphs of the section on labor. Since Commissioner Aquino is back, may we go back there, with the indulgence of Commissioner Nollado?

Madam President, may we have a suspension of the session to organize ourselves?

THE PRESIDENT: The session is suspended.

It was 4:37 p.m.

RESUMPTION OF SESSION

At 5:14 p.m., the session was resumed with the Honorable Regalado Maambong presiding.

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

Mr. Floor Leader, will you kindly indicate where we are now.

MR. RAMA: Mr. Presiding Officer, there is a request from the Committee that Commissioner Aquino be recognized.

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

MS. AQUINO: Mr. Presiding Officer, by now the body should have been furnished with copies of the reformulated section on labor, pertaining to Section 3. May I be allowed to read it while we are waiting for the xerox copies?

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

MS. AQUINO: The reformulation would account for a reformatting by way of completing the paragraphs instead of mere enumerations, and some transpositions which would best define the concepts.

Section 3 reads: "The State shall afford EVERY protection to labor and promote full employment and equality of employment opportunities FOR ALL.

It shall guarantee the rights of ALL workers to self-organization, collective bargaining and negotiations, peaceful and concerted activities including the right to strike in ACCORDANCE WITH LAW. THEY SHALL BE ENTITLED TO SECURITY OF TENURE, just and humane conditions of work, A LIVING WAGE, and TO PARTICIPATE IN the policy and decision-making PROCESSES affecting their rights and benefits AS MAY BE PROVIDED BY LAW.

The State shall promote THE PRINCIPLE OF SHARED RESPONSIBILITY BETWEEN WORKERS AND EMPLOYERS IN settling THEIR disputes THROUGH THE USE OF VOLUNTARY MODES, INCLUDING CONCILIATION, AND THE ENFORCEMENT OF THEIR MUTUAL COMPLIANCE THEREWITH.

THE STATE shall regulate THE RELATIONS BETWEEN WORKERS AND EMPLOYERS, RECOGNIZING, FOREMOST, the right of labor to its just share and the right of BUSINESS ENTERPRISES to reasonable returns on investments, EXPANSION AND GROWTH."

This reformulation took off basically from what we had voted upon in subparagraphs (a) and (b) of Section 3, and we have incorporated the proposed amendments of Commissioners Azcuna, Foz, Colayco, Regalado and the Committee.

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: Before the suspension of the session, I was on this last paragraph where I was supposed to introduce an amendment, but we had to wait for the reformulation. With respect to this last paragraph, on the third sentence thereof, I am proposing an amendment by insertion of the word EQUIVALENT between the words "the" and "right" to read: "share and the equivalent right of business enterprises to reasonable returns."

The reason for this is that the original draft stated the corresponding rights, which are very vague and ambiguous. Then I noticed that the word "corresponding" was eliminated and that the words "the right" were simply put. In the case of labor, it is stated that it must be "RECOGNIZING, FOREMOST, the right of labor to its just share." To put this on an equipoise, since all persons should be equal before the law, I propose this amendment: "and the EQUIVALENT right of business enterprises to reasonable returns on investments . . ."

THE PRESIDING OFFICER (Mr. Maambong): Before the Committee responds, we would like to know from Commissioner Aquino if there is a reformulation of paragraphs (c) and (d) because I think Commissioner Regalado is now proposing to amend paragraph (d).

MS. AQUINO: Yes, Mr. Presiding Officer. There is a reformulation of the two paragraphs.

MR. REGALADO: I am using the reformulated draft as furnished me.

THE PRESIDING OFFICER (Mr. Maambong): Is it the reformulated draft he is using now?

MS. AQUINO: Yes, Mr. Presiding Officer. But there are some minor corrections. The omission of the word "corresponding" was not intended; it must have been a typographical error.

MR. DE CASTRO: Mr. Presiding Officer, may we be furnished a copy? We are just guessing here.

THE PRESIDING OFFICER (Mr. Maambong) : Even the Chair is waiting for its copy. In the meantime, may we just proceed, Commissioner Regalado?

MR. REGALADO: Yes. Since Commissioner Aquino said that the word "corresponding" should have been there, I am proposing the change to "EQUIVALENT right" because "corresponding right" is very vague; there can be no corresponding right of capital, shall we say, capital vis-a-vis labor. So, I am proposing "the EQUIVALENT right" on the part of capital also to realize its growth potential. Equivalent does not mean equal.

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

Commissioner Bacani is recognized.

BISHOP BACANI: The understanding then is that the meaning is not equal. We prefer the word "corresponding," I believe, because we do not wish to speak in terms of equality here nor we do not deny equality. You do not compare an orange to an apple, and say it is equal to an apple. As you can see, the terms are not completely parallel. We are vindicating almost the right of labor to its just share and what is said regarding the right of business enterprises is to reasonable returns on investments, expansion and growth. So we are not speaking of two completely equivalent things. That is why we used the word "corresponding."

MR. REGALADO: As I said, the word "equivalent" does not mean equal because you cannot equalize rights

pertaining to different antecedents because "corresponding" is a little too vague. Just what is meant by "corresponding rights"?

THE PRESIDING OFFICER (Mr. Maambong): Is the Committee accepting the amendment or not?

MS. AQUINO: Mr. Presiding Officer, we would rather submit it to the body for a decision.

REV. RIGOS: Mr. Presiding Officer.

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

REV. RIGOS: Do I understand that the word "FOREMOST" here refers to the right of labor to its just share or also to the right of business enterprises?

THE PRESIDING OFFICER (Mr. Maambong): Will the Committee respond?

MS. AQUINO: If the Gentleman would read the paragraph, when we say that the State shall regulate, the reference to the "FOREMOST" right means that the guiding or the polar star in the regulation of the State regarding the relationship between workers and employers is the primacy of labor.

REV. RIGOS: Probably a comma (,) should be inserted after "share" to make it clear that "FOREMOST" is intended to refer to the right of labor to its just share.

MS. AQUINO: Yes, Mr. Presiding Officer, we accept the amendment.

