

## JOURNAL NO. 73

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Wednesday, September 3, 1986

### CALL TO ORDER

At 9:56 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. Teodoro C. Bacani, to wit:

"O Wise and Almighty God, as we begin our work today, make us realize that we are all pilgrims towards the truth. Grant us a share of Your truth but make us realize always that each of us can only have a share. Let us not fall into the belief that the share that we hold is the fullness of truth. Let us not identify truth simply with our own positions. Help us search for the fullness of truth as we work, argue and debate together.

Help us look at the merits of the arguments of our opponents in this hall and grant that as we look at the merits of their arguments, we may desist from questioning their motivations.

Grant us, O Father, trust in one another, that indispensable condition for our working together for the good of Your people. Grant us the grace to work in peace with one another, be hospitable with one another even while we are not hospitable to their ideas.

Grant us, O Father, to be able to fashion a fundamental law of the land worthy of our people. These we ask You in the name of Jesus, the Lord.

Amen."

### ROLL CALL

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

Alonto, A. D.

De Castro

Azcuna, A.S.

Calayco, J. C.

Bacani, T.C.

Concepcion, R. R.

Bengzon, J. F. S.

Davide, H.G.

Bennagen, P. L.

Foz, V.B.

Rosario Braid, F.

Gascon, J. L. M. C.

Calderon, J.D.

Guingona, S.V.C.

Jamir, A.M.K.

Rigos, C.A.

Laurel, J.B.

Rodrigo, F.A.

Monsod, C.S.

Sarmiento, R.V.

Nolledo, J. N.

Suarez, J. E.

Padilla, A. B.

Sumulong, L. M.

Muñoz Palma, C.

Tan, C.

Rama, N.G.

Uka, L.L.

Regalado, F.D.

Villacorta, W.V.

De los Reyes, R.F.

Villegas, B. M.

With 34 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

**A.M.**

Abubakar, Y. R.

Natividad, T. C.

Aquino, F. S.

Ople, B. F.

Bernas, J. G.

Quesada, M. L. M.

Garcia, E. G.

Tadeo, J. S. L.

Lerum, E. R.

Tingson, G. J.

Maambong, R. E.

Messrs. Rosales and Treñas were sick.

On September 1, 1986, Mr. Alonto, who was on official mission, was inadvertently marked absent.

### **READING AND APPROVAL OF THE JOURNAL**

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

### **REFERENCE OF BUSINESS**

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

### **REFERRAL TO COMMITTEES OF RESOLUTION AND COMMUNICATIONS**

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

Proposed Resolution No. 543, entitled:

RESOLUTION CONGRATULATING THE HONORABLE JOSE B. LAUREL, JR. ON HIS BEING  
CONFERRED THE ORDER OF KALANTIAO

Introduced by Honorable Davide, Jr., Maambong, Foz, De los Reyes, Jr., Bengzon, Jr., Bennagen and Rama  
TO THE STEERING COMMITTEE

### **COMMUNICATIONS**

Communication No. 692 — Constitutional Commission of 1986

Communication from one Roque J. Fernandez of Guimbal, Iloilo, suggesting the redistricting of Iloilo to seven congressional districts so as to provide the people equitable allotment of district representation

TO THE COMMITTEE ON THE LEGISLATIVE

Communication No. 693 — Constitutional Commission of 1986

Telegram from the Cantilan Gospel Church, Cantilan, Surigao del Sur, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and State shall be inviolable

as embodied in the 1973 Constitution and as understood of historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

**Communication No. 694 — Constitutional Commission of 1986**

Telegram from the officers and members of the Philippine International Islamic Crescent Society, sent by its Secretary-General, Dr. Maguid Malang, expressing profound gratitude for the approval of a constitutional provision granting autonomy to Muslim Mindanao and the Cordilleras

TO THE ARCHIVES

**Communication No. 695 — Constitutional Commission of 1986**

Telegram from Sheik Ibrahim Nader, President, Federation of Islamic Arabic Schools, Poonabayabao, Lasur, requesting vehemently the grant of autonomy to Mindanao

TO THE COMMITTEE ON LOCAL GOVERNMENTS

**Communication No. 696 — Constitutional Commission of 1986**

Telegram from the Interchurch Peace Council of the Netherlands expressing hope and support for the inclusion in the Constitution of a provision making the Philippines nuclear-free and foreign bases-free

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

**Communication No. 697 — Constitutional Commission of 1986**

Communication from the Kapunongan sa Kapilya sa Kristohanong Katilingban (4 K's) and Maayong Panglawas ng mga Surigawnon, signed by eighty-five (85) residents of Surigao City, requesting inclusion in the Constitution of a provision regarding: (1) the creation of health centers; (2) reduction of the cost of medicines; (3) creation of sectoral committees, particularly on health; (4) prioritization of health, education and other social services; (5) respect for the right of hospital workers to organize and form labor unions; (6) orient the people on health education; (7) enactment of laws providing for free prenatal checkups, vaccination, etc. for women during pregnancy and childbirth; and (8) removal of the U.S. military bases and support the call for a bases-free and nuclear-free Philippines

TO THE STEERING COMMITTEE

**Communication No. 698 — Constitutional Commission of 1986**

Letter from Mr. Job Elizes, Jr. and family, 19 Filipinas Avenue, Parañaque, Metro Manila, requesting inclusion in the Constitution of a provision that will mandate the State to "include the teaching of specific acts and omissions in grade school which are in everyday life relating to respect and order, conducive to peaceful and orderly life, to develop in the child law and order habit as his second nature and part and parcel of his being"

TO THE COMMITTEE ON HUMAN RESOURCES

**Communication No. 699 — Constitutional Commission of 1986**

Communication signed by Mr. Gerardo C. Enriquez and twenty-three (23) other concerned citizens of Alabat, Quezon, requesting the Constitutional Commission to incorporate in the Constitution a provision restricting the entry of foreign fishing and/or mining groups to prevent unmanageable depletion and exploitation of our natural resources

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

**Communication No. 700 — Constitutional Commission of 1986**

Communication from one hundred fifty-three (153) signatories of Digos, Davao del Sur, appealing to the Constitutional Commission to include, among others, a provision that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State

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

**Communication No. 701 — Constitutional Commission of 1986**

Communication signed by four hundred thirteen (413) signatories from various parts of the country, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception

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

**Communication No. 702 — Constitutional Commission of 1986**

Communication from one hundred sixty-nine (169) signatories of Hagonoy, Davao del Sur, appealing to the Constitutional Commission to consider, among others, provisions that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State

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

**Communication No. 703 — Constitutional Commission of 1986**

Letter from Mr. Mauro P. Balingit of 37 Aldrin Street, Doña Faustina Village, Culiab, Diliman, Quezon City, requesting that before the Constitutional Commission submits the final draft of the Constitution to the President for action, it should be published in full in the leading newspapers to give time for the concerned citizens to appeal on the items that may be objectionable to them

To THE STEERING COMMITTEE

**Communication No. 704 — Constitutional Commission of 1986**

Communication from the Alliance Evangelical Church, Cotabato City, signed by its Chairman, Rev. Jose V. Empleo, and twenty-one (21) other officers, urging the Constitutional Commission to incorporate, among others, a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

**Communication No. 705 — Constitutional Commission of 1986**

Communication from the Community Evangelical Church, Dadiangas Heights, General Santos City, signed by its Chief Elder, Roberto Y. Cania, and fifteen (15) other offices, urging the Constitutional Commission to incorporate, among others, a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

**REQUEST FOR RECOGNITION ON A**

## QUESTION OF PRIVILEGE

On motion of Mr. Rama, the Chair recognized Mr. Romulo on a question of privilege relative to news stories which appeared in the day's newspapers alleging that some Members of the Commission are "moles for multinationals".

Upon inquiry of the Chair, Mr. Romulo informed that the matter could not wait for Friday, following the Rules of the Commission, as it involves the integrity of some Members.

### QUESTION OF PRIVILEGE OF MR. ROMULO

Mr. Romulo expressed regrets that he had to take up the time of the Commission to deliver a privilege speech and regale the Body with his professional activities on account of the canard and misrepresentations made by a special interest group concerning his actuations in the Commission. He said that it was alleged that his law firm represents some foreign investors and that he should, therefore, abstain from voting on provisions in the Article on National Economy and Patrimony.

He stressed that he does not represent any foreign investor who may be affected by the Article inasmuch as none of his firm's foreign clients is engaged in the area of natural resources or public utilities. He informed that President Aquino was well acquainted with his professional activities which were stated in the bio-data he submitted before his appointment to the Commission. He stated that he sees no cogent reason why he should not participate in the consideration of the Article and that the proposition advanced when carried to its logical extreme would apply to any Member who represents a particular sector, since that sector's interest would be affected by one or more of the provisions adopted by the Body. He noted that he could ask Bishop Bacani, for example, whether foreigners confess to him because that may influence him, or ask Mr. Bernas whose Jesuit Order is truly multinational, whether that affects him because he has a vow of obedience.

On the other hand, he stated that several of his Filipino and foreign clients would be adversely affected by the trade liberalization policies of the government but on several occasions he voted against their interest as when he voted against "constitutionalizing" protectionism for local industries; against higher percentage of Filipino equity in the natural resources provision; and in favor of the 1,000 hectare limitation. He deplored the motivations attributed to his person not only as unfair but also as unproductive and self-defeating instead of seeing to it that arguments stick to facts, issues and merits of the case. He underscored that he votes as a Filipino, not as a lawyer, and that he does so guided only by what he believes is for the best interest of the country, adding that he welcomes opposite views which test his own. He stated that he has always depended on the merits of his amendments and has never resorted to name-calling, or pretended that he has a monopoly of wisdom or patriotism, or questioned anyone's motivations. He said that he would, therefore, expect the same civilized treatment.

Thereafter, he expounded on the list of his clients which the "coalition" disseminated the day before. He informed that the list comes from the Martindale-Hubbell Law Directory, a publication which invites selected lawyers from all over the world to publish a profile of their law firm and that once listed in this publication, such lawyers would be considered to "have arrived". He advised that the information in the Martindale-Hubbell Directory came from him and that his firm's clients have never been a state secret. He noted that the purpose of listing one's clients in the publication is to allow a prospective client to judge the depth of one's legal expertise, and that past and current clients are enumerated therein.

Mr. Romulo informed that his law firm is more than twenty-five years old, founded and organized by the late Justice Roman Ozaeta who was an ardent nationalist. He stated that the ratio of the firm's roster of clients is 10 to

1 in favor of Filipino clients. He stated that of the 34 clients mentioned by the "coalition", 16 were clients for single transactions which no longer operate in the Philippines or are dormant corporations, to wit: American Can, which he helped in a joint venture that did not push through; American Smelting and Refinery; Kristian Jebsens, which he helped in a joint venture with Aboitiz; E. E. Black; Beecham Group Ltd., which he represented in a patent case; Credit Swiss, which he represented in a loan transaction; Dibrell Carolina; Falconbridge Philippines; Granexport, GTE Industries; Mission Exploration; NDC-Guthrie Plantation, in which case he represented the National Development Corporation; Readers' Digest; Sime Darby; 20th Century Fox; and Ford Philippines, whose assets had been sold and whose operations had closed down. He informed that his firm's active clients are: Ace-Compton, AHS Philippines, Avon, Coca-Cola Export, Cyanamid, Honda, IBM, Mellon Bank, Goulds Pumps, Citibank, Geothermal Philippines and W. R. Grace — all of whom are either manufacturers, distributors, or service organizations of which none is involved in natural resources or public utilities. He stated that his firm's other clients are Filipino companies, namely: Hooven-Comalco, Lepanto, NDC, Philippine Acetylene, Staedtler Philippines, Mercury Group and Peter Paul.

He noted that the group had a hard time tagging Mr. Bengzon, for which reason, he offered him some of his clients to enable him to be a bona fide member of the "four horsemen".

Further, Mr. Romulo observed that the systematic attack, the continuous vilification and character assassination campaign against some Members are aimed at discrediting the Commission. He stated that some elements in society do not want the Commission to succeed as it would mean political stability and unity for the country and the people.

In closing, he stated that if this is the price he has to pay for the country's progress — to accept a daily dose of vituperation and verbal abuse — he would pay the price willingly.

### **QUESTION OF PRIVILEGE OF MR. VILLEGAS**

Mr. Villegas stated that he owes no one an explanation for the decisions he had taken in the Commission and since the very beginning of his professional career as an economist, he has always endeavored to contribute to the common good. He noted that some vested interest groups have chosen to distort the truth about his independence, for which reason, he would like to set the record straight.

He stated that in his work as a business economist, he has provided vital information to more than 600 firms, of which about 80 are multinational corporations, as well as to individuals operating in the country. Each of these corporations and individuals, he stated, makes regular and equal contribution to fund the research activities of the Center for Research and Communications, a private nonprofit, nonstock foundation engaged in business and economic research where he is one of the senior economists. He informed that each of them gets identical information about the national, regional and international economies and that each has learned to highly appreciate these information because he is beholden to no one, even during the past regime. He informed that because of his work, some of the companies and individuals have appointed him as a member of their respective Boards; others have designated him as consultant on corporate planning; while others are numbered among the corporate friends of CRC. He stated that McDonalds, which his detractors singled out, is just one of the 600 firms and individuals receiving regular economic information. He stated that if any group would exert pressure on him, it would be the group represented by more than 500 Filipino firms and entrepreneurs, who provide the bulk of the financial contribution to CRC. He pointed out that he has worked more closely with companies such as MERALCO and PLDT than with any multinational firm, for which reason, he should have voted for 100% Filipino equity in public utilities. Likewise, since he has worked more closely with Ayala Corporation which produces Purefoods products and RFM which produces all types of consumer products, he should have also voted

for complete protection of the domestic economy against foreign protection. He stated that he can go further to show that should he be accused of conflict of interest, it would have to come from the Filipino firms. He observed that representatives from these firms were in the galleries during that memorable day, trying to put pressure on the Committee and to permanently enshrine protectionism in the Constitution.

Moreover, he noted that the wild accusations levelled against him in the previous day's press conference were ridiculous and indicative of the intellectual bankruptcy of the individuals who had maligned him and who had run out of solid, logical arguments and facts to defend their extremist views.

### **QUESTION OF PRIVILEGE OF MR. MONSOD**

Also, on the same question of privilege, Mr. Monsod stated that certain people claim that he represents interests other than those of the Filipinos' because he had worked in the World Bank Group from 1963 to 1970.

He informed that since 1970, he has no connection with the World Bank nor does he have any beneficial interest in any multinational company. He noted that the fact that he had worked for the World Bank is of public knowledge and disclosed in every bio-data he had issued whenever he appeared for any speaking engagement and which is the same bio-data he had submitted to the President before his appointment to the Commission.

Mr. Monsod stated that he does not apologize for having worked with the World Bank, having been one of the first group of 11 young professionals hired by the Bank in a worldwide competition of 500 professionals and that he had gained valuable experience which he hoped he could use for his country.

He informed that it is of public knowledge that it was his opinion which was followed in rejecting the offer of the International Finance Corporation to be a joint venturer in the company which would manage the privatization of the assets of government and that anybody who cares to do honest research can check this. He stated that he resigned in 1970 from the World Bank as Division Chief of the International Finance Corporation for South Asia and the Middle East. He also stated that he did not have to come back to the country and he was told he had a future in the bank, but that he and his wife chose to come back to the Philippines and refused to leave for opportunities abroad even under persecution by Mr. Marcos whom they criticized since 1972. He stressed that since then, he and his wife have done what they think they could do in the common aspiration for freedom.

He expressed hope that such black propaganda would stop if only for the sake of his family who have also contributed their share of sacrifices but who have now started to ask if this is what they have fought for.

He, however, asked God's forgiveness if he had digressed from this path and prayed that he be given the grace to forgive others to whom he appealed to return to decency and fair play.

At this juncture, upon request of Mr. Rama, the Chair recognized Mr. Rodrigo who indicated that he would present a resolution for consideration of the Body.

### **RESOLUTION DEPLORING ANY ACTION TO SUBVERT THE INDEPENDENCE AND CREDIBILITY OF THE CONSTITUTIONAL COMMISSION**

Thereupon, Mr. Rodrigo sponsored the following Resolution:

RESOLUTION DEPLORING ANY ACTION FROM ANY SOURCE TO SUBVERT THE INDEPENDENCE AND CREDIBILITY OF THE CONSTITUTIONAL COMMISSION.

Whereas, various interest groups have been making unfounded charges against Members of the Commission, impugning their integrity and patriotism in an attempt to coerce and intimidate them;

Whereas, these tactics tend to subvert the independence and credibility of the Commission and to influence Members of the Commission and restrict their right to vote freely on issues;

Whereas, the independence of the Commission from external pressures from any source is indispensable to the accomplishment of its task;

NOW, THEREFORE, the Commission hereby resolves to deplore any action from any source to subvert the independence and credibility of the Commission; and

FURTHER, RESOLVES to reaffirm its confidence in the independence, integrity and patriotism of each and every Member of the Commission.

Mr. Rodrigo manifested that the Resolution was not prepared in anticipation of the remarks on a question of privilege but because of certain news items that appeared in the newspapers of the previous day.

Mr. Rodrigo moved for approval of the Resolution.

Mr. Regalado seconded the motion.

Mr. Bengzon asked, in view of the importance of the proposed Resolution, that the Body vote affirmatively instead of merely responding to the question whether or not there is an objection.

The Chair suggested a raising of hands, to which Mr. Bengzon agreed.

### **INQUIRY OF MR. FOZ**

In reply to Mr. Foz' query on the specific news items which prompted the drafting of the Resolution, Mr. Rodrigo adverted to the news item on the meeting of the so-called nationalists who allegedly maligned or imputed bias to some Members of the Commission, which, he opined, is an ugly reflection which stained the names of some Members or even reflected on the whole Commission. He stated that there were other antecedents, however, he would not go into details since it would only exacerbate the matter or even involve some Members of the Commission. He stressed that his proposed resolution would state categorically the faith and confidence of the Commission in each and every Member thereof.

### **INQUIRY OF MR. SUAREZ**

Mr. Suarez expressed support for the concern to protect the integrity of the Constitutional Commission.

In reply to his query, Mr. Rodrigo affirmed that the action taken by; external forces against three Members of the Commission was the immediate cause for the filing of the Resolution. However, he stated that the Resolution was filed not only in the interest of the three Members whose names were dragged into the situation, but also in the interest of the entire Commission.

At this juncture, Mr. Suarez requested that copies of the proposed Resolution be furnished the Members before the Body takes a vote on it so that the Members may present amendments if necessary, to which Mr. Rodrigo agreed.

Thereupon, the Chair directed the Secretariat to furnish the Members copies of Mr. Rodrigo's proposed Resolution.

RESOLUTION CONGRATULATING THE HONORABLE JOSE B. LAUREL, JR. ON HIS BEING  
CONFERRED THE ORDER OF KALANTIAO

Thereafter, Mr. Bengzon, on behalf of the Steering Committee, moved for approval of the Resolution he had filed

jointly with Messrs. Davide, Maambong, Foz, de los Reyes, Bennagen and Rama, entitled:

RESOLUTION CONGRATULATING THE HONORABLE JOSE B. LAUREL, JR. ON HIS BEING CONFERRED THE ORDER OF KALANTIAO.

Mr. Villacorta seconded the motion.

On motion of Mr. Sarmiento, there being no objection, the Body dispensed with the reading of the text of the Resolution and, upon motion of Mr. Bengzon, that said text be inserted into the Record of the Commission.

There being no objection, the Body unanimously approved said Resolution.

### **PARLIAMENTARY INQUIRY OF MR. DE CASTRO**

Mr. de Castro recalled that during the previous session, he presented an amendment to Section 1. of the Article on Human Resources, which amendment was defeated, but Ms. Aquino moved for its reconsideration, which motion was subsequently withdrawn because of the Chair's ruling that the motion would not be necessary because Ms. Aquino's proposed amendment would not in any way affect his amendment.

He contended that the motion for reconsideration should not have been withdrawn because Section 43 of the Rules provides that a motion for reconsideration, if timely made, shall not be withdrawn without the consent of the Constitutional Commission and may be considered upon the call of a Member. In reply, the Chair explained that its ruling was based on the fact that Ms. Aquino's proposed amendment would not affect Mr. de Castro's amendment and, therefore, there was no need for the motion for reconsideration, which was accordingly withdrawn by Ms. Aquino.

Mr. de Castro stated that he was not insisting on his amendment but only wanted to put the records straight. He then adverted to the pertinent entries in the Journal.

Additionally, Mr. Davide pointed out that the Chair's ruling complied with Section 48 of the Rules which provides that "when a motion or preposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order. It shall also be in order to offer further amendment by substitution, but it shall not be voted upon until the original motion or proposition is perfected. Any of said amendments may be withdrawn before a decision is had thereon." He stated that Ms. Aquino's withdrawal of the motion for reconsideration was in order because she offered an amendment by substitution.

Mr. de Castro, however, opined that Section 43 could not be related to Section 48 because the former speaks of a motion for reconsideration while the latter refers to amendments, to which Mr. Davide replied that the Body was actually in the period of amendments when the motion was raised and, therefore, Section 48 was more applicable.

### **MOTION FOR APPROVAL ON THIRD READING OF THE PROVISIONS ON THE COMMISSION ON HUMAN RIGHTS**

Thereafter, Mr. Rama moved that the Body vote, on Third Reading, on the provisions on Human Rights.

At this juncture, Mr. Davide invited attention to the understanding that it should not be a separate Article but that the provisions may be at such appropriate place as the Committee on Sponsorship may decide.

Mr. Foz confirmed the understanding.

Mr. Foz then invited attention to Mr. Regalado's reservation, to which the Committee on Constitutional Commissions and Agencies agreed, that the phrase "including any violation of civil, political or human rights" be deleted from Section 12(2) of the Article on Accountability of Public Officers should the provisions on the

Commission on Human Rights be approved. Mr. Foz stated that since the provisions on the Commission on Human Rights had already been approved, the Committees on Style and Sponsorship should make the appropriate deletion.

### **SUSPENSION OF SESSION**

At this juncture, the Chair suspended the session.  
It was 10:51 a.m.

### **RESUMPTION OF SESSION**

At 11:03 a.m., the session was resumed.

Upon resumption, Mr. Rama asked that the Body vote, on Third Reading, on the proposed Article on Accountability of Public Officers.

The Chair invited attention to a pending motion to vote, on Third Reading, on the Proposed Resolution on the Commission on Human Rights.

Mr. Foz suggested that the Body vote, on Third Reading, on the proposed Resolution on the Commission on Human Rights and, thereafter, on the proposed Article on Accountability of Public Officers.

### **APPROVAL ON THIRD READING OF PROPOSED**

#### **RESOLUTION NO. 539**

Thereupon, the Body proceeded to vote, on Third Reading, on Proposed Resolution No. 539, entitled:

Resolution to incorporate in the new Constitution the provisions on human rights.

Upon direction of the Chair, the Secretary-General called the Roll for nominal voting. Thereafter, a second Roll Call was made.

### **EXPLANATION OF VOTES**

The following Members explained their votes, to wit:

By Mr. Padilla

Mr. Padilla voted Yes but expressed the hope that the proposed Commission on Human Rights would not duplicate nor relegate the necessary role of the entire governmental machinery for the enforcement of human rights and the prosecution, trial and conviction of violators thereof. Mr. Padilla stressed that the protection and enforcement of human rights should not merely depend on a Commission on Human Rights but should involve the entire governmental machinery including the law enforcement agencies and the prosecution arm of the government in order to have an effective administration of justice.

By Mr. Ople

Explaining his affirmative vote, Mr. Ople stated that the proposed Commission on Human Rights represents a historic milestone in the struggle for civil liberties and human rights in the country. He stated that despite initial reservations expressed by some Members on the setting up of a constitutional body that would pursue with reasonable independence the crusade for human rights, there is a growing consensus that nothing short of a constitutional mandate and sanction would be required to make the concern for human rights second nature to the

citizenry. He bewailed the fact that outside the boundaries of the metropolitan areas, the protection of the Constitution for civil rights seems to diminish or dwindle because it is in the metropolis where the infrastructure for the enforcement of constitutional rights exists.

Finally, Mr. Ople stated that he foresaw the possibility that the Commission on Human Rights would be able to propagate human rights consciousness so that even in the remote hinterlands of the country, the people who lack the infrastructure of redress and amenities found in metropolitan areas would begin to assimilate the significance of human rights in their lives.

