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Tuesday, September 30, 1986

CALL TO ORDER

At 10:05 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Jose D. Calderon, to wit:

Almighty God, we have imposed on ourselves a deadline to complete our job at the very latest by the fifteenth of October, two short weeks away. During the last four months, we accomplished much, enough for us to believe that the unfinished portion of our task can be completed within the next two weeks.

Grant us, Almighty God, the strength and the sagacity to enable us to keep our word to ourselves and to our people, to the end that this fundamental law over which we have labored for a third of a year shall be ready to be offered to our people so that they may render judgment.

Be to us, O Lord, the Guide to rectitude so that neither personal ambition nor partisan commitment nor ideological scruples shall sway us away from the path of service to our people.

Finally, Almighty God, infuse each of us with the grace of Your benediction and Your wisdom so that whatever else we each may be, we shall be one with our people, who are the only reason for our being here at all.

Through Jesus Christ, we pray.

Amen.

BIRTHDAY GREETINGS TO MS. FELICITAS S. AQUINO

At this juncture, the Members of the Commission greeted Ms. Felicitas S. Aquino with a song on the occasion of her birthday.

ROLL CALL

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

Aquino, F. S. Natividad, T. C

Bacani, T. C. Nieva, M. T. F

Bengzon, J. F. S Ople , B. F.

Rosario Braid, F Padilla. A. B.
Calderon, J. D. Muñoz Palma, C.
De Castro, C. M Rama, N. G
Colayco, J. C. Regalado, F. D
Concepcion, R. R. Rigos, C. A.
Davide, H. G. Rodrigo, F. A
Foz, V. B. Romulo, R. J
Garcia, E. G. Samiento, R. V
Guingona, S. V.C Suarez, J. E.
Jamir, A. M. K. Sumulong, L. M
Lerum, E. R Treñas, E. B
Maambong, R. E Uka, L. L
Monsod, C. S.

With 31 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar Y. R.
Quesada, M. L. M
Azcuna, A. S
De los Reyes, R. F
Bennagen, P. L
Tadeo, J. S. L
Bernas, J. G. Tan, C.
Gascon, J. L. M. C Villacorta, W. V.
Nolledo, J. N.

P.M.

Alonto, A. D. Tingson, G. J.

Mr. Laurel was absent.

Mr. Rosales was sick.

Mr. Villegas notified the Constitutional Commission, through the Secretariat, of his absence.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 1025 — Constitutional Commission of 1986

Letter from a concerned citizen of Bauko, Bontoc, Mountain Province, suggesting, among others, that the Philippine flag be hoisted over the U.S military and naval bases in the Philippines, and that the U.S. aid should be called rentals of the bases

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

Communication No. 1026 — Constitutional Commission of 1986

Letter from Ms. Amelia D. Ortega of Caloocan Industrial Subdivision, Gen. Luis St., Kaybiga, Caloocan, Metro Manila, expressing her views on "foreign ownership of industrial lands," saying that foreign investors should be treated as partners in business and allowed to own property on which to build their factories

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 1027 — Constitutional Commission of 1986

Letter from Mr. Procopio M. Devera, President of the Small Landowners Association of Dingle, Iloilo, transmitting Resolution No. 86-1 of said association, seeking the repeal of Presidential Decree No. 27, known as Agrarian Reform Law, so that all lands covered by certificates of land transfer containing an area of more than seven hectares but not exceeding one hundred hectares be returned to the original owners

TO THE COMMITTEE ON SOCIAL JUSTICE

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 31 ON PROPOSED RESOLUTION NO. 531 ON GENERAL PROVISIONS

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 531 (Committee Report No. 31), entitled:

Resolution proposing to incorporate in the Constitution an Article on General Provisions and a Section in the Transitory Provisions.

Thereupon, the Chair recognized the Chairman and Members of the Committee on General Provisions.

Mr. Rama stated that when the previous session was adjourned, Mr. de Castro was proposing the provisions on the Armed Forces of the Philippines.

The Chair recognized Mr. de Castro.

MANIFESTATION OF MR. DE CASTRO

Mr. de Castro stated that the proposed Sections on the Armed Forces of the Philippines, copies of which were distributed to the Members of the Commission, were the consolidation of Sections 17, 18, 19, 20 and 21 of the original Committee Report.

He pointed out, however, that the Committee on General Provisions had approved the consolidated report and considered the same as part of the Committee Report.

PROPOSED SECTIONS 17 AND 18

Thereupon, Mr. de Castro proposed the new Sections 17 and 18, which read:

SECTION 17. THE ARMED FORCES OF THE PHILIPPINES SHALL BE A CITIZEN ARMED FORCE COMPOSED OF ABLE-BODIED CITIZENS WHO SHALL UNDERGO MILITARY TRAINING AS MAY BE PROVIDED BY LAW. IT SHALL KEEP A REGULAR FORCE NECESSARY FOR THE SECURITY OF THE STATE.

SECTION 18. A. ALL OFFICERS AND MEN OF THE ARMED FORCES SHALL TAKE A SOLEMN OATH TO DEFEND AND UPHOLD THE CONSTITUTION. IT SHALL PROTECT THE COUNTRY AND THE PEOPLE, AND YIELD NO LOYALTY TO ANY PERSON BUT TO THE STATE.

B. THE CITIZEN ARMED FORCE MAY BE EMPLOYED FOR THE INTERNAL SECURITY OF THE STATE AS MAY BE PROVIDED FOR BY LAW.

C. PROFESSIONALISM IN THE MILITARY SHALL BE THE PRIME CONCERN OF THE STATE. IT SHALL BE INSULATED FROM THE INFLUENCE OF PARTISAN POLITICS AND NO MEMBER OF THE MILITARY SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY POLITICAL ACTIVITY, EXCEPT TO REGISTER AND VOTE.

D. THE PROVISIONS OF EXISTING LAWS ON RETIREMENT OF MILITARY OFFICERS SHALL BE STRICTLY ADHERED TO.

E. THE TOUR OF DUTY OF THE CHIEF OF STAFF OF THE ARMED FORCES SHALL BE FOR THREE (3) YEARS, SUBJECT TO EXTENSION ONLY DURING NATIONAL EMERGENCY.

He explained that Section 17 refers to the concept that the Armed Forces is a citizen armed force and a regular force envisioned in Commonwealth Act No. 1, known as the National Defense Act; while Section 18 refers to particular duties of the armed Forces, namely to protect the country and people, and to yield no loyalty to any person but to the State.

He pointed out that Section 18(b) provides for the employment of the citizen armed force for internal security as may be provided by law, which was practiced under the "Kamagong concept" whereby trainees were called to active duty for about sixteen months in preparation for the campaign against insurgency. He disclosed that although the campaign had been effective, the trainees thereafter preferred to stay in the Armed Forces. In view thereof, he urged that the State support said trainees after their active duty.

On Section 18(c), he underscored that professionalism in the Armed Forces is necessary in order to avoid human rights violations. He stated that the Armed Forces should also be insulated from political influence which destroys professionalism.

On Section 18(d), he stated that extension of the service of retireable senior officers caused demoralization among the junior officers who had slim chance of promotion. He, however, expressed appreciation for the decision of President Aquino to retire overstaying generals, although he expressed hope that all other retiring generals would soon be retired.

He also opined that the tour of duty of the Chief of Staff should be provided in the Constitution in view of the past experience when Chiefs of Staff stayed in such capacity for more than ten or fifteen years, which stay demoralized the members of the Armed Forces.

RESERVATION OF MR. MAAMBONG

At this juncture, Mr. Maambong stated that he had already indicated to the Committee his reservation on the formulation of the proposed Section 17.

PROPOSED AMENDMENT OF MR. SARMIENTO

Thereafter, Mr. Sarmiento proposed the following flagship provision on the Armed Forces of the Philippines:

THE STATE SHALL ESTABLISH AND MAINTAIN AN INDEPENDENT AND SELF-RELIANT ARMED FORCES OF THE PHILIPPINES.

He explained that the Armed Forces of the Philippines (AFP) is a vital component of Filipino society, but it will either be a protector of the people or supporter of a tyrant depending on their training and orientation. He pointed out that the Armed Forces had never been independent and self-reliant and that it had been substantially dependent upon a foreign power. He recalled that in 1968, Congressman Barbero revealed that the United States Unilaterally determined the types and quantity of arms and equipment and time of their delivery to the Armed Forces of the Philippines.

Adverting to an article entitled "Militarization of the Philippines" written by a U.P. professor, Mr. Sarmiento stated that the article revealed that during the height of activism in the early 1970s, the US military advisers, through the Internal Security Program helped train paramilitary and police forces to quell urban strikes and demonstrations and that the United States likewise provided advance military training for some 14,000 AFP officers and men in U.S. military schools before the martial law days.

He said that the article also revealed that in 1976, the Philippines ranked fifth among the countries receiving military aid from the United States, third among 17 countries extended military assistance program; and seventh among 43 countries given counterinsurgency related training.

He also disclosed that a study conducted by General Hermilo N. Ahorro, former Deputy Director of the PC-INP, showed that the Philippines relied heavily on U.S. military assistance.

In reply, Mr. de Castro pointed out that, as stated in his speech on September 12, 1986 on the self-reliance policy of the Armed Forces of the Philippines in relation to the U.S. military bases, because of its very limited resources, the Philippines could only manufacture small arms and ammunitions. He underscored that considering the budget constraints coupled with the growing insurgency problem, it would be difficult to have a self-reliant armed forces at this time.

He explained, however, that military assistance does not mean control by the U.S. Government, but compliance with the Mutual Defense Treaty under which the United States has the responsibility of furnishing the Philippines with necessary military hardware. He further stated that Philippine Government actually signed three treaties involving military relations, namely, the RP-US Military Bases Agreement, the Mutual Defense Treaty and the Military Assistance Program.

He stated that the training of military officers in U.S. military schools is part of the Military Assistance Program, but it does not mean subservience to the United States or to other countries, which train Filipino military officers. He explained that it is in this same manner that foreign military officers are trained in the Command and General Staff College and in the National Defense College, both in Fort Bonifacio.

Thereupon, Mr. de Castro manifested that the Committee could not accept Mr. Sarmiento's proposed amendment on the ground that independence and self-reliance are not attainable under present conditions.

REMARKS OF MR. GARCIA

Mr. Garcia observed that there had been some selective deletion with respect to the subsections on the Armed Forces of the Philippines. In view thereof, he asked that the Body adopt the original draft on the ground that the revised version delimits five critical areas, namely: 1) the original Section 17 containing the idea that the AFP belongs to the people and is tasked to preserve the sovereignty and territorial integrity of the nation and the idea that the State strengthens patriotic and national consciousness in performing their sacred duty to the nation and people; 2) the concept in Section 19(a) pertaining to the AFP's loyalty to the people and its members' obedience to laws; 3) Section 20(b) which originally contained the idea that the soldiers' interest will be taken at heart through periodic review of their salaries and allowances so that they could live in dignity as men in uniform; 4) the original first sentence of Section 21 which contained the idea that the military is an impartial guardian and protector of the Constitution; and 5) Section 22 which originally contained the concept of a police force which shall be both national and civilian in character. He then appealed to the Body to adopt the original draft of the provisions which are more comprehensive and encompassing.

REMARKS OF MR. SARMIENTO

In response thereto, Mr. Sarmiento stated that the thrust of his amendment is to make the AFP independent from foreign intervention. He observed that the country's armed forces cannot purchase its requirements from sources outside the U.S. without prior approval of the U.S. Government. He stressed the need to make the military independent from this intervention under existing military agreements.

OBJECTION OF MR. RODRIGO

Mr. Rodrigo manifested his objection to the proposal on the grounds that 1) while almost every country in the world has a military alliance with other countries, because of the country's military alliance with the U.S., it is able to procure military hardware and at the same time maintain the lowest military budget among ASEAN countries, except for Brunei; and 2) during the discussions on the Article on Education it was decided that the State should provide free elementary and secondary education by reducing the military appropriation while the proposal seeks to have an independent and self-reliant armed forces, an objective which could not be achieved unless the military's budget is doubled or trebled.