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

MR. RAMA: Mr. Presiding Officer, there is another amendment to the same subsection. May I ask that Commissioner Sarmiento be recognized?

THE PRESIDING OFFICER (Mr. Maambong): Just a moment, Mr. Floor Leader. There is a pending proposed amendment of Commissioner Regalado. Will Commissioner Regalado rephrase the amendment so that the body will know?

MR. REGALADO: The entire paragraph will read:

"THE STATE shall regulate the RELATIONS BETWEEN WORKERS AND EMPLOYERS, RECOGNIZING, FOREMOST, the right of labor to its just share, and the EQUIVALENT right of BUSINESS ENTERPRISES to reasonable returns on investments, EXPANSION AND GROWTH."

THE PRESIDING OFFICER (Mr. Maambong): The proposed amendment is to change the word "corresponding" to "EQUIVALENT"?

MR. REGALADO: Yes, Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I would like to propose an amendment to the proposed amendment.

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

MR. DAVIDE: On the second line, instead of "labor" it should be WORKERS; that is, "the right of WORKERS," then change "its" to THEIR. On the third line, change "business enterprises" to EMPLOYERS. So, the provision will now read: "THE STATE shall regulate THE RELATIONS BETWEEN WORKERS AND EMPLOYERS,

RECOGNIZING, FOREMOST, the right of WORKERS to THEIR just share and the right of EMPLOYERS to reasonable returns . . ."

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

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MS. AQUINO: Mr. Presiding Officer, the Committee prefers the retention of the word "labor" because of its positive connotation of a capability for force. Besides, it is a generally accepted and settled usage in labor and management relations that you would refer to workers as "labor."

MR. DAVIDE: This is just to harmonize it with the first line. We speak of the relations between workers and employers. It did not speak of the relations between labor and capital.

MR. REGALADO: Mr. Presiding Officer, likewise in the preceding paragraph, it also speaks of workers and employers.

MR. DAVIDE: Yes.

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MS. AQUINO: There might be a problem of conceptual symmetry here. When we say "reasonable returns on investments, EXPANSION AND GROWTH," we usually refer to business enterprises, not to employers.

MR. DAVIDE: What about, say, a single proprietorship? We do not consider it as a business enterprise; so, it is an individual employer.

MS. AQUINO: It could be included, Mr. Presiding Officer. It may be a generic reference to all kinds of businesses.

MR. DAVIDE: If the idea is to harmonize the concept, it should be relations between labor and capital. The first sentence should read: "THE STATE shall regulate THE RELATIONS BETWEEN LABOR AND CAPITAL, RECOGNIZING, FOREMOST, the right of labor to its just share and the right of BUSINESS ENTERPRISES to reasonable returns."

MS. AQUINO: Mr. Presiding Officer, the Committee insists on the retention of the phrase "BUSINESS ENTERPRISES" because "employers" or "capital" has its connotation with reference to money and . . .

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: On the matter of using the term "business enterprises," I am envisioning, for instance, the situation of a sectarian school like the school I am connected with. It is not considered a business enterprise because it is a corporation solely run by the Benedictine community. Yet, they are employers and, in determining the right of labor, do we not also have to take into account the reasonable returns on investments, expansion and growth of that academic community? Otherwise, they will be out of the concept of "business enterprises," because they are not primarily designed for business. So, I think the generic terms of "employers" and "employees, as used in the opening line of that last paragraph and in the next preceding paragraph, do not make only for a symmetrical formulation; they are broad enough to cover the relations between the so-called labor and the so-called capital. So, we use the word "employers" because they are not necessarily capital-or revenue-or profit-oriented.

MR. AZCUNA: Mr. Presiding Officer.

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

MR. AZCUNA: Would Commissioner Regalado accept PRIVATE ENTERPRISE instead of "employers" so that the provision will read: "AND THE CORRESPONDING OR EQUIVALENT RIGHT OF PRIVATE ENTERPRISE to reasonable returns on investments, EXPANSION AND GROWTH."

MR. REGALADO: Firstly, that was a proposed amendment to my amendment by Commissioner Rodrigo. I think the question should be addressed to him. I just followed it up for purposes of symmetry.

MR. AZCUNA: I see. What does Commissioner Davide say?

MR. DAVIDE: The amendment is accepted.

THE PRESIDING OFFICER (Mr. Maambong): Will the Committee react now to this present formulation because there seems to be an acceptance of Commissioner Davide to the word suggested by Commissioner Azcuna?

BISHOP BACANI: Mr. Presiding Officer, if we use "PRIVATE ENTERPRISE," how about government enterprises? Are they employers?

MR. AZCUNA: The government has no right to a return on its investment for public service. So, it has no right.

THE PRESIDING OFFICER (Mr. Maambong): Could we perhaps resolve this issue if both Commissioner Davide and Commissioner Regalado will approach the Committee and formulate whatever suggestions they have? They have been saying so many words and I think the body is now confused.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: I wanted to convey the concern that Commissioner Bacani had already stated that the use of the term "private enterprise" might prejudice the right to the same protection under this section of various classes of workers and employees in government enterprises and in the public service itself.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): The Chair declares a suspension of the session.

It was 5:30 p.m.

RESUMPTION OF SESSION

At 5:35 p.m., the session was resumed.

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

The Floor Leader is recognized.

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

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

MR. REGALADO: Mr. Presiding Officer, I think the position of the Committee is that they will use the phrase "the right of labor to its just share and the right of ENTERPRISES to reasonable returns." So, the word "enterprises," taking away the word "business," will cover all possible enterprises not necessarily for business.

THE PRESIDING OFFICER (Mr. Maambong): For the benefit of the other Members of the Commission let us take it up one by one. We are now on the fourth paragraph. The first line states: "THE STATE shall regulate THE RELATIONS BETWEEN WORKERS AND . . ." Does the Gentleman have any amendment there?

MR. REGALADO: None, Mr. Presiding Officer.