### **RESULT OF THE VOTING**

The result of the voting was as follows:

In favor:

In Favor:

Abubakar

De Castro

Maambong

Alonto

Colayco

Monsod

Aquino

Concepcion

Natividad

Azcuna

Davide

Nieva

Bacani

Foz

Nolledo

Bengzon

Garcia

Ople

Bennagen

Gascon

Padilla

Bernas

Guingona

Muñoz Palma

Rosario Braid

Jamir

Quesada

Calderon

Laurel

Rama

Regalado

Sarmiento

Tingson

De los Reyes

Suarez

Uka

Rigos

Sumulong

Villacorta

Rodrigo

Tadeo

Villegas

Romulo

Tan

Against:

None

With 44 Members voting in favor and none against, the Body approved, on Third Reading, Proposed Resolution No. 539.

### **MOTION OF MR. RAMA**

Mr. Rama moved that the Body vote, on Third Reading, on the proposed Article on Accountability of Public Officers.

At this juncture, Mr. de Castro sought certain clarifications on the proposed Article on Accountability of Public Officers, specifically on Section 6 regarding the Ombudsman as the Tanodbayan. He recalled that on one

occasion, he was accosted by Tanodbayan Justice Raul Gonzales who asked why he is prohibited from running for election. He stated his answer was that Justice Gonzales is not the Ombudsman but the special prosecutor of the Sandiganbayan. In view thereof, he suggested the deletion of the words "to be known as Tanodbayan" in Section 6.

Replying thereto, Mr. Monsod stated that Section 5 reading "the Tanodbayan, presently existing, shall hereafter be known as the special prosecutor" would in effect make Justice Gonzales, upon the ratification of the Constitution, the special prosecutor and, therefore, he would not be covered by the prohibition unless the President appoints him the Ombudsman under the new Constitution. He maintained that there would be no need for an amendment.

Thereupon, Mr. de Castro desisted from pursuing his amendment.

Thereafter, Mr. Monsod reiterated Mr. Foz' earlier manifestation for approval, on Third Reading, of the proposed Article on Accountability of Public Officers subject to the reservation to delete the clause "including the violation of civil, political or human rights".

On Mr. Maambong's query, Mr. Monsod affirmed that any violation of civil, political or human rights in the performance of duties of public officers would no longer be within the jurisdiction of the Tanodbayan but of the Commission on Human Rights.

On the contention that any violation of these rights committed by public officers would properly belong to the Tanodbayan, Mr. Monsod reiterated that all violations of human rights involving civil and political rights are within the jurisdiction of the Commission on Human Rights and that the proposed amendment by deletion would eliminate overlaps in government offices.

On the observation that the proposed deletion would practically take out all the jurisdiction of the Tanodbayan, Mr. Monsod stressed that the jurisdiction of the Commission on Human Rights is much narrower and that the deletion would only eliminate overlaps. He explained that the intention is to have very modest objectives for the Commission on Human Rights and only after Congress shall have provided upon recommendation of the Commission itself, that the Commission would expand its area of coverage.

Mr. Maambong suggested deferment of the voting on Third Reading, to which Mr. Monsod replied that the records of deliberations are clear and that interpretations should be left to Congress and the courts. He suggested that instead of a deferment, Mr. Maambong could manifest for the record the distinctions that must be made in order to avoid overlaps in the functions of these two offices.

#### APPROVAL ON THIRD READING OF THE PROPOSED ARTICLE ON ACCOUNTABILITY OF PUBLIC OFFICERS

Thereupon, the Body proceeded to vote, on Third Reading, on the proposed Article on Accountability of Public Officers.

Upon direction of the Chair, the Secretary-General called the Roll for nominal voting. Thereafter, a second Roll Call was made.

#### EXPLANATION OF VOTES

The following Members explained their votes, to wit:

By Mr. Guingona

Mr. Guingona abstained for the following reasons: 1) the adjudicatory power to impeach the President should

have been vested in the Supreme Court since adjudication is a judicial function instead of giving the same function to the Senate as provided for in the Article; and 2) the creation of the Ombudsman without prosecutory authority would impair its effectivity to serve as watchdog of the people.

By Mr. Nollado

In voting in favor of the Article, Mr. Nollado pointed out that the provisions creating the office of the Ombudsman, as understood and proven most effective in Scandinavian countries, would give the people an official watchdog, protector, guardian and intercessor for their rights as against the government.

He stated that his dream of having a true Ombudsman in the Philippines, which was nurtured by him since he was a young lawyer and shattered during the 1971 Constitutional Convention, has been realized.

By Mr. Padilla

Mr. Padilla voted affirmatively and expressed the hope that the provisions in the Article would make it clear that the Sandiganbayan, as the anti-graft court, and its prosecuting arm, the Tanodbayan, would only have jurisdiction in the prosecution of crimes committed by public officers or crimes against public administration punishable under Title VII of the Revised Penal Code. Its jurisdiction should not be extended to the prosecution of murder cases, like the Aquino-Galman case or to a case of coercion like the Licaros vs. Sandiganbayan case. He added that the amendment of Section 13 regarding "transferees" should include "nominees" to enable the government to recover ill-gotten wealth from "nominees" of public officials.

By Mr. Rodrigo

Mr. Rodrigo voted in the affirmative but with reservations on two points: 1) the creation of the office of the Ombudsman may frustrate and disappoint the people, since it would only have the power to investigate without the corresponding power to prosecute; and 2) the reduction to only 1/3 of all the Members of Congress to initiate impeachment proceedings may be used by Members of a bloc or an alliance of parties to harass the President, the Vice-President and the Justices of the Supreme Court through unfounded impeachment charges.

By Mr. Suarez

Voting against the Article, Mr. Suarez explained that while the Article on Accountability of Public Officers has some outstanding features, the creation of the office of the Ombudsman is unnecessary because it would only serve to make the administration of justice murky and confusing due to the existence of too many administrative bodies which are involved in the resolution of matters involving the acts of public officials. He opined that the country cannot afford to create an office which is capable of unmitigated abuses but which is, in fact, a toothless tiger for it is totally devoid of prosecutory powers.

By Mr. Tingson

Explaining his affirmative vote, Mr. Tingson stated that it is not only the government that should be responsive to the needs of the people but the people should also be responsible for making it work. He added that the Article provides the norm of conduct or a code of ethics which altogether would serve as a motivation for public officials to actively participate in the building of real democracy in the country.

## RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Abubakar  
Garcia  
Regalado  
Alonto  
Gascon  
De los Reyes  
Aquino  
Jamir  
Rigos  
Azcuna  
Laurel  
Rodrigo  
Bacani  
Maambong  
Romulo  
Bengzon  
Monsod  
Sarmiento  
Bennagen  
Natividad  
Sumulong  
Bernas  
Nieva  
Tadeo  
Rosario Braid  
Nolledo  
Tan  
Calderon  
Ople  
Tingson  
De Castro

Padilla

Uka

Colayco

Muñoz Palma

Villacorta

Concepcion

Quesada

Villegas

Davide

Rama

Against:

Suarez

Abstention:

Guingona

With 41 Members voting in favor, 1 against and 1 abstention, the Body approved, on Third Reading, the Article on Accountability of Public Officers, as amended.

#### UNFINISHED BUSINESS: CONTINUATION OF CONSIDERATION OF COMMITTEE REPORT NO. 24 ON RESOLUTION NO. 496

Thereupon, on motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Resolution No. 496 (Committee Report No. 24), entitled:

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

The Chair recognized Mr. Villegas and the Members of the Committee for further individual amendments.

Mr. Monsod explained that the parliamentary situation when the Body last discussed the Article was that the Committee requested that the period of amendments be left open to accommodate some Members who expressed their intention to present additional amendments. He added that two proposals were presented by Messrs. Suarez and Garcia, copies of which had already been distributed to the Body for its consideration.

In reply to Mr. de Castro's query whether there were only two proposals to be taken up, Mr. Villegas answered in the affirmative.

At this juncture, Mr. Gascon pointed out that he also presented two proposals to the Committee which Mr. Villegas confirmed.

On Mr. de Castro's query as to how many proposals would really be considered, Mr. Villegas stated that there were 5, copies of which would be distributed to the Members.

Mr. Suarez manifested that in compliance with the request of the Body, he had caused the distribution of his new proposals and copies of other proposed amendments to the Article on National Economy and Patrimony.

Mr. Suarez then posed the following queries: 1) whether the Body could reconsider the provisions already approved in connection with the proposed amendments either through the filing of a motion for reconsideration or suspension of the rules; and 2) since there are new proposed amendments to the Article, which ones would be taken up first.

In reply thereto, Mr. Monsod stated that the Committee prefers the continuation of the discussion on the provisions and after closing the period of amendments, the Body could discuss the issue of reopening the already approved provisions.

On Mr. Colayco's query whether the Committee would still accept amendments, Mr. Villegas answered that it would do so only up to the end of the day's session, after which it would no longer accept further amendments.

### **PROPOSED AMENDMENT OF MR. SUAREZ**

Thereafter, Mr. Suarez proposed to incorporate as the last provision in the Article, an omnibus provision which shall read as follows:

SECTION \_\_\_\_\_. NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, THE STATE MAY ADOPT ADDITIONAL OR CORRECTIVE MEASURES TO PROMOTE THE INTEREST OF FILIPINOS AND ENSURE THE DEVELOPMENT OF A SELF-RELIANT, PROGRESSIVE, AND INDEPENDENT ECONOMY.

Mr. Suarez explained that the proposal would give the government some flexibility to meet the diverse international and national economic situations in the future. He added that the proposal also provides for a solid basis for encouraging private initiative that is rooted on enabling Filipino private economic interest, represented by all sectors of society, to gain beneficial and effective control of the country's economy.

He stressed that his amendment is a general provision which provides for some measure of flexibility in promulgating programs towards national economic development by enabling the government to commit itself to be a pioneer or active partner in economic activities where private initiative and investment may be inadequate or timid to participate.

In reply to the Chair's query whether there was another word after "additional", Mr. Suarez answered there was none and, if necessary, the word "additional" may be changed to CORRECTIVE.

In reply to Mr. Bernas' query whether "notwithstanding" would mean that the State, through the Legislature, may pass legislations contrary to the provisions of the Article, Mr. Suarez stated that it is not meant to negate the constitutional provisions already approved. He reiterated that the amendment would only provide for some measure of flexibility in adopting additional corrective measures to promote the interest of Filipino enterprises.

On whether the intention of the proposed amendment is merely to emphasize that the State could act independently of the proposed provision, Mr. Suarez stated that it anticipates the possibility that what may be adopted in the Constitution may not be promotive of the interests of the Filipinos, in which case, the State could adopt corrective measures which, although not totally nugatory, would be in the light of the economic principles and policies enunciated in the approved provisions.

Mr. Bernas observed that the approved provisions are clearly mandatory and prescriptive, like the provision on the maximum 40% equity participation for foreigners. He asked whether the amendment would authorize the Legislature to raise the maximum, to which Mr. Suarez replied that it would not. However, Mr. Bernas observed that Congress is authorized to lower the percentage for foreign equity participation.

On whether nonapproval of the proposed amendment would deny Congress the desired flexibility, Mr. Suarez expressed doubt, that in such event Congress would have such flexibility stating, for example, that in the matter of giving priority to agricultural development as against industrial development, the State could reverse the direction and concentrate on rapid industrialization if that would best promote the interest of the Filipinos.

Mr. Villegas invited attention to the fact that the approved sections do not state that agriculture shall be given priority, to which Mr. Suarez replied that the discussion was only on a hypothetical basis.

Mr. Bernas observed that the provision on agriculture in relation to industrialization is not prescriptive and is worded in a general way, and that it should be a combination of agriculture and industry which does not mean that agriculture shall be given priority.

Mr. Suarez pointed out that the phrase "based on agricultural economy" was construed to mean industrialization based on agricultural economy which might give rise to confusion in the interpretation, for which reason, an amendment was suggested to use TOGETHER WITH or CONSISTENT WITH instead of "based on". Mr. Suarez stated that the general provision allowing the State to determine the policy that will promote the interest of the Filipinos would remove the confusion.

Mr. Monsod stated that the records do not reflect what Mr. Suarez said on agricultural economy and that if Mr. Suarez intends to give Congress absolute authority to reverse the accepted interpretation thereon, then the proposed amendment was out of order because it would reopen the issues in Section 1.