INQUIRY OF MR. SUAREZ

Mr. Sarmiento agreed with Mr. Suarez' observation that a self-reliant Armed Forces means that the army would be built without foreign intervention or assistance.

On whether this also means being independent of external assistance, Mr. Sarmiento clarified that he is not advocating absolute and complete freedom from assistance. He stressed that the country could still avail of foreign military assistance aside from using its own resources but its military organization must be free from external dictation and control. He added that self-reliance and freedom from external control also means that the military could procure arms from other countries, not necessarily the U.S., and do away with military organizations such as the Joint United States Military Assistance Group (JUSMAG which dictates upon the country's armed forces a matters relative to training and procurement of arms from the U.S.

Responding thereto, Mr. de Castro pointed out that JUSMAG does not in any way interfere in the operation, management and formulation of policies of the country's armed forces. He also pointed out that the country's military hardware are basically made in the U.S. and although it could procure arms from other countries, this could only result in confusion and waste of funds because arms made by different countries need different spare parts, ammunition, maintenance and repair.

REMARKS OF MR. MAAMBONG

At this juncture, Mr. Maambong opined that the word "independent" in the proposal may be subject to misinterpretation because it has to be interpreted within the context of other provisions in the Constitution. He added that Mr. Sarmiento's interpretation of "independent" as being independent from external control may not be enforced against other countries because the Constitution is merely a municipal law. He also pointed out that "independent" may be construed to mean in the context of independent Constitutional Commissions, and "self-reliant" could also be given many interpretations which could lead to confusion.

OBJECTION OF MR. MONSOD

Mr. Monsod likewise manifested his objection to the proposal because "independent and self-reliant military" may be interpreted to mean that the present military organization is not independent and that the Body does not trust it. He added that there are also other Sections in the Constitution which clearly state that the armed forces should be the protector of the people.

REMARKS OF MR. OPLE

Thereupon, Mr. Ople concurred with the observations of Messrs. Maambong and Monsod that the word "independent" is susceptible to ambiguous interpretations. He pointed out that the reality of the present situation is that the military is not independent from civilian authority and that the AFP is merely an instrument of national policy as determined by the civilian government. He also stated the one of the substantive demands made by the National Democratic Front (NDF) is the reorganization and reorientation of the armed forces as well as the resignation of Messrs. Enrile and Ramos. He opined that it is within this political context that the Body discussing Section 17 and that he could not support the proposed amendment because it could be construed as advocating a reorientation and reorganization of the AFP in response to demands which are not acceptable to the AFP and to the legitimate political authority.

Thereafter, Mr. Sarmiento restated his proposal to reword Section 17 as follows:

SECTION 17. THE STATE SHALL ESTABLISH AND MAINTAIN AN INDEPENDENT AND

SELF-RELIANT ARMED FORCES OF THE PHILIPPINES.

Submitted to a vote, and with 13 Members voting in favor and 23 against, the amendment was lost.

Thereupon, Mr. Garcia suggested that the Body consider the original Section 17 rather than the reformulated version proposed by Mr. de Castro.

RESTATEMENT OF PARLIAMENTARY SITUATION

At this juncture, Mr. Maambong, explaining the parliamentary situation, stated that the original Committee proposal, as reformulated by Mr. de Castro, was accepted by the Committee. He then urged that, instead of the original Committee proposal, the Members present amendments to the reformulated version in order to have a more expeditious proceedings.

PROPOSAL OF MR. TREÑAS

Mr. Treñas proposed consideration of original the version of Section 17 instead of the reformulation.

Mr. de Castro did not accept Mr. Treñas' proposal

SUGGESTION OF MR. BERNAS

Thereafter, Mr. Treñas agreed to Mr. Bernas' suggestion to make the original version of Section 17 merely as the first paragraph thereof and not as a substitute section.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 11:01 a.m.

RESUMPTION OF SESSION

At 11:23 a. m., the session was resumed.

Upon resumption of session, Mr. de Castro informed that the Committee could not accept the proposal of Messrs. Garcia and Treñas to revert to the original formulation as these are covered by Sections 17 and 18. He pointed out that Section 17 states what the Armed Forces is while Section 18 explains the tasks of the Armed Forces.

PROPOSED AMENDMENT OF MR. TREÑAS

In view of the Committee's explanation of the thrust of the formulation, Mr. Treñas proposed to delete the phrase "composed of able-bodied citizens" in Section 17 stating that it can be presumed that the Armed Forces shall be composed of able-bodied citizens.

The Committee accepted the proposed amendment with the modification proposed by Mr. de Castro changing the word "who" to WHICH so that the sentence would partly read: "The Armed Forces of the Philippines shall be a citizen armed force WHICH shall undergo . . ."

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople observed that a number of Members would like to introduce a philosophy in Section 17 so that it can be a flagship Section to include the significant features contained in the original Section 17. Thereupon, he proposed the following amendment as the first sentence of the Section, to wit:

THE PURPOSE OF A MILITARY ESTABLISHMENT IS TO SECURE THE SOVEREIGNTY OF THE PEOPLE AND THE INTEGRITY OF THE NATIONAL TERRITORY AND TO SERVE THE GENERAL WELFARE.

Mr. de Castro inquired whether Mr. Ople would, agree to Section 18(a) as the flagship provision.

Replying thereto, Mr. Ople noted that Section 18 partly meets his desire, although he would move for the deletion of the second sentence thereof if his amendment were approved. He maintained that to defend and uphold the Constitution is sufficient.

SUSPENSION OF SESSION

Upon request of Mr. de Castro, the Chair suspended the session.

It was 11:29 a.m.

RESUMPTION OF SESSION

At 11:44 a.m., the session was resumed.

RESTATEMENT OF SECTION 17, AS AMENDED

Upon resumption of session, Mr. de Castro restated Section 17, as amended, to wit:

THE ARMED FORCES OF THE PHILIPPINES IS THE PROTECTOR OF THE PEOPLE AND THE STATE. ITS GOAL IS TO SECURE THE SOVEREIGNTY OF THE STATE AND THE INTEGRITY OF THE NATIONAL TERRITORY. IT SHALL BE COMPOSED OF A CITIZEN ARMED FORCE WHICH SHALL UNDERGO MILITARY TRAINING AND SERVICE AS MAY BE PROVIDED BY LAW.

Mr. de Castro manifested for the record that the amended version of Section 17 was coauthored by Messrs. Monsod, Ople, Maambong, Nollado, Villacorta, Ms. Aquino and Messrs. Garcia and Bengzon.

INQUIRIES OF MR. DAVIDE

Relative to the reserve force, Mr. Davide stated that the 1973 Constitution provides that "It shall have a corps of trained Officers and men in active duty status, as may be necessary, to train, service and keep it in reasonable preparedness at all times." He noted, however, that the proposal seemed to have completely obliterated this very important concept of the reserve force.

Replying thereto, Mr. de Castro stressed that Section 17 would serve as the flagship provision for the Armed Forces. He explained that the citizen armed force is actually composed of trainees, specifically the ROTCs who are trained by a cadre of regular officers and enlisted men. He opined that the 1973 Constitutional provision referred to by Mr. Davide would not be necessary as it would amount to stating in the Constitution how the training should be done.

On the contention that under the proposal, as worded, the training would only relate to the regular force, Mr. de

Castro stated that it would not, explaining that the Armed Forces shall be composed of the citizen armed force which shall undergo military training and service as may be provided by law. He pointed out that this is not exactly the reserve force but the citizen armed force.

As to who would be included in the regular force, Mr. de Castro stated that the Armed Forces would keep a regular force, not necessarily the citizen armed force, to take care of the security of the State. He asked the Body to vote first on Section 17 before considering Mr. Davide's proposal to be placed in Section 18.

Mr. Davide suggested that the Body vote sentence by sentence.

INQUIRIES OF MR. OPLE

Mr. Ople suggested the term CITIZEN ARMY rather than "citizen armed force" in order to give the readers of the Constitution a more familiar and clearer meaning of the intent of Section 17.

He adverted to Switzerland as the original model of a citizen army which was copied by the Israel army which, in turn, was copied by the Singapore army. He stated that Switzerland, a nation of 5.5 million people, has a citizen army of 650,000 ready to mobilize within 48 hours, yet only one and a half percent of it constitutes the regular professional force of the Swiss army. He pointed out how one could imagine, in the Swiss context, the composition of this citizen army, considering that most of the Swiss people are bankers, professionals and the like. It was for this reason, he stated, that during World War II, Hitler spared Switzerland knowing fully well the Swiss preparedness. In this regard, he inquired whether the citizen army and the regular army referred to in Section 17 have as its model the citizen armies of Switzerland, Israel and Singapore.

In reply, Mr. de Castro explained that, historically, or from 1935, the country has only an army known as the Philippine Constabulary and that there was no navy or air force at that time. He stated that he was intrigued why the 1973 Constitution made reference to a citizen army despite the fact that the country already had the air force and navy.

Mr. Ople stated that the term "army" is being used in the generic sense to mean the military establishment commonly known as an army composed of the three armed forces, namely, the air, sea and ground services.

Reacting thereto, Mr. de Castro insisted that the Armed Forces should be called the citizen armed force consistent with the concept embodied in the National Defense Act, which concept refers to all citizens of the Philippines. He stated that it was only incidental that in 1935 the Philippine Constabulary was the regular force for maintaining peace and order so that it later became the nucleus of the Philippine army. He stated that although the concept of a citizen armed force existed, the government retained a regular army because of the insurgency problem after the liberation. It was unfortunate, he stated, that the citizen armed force could not be provided the necessary training due to lack of funds although there were small regular forces called the "Commandant and his staff" who were assigned in universities to continue the ROTC training. He reiterated that the concept of a citizen armed force was patterned after Switzerland, although the members of the reserve force are not provided the necessary military equipment.

On Mr. Ople's final question, Mr. de Castro affirmed that all citizens of the country are members of the citizen armed force.

INQUIRIES OF MR. SARMIENTO

Mr. Sarmiento inquired as to what body or entity shall determine the force necessary for the security of the State in the light of Ms. Beth Day Romulo's article published in the Manila Daily Bulletin, a portion of which reads:

"The army was expanded threefold during the martial law days under the guise of fighting the insurgency, while at the same time making a little effort to curb it since it was being used as a political ploy, both to justify the extension of martial law and to support the demands for increased military aid to the Philippines. It was to President Marcos' interest for the insurgency to grow, or at least go unchecked."

From this article, Mr. Sarmiento noted that the determination of the force necessary for the security of the State was left entirely to the President.

Replying thereto, Mr. de Castro explained that in order to contain insurgency, the normal ratio is 1:15 or 1:20 and which, on the basis of about 20,000 NPAs, would require 400,000 soldiers. He discloses that the present regular force is composed of 350,000 members of which 150,000 belong to the Constabulary and the police force charged with maintaining peace and order. He stated that, in effect, there are only 200,000 soldiers for the fight against insurgency. He stated that he would propose in Section 18(b) the use of the Citizen Armed Force for the internal in security of the State, the reason being that it is more se economically viable to maintain and that its members have better knowledge of human rights.

On whether it is the intention to integrate the reserve force into the army, Mr. de Castro explained that the concept contemplates a small regular "cadre" to train new 20-year-old trainees for a six-month period before their entrance to the reserve force.

On whether the reservists would be used for national security purposes, including counterinsurgency drives, Mr. de Castro affirmed that under Section 18(b), the citizen armed force would be employed for internal security considering the lack of funds needed to beef up the regular force.

SUGGESTION OF MR. DAVIDE

At this juncture, the Chair asked that the Body vote on Section 17.