The next line, "labor to its just share," is all right. It is on the third line that I suggested the amendment to eliminate "BUSINESS" such that it will read: "and the EQUIVALENT right of ENTERPRISES to reasonable returns." The reason I put "EQUIVALENT right of ENTERPRISES" is to put it as an equipoise with the word "FOREMOST" on the second line as insisted upon by the Committee.

THE PRESIDING OFFICER (Mr. Maambong): Will the Committee now indicate what amendatory word has been accepted by the Committee and what amendatory word has not been accepted?

MS. AQUINO: The Committee has accepted the substitution of the word "LABOR" in place of the word "WORKERS" and ENTERPRISES in place of the term "BUSINESS ENTERPRISES." However, the proposed amendment to substitute the word "EQUIVALENT" for "corresponding" is not acceptable to the Committee. We would submit it to the body for a vote.

May the Committee be allowed to explain? It is the shared sentiment that the substitution of the word "corresponding" with "EQUIVALENT" would effectively reduce the potency of the word "FOREMOST."

THE PRESIDING OFFICER (Mr. Maambong): Is Commissioner Regalado insisting on his amendment of adding the word "EQUIVALENT"?

MR. REGALADO: Yes, to be voted upon by the body, because of their insistence on putting the word "FOREMOST" insofar as labor is concerned.

MR. RODRIGO: Mr. Presiding Officer.

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

MR. RODRIGO: Is "EQUIVALENT" or "CORRESPONDING" the word to be inserted?

MR. REGALADO: The amendment of the Committee omitted the word "appropriate" in the drafting.

MS. AQUINO: "Corresponding."

MR. RODRIGO: "Corresponding."

MR. REGALADO: Lack of "corresponding."

MR. RODRIGO: I am asking whether the amendment of Commissioner Regalado is to insert the word "EQUIVALENT."

MR. REGALADO: "EQUIVALENT right" instead of "corresponding right."

THE PRESIDING OFFICER (Mr. Maambong): We will take this up one by one. Will the Committee now indicate again the amendatory word of Commissioner Regalado which has been accepted so that we do not have to put that to a vote?

MS. AQUINO: The last paragraph, as amended, reads: "THE STATE shall regulate THE RELATIONS BETWEEN WORKERS AND EMPLOYERS, RECOGNIZING, FOREMOST, the right of labor to its just share, and the corresponding right of ENTERPRISES to reasonable returns on investments, EXPANSION AND GROWTH."

THE PRESIDING OFFICER (Mr. Maambong): That is acceptable now to the Committee.

MS. AQUINO: Yes, Mr. Presiding Officer.

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

We will go now to the word "EQUIVALENT." Will the Committee indicate again where that word is supposed to be inserted?

MS. AQUINO: On the penultimate line of the fourth paragraph, between the words "the" and "right," there is supposed to be the word "corresponding." The omission is a typographical error and now Commissioner Regalado seeks to delete this word and substitute the word "EQUIVALENT."

VOTING

THE PRESIDING OFFICER (Mr. Maambong): The Chair will now put it to a vote.

As many as are in favor of the insertion of the word "EQUIVALENT" between the words "the" and "right" on the third line of the last paragraph of this draft, please raise their hand. (Few Members raised their hand.)

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

The results show 13 votes in favor and 20 against; the proposed amendment is lost.

MS. AQUINO: Mr. Presiding Officer.

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

MS. AQUINO: There is another typographical error on the second line of paragraph 3. There was an omission of the word PREFERENTIAL before the word "use."

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: If that is a committee amendment, I would like to propose an amendment. Between the words "employers" and "and" on the third paragraph, insert the following: AND THE PREFERENTIAL USE OF VOLUNTARY MODES; then on the second line, add s to "dispute" and delete the words "through the." On the third line, delete the words "use of voluntary modes," so that the entire paragraph will read: "The state shall promote the principle of shared responsibility between workers and employers AND THE PREFERENTIAL USE OF VOLUNTARY MODES in settling their disputes, including conciliation, and enforcement of their mutual compliance therewith."

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MS. AQUINO: The Committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Maambong): The amendment as proposed by Commissioner Davide has been accepted by the Committee.

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

Commissioner Sarmiento is recognized.

MR. SARMIENTO: Mr. Presiding Officer, my amendment is an amendment by addition. This is coauthored by

Commissioner Foz.

After the word "share," add the words: IN THE FRUITS OF PRODUCTION.

THE PRESIDING OFFICER (Mr. Maambong): Will the Gentleman kindly indicate the paragraph.

MR. SARMIENTO: On the fourth paragraph, add the words IN THE FRUITS OF PRODUCTION. May I briefly explain?

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

MR. SARMIENTO: The words "just share" seem incomplete; they could mean just share in the ownership, management and profit of enterprise.

MR. BENGZON: We accept the amendment.

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

THE PRESIDING OFFICER (Mr. Maambong): The proposed amendment of Commissioner Sarmiento has been accepted by the Committee.

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

Commissioner Padilla is recognized.

MR. PADILLA: On lines 2 and 3 of paragraph 4, I suggest that we eliminate "foremost" and "corresponding." There are some adjectives that are meaningful like "preferential." The words "foremost" and "corresponding" do not seem to add any substance.

THE PRESIDING OFFICER (Mr. Maambong): The Chair does not understand the proposed amendment of Commissioner Padilla. What specifically is the Gentleman's proposed amendment?

MR. PADILLA: On lines 2 and 3, eliminate "foremost" and "corresponding."

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MS. AQUINO: The Committee regrets that it cannot accept the amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The Committee does not accept the proposed amendment. Does the Gentleman insist on a vote?

MR. PADILLA: May I explain briefly my amendment and then I ask for a vote. The sharing of responsibility and likewise the sharing of the benefits of industrial peace are rights not only of labor but also of the enterprise. Actually, if the enterprise does not earn or realize profits as reasonable returns on investments, if there are no profits or net income, then there can hardly be any basis for the share of labor in the fruits of production. They are joint rights, concomitant, mutually dependent on each other. So, I feel that the adjectives or the words "foremost" and "corresponding" do not add to the real intent of more productivity, which we fervently expect from industrial peace. Both factors should derive enough earnings or profits for reasonable returns to capital and a just share to labor. When the word "just" justifies "share," that is meaningful; but the adjectives "foremost" and "corresponding" do not add any substantial significance.