In reply to Mr. Bernas' query whether it is the intention to put on record an interpretation of Section 1 making the relationship between "agriculture" and "industrialization" prescriptive rather than merely suggestive, Mr. Suarez asked if Mr. Bernas was suggesting doing away with the introductory clause "Notwithstanding the provisions of this Article", to which he would agree. Mr. Bernas stated that he would not want an interpretation making the second paragraph of Section 1 prescriptive to be read into the records because then Congress would be bound by it.

Mr. Suarez agreed. He stated that there may be need to do away with the introductory clause, to concretize what Mr. Bernas had in mind, devoid of any interpretative statement.

Mr. Bernas argued that Mr. Suarez' proposed amendment would be unnecessary since the provisions give Congress greater flexibility, to which Mr. Suarez replied that he would like to eliminate possible confusions in the interpretation of the thrust of Section 1 of the Article on National Economy and Patrimony.

In reply to Mr. Bernas' observation that a general statement would not clarify anything, Mr. Suarez stated that his purpose is to provide some degree of flexibility on the part of the administrators of the government.

Mr. Laurel stated that what the Constitution does not prohibit will be within the competence of the lawmaking body, therefore, there is no need to adopt the proposed amendment.

In reply to Mr. Nollado's query whether CORRECTIVE MEASURES would enable Congress to adopt such measures in relation to paragraphs 2 and 3 of Section 3 and the Bill of Rights provision on the nonabridgement of obligations of contractors, Mr. Suarez opined that it would and that the section cited would be meaningless unless Congress is vested with such right.

Mr. Nollado expressed support for Mr. Suarez' observations, stating that the section would be meaningless if Congress was merely furnished a copy of the service contract without giving it the power to review the same and to take remedial measures.

In reply to Mr. Villacorta's query, Mr. Suarez affirmed that his amendment was proposed in anticipation of future

problems regarding the limited protection afforded to local enterprises from unfair foreign competition.

In reply to Mr. Davide's query whether the corrective measure may amount to a review or setting aside of the service contracts adverted to by Mr. Nollado, Mr. Suarez confirmed the same but adverted to Mr. Nollado's observation that the provision on nonimpairment of obligations of contracts collides with the proposal. He maintained that his proposed provision should prevail considering that the government is one of the contracting parties.

On whether Congress would then be allowed to enact measures which would impair obligations of contracts, Mr. Suarez stated that it could under justifiable circumstances such as when the interest of the Filipinos are prejudiced.

Mr. Davide stated that Congress may allow service contracts. He then asked whether Congress could declare its previous act not promotive of the people's interest, to which Mr. Suarez replied that Congress could enact corrective measures.

On whether corrective measures should not be given retroactive effect in order that they would not violate the nonimpairment clause, Mr. Suarez stressed that "corrective" is prospective in character.

Mr. Davide observed that making it prospective would not correct the act or contract sought to be corrected, to which Mr. Suarez replied that the observation could be well taken but then investigations may also be conducted like what was done by the Senate Blue Ribbon Committee.

On whether the service contract would be nullified on the ground that it violated the law authorizing it, Mr. Suarez stated that this would involve a judicial determination, to which Mr. Davide agreed pointing out that there would be two remedies, namely, judicial and legislative actions.

On whether the inclusion of PROGRESSIVE would not expand the scope of Section 1, Mr. Suarez stated that it would not; it only adds a criterion or consideration to guide Congress. He added that the Article should concentrate on self-reliance as reflected in Section 1.

Mr. Laurel stated that the only issue to be resolved is whether or not the Constitution prohibits the two other branches of government from doing anything, which question could be readily solved by the Supreme Court.

In reply to Mr. Bernas' query whether the guarantee of the nonimpairment clause yields to a reasonable exercise of police power as held in *Ruther vs. Esteban* and other cases, Mr. Suarez answered in the affirmative stating that any private taxpayer could contest the legality and validity of the contracts.

Mr. Bernas cited the Tenancy Law as an example, noting that the 60-40 ratio was changed to a 70-30 ratio under a new Tenancy Law passed by Congress. He observed that it did impair the obligation of contracts but it was a valid exercise of police power and the 60-40 existing contracts had to be transformed to 70-30, to which Mr. Suarez concurred.

On whether even without authorizing Congress to make corrective measures, service contracts can be corrected by the exercise of police power, Mr. Suarez replied that it would be a debatable issue, for which reason, it should be made clear under the Article on General Provisions that Congress possesses that power.

In reply thereto, Mr. Bernas stated that unless the corrective measure is specified, it would not be very clear. He added that the only way to make it clear is by eliminating the nonimpairment clause in the Bill of Rights.

Mr. Suarez maintained this is not the intention and that the service contracts would be honored, although it would not deprive Congress the right to introduce additional measures by way of correction of the terms and conditions which may prove detrimental to Filipino interests.

Mr. Bernas opined that even without stating it in the Constitution, Congress already has the power to correct the contracts.

Mr. Romulo manifested that the Committee subscribes to the proposition of Mr. Bernas. He noted that police power of the State is paramount and that the nonimpairment clause is almost a fiction which always yields to the police power of the State. Contracts, he stated, especially the ones mentioned in the Article which involve natural resources, are always subject to law — prospective and retroactive.

### **MR. AZCUNA'S PROPOSED AMENDMENT**

#### **TO THE AMENDMENT**

Mr. Azcuna proposed, in lieu of the phrase "notwithstanding the provisions of this Article", the phrase NOTHING IN THIS ARTICLE SHALL PRECLUDE THE STATE FROM ADOPTING CORRECTIVE MEASURES which was accepted by the proponent.

Mr. Monsod observed that in the interpellation of Mr. Villacorta, Mr. Suarez defined the purpose of his amendment in answer to the question whether the section would give Congress the power to protect industries or whether the competition is fair or unfair, which purpose would be contrary to the intent of Section 1. The Committee, he stated, views the proposal as partaking of the nature of reopening Section 1 which states that the protection will be against unfair competition. He observed, moreover, that in the interpellation of Mr. Bernas, Mr. Suarez showed the same intent and using the phrases "notwithstanding the provision of this Article" or "nothing in this Article" would give Congress the right to override or disregard the rest of the Article.

If this is the case, Mr. Monsod noted, the Body might as well put an omnibus clause in the Constitution which might say that notwithstanding anything in the Constitution, the State may adopt whatever additional or corrective measure, thus negating the purpose, the spirit and letter of the Constitution. He stressed that the Committee considers it out of order, for which reason, the Committee was not accepting the proposal.

Mr. Sarmiento interposed to explain that Mr. Suarez stated that the purpose of his proposed amendment is to cushion the impact of Section 1 and not to contradict or dispute it.

Reacting to Mr. Monsod's remarks, Mr. Bernas stated that Mr. Monsod's interpretation is that only unfair competition by foreigners can be prohibited by the State. He observed that the language of Section 1 is broader and is not an exclusive statement of what protection the State can give to Filipino enterprises. He maintained that the State can protect Filipino enterprises against unfair foreign competition if it is harmful to the interest of the nation. He then queried as to the official interpretation of the Committee.

Mr. Monsod, replying thereto, maintained that if it is harmful to the Filipinos' interest, it is unfair. Additionally, Mr. Villegas stated that it is very clear from the records that the State can declare as unfair anything which hurts Filipino interest and that the word "unfair" in Section 1 does not partake of any unique economic or legal interpretation, since anything that hurts Philippine interest can be declared "unfair".

### **POINT OF ORDER OF MR. LAUREL**

At this juncture, Mr. Laurel asked the Chair to rule on the point of order raised by Mr. Monsod.

Upon inquiry of the Chair on the point of order, Mr. Monsod informed that the Committee believes the proposal as stated is a carte blanche or an absolute authority to negate or override all provisions approved by the Body. He reiterated that Mr. Suarez' proposed amendment would reopen Section 1 and that in the debates thereon, the issue

was whether to delete the word "unfair" and that anything which addresses this same issue would reopen the said Section. He adverted to the interpellation of Mr. Villacorta and the reply thereto of Mr. Suarez.

Mr. Laurel stated that it would look like the Body is not preparing a fundamental law or organic act which will be superior to ordinary statutes of the lawmaking Body.

### **REMARKS OF MR. RIGOS**

Mr. Rigos observed that although the Commission should be guided by certain rules, perhaps it can dispense with technicalities with respect to the issue at hand to allow the fullest ventilation of ideas and to save the Chair from making a ruling on whether or not the motion is out of order.

### **REMARKS OF MR. NOLLEDO**

Mr. Nollado disagreed with Mr. Monsod maintaining that even if the Body had approved a particular Section, it is not barred from qualifying that Section by another provision which, therefore, would not reopen Section 1.

Mr. Laurel noted that if the idea is to enable the lawmaking body under the Constitution to override the Constitution itself, there would be no Constitution at all.

### **REMARKS OF MR. VILLACORTA**

By way of clarification, Mr. Villacorta stated that what he asked was whether the proponent anticipated certain problems arising from Section 1, to which Mr. Suarez replied that it is only one of the problems anticipated by the amendment. He stated that his particular reference was the plenipotentiary powers of the State which was affirmed by the Committee. He noted that he cannot understand the Committee's rejection of the omnibus amendment since it did not find anything wrong with strengthening or reaffirming the State's police powers. Thereupon, he asked whether the philosophy behind most of the provisions of the Article on National Economy and Patrimony is laissez faire.

Replying thereto, Mr. Villegas stressed that it is very clear in the records that the economy is based on private initiative which is compatible with the dignity of every human being and that the State can intervene whenever there is default on the part of private individuals and whenever the common good so requires. He maintained that laissez faire has a very peculiar interpretation in political and economic history and that it is usually understood as untrammelled enterprise.

Mr. Villacorta stated that he agreed with Mr. Suarez that the omnibus amendment is necessary, precisely to embody what Mr. Villegas has stated that the Body does not want laissez faire to prevail in the Constitution. He maintained that the issue cuts through the heart of the Constitution and the very philosophy of society, for which reasons, he asked the Chair not to rule the amendment out of order. Thereafter, he adverted to a statement contained in Veritas, to wit:

"A reminder to the Constitutional Commission seems necessary. The willingness to reconsider and reopen debates and open-minded approach to issues do not necessarily reflect a lack of conviction nor a wavering of principle. These men and women must keep in mind that there is no point in the exercise if they are not ready to rethink their thoughts, or at least, to rework the expression of their thoughts."

and to the Malaya editorial of August 20, 1986, which states:

"In the end the people will judge the ConCom not by the speed with which it met its deadline, nor the calmness or smoothness of its proceedings, but by the product that it will offer them."

He then asked that the Chair allow a continuation of the discussion.

Reacting thereto, Mr. Monsod stated that wanted to make it of record that when the Committee made its comments, everybody had already had a say and that there had been no termination of the discussion.

#### **REMARKS OF MR. BERNAS**

Mr. Bernas stated that he was opposed to the amendment not because it was out of order but because he found it unnecessary. He noted that it would be out of order if the Body gives a narrow interpretation to the meaning of "unfair" but as the Committee says that "unfair" means anything harmful, it would not be out of order and the problem would be more of style than substance, so that the Committee on Style can perhaps examine the word inasmuch as the word does not seem to express exactly what the Committee means.

#### **REMARKS OF MR. DE CASTRO**

Mr. de Castro remarked that the comment of Mr. Monsod that the proposal is out of order is based on the phrase "notwithstanding the provisions of the Article" and on interpellations, it appearing that Congress can overhaul the entire Section so as to institute corrective measures for the interest of the people.

#### **SUGGESTION OF MR. MONSOD**

Mr. Monsod, in deference to the proponent requested that the point of order be disregarded as the proposal of Mr. Suarez voted upon, without considering it as reopening Section 1 so as to resolve the issue. Mr. Laurel concurred with the suggestion.

Thereupon, Mr. Suarez thanked Messrs. Monsod, Laurel and Rama for disregarding technicalities in the interest of the country.

#### **MS. AQUINO'S PROPOSED AMENDMENT**

Ms. Aquino proposed an alternative formulation to wit:

CONGRESS SHALL, IN ALL INSTANCES, ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT.

In reply to the observation of Mr. Monsod that it would properly belong to the Article on the Declaration of Principles, Ms. Aquino reasoned that the amendment can be interpreted as a constitutional refuge or as a breakwater supplementing or reinforcing the interpretation of Section 1.

Replying thereto, Mr. Monsod noted that the entire Article is all in the interest of the Filipinos and that the first sentence already conveys this message. He underscored that the entire Constitution considers the interest of the Filipinos paramount.