Mr. Davide suggested that the voting be done by sentence, however, Mr. de Castro requested only one voting on the first two sentences which are related to each other.

APPROVAL OF THE FIRST TWO SENTENCES OF SECTION 17

Mr. de Castro restated the first two sentences, to wit:

THE ARMED FORCES OF THE PHILIPPINES IS THE PROTECTOR OF THE PEOPLE AND THE STATE.
ITS GOAL IS TO SECURE THE SOVEREIGNTY OF THE STATE AND THE INTEGRITY OF THE
NATIONAL TERRITORY.

Thereupon, the first two sentences were submitted to a vote with 31 Members voting in favor and none against. The Chair declared the first two sentences of Section 17 approved by the Body.

APPROVAL OF THE THIRD SENTENCE OF SECTION 17

Mr. de Castro restated the third sentence of Section 17, to wit:

IT SHALL BE COMPOSED OF A CITIZEN ARMED FORCE WHICH SHALL UNDERGO MILITARY
TRAINING AND SERVICE AS MAY BE PROVIDED BY LAW.

Submitted to a vote, and with 24 Members voting in favor, 3 against and 5 abstentions, the third sentence of Section 17 was approved by the Body.

At this juncture, Mr. Sarmiento manifested that he abstained from voting.

APPROVAL OF THE FOURTH SENTENCE OF SECTION 17

Mr. de Castro restated the fourth sentence of Section 17, to wit:

IT SHALL KEEP A REGULAR FORCE NECESSARY FOR THE SECURITY OF THE STATE.

Submitted to a vote, and with 32 Members voting favor, none against and 3 abstentions, the fourth sentence of Section 17 was approved by the Body.

APPROVAL OF SECTION 17, AS AMENDED

The Chair submitted the entire Section 17 to a vote, and with 34 Members voting in favor, none against and 2 abstentions, Section 17, as amended, was approved by the Body.

AMENDMENT OF MR. DE CASTRO

On Section 18(a), Mr. de Castro proposed the following amendment, to wit:

SECTION 18(a), ALL OFFICERS AND MEN OF THE ARMED FORCES SHALL TAKE A SOLEMN OATH TO DEFEND AND UPHOLD THE CONSTITUTION. THEY SHALL YIELD NO LOYALTY TO ANY PERSON BUT TO THE STATE.

MR. DAVIDE'S AMENDMENTS TO THE AMENDMENT

Mr. Davide proposed to amend the amendment by changing the words "officers and men" to MEMBERS; and by changing the word "the" to THIS.

Mr. de Castro accepted the amendments.

MR. RAMA'S AMENDMENT TO THE AMENDMENT

Mr. Rama proposed to amend the amendment by changing the word "yield" to RENDER.

Mr. de Castro, likewise, accepted the amendment.

INQUIRY OF MR. OPLE

In reply to Mr. Ople's observation that the sentence "They shall render no loyalty to any person but to the State" may be misconstrued as a denial of loyalty to the President who is the Commander-in-Chief, and who symbolize the State, Mr. de Castro stated that since the President, as Commander-in-Chief, represents the State, loyalty should be to the State.

MR. RAMA'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Rama proposed to amend the amendment by changing the words "the State" to THEM, meaning the country and people.

MR. MONSOD'S AMENDMENT TO THE AMENDMENT

Mr. Monsod proposed to amend the amendment by deleting the sentence "They shall render no loyalty to any person but to the State" on the ground that the first sentence of Section 17 already provides that the armed forces is the protector of the people and the State and the first part of Section 18 talks about the oath to defend and uphold the Constitution. Moreover, he stated that said sentence reflects the disappointments over what happened during the regime of Mr. Marcos and, therefore unnecessary.

Mr. de Castro accepted the amendment.

MR. PADILLA'S AMENDMENT TO THE AMENDMENT

Mr. Padilla proposed to amend the amendment by deleting the word "solemn" and changing the article "a" to AN, on the ground that the word "solemn" is unnecessary. He also moved to transpose the verbs "defend and uphold," to read "uphold and defend".

Mr. de Castro accepted the amendment.

MR. DAVIDE'S AMENDMENT TO THE AMENDMENT

Mr. Davide proposed to amend the amendment by adding the words OR AFFIRMATION after "oath".

Mr. de Castro accepted the amendment.

APPROVAL OF SECTION 18(a)

Mr. de Castro restated Section 18(a), as amended, to wit:

ALL MEMBERS OF THE ARMED FORCES SHALL TAKE AN OATH OR AFFIRMATION TO UPHOLD AND DEFEND THIS CONSTITUTION.

Submitted to a vote, and with 37 Members voting in favor and none against, Section 18(a) was approved by the Body.

REMARKS OF MR. BENGZON

At this juncture, Mr. Bengzon invited attention to the fact that the deletion of the second sentence which had been accepted by the Committee was not placed on record. He then requested that the Body vote on said amendment to determine whether there was any objection to the deletion.

Thereupon, the Chair submitted the amendment to delete the second sentence of Section 18(a) to a vote and, there being no objection, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to delete the entire paragraph (b) of Section 18 on the ground that it was already included in the flagship provision on the role of the military.

Mr. de Castro rejected the amendment stating that the intent of the provision is to use the reservists in the campaign against insurgency on account of the fact that it is very expensive to maintain a regular force.

Mr. Davide maintained, however, that the provision is unnecessary because the law may require them to serve in the armed forces anytime.

REMARKS OF MS. TAN

Ms. Tan registered her objection to Section 18(b) on the ground that nobody could really ascertain who are the insurgents. She also questioned the wisdom of giving the army vast powers which they may use to eliminate brother Filipinos on insufficient grounds.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento expressed support for Mr. Davide's amendment to delete the entire subparagraph (b) for the following reasons, namely, 1) the country would be using people against their sons, brothers, sisters and relatives; and 2) the Commission would be sending to Congress and the Executive the wrong signal that the insurgency problem requires a military solution only.

REMARKS OF MR. DE CASTRO

In response, Mr. de Castro stated that while Filipinos may be fighting each other, the fight is for an ideology against another ideology espoused by the insurgents. However, he expressed the hope that the President would be successful in her campaign for peace so that the country could reduce its armed forces, which, otherwise, would be constrained to continue fighting the insurgents. He likewise, underscored that the use of the citizen armed force for the internal security of the State had already been tested under the "Kamagong concept" as an effective way of suppressing insurgency. He then reiterated his rejection of the amendment.

VOTING ON MR. DAVIDE'S AMENDMENT

The Chair submitted Mr. Davide's amendment to a vote and with 25 Members voting in favor, 3 against and 2 abstentions, the amendment was approved by the Body.

Mr. de Castro remarked that the Commission wants communism in the country.

Mr. Ople suggested that Mr. de Castro's statement be stricken off the record to maintain goodwill in the Commission.

RULING OF THE CHAIR

The Chair directed Mr. de Castro's remark be stricken off the record.

However, Mr. de Castro chose to withdraw his statement, although, he maintained that there is communism in the country.

PROPOSED AMENDMENT OF MS. AQUINO

Ms. Aquino proposed to substitute subsection (b) with the following:

THE STATE SHALL STRENGTHEN THE MILITARY'S PATRIOTIC SPIRIT AND NATIONALISTIC CONSCIOUSNESS IN THE PERFORMANCE OF THEIR SACRED DUTY TO THE NATION AND THE PEOPLE.

MR. MONSOD'S AMENDMENT TO THE AMENDMENT

Mr. Monsod proposed to amend the amendment by putting a period (.) after "duty" and deleting the rest of the sentence.

Ms. Aquino accepted the amendment.

Mr. de Castro, however, rejected the amendment, as amended.

REMARKS OF MS. AQUINO

Explaining her proposal, Ms. Aquino stated that it is a costly and tedious process to instill historical knowledge in the minds of the officers and men of the army and, without meaning to offend their sensibilities, that it would, in fact, be an Alpine climb to make them appreciate the humanizing influence of history and culture. However, if this would not be possible, she stated that the most convenient thing to do is to ensure that the military does not meddle in formulating the theories of international policy, or in determining what books shall be prescribed in schools. She pointed out that the military needs the humanizing influence of culture, arts and letters to lessen the possibilities of abuse of discretion and power and to make them more sensitive to respect for the rights of other people. She then expressed the hope that, with a humanist education and culture imbibed in them, the military men would think like men of action and act like men of thought.

REMARKS OF MRS. ROSARIO BRAID

Adverting to the constitutions of Austria and the Dominican Republic, Mrs. Rosario Braid stated that they mention the need to transcend the scope of military defense of the country by going beyond their in usual functions and helping in the socioeconomic development of the country by protecting the freedom which underscores the need to be patriotic and nationalistic.

She informed the Body that the Committee was divided on this matter and would like to leave it to the Body.

REMARKS OF MR. DE CASTRO

Mr. de Castro stated that Section 18(c) refers to professionalism which means the patriotic spirit and consciousness of the soldiers in the performance of their duties. He stressed that it takes the Philippine Military Academy four years to instill duty, honor, courage, integrity, and loyalty in the minds of the cadets while it takes six months to instill in the minds of enlisted men the sense of nationalism, patriotism and sacred duty. He opined that the intent of Ms. Aquino's proposal is already covered by Section 18(c).

MR. OPLE'S AMENDMENT TO THE AMENDMENT

Mr. Ople proposed to amend the amendment, to read:

THE STATE SHALL STRENGTHEN THE MILITARY'S PATRIOTIC SPIRIT AND NATIONALIST CONSCIOUSNESS, INCLUDING RESPECT FOR THE PEOPLE'S RIGHTS IN THE PERFORMANCE OF THEIR DUTY.

Ms. Aquino accepted the amendment.

REJOINDER OF MS. AQUINO ON MR. DE CASTRO'S REMARKS

Ms. Aquino expressed disagreement to Mr. de Castro's remarks. She contended that although professionalism in military refers to the work ethic which includes training, recruitment, advancement and promotion, for purposes of the amendment, professionalism should be related to the needs and sensibilities of the people so that the military would be people-oriented. In reply, Mr. de Castro stated that as a professional soldier for thirty years, he had respected the rights of people and protected them, and had remained pro-Filipino and nationalistic.

He maintained that the proposed amendment is already included in the term "professionalism" in Section 18(c). He asked that the proposal be submitted to a vote.

Ms. Aquino restated her amendment which she proposed to be the new Section 18(b), to wit:

THE STATE SHALL STRENGTHEN THE MILITARY'S PATRIOTIC SPIRIT AND NATIONALIST CONSCIOUSNESS, INCLUDING RESPECT FOR PEOPLE'S RIGHTS, IN THE PERFORMANCE OF THEIR DUTY.

Submitted to a vote, and with 27 Members voting favor and one against, the proposed amendment as approved by the Body.

OBSERVATION OF MR. MONSOD

On Mr. Monsod's observation that the phrase "including respect for people's rights" in Ms. Aquino's amendment is unnecessary because the armed forces as the protector of the people should necessarily protect the people and respect their rights, Mr. Ople stated that the phrase "patriotic spirit and nationalist consciousness, including respect for people's rights" merely elaborates the philosophy in the flagship Section.

PROPOSED AMENDMENT OF MR. GUINGONA

On Section 18(c), after the word "military", Mr. Guingona proposed to insert a comma (,) and the phrase WOULD INCLUDE ADHERENCE TO THE RULES ON SENIORITY AND MERIT.

He explained that professionalism in the military should be anchored on seniority and merit, without which the morale in the armed forces would not be enhanced, and there would be more undesirable political encroachments. He pointed out that a similar provision on merit and fitness is provided for in the sections on the Civil Service, but since the military men do not strictly fall under the classification of civil servants, a separate proviso in Section 18 is proper.