BISHOP BACANI: Mr. Presiding Officer.

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

BISHOP BACANI: This has a psychological impact I believe. In actual situations when, for example, the price of

raw materials is raised, the enterprises easily accept that, but they would not so easily raise the price of labor or the salaries of workers. This is the last thing they will accept to raise. In other words, the primacy of the human component is in practice not actually recognized; that is why it is important to indicate that it is foremost.

THE PRESIDING OFFICER (Mr. Maambong): Is the Committee now prepared to submit the matter to a vote?

MR. PADILLA: Mr. Presiding Officer.

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

MR. PADILLA: I cannot fully agree that this is only for psychological effect because we must be realistic.

BISHOP BACANI: That is part of reality — the psychology of people: the way they react, the way they look at things.

VOTING

THE PRESIDING OFFICER (Mr. Maambong): Shall we now put the amendment to a vote?

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 18 votes in favor and 17 against; the proposed amendment is approved.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: I ask that Commissioner Davide be recognized to present an amendment.

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

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

This is a very simple amendment. On Section 13 instead of "EVERY" before "protection," use the word FULL.

MS. AQUINO: We accept the amendment.

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

MS. QUESADA: Mr. Presiding Officer.

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

MS. QUESADA: I would like to propose an amendment to this.

MR. DE CASTRO: Mr. Presiding Officer, we did not understand the amendment of the Gentleman. We were looking at Section 13 but the proceedings were so fast. It does not matter to me anyway.

THE PRESIDING OFFICER (Mr. Maambong): For the information of Commissioner de Castro, on Section 13, line 1, what was sought to be amended and what was accepted by the committee is the change of the word "every" to FULL. It was already approved.

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: I think a little confusion arises here because of the fact that there is a typographical error — instead of Section 13, it should be Section 3. So, the other Commissioners are looking at the end of the Article while we are referring to Section 3.

THE PRESIDING OFFICER (Mr. Maambong): The Chair corrects itself; it should be Section 3.

The Floor Leader is recognized.

MR. RAMA: For the last amendment to Section 3, I ask that Commissioner Foz be recognized.

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

MR. FOZ: Mr. Presiding Officer, this is an amendment that seeks to add a phrase after the word "therewith" on the third paragraph. The words to be inserted are: IN THE PROMOTION OF INDUSTRIAL PEACE.

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MS. AQUINO: We accept the amendment, except that it might sound a bit awkward because the word "promote" appears already in the beginning of the sentence. But in principle, we accept the proposed amendment.

MS. ROSARIO BRAID: Mr. Presiding Officer.

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

MS. ROSARIO BRAID: Would Commissioner Foz accept an amendment to his amendment? Instead of "PROMOTION," how about the word ACHIEVEMENT so there will be no redundancy. So it will read: "IN THE ACHIEVEMENT OF INDUSTRIAL PEACE."

MR. FOZ: "IN THE REALIZATION OF INDUSTRIAL PEACE."

THE PRESIDING OFFICER (Mr. Maambong): So the word now is "REALIZATION." What does the Committee say?

MS. AQUINO: We accept the amendment.

THE PRESIDING OFFICER (Mr. Maambong): The proposed amendment is accepted.

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

The Floor Leader is recognized.

MR. RAMA: There are no more proponents of amendments to Section 3, so I ask that a vote be taken on the whole Section 3 after its reading.

MR. ROMULO: May we ask the high-speed train to slow down a bit because the Committee has some suggestions.

MS. QUESADA: Mr. Presiding Officer, I would like to propose an amendment which has been accepted by the members of the Committee and that is, to bring back the original provision which reads: "The State shall afford FULL protection to labor, LOCAL AND OVERSEAS, ORGANIZED AND UNORGANIZED, and promote full employment and equality of employment opportunities for all."

In the public hearing the problems of unorganized as well as of the overseas or migrant workers have often been mentioned. The reason we did not have any special section for this particular group is because of this one statement that would already cover the concern for these particular members of the labor sector. So as we had

already provided such protection to fishermen and to farmworkers, I believe . . .

MR. FOZ: Mr. Presiding Officer.

MR. JAMIR: Parliamentary inquiry. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Quesada was just about to finish her sentence; will the Commissioner continue.

MS. QUESADA: As I was saying, we have already provided a special provision for fishermen, and the inclusion of this particular provision would already put the stress that we are considering the plight of the unorganized and overseas workers.

This was in the original provision but was deleted because of the demand for brevity. I have appealed and the Committee has reconsidered this particular provision.

MR. JAMIR: Mr. Presiding Officer.

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

MR. JAMIR: May I know whether that is a reconsideration?

THE PRESIDING OFFICER (Mr. Maambong): The Floor Leader will respond to that because it is the recollection of the Chair that this first sentence has already been approved. Will the Floor Leader please respond to the parliamentary inquiry of Commissioner Jamir?

MR. RAMA. It seems that there needs to be a motion for reconsideration.

MR. FOZ: Mr. Presiding Officer, before we go into such a motion for reconsideration, I would like to go back to a previous amendment which was accepted by the Committee regarding the phrase "in the realization of industrial peace." I think the more proper word is INTEREST.

THE PRESIDING OFFICER (Mr. Maambong): Just a moment, please. Let us put everything in order. The phrase "in the realization of industrial peace" has been accepted by the Committee and since nobody objected, it was approved by the body. So, the Gentleman is now asking for a reconsideration of the approval of his amendment, "in the realization of industrial peace."

MR. FOZ: Yes, Mr. Presiding Officer, and this has the clearance of the Committee. I would like to change the word "realization" to "FURTHERANCE of industrial peace."

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MS. AQUINO. For a while, we are trying to agree on the alternative formula.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): The Chair declares a suspension of the session.

It was 5:59 p.m.

RESUMPTION OF SESSION

At 6:00 p.m., the session was resumed.

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

Is it the understanding of the Chair, Commissioner Foz, that in the approved amendment on paragraph 3 which reads "in the realization of industrial peace," the Commissioner would wish to amend the word "realization" to some other word?

MR. FOZ: The amendment is to change the phrase "in the realization of industrial peace" to the following phrase: "TO FOSTER industrial peace."

May we know the reaction of the Committee?

THE PRESIDING OFFICER (Mr. Maambong): The Chair will now treat this as a primary amendment to an approved amendment.

What does the Committee say?

MS. AQUINO: We accept the amendment.

THE PRESIDING OFFICER (Mr. Maambong): The proposed amendment is accepted.

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

The Floor Leader is recognized.

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

MR. JAMIR: I have a parliamentary inquiry, Mr. Presiding Officer.

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

The Floor Leader will please respond once more to the parliamentary inquiry.

MR. RAMA: What is the parliamentary inquiry?

MR. JAMIR: My parliamentary inquiry is whether the statement of Commissioner Quesada is a motion for reconsideration.

MS. AQUINO: Mr. Presiding Officer.

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

MS. AQUINO: The Committee volunteers to answer the question. If the Gentleman remembers, yesterday when we decided to vote on paragraphs (a) and (b) of Section 3, they were subject to the proposed recasting by Commissioner Colayco.

MR. JAMIR: So, this is not a reconsideration.

MS. AQUINO: This is not a reconsideration. The Committee, on its own initiative, recasted the whole paragraphs in cooperation with some of the Commissioners who have shown interest in this particular section, and the omission originally agreed upon is now being subjected to another amendment.

MR. JAMIR: But I understand that we have already approved the first paragraph.

MS. AQUINO: We did. But if I remember correctly, it was subject to recasting.

MR. JAMIR: In that case, Mr. Presiding Officer, I am making it of record that I will file a motion for reconsideration of the second sentence of Section 5. I voted in favor of this and tomorrow, at the opportune time, I will ask for a reconsideration so that I may be able to introduce my amendment.

THE PRESIDING OFFICER (Mr. Maambong): The Chair takes note of that reservation.

Commissioner Aquino is recognized.

MR. JAMIR: Thank you.

MS. AQUINO: The particular reservation on the recasting by Justice Colayco pertained only to Section 3. But the Gentleman filed a motion for reconsideration.

MR. JAMIR: But I am now making it of record my right to ask for a reconsideration of the second sentence of Section 5 because I voted in favor of that.

MS. AQUINO: That is independent of the proceedings on Section 3.

MR. JAMIR: Yes, that is independent; that is different.

MS. AQUINO: Yes, I was confused because the Gentleman mentioned it immediately after our deliberations on Section 3.

MR. JAMIR: No, I am afraid that the hour is quite late, that is why I rushed to make of record my motion for reconsideration.

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

THE PRESIDING OFFICER (Mr. Maambong): That reservation, Commissioner Jamir, has already been noted by the Chair. We will now address ourselves to the proposed amendment on the first paragraph of Section 3 to add, after the word "labor" on the first line, "LOCAL AND OVERSEAS, ORGANIZED AND UNORGANIZED" and a comma (.). Is that the correct amendment, Commissioner Quesada?

MS. QUESADA: "The State shall afford FULL protection to labor, LOCAL AND OVERSEAS, ORGANIZED AND UNORGANIZED, and promote full employment and equality of employment opportunities for all."

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MR. SARMIENTO: Mr. Presiding Officer, in support of Commissioner Quesada's manifestation, I move for the reconsideration of Section 3 to incorporate all her amendments.

THE PRESIDING OFFICER (Mr. Maambong): It has already been clarified by Commissioner Aquino that there was merely a recasting of the section; so, there is no need for a reconsideration.

MR. SARMIENTO: Then I withdraw my motion, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The motion for reconsideration is withdrawn.

What does the Committee say to the proposed amendment of Commissioner Quesada?

MS. AQUINO: Yes, we accept the proposed amendment.

THE PRESIDING OFFICER (Mr. Maambong): The proposed amendment is accepted by the Committee.

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

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, there are no more registered amenders to this section and I do not think there are suggestions from the Committee; so, I ask that we take a vote on the whole Section 3.

MR. GASCON: I would like to make a clarification on the second paragraph of Section 3.

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

MR. GASCON: Just for the record, as we approved it last Wednesday, on the third line of the second paragraph, after "wage," the body approved a period (.) and the phrase "they shall also participate." To make it clear, the last phrase of that sentence only refers to participation in policy- and decision-making and not to "the security of tenure, just and humane conditions, and the living wage." This was approved by a vote of 35 in favor and 2 against. This was the Bernas amendment.

THE PRESIDING OFFICER (Mr. Maambong): Will anybody respond to that statement of Commissioner Gascon?

MS. AQUINO: The Committee accepts the amendment. It is a matter of restyling.

THE PRESIDING OFFICER (Mr. Maambong): We are now ready to put the whole Section 3 to a vote. For the benefit of all the Members, I would suggest that one of the Committee members, who is in complete possession of all the amendments, read the whole Section 3.

MR. FOZ: Mr. Presiding Officer.

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

MR. FOZ: This is a minor point but it is important. On paragraph 2, line 3, after "activities," there should be a comma (,).

THE PRESIDING OFFICER (Mr. Maambong): The Gentleman is presenting a perfecting amendment by adding a comma (,)?

MR. FOZ: There was an amendment in the previous draft.

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MS. AQUINO: The Committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Maambong): Is there any objection to that perfecting amendment? (Silence)
The Chair hears none; the amendment is approved.

Will the Committee please read the whole Section 3 so that everybody will understand before we take a vote.

MS. AQUINO: "The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

"It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, peaceful and concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

"The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes including conciliation, and the enforcement of their mutual compliance therewith to foster industrial peace.

"The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, expansion and growth."