Ms. Aquino stated that she is not inclined to a cavalier dismissal of the proposal as a surplusage or a redundancy. She stressed that the national economy and patrimony is transcendental and that the underpinnings of nationalism and independence in the national economic development program cannot be overemphasized.

#### **PROPOSED AMENDMENT OF MR. SARMIENTO**

Mr. Sarmiento proposed an amendment, to wit:

THE STATE SHALL PROMOTE THE ECONOMIC INTEREST OF THE FILIPINO PEOPLE TO ENABLE

THEM TO GAIN EFFECTIVE AND BENEFICIAL CONTROL OF ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT THROUGH APPROPRIATE MEASURES THAT WILL SUPPORT ALL SECTORS OF SOCIETY, TO PARTICIPATE IN THE OWNERSHIP AND MANAGEMENT OF ECONOMIC ENTERPRISES AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE COUNTRY.

Thereupon, he requested for suspension of the session to enable the proponents of amendments to reconcile their proposals.

Mr. Villegas informed that the proposals of Mr. Sarmiento and Ms. Aquino are separate amendments and asked the Body to decide first on the amendment of Mr. Suarez.

The Chair noted that the proposed amendment of Mr. Suarez had been amended by Ms. Aquino and that it had been accepted.

Upon inquiry of the Chair, Mr. Suarez stated that he has not yet accepted the amendment inasmuch as he wanted to reconcile all the proposals.

At this juncture, the Chair stated that it would prefer to have a vote on the amendments of Mr. Suarez and Ms. Aquino before suspension of session.

### **SUSPENSION OF SESSION**

The Chair suspended the session.  
It was 12:55 p.m.

### **RESUMPTION OF SESSION**

At 1:05 p.m., the session was resumed.  
WITHDRAWAL OF MR. SUAREZ'

### **PROPOSED AMENDMENT**

Upon resumption of session, Mr. Suarez withdrew his proposed amendment in the light of the clarifications and statements made that the word "unfair" would have no international economic implications but is used only for the purpose of definition; that "unfair" is anything that is harmful; it is protective of Filipino interests; that Congress, in the exercise of police power of the State, may institute corrective measures with respect to service contracts to promote the interests of the Filipinos; and that the interests of the Filipinos are always paramount.

Mr. Monsod expressed the Committee's appreciation of Mr. Suarez' manifestation and agreement with the interpretations, stating that they actually have common goals.

On Mr. Suarez' suggestion to give the Committee on Style discretion over the word "unfair" which appeared in Section 1, in order to reflect the common sentiment of the Commission, Mr. Villegas stated that although the Committee on National Economy and Patrimony had earlier proposed to change even the entire Section 1 with Mr. de Castro's amendment providing that "the State shall give preferential treatment to the use of Filipino labor, domestic materials and locally produced goods," the Committee decided to make the possible changes only after all the amendments had been presented.

Mr. Monsod also explained that the Body had fully discussed the word "unfair", and the Committee believes that it was not a matter of style, however, it agrees with the interpretation read by Mr. Suarez.

### **MS. AQUINO'S PROPOSED AMENDMENT**

Thereafter, Ms. Aquino proposed to insert a new sentence, to wit:

CONGRESS SHALL ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT.

She explained that her proposal would provide for some reservation of the essential attributes of primacy of the Filipino interest as the basic postulate in any economic order.

In reply to Mr. Monsod's query whether the reserved power would always be consistent with the Constitution and therefore would promote what are already said in the Constitution, Ms. Aquino stated that the intention of the amendment is not to reserve the power but it would serve as the reservoir of decisional norms in all controversies pertaining to the economy. She affirmed that it would not necessarily contravene any provisions of the Constitution that had already been approved.

### **MR. SARMIENTO'S AMENDMENT TO THE AMENDMENT**

Mr. Sarmiento proposed to add after "development" the phrase AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATIONAL RESOURCES OF THE COUNTRY. However, in view of Ms. Aquino's explanation that the utilization and development of natural resources of the country would already be covered by the phrase "all aspects of national economic development", Mr. Sarmiento withdrew his amendment.

### **MR. DAVIDE'S AMENDMENT TO THE AMENDMENT**

After the word "Congress", Mr. Davide proposed to insert a comma (,) and the phrase CONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION and a comma (,), which Ms. Aquino accepted.

Mr. Monsod opined that Ms. Aquino's proposed amendment as amended by Mr. Davide would provide for a power that is already inherent in Congress, in reply to which, Ms. Aquino stated that inherent powers should not be taken for granted.

Mr. Villegas opined that Ms. Aquino's proposed amendment as well as Mr. Sarmiento's amendment to the amendment need not be provided but should be considered as interpretations of Section 1 which provides that the State shall develop a self-reliant and independent national economy effectively controlled by Filipinos.

Ms. Aquino asked for a vote on her proposed amendment.

Upon request of the Chair, Ms. Aquino restated her proposed amendment, as amended, to wit:

CONGRESS, CONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION, SHALL ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT.

Submitted to a vote, and with 15 Members voting in favor, 23 against and 3 abstentions, the proposed amendment, as amended, was lost.

### **SUSPENSION OF SESSION**

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

It was 1:15 p.m.

## RESUMPTION OF SESSION

At 3:06 p.m., the session was resumed with the Honorable Rustico F. de los Reyes, Jr. presiding.

### PROPOSED AMENDMENT OF MR. GARCIA

Mr. Garcia proposed a new Section which would read as follows:

THE NATIONAL MARKET FOR GOODS AND SERVICES SHALL BE PROTECTED FROM FOREIGN COMPETITION PREJUDICIAL TO THE DYNAMIC DEVELOPMENT OF LOCAL INDUSTRIES IN A PROGRESSIVE ECONOMY.

THE STATE, THROUGH DEMOCRATIC CONSULTATION, SHALL PLAN THE DEVELOPMENT OF DOMESTIC PRODUCERS IN ALL SECTORS OF THE ECONOMY IN A MANNER THAT WILL ENSURE THEIR VIABILITY AND GROWTH TO SERVICE NATIONAL MARKET.

Mr. Garcia explained that the general context of his amendment is that the Philippines, in terms of population, is potentially the fifteenth largest national market such that under the proposal, the national market must be serviced first and foremost by the development of local industries that would provide for the basic goods and services needed by the people. He stressed the need for the State to promote reliance on local production initiatives to meet the consumption needs of the citizens rather than undue reliance on foreign trade susceptible to the vagaries and instabilities of the international market and subject to the domination of the developed countries. He stated that inasmuch as the mechanisms of private enterprise promote the philosophy of free trade and the value of foreign competition, the State must be given a clear mandate to act as an effective counterweight in promoting Filipino control of the economy in the progressive growth of local industries that service the domestic market.

Replying thereto, Mr. Villegas noted that the proposed amendment is a rehash of the protectionist measure that was fully discussed in Section 1 and it is for this reason, he stated, that the Committee could not accept the amendment especially if the Body could come to an agreement on how to improve the style of Section 1.

Mr. Monsod added that the concept of protectionism against foreign competition contained in the proposed amendment is already covered by Section 1, which concept, he stated, had been extensively discussed when the Body took up Section 1. He further opined that the proposal would reopen Section 1 which in effect is a reconsideration of said Section. He appealed to Mr. Garcia to withdraw his amendment in the contest of the explanations and manifestations of Mr. Suarez and the Committee.

Although this issue had been discussed in Section 1, Mr. Garcia expressed the view that taken from a different perspective, the national market approach could also in a sense help safeguard and preserve the preeminence of Filipino interest.

Mr. Monsod inquired who Mr. Garcia is seeking to protect considering that the market, as part of the patrimony of the country, is composed of buyers and sellers, to which Mr. Garcia replied that basically what is protected would be the entire Filipino nation because a self-reliant economy would then be developed.

Mr. Monsod reiterated that the proposed amendment, being a rehash of Section 1, partakes of a motion for reconsideration which, he opined, is out of order.

## SUSPENSION OF SESSION

Upon request of Mr. Rodrigo, the Chair suspended the session.

It was 3:15 p.m.

## RESUMPTION OF SESSION

At 3:17 p.m., the session was resumed.

Upon resumption of session; Mr. Rama informed the Body of the request to vote on the proposed amendment instead of considering it out of order, which Mr. Monsod confirmed by asking that the Body vote on the proposed amendment without considering it as a reopening of Section 1.

## RESTATEMENT OF AND VOTING ON

### MR. GARCIA'S AMENDMENT

Mr. Garcia restated his proposed amendment, to wit:

THE NATIONAL MARKET FOR GOODS AND SERVICES SHALL BE PROTECTED FROM FOREIGN COMPETITION PREJUDICIAL TO THE DYNAMIC DEVELOPMENT OF LOCAL INDUSTRIES IN A PROGRESSIVE ECONOMY.

THE STATE, THROUGH DEMOCRATIC CONSULTATION, SHALL PLAN THE DEVELOPMENT OF DOMESTIC PRODUCERS IN ALL SECTORS OF THE ECONOMY IN A MANNER THAT WILL ENSURE THEIR VIABILITY AND GROWTH TO SERVICE THE NATIONAL MARKET.

Summarizing the position of the Committee, Mr. Villegas adverted to the records of the discussion on Section 1 in which the Committee objected to any protection given to the market. He stressed that protection should be given to individual Filipino entrepreneurs and any attempt to protect the market would always result in a tremendous prejudice to Filipino consumers. He argued that the statement that the national market is being protected is inherently objectionable and all the statements in the other Sections are more than enough to cover the intent of the proposed amendment.

On Ms. Aquino's inquiry as to whether he was in effect saying that regardless of whether a Filipino enterprise is capable of taking up the measured capacity, it is not entitled to protection, Mr. Villegas stated that it would not, provided that 1) they are infant industries because it would be unfair to international trade; and 2) they are paying very high rates, for instance, in electricity, and they are taxed unnecessarily. These, he stated, are just among the reasons why they are likewise protected.

Thereupon, submitted to a vote, and with 15 Members voting in favor, 20 Members against and 2 abstentions, the Chair declared the proposed amendment lost.

## FURTHER PROPOSED AMENDMENT OF MR. GARCIA

Mr. Garcia proposed another amendment which reads:

ECONOMIC NATIONALISM SHALL BE FOSTERED IN ALL SCHOOLS AND PROPAGATED BY THE STATE WITH A VIEW TO INCREASING FILIPINO PARTICIPATION IN THE ECONOMIC DEVELOPMENT OF THE COUNTRY AND IN THE PROMOTION AND PATRONAGE OF LOCAL PRODUCTS AND SERVICES.

Mr. Davide stated that although he is in favor of the proposed amendment, it should be placed in the Article on Human Resources. He then inquired whether the rejection of the proposed amendment would foreclose its presentation in the Article on Human Resources.

Replying thereto, Mr. Villegas agreed with Mr. Davide's observation that the amendment, specifically the first

part thereof which is on economic protectionism, should be incorporated into the definition of nationalism and patriotism which are contained in the Article on Human Resources, while the second portion of the amendment is clearly included in the provision that was approved which states that the State shall promote the use of Filipino labor, of domestic raw materials and of locally-produced goods. It is for this reason, he stated, that the amendment is a surplusage. He assured that nonacceptance of the proposed amendment would not foreclose its presentation during the deliberations on the Article on Human Resources.

Mr. Garcia agreed with the suggestion to incorporate his proposed amendment in the Article on Human Resources. He pointed out, however, that his proposal looks forward to the future, in the sense that the realization of a self-reliant and independent economy effectively controlled by Filipinos depends on the transformation of the consciousness of the minds of the young. He then temporarily withdrew his proposed amendment.

Mr. Monsod informed the Body that the Committee had already approved the Filipino-First policy which was proposed by Mr. de Castro.

### **PARLIAMENTARY INQUIRY OF MR. SARMIENTO**

Rising on a parliamentary inquiry, Mr. Sarmiento recalled that he submitted a proposed amendment which was not acted upon either by the Committee or the Body, which amendment reads:

THE STATE SHALL PROMOTE THE ECONOMIC INTEREST OF THE FILIPINO PEOPLE TO ENABLE THEM TO GAIN EFFECTIVE AND BENEFICIAL CONTROL OVER ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT THROUGH APPROPRIATE MEASURES THAT WILL SUPPORT ALL SECTORS OF SOCIETY TO PARTICIPATE IN THE OWNERSHIP AND MANAGEMENT OF ECONOMIC ENTERPRISES AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE COUNTRY.