In reply, Mr. de Castro underscored that existing policy on promotion in the armed forces is based on seniority and merit and, in addition, the members of the armed forces undergo training. He stated that a Philippine Military Academy graduate is qualified to be an officer in the regular force while a Reserve Officers' Training Corps graduate could become an officer in the reserve force.

On Mr. Guingona's suggestion to insert the phrase "with emphasis on the rules on seniority and merit", Mr. de Castro opined that it would not fit in in the strict meaning of professionalism.

However, on the understanding that professionalism in the military already includes the concept of seniority and merit, Mr. Guingona withdrew his proposed amendment.

MR. VILLACORTA'S AMENDMENT JOINTLY WITH MESSRS. BACANI, BENGZON, ROMULO, RAMA, ABUBAKAR AND GUINGONA

Mr. Villacorta, jointly with Messrs. Bacani, Bengzon, Romulo, Rama, Abubakar and Guingona, proposed to amend the first sentence of Section 18(c), to read:

PROFESSIONALISM IN THE MILITARY SHALL BE A PRIME CONCERN OF THE STATE WITH DUE REGARD TO ADEQUATE COMPENSATION SPECIALLY AT THE LOWER LEVELS.

He stated that the proposed amendment would enhance the morale, commitment and professionalism of the lower rank military men, considering that the abuses in the countrysides were often due to the very low salary and

allowances of the enlisted men, so that some of them are driven to steal chickens and other food items so that they and their families may survive. He opined that improving their quality of life would in turn improve their service to the people. The provision will ensure that allocations for the military will reach and benefit the rank and file.

Mr. de Castro stated that the proposal would be acceptable, considering the low salaries that the members of the armed forces receive. He proposed, however, to put a period (.) after "compensation" and to delete the phrase "specially at the lower levels", in order to avoid class legislation.

Mr. Villacorta accepted Mr. de Castro's amendment to his amendment.

MR. OPLE'S AMENDMENT TO THE AMENDMENT

Mr. Ople further proposed to change the word "compensation" to REMUNERATION AND BENEFITS, the latter being wider in scope to include retirement benefits.

Mr. Villacorta also accepted Mr. Ople's amendment to his amendment.

Mr. de Castro, however, pointed out that the retirement pay of 75 percent of the actual salary upon retirement is already assured by the Retirement, Separation and Benefit System, wherein members of the armed forces were deducted 5 percent of their salary for the purpose.

Nevertheless, he accepted Mr. Villacorta's amendment as amended, so that the first sentence of Section 18(c) would read:

PROFESSIONALISM IN THE MILITARY SHALL BE A PRIME CONCERN OF THE STATE WITH DUE REGARD TO ADEQUATE REMUNERATION AND BENEFITS.

AMENDMENT OF MR. DAVIDE

Mr. Davide further proposed to reformulate the first sentence of Section 18(c) to read: PROFESSIONALISM IN THE ARMED FORCES AND ADEQUATE REMUNERATION AND BENEFITS OF ITS MEMBERS SHALL BE A PRIME CONCERN OF THE STATE.

The Sponsor accepted the reformulation of the first sentence of Section 18(c).

Submitted to a vote, and with 30 Members voting in favor and none against, the first sentence of Section 18(c) as reformulated by Mr. Davide was approved by the Body.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Rama, the Chair suspended the session until two-thirty in the afternoon.

It was 12:50 p.m.

RESUMPTION OF SESSION

At 3:06 p.m., the session was resumed.

Upon resumption of session, Mr. de Castro read Section 18(d) as follows:

THE PROVISIONS OF EXISTING LAWS ON RETIREMENT OF MILITARY OFFICERS SHALL BE STRICTLY ADHERED TO.

Mr. de Castro explained that the extension of the terms of retirable officers is a cause of great demoralization in

the armed forces because it hampers the promotion of younger officers, hence, the need for the provision.

At this juncture, Mr. Ople stated that the Body has only approved the first sentence of Section 18(c) and that he made reservation to propose the second sentence.

Thereupon, Mr. de Castro read the second sentence of Section 18(c) as follows:

IT SHALL BE INSULATED FROM THE INFLUENCE OF PARTISAN POLITICS AND NO MEMBER OF THE MILITARY SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY POLITICAL ACTIVITY EXCEPT TO REGISTER AND VOTE.

PROPOSED AMENDMENT OF MR. MONSOD

Thereafter, Mr. Monsod proposed the deletion of paragraphs (c), (d) and (e) and their consolidation into one sentence to read as follows: THE MILITARY SHALL STRICTLY OBSERVE THE RULES ON RETIREMENT AND NON-PARTISANSHIP IN POLITICS IN ITS ORGANIZATION AND CONDUCT OF OPERATIONS.

Mr. de Castro did not accept the amendment on the ground that it lumps into one sentence the concepts on retirement and nonparticipation in partisan politics. He stated that while the armed forces must be professionalized, this could not be achieved unless it is insulated from partisan politics. On the other hand, he stated that the rule on retirement must also be emphasized through a separate subsection highlighting its importance.

Thereupon, Mr. Ople proposed to reword Section 18(c) by placing a period (.) after "politics" so that the first sentence would read "It shall be insulated from the influence of partisan politics."; to delete the clause "and no member of the military shall engage directly or indirectly in any political activity except to register and vote."; and to add the following sentence: BONA FIDE SOLDIERS MAY FORM THEIR OWN PEOPLE'S ORGANIZATIONS AND RETIRED SOLDIERS OR VETERANS SHALL BE ENTITLED TO SECTORAL SEATS OF THEIR OWN TOGETHER WITH THE OTHER SECTORS IN THE HOUSE OF REPRESENTATIVES AS MAY BE PROVIDED BY LAW, PROVIDED THAT NOTHING IN THIS PROVISION SHALL BE CONSTRUED AS IMPAIRING MILITARY DISCIPLINE WITHIN THE SPHERE OF MILITARY RULES AND REGULATIONS.

Mr. Ople explained that the members of the armed forces, both active and retired, constitute a pivotal sector of the national community, no less qualified to contribute to the strengthening of democratic institutions than labor, peasants, youth, women and the indigenous cultural communities. He pointed out that the fear that this may lead to the breakdown of military discipline is entirely unfounded because right to form people's organizations, like any other sector, is already exercised by members of the armed forces in Western European countries like

West Germany and the Netherlands. He stressed that the authority to form their own people's organizations could broaden the experience of the members of the armed forces in democratic participation and improve their insights into national problems and their own motivation in fighting for democracy and the country's welfare.

Mr. Ople also stated that authorizing soldiers to form their own people's organization, and to have representation in the House of Representatives under the reserve seat system is a meaningful step to assure them of a role in the country's democratic process without being exposed to the charge of engaging in partisan politics. He pointed out that many young officers of the AFBP feel that the values for which they fight and lay down their lives are not sufficiently articulated in national debates. He stressed that instead of suppressing the new awareness and intellectual vitality in these officers, the Body should provide them a status similar to what was accorded the youth, labor, peasants, women and indigenous cultural communities to qualify for representation in the House of

Representatives.

The Chair stated that the Body should first consider Mr. Monsod's proposal and thereafter consider Mr. Ople's amendment.

Thereupon, Mr. de Castro reiterated the Committee's rejection of Mr. Monsod's proposed amendment, stating that it wants to have separate subsections on the nonparticipation of members of the armed forces in partisan politics and on retirement because of the effect of the extension of the terms of retirable officers on the morale of younger officers.

At this juncture, Mr. Bacani stated that although he is a member of the Committee, he disagrees with Mr. de Castro's view and supports Mr. Monsod's proposal because it encompasses briefly and comprehensively the concerns stated in Subsections (c), (d) and (e).

Thereupon, Mr. Monsod restated his proposal as follows: THE MILITARY SHALL OBSERVE THE RULES ON RETIREMENT AND NONPARTISANSHIP IN POLITICS IN ITS ORGANIZATION AND CONDUCT OF OPERATION. He explained that the proposal would form part of Section 18(b) and would, in effect, substitute sub-sections (c) and (d).

In reply to Mr. de Castro's query as to what "rules on retirement" are referred to, Mr. Monsod stated that the phrase refers to all existing and applicable retirement rules for members of the armed forces.

Mr. de Castro then explained that the existing laws on retirement stipulate that officers must retire upon reaching the age of 66 or after 30 years service whichever comes first, subject to the exception that the President may extend the service of retirable officers. He stressed, however, that the exception to the rule had been much abused leading to demoralization among the men in uniform.

Responding thereto, Mr. Monsod stated that he did not intend to change the substance of the Committee formulation but to lump the principles in one concise sentence.

Mr. de Castro maintained that the three principles should not be lumped in one sentence, to which Mr. Monsod replied that there is nothing irregular in placing more than one principle in a section. He stressed that he merely wanted to underline the principles by putting them in the Constitution without going into unnecessary details.

SUSPENSION OF SESSION

Upon request of Mr. de Castro, the Chair suspended the session.

It was 3:26 p.m.

RESUMPTION OF SESSION

At 3:33 p.m., the session was resumed.

Upon resumption of session, Mr. Monsod read the second sentence of Section 18(c) as follows: THE ARMED FORCES OF THE PHILIPPINES SHALL BE INSULATED FROM THE INFLUENCE OF PARTISAN POLITICS.

Mr. Davide proposed to delete "influence of".

Mr. Monsod accepted the proposal. Thereupon, he read subparagraph (d) as follows. THE LAWS ON RETIREMENT SHALL BE OBSERVED. He added that subparagraph (e) would read THE TOUR OF DUTY OF THE CHIEF OF STAFF SHALL BE PROVIDED BY LAW.

INQUIRY OF MR. BERNAS

On Mr. Bernas' query on the meaning of the sentence "The Armed Forces shall be insulated from partisan politics", Mr. Monsod explained that the Armed Forces should be free from partisan politics. He added that the Civil Service provision is more sharply focused on this aspect.

Mr. Bernas observed that instead of a vague principle in the statement "shall be insulated from partisan politics", Mr. Monsod could state directly and clearly that "The military shall not engage directly or indirectly in any political activity except to register and vote".

Mr. Monsod then read the reformulation, to wit:

THE MEMBERS OF THE MILITARY SHALL NOT ENGAGE IN ANY POLITICAL ACTIVITY EXCEPT TO REGISTER AND VOTE.

Mr. Bernas proposed to insert the phrase "directly or indirectly" so that the sentence would read:

THE MEMBERS OF THE MILITARY SHALL NOT ENGAGE DIRECTLY OR INDIRECTLY IN ANY POLITICAL ACTIVITY EXCEPT TO REGISTER AND VOTE.

Mr. Monsod accepted the amendment.

INQUIRY OF MR. OPLE

Mr. Ople inquired whether the reformulation would mean a constitutional prohibition on groups of officers who seek urgent reforms in the Armed Forces. He adverted to the "Reform the Armed Forces Movement" which during the February revolution helped bring about change in government and inquired whether the movement's activities which have political dimension would be prohibited.

Mr. Bernas clarified that Philippine jurisprudence has assigned a definite meaning to partisan political activity which means campaigning for a candidate. He observed that the provision would not prohibit a person from expressing preferences for certain candidates or policies, although it prohibits him from campaigning for said candidate or candidates.

REMARKS OF MR. RAMA

Mr. Rama observed that the Members had misread the meaning of the phrase "insulated from politics" in equating it with the phrase "not to engage directly or indirectly in any political activity" as there are two different meanings and two different problems confronting the military. He cautioned the Members not to confuse the two concepts.

Mr. Rama stated that the insulation of the armed forces from politics would address a great evil which has existed for many years. He noted that politicians have been meddling in military appointments, in advancing the promotions of their own men or in extending the services of some generals. He urged the Members to separate the concepts of insulation from politics and the prohibition from engaging in political activities.