VOTING

THE PRESIDING OFFICER (Mr. Maambong): As many as are in favor of the whole Section 3, 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 34 votes in favor and none against; the whole Section 3 is, approved.

MR. COLAYCO: May I explain my vote of yes.

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

COMMISSIONER COLAYCO EXPLAINS HIS VOTE

MR. COLAYCO: I am constrained to vote yes because I agree with the main thrust of this section. But I want to make it of record that I still believe we are too profligate and generous with words.

Thank you.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: We now move on to Section 13 as denominated under the subtitle "Health."

MS. AQUINO: Mr. Presiding Officer.

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

SUSPENSION OF SESSION

MS. AQUINO: The Committee requests a suspension of session.

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

It was 6:11 p.m.

RESUMPTION OF SESSION

At 6:16 p.m., the session was resumed.

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

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, there is a consensus among the Commissioners that we jump to the section under the subtitle "Women."

May I ask that the foremost expert in women, Commissioner Romulo, be recognized.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Romulo, the expert in women, is recognized. (Laughter)

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

My amendment is to combine Sections 16 and 17 to read as follows: "The State shall PROTECT THE working

women by providing SAFE AND HEALTHFUL working conditions, PARTICULARLY RELATING to their maternal functions, AND SUCH facilities AS will RELEASE THEIR ENERGIES AND TALENTS FOR the service of the NATION."

MS. AQUINO: The Committee joyfully accepts the amendment.

MR. BENGZON: We accept the amendment.

THE PRESIDING OFFICER (Mr. Maambong): The Chair would like a clarification first. On the fourth line of the draft, the Commissioner has "AND SUCH FACILITIES AS WILL LIBERATE"; the Gentleman changed it to another word.

MR. ROMULO: Yes, because Commissioners such as Commissioners Regalado, Ople and Azcuna have contributed to the metamorphosis of this paragraph.

THE PRESIDING OFFICER (Mr. Maambong): So, instead of "LIBERATE," what is it now?

MR. ROMULO: "RELEASE."

MR. OPLE: Will the proponent accept a minor amendment?

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

MR. ROMULO: I will consider it.

MR. OPLE: "The State shall PROVIDE FACILITIES TO RELEASE THE ENERGIES AND TALENTS." Is it facilities or opportunities that release energies and talents?

MR. ROMULO: I took it from the draft of the Committee, and it said "facilities." I myself am not sure what those facilities consist of. (Laughter) But the Committee has accepted my amendments so may I refer it to the Committee?

MS. ROSARIO BRAID: Mr. Presiding Officer.

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

MS. ROSARIO BRAID: May I just make an amendment to the amendment and that is by including a phrase that will accommodate the disadvantaged women. This provision is for working women and although many women are marginalized, there are some who are more marginalized than others; namely, the illiterates, particularly in terms of working conditions.

THE PRESIDING OFFICER (Mr. Maambong): Where does Commissioner Rosario Braid propose to insert the word "DISADVANTAGED"?

MS. ROSARIO BRAID: "Working women" usually connotes working in the formal economy. There are illiterates.

THE PRESIDING OFFICER (Mr. Maambong): The Committee has accepted the proposed amendment of Commissioner Romulo. But probably, we should first dispose of the proposed amendment of Commissioner Rosario Braid. What does the Committee say to that?

MS. AQUINO: The Committee believes that it is an unnecessary surplusage and we regret that we cannot accept it.

MS. ROSARIO BRAID: "Working women" usually connotes working in the formal economy. There are many

women who do not really work in the formal workplace. They are marginalized and we would like to include them.

THE PRESIDING OFFICER (Mr. Maambong): The Committee which has accepted the proposed amendment of Commissioner Romulo does not seem to be in favor of accepting Commissioner Rosario Braid's proposed amendment to the amendment.

Will the Commissioner insist on her amendment?

MS. ROSARIO BRAID: I would not mind if we are able to come up with a provision that will really address itself to the marginalized women where the concern is more than just providing them safe and healthful conditions.

THE PRESIDING OFFICER (Mr. Maambong): The Chair suggests that we first dispose of the primary amendment after which we can probably take up the amendment to the amendment.

The parliamentary situation is that we have a proposed amendment which has been accepted by the Committee.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: May I return to my previous remark which has the embryo of a proposed amendment. I thought that to complete the sense of the sentence, I could invite the Committee to consider adding AND OPPORTUNITIES after "facilities" so that it will read: "facilities AND OPPORTUNITIES AS will RELEASE THEIR ENERGIES AND TALENTS."

THE PRESIDING OFFICER (Mr. Maambong): Will the Committee respond to that?

MR. SARMIENTO: Mr. Presiding Officer, before the Committee responds, will Commissioner Ople yield to an amendment to his amendment?

Instead of using "RELEASE," we use ENHANCE so that it will read: "ENHANCE THEIR ENERGIES AND TALENTS."

MR. OPLE: The enhancement is an additive in order to improve without changing.

MR. SARMIENTO: What about RELEASE AND ENHANCE?

MR. OPLE: Yes, it will diminish the meaning of "release." (Laughter)

THE PRESIDING OFFICER (Mr. Maambong): Perhaps we should present that formulation to the Committee because this amendment has already been accepted by the Committee and it is actually in its jurisdiction.

What does the Committee say to the proposed amendment of Commissioner Sarmiento?

MS. AQUINO: We would like the advice of the original proponent, Commissioner Romulo, on this matter.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Sarmiento is recognized while Commissioner Romulo is still busy with something else.

THE PRESIDENT: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The President is recognized.

THE PRESIDENT: May I just offer a comment. I do not see why we will need these facilities to release our

energies. Our energies are there but these facilities will enhance or, in other words, make our energies perhaps more productive. But "ENHANCE," I believe is a better word than "RELEASE."

MR. SARMIENTO: Besides, Mr. Presiding Officer, the word "RELEASE" has a malicious connotation.

THE PRESIDENT: I support that statement Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The parliamentary situation is that the proposed amendment to change the word "RELEASE" to "ENHANCE" has been presented by the Chair to the Committee but the Committee threw it back to the proponent, Commissioner Romulo. So we will now hear from Commissioner Romulo who will give us the right interpretation.