Mr. Monsod opined that the proposed amendment would not be necessary because it is already contained in certain provisions, among them Section 1 where the State is mandated to encourage broad ownership of private enterprises and included in this provision, he stated, is the task of the State to promote the ownership of employees or of other sectors in the enterprises. He pointed out the fact that even the Board of Investments has a rule requiring those who enjoy incentives to offer their shares to the public and although this was not successful because it was unattractive, it would remind Congress to provide attractive terms in order that the employees would be convinced to buy shares. He, likewise, cited a provision which would ask Congress to give incentives to employees to establish cooperatives that could own economic enterprises as part of the democratization of wealth objective of the country.

On Mr. Sarmiento's query on whether employees could share in the ownership of the enterprises, Mr. Monsod affirmed by stating that the enterprises should be encouraged in the same manner that the employees should be given incentives to enable them to own shares. He stressed that this would not necessarily come from the owners of the enterprises but even from the government in the form of subsidized loans to employees who desire to buy shares.

### **PROPOSED AMENDMENT OF MRS. QUESADA**

Mrs. Quesada proposed an amendment which reads:

FOREIGN INVESTMENTS SHALL PLAY A SECONDARY ROLE IN THE NATIONAL ECONOMY. IN ALL CASES, FOREIGN INVESTMENTS SHALL BE SUBJECT TO DIVESTMENT BASED UPON TERMS AND CONDITIONS THAT CONGRESS SHALL FORMULATE GIVING DUE REGARD TO FAIR AND EQUITABLE COMPENSATION AND TO PRIOR RIGHTS OF EMPLOYEES OF THE

## ECONOMIC ENTERPRISE TO ACQUIRE OWNERSHIP.

In explaining her proposed amendment, Mrs. Quesada stressed that this would explicitly state the form of foreign investments that the country would like to attract such that the amendment would address the extent of participation of foreign investments by maintaining always the unequivocal condition of contributing to long-term growth of the economy. She stated that participation of foreign investments may be allowed under conditions that would favor a real economic contribution in areas where there is proven scarcity of domestic capital or where specific foreign technology is needed for the development and improvement of production except in economic activities which are critical to the stability of the economy and the national security.

Mrs. Quesada read the following guidelines contained in the School of Economics paper towards recovery and sustainable growth: 1) a multinational firm should be required to export a stipulated proportion of its output, 70% of which would be the indicative number; 2) a multinational firm will not be allowed to avail of domestic capital, except for working capital purposes; and 3) the rule of foreign ownership which will be eventually adopted should be followed strictly. No loopholes and exceptions, such as pioneer industries, should be allowed.

She stated that the concept of democratization refers not to concentration in a few established economic interests but to ensuring that there would be divestment after a period of time.

Mrs. Quesada opined that although divestment program is covered by the Board of Investments rules, there is still need to express in concrete terms these guidelines which would be in consonance with some of the approved provisions, namely: the provision creating the agency which shall promote the viability and growth of cooperatives; the provision mandating the State to promote a trade policy that serves the general welfare and utilizes all forms of arrangement on the basis of equality and reciprocity; the provision on foreign loans; and the preferential use of Filipino labor. She added that the proposal would explicitate the guidelines on the kind of foreign investment that would contribute to the national economy and translate the basic principle contained in Section 1.

In reply to Mr. Nollado's query on the meaning of "foreign investment shall play a secondary role in the national economy", Mrs. Quesada stated it means that foreign investment would only be welcome in areas which are not adequately exploited by Filipinos.

On Mr. Nollado's query whether in relation to divestment, a particular period is being contemplated during which a foreign investor may operate in the Philippines, Mrs. Quesada replied that the present rules of the Board of Investments provide a period of 10 years before a divestment program could begin which, she opined, is sufficient to enable a foreign capitalist to recover his investment and gain profits and to allow Filipinos to gain managerial competence needed to manage the enterprise. She stressed that foreign investments should contribute to the development of a self-reliant economy since the country cannot forever remain dependent on such foreign investments. She added that we should be more selective in choosing investors who would be willing to help uplift the country's economy.

On whether the proposal, if approved, would supersede a provision in the investment law which gives investors freedom from expropriation, Mrs. Quesada replied that, if approved, it would supersede all contradictory laws.

In reply to Mr. Nollado's query whether it is possible to require the reinvestment in the country of the just compensation paid to a foreign investor who is divested of his investment instead of allowing its remittance abroad, Mrs. Quesada opined that Congress should be able to formulate policy guidelines that would govern the particular arrangement.

Mr. Nollado acknowledged the proposal as reasonable.

At this juncture, Ms. Aquino pointed out that the first sentence of the proposal is susceptible to misinterpretation and may set the pace for an unmitigated influx of foreign capital instead of restricting it. She added that Mr. Ople previously withdrew his approved amendment and yielded to the opinion of some Members that the constitutionalization of "foreign investment" may be fraught with danger.

### **SUSPENSION OF SESSION'**

Upon request of Ms. Aquino, the Chair suspended the session.

It was 3:43 p.m.

### **RESUMPTION OF SESSION**

At 3:50 p.m., the session was resumed.

#### **AMENDMENT OF MRS. QUESADA AS MODIFIED BY MS. AQUINO AND MESSRS. AZCUNA AND SARMIENTO**

Upon resumption, Mrs. Quesada read the compromise formulation of her proposed amendment as follows: THE STATE SHALL REGULATE AND EXERCISE AUTHORITY OVER FOREIGN INVESTMENTS WITHIN ITS NATIONAL JURISDICTION AND IN ACCORDANCE WITH ITS NATIONAL GOALS AND PRIORITIES.

She explained that the proposal, which covers acts such as divestment, has been inspired by the Charter of Economic Rights and Duties of States which the Philippines cosponsored with 96 other nations in the United Nations in 1974.

Mr. Monsod accepted the proposal.

Submitted to a vote, and there being no objection, the amendment was approved by the Body.

In reply to Ms. Aquino's query on the modalities by which the State could assert regulations and restrictions on foreign investment, Mrs. Quesada stated that it would be a divestment scheme based on terms and conditions that Congress would formulate with due regard to fair and equitable compensation and to the prior right of the employees of the economic enterprise to acquire ownership.

Mr. Monsod stressed that the Committee would rather leave it to Congress to determine the rules and regulations although the Section does not necessarily mandate divestment. Additionally, Mr. Villegas stated that under Section 9, Congress could legislate 100% Filipino investment in certain industries which would automatically include divestment.

In reply to Mr. Sarmiento's query, Mrs. Quesada affirmed that the proposal, which was based on the Charter of Economic Rights and Duties of States, includes two recommendations of the 20-man committee, which are: 1) that each host country should decide, in the light of its own needs and aspirations, the areas of economic activities in which it will accept foreign investment and those which it wants to reserve for indigenous companies, specifying clearly the conditions under which such investments may be allowed in these sectors; and 2) that the host country indicate the areas where foreign investment would be allowed; lay down as precisely as possible the conditions under which multinational corporations should operate; and consider provisions for the review of such conditions after suitable intervals at the request of either side.

Mr. Monsod, however, stressed that the opinions expressed are not necessarily that of the Committee. He added

that those recommendations are not mandatory and Congress should decide whether to include them.

Mr. Padilla opined that with regard to Section 9 where Congress may require a higher percentage, whatever law Congress may legislate would have a prospective effect because a retroactive effect may impair the obligations of contracts or vested rights.

Mr. Villegas agreed with Mr. Padilla's view.

### **AMENDMENT OF MR. GASCON**

Mr. Gascon proposed the inclusion of the following additional section:

THE CONGRESS MAY PROVIDE FOR THE FORMULATION OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS ESTABLISHED WITH THE END IN VIEW OF TRANSFERRING THE OWNERSHIP TO THE WORKERS THEREIN.

Mr. Gascon explained that his proposal is intended to concretize the equitable distribution of wealth through investment by the State in small or medium-scale industries which do not compete with existing private corporations. The government, he said, would initially act as the administrator of such industries until they become viable at which time ownership of capital stocks would be transferred to the workers therein.

In reply to Mr. Nollado's query, Mr. Gascon affirmed that the prospective application would also apply to existing government-owned or controlled corporations.

On whether the stocks would be transferred to the State should the workers refuse to stay as investors, Mr. Gascon stated that they would and that they shall accrue in favor of the new workers. He agreed that stocks may be transferred to existing stockholders so long as they are co-workers. He affirmed that the intent of the proposed amendment is for the government to take the initiative since it has the resources at its command although ownership shall ultimately be vested upon the workers. He stated that the provision would apply only to areas which have not yet been exploited by private corporations with concentration on small or medium-scale industries.

Replying to Mr. Davide's query as to how the proposed amendment may be reconciled with Section 11 on the creation of government-owned or controlled corporations by special charter, Mr. Gascon stated that there is no inconsistency as his proposal would even supplement said Section 11.

He stated that "common good" would include transfer of ownership to the workers.

Mr. Davide observed that the concept is already covered by the second paragraph of Section 11, to which Mr. Gascon replied that it is not clear in said Section because on the basis of "benefit for the common good", ownership may be limited to the State alone. He admitted that to some degree, the idea behind the proposal is already included in Sections 9 and 15, except that "public ownership" per se would mean that the general public could become stockholders, as distinguished from the owners themselves.

On whether a corporation whose ownership has been transferred to the workers would cease to be a government-owned or controlled corporation, Mr. Gascon explained that the stocks of workers who leave the corporation will accrue to and administered by the State.

He agreed that in the long run it would be advisable for the State to take steps to encourage the public to organize corporations to be owned by their workers even if the scheme would transform the corporations into private corporations.

Mr. Monsod stated that the Committee discouraged the presentation of Mr. Gascon's amendment because it is fraught with dangers and operational difficulties. He stated that the government does not have good entrepreneurial abilities. He stated that the government would like to offer shares of stock to the employees but that they refuse to buy. He stressed that the proposed amendment would aggravate the problem because of the mandate to the State to put up new enterprises for the workers. He suggested that the initiative to establish or encourage cooperatives should come from the entrepreneurs.

Submitted to a vote, and with 12 Members voting in favor, 20 against and 3 abstentions, the amendment was lost.

Thereafter, Mr. Gascon proposed a new section to read as follows: CONGRESS SHALL ENACT MEASURES THAT WILL ENCOURAGE THE FORMATION AND OPERATION OF ENTERPRISES WHOSE CAPITAL ARE WHOLLY OWNED BY FILIPINOS. He stated that Congress should encourage the nationalization of agricultural and service industries by providing the citizens the incentives therefor so that the country may achieve self-sufficiency.

In support of the proposed amendment, Mr. Nollado asked whether extending loans and granting incentives and applicants' tax exemptions during the first five years of operation would be examples of "measures", to which Mr. Gascon replied in the affirmative.

Mr. Romulo commented that Senator Diokno formulated and sponsored Republic Act No. 5186 which expresses the same concept which, he suggested, could just be refined.

Mr. Monsod pointed out that there are other provisions such as Section 9, the section on preferential treatment on grants, privileges and concessions, and on the Filipino first policy, which express the same concept.

Mr. Gascon clarified that he does not intend to discourage equity ratios, to which Mr. Monsod stated that to encourage 100% Filipino ownership would be to discriminate against those with 98% or less Filipino ownership.

Mr. Nollado opined otherwise stating that there is no inconsistency in the government preference for a corporation with 100% Filipino ownership as against another with 90% Filipino ownership.

Mr. Monsod observed that it is an extremist position.

Mr. Nollado maintained that there is no inconsistency since the precondition that the corporation be wholly-owned by Filipinos can lead to the Filipinization of certain basic industries.

Mr. Villegas reiterated that the proposed amendment would be a surplusage.

Submitted to a vote, and with 16 Members voting in favor and 16 voting against, the Chair declared a tie.

Mr. Bengzon manifested that Mr. Regalado was resting in the South Lounge but had indicated a desire to participate in the voting. He suggested that some one be sent to get Mr. Regalado's vote. Mr. Davide, however, objected on the ground that the results of the voting had already been announced.

Mr. Nollado argued that a tie is determined only at the time of the voting.

The Chair cited Section 41 of the Rules stating that the President or the Presiding Officer can vote to break a tie.

Mr. Maambong adverted to precedents that in case of a tie, another voting could be had if the Presiding Officer refuses to break the tie.

At this juncture, Mr. Villegas informed that Mr. Regalado had arrived.

Mr. Guingona urged adherence to the Rule cited by the Chair.

Mr. Maambong stated that it was not the Rule of the Batasan that he had cited but that said Rules, the Jefferson's Manual and rulings of the Chair have suppletory effect.

The Chair cited Section 60 of the Rules confirming the statements of Mr. Maambong.

Mr. de Castro stated that Mr. Regalado should be given the opportunity to cast his vote or express his opinion on the matter.

Mr. Rigos reiterated the rule that in case of a tie, the Presiding Officer could vote. He suggested that the Chair cast his vote.

The Chair cited Section 106 of the Rules of the Batasan stating that in case of a tie after the Speaker had cast his vote, the motion shall be deemed lost and that in case of a tie, the Speaker not having voted, the motion shall be deemed lost unless he opts to vote affirmatively.

Mr. Guingona suggested a nominal voting.

At this juncture, Mr. Monsod stated that in a spirit of unity, the Committee accepts the amendment.

Mr. Jamir objected.

Submitted to a vote, and with 31 Members voting in favor, 2 against and 1 abstention, the amendment was approved by the Body.

### **INQUIRY OF MR. MAAMBONG**

With respect to the approved provision which states "The State shall protect the nation's marine wealth in its territorial waters, territorial sea and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens", Mr. Maambong inquired whether "economic zone" would affect such treaty as the 1960 Treaty of Amity, Commerce and Navigation between the Philippines and Japan in which Mr. Laurel was Chairman of the Philippine Panel which negotiated the treaty.

Mr. Ople, author of the amendment, informed that the United Nations was awaiting the ratification of the Convention on the Law of the Sea by about 60 nations which, with the exception of the United States, have all signified their intention to ratify the said treaty. He stated that should Japan be a signatory to this treaty, it would be bound, like the Philippines and other signatories thereto, to observe the 200-mile exclusive economic zones. He noted that for some neighboring countries like Japan and the Soviet Union, actual negotiations have taken place because their seas are narrow and overlap, while in the case of the Philippines there is no basis for fear that there would be violation of existing treaties such as the treaty mentioned by Mr. Maambong.

The Committee accepted the explanation of Mr. Ople.

### **CORRECTIONS ON THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY**

By Mr. de Castro

On page 6, last line of the unnumbered section, Mr. de Castro proposed to substitute the words TO MAKE between "measures" and "them" in place of "that help".

Mr. Monsod informed that the phrase has been corrected to read "and adopt measures that help make them competitive".

By Mr. Davide

On page 3, last sentence of Section 4, Mr. Davide proposed that the sentence "The foregoing shall be subject to the requirements of agrarian reform" should be deleted in view of the incorporation of the phrase "requirements of agrarian reform" in the preceding sentence.

Mr. Villegas concurred, noting that there was a typographical error.

There being no objection, the Body approved the proposed amendment.

By Mr. Azcuna

Mr. Azcuna proposed and Mr. Ople accepted changing "territorial waters" into ARCHIPELAGIC WATERS to bring it in line with the archipelagic principle enshrined in the Convention on the Law of the Sea and in the Article on the National Territory.

The Committee accepted the proposed amendment, and there being no objection, the same was approved by the Body.

#### TERMINATION OF THE PERIOD OF AMENDMENTS ON THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY

On motion of Mr. Rama, there being no objection, the Body closed the period of amendments on the proposed Article on National Economy and Patrimony.

Thereupon, Mr. Rama moved that the Body vote on Second Reading on the whole text of the Article.

#### MR. SARMIENTO'S MOTION FOR SUSPENSION OF THE RULES

Mr. Sarmiento noted that the Body had finished discussing the Sections in the Article and expressed his deep appreciation for the accommodation given by the Committee. He then moved for the suspension of the Rules to enable the Body to discuss some of the controversial provisions therein like reopening Section 1 wherein the words "based on" should be TOGETHER WITH or CONSISTENT WITH in line with the explanation given by the Committee.

The Chair stated that suspension of the Rules would have to be on motion of the Chairman of the Steering Committee, in which case, it would require 2/3 vote of the Body or should such motion be made by a Member, it would need a unanimous vote of the Body.

Mr. Sarmiento stated that he would submit to the rule.

#### REMARKS OF MR. MONSOD

Mr. Monsod informed that the Committee received some 22 proposed amendments based on the suspension of the Rules and reconsideration of all the Articles which have already been approved.

He stated that the position of the Committee is that they have not been fully discussed and the Committee has not agreed with the proponents to consider the proposals. He suggested that instead of going into a vote on the suspension of the Rules, the Body vote on Second Reading on the Article inasmuch as a suspension of the Rules would be unnecessary as the Committee would sit down with the proponents and see if they can agree on changes in the provisions which have already been approved.

He noted that until such time, it may not be timely for the Body to suspend the Rules and reopen Section 1. He noted that the time to ask for the suspension of the Rules would be if and when the Committee and the proponents

would come to agreement on certain proposals.

### REMARKS OF MS. AQUINO

Ms. Aquino maintained that the motion of Mr. Sarmiento is a prejudicial question and that some of the Members may be inclined to vote in favor or against it, depending on the amendments proposed. She asked deferment of the approval of the Article on Second Reading until after the Body has considered the pending amendments.

Reacting thereto, Mr. Monsod stated that the Committee's position is that the amendments being proposed are too many and are unacceptable to the Committee, for which reason, the Committee would not want to take them up immediately. He added that it would also need a suspension of the Rules. He reiterated that the Body vote, on Second Reading, without prejudice to such moves, should the Committee agree to the changes.

### REMARKS OF MR. SUAREZ

Mr. Suarez stated that he agrees with the suggestion of Mr. Monsod, short of voting on Second Reading, inasmuch as a number of proposals have been approved during the afternoon deliberations which would render moot and academic many of the proposed amendments. He added that the Members would need time to consider the effects of approved proposals.

Thereupon, on Mr. Suarez' instance, Mr. Sarmiento withdrew his motion for the suspension of the Rules.

### MR. GUINGONA'S MOTION FOR DEFERMENT OF VOTING ON SECOND READING ON THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY

At this juncture, Mr. Guingona moved for deferment of voting, on Second Reading, on the proposed Article until the Members have received the clean copies incorporating all the approved amendments. The motion was seconded by Mr. Suarez.

### SUSPENSION OF SESSION

The Chair suspended the session.  
It was 4:52 p.m.

### RESUMPTION OF SESSION

At 4:56 p.m., the session was resumed.

### REMARKS OF MR. DE CASTRO

Upon resumption of session, Mr. de Castro noted that the Body approved that afternoon the amendments of Mrs. Quesada as amended by Ms. Aquino and the second proposal of Mr. Gascon. He stated that the Body, on previous occasions, voted on Second Reading on Articles even without being furnished clean copies. He adverted to certain occasions when he himself moved for the deferment of voting, on Second Reading, until clean copies of said Articles had been distributed to the Members, which requests were turned down. He stressed that should the Body, in this case, defer voting until clean copies of the Article is distributed, it would be discrimination on the part of the Commission. He objected to the motion of Mr. Guingona.

In reply, Mr. Guingona stated that changes were made in the original text and that the situation obtaining would be different, inasmuch as there are unnumbered Sections the sequencing of which have not yet been decided.

Mr. de Castro noted that there were also some deletions and corrections in other sections of the Articles which he

mentioned.

Mr. Monsod stated that there are only two provisions involved and that there have been two minor changes thereto. He added that perhaps it would be truthful to say that the deferment, if given due course, would be an accommodation and not based on any technicality. He further stated that Mr. de Castro Reading, inasmuch as a number of proposals have would be correct that if indeed there is an accommodation in this instance, there would be discrimination inasmuch as his previous motions for deferment were not granted.

Mr. Guingona averred that he was not aware of the circumstances mentioned by Mr. de Castro and that he presented his motion on the basis that there are unnumbered sections which have to be numbered. He stated that he would accept the reason stated by Mr. Monsod and that he would ask for deferment also in order to accommodate the Members who have additional amendments to the Article.

Mr. Monsod called attention to the fact that there are no additional amendments and that it is on record that the Committee would prefer to vote on Second Reading.

### **SUGGESTION OF MRS. ROSARIO BRAID**

Mrs. Rosario Braid suggested that the Body vote, on Second Reading, subject to the sequencing of the unnumbered Sections later on.

### **CLARIFICATION OF MR. BENGZON**

Mr. Bengzon stated that the Body had no more amendments inasmuch as it had already closed the period of amendments. He reiterated Mr. Monsod's statement that the Members who wish to defer the vote on Second Reading on the Article were merely being accommodated. He further stated that the Chair had already ruled on the matter.

Relative to the remarks of Messrs. Monsod and Bengzon, Mr. Guingona adverted to a paper entitled "Proposed Amendments submitted to the Committee on National Economy and Patrimony" given the Members which Mr. Suarez was referring to. He contended that if the Committee says it would not accept any further amendments, in effect, it would no longer be willing to discuss the paper.

Mr. de Castro maintained that the Floor Leader had moved to close the period of amendments which was approved by the Body and that he subsequently moved for Second Reading on the Article, at which juncture, a Member asked for a clean copy of the Article and moved for deferment on Second Reading.

Mr. de Castro observed that the real reason for the motion was that somebody wanted to amend the Article beginning with Section 1. He maintained that the Chair had already stated the rule on suspension of the Rules which is that if it is presented by a member, it will need a unanimous vote and if presented by the Chairman of the Steering Committee, it would need 2/3 vote.

### **PARLIAMENTARY SITUATION**

The Chair clarified the parliamentary situation by stating that the Floor Leader had moved for a vote on Second Reading on the Article on National Economy and Patrimony but Mr. Guingona requested that said voting be deferred until clean copies of the Article shall have been furnished the Members. The Chair stated that the Body would then vote on Mr. Guingona's motion for deferment and, if defeated, the Body would proceed to the voting on Second Reading on the Article on National Economy and Patrimony.

### **WITHDRAWAL OF MOTION TO DEFER**

At this juncture, Mr. Guingona manifested that after consultation with Mr. Suarez, he was withdrawing his motion to defer voting on Second Reading on the Article on National Economy and Patrimony.

Thereupon, the Chair stated that the Body would vote on Second Reading on the Article.

### **MANIFESTATION OF MR. SUAREZ**

Mr. Suarez requested that he be allowed to take up the consolidated proposal submitted earlier directly with the Committee for purposes of assessing its possible effects on what would be approved on Second Reading. He stated that he would like a methodical presentation of the problems, including a possible suspension of the Rules if necessary to reconsider an approval on Second Reading.

Mr. Bengzon reiterated that the parliamentary situation calls for a vote on Second Reading on the Article on National Economy and Patrimony, after which, the Committee would sit down with the group of Mr. Suarez and after agreements are reached, they would be brought back to the floor upon request for suspension of the Rules considering that the period of amendments had already been closed.

### **MANIFESTATION OF MR. OPLE**

Mr. Ople manifested that the agreement between the Committee and Mr. Suarez' group should not bind other Members of the Commission, in reply to which, Mr. Bengzon gave the assurance that everything that would be agreed upon, especially on Section 1, would be submitted to the decision of the Body.

Thereupon, Mr. Rama reiterated his motion to vote on Second Reading on the Article on National Economy and Patrimony.

### **INQUIRY OF MR. GUINGONA**

At this juncture, in reply to Mr. Guingona's inquiry on whether, after the approval on Second Reading, the Steering Committee would calendar the Article on National Economy and Patrimony for Third Reading pursuant to Section 28 of the Rules, the Chair stated that the Body could suspend the Rules if necessary.

On whether the calendaring on Third Reading would be subject to the gentlemen's agreement, Mr. Monsod pointed out that there was no agreement that the Committee would accept further amendments.

### **INQUIRY OF MS. AQUINO**

In reply to Ms. Aquino's query on the parliamentary situation, the Chair reiterated that the Body should first decide whether to vote on Second Reading or to defer it in the light of Mr. Suarez' manifestation which was in effect an objection to the motion of the Floor Leader.

Ms. Aquino supported the motion to defer voting on Second Reading on the Article on National Economy and Patrimony on the ground that in the absence of clean copies of the Article, the Members could not vote intelligently.

### **SUSPENSION OF SESSION**

At this juncture, the Chair suspended the session.

It was 5:18 p.m.

## RESUMPTION OF SESSION

At 5:38 p.m., the session was resumed.

Upon resumption of session, the Chair stated that it interpreted Mr. Suarez' manifestation as an objection to the motion calling for a vote, on Second Reading, on the Article on National Economy and Patrimony.