Mr. Monsod pointed out that this would be covered by the mandate on professionalism. He stated that unless insulated from politics, the military men would engage in partisan political activities. He then suggested a reformulation to read: THE MEMBERS OF THE MILITARY SHALL NOT ENGAGE DIRECTLY OR INDIRECTLY IN PARTISAN POLITICAL ACTIVITY, EXCEPT TO VOTE.

OBJECTION OF MR. DAVIDE

Mr. Davide objected to the deletion of the original formulation with respect to insulation. He reasoned that the idea is not merely to prohibit the military from engaging in partisan politics but also to prevent the government from using it for partisan political activities.

He stated that the President is the Commander-in-Chief of all the armed forces. Insulating the armed forces, he stated, would actually be a control on any act of the President to use the armed forces for partisan political activity. He advised the Members not to confuse the totality of the armed forces with the individual members thereof.

Thereafter, he stated that the Body could proceed to the individual responsibility of the members of the armed forces not to engage in any partisan political activity.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide, thereupon, proposed an amendment, to wit:

IT SHALL, AT ALL TIMES, BE INSULATED FROM PARTISAN POLITICS AND NO MEMBER THEREOF SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY PARTISAN POLITICAL ACTIVITY, EXCEPT TO VOTE.

He stated that the phrase "to register", which is not a partisan political act, was deleted.

PROPOSED AMENDMENT OF MR. BERNAS

Mr. Bernas proposed the following reformulation: PROFESSIONALISM IN THE MILITARY SHALL BE THE PRIME CONCERN OF THE STATE. NO MEMBER OF THE MILITARY SHALL ENGAGE DIRECTLY OR INDIRECTLY IN PARTISAN POLITICAL ACTIVITY EXCEPT TO VOTE.

Mr. Bernas explained that the reformulation would join the first clause of the second sentence with the first sentence inasmuch as insulation from the influence of partisan politics is an elaboration on the concept of professionalism and is addressed to those who have any power over the military, whereas the second clause of the second sentence is addressed to the military officers themselves.

Mr. de Castro called attention to the approved phrase "adequate remuneration and benefits" and inquired whether this should be included in the amendment.

CLARIFICATION OF MR. MAAMBONG

Mr. Maambong informed that the first sentence was approved by the Body and pointed out that the starting point for Mr. Bernas' amendment would be the second sentence. He noted that Mr. Bernas' proposal was practically the same as Mr. Davide's formulation.

Mr. Bernas clarified that he accepted the explanation of Messrs. Rama and Davide that there are two concepts involved. He argued that the concept in the first clause of the second sentence is related more to the first sentence.

Mr. Maambong then inquired whether Mr. Bernas' proposal is the same as Mr. Davide's formulation, to wit:

THE ARMED FORCES SHALL AT ALL TIMES BE INSULATED FROM PARTISAN POLITICS AND NO MEMBER OF THE MILITARY SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY POLITICAL ACTIVITY, EXCEPT TO VOTE.

In reply, Mr. Bernas stated that he would prefer to split the second sentence into two inasmuch as the first clause is addressed to those who have power over the military, whereas the second clause is addressed to the military itself.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 3:47 p.m.

RESUMPTION OF SESSION

At 3:53 p.m., the session was resumed.

As reformulated by Messrs. Davide, Monsod, Bernas and Guingona, Section 18(c) reads as follows:

PROFESSIONALISM IN THE ARMED FORCES AND ADEQUATE REMUNERATION AND BENEFITS OF ITS MEMBERS SHALL BE A PRIME CONCERN OF THE STATE. THE ARMM FORCES SHALL BE INSULATED FROM PARTISAN POLITICS.

NO MEMBER OF THE MILITARY SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY PARTISAN POLITICAL ACTIVITY, EXCEPT TO VOTE.

The Committee accepted the reformulated Section 18(c).

Submitted to a vote, and with 25 Members voting in favor and none against, Section 18(c) was approved by the Body.

PROPOSED AMENDMENT OF MR. MONSOD

Thereafter, Mr. Monsod further proposed, as part of Section 18(c), the following sentence: THE LAWS ON RETIREMENT SHALL BE OBSERVED.

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople proposed a separate subsection.

Mr. Monsod stated that his amendment has precedence inasmuch as it is still on the subsection of Section 18. Upon the Chair's inquiry, Mr. Monsod affirmed that his amendment is to delete subsections (d) and (e) and that Mr. Ople's amendment would become Section 19.

Mr. Ople informed that his amendment would be a separate subsection which was arranged with the Committee.

Thereupon, Mr. Ople stated his amendment, to wit:

BONA FIDE SOLDIERS MAY FORM THEIR OWN PEOPLE'S ORGANIZATIONS AND RETIRED SOLDIERS OR VETERANS SHALL BE ENTITLED TO SECTORAL SEATS OF THEIR OWN TOGETHER WITH THE OTHER SECTORS IN THE HOUSE OF REPRESENTATIVES AS MAY BE PROVIDED BY LAW, PROVIDED THAT NOTHING IN THIS PROVISION SHALL BE CONSTRUED AS IMPAIRING MILITARY DISCIPLINE WITHIN THE SPHERE OF MILITARY RULES AND REGULATIONS.

Mr. de Castro suggested deleting the clause "Bona fide soldiers may form their own people's organization and". He stated that there should be no organization within the Armed Forces as it is divisive in nature. He noted that the presence within the military of organizations such as the RAM-MND, RAM-AFP, "El Diablo" and the

"Guardians" are destroying the morale and efficiency of the Armed Forces. He also observed that the existence of these organizations worry the Chief of Staff more than the insurgency problem and that the retired officers are working to remove these organizations.

PROPOSED AMENDMENT OF MR. DE CASTRO

Mr. de Castro proposed to simplify the amendment, to wit:

MILITARY PERSONNEL SHALL BE ENTITLED TO SECTORAL SEATS OF THEIR OWN TOGETHER WITH THE OTHER SECTORS IN THE HOUSE OF REPRESENTATIVES, AS MAY BE PROVIDED BY LAW.

He stated that the rest can be deleted.

Mr. Ople, responding thereto, stated that he is not inflexible on his proposal. He underscored that the formation of such organizations as the RAM, "El Diablo" and the "Guardians" should be treated as symptoms of an apparent growing demand within the ranks of the armed forces for democratic means of participation. He argued that the fact that they exist and have not been banned by military authorities indicates that they are useful in some respect.

Mr. Ople then modified the amendment to read as follows:

VETERANS SHALL BE ENTITLED TO SECTORAL SEATS OF THEIR OWN TOGETHER WITH THE OTHER SECTORS IN THE HOUSE OF REPRESENTATIVES AS MAY BE PROVIDED BY LAW.

The Committee accepted the amendment.

REMARKS OF MS. AQUINO

Ms. Aquino objected to the Ople amendment which was accepted by the Committee. She noted that however summarily the rumors of a military coup d'etat are dismissed or whatever denials are made to discredit such rumors, the military has long been infected by the virus of politics. The story of military intrusion into civilian affairs, she informed, began with the administration of President Magsaysay who was enamored by the military in his campaign to bring his government closer to the people. This, she stated, resulted in the military finding themselves in government offices, in the hierarchy of civilian affairs, in the foreign affairs and that all too long the public consciousness was captured by the soldier's popularity which was heft up by the media. She maintained that in the context of supremacy of the civilian authority over the military, the military has no place in the civilian government. She stated that the suspicion that the supremacy of the civilian authority over the military is being threatened cannot be dismissed easily. She argued that giving the military representation in the House of Representatives is the first step towards facilitating the final dismantlement of the concept of supremacy of civilian authority. She observed that the military is a base of power in itself as it has a monopoly over the use of legitimate force.

Ms. Aquino further stated that, culturally, the Filipinos are not prone to accepting the military as their representatives in Congress, not because the military are less competent in civilian affairs, but because soldiery and the training of soldiers are great setbacks in the context of government rule.

INQUIRY OF MR. REGALADO

In reply to Mr. Regalado's query on the scope of the phrase, Mr. Ople stated that the phrase is limited only to veterans as defined in the preceding provisions of this Constitution.

REMARKS OF MR. OPLE

Reacting to Ms. Aquino's remarks, Mr. Ople pointed out that the provision does not speak of soldiers sitting in the House of Representatives but of veterans who have a parity of status with women and indigenous communities, youth, labor and peasants. He noted that even a single seat would do, so that it would not detract from the claims of other groups who are already recognized in the Article on Social Justice, considering that there are 25 seats available for sectoral representation. He stressed that all he was asking was a kind of parity with all the other sectoral groups and thanked the Committee for accepting his amendment.

REMARKS OF MR. DAVIDE

Speaking against the proposal, Mr. Davide stated that Section 5 of the proposed Article on the Legislative, reserves 20% of the total membership of the Lower House to the party list representatives of national sectoral or regional parties or organizations, and that insofar as the sectoral representation is concerned, it would only be for three consecutive terms following the ratification of the Constitution that they would get 50% of the seats allotted to the party list representatives.

Quoting Section 5 of said Article, Mr. Davide contended that Mr. Ople's proposal would be deemed included because the representation of the veterans as a sector may be provided by law; on the other hand, if such is not the intention, the Commission would be creating a three-tiered Lower House in the sense that there would be regular representatives, party list representatives and sectoral representatives, whose representation is already limited to three constructive terms but within the purview of the party list representation, in view of which there would be no need for the proposal, otherwise, it would amount to a reopening of Section 5 if it is to be interpreted as being not included in the sectors to be provided for by law.

In response thereto, Mr. Ople opined that Mr. Davide's comments were farfetched and highly technical observations because the Commission does not foreclose the recognition of the veterans as a sector which deserves representation in the House of Representatives, just because the recognition appears in a provision on the role of the Armed Forces of the Philippines which recognition is not in any manner inferior to those given the other sectors which have moral claims upon the nation.

Mr. Davide pointed out, however, that when the Body took up Section 5, especially on the enumeration of sectors, the Committee took into account the possibility that a law may be passed allowing the entry of other sectors including the veterans. He affirmed that the matter can be better addressed to Congress, to which Mr. Ople replied that there is nothing to prevent this Commission from providing a constitutional guideline for Congress by including such phrase as "as may be provided by law" consistent with the earlier provision on sectoral representation in the Article on the Legislative.

REMARKS OF MR. TINGSON

Adverting to the provision in the Declaration of Principles that civilian authority shall at all times be supreme over the military, Mr. Tingson observed that the attitude of the people towards men in uniform is fear and that, while they are still in their uniform, they could exert influence to make sure that when they shall have retired, their candidates would have a place in Congress, in view of which, he would prefer that the military fuse themselves with the strictly civilian sector the moment they take off their uniforms. He then registered his objection to the amendment.

INQUIRY OF MR. COLAYCO

In reply to Mr. Colayco's query on the proponent's special interest in sponsoring special protection for the veterans, Mr. Ople pointed out that the veterans constitute a very significant social force which tend to have a feedback effect on the motivation of the soldiers in active service. He also stated that the proposal is a measure on how the war veterans who had fought for their country are treated. He stressed that it is a sector worthy of representation under a sectoral seat system in the House of Representatives, a representation that would protect their rights upon retirement as former members of the military force, as well as promote their continuing interest in the values which they had fought for as soldiers.

On the contention that the Body had already approved a section providing that Congress shall pass laws that would protect the rights of soldiers, veterans and their families and provide funds in support thereof, Mr. Ople stated that, although such may be a heartwarming expression of concern by the Commission, it is not the same thing as conferring constitutional recognition on the sectors like the youth, women, labor and peasants.

REMARKS OF MS. TAN

Ms. Tan stated that the Constitution should be more vigilant rather than give the veterans and the military more power. She pointed out that the 1973 Constitution had given them four paragraphs while the proposed draft Constitution is giving them 14 which, she opined, are more than enough.

Reacting thereto, Mr. Ople stated that he does not feel obliged to answer the comments except that the majority of the officers and men of the Armed Forces of the Philippines do not fall under such odious classification.

