

JOURNAL NO. 101

VOL. III, October 06, 1986

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a244779027ad/>

Monday, October 6, 1986

CALL TO ORDER

At 10:29 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. Cirilo A. Rigos, to wit:

Almighty God, in whom we live and move and have our being, we look back to the past four months with deep gratitude in our hearts for the mysterious ways by which Thou hast guided us. Thou hast enabled us to overcome not only the clashes of ideas and philosophies each one of us possesses and passionately cherishes, but also the aberrations in our personal relationships that rent our hearts and disturbed our peace. We thank Thee for the miracle of Thy love which enabled us to transcend all difficulties and to come up with a document produced collectively.

As we look forward to the future, grant us the faith to believe that our nation will enjoy a greater measure of freedom and prosperity, the grace to honor the new Constitution, and the wisdom to preserve it for as long as necessary. And for the present, particularly today, all we need is the guidance of Thy Spirit and humility on our part to obey the same.

We beg Thy special comforting grace upon Flerida Ruth Romero, whose beloved mother, Juliana Pineda, passed away two days ago. Give her the assurance of Thy divine companionship especially during the period of bereavement.

We pray in Jesus' name.

Amen.

ROLL CALL

The Roll Call was dispensed with and the Chair declared the presence of a quorum.

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS AND COMMITTEE REPORT

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

Communication No. 1053 — Constitutional Commission of 1986

Communication from the participants of the LUSSA regional consultation with the basic sectors, expressing appreciation of the introduction and approval of several provisions which are believed will promote the welfare and interests of the poor and underprivileged sectors of society, at the same time, commenting on the various economic concepts embodied in the proposed Constitution

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 1054 — Constitutional Commission of 1986

Letter from Mr. Noli Carbonel of 373 Quezon Avenue, Quezon City, urging the continuance of the U.S. Military Bases in the Philippines if the rental paid thereof is more or at par with what the U.S. pays to Spain, Greece and Turkey; otherwise, the U.S. bases should be dismantled.

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

Communication No. 1055 — Constitutional Commission of 1986

Letter from Mr. Bienvenido Castillo of Pulilan, Bulacan, reminding the Constitutional Commission not to rush the Constitution, or else the country will be trailing the same path of most dejected Filipinos in the past, saying that if it needs three hundred sixty-five days to finish the draft which will give a more satisfying outcome, then, the Commission should do so.

TO THE STEERING COMMITTEE

Communication No. 1056 — Constitutional Commission of 1986

Letter from Mr. Joseph A. Cosente, OIC, Municipal Mayor of Tublay, Benguet, transmitting Resolution No. 32 of the Sangguniang Bayan of Tublay, indorsed by the OIC, Provincial Governor of Benguet, opposing the proposal to create the Cordilleras as one autonomous region like Muslim Mindanao; instead, favoring its creation as one separate and distinct region from Regions I and II.

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 1057 — Constitutional Commission of 1986

Letter from Mr. Enrique B. Inting, Provincial Fiscal of Bohol, proposing amendment to Sec. 3, Art. IV of the 1973 Constitution, favoring "strong evidence of guilt" to "probable cause" in the issuance of arrest and search warrants, and also submitting a copy of his article, "Probable Cause: A Procedural Anathema in Our Criminal Justice System", printed in the Criminal Justice Journal, January-April 1985 issue.

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

COMMITTEE REPORT

Committee Report No. 41 on Petition No. 4, prepared by the Steering Committee, entitled:

AN URGENT PETITION TO REOPEN SECTIONS 3, 7, 10, 11, 13 AND 14 OF THE ARTICLE ON THE JUDICIARY,

recommending that the same be unanimously given due course.

Sponsors: Hon. Bengzon, Jr. and Concepcion

TO THE CALENDAR OF UNASSIGNED BUSINESS

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 38 ON PROPOSED RESOLUTION NO. 540 ON THE ARTICLE ON TRANSITORY PROVISIONS

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of the Proposed Resolution No. 540 (Committee Report No. 38), entitled:

Resolution to incorporate in the new Constitution an Article on Transitory Provisions.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 10:37 a.m.

RESUMPTION OF SESSION

At 10 39 a.m., the session was resumed.

The Chair recognized Mr. Concepcion for His proposed provision.

AMENDMENT OF MR. CONCEPCION

Thereupon, Mr. Concepcion proposed the following as Section 21 of the Transitory Provisions:

THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIOD FOR THE DECISION OR RESOLUTION OF THE CASES OR MATTERS SUBMITTED FOR ADJUDICATION BY COURTS OF JUSTICE SHALL BE DETERMINED AND DECIDED OR RESOLVED BY THE SUPREME COURT AS SOON AS PRACTICABLE AFTER SUCH RATIFICATION.

He also informed that he proposes an additional paragraph to provide for the means of disposal of cases after the ratification of the new Constitution which shall read:

THE PROVISIONS OF PARAGRAPHS (3) AND (4) OF SECTION 14 OF THE MAIN TEXT OF THE ARTICLE ON THE JUDICIARY SHALL APPLY TO CASES OR MATTERS FILED BEFORE THE RATIFICATION OF THIS CONