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Saturday, July 26, 1986

CALL TO ORDER

At 9:44 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. Lorenzo M. Sumulong, to wit:

Heavenly Father, every time we come here to perform the task assigned to us of writing a new Constitution for our people, we begin with a prayer. We decided to do this because the task entrusted to us is a difficult and most exacting task. The document we are framing is not intended to meet and provide solutions to passing problems and momentary difficulties. We are here to frame a fundamental law that our people can use not just for a year, not just for a decade, not just for a generation, but for all time.

To produce such a charter for our people, Heavenly Father, we need Your help. Pour into us the power of the Holy Spirit so that we may have the strength, the perseverance, and the determination to wash away pride or prejudice from our hearts and minds so that the light of truth and reason and unalloyed love of country, rather than the darkness of preconceived ideas and pet theories, will be the controlling factor to guide us in the discharge of the grave responsibility that has been placed on our shoulders.

Heavenly Father, we are mortals, we are human beings with feet of clay, we have our own views and philosophies depending on the heredity and environment which have influenced our lives. Thus, we oftentimes see the same subject in different lights. It is unavoidable that there should be clash of ideas amongst us, and I for one welcome this clash of ideas if done openly rather than clandestinely, for letting off steam is a good safety valve to prevent violent explosions.

Heavenly Father, we thank Thee for keeping us united despite diversification in our views every now and then. We pray, O Lord, that whenever we agree to disagree, we take it as a sign of the restoration of our freedom of expression — for as Voltaire said "I do not agree with a word of what you say, but I will fight to the death your right to say it" — so that when we agree to disagree we are not weakening our unity, but rather we are strengthening the unity in our diversity.

Heavenly Father, we beseech Your continued guidance and assistance.

Amen.

ROLL CALL

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

Bacani, T. C. Nollado, J. N.
Bengzon, a. F. S. Padilla, A. B.
Bennagen, P. L. Muñoz Palma, C.
Bernas, J. G. Rama, N. G.
Rosario Braid, F. Regalado, F. D.
Brocka, L. O. De los Reyes, R. F.
Calderon, J. D. Rigos, C. A
De Castro, C. M. Rodrigo, F. A.
Colayco, J. C. Romulo, R. J.
Concepcion, R. R. Sarmiento, R. V.
Davide, H. G. Sumulong, L. M.
Guingona, S. V. C. Tadeo, J. S. L
Jamir, A. M. K. Tan, C.
Maambong, R. E. Tingson, G. J.
Monsod, C. S. Treñas, E. B.
Nieva, M. T. F. Villegas, B. M.

With 32 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

Abubakar, Y. R. Lerum, E. R.
Alonto, A. D. Natividad, T. C.
Aquino, F. S. Ople, B. F.
Foz, V. B. Quesada, M. L. M.
Garcia, E. G. Uka, L. L.
Laurel, J. B. Villacorta, W. V.

The following Members were absent:

Azcuna, A. S. Rosales, D. R.

Gascon, J. L. M. C. Suarez, J. E.

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. 330 — Constitutional Commission of 1986

Letter from Mr. Manuel A. Sanico of 4107 Corregidor-Pitogo, Machete Metro Manila, proposing the adoption of Filipino as our national language

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 331 — Constitutional Commission of 1986

Letter from Mr. Manuel A. Sanico of 4107 Corregidor-Pitogo, Machete, Metro Manila, proposing the creation of a "Veterans Affairs Commission"

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 332 — Constitutional Commission of 1986

Communication from Mr. Eufemio C. Salera, District Commander, Veterans Federation of the Philippines, Zamboanga del Sur Chapter, Pagadian City, submitting a consolidated report of veterans' petitions

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 333 — Constitutional Commission of 1986

Letter from Mr. Teofilo B. Cruzat of Poblacion, Catanauan, Quezon, proposing a provision in the new Constitution requiring all candidates for elective positions to secure clearances before filing their certificates of candidacy

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 334 — Constitutional Commission of 1986

Communication from Mr. Ignacio C. Badeo, a sidewalk vendor of 864 R. Papa St., Sampaloc, Manila, proposing that Philippine Presidents be awarded an end-term bonus of 10 million pesos if he has rendered an untarnished 6-year term

TO THE COMMITTEE ON THE EXECUTIVE

Communication No. 335 — Constitutional Commission of 1986

Communication from Mr. Prudencio S. Serrano of 784 Don M. Marcos Avenue, Mati, Davao Oriental, submitting various proposals for the consideration of the Constitutional Commission

TO THE STEERING COMMITTEE

Communication No. 336 — Constitutional Commission of 1986

Communication from Nur-Hussein A. Ututalum, Al Hadj, Speaker, Batasang Pampook, Autonomous Region IX, Zamboanga City, transmitting, for consideration by the Constitutional Commission of 1986, Resolution No. 117, entitled: RESOLUTION RESPECTFULLY REQUESTING THE CONSTITUTIONAL COMMISSION TO GRANT POLITICAL RIGHT OF SUFFRAGE TO ILLITERATES

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No. 337 — Constitutional Commission of 1986

Communication from Mr. Ambrosio C. Sumalbag, Chairman, LAYA Community, Inc. of 740 CBCP Gen. Luna St., Intramuros, Manila, proposing a provision in the Bill of Rights that prisoners who have lawfully and fully served their sentence will enjoy full restoration of their civil rights

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No. 338 — Constitutional Commission of 1986

Communication from the National Secretariat of Social Action, Justice and Peace (NASSA) of the Catholic Bishops' Conference of the Philippines, proposing the abrogation of the military bases agreement between the United States and the Philippines, genuine land reform and rights of indigenous people, among others

TO THE STEERING COMMITTEE

Communication No. 339 — Constitutional Commission of 1986

Position Paper submitted by Mr. Arturo M. Erasmo of Purok Sweet Rose, Dumagok Fishing Village, Pagadian City, recommending the adoption of measures that will reduce the incidence of poverty in urban and rural areas and promote further utilization of the country's human and natural resources, among others

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 340 — Constitutional Commission of 1986

Position Paper submitted by Promotion of Church People's Right, Zamboanga del Sur Chapter, Pagadian City, signed by thirty-two (32) people, suggesting among others the removal of US bases in the Philippines, institution of a genuine land reform program, nationalization and Filipinization of existing industries, and reexamination of the Tripoli agreement

TO THE STEERING COMMITTEE

Communication No. 341 — Constitutional Commission of 1986

Letter from Mr. Crescencio A. Yaco, Chairman; Center for Solidarity Tourism, c/o PR Desk, Sociology Department, Asian Social Institute, 1518 Leon Guinto Street, Malate, Manila, submitting a resolution urging the Constitutional Commission to incorporate in the Constitution provisions on the enjoyment of travel and tourism and State support for the development and pro- motion of indigenous tourism programs

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 342 — Constitutional Commission of 1986

Letter from Messrs. Jerry B. Beo, Provincial Chairman, League of Filipino Students, and Teofilo Isorena, Jr.,

Provincial Chairman, Kabataan Para Sa Demokrasya at Nasyonalismo, expressing strong objection to the following proposals of the so-called "cause oriented" group: 1) retention of the US military bases or their transfer to Catanduanes, 2) retention of the capital punishment, and 3) annual psychiatric examinations for all government and military men

TO THE STEERING COMMITTEE

BUSINESS FOR THE DAY: COMMITTEE REPORT NO. 17 ON THE ARTICLE ON ACCOUNTABILITY OF PUBLIC OFFICERS

Thereafter, on motion of Mr. Rama, there being no objection, the Body proceeded to the consideration, on Second Reading, of Committee Report No. 17, as amended and consolidated by the Committee on Accountability of Public Officers, entitled:

Resolution proposing to incorporate in the 1986 Constitution an article on accountability of public officers.

Thereupon, the Chair recognized Mr. Monsod, the Chairman of the Committee, and the other Members of the Committee for the sponsorship.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query, the Chair affirmed that the Body had decided to defer consideration of the Article on the Legislative until Monday, July 28, 1986.

SPONSORSHIP REMARKS OF MR. MONSOD

In his remarks, Mr. Monsod underscored the salient features of the proposed Article on the Accountability of Public Officers, as follows:

On Section 1, he stated that the 1973 Constitutional provision was amended to incorporate Mr. Tadeo's proposal not only to vest public office with more than the requirement of fidelity, integrity and efficiency but also for public officers to act with justice and lead modest lives.

On Section 2, he stated that it includes the Ombudsman among the impeachable officers and provides the grounds therefor.

On the procedure for impeachment, he explained that in order to avoid deadlocks like what happened in the defunct Batasang Pambansa, a more liberal interpretation had been provided such that a verified complaint for impeachment may be filed by any Member of the House or citizen and that a majority of all the Members of the House could initiate the impeachment proceedings. He stated that although majority vote is a deviation from the provisions of the 1973 Constitution which required one-fifth of the Members of the National Assembly to initiate such proceedings and from the 1935 Constitution which required two-thirds of the Members of the House of Representatives to initiate and three-fourths of the Members of the Senate to prosecute impeachment, the Committee would be open to suggestions on the vote requirements.

He adverted to the fact that the prosecutory function of the Tanodbayan has been distinguished from the function of the Ombudsman as a champion of the citizen, to call the attention of government officials on any impropriety, misconduct or injustice, which distinctions would be explained by Messrs. Colayco and Nollado.

On Section 13 which provides for the right of the State to recover properties unlawfully acquired, Mr. Monsod stated that it is addressed to the problems similar to what obtained in the past regime when persons who benefited from unlawful acquisition of public properties had virtually gained immunity.

REMARKS OF MR. COLAYCO

Mr. Colayco-stated that the Committee proposes to create the office of the Ombudsman which shall act expeditiously and effectively but inexpensively on complaints filed against government officials and employees. In this connection, he read into the Record a portion of the book, authored by a professor of Columbia University, which underscores the importance of the Office of the Ombudsman as one which can handle in simple and cheap manner complaints which otherwise would not be worth the cost of an elaborate court procedure.

He pointed out that aside from the suggestion of Minister Gonzales, the 1971 Constitutional Convention also proposed the creation of such office to consider even petty grievances of the poor, considering that the system was only dominated by the powerful, the wealthy and the elite. He warned that the helpless disillusioned citizens may not bear more and that their disillusion could turn them with antagonism and bitterness towards the government and people in government.

With this as the rationale, he stated that 27 Resolutions were submitted to the Commission proposing the creation of the Office of the Ombudsman aimed 1) at the promotion of higher efficiency and justice in the administration of laws and 2) the protection of the constitutional rights of the people to petition the government for redress of grievances.

Mr. Colayco stated that the Office of the Tanodbayan created under Presidential Decree No. 1630 however, failed to act as guardian and protector of the rights of the people, especially that of the underprivileged. He stated that to obviate the failure of the Tanodbayan in implementing its objectives, the Committee had proposed a resolution which 1) would not require any formal condition for the filing of a complaint by dispensing with the usual requirement of filing an affidavit, in order to afford the poor remedial action, and, at the same time, empower the Ombudsman to investigate, inquire and demand the production of documents which may involve transactions and contracts of the government particularly relative to the disbursement of public funds, and 2) would grant the Ombudsman disciplinary or punitive remedy by requiring a government official to impose disciplinary action on the erring employee and to see to it that his orders are duly complied with, failure of which, could be a basis for a public disclosure of the case.

To give the Ombudsman stature and a certain clout, Mr. Colayco stated that the Committee had proposed that he be given the status, rank and salary of a Chairman of a Constitutional Commission, and to free him from political pressure, the Ombudsman should not be removed from office except by impeachment.

Mr. Colayco then cited the failures of the past administrations in this regard and appealed to the Body to protect the rights of the common people.

REMARKS OF MR. NOLLEDO

Mr. Nollado stated that as author of Resolution Nos. 280 and 61, he supports the creation of an Ombudsman as the answer to the need for an honest and responsive government. He stated that it is an institution intended against malpractices and corruption in the government. He stressed that as an official critic, the Ombudsman studies the laws, procedures and practices in government, and makes appropriate recommendations for a systematic operation of the governmental machinery free from bureaucratic inconveniences; as a mobilizer, he sees to it that steady flow of services is accorded the citizens; and as a watchdog, he looks at the general and specific performance of all government officials and employees in order that the law may not be administered with an evil eye or an uneven hand.

Mr. Nollado deplored the fact that public officers act as if they are the masters when in truth, they are the servants

of the people. He stated that the lagay system has been institutionalized in government offices including the courts leading to the total decay of the national character and an imminent collapse of the national conscience as people tend to accept corruption as a way of life. This, he stated, would result in the emergence of another system of dictatorship to contain the chaos, widespread dissatisfaction, indifference and anarchy as what had happened in China, South America and other places in the world.

He underscored that his resolution which would make constitutional and imprescriptible the right of the government to recover properties unlawfully acquired and to forfeit ill-gotten wealth of erring public officials is a very significant reform in public service.

MANIFESTATION OF MR. MONSOD

At this juncture, Mr. Monsod manifested his willingness to answer interpellations.

INTERPELLATION OF MR. RODRIGO

On the clear-cut distinction relative to the functions of the Ombudsman and the Tanodbayan, Mr. Monsod referred the question to Mr. Nollado who adverted to Presidential Decree Nos. 1607 and 1487, by stating that the function of the Tanodbayan has two parts, the first, to act as a prosecutor of anti-graft cases and entertain complaints from the public; and second, that which constitutes the basic function of the Ombudsman. He stated that Section 5, page 3 of the Committee Report recommends that the second part of the function of the Tanodbayan be removed and the same be vested in the Office of the Ombudsman. He stated that the Tanodbayan would, therefore, continue to discharge the function under the first part, as prosecutor or fiscal of anti-graft cases.

On whether the Ombudsman could prosecute, Mr. Nollado explained that he could not, but he could refer the case for prosecution to the appropriate official who may be the Tanodbayan or any ordinary fiscal.

On whether the Ombudsman has the power to compel or merely recommend the prosecution of a case, Mr. Nollado stated that he could direct but not command the fiscal if the latter refuses to file the case. In that particular instance, he stated that appeal to the Ministry of Justice could be made, and should the Ministry of Justice deny the appeal, the same could still be appealed to the Office of the President.

On the contention that an ordinary citizen could institute the case at his own instance, Mr. Colayco stated that he could do that if he has his own lawyer but that, precisely, is the main function of the Ombudsman, which is to take over the case after the complaint has been filed. He underscored the fact that the common man is turned off by the fact that his complaint is not being attended to.

On the possibility that the Ombudsman might renege on his duties, Mr. Colayco stated that it is for this reason that the right people would have to be chosen through the recommendation of the Judicial and Bar Council.

On the rationale for ranking the Ombudsman with the Justices of the Supreme Court by appointing him through the recommendation of the Judicial and Bar Council, Mr. Nollado stressed that it is necessary to do so to maintain the independence of the Ombudsman. He stated that should the Commission on Appointments be allowed to interfere in the appointment of an Ombudsman, it is possible that the Commission might appoint its own men to the Office of the Ombudsman which would subject said Ombudsman to future interference.

On the reason for segregating the Ombudsman from the Constitutional Commissions, Mr. Monsod stated that there is a distinction between the qualifications of an Ombudsman from those of Members of the Constitutional Commissions which require that he be a member of the Bar, which makes the Judicial and Bar Council the appropriate pre-screening Body.

Adverting to a previous comment of Mr. Rodrigo on the lack of prosecutory function of the Ombudsman, Mr. Monsod admitted that there is no clear-cut distinction, except that one of the concepts of the Ombudsman is his ability to persuade reforms and exercise certain powers so that he could rectify any omission or unlawful act of erring employees.

On whether the Ombudsman has prosecutory and punitive powers, Mr. Colayco stated that he has none, but that he has persuasive powers plus the ability to require that proper legal steps be taken to compel compliance therewith.

On whether the Ombudsman could compel a fiscal to file the complaint, Mr. Colayco stated that it could compel the fiscal to file the case by way of mandamus.

On the division of powers between the Tanodbayan and the Ombudsman, Mr. Rodrigo inquired whether the powers of the Ombudsman enumerated in Section 12 are exclusive, to which Mr. Colayco replied that the powers, functions and duties under Section 12 are not exclusive as the Legislature may vest the office with powers taken away from the Tanodbayan. Mr. Colayco, however, denied that in new thereof, the Tanodbayan shall become a useless appendage, inasmuch as pursuant to Section 5, the Tanodbayan shall continue to function and exercise its powers as provided by law or PD No. 1630, which mandated its creation although these powers vested by law can also be taken away by law.

Mr. Monsod explained that it is the Committee's intention to avoid a situation where the office of the Ombudsman would deteriorate into a prosecution arm and to give it a chance under the Constitution with prestige and persuasive powers, to function as a champion of the citizenry, although the Committee does not want to foreclose the possibility that sometime in the future the Congress may give it additional powers.

Mr. Rodrigo manifested his apprehension that creating a constitutional body which can exercise neither punitive nor prosecutory powers but merely persuasive powers may only dash the hopes of the people. He remarked that inasmuch as the powers of the Ombudsman may later on be provided by the Legislature, the matter should then be left to the Legislature.

Mr. Monsod said that the Committee wanted to avoid a repetition of what occurred during the 1971 Constitutional Convention that in spite of the Committee's recommendation for the approval of 27 Resolutions providing for the creation of the office of the Ombudsman and notwithstanding the explicit purpose enunciated in the Committee Report, the implementing law, PD No. 1630, did not follow the main thrust and instead created the office of the Tanodbayan.

Mr. Colayco explained that the Ombudsman can act as a body or alone inasmuch as the Ombudsman himself is the head of the office.

On the matter of the number of Ombudsman to be appointed, Mr. Monsod clarified that the intention of the provision is that there will be an office of the Ombudsman and not that there will only be five people in that office. Nevertheless, he stated that the Committee would like to institute one office which could respond to some of the problems of the people although it would not be a solution to the complaints of the entire population. He added that the Committee would like to give the concept a chance inasmuch as it could be a vehicle for the people to correct injustices, misconduct and impropriety.

Mr. Rodrigo stated that there should be a representative of the Ombudsman in every municipality and every city in the country to whom people could have access. Mr. Monsod, in reply thereto, stated that such would be possible in time as the concept is developed, refined and accepted by the people. He noted that in other countries, there are Ombudsmen for different sectors. He added that Congress can handle this matter.

INTERPELLATION OF MR. REGALADO

On Section 2, Mr. Regalado asked what offenses would the Committee consider as a betrayal of public trust which were not covered by the other offenses listed in the said section.

Mr. Romulo answered that the concept is a catch-all phrase and that Mr. de los Reyes would make further comments on the matter. He stated that it would refer to the oath of public office, the idea being that public trust is linked with the oath of office, the violation of which would be a betrayal of that trust.

Mr. de los Reyes explained that in the last Regular Batasan when there was a move to impeach President Marcos there were arguments that there was no ground for impeachment inasmuch as there was no proof that the former President committed criminal acts which could be considered penal offenses. He affirmed that the phrase "betrayal of public trust" as explained by Mr. Romulo is a catch-all phrase to include all acts which are not punishable by statutes or penal offenses but would nonetheless render the officer unfit to continue in office. He stated that it was for this reason that he proposed the amendment.

Mr. Romulo noted that the concept includes obstruction of justice inasmuch as in his oath of office, the public official swears to do justice to every man such that anything he does which would obstruct justice could be construed as betrayal of that public trust.

Mr. Nollado, apropos the statement of Mr. Romulo, drew attention to the presidential oath where the President undertakes to do justice to every man. He stated that should a President appoint a Minister of Justice and order him to issue or prepare repressive decrees denying justice to every man, without the President being criminally held liable, such an offense would be a betrayal of public trust.

On Section 3(2), Mr. Regalado stated that the Body could compromise on the required number of votes for the filing of the Article of Impeachment and that in reference to the first sentence therein, the Committee may also consider within what time such reports should be submitted inasmuch as it can be frozen in the Committee.

On Section 4, Mr. Regalado noted that under the law the Presiding Justice and Associate Justices of the Sandiganbayan respectively, have the ranks of Presiding Justice and Associate Justice of the Intermediate Appellate Court. He observed that the law referred to in this section would be PD No. 1606 which, insofar as the Sandiganbayan justices are concerned, appears to be an anachronism on the matter of removal from office inasmuch as the Justices in this body who are under the Judiciary could be removed by impeachment because of the statutory provision under the said decree. He noted, however, that the Justices of the Sandiganbayan are not among those mentioned as impeachable officials under Section 1.

He stated that the Committee should decide whether it intends to maintain this situation wherein the Justices of a Special Court can be removed only by impeachment whereas their counterparts in the Intermediate Appellate Court can be removed not necessarily by impeachment.

Upon inquiry of Mr. Nollado, Mr. Regalado clarified that the law involved in Section 4 would be PD No. 1606. In reply to Mr. Regalado's inquiry whether the Justices of the Sandiganbayan would be removable only by impeachment, Mr. Nollado replied that it would be so if PD No. 1606 is given the category of law but would lose its basis should it be repealed. He stated that he sees no anachronism involved in the situation since the provision authorizing impeachment is not a constitutional provision but a statutory provision which can be repealed.

Mr. Regalado clarified that it would be an anachronism under the present state of law but should the decree be repealed, there would not be any anachronism.

Mr. Monsod stated that the Body is considering the continuity of the institution though the Committee would

welcome suggestions or amendments at the proper time.

Section 8, Mr. Regalado noted, would require clarification as it would appear that the Ombudsman himself need not necessarily be a member of the Philippine bar but should possess only a college degree. Mr. Monsod explained that there had been a typographical error and an amendment would be in order.

On Section 10, Mr. Regalado adverted to the concern aired by Mr. Rodrigo as to who would see to it that the Ombudsman performs his duties as he is like a guardian of the government.

Mr. Romulo affirmed that only the Ombudsman who would have the rank of Chairman of a Constitutional Commission would be removable by impeachment.

Mr. Regalado expressed concern over the phrase "have the rank of" and noted that in the City of Manila, the City Fiscal has the rank of Justice of the Intermediate Appellate Court though he is not a member of the Judiciary. In reply thereto, Mr. Romulo explained that the Ombudsman under the provision is a rank in itself and for purposes of government classification and salary, the Committee has given him an existing rank which merely serves as a point of reference.

On the apprehension of Mr. Rodrigo that the Office of the Ombudsman would be merely a duplication, Mr. Regalado noted that one of the reasons why the Ombudsman could not function in his administrative or recommendatory capacity was the number of cases which he had to prosecute. He noted that there should be an Ombudsman to take care of the recommendatory, policy-determining and administrative aspects of the position and leave the prosecution task to the Tanodbayan.

Thereafter, he mentioned that the Committee on Constitutional Commissions and Agencies had received proposed Resolution No. 365 seeking to constitutionalize a Commission on Human Rights with investigatory, reportorial and recommendatory powers insofar as violations of human rights are concerned. He asked if the Committee would consider engrafting the functions of the proposed Constitutional Commission into the functions of the Ombudsman so as not to create another constitutional commission only for that purpose. He noted that should such functions be taken over by the Ombudsman, who would be a constitutional officer, it might be more economical and avoid duplication of functions as these functions are limited, under the proposed resolution, to human rights violations.

Mr. Monsod replied that the Chairman of the said Committee was not present but as a member thereof, he informed that the Members accepted the idea of having a Commission on Human Rights. He observed that the Ombudsman has enough areas of activity and should be considered not only as someone who looks into offenses or crimes but one who would look into government inefficiency, impropriety and misconduct which would not amount to a crime.

As Chairman of the Subcommittee on Proposed Additional Constitutional Commissions, Mr. Regalado said he was never consulted on the matter.

Mr. Monsod stated that the matter could be ironed out.

At this juncture, Mr. Sarmiento informed the Chair that he was taking over as Acting Floor Leader.

INTERPELLATION OF MR. BENGZON

Mr. Bengzon inquired whether under the phrase "lead modest lives" a public official would not be able to live according to the standard of living that he is used to. In relation to this matter he asked whether a public official who has his own Rolls Royce would be forced instead to use a Toyota simply because he is a public official.

Mr. Romulo explained that the point is not to flaunt wealth and that the Civil Code has a provision to this effect. He noted that while acting in his official capacity the public official should use the Toyota.

Mr. Tadeo, proponent of the resolution, stated that the intent would be living within his means. He noted that President Aquino who receives a monthly salary of P8,333 would not be able to buy a Mercedes Benz on that salary although certain minor officials he had seen in Aurora own mansions and cars in spite of their modest salaries. He explained that there are three problems besetting society, namely: imperialism, bureaucratic capitalism and feudalism. Bureaucratic capitalism, he stated, means enriching oneself while in office and managing the government as a personal business. He adverted to a study conducted by the U.P. School of Public Administration which showed that during the Marcos regime, about P20 billion annually were misspent. He argued that should public officials be held accountable, bureaucratic capitalism can be remedied. He stressed that the main point is to live within means.

Mr. Bengzon raised the question whether the public official who may be rich on his own should be forced to live within his salary as a government official.

Ms. Tan noted that it would be the recognizable excess after the public official got into office.

Mr. Bengzon observed that to avoid misunderstanding, a clear interpretation of the provision should be entered into the Record. He stated that the appropriate word would be "exemplary" instead of "modest" and the amendment could be made at the proper time.

On the observation that Section 11 would exclude complaints against officials and employees of government-controlled corporations on which the Ombudsman may act, Mr. Monsod stated that it was not the intention of the Committee to exclude them and, therefore, the Committee would be willing to consider amendments at the proper time. In this connection, Mr. Romulo affirmed that among the functions of the Ombudsman is to act as trouble-shooter or some kind of a "sumbongero" for the people.

INTERPELLATION OF MR. MAAMBONG

At the outset, Mr. Maambong indicated his objection to the creation of the office of the Ombudsman. He explained that a comparative study shows that the Sandiganbayan is a court of law created, not directly but by mandate of the Constitution under Presidential Decree No. 1606 which provides in Section 1 thereof that it has the same level as the Intermediate Appellate Court with all the inherent powers of a court of justice. He observed, however, that the formulation of the provision on impeachable officers failed to indicate whether the Ombudsman is impeachable in spite of the fact that Section 1 of PD 1606 provides that the justices of the Sandiganbayan are impeachable officers the stated that, on the other hand, the Tanodbayan is a prosecutory body while the office of the Ombudsman is a recommendatory entity in that it directs people to do something and nothing more.

As far as impeachability is concerned, Mr. Maambong pointed out that under the proposal, while the Sandiganbayan and Tanodbayan justices do not appear to be impeachable, the Ombudsman is impeachable despite the fact that the office is neither a court of law nor a prosecutory body.

Mr. Maambong also noted that while the Sandiganbayan and the Tanodbayan were created by mandate of the Constitution, the Ombudsman is sought to be created on the level of Constitutional Commissions although its function is merely recommendatory and directory.

On the matter of immunities, Mr. Maambong observed that while the Tanodbayan justices have immunities, the Sandiganbayan justices and the Ombudsman have none. He requested the Committee to thoroughly consider the matter.

Responding then to Mr. Maambong's query on the nature of impeachment proceedings, Mr. Romulo stated that the procedure therein would be analogous to a criminal trial although it is not a criminal prosecution per se, because the goal of impeachment is only to remove the official from office for violations and offenses indicated. He adverted to Section 3(6) of the proposed Article which provides that judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust, or profit although the party convicted shall nevertheless be liable to prosecution, trial and punishment according to law.

On whether a person subject to impeachment by Congress is entitled to due process, to the privilege against self-incrimination and rights to counsel, to be informed of the nature and the cause of accusation against him, and to be confronted with adversary witnesses, Mr. Romulo stated that the Senate as well as the House of Representatives could provide for their own rules, although the President and other officials subject to impeachment, like any other citizen, are entitled to the protection of the Bill of Rights.

On whether the Senate, acting as a body to try the impeachment, would conduct its proceedings using the principles of criminal procedure, Mr. Romulo stated that, strictly speaking, the impeachment proceedings need not be a criminal proceeding, however, it should be fair and impartial. Specifically, on whether the rules of criminal procedure would apply in the matter of presentation of evidence, Mr. Romulo stated that the Senate could be more liberal in the conduct of its proceedings because after all, conviction would lead to removal from office and, moreover, it is the court of justice that would take care of the criminal and civil aspects.

At this juncture, in reply to Mr. Maambong's request for reaction on certain citations, Mr. Romulo agreed 1) that "while there need not be a showing of the criminal character of the act, it must be of sufficient seriousness as to justify the belief that there was grave violation of the trust imposed on the official"; 2) that "high crimes refer to those offenses which like treason and bribery are indictable offenses and are of such enormous gravity that they strike at the very life of the orderly working of government"; 3) that "culpable violation of the Constitution means wilful and intentional violation of the Constitution"; 4) that "culpable violation implies deliberate intent, perhaps, a certain degree of perversity for it is not easy to imagine that individuals in the category of these officials would go so far as to defy knowingly what the Constitution demands".

REMARKS OF MR. NOLLEDO

At this juncture, commenting on Messrs. Rodrigo's and Maambong's contention that the function of the Ombudsman is merely recommendatory, Mr. Nollado stated that the Ombudsman will act as a lawyer for free to champion the common man's cause in order that possible abuse on the part of government officials would be minimized if not eradicated. He then adverted to Section 12 which defines the powers, functions and duties of the Office of the Ombudsman.

INTERPELLATION OF MR. DAVIDE

In reply to the initial query of Mr. Davide, Mr. Nollado agreed that culpable violation of the Constitution, treason, bribery, other high crimes and graft and corruption are included in the phrase "betrayal of public trust". However, on the suggestion that the ground for impeachment be limited to betrayal of public trust for the reason that it includes the other grounds enumerated, Mr. Nollado pointed out that the violation, although not culpable, may be serious enough to justify the impeachment proceedings like when one violates his oath of office. He explained that the phrase "betrayal of trust" was placed precisely to plug the loophole in the use of the word "culpable". However, Mr. Nollado stated that the Committee would consider amendments at the proper time.

On the rationale for increasing the vote requirement from one-fifth to a majority vote of all Members of the House

for purposes of initiating impeachment, if the thrust of the provision is to relax the impeachment process, Mr. Monsod stated that this is a matter on which the Committee would like to be advised considering the need to balance the right to demand accountability and the right of the government to a certain amount of stability and freedom from harassment.

On the observation that the proposal requiring a referral of the complaint to a Committee would make the process more rigorous because the Committee could kill the proposal, Mr. Romulo expressed willingness to further discuss the matter.

On the contention that Section 3(4) would in effect prevent one-fifth of the Members of the House of the Representatives from reviving an impeachment move by an ordinary Member or by a citizen, Mr. Romulo explained that the Committee was looking forward to a very liberal impeachment proceedings; and that it was struggling with the problem of a verified complaint rather than the signatures of one-fifth of the Members of the House. Mr. Romulo stated that whether to provide a period within which the Committee should report or whether the Committee should be allowed to overrule a verified complaint are only some of the questions which the Committee would like to have a thorough discussion on the floor.

Responding thereto, Mr. Davide opined that the Constitution could probably overrule a rejection by the Committee by providing that it could be over- turned by one-half or one-fifth of the House of Representatives, provided that such overturning would not amount to a refiling which is prohibited under Section 3(4).

On whether the Committee, in the course of the investigation of a charge for impeachment, may add other grounds for impeachment, Mr. Romulo stated that the Committee would be willing to consider amendments at the proper time.

On the disposition of the Committee Report, Mr. Romulo stated that in the event it is rejected by the House of Representatives, said Report has to be sent to the Archives.

On the nature of the evidence which the Committee would require, Mr. Romulo stated that it is an aspect of criminal proceedings but the Committee did not go into it because the Committee felt that impeachment is a political act more than anything else.

On the suggestion that guidelines be provided to prevent the Committee from just killing any proposal, Mr. Romulo stated that the suggestion could either be in the form of a provision or an interpretation placed in the Record or the Journal for the guidance of the House when it establishes its rules.

On whether the impeachment charge should always be in the nature of a verified complaint or a resolution, Mr. Romulo stressed that the recommendation of the Committee should be signed under oath by all the members pursuant to Section 3(3).

Mr. Davide recalled that under the impeachment rules of the interim Batasang Pambansa, an impeachment charge may be filed either by a Member of the Batasan through a verified complaint or an ordinary resolution which must forthwith be calendared within three session days from its filing without necessarily requiring a certification by the Speaker as to its correctness in form. With respect to a complaint filed by an ordinary citizen, Mr. Davide inquired whether it would also be immediately calendared or whether it should pass the Speaker who would determine the correctness in form of the complaint.

In reply, Mr. Romulo stated that the procedures should be left to the Rules of the House.

Mr. Romulo stressed that impeachment, not being a criminal proceeding, would not require proof beyond reasonable doubt for a finding of conviction. He pointed out that conviction would not bar a succeeding criminal

prosecution in court for the same offense pursuant to Section 6. Moreover, he opined that the decision of the House could be admissible subject to the quantum of evidence which the court normally requires under the Rules of Evidence.

With respect to the Ombudsman, Mr. Romulo stated that he has the right to conduct investigations. Additionally, Mr. Nollado stressed that he could conduct investigation but he could not prosecute before a court of justice.

Mr. Colayco explained that when a complaint is filed, the Ombudsman could already act because it is just a question of finding out from the respondent whether the complaint is valid or not.

On Section 12(2) which empowers the Ombudsman to direct the officer concerned to take appropriate action against the erring official or employee, Mr. Colayco stated that a recommendation for removal would not deprive the official or employee of due process.

Should a person to whom the directive recommending the removal is addressed would not comply, Mr. Colayco stated that there are always administrative remedies which could be resorted to like the Civil Service rules and regulations relevant to the matter.

Mr. Colayco concurred with Mr. Davide's observation that it is the intention, more or less, to make the Ombudsman more powerful than any other administrative body.

Mr. Monsod, however, stated that it would not necessarily be a superbody considering that it is not given prosecutory functions.

Mr. Colayco allayed the fear expressed by Mr. Davide that the Ombudsman might become a super-body by affirming that the Fiscal's Office cannot just file the case based on the recommendation of the Ombudsman because it would have to conduct a preliminary investigation and decide for itself whether there is a reasonable ground to believe that a case, may be filed. He, however, disagreed with Mr. Davide's statement that the Fiscal's Office would be at the mercy of the Ombudsman because only the latter could order the investigation.

On the danger of duplication of functions considering that there would be two bodies doing an investigation of the same matter, Mr. Nollado stated that it would only lessen the burden of the fiscal. He pointed out that under the 1985 Law on Criminal Procedure, mere affidavits on the part of the complainant and counter-affidavits on the part of the respondent would suffice for the fiscal to determine whether there is a prima facie case. He stated that it is only when the fiscal needs clarification that he may propound questions to the parties. He maintained that if the Ombudsman would do his duty, it would lessen considerably the burden of the fiscal and expedite appropriate action.

Mr. Romulo disagreed that there would be a duplication of functions because a fiscal is not allowed to investigate *motu proprio* while the Ombudsman, on his own, could initiate investigation. He stated that on the contrary, there would be a division of functions.

INTERPELLATION OF MR. VILLACORTA

On Section 3 which prohibits the initiation of impeachment proceedings against the same official more than once within a period of one year, Mr. Villacorta inquired whether it contemplates a situation where evidence is discovered to support another ground for impeachment. He stated that if the intention is to protect the public official from undue harassment, it may, on the other hand, give an undue limitation on the accountability of public officers.

In reply, Mr. Romulo stated that the intention is really to limit the initiation of impeachment charges in order to

allow the Legislature to concentrate more on its primary function of lawmaking. He opined that the Legislature might be too preoccupied with too many impeachment proceedings if multiple impeachment charges are allowed.

On Section 5, Mr. Romulo affirmed that it is just a point of reference to a particular provision in the 1973 Constitution without necessarily repeating said provision since it is a shorter way of identifying the Tanodbayan.

On the observation that this would only create confusion, Mr. Monsod stated that the Committee would be open to any suggestion.

On the rationale for making reference to PD No. 1630 as the basis of the powers of the Tanodbayan, and on whether it would not be hazardous to make reference to decrees issued by the past regime which may one day be repealed, Mr. Colayco stated that the Committee was just making a statement that the intention is to retain the agency as it was functioning before the new Constitution. He opined that some of the decrees issued by Mr. Marcos were alright. He stressed that the reference made would prevent complications.

On the suggestion to reword the provision without making reference to these decrees, Mr. Monsod stated that these are some realities that the Body could not wish out of existence. He stressed the fact that the Tanodbayan and Sandiganbayan were created pursuant to a constitutional mandate and the enabling acts were decrees. He stated that the reference made would prevent confusion, ambiguity or vacuum considering that these bodies are already in place.

On the suggestion to do away with the use of the term "betrayal of public trust" to avoid confusion and instead stick to the original wording of the 1973 Constitution, Mr. Nollado affirmed that during the 1971 Constitutional Convention, there were resolutions proposing to make betrayal of public trust one of the grounds for impeachment but which resolutions were turned down because of Mr. Marcos' fear of the term. He stated, however, that the Committee would be amenable to possible amendments at the proper time.

INTERPELLATION OF MR. CONCEPCION

Mr. Concepcion stated that he could not perceive the distinction between the Tanodbayan and the Ombudsman as far as their respective roles are concerned. He pointed out that in Sweden, the Ombudsman is an overseer, not in the sense of exercising supervisory authority but in the sense that it has the duty to assure himself that the offices under his jurisdiction function as efficiently as possible. In the exercise of that function, he has the power and duty to find out what is going on in all these offices and to recommend some modifications in their operations.

Mr. Concepcion opined that a study of the Ombudsman in Sweden would help the Body envisage the roles of these two bodies. He urged the Committee to come up with an explanation as to the main difference between one and the other.

Mr. Colayco acknowledged the observations made by Mr. Concepcion and manifested that the Committee would welcome constructive suggestions which would make the proposal adaptable and practicable in the Philippines.

Mr. Monsod stressed that the effectiveness of the Ombudsman would depend on the performance of those who would be appointed to that office and how the citizens would respond to it. He stated that what the Committee wanted to avoid was what happened in 1973 when the Tanodbayan was relegated to the status of a special prosecutor.

Mr. Nollado stressed that the Tanodbayan has the power to prosecute anti-graft cases, while the Ombudsman does not have such power.

SUSPENSION OF SESSION

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

It was 12:16 p.m.

RESUMPTION OF SESSION

At 1:38 p. m., the session was resumed.

PERIOD OF AMENDMENTS

Upon resumption of session, Mr. Sarmiento moved that the Body proceed to the period of amendments to expedite the proceedings and any Member could present his amendment after a brief interpellation .

On Mr. Guingona's query whether he is precluded from proposing amendments later, since at this point, he would just ask certain clarificatory questions, Mr. Sarmiento suggested that he be ready with his amendments. The Chair also manifested that the matter could be threshed out later.

On Mr. Rodrigo's observation that the period of amendments should not be terminated during the day's session in view of the absence of some Members, the Chair stated that the Commission could not do any business should the Body wait for the absent Members.

PROPOSED AMENDMENT OF MR. GUINGONA

On Mr. Guingona's query whether the Committee would be willing to adopt the description of "betrayal of public trust" suggested by the U.P. Constitutional Revision Project, to wit: "Acts which are just short of being criminal but constitute gross faithlessness against public trust, tyrannical abuse of power, inexcusable negligence of duty, favoritism, and gross exercise of discretionary powers", Mr. Monsod stated that the same was considered during the morning session.

On whether the Committee also accepts the additional description of "betrayal of public trust" contained in the 1970 U P. Constitutional Revision Project, to read: "profanity, obscenity, habitual drunkenness while performing official duty", Mr. Romulo expressed disagreement thereto.

On whether the Committee agrees to the statement of the 1986 U.P. Proposal that "betrayal of trust", may be such an overreaching standard as to be too broad and subject to abuse and arbitrary exercise by the Legislature, Mr. Romulo replied that the clarifications earlier made would be sufficient enough to guide the future Congress.

On whether it would be better to add the word GROSS to "betrayal of trust", Mr. Romulo stated that the Committee would consider the suggestion should Mr. Guingona submit an amendment to that effect.

Mr. Guingona then proposed WHEN THERE IS A NATIONAL FAILURE OF JUSTICE EVIDENCED BY GROSS VIOLATIONS OF HUMAN RIGHTS as an additional ground for impeachment of the President. He stated that his proposed amendment is in contemplation of an act of the President resulting in gross violation of human rights, as a supplement to Mr. Ople's proposal on command responsibility.

Mr. Romulo stated that "betrayal of trust" comprehends the phrase proposed.

Mr. Monsod also replied that the phrase is comprehensive enough and that the guidelines on record would be sufficient.

On impeachment,; Mr. Guingona stated that elective officials are difficult to impeach, particularly the President,

as he may be a member of the ruling party in the Senate. He advanced the view of the 1971 Constitutional Revision Project by stating that impeachment cases should be heard by a nonpolitical and highly qualified judicial tribunal, citing instances to prove his point.

Mr. Guingona stated that the word "ombudsman" is foreign to Filipinos to which he suggested that a local term such as Bantay Bayan be adopted.

Referring to Mr. Tadeo's concern on modest living, Mr. Guingona suggested that impeachable officers submit their statements of assets and liabilities upon assumption to office.

INQUIRY OF MR. TREÑAS

On Mr. Treñas' query relative to Section 3(2) whether a complaint filed against an impeachable officer is denied if it is dismissed by the Legislature, Mr. Romulo confirmed the same.

On whether the person filing the complaint has other remedies in view of the overwhelming evidence against the official and especially when the Legislature had acted capriciously or whimsically, Mr. Romulo replied in the negative stating that Mr. Davide precisely intends to introduce an amendment on this particular matter to cure the gaps in procedure.

On whether the case could be subjected to judicial review, Mr. Romulo stated that the Committee would be open to suggestions.

Reiterating the concern of Mr. Villacorta insofar as Section 5 mentions the 1973 Constitution on the Tanodbayan, Mr. Treñas suggested that an amendment be made so as not to dignify said Constitution since it was not validly ratified.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Sarmiento, the Chair suspended the session to allow 19 more Members who registered their desire to interpellate and present amendments, to make arrangements with the Committee.

It was 1:56 p.m.

RESUMPTION OF SESSION

At 2:41 p.m., the session was resumed.

PROPOSED AMENDMENTS OF MR. RODRIGO

Mr. Rodrigo proposed the following amendments:

- 1) On page 1, lines 13 and 14, after the words "Constitutional Commissions", delete the words "and the Ombudsman";
- 2) On page 3, lines 10 to 12, after the word "law", delete the comma (,) and the phrase "except those conferred on the office of the Ombudsman created under this Constitution.";
- 3) On the same page, delete lines 13 to 29;
- 4) On page 4, delete lines 1 to 28; and
- 5) On page 5, delete lines 1 to 22.

The Sponsor did not accept the amendments.

Explaining his amendments Mr. Rodrigo stated that under Section 6 of Article XIII of the 1973 Constitution, the Tanodbayan is an Ombudsman vested with the power to prosecute and, therefore, adding another Ombudsman would be an expensive and useless appendage.

He contended that during the interpellations, it was admitted by the Committee that the proposed Ombudsman may not prosecute, punish or compel and, therefore, has no coercive power but has only a persuasive function. He maintained that there would be no use creating and spending millions of pesos for an office which has only persuasive functions. He pointed out that this office could not have any coercive function because it would be independent from the President who is the one exercising control over the offices and who can compel compliance with directives.

Mr. Rodrigo further stated that seeing the concept behind it, the Ombudsman could not perform the services expected of this office consisting of the Chairman and 4 Members representing Luzon, Visayas, Mindanao and one nationwide. He observed that it would not have branches in every province or municipality, yet the purpose is for the people to air their complaints against government officials who fail to perform their functions. He contended that to pursue the goal of making the office accessible to the people would be very expensive because aside from the central office, regional, provincial, municipal or even barangay branches have to be created. In this connection, he suggested that the proposal be left to the Legislature for consideration at a later date owing to the financial implication of putting up offices all over the country which the government could not afford at this time.

Mr. Rodrigo noted that the proposal trespasses upon the functions of the President to monitor and see to it that the laws are complied with and that government officials perform their functions and duties.

Finally, Mr. Rodrigo stated that since the people look up to the Constitution as one that would contain important and effective provisions, approval of a provision on the Ombudsman could only disillusion them if they later find the office nonexistent

INQUIRY OF MR. SUMULONG

In reply to Mr. Sumulong's query as to how Section 12(1) would work out in the case for instance of a person who fails to get action from an office or bureau, Mr. Rodrigo maintained that such person should first see the Bureau Director and, failing to get action from the Director's office, he should go to the Minister concerned instead of the Office of the Ombudsman.

With respect to Section 12(2), Mr. Rodrigo stated that should the Assistant Fiscal take no action on the criminal complaint, such person should go the City Fiscal or the Minister of Justice.

INQUIRY OF MR. MAAMBONG

Mr. Maambong stated that although he objected to the creation of the Ombudsman during the interpellations, the provision could be saved if the Commission could agree on how to go about it.

On the philosophy behind the creation of the Ombudsman, Mr. Rodrigo agreed that the thrust of the proposal is to impress upon government officials and employees that they are servants rather than masters of the people and that the lagay system is unnecessary because the salaries paid to them actually come from taxes paid by the people. He suggested, however, that should said office be created, it should not be completely independent from the Office of the President, otherwise, it would have no coercive power.

Adverting to several agencies like the Presidential Complaints and Action Committee (PCAC) of President

Magsaysay, the Presidential Committee on Administrative Performance Efficiency (PCAPE) of President Garcia, the Presidential Anti-Graft Committee (PAGCOM) of President Macapagal, and the Presidential Agency on Reforms and Government Operations (PARGO) of President Marcos, Mr. Maambong inquired whether the proposed creation of the Ombudsman had been motivated by purposes similar to those of the agencies mentioned, in reply to which, Mr. Rodrigo stated that although he was not acquainted with the other agencies mentioned, he could say some good words about the PCAC which did a very good work because of the backing of the President.

On whether he would be amenable to including the functions of the Ombudsman in the present Tanodbayan, Mr. Rodrigo stated that the idea behind the Tanodbayan is to have a constitutional body that would take care of graft and corruption cases, but its original purpose would be lost unless the Tanodbayan plays the role of an investigating body for the Sandiganbayan. He stated that he was not prepared to discuss the idea of constitutionalizing the Ombudsman as well as continuing with the Tanodbayan created under Presidential Decree No. 1630.

On the suggestion to reword Section 5 to read "The Tanodbayan created by law pursuant to the mandate of the previous Constitution shall continue to function and exercise its powers provided by law", Mr. Rodrigo stated that maintaining the Tanodbayan would not raise the hopes of the people because they do not think of the Tanodbayan as an agency which could receive their complaints.

On the assumption that the Ombudsman would be constitutionalized in reply to Mr. Maambong's inquiry whether it would still need an implementing law with regard to the appropriations it would need, Mr. Rodrigo stated that should the Legislature fail to provide the funds, the Office would not be operational and would only place the Commission in an ugly situation.

The Sponsor reiterated his rejection of the proposed amendments.

REMARKS OF MR. DE LOS REYES

Mr. de los Reyes spoke against the amendment to delete the whole provision on the Ombudsman on the ground that while the Constitutional Convention intended the Tanodbayan to be the Ombudsman, the present Tanodbayan functions differently from what is envisioned for the Office of the Ombudsman. He pointed out that the Tanodbayan specializes in prosecuting anti-graft and corruption cases and therefore there is a need for another body to attend to the problems of the common man.

Mr. de los Reyes disputed the argument that the Office of the Ombudsman is "toothless" by pointing out its right to publish, when circumstances so warrant, matters covered by its investigation and by doing so it could serve the people very effectively. He maintained that the Ombudsman would be able to help the common man by serving them as some sort of a super counsel de officio. He stressed that by making the office independent, it would be able to perform its functions effectively without fear that it could be used by the President for political purposes. He opined that this is a revolutionary provision which should stay in the new Constitution.

In reply to Mr. Maambong's query, Mr. de los Reyes affirmed that the creation of the Ombudsman would give effect to the constitutional right of the people to petition the government for redress of grievances and to promote higher standard of integrity and efficiency in government service.

Mr. Maambong opined that Congress would be unburdened if follow-up jobs and other extralegal functions would be given to the Ombudsman, to which Mr. de los Reyes agreed.

REMARKS OF MS. AQUINO

While objecting to the motion to delete the concept of the Ombudsman, Ms. Aquino expressed concurrence with Mr. Rodrigo's observation that the way the Ombudsman is envisioned in the Committee Report, it is just like a lame duck and institutionally sterile with the pretensions of moral courage and a provocative presence to exert some kind of moral pressure. If the intention is to institutionalize the concept of the Ombudsman as a weapon against graft and corruption which is deeply entrenched in the government, she suggested that instead of deleting the concept, it should be given more muscle by reinforcing it with certain functions which are in the nature of quasi-prosecutorial functions.

INQUIRY OF MR. NATIVIDAD

In reply to the queries of Mr. Natividad, Mr. Rodrigo affirmed that even without the Ombudsman, the citizens could publish complaints that have not been entertained by any government agency especially with the proliferation of print and broadcast media. He maintained that the Body does not have to create a constitutional office just to publish the failure of some government officials. He further affirmed that citizens have the prerogative to recommend administrative action against erring officials and to give the Ombudsman the task of writing to heads of agencies or ministries some of their failures, there may be a confrontation between the Ombudsman and the President who is in command of the entire government.

Mr. Rodrigo agreed with Mr. Natividad's suggestion that instead of abolishing the Ombudsman, the Tanodbayan should be made its prosecuting arm so that it could prosecute grave misconduct committed by any public official who would refuse to obey its legitimate orders.

Finally, Mr. Rodrigo agreed with Mr. Natividad's suggestion that the Office of the Ombudsman should not be the exclusive territory of lawyers but also experts in the fields of management economics or even human rights in order that it could be more effective in assessing the performance and efficiency of the government as a whole.

INQUIRY OF MR. OPLE

On the initial query of Mr. Ople, Mr. Rodrigo affirmed that an independent office of the Ombudsman could encroach upon the principal responsibility of the President who controls all the ministries under the Constitution.

Mr. Ople opined that if the office of the Ombudsman fails, then it would just lapse into oblivion because the citizens would no longer come before it for help but if it succeeds, it would become a competitor to the President of the Philippines.

Mr. Rodrigo agreed to reconsider his amendment if, as Mr. Ople suggested, the Committee would agree that the office of the Ombudsman be made as a constitutional arm of the President in order to ensure that it has the support of the entire organization of the government on matters of administrative and legal responsibilities.

In view thereof, Mr. Ople inquired whether the Committee would agree to an amendment that would designate the office of the Ombudsman as a constitutional arm for good government instead of creating another agency in a kind of administrative limbo which would be accountable to no one on the pretext that it is a constitutional body.

Replying thereto, Mr. Monsod stated that Mr. Ople's suggestion was discussed during the Committee deliberations but the Committee felt that it may not contribute to the effectiveness of the office of the Ombudsman because many of the culprits in government are in the Executive Department. He pointed out that if the Tanodbayan became an ineffectual body and its functions reduced to that of a special prosecutor, it is because of wrong implementation when it is placed under the tremendous influence of the President. He stressed that the

Committee's proposal would precisely separate those functions and produce a vehicle that would give true meaning to the concept of the Ombudsman.

Mr. Ople noted that the Commission has the tendency to create constitutional umbrellas of immunity from executive intervention and he opined that there is a propensity sometimes to fall into a state of constitutional paranoia where the Commission automatically suspects that even an office as lofty as that of the President of the Philippines would have to be protected from its own innate propensities for evil.

Mr. Ople opined that the Constitution vests the powers of the Executive and the responsibility for the government as a whole in the presidency and therefore, in writing a new Constitution, the Commission should take a balanced approach. He pointed out that it would not be a very rational approach to the task of writing a Constitution if the Commission seeks refuge through constitutional immunities from the intervention of the presidency.

Reacting thereto, Mr. Monsod noted that Mr. Ople had looked at the concept with too much of an absolutist position. He stressed that the Ombudsman should be seen as a civil advocate and the champion of the citizens against the bureaucracy, not the President. On the argument that the Ombudsman is a "toothless animal", he maintained that it could exercise such powers and functions as may be provided by law and this, he stated, should be left to Congress for it to legislate what powers are needed to make the Ombudsman more effective.

REMARKS OF MR. REGALADO

In his remarks, Mr. Regalado concurred with Mr. Maambong's observation regarding the background of the creation of the Tanodbayan. As originally envisioned, he stated that it was supposed to perform the function of fiscalizing the different departments of the government, as well as governmental offices in the traditional Scandinavian concept. Unfortunately, it was not only a constitutional creation but a constitutionally mandated body that needed legislative support. Mr. Regalado pointed out that the Tanodbayan was created pursuant to a presidential decree that put too much emphasis on its prosecutory functions and less on its fiscalizing administrative functions. This, he stated, caused the failure of the Tanodbayan to discharge that other part of its duties taking into account also the political ambiance at the time when the President withdrew from those functions the capability of the Tanodbayan to perform what had been granted by law.

Mr. Regalado informed the Commission that he had gone over the annual report of the Tanodbayan and he found out, as concurred in by two former Tanodbayan justices, that it was swamped with too many work of prosecution and thereby failed to submit policy recommendations. He cited statistics contained in the last report of the Tanodbayan where he discovered why it failed to perform its duties of monitoring and fiscalizing the government offices and the reasons were: 1) almost all the time of the Tanodbayan prosecutors were taken up by criminal cases; and 2) it was under the Office of the President and its funds came from it thereby creating a suspicion that they were prevented from making administrative monitoring because of the sensitivity of the then head of office. He pointed out that bureaucratic red tape has always been the bane of democratic institutions.

Mr. Regalado stressed that the purpose of the second function of the Tanodbayan is to respond to the complaints of the common citizen. On the suggestion that a common tao could always make the corresponding complaint to the head of office or to the higher echelon of the office, Mr. Regalado stated that if a supervisor would not bother to listen to a minor clerk, then you could not expect him to go to higher officials because they could just tell him that the complaint would be outside of their jurisdiction.

On the allegation that the Ombudsman would compete with the executive powers of the President, he opined that a sincere President, who is fully dedicated to public service, would appreciate that his attention is being called to the shortcomings of certain government ministries or offices.

He believed that if only to give more teeth to the Ombudsman, it should be made independent of the Office of the President by creating it through the Constitution. In this manner, he stated that it would be free from political tentacles and bureaucracy, thus giving the helpless poor the opportunity to be attended to and so that public service may not be exclusive for the rich and the influential.

In view thereof, he manifested support for the creation of the Ombudsman with the suggestion that to give more teeth, it should be provided with logical support or budget separate from that of the Office of the President.

INQUIRY OF MR. UKA

In reply to Mr. Uka's query on the origin of the word "Ombudsman", and whether it could be translated into the native language, Mr. Colayco stated that the Committee would open to suggestions.

Mr. Uka then suggested that for reasons of economy, the powers and functions of the Ombudsman be transferred to the Tanodbayan as an independent entity.

VOTING ON MR. RODRIGO'S MOTION

Thereafter, on motion of Mr. Sarmiento, the Chair submitted Mr. Rodrigo's motion to delete all provisions relating to the Ombudsman, to a vote, and with 5 Members voting in favor and 21 against the same was lost.

AMENDMENT OF MR. SARMIENTO

As proposed by Mr. Sarmiento, and accepted by the Sponsor, on page 1, line 10, the Body approved the amendment to insert the words PATRIOTISM AND between the words "with" and "justice".

AMENDMENT OF MR. TREÑAS

On page 3, line 7 to 9, Mr. Treñas proposed to delete the phrase "created pursuant to the mandate of Section 6 of the Article XIII of the 1973 Constitution," and in lieu thereof to substitute the words PRESENTLY EXISTING.

The Sponsor accepted the proposed amendment, and in addition thereto and in connection with Mr. Regalado's proposed amendment which was submitted in writing, proposed that, on lines 1 to 3, the phrase "created pursuant to mandate of Section 5 of Article XIII of the 1973 Constitution", be also deleted and in lieu thereof to insert the words PRESENTLY EXISTING.

On lines 6 and 10, the Sponsor also proposed, between the words "as" and "provided", the insertion of the words IS NOW OR HEREAFTER MAY BE.

There being no objection, the Body approved Mr. Treñas' amendment as amended by the Committee.

On page 6, line 1, Mr. Treñas also proposed to delete the word "public" and in lieu thereof to insert the words MEMBER OF THE CABINET OR ELECTED.

He explained that the provision prohibits financial assistance to all public officials which includes even the lowly government officers. But he opined that it is the higher officials like the Cabinet members and other elective officials who take advantage of their positions.

On Mr. Colayco's observation that "elective officials" would include even the barangay captains, Mr. Treñas believed that his proposed amendment was more specific than "public officials".

In view thereof, Mr. Foz proposed an amendment to the amendment by substituting the words "elected officials" with MEMBER OF CONGRESS, which was accepted by Mr. Treñas.

At this juncture, Mr. de los Reyes instead proposed the deletion of the entire Section 14.

He explained that the same prohibition on the Members of Congress was covered by the provisions under the Article on the Legislative, as well as that of the Cabinet Members which was covered by the Article on the Executive. He opined that such provision was discriminatory against lowly elective officials like the municipal vice-mayor or councilors who have no influence on government financial institutions as the Development Bank of the Philippines.

In reply, Mr. Monsod stated that although the mayors would not have influence on certain lending institutions, the political spoils system could be a consideration for said institutions to lend them money. He added that the provision only prohibits loans for business purposes but not for personal purposes.

Mr. de los Reyes stated that "business purposes" may include even small business ventures on which some elective officials make a living, to which Mr. Monsod replied that if certain local officials have indeed meritorious projects on business, the private banking sector could provide them financial assistance.

Mr. Monsod reiterated his rejection of the proposal to delete the entire Section 14, but that the Committee would be open to other amendments to Section 14.

Furthermore, in reply to Mr. Rodrigo's query on the reason for limiting the prohibition to business purposes and not to other personal purposes, Mr. Monsod explained that the Committee was of the opinion that most malpractices in government financial institutions were associated with loans for business purposes. He also stated that loans acquired for building a residence would not be covered by the provision.

Thereupon, Mr. Rodrigo proposed an amendment to Mr. Treñas' amendment, by deleting the word "business" on page 5, line 27.

Mr. Nollado pointed out that with the proposal, even borrowings from the Government Service Insurance System (GSIS) by elected officials who may be members thereof would also be prohibited. He stated that it was only for business purposes that big amounts of money were being used.

Mr. Rodrigo stated that he would rather accommodate a person borrowing for business purposes than, say, for travel. He pointed out that a Senator could not even borrow money for a prawn business, in reply to which Mr. Monsod reiterated that the provision intends to avoid the use of political power in those instances, but if the project is indeed meritorious, the private lending institutions could finance it.

On why should the government sector discriminate a borrower who would venture in business against someone who would just waste the money, Mr. Nollado pointed out that the provision would cover only the Members of the Cabinet and the Members of Congress. In addition, Mr. Monsod stated that statistically, the problem arises from business loans because they involve large amounts.

Mr. Rodrigo maintained the possibility that Cabinet Members and Congressmen may borrow money not for business purposes, to which Mr. Monsod replied that they would be exceptions, and that most big loans were acquired for business.

Mr. Rodrigo then suggested that the distinction be on the amounts to be borrowed, to which Mr. Monsod stated that the Constitution would be permanent and that any specific limitation on the amount would not be applicable in the future.

In support of the stand of the Committee, Mr. Ople expressed agreement to the Committee's taking cognizance of the unconscionable errors and wastes wing from the exercise of undue influence.

At this juncture, Mr. Rodrigo manifested that he was withdrawing his amendment to the proposed amendment.

INQUIRY OF MR. FOZ

In reply to Mr. Foz' query as to the meaning of "substantial interest", Mr. Nollado stated that considering the provision of the National Internal Revenue Code in relation to the Corporation Code, 20% would be a substantial interest.

On whether the prohibition applies to a company where a Member of the Cabinet or Congress owns at least 20% interest, Mr. Nollado stated that it applies if the word "substantial" remains.

At this juncture, Mr. Monsod manifested that the Body should first vote on the pending proposed amendment before the Committee considers another amendment.

MR. DAVIDE'S PROPOSED AMENDMENT TO THE AMENDMENT

On page 6, line 1, between "to" and "any", Mr. Davide proposed to insert the words: THE PRESIDENT OR VICE-PRESIDENT, and after "any", to add OR ANY MEMBER OF THE CABINET, OF CONGRESS, CONSTITUTIONAL COMMISSION, OR THE JUDICIARY.

Mr. Treñas did not accept the amendment to include members of the Judiciary and the Constitutional Commission.

Thereupon, Mr. Davide requested for the deferment of his proposed amendment.

In reply to Mr. Monsod's query whether the proponent was accepting the inclusion of the President and Vice-President in his amendment, Mr. Treñas replied in the affirmative.

Mr. Foz stated that the President is not supposed to engage in business nor practice any profession, to which Mr. Davide observed that the President or Vice-President may have substantial interest in any firm or entity but he is not necessarily engaged in the management of any business, so that they should be included in the prohibition.

Mr. Monsod, on behalf of the Committee, accepted the proposed amendment as amended to make line 1 read as follows: "bank or financial institution to THE PRESIDENT, VICE-PRESIDENT OR ANY MEMBER OF THE CABINET OR CONGRESS".

In reply to Mr. de Castro's query on whether a crony of the President or of a Member of Congress is covered by the prohibition against borrowing from a government banking institution, Mr. Monsod answered in the negative stating that the prohibition applies only to their immediate family members. He added, however, that he would consider Mr. de Castro's amendment on the matter.

APPROVAL ON MR. TREÑAS' AMENDMENT AS AMENDED

Submitted to a vote and with 22 Members voting in favor, none against, and one abstention, Mr. Treñas' amendment, as amended, was approved by the Body.

Mr. Rodrigo manifested for the Record, that he was abstaining.

PROPOSED AMENDMENT OF MR. GUINGONA

Mr. Guingona proposed to change "Ombudsman" to BANTAY BAYAN wherever it occurs in the provisions.

Mr. Monsod did not accept the proposed amendment stating that it might be construed as NAMFREL since

NAMFREL used Bantay Bayan as its theme.

Substituting his proposed amendment, Mr. Guingona proposed TANGGOL BAYAN. He manifested that he has no objection to having Mr. Bacani as his coauthor who, likewise, espoused the idea.

Mr. de los Reyes proposed SUMBUNGAN NG BAYAN as an alternative but Mr. Guingona did not accept the proposed amendment.

Mr. Monsod requested that consideration of the matter be deferred to keep it open to suggestions from the Members on the appropriate Filipino term, to which Mr. Guingona agreed.

Mr. Bennagen manifested that there is a Maguindanao term which captures the concept of Ombudsman but he has to consult Datu Michael Mastura about it.

REMARKS OF MRS. QUESADA

Mrs. Quesada stated for the record that the reference to the Ombudsman and his deputies might preempt people power. She stressed that the contribution of the people who had organized themselves to correct injustice and to contribute to good government should not be discounted.

Reacting thereto, Mr. Monsod stated that the Ombudsman could not possibly preempt or substitute for people power but, instead, could be used as one of its safeguards.

AMENDMENTS OF MR. DAVIDE

On Section 1, page 1, line 7, Mr. Davide proposed after "employees", to insert a comma (,) and the phrase INCLUDING THOSE IN GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS AND THEIR SUBSIDIARIES and another comma (,).

Mr. Romulo, on behalf of the Committee, stated that he was not objecting to the proposed amendment except that it was too long as to remove the impact of the provision. He stated that the definition of public officer includes those who are employed in government corporations.

Mr. Davide did not insist on his proposed amendment but stated for the record that public officers and employees include those in government-owned or controlled corporations with original charters and their subsidiaries, which interpretation, was accepted by Mr. Monsod on behalf of the Committee.

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved the amendment on page 6, line 7, to change "shall" to MUST AT ALL TIMES.

On page 1, line 9, between "integrity" and "efficiency", Mr. Davide proposed to insert a comma (,) and the word HONESTY, to which Mr. Romulo replied that "integrity" includes "honesty".

Mr. Davide desisted from pursuing his proposed amendment.

On page 1, line 10, Mr. Davide proposed to substitute "modest" with EXEMPLARY.

Mr. Romulo maintained that the proposed amendment does not convey the intention of the original proponent.

Mr. Davide modified his amendment by proposing to insert AND EXEMPLARY between "modest" and "lives", stating that a public official or employee should be a paragon of virtue. He stressed that leading a modest life does not necessarily mean that he is a paragon of virtue or an example in the community.

Ms. Tan objected to Mr. Davide's proposed amendment stating that the term would cause more frustration if it

would be impossible to attain it.

Mr. Davide did not insist on his amendment.

On page 1, line 13, Mr. Davide proposed to delete "and", and on line 14, to delete "the Ombudsman" stating that the Ombudsman should not be placed in the level of the President and the Vice-President, the Members of the Judiciary, and the Members of the Constitutional Commissions on the matter of removal from office.

Mr. Monsod did not accept the proposed amendment because the Ombudsman is of the same level as that of the members of the Constitutional Commissions and that the provision is one of the ways of insulating the office from politics.

Reacting thereto, Mr. Davide stated that to make the Ombudsman removable by impeachment would be to enshrine and install an officer whose functions are not as delicate as the other impeachable officers.

Mr. Monsod argued that the Ombudsman would be on equal footing with the other officers enumerated therein but suggested that the proposed amendment be submitted to a vote.

At this juncture, the President inquired if there is a quorum.

Thereupon, a headcount was made and thereafter, the President declared the presence of a quorum.

At this juncture, Mr. de los Reyes inquired whether the amendment was not covered by Mr. Rodrigo's amendment which was already voted upon by the Body.