INQUIRY OF MR. RODRIGO

In reply to Mr. Rodrigo's query, Mr. Ople stated that the proposal does not give Congress the discretion to include or not to include the veterans as a sector.

On the meaning of the phrase "as may be provided by law", Mr. Ople stated that Congress may determine how this section could be implemented in conjunction with the appropriate Article on the Legislative.

On the observation that such intent is already provided for in Section 5 of the Article on the Legislative, Mr. Ople stated that, in effect, this would be detached from said article for the reason that it now belongs to the most appropriate place in the Constitution which is the sections dealing with the role of the Armed Forces of the Philippines.

REMARKS OF MR. BERNAS

Mr. Bernas observed that the point raised by Messrs. Davide and Rodrigo was that the matter of composition of the House of Representatives had already been closed with the approval of Section 5 of the Article on the Legislative, in reply to which, Mr. Ople maintained that his proposal is not an amendment to Section 5 but could stand on its own by virtue of the powers of this Commission.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:25 p.m.

RESUMPTION OF SESSION

At 4:29 p.m., the session was resumed.

WITHDRAWAL OF MR. OPLE'S AMENDMENT

Upon resumption of session, Mr. Ople withdrew his amendment on the understanding that it is the intent of the Commission that the veterans would be considered by Congress as falling under the phrase "such other sectors as may be provided by law" in the Article on the Legislative.

REMARKS OF MR. DAVIDE

Adverting to Section 5 of the Article on the Legislative, Mr. Davide stated that Congress could consider among the sectors to be represented in the Lower House the veterans whom he personally believes could qualify as a sector considering the service they had rendered to the country.

In reply to Mr. Ople's query on whether Mr. Davide would consider them eminently qualified for consideration by Congress, the latter stated that he would not preempt the judgment of the Lower House although, personally, he believes the veterans should be one of the sectors to be recognized.

Thereafter, Mr. de Castro stated that the Committee was willing to accept the withdrawal of the amendment.

MOTION FOR RECONSIDERATION OF APPROVAL OF PARAGRAPH (C)

Thereupon, Mr. Garcia moved for a reconsideration of the approval of paragraph (c) on the concept prohibiting the military from engaging in partisan political activity, in order to add the phrase NEITHER SHALL THEY DISCHARGE PUBLIC FUNCTIONS WHICH ARE CIVILIAN IN NATURE EXCEPT IN PERIODS OF EMERGENCY.

Mr. de Castro pointed out, however, that said provision is already provided for in the Section on Civil Service.

Thereupon, Mr. Garcia did not insist on his proposal.

RESTATEMENT AND APPROVAL OF SUBPARAGRAPH (C)

Mr. Maambong restated subparagraph (c) of Section 18, to wit:

PROFESSIONALISM IN THE ARMED FORCES AND ADEQUATE REMUNERATION AND BENEFITS OF ITS MEMBERS SHALL BE A PRIME CONCERN OF THE STATE. THE ARMED FORCES SHALL BE INSULATED FROM PARTISAN POLITICS. NO MEMBER OF THE MILITARY SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY PARTICULAR POLITICAL ACTIVITY, EXCEPT TO VOTE.

Submitted to a vote, and with 32 Members voting in favor, none against and no abstention, the Body approved subparagraph (c) of Section 18.

PROPOSED AMENDMENT OF MR. MONSOD

On paragraph (d), Mr. Monsod proposed the reinstatement of the sentence which reads: THE LAWS ON RETIREMENT SHALL BE OBSERVED.

Mr. de Castro proposed to insert between the words "retirement" and "shall" the words OF MILITARY OFFICERS, to which Mr. Monsod replied that the subparagraph is part of the whole section on the military.

Mr. de Castro pointed out that there are technical men in the enlisted ranks who are normally extended in their service even after reaching 56 years of age.

REMARKS OF MR. BERNAS

Mr. Bernas stated that any attempt to single out the laws on retirement with a command that they must be observed would suggest that the Body seemed not to care if other laws are not observed. He stressed that any law shall be observed and there is no need to provide in the Constitution that they must be observed.

Mr. Ople supported the position taken by Mr. Bernas.

PROPOSED AMENDMENT OF MR. GUINGONA

Mr. Guingona proposed the adoption of the previous formulation contained in the original Committee Report, which reads:

ALL OFFICERS OF THE ARMED FORCES DUE FOR RETIREMENT FROM THE SERVICE IN ACCORDANCE WITH EXISTING LAWS SHALL BE RETIRED WITHOUT ANY EXCEPTION.

Mr. Guingona explained that this kind of provision would give meaning and substance to professionalization of the military. He stressed that the law should be applied uniformly to give assurance that no future dictators could manipulate the officers of the Armed Forces as what the former President did for the purpose of perpetuating himself in power. He pointed out that the provision would minimize, if not do away with, the possibility that officers of the Armed Forces who have been extended would owe their loyalty to an individual and not to the institution and people. He stated that this practice of extending the tour of duty of retirable officers adversely affects the younger officers, many of whom are capable and deserving of promotion.

REMARKS OF MR. MONSOD

Mr. Monsod opined that a detailed formulation belongs to legislation and, if the intent is to go into details as an alternative to a general principle, he would rather ask for the deletion of the two sub-paragraphs. He then yielded to Mr. Bernas for an anterior amendment.

MR. BERNAS' AMENDMENT BY DELETION

Mr. Bernas proposed the deletion of subparagraph (d). He pointed out that the President had made exceptions because the law itself is loose, such that the remedy is for Congress to pass strict laws.

Mr. Guingona pointed out that his amendment carried the qualifying phrase "without exception" so that the law could not provide exceptions, otherwise, it would be unconstitutional.

Reacting thereto, Mr. Bernas pointed out that the problem is not with the President but with the law which allows him to make exceptions. He stated that what should be provided is a mandate to the legislature to pass retirement laws which do not allow exceptions, although, he would still oppose such kind of a provision.

REMARKS OF MR. MONSOD

Mr. Monsod stated that it is not the task of the Commission to put inflexible rules that would not admit certain emergencies or situations. He stated that he would rather ask for the deletion of the whole section instead of going into details.

FURTHER REMARKS OF MR. GUINGONA

Mr. Guingona clarified that this provision is applicable only during normal times and that in times of war or emergency, this provision would not apply pursuant to Mr. de Castro's earlier manifestation.

RESTATEMENT OF MR. BERNAS' AMENDMENT BY DELETION

Mr. Bernas restated his amendment to delete subparagraph (d) with prejudice to putting in any provision on this subject.

Mr. de Castro objected to the deletion, explaining that it is the extension of retirable officers in the Armed Forces that has caused so much demoralization among the officers corps. He stressed that this provision would not apply in times of emergency because, during a period of crisis, even retired officers may be called to active duty. He cited the case of the Prime Minister of Thailand whose service as a general was extended for one year, which extension almost caused a revolt in the Armed Forces.

Upon inquiry of the Chair, Mr. de Castro affirmed that Mr. Guingona's amendment is acceptable to the Committee.

REMARKS OF MR. NOLLEDO

Speaking against the deletion of Mr. Guingona's amendment, Mr. Nollado stated that aside from the argument of Mr. de Castro that in the absence of such a provision, there will be demoralization in the Armed Forces of the Philippines, it would give the President 'the right to retain generals who are close to him. He opined that this would amount to creating another dictator.

RESTATEMENT OF MR. GUINGONA'S AMENDMENT

Mr. Guingona restated his proposed amendment which was the original formulation of the Committee, to wit:

ALL OFFICERS OF THE ARMED FORCES DUE FOR RETIREMENT FROM THE SERVICE IN ACCORDANCE WITH THE EXISTING LAWS SHALL BE RETIRED WITHOUT ANY EXCEPTION.

APPROVAL OF MR. BERNAS' AMENDMENT BY DELETION

Mr. Bernas insisted on his amendment by deletion, and submitted to a vote, with 16 Members voting in favor, 11 against and one abstention, the Body approved to delete subparagraph (d) of Section 18.

PROPOSED AMENDMENT OF MR. MONSOD

Mr. Monsod proposed the deletion of subparagraph (e) by reason of the deletion of subparagraph (d), adding that this is a matter of detail that should be left to legislation.

Mr. de Castro objected to the proposed deletion on the ground that the absence of such provision might create another dictator. He stressed the need of having a Chief of Staff every three years so that there could be more reinvigoration in the Armed Forces of the Philippines.

REMARKS OF MR. BERNAS

Mr. Bernas supported Mr. Monsod's amendment to delete the provision on the ground that it contains a built-in clause for creating dictators, namely, the clause "subject to extension only during national emergency". He pointed out that all the instances cited by Mr. de Castro precisely happened during national emergency.

Replying thereto, Mr. de Castro stated that he would be amenable to the deletion of the clause "subject to extension only during national emergency". He stressed the need for the provision that the Chief of Staff should not be extended by the President. He warned that it is dangerous to have mutual attachment between a Chief of Staff, who is the Commanding General of the Armed Forces, and the President, who is the Commander-in-Chief.

REMARKS OF MR. OPLE

Mr. Ople manifested support for the retention of subparagraph (e) with the amendment to delete the last clause which, Mr. Bernas noted, constitutes a ready loophole for circumventing the first part thereof.

Mr. Ople opined that this provision may look innocent and mundane. However, he pointed out that the President, as Commander-in-Chief might develop a kind of mutual attachment with the Chief of Staff, which attachment usually constitutes a kind of confabulation. He stated that there are many state secrets which are mutually shared but which are actually denied even to the regular military establishments, which is a circumvention of the legal structure of the Armed Forces. He stated that this could even lead to assassinations of political enemies through confabulations.

Finally, Mr. Ople opined that the Committee was right in building a precaution in the provision on the Armed Forces and that approval of such provision would supplement what was intended by the previous provision that was deleted.

INQUIRY OF MR. MAAMBONG

Mr. Maambong inquired from Mr. Bernas if he would subscribe to the proposal if the term "national emergency" were defined in the context of Section 24 of the Article on the Legislative, in reply to which Mr. Bernas stated that he would go by the examples cited by Mr. de Castro, among others, the examples of Chiefs of Staff during the martial law period which was admittedly a period of national emergency. He stated that expanding the provision to include labor and student unrest or national calamity would amount to expanding the possibility of more exceptions. He affirmed that the emergency as defined by Congress would be an emergency lesser than a martial law situation. He further affirmed that even if Congress declares a national emergency under Section 24(2), this would not be a proper exception for the Commander-in-Chief to extend the term of the Chief of Staff of the Armed Forces. He agreed with Mr. Ople's argument that this term should be completely inextendible because the Chief of Staff and the Commander-in-Chief could share secrets between themselves but if the President anticipates the need to relieve the Chief of Staff and the Chief of Staff knows it, they would share these secrets with possible successors if at all they are both interested in the welfare of the nation.

On the assumption that Congress declares a national emergency at a time when the term of the Chief of Staff simultaneously expires, Mr. Maambong inquired whether the President could not extend such tour of duty in the absence of a provision allowing flexibility, to which Mr. Bernas replied that the question should be addressed to Mr. de Castro.

INQUIRY OF MR. SUAREZ

On Mr. Suarez' query whether it is necessary to constitutionalize the Office of the Chief of Staff, Mr. de Castro stated that if the Armed Forces of the Philippines is constitutionalized, the Office of the Chief of Staff is also automatically constitutionalized. Mr. Suarez, however, contended that the position of Chief of Staff is apart and distinct from the Armed Forces as an organization.

On the observation that under the proposal, the Office of the Chief of Staff would be considered a constitutional

office, Mr. de Castro stated that it would only be to the extent provided in the provision. He further stated that the constitutional provision would be applicable to the Chief of Staff or the acting Chief of Staff. He also affirmed that tour of duty means tenure of office.