MS. NIEVA: Mr. Presiding Officer, may I address a question to the proponent of the amendment?

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Nieva may proceed.

MS. NIEVA: Does the Commissioner prefer releasing whatever energies to promoting the welfare and well-being of women.

MR. ROMULO: I was trying to compress the two ideas. Actually, my original wording was "LIBERATE."

MS. NIEVA: But how about the welfare and well-being of women? Is it still encompassed?

MR. ROMULO: How about "HARNESS THEIR ENERGIES AND TALENTS"?

MS. NIEVA: I do not know. I am not so concerned about the energies and talents; I think the welfare and well-being of women is more important since this is a social justice provision. It is my personal feeling that we placed this provision to protect the welfare and well-being of women and not so much to harness their talents and capabilities for nation-building. The protection of the welfare and well-being of women, for me, is basic.

THE PRESIDING OFFICER (Mr. Maambong): May the Chair ask a clarification on that? The proponent does not accept the change of the word "RELEASE" to "ENHANCE."

SUSPENSION OF SESSION

MR. ROMULO. Mr. Presiding Officer, may we ask for a suspension of the session?

THE PRESIDING OFFICER (Mr. Maambong): The session is suspended for one minute.

It was 6:27 p.m.

RESUMPTION OF SESSION

At 6:31 p.m., the session was resumed.

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

Has Commissioner Romulo conferred with the Committee?

MR. ROMULO: Yes, Mr. Presiding Officer. After having released our energies in combination with the Committee, we have agreed on a common amendment. Commissioner Aquino will now read it.

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

MS. AQUINO: The section will read: "The State shall PROTECT THE working women by providing SAFE AND HEALTHFUL working conditions, TAKING INTO ACCOUNT their maternal functions, AND SUCH

facilities AND OPPORTUNITIES THAT will ENHANCE THEIR WELFARE AND WELL-BEING TO REALIZE THEIR FULL POTENTIAL IN the service of the NATION."

THE PRESIDING OFFICER (Mr. Maambong): Has the proponent heard the formulation? Is that what the Commissioner agreed on?

MR. ROMULO: Yes, Mr. Presiding Officer.

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

MR. RAMA: There are no more proponents of any amendments to the section on women. So, I ask that we vote on the whole section.

THE PRESIDING OFFICER (Mr. Maambong): May the Chair know from Commissioner Romulo what would be the numbering of the section now, considering that this is proposed to be the combination of Sections 16 and 17?

MR. ROMULO: Section 17 is now deleted and combined with Section 16.

MR. RAMA: May I ask the Committee to read the full text of Section 16.

THE PRESIDING OFFICER (Mr. Maambong): Will the Committee now read the whole Section 16 for purposes of voting?

MS. NIEVA: "The State shall PROTECT THE working women by providing SAFE AND HEALTHFUL working conditions, TAKING INTO ACCOUNT their maternal functions, AND SUCH facilities AND OPPORTUNITIES THAT will ENHANCE THEIR WELFARE AND WELL-BEING TO REALIZE THEIR FULL POTENTIAL IN the service of the NATION."

THE PRESIDING OFFICER (Mr. Maambong): The Chair is now putting Section 16, as read, to a vote.

Is there any objection? (Silence) The Chair hears none; Section 16 is approved.

The Floor Leader is recognized.

MR. RAMA: Before we adjourn, Mr. Presiding Officer, there is only one proponent of amendments to all the three provisions under the subtitle "Minors." May I ask that Commissioner Davide be recognized?

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

MR. DAVIDE: The second sentence on the section on "Minors" will read as follows: INFANTS, PARTICULARLY ORPHANS AND ABANDONED CHILDREN, ARE LIKEWISE ENTITLED TO THE PROTECTION OF THE STATE.

MR. GASCON: Will Commissioner Davide accept an amendment?

MR. DAVIDE: May I hear it, Mr. Presiding Officer?

MR. GASCON: Delete the word "PARTICULARLY" because orphans and abandoned children may not necessarily be infants.

MR. DAVIDE: The amendment is gladly accepted.

THE PRESIDING OFFICER (Mr. Maambong): What does the Committee say?

MS. NIEVA: We accept the amendment.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Davide, as of the moment, that section will be Section 18. Is that correct?

MR. DAVIDE: Yes, it would be renumbered accordingly. But it will be a new sentence to what appears to be Section 18 under the heading "Minors."

THE PRESIDING OFFICER (Mr. Maambong): The proposed amendment of Commissioner Davide has been accepted by the Committee.

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

MS. NIEVA: Are we to understand that that replaces the whole section?

MR. BENGZON: Was that an additional paragraph or a replacement of the existing provision?

MR. DAVIDE: It is an additional sentence. So, may we request a vote on the whole section.

MS. NIEVA: So, how would the entire section read?

MR. DAVIDE: The entire section will read: "THE STATE SHALL PROVIDE SPECIAL PROTECTION TO MINORS ESPECIALLY WORKING MINORS, AND SHALL PROHIBIT THEIR EXPLOITATION AND INSURE THEIR FULL DEVELOPMENT. INFANTS, ORPHANS AND ABANDONED CHILDREN ARE LIKEWISE ENTITLED TO THE SPECIAL PROTECTION OF THE STATE."

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: Why do we not just combine "SPECIAL" and "ESPECIALLY" and say "THE STATE SHALL PROVIDE SPECIAL PROTECTION TO MINORS, INFANTS . . ."

MR. DAVIDE: So, the Gentleman wants it inserted in the first. So, the provision will read: "THE STATE SHALL PROVIDE SPECIAL PROTECTION TO INFANTS, ORPHANS, ABANDONED CHILDREN AND MINORS, ESPECIALLY WORKING MINORS, AND SHALL PROHIBIT THEIR EXPLOITATION AND INSURE THEIR FULL DEVELOPMENT." That would be only one sentence then.