## SUGGESTION OF MR. SUAREZ

Mr. Suarez suggested that the Body adjourn in order that the Members be given time to think what practical course of action should be taken in connection with the matter pending before the Body.

Mr. Villegas insisted that the Body act on the pending motion which was the motion calling for a vote, on Second Reading, on the Article on National Economy and Patrimony. With respect to the question of discrimination, he believed that it was the Committee that was being discriminated against in the sense that its report had not been approved on Second Reading despite the lapse of 20 days. He insisted that the Body vote on the Article on National Economy and Patrimony without precluding a possible suspension of the Rules should the Body come into agreement.

On Mr. Suarez' query, Mr. Villegas affirmed that the approval, on Second Reading, of the Article on National Economy and Patrimony would not preclude any Member from asking for suspension of the Rules in order that the Body could review the other sections already approved.

Mr. Bengzon pointed out that a motion for suspension of the Rules would always be subject to unanimous consent of the Body, to which Mr. Suarez replied that the approval would not bar the presentation of a motion to suspend the Rules should circumstances so warrant.

## APPROVAL ON SECOND READING OF THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY

Submitted to a vote, and with 26 Members voting in favor, 9 Members voting against and 3 abstentions, the Body approved, on Second Reading, the Article on National Economy and Patrimony.

## REMARKS OF MR. RODRIGO

Adverting to the Resolution which was filed in the morning session, Mr. Rodrigo announced the following amendments submitted by some Members and which were accepted by him, to wit:

On the first paragraph:

By Mr. Suarez:

Change "various interest groups" to VARIOUS GROUPS.

By Messrs. Villacorta  
and Bennagen:

After the word "various", add the words INDIVIDUALS AND so that it would read "various INDIVIDUALS AND groups".

By Mr. Bernas:

Place a semicolon (;) after the word "patriotism" and delete the third line consisting of the words "in an attempt to coerce and intimidate them".

The first paragraph would then read:

"Whereas, INDIVIDUALS AND groups have been making unfounded charges against the members of the Commission, impugning their integrity and patriotism;"

On the second paragraph:

By Mr. Suarez:

Change the word "tactics" to ACTS.

By Mr. Bernas:

a)

Delete the phrase "and to influence members of the Commission";

b)

Change the word "their" to THE; and

c)

Between the words "right" and "to", insert the words OF MEMBERS.

The second paragraph would read:

"Whereas, these ACTS tend to subvert the independence and credibility of the Commission and restrict THE right of MEMBERS to vote freely On issues;"

On the third paragraph:

By Mr. Davide:

After the word "Commission", add the words AND ITS MEMBERS.

By Mr. Bernas:

Delete the phrase "from any source" and delete the last letter "s" in the word "pressures".

The third paragraph would read:

"Whereas, the independence of the Commission AND ITS MEMBERS from any external pressure is indispensable to the accomplishment of its task;"

On the Resolatory paragraph:

By Messrs. Villacorta and Bennagen:

After the words "to deplore", add the words AND PREVENT.

By Mr. Bernas:

Substitute the phrase "action from any source" with ATTEMPT.

By Ms. Tan:

Delete the words "each and every" and in lieu thereof, insert the word THE and add "s" to "member".

The resolatory paragraph would read:

RESOLVES TO DEPLORE AND PREVENT ANY ATTEMPT TO SUBVERT THE INDEPENDENCE

AND CREDIBILITY OF THE COMMISSION AND FURTHER RESOLVES TO REAFFIRM ITS CONFIDENCE IN THE INDEPENDENCE, INTEGRITY AND PATRIOTISM OF THE MEMBERS OF THE COMMISSION.

On the title of the Resolution, Mr. Rodrigo proposed to add OF CONFIDENCE so that it would read "Resolution OF CONFIDENCE"

### **RESTATEMENT OF THE RESOLUTION AS AMENDED**

Mr. Rodrigo restated the Resolution, as amended, to wit:

#### **RESOLUTION OF CONFIDENCE**

WHEREAS, VARIOUS INDIVIDUALS AND GROUPS HAVE BEEN MAKING UNFOUNDED CHARGES AGAINST MEMBERS OF THE COMMISSION, IMPUGNING THEIR INTEGRITY AND PATRIOTISM;

WHEREAS, THESE ACTS TEND TO SUBVERT THE INDEPENDENCE AND CREDIBILITY OF THE COMMISSION AND RESTRICT THE RIGHT OF MEMBERS TO VOTE FREELY ON ISSUES;

WHEREAS, THE INDEPENDENCE OF THE COMMISSION AND ITS MEMBERS FROM EXTERNAL PRESSURE IS INDISPENSABLE FOR THE ACCOMPLISHMENT OF ITS TASK;

NOW, THEREFORE, THE COMMISSION HEREBY RESOLVES, TO DEPLORE AND PREVENT ANY ATTEMPT TO SUBVERT THE INDEPENDENCE AND CREDIBILITY OF THE COMMISSION AND FURTHER RESOLVES TO REAFFIRM ITS CONFIDENCE IN THE INDEPENDENCE, INTEGRITY AND PATRIOTISM OF THE MEMBERS OF THE COMMISSION.

### **AMENDMENTS OF MR. FOZ.**

As proposed by Mr. Foz, Mr. Rodrigo accepted the following amendments:

1) On the first paragraph, between the words "against" and "members", insert the word CERTAIN.

On the proposal to delete the words "each and every" and in lieu thereof, to insert the word THE in the last line of the resolutive clause, Mr. Rodrigo stated that Ms. Tan had already introduced an amendment thereto.

### **REMARKS OF MR. VILLACORTA**

As one of the proponents of the amendments, Mr. Villacorta stressed that the Resolution is directed to any present or possible attempt by foreign interests to influence the Body and this, he stated, includes their physical presence and action that would have the effect of tainting the reputation, independence and integrity of the Constitutional Commission. He pointed out that foreign intervention is possible if one takes into account the sensitive tasks and issues which the Body is assigned to do or decide.

### **REMARKS OF MR. TINGSON**

Speaking in support of the Resolution, Mr. Tingson stated that the Resolution presented to the Body is a splendid gesture calculated to heal and to reconcile. He pointed out that the country and the entire world anticipate with high expectations that social and political stability in the country would follow upon ratification of the new Charter.

Finally, Mr. Tingson stated that he who trusts could be trusted and he who forgives deserves mercy and it is in

this context that the Resolution deserves the unanimous approval and active support of the Body because it deplores what is negative, yet it speaks eloquently of the positive virtues of independence, integrity and patriotism.

### **INQUIRY OF MRS. QUESADA**

Mrs. Quesada inquired whether the adoption of the Resolution would, in effect, set a precedent for the Commission to respond to all criticisms and charges against the Members by individuals and even by media. She stated that she was raising the question because the Members, as public functionaries, would always be subject to public criticisms and that there would always be the possibility that the Body would be further criticized.

In reply thereto, Mr. Rodrigo opined that it would depend on the seriousness of the circumstances.

On whether the Resolution would demand an investigation to disprove whatever charges would be hurled to the Members, Mr. Rodrigo explained that the Resolution was prompted by circumstances that happened in the past and he would not know whether the Body would approve said Resolution.

Mrs. Quesada expressed apprehension over the approval of the Resolution because it might open the way for the filing of resolutions of similar nature considering the possibility that the Body would be further criticized on its decisions taking into account the freedom of expression and of the press that pervades in the media sector.

### **AMENDMENT OF MR. BERNAS**

Mr. Bernas proposed to amend the resolutive clause so that it would read: RESOLVES, TO DEPLORE AND PREVENT ANY ATTEMPT FROM ANY SOURCE TO SUBVERT THE INDEPENDENCE AND CREDIBILITY OF THE COMMISSION.

He explained that he was proposing the deletion of the words "and further resolves to reaffirm its confidence in the independence, integrity and patriotism of the Members of the Commission" because any statement from the Body affirming its own independence and integrity would be self-serving and it would not enhance its own dignity. He pointed out that the Body stands on the basis of its own performance rather on the basis of what it says about itself.

Mr. Rodrigo accepted Mr. Bernas' amendment and, there being no objection, the same was approved by the Body.

Mr. Guingona concurred with the explanation given by Mr. Bernas.

### **INQUIRY OF MR. FOZ**

Mr. Foz inquired as to how the Commission would prevent any attempt to subvert its credibility and independence, pointing out further that this would involve some kind of censorship, to which Mr. Villacorta stated that he proposed the insertion of the word "prevent" provided that the word "subvert" is retained because he believes that it is within the means of the Commission to prevent this action rather than just deplore it.

### **AMENDMENT OF MR. BERNAS**

Mr. Bernas proposed the deletion of the word "prevent" because it would give the impression that the Body resents people who disagree with it and that it would stop people from disagreeing, to which Mr. Villacorta stated that the prevention is not addressed to criticism but to subversion of the independence and credibility of the Commission.

Mr. Bernas argued that subversion of independence or credibility could be done through various forms of criticisms.

On Mr. Villacorta's query as to what should a Member do in case an agent of a foreign embassy approaches him to influence his vote, Mr. Bernas stated that something has to be done although the situation may not be prevented as, in fact, it had already happened.

Thereupon, Mr. Bernas proposed that instead of "prevent", it should be DEPLORE.

Mr. Villacorta adverted to a caucus where the Commission agreed in principle that agents of foreign interests should not be allowed in Committee meetings.

Mr. Bernas, however, maintained that "prevent" may be misinterpreted and cast a bad image on the Body.

Mr. Villacorta accepted the proposal as long as the Members reserve their right to publicly deplore such actions.

Thereupon, the Chair stated that the word "prevent" would be dropped.

On Mr. Foz' query whether a statement made by a columnist that the Commission is a do-nothing Body would constitute a serious charge, Mr. Rodrigo opined that it depends on the magnitude. He stated that he would ignore it if it is only one columnist and not a front-page headline.

Mr. Foz pointed out that Mr. Max Soliven wrote statements of similar tenor thrice in his column as former columnist of the Philippine Daily Inquirer. He inquired whether this would constitute a serious charge that would justify the passage of a similar resolution, to which Mr. Rodrigo replied that personally he would not do it because it would just magnify the accusation.

On whether the Body should pass a resolution of the same tenor in case a Member is charged before a court with a serious crime such as estafa, Mr. Rodrigo stated that the case would be sub judice.

Mr. Colayco suggested that any criticism against the Body or Member thereof should be referred to the Committee on Privileges under Rule XI of the Rules. In reply to Mrs. Quesada's query, he affirmed that this is the proper procedure on matters affecting the dignity and integrity of the Commission or its Members.

Mr. Rodrigo, however, opined that it would add insult to injury because the matters referred to the Committee on Privileges are those which have to do with misconduct of Members.

Mr. Colayco disagreed. He pointed out that Section 53(b) Rule XI of the Rules also refers to matters affecting the rights, reputation and conduct of Members.

Thereupon, Mr. Rodrigo requested for a vote on the resolution without prejudice to any Member referring any criticism against the Body or any Member thereof to the Committee on Privileges.

On Mrs. Quesada's query whether approval of the resolution without going through the proper procedure would set a precedent, Mr. Rodrigo stated that there is no violation of the Rules.

The Chair then adverted to Rule XI noting, among others, that questions of privilege may be availed of only on Fridays except on urgent matters, in reply to which, Mr. Rodrigo pointed out that he was not making a privilege speech although as a matter of fact, three privilege speeches were allowed in the morning.

At this juncture, Ms. Tan requested for voting on the resolution and asked that the Body decide whether or not to consider it a precedent.

Mr. Rodrigo agreed.

Thereupon, Mr. Rodrigo read the Resolution, as amended, to wit:

RESOLUTION OF CONFIDENCE

WHEREAS, various individuals and groups have been making unfounded charges against certain Members of the Commission, impugning their integrity and patriotism;

WHEREAS, these acts tend to subvert the independence and credibility of the Commission, and restrict the right of Members to vote freely on issues;

WHEREAS, the independence of the Commission and its Members from external pressure is indispensable to the accomplishment of its task;

NOW, THEREFORE, the Commission hereby resolves to deplore any attempt to subvert the independence and credibility of the Commission.

Thereafter, submitted to a vote, and with 29 Members voting in favor, 2 against and 1 abstention, the Resolution, as amended, was approved by the Body.

**ADJOURNMENT OF SESSION**

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

It was 6:19 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 September 4, 1986

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