Reacting thereto, Mr. Suarez stated that by constitutionalizing the office of the Chief of Staff and his tour of duty for three years, the President as Commander-in-Chief would be prevented from terminating such tenure of office.

In view thereof, Mr. de Castro stated that he would be amenable to changing the phrase "shall be for three years" to **SHALL NOT BE MORE THAN THREE YEARS**

On whether the term of the Chief of Staff should not be extended because of the effort to professionalize the military, Mr. de Castro pointed out that the President could, in fact, extend such term on that ground.

REMARKS OF MR. DAVIDE

Speaking in favor of the motion to delete Section 18(e), Mr. Davide stated that its retention is dangerous because considering that the President would have a fixed term of six years without re-election, he can appoint two Chiefs of Staff during his term, and if the second appointee is soon retireable, he might appoint a third Chief of Staff whose term could prevent the next President from appointing a Chief of Staff of his choice.

He also opined that a fixed term of three years is not conducive to professionalization and continuity in military policies because two Chiefs of Staff may have different views on the matter.

In reply, Mr. de Castro pointed out that the policies of the Armed Forces of the Philippines are established by the General Staff and approved by the President of the Philippines. He stated that the succeeding Chief of Staff cannot just change all the policies of his predecessor, although he may change some policies which are not consistent with professionalism in accordance with his conscience or belief, or which may not be conducive to an efficient military service. He cited a precedent during the Korean War when U.S. President Truman relieved General Douglas MacArthur who was succeeded by a general who successfully prosecuted the war similar to how General MacArthur conducted it. He underscored that there is always an able successor to the Chief of Staff of the Armed Forces.

VOTING ON THE MOTION TO DELETE SECTION 18(e)

Thereafter, submitted to a vote, and with 13 Members voting in favor and 17 against, the motion to delete Section 18(e) was lost.

RESTATEMENT; OF SECTION 18(e)

Mr. de Castro restated Section 18(e) to read:

THE TOUR OF DUTY OF THE CHIEF OF STAFF SHALL NOT BE MORE THAN THREE YEARS.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to delete the words "not be more than", and in lieu thereof to insert the words **IN NO CASE EXCEED**, so that Section 18(e) would read:

THE TOUR OF DUTY OF THE CHIEF OF STAFF SHALL IN NO CASE EXCEED THREE YEARS.

Submitted to a vote, and with 20 Members voting in favor, 5 against and 2 abstentions, Section 18(e), as amended, was approved by the Body.

INQUIRY OF MR SUAREZ

On Mr. Suarez' query whether Section 18(e), would retroactively apply to the term of General Fidel Ramos, Mr. de Castro opined General Ramos' term would depend on President Aquino.

In this connection, Mr. Ople stated that it would be highly controversial to leave the interpretation of the intent of the Constitutional Commission to a person no matter how trustworthy he or she might be. He affirmed, however, that Section 18(e) would have prospective application.

INQUIRY OF MR. MONSOD

In reply to Mr. Monsod's query whether the term of the Chief of Staff would strictly apply during a period of rebellion or war time, Mr. de Castro reiterated that the term of the Chief of Staff may be terminated as in the case of General Douglas MacArthur who was relieved during the Korean War but was ably succeeded by another general. He underscored that there is always an able officer who can take over the position of a fallen or relieved official.

On whether the President may extend the services of the Chief-of- Staff in case of war or actual rebellion, Mr. de Castro replied in the negative. He stated that there is always somebody next in rank.

Mr. Ople underscored that the intent of Section 18(e) is that the President, as Commander-in-Chief, can relieve the Chief of Staff anytime during the latter's term but during actual invasion, rebellion or war, the President has the prerogative to extend or not to extend the term of the Chief of Staff.

Mr. Monsod observed that Mr. Ople's interpretation is different from that of Mr. de Castro, and inquired on a definite interpretation of Section 18(e).

Mr. de Castro reiterated that under Section 18(e), the tour of duty of the Chief of-Staff shall in no case exceed three years, although a more liberal interpretation may be made by the President.

The Chair, however, stated that Section 18(e) is clear and there could be no doubt on its interpretation.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. de Castro, the Chair suspended the session.

It was 6:20 p.m.

RESUMPTION OF SESSION

At 5:55 p.m., the session was resumed.

RESERVATION OF MR. UKA

Upon resumption of session, Mr. Uka registered a reservation to seek reconsideration of the approval of Section 11 with regard to the equity ratio.

PROPOSED AMENDMENT OF MR. SARMIENTO JOINTLY WITH MESSRS. NOLLEDO, COLAYCO, TINGSON, RAMA, GUINGONA, VILLACORTA, MS. TAN, MESSRS. DAVIDE, SUAREZ AND MONSOD AND MRS. QUESADA

Thereupon, Mr. Sarmiento proposed the joint amendment which reads as follows: **THE OFFICERS AND MEN OF THE REGULAR FORCE OF THE ARMED FORCES OF THE PHILIPPINES SHALL BE RECRUITED**

PROPORTIONATELY FROM ALL THE PROVINCES AND CITIES.

At this juncture, Mr. Maambong pointed out that before the suspension, the Body was considering the matter of tour of duty of the Chief of Staff. He requested that it be taken up first. He then presented his proposed second sentence of Section 18(e) to read as follows: HOWEVER, IN TIMES OF WAR OR OTHER NATIONAL EMERGENCY DECLARED BY CONGRESS, THE PRESIDENT MAY EXTEND SUCH TOUR OF DUTY FOR THE DURATION THEREOF.

Mr. de Castro explained that the reason for the proposal is to obviate difficulties that may be encountered as a result of sudden changes in the command structure in times of actual emergency.

In reply to Mr. Jamir's query whether the extension would continue for the duration of the emergency declared by Congress, Mr. Maambong replied in the affirmative, stating that the concept of national emergency is tied up with the declaration by Congress, as provided for in the Article on the Legislative. He added that when the emergency ceases, the Chief-of-Staff whose term has expired would have to be replaced.

On whether the President could relieve him if his performance during the emergency is not satisfactory, Mr. Maambong stated that even without the emergency, the President as the Commander-in-Chief of the Armed Forces of the Philippines could relieve the Chief-of-Staff.

Mr. Jamir suggested that the last portion of the proposal should be clarified so that there would be no doubt on the right of the President to relieve the Chief of Staff in case he is proven to be incompetent.

Mr. Maambong stated that that would be the interpretation.

Thereupon, Mr. Padilla manifested support for the proposal but stated that the President should have the prerogative of changing the Chief of Staff even within the three-year period of his regular tour of duty which means that the Chief of Staff has no vested right to his term. He suggested that the phrase "in no case" in the first sentence be deleted and to simply state SHALL NOT EXCEED THREE YEARS followed by the exception IN CASE OF WAR OR OTHER NATIONAL EMERGENCY DECLARED BY CONGRESS.

Mr. Maambong pointed out that there could be a procedural problem on the matter because the first sentence was already approved by the Body.

Mr. Padilla stated that it should be considered as a motion for reconsideration so that the phrase "in no case" in the first sentence could be deleted.

Mr. Davide opined that with the exception, the phrase had become impertinent and could be deleted. However, he added that without the exception, the phrase is necessary.

Upon direction of the Chair, Mr. Maambong read the second sentence, to wit:

HOWEVER, IN TIMES OF WAR OR OTHER NATIONAL EMERGENCY DECLARED BY CONGRESS THE PRESIDENT MAY EXTEND SUCH TOUR OF DUTY FOR THE DURATION THEREOF.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to delete "for the duration thereof" such that the sentence, as amended, would read:

HOWEVER, IN TIMES OF WAR OR OTHER NATIONAL EMERGENCY AS DECLARED BY CONGRESS, THE TOUR OF DUTY MAY BE EXTENDED.

The Committee accepted the amendment.

VOTING ON THE SECOND SENTENCE

Mr. Maambong then restated the second sentence, as amended, to wit:

HOWEVER, IN TIMES OF WAR OR OTHER NATIONAL EMERGENCY DECLARED BY CONGRESS, THE PRESIDENT MAY EXTEND SUCH TOUR OF DUTY.

Submitted to a vote, and with 22 Members voting in favor and 2 against, the second sentence was approved by the Body.

INQUIRY OF MR. SUAREZ

Mr. Suarez inquired whether "national emergency" would be an emergency which is military in nature and would not refer to a catastrophe or calamity.

In reply, Mr. Maambong affirmed that it would be so, although, he made a further clarification that the Committee interprets "national emergency" in the context of Section 24(2) of the Article on the Legislative which is clearly indicated by the sub-section.

As to whether national emergencies brought about by calamities would be excluded, Mr. Maambong noted that as long as Congress declares the situation a national emergency, it would be that "national emergency". He added that Section 24(2) of the Article on the Legislative does not state whether or not it is military in nature but Congress has the discretion to declare a nation emergency. He stressed that the Committee would not want to limit the interpretation which Congress may give.

On whether it is advisable to grant an extension even when there is no military situation involved, Mr. Maambong stated that from the Congress' standpoint, such situation may be deemed a nation emergency. He explained that the Committee view is that it should be related to lawlessness violence, invasion, or situations with military implications as far as they relate to the tour of duty of the Chief of Staff who, by the very nature of his position, runs the military establishment.

Mr. Suarez remarked that the interpretation of the phrase "national emergency" should be limited, as Mr. Maambong stated, to situations of lawless violence and imminent danger of rebellion or insurrection but not to situations of natural calamities.

Mr. Maambong reminded the Body that it had not yet voted on the whole subsection (e) of Section 18. Thereupon, Mr. Maambong read subsection (e), as follows:

THE TOUR OF DUTY OF THE CHEF-OF-STAFF OF THE ARMED FORCES SHALL NOT EXCEED THREE YEARS.

HOWEVER, IN TIMES OF WAR OR OTHER NATIONAL EMERGENCY DECLARED BY CONGRESS, THE PRESIDENT MAY EXTEND SUCH TOUR OF DUTY.

Submitted to a vote and there being no Objection, Subsection (e) was approved by the Body.

PROPOSED AMENDMENT OF MR. SARMIENTO

Mr. Sarmiento informed that Messrs. Ople and Romulo were coauthors of the joint amendment. Mr. Sarmiento explained that the purpose of the amendment is to prevent the formation of exclusive clubs and enclaves within the military such as the Ilocano, the Bicol and the Visayan blocs. He noted, moreover, that the provision is a self-checking mechanism implanted in the army organization which shall be composed of officers and men from

all the provinces. He stated that the composite army cannot be a threat to the government because it would be difficult, if not impossible, for any group to control or manipulate the will of the rest of the members of the organization. He noted that inasmuch as each soldier or officer is loyal to the place of his birth, he could be counted upon to be loyal to the nation. He observed that during the February revolution, General Ramos complained of an army within an army, referring to the troops loyal to General Ver and President Marcos.

AMENDMENT TO THE AMENDMENT PROPOSED BY MESSRS. TINGSON, OPLE AND GUINGONA

Mr. Guingona, on behalf of Messrs. Ople and Tingson, proposed to amend the amendment by adding the words AS FAR AS PRACTICABLE, which amendment was accepted by Mr. Sarmiento.

INQUIRY OF MR. NATIVIDAD

Upon inquiry of Mr. Natividad, Mr. Sarmiento affirmed that he is proposing an Armed Forces recruitment program that would recruit members in proportion to the population of each province and city.

Mr. Natividad pointed out that recruitment needs are sometimes based on definite qualifications and that the recruits have to pass some tests.

Mr. Sarmiento called attention to Mr. Guingona's amendment to insert the phrase AS FAR AS PRACTICABLE and that qualifications and other relevant matters shall be considered.

Mr. Natividad then observed that it might be impractical to recruit people from a province who would not qualify for the technical jobs simply to fill up its quota. He further observed that the Armed Forces does not offer attractive pay rates and that there are few applicants. As to whether such recruitment would stop as soon as the Armed Forces has filled up the quotas of the different provinces, Mr. Sarmiento adverted to the saving clause "as far as practicable".

Mr. Natividad informed that officers and those who undertake the PMA training have to undergo extensive physical and mental examinations which do not give any regard to the origin of the individual and that even in the other branches of the Armed Forces, the last question put to a recruit would be where he comes from. What is important, he stressed, is the physical and mental ability of the individual.

REMARKS OF MR. RAMA

Mr. Rama stated that the provision is not new and that even before President Marcos came to power, there was already a policy to recruit PMA students from all over the country. He noted that at the time of President Marcos, 80% of such students came from Ilocandia. The provision, he said, is necessary to address a very serious problem.

REMARKS OF MR. DE CASTRO

Mr. de Castro clarified that the officers of the Armed Forces principally come from the PMA, although, there are others who come from colleges after finishing their ROTC training with distinction. In the case of the PMA, he stated that anyone can apply and that strict physical and competitive examinations are given. He noted that there are sometimes 8,000 applicants, although, the Armed Forces need only about 150 men and it is possible that all would come from Metro Manila. He stated that this is the result of a selective process.

He recalled that before the war, the Members of Congress were given quotas on the number of recommendees and that it is possible for one region to have 10 candidates for the PMA who would have to pass the various examinations.

With regard to officers who are graduates of ROTC training, Mr. de Castro explained that all colleges have their own ROTC training with a small cadre from the regular force. He noted that officers who did not show distinction during the four-year training period may not be selected for active duty training. He stated that it would be difficult to give a proportionate share to such officers.

In the case of enlisted men, Mr. de Castro stated that they are likewise given physical examinations in addition to educational requirement.

He stated that the current policy of the armed forces is to select soldiers from the province where they are expected to serve. He underscored that it would be difficult to provide for this even with the saving clause.

REMARKS OF MR. OPLE

Mr. Ople, a proponent of the amendment, stated that in 1984 he looked at the regional distribution of generals and flag officers of the AFP and found that of 100 generals 82 came from the Ilocos region and that 80% of the AFP officers of flag rank were also from Ilocos. He inquired whether such a distribution would be considered equitable considering that the Ilocanos represent only 13% of the population. Furthermore, he asked whether this was the result of a natural evolution or whether there was an insidious intervention so that 80% of all the generals and flag officers came from only one region.

Mr. de Castro noted that it was for this reason that the Body is putting in provisions on professionalism and nonpartisanship in politics as well as on the tour of duty of the Chief of Staff. He stated that the President has the discretion to appoint the generals.

Mr. Ople inquired whether the Committee would agree to his contention that 60 % of the armed forces, at the enlisted men's level, come from only one region, to which Mr. de Castro replied that he does not have the data thereon. Mr. Ople admitted that although he had not verified the data, it had been suggested to him by people who are knowledgeable about the regional distribution of the armed forces.

The Presidential Security Command, he informed, prior to the Aquino administration, consisted almost entirely of people from one region and that a majority came from only one province.

Mr. Ople remarked that these are practices which the proposed amendment seeks to address and that although it does not precisely say how the Armed Forces can achieve a more optimal balance in terms of regional representation, he pointed out that the ethnological configuration is known. He observed that the population consists mainly of 24% Cebuano-speaking; 23% Tagalog-speaking; 13% Ilocano-speaking; 11% Hiligaynon-speaking and 3% Pampango-speaking Filipinos which could serve as the basis of distribution in the composition of the Armed Forces both at officer and enlisted men level. He stated that the leadership of the Armed Forces, the President and maybe Congress, can ensure a kind of equitable distribution.

In India, he noted that the Sikh population in Punjab constitutes 3% of the Indian nation but accounts for 12% of the armed forces of India. The amendment, he reiterated, would rectify the imbalance in the composition of the Armed Forces.

SUGGESTION OF MR. UKA

Mr. Uka observed that with 87 major languages, the country is a modern Tower of Babel. He suggested that each province or each region can have a quota. He stated that tribal dissension cannot be avoided.

INQUIRY OF MR. TINGSON

Upon inquiry of Mr. Tingson, Mr. Sarmiento affirmed that the idea of professionalizing the Armed Forces had been approved by the Body and that "professionalism" connotes the best officers and men. Further, Mr. Sarmiento affirmed that only those who are eligible and well-trained shall be accepted.

As to the meaning of "from all provinces", Mr. Sarmiento replied that it would be difficult to provide for "all regions" inasmuch as a region consists of many provinces. He observed that it would be more practical to provide by provinces and cities.

On whether the provision would solve the problem of clannishness, Mr. Sarmiento replied that it would prevent factionalism and clannishness because Congress would implement programs through which soldiers would interact with each other.

REMARKS OF MR. NOLLEDO

Mr. Nollado stated that each province or city would never run out of qualified men for the armed forces considering the innate intelligence of Filipinos. He supported the amendment which, he informed was based on the proposal of a concerned citizen Atty. Florante Yambot, for the following reasons:

1. the proposed recruitment system would prevent the organization of different blocs in the armed forces;
2. the amendment would bring about equality and opportunities to Filipinos in different provinces and cities in their aspiration to serve the armed forces;
3. it will promote national unity because Filipinos from different regions and of different idiosyncrasies will come together united in their goal to protect the people and the State;
4. it lays down a basic rule in the formation of the structure of the Armed Forces and its details shall be provided by Congress it will also prevent the practices adverted to by Messrs. de Castro and Natividad; and
5. it will be difficult for a President, who is the Commander-in-Chief, to control a bloc within the army.

He stressed that it would prevent the existence of an army within the army.

The Committee did not accept the amendment.

Mr. Bacani stated that he personally cannot accept the amendment and that a constitutional provision for the purpose is not needed.

Upon direction of the Chair, Mr. Sarmiento restated his amendment, to wit:

THE OFFICERS AND MEN OF THE REGULAR FORCE OF THE ARMED FORCES OF THE PHILIPPINES SHALL BE RECRUITED PROPORTIONATELY FROM ALL PROVINCES AND CITIES AS FAR AS PRACTICABLE.

On Mr. Maambong's insistence, the phrase "of the Philippines" was deleted.

Submitted to a vote, and with 17 Members voting in favor and 4 against, Mr. Sarmiento's amendment as amended was approved by the Body.

Upon request of Mr. Sarmiento, Messrs. Nollado, Colayco, Tingson, Rama, Guingona, Ms. Tan, Messrs. Villacorta, Davide, Suarez, Monsod, Mrs. Quesada, Messrs. Ople and Romulo were included as coauthors of his amendment.

APPROVAL OF SECTION 18, AS AMENDED

Mr. Maambong restated Section 18, as amended to wit:

SECTION 18(1) ALL MEMBERS OF THE ARMED FORCES SHALL TAKE A SOLEMN OATH OR AFFIRMATION TO UPHOLD AND DEFEND THIS CONSTITUTION.

(2) THE STATE SHALL STRENGTHEN THE MILITARY'S PATRIOTIC SPIRIT AND NATIONALIST CONSCIOUSNESS, INCLUDING RESPECT FOR PEOPLE'S RIGHTS IN THE PERFORMANCE OF THEIR DUTY.

(3) PROFESSIONALISM IN THE ARMED FORCES AND ADEQUATE REMUNERATION AND BENEFITS OF ITS MEMBERS SHALL BE A PRIME CONCERN OF THE STATE.

THE ARMED FORCES SHALL BE INSULATED FROM PARTISAN POLITICS. NO MEMBER OF THE MILITARY SHALL ENGAGE DIRECTLY OR INDIRECTLY IN ANY PARTISAN POLITICAL ACTIVITY, EXCEPT TO VOTE.

(4) THE TOUR OF DUTY OF THE CHIEF OF STAFF OF THE ARMED FORCES SHALL NOT EXCEED THREE YEARS. HOWEVER, IN TIMES OF WAR OR OTHER NATIONAL EMERGENCY DECLARED BY CONGRESS, THE PRESIDENT MAY EXTEND SUCH TOUR OF DUTY.

(5) THE OFFICERS AND MEN OF THE REGULAR FORCE OF THE ARMED FORCES SHALL BE RECRUITED PROPORTIONATELY FROM ALL THE PROVINCES AND CITIES AS FAR AS PRACTICABLE.

Submitted to a vote, and with 23 Members voting in favor and none against, Section 18, as amended, was approved by the Body.

AMENDMENT OF MESSRS. RIGOS, ROMULO, MS. AQUINO AND MRS. ROSARIO BRAID

Mrs. Rosario Braid read the following substitute amendment to the provision that was voted down on population policy, to wit:

THE STATE SHALL PROMOTE THROUGH EDUCATION A POLICY OF RESPONSIBLE PARENTHOOD.

Mr. Romulo explained that "responsible parenthood" is not population control or family planning but an enlightenment to prospective parents on their responsibility in child-rearing in the context of their own family limitations, health and resources.

Mr. Uka pointed out that "responsible parenthood" is already covered by Section 3(a) of the Article on Family Rights and putting it in the substitute amendment would be a redundancy, to which Mr. Romulo replied that the provision lays stress on education as having something to do with responsible parenthood.

REMARKS OF MR. BACANI

Mr. Bacani pointed out that the deleted portion rejected the formulation of population policies by the State, therefore, the substitute amendment would amount to a reconsideration of the rejected formulation. He also stated that while Mr. Romulo correctly stated that responsible parenthood does not mean population control, said phrase is closely associated with family planning. He then read into the record portion of a brochure on responsible parenthood which, he opined, shows a policy bias towards a small family. In view thereof, he suggested that the proposal leave out any mention of responsible parenthood which would be taken care of in the Article on Education.

Mr. Uka reiterated that the proposal would be a redundancy. He suggested that the matter be left to the Legislature.

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople recalled that at the beginning of the consideration of the Article on General Provisions, after Section 1 was reformulated, Messrs. de Castro, Nollado and himself sought the Committee's approval to present later on a separate amendment on government retirees.

Thereupon, he proposed the following amendment, subject to proper placement by the Committee in the Article on General Provisions, to wit:

THE STATE SHALL FROM TIME TO TIME REVIEW AND UPGRADE THE PENSIONS AND OTHER BENEFITS DUE TO RETIREES OF BOTH THE GOVERNMENT AND THE PRIVATE SECTORS.

Explaining his amendment, Mr. Ople stated that there are 2 million government employees who are either in active service or are retired and 8 million members of the Social Security System for the private sector. He pointed out that these people, either through the GSIS or the SSS, contributed premiums during their employment to the retirement fund. He observed that, unfortunately, many of the retirees feel that they only receive a pittance compared to what they had enslaved for during their working lives. He then asked the Committee to consider his amendment.

Mrs. Rosario Braid accepted the amendment on behalf of the Committee.

MR. DAVIDE'S AMENDMENT TO THE AMENDMENT

Mr. Davide proposed to amend the amendment by changing the word "and" between "review" and "upgrade" to TO.

Mrs. Rosario Braid accepted the amendment.

Submitted to a vote, and with 21 Members voting in favor and none against, the amendment was approved by the Body.

REMARKS OF MR. SARMIENTO

Speaking against the amendment, Mr. Sarmiento stated that the term "responsible parenthood", in its strict sense, denotes a virtue to be observed by those tasked with procreation, education and material support of children; however, when associated with population issues in the current context, it assumes unpopular meanings like contraception, in view of which, constitutionally mandating the State to educate the citizenry on responsible parenthood could pave the way for abuse of family rights by the State.

MANIFESTATION OF MR. OPLE

Mr. Ople supported the amendment on the ground that it represents population policy.

ADJOURNMENT OF SESSION

In view of the lateness of the hour, Mrs. Rosario Braid moved to adjourn.

There being no objection, the Chair declared the session adjourned until nine-thirty in the morning of the following day.

It was 6:56 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO
Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on October 1, 1986

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