THE PRESIDING OFFICER (Mr. Maambong): Is that an acceptable formulation to the Committee?

MR. TINGSON: Mr. Presiding Officer.

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

MR. TINGSON: May I just inquire? It seems to me that there is a move all over the world to discourage minors to work. But here we are referring to working minors?

MR. DAVIDE: Yes.

MR. TINGSON: May I please have an explanation?

MR. DAVIDE: Yes, in the Philippines, we still classify persons below 21 as minors, but above 14 or even above 13, they can already work. We would like to give special protection to that age level.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Why do we not just say "MINORS and include working minors, nonworking minors and sick minors?"

Commissioner Davide is recognized.

MR. DAVIDE: There is still a distinction between "minors" and "infants."

MR. MONSOD: No, I am only suggesting that we delete the words "ESPECIALLY WORKING MINORS" because we are already stating "SPECIAL PROTECTION TO" and then enumerate. So, a minor is part of that phrase.

MR. SUAREZ: Mr. Presiding Officer, when the Gentleman speaks of working minors, I suppose we are referring to minors allowed to work under the law.

MR. DAVIDE: Yes.

MR. SUAREZ: Not like an ordinary newsboy, for example, selling newspapers at street intersections.

MR. DAVIDE: That is correct, Mr. Presiding Officer. This would refer, for instance, to those allowed to work in apprenticeship.

MR. SUAREZ: Like in McDonald's, for example.

MR. DAVIDE: We also have to consider minor young girls being abused by some enterprising businessmen in indecent acts or shows. These are the main concerns.

MR. SUAREZ: The Commissioner would not be extending any kind of protection by the State to those newsboys whom we see every morning?

MR. DAVIDE: They would be included because the phrase is "ESPECIALLY WORKING MINORS," meaning to say, that the protection would be to all but special emphasis should be given to working minors.

MR. SUAREZ: Thank you.

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

THE PRESIDING OFFICER (Mr. Maambong): What is the parliamentary inquiry of Commissioner Sarmiento?

MR. SARMIENTO: I understand, Mr. Presiding Officer, that we have a provision on minors and children in the Declaration of Principles. Is this a repetition of that provision? May we be enlightened on this point?

THE PRESIDING OFFICER (Mr. Maambong): I am not particularly aware of that provision in the Declaration of Principles, but perhaps Commissioner Davide could respond to the parliamentary inquiry.

MR. DAVIDE: I understand that if the proposed Declaration of Principles would only be a copy of the 1973 provision that the State shall assist the youth in their social, physical and intellectual development, that would be completely an entirely different concept. It would cover the youth but it is a very broad mandate or principle. This is a specific one.

MR. SARMIENTO: I understand, Mr. Presiding Officer, from the member of the Committee on Declaration of Principles that we have a similar provision. May I ask Commissioner Tingson to enlighten us on this point.

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

MR. TINGSON: I have in my possession the reported section. It reads:

The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution. The State shall equally protect the life of the mother and the life of the unborn from the moment of conception. The natural right and duty of parents in the rearing of the youth for civic efficiency in the

development of moral character shall receive the aid and support of the government.

The last paragraph of Section 10 reads:

The State shall protect children from all forms of neglect, cruelty and exploitation particularly in conditions harmful to their physical, mental or moral well-being.

So, that is covered in our Declaration of Principles.

MR. DAVIDE: My proposal then would be to delete this particular heading and to transfer it to the Declaration of Principles. In other words, we make reservations for possible amendments to the Declaration of Principles and State Policy.

THE PRESIDING OFFICER (Mr. Maambong): The Chair takes note of the intention of Commissioner Davide. But before we present that to the Committee, we have to dispose of the parliamentary inquiry of Commissioner Sarmiento, considering the reading of the provision on minors in the Declaration of Principles. What is now the pleasure of the Gentleman?

MR. SARMIENTO: With that clarification, I withdraw my parliamentary inquiry. It has been completely satisfied.

THE PRESIDING OFFICER (Mr. Maambong): There is now a pending intention of Commissioner Davide or is it a motion to transfer this provision to the Declaration of Principles? We will have to present that before the Committee.

MR. DAVIDE: As an amendment to the proposed section in the Declaration of Principles.

THE PRESIDING OFFICER (Mr. Maambong): This is properly Section 18; it is properly under the jurisdiction of the Committee. So, we have to ask the Committee about it.

MS. NIEVA: Yes, we agree.

MR. BENGZON: We agree that this be transferred to the Declaration of Principles.

THE PRESIDING OFFICER (Mr. Maambong): That solves the problem then.

The Floor Leader is recognized.

MR. RAMA: There are only two more sections, Mr. Presiding Officer, apart from health. This is under the subtitle "Role and Rights of People's Organization." There is only one proponent and he has an amendment to these two sections. May I ask that Commissioner Davide be recognized?

THE PRESIDING OFFICER (Mr. Maambong): Before the Chair recognizes Commissioner Davide, we have here the provision on Role and Rights of People's Organization, Sections 19 and 20. Does the Committee have any formulation other than the one which I have?

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: I am a member of the Committee but I would like to ask for a definition of "people's organizations."

MS. ROSARIO BRAID: Mr. Presiding Officer.

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

MS. ROSARIO BRAID: Are we now on Sections 19 and 20? Did we skip the provisions on health?

THE PRESIDING OFFICER (Mr. Maambong): We did not; we only deferred consideration of the provisions on health.

MS. NIEVA: Mr. Presiding Officer, some members of the Committee say that they are too tired to tackle these provisions tonight and they think there may be more changes than we have anticipated. We suggest to defer this until tomorrow.

MR. RAMA: Mr. Presiding Officer.

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

ADJOURNMENT OF SESSION

MR. RAMA: I ask that we adjourn the session tomorrow.

THE PRESIDING OFFICER (Mr. Maambong): Is there any objection to the motion to adjourn? (Silence) The Chair hears none; the session is adjourned until tomorrow at nine o'clock in the morning.

It was 6:47 p.m.

[*] Appeared after the roll call

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