Reacting thereto, Mr. Davide stated that the proposed amendment of Mr. Rodrigo was for a total deletion of the Office of the Ombudsman and all sections related thereto. He stated that the Body rejected the proposal for which individual amendments were made on particular sections.

The Chair, likewise, stated that Mr. Davide's amendment was to exclude the Ombudsman from among the impeachable officers.

In reply to Mr. Rodrigo's query on whether the term "Ombudsman" refers only to one man, excluding his deputies, Messrs. Davide and Monsod replied in the affirmative.

Submitted to a vote, with 10 Members voting in favor and 14 voting against, Mr. Davide's proposed amendment was lost.

Mr. Davide manifested that he would like to propose an amendment by substitution on Section 3(2), (3) and (4) thereof, on page 2, lines 2 to 14. He then inquired whether the Committee would be willing to accept a substitute amendment, in reply to which, Mr. Monsod stated that the section is such an important and lengthy amendment that he requested deferment of the matter until after the Members shall have been furnished copies thereof.

Mr. Davide agreed to the proposal.

On page 2, line 20, after "preside", Mr. Davide proposed to add BUT SHALL NOT VOTE, stating that the Chief Justice as the presiding officer in an impeachment trial, shall not vote.

Mr. Monsod, on behalf of the Committee, accepted the amendment. Submitted to a vote, and there being no objection, the Body approved the amendment.

On page 2, line 26, Mr. Davide proposed to substitute "Government" with REPUBLIC.

Mr. Monsod inquired whether the phrases "in the government" and "under the REPUBLIC of the Philippines" would have different meanings. Mr. Davide explained that it would be different as the purpose of the amendment

is to restore the original provision contained in the 1935 and 1973 Constitutions and the use of phrase "REPUBLIC of the Philippines" would make the provision more elegant. The amendment was accepted by the Committee and, there being no objection, was subsequently approved by the Body.

AMENDMENTS OF MR. DE LOS REYES

On page 22, lines 25 and 26 of Section 3(6), Mr. de los Reyes proposed to delete the words "and enjoy" and the phrase "of honor, trust or profit" such that the amended provision would now read as follows:

JUDGMENT IN CASES OF IMPEACHMENT SHALL NOT EXTEND FURTHER THAN THE REMOVAL FROM OFFICE AND DISQUALIFICATION TO HOLD ANY OFFICE UNDER THE REPUBLIC OF THE PHILIPPINES. . .

Mr. de los Reyes stated that the word "enjoy" is superfluous and unnecessary and the phrase "of honor, trust or profit" would also be superfluous because the convicted party would be disqualified from any office. The Committee accepted the proposed amendment.

At this juncture, Mr. Davide objected on the ground that both the 1935 and 1973 Constitution use the phrase "of honor, trust or profit" and each has a particular meaning. He stated that an office of honor may be just an honorary office although an impeached individual cannot even hold an honorary office. He stressed that the Body should not destroy the original concept of the effects of impeachment on any office qualified as an office of honor, or trust, or profit and urged the restoration of these concepts.

Mr. de los Reyes, in reply thereto, said that the deletion of the phrase would make the provision more embracing and would include honorary offices. He remarked that "profits" as used in the 1935 Constitution would have no particular meaning then but it would have a different connotation nowadays. With the deletion of the phrase, he stated that an impeached public official would not hold any government office be it an office of honor, of trust or of profit, not even on consultant capacity.

Mr. Davide observed that whether the word "office" would now relate to any kind of office — honor, trust, or profit — would be left to interpretation.

There being no objection, Mr. de los Reyes' amendment was approved by the Body.

Thereafter, Mr. de los Reyes proposed to rephrase the second sentence in Section 10 to "The Deputy of the Ombudsman shall have the same rank of a Commissioner and shall receive the same salary, which shall not be decreased during his term of office" to conform to the wordings of the first sentence, which amendment was accepted by the Committee.

Mr. Maambong introduced an anterior amendment on the same section as a way of simplifying the whole paragraph by deleting the second sentence and rewording the first sentence to read as follows:

"The Ombudsman AND HIS DEPUTIES shall have the ranks of Chairman AND MEMBERS of a Constitutional Commission, and THEY shall receive the same salary, which shall not be decreased during THEIR term of office".

Mr. Maambong accepted Mr. de los Reyes' proposal to insert the word RESPECTIVELY between "Commission," and "and".

There being no objection to the amendments of Messrs. Maambong and de los Reyes, the same were approved by the Body.

Thereafter, Mr. Maambong restated the amended Section 10, to wit:

"The Ombudsman AND HIS DEPUTIES shall have the rank of a Chairman AND MEMBERS of a Constitutional Commission, RESPECTIVELY, and THEY shall receive the same salary, which shall not be decreased during THEIR term of office".

Mr. de los Reyes manifested that his amendment on the manner of impeachment is similar to Mr. Davide's and informed that he shall submit the written amendment to the Committee.

AMENDMENT OF MR. OPLE

Mr. Ople proposed to add a section at the end of the Article, to wit:

NO PUBLIC OFFICER MAY DURING HIS TENURE SEEK TO CHANGE HIS CITIZENSHIP OR ACQUIRE THE STATUS OF AN IMMIGRANT IN ANOTHER COUNTRY WITHOUT FORFEITING HIS POST.

Mr. Ople, explaining the principle behind his amendment, stated that accountability of public officers is derived from a clear allegiance to the State and its Constitution. He noted there are reports that many members of the public service, including those in the diplomatic and consular services abroad, are seeking to change their citizenship in their countries of temporary domicile or are acquiring "green cards" and that such incidents have reached critical proportion which should cause concern to the government. He stated that the amendment would be one way of establishing a constitutional directive which would become a major deterrent to violations of public policy.

Mr. Regalado informed that he had submitted an amendment to Section 8 which is closely allied with the amendment of Mr. Ople.

Thereafter, Mr. Monsod read the amendment of Mr. Regalado, to wit:

THE OMBUDSMAN AND HIS DEPUTIES SHALL BE NATURAL-BORN CITIZENS OF THE PHILIPPINES, AT LEAST FORTY YEARS OLD.

. .

and the proposed amendment of Mr. Bennagen, to wit:

. . . OF RECOGNIZED PROBITY, INDEPENDENCE AND PATRIOTISM, RESIDENTS OF THE PHILIPPINES AND MEMBERS OF THE PHILIPPINE BAR.

Mr. Regalado stated that his proposed amendment is concerned with the residence of the Ombudsman and his Deputies and has some connection with the immigrant matter which Mr. Ople mentioned.

Mr. Ople observed that Mr. Regalado's amendment is a more specific provision than the general principle which his amendment seeks to establish. He sought a separate consideration on the proposed section. Mr. Ople explained that there are two categories of actions contemplated in the section which may result in the forfeiture of post: 1) when a public officer, during his tenure, applies for a change of citizenship, in which case the application will expose him to forfeiture; and 2) the completed status of an immigrant. He noted that both would be considered inconsistent with the accountability of public officers.

QUESTION OF QUORUM

At this juncture, Mr. Romulo noted that the Body might no longer have a quorum. On inquiry of the Chair if there was quorum, Mr. Monsod asked if the session can be adjourned and the Article on Accountability of Public Officers be taken up on Monday.

The Chair stated that she wanted to make it of record that should the Body adjourn, it would be for lack of quorum. The Secretary-General, however, informed that there were still 25 Members present.

Mr. de Castro noted that Members leave the session hall without permission of the President or anybody else which he said was an ungentlemanly act as the Body could not do business without a quorum. He suggested that strict measures be taken against any Member who leaves the hall without permission of the President.

On inquiry of the Chair whether the Chairman moved to adjourn, Mr. Maambong explained that the motion should come from the Floor Leader. Thereafter, Mr. Maambong sought a continuation of the period of amendments inasmuch as there was still a quorum.

Mr. de Castro, in view thereof, objected to the suggestion for adjournment.

Thereupon, Mr. Ople restated his proposed amendment to be denominated as Section 15 in the draft Article.

INQUIRY OF MR. NOLLEDO

In reply to Mr. Nollado's inquiry, Mr. Ople affirmed that the proposed provision contemplates a situation where the public officer is a Filipino citizen.

Mr. Nollado stated that although, generally, public officers are Filipino citizens, natural-born or otherwise, some public officers working under the government may be aliens occupying positions which are highly technical and for which Filipinos may not qualify. He noted a literal interpretation of the provision might mean that an alien working for the government should change his citizenship to Filipino so as not to forfeit his seat.

Mr. Ople admitted that it can cause an absurdity but stated that 99.99% of public officers in the country are presumed to be Filipino citizens.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 5:03 p.m.

RESUMPTION OF SESSION

At 5:18 p.m., the session was resumed.

Upon resumption of session, Mr. Maambong manifested for the record that there was still a quorum.

Mr. Monsod, however, moved to adjourn until Monday.

Thereupon, Mr. Ople, as the proponent of the amendment, manifested that he would look forward to the resumption of consideration of his amendment on Monday.

At this juncture, Mr. Davide recalled that the Chairman of the Steering Committee had scheduled the report of the Committee on the Legislative for Monday, to which Mr. Monsod replied that the Committee on Accountability of Public Officers is expected to finish with the amendments in the morning session.

SUSPENSION OF CONSIDERATION OF THE ARTICLE ON ACCOUNTABILITY OF PUBLIC OFFICERS

Thereafter, on motion of Mr. Maambong, there being no objection, the Body suspended the consideration of the Article on Accountability of Public Officers until Monday.

ADJOURNMENT OF SESSION

On motion of Mr. Maambong, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of Monday, July 28, 1986.

It was 5:21 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 July 28, 1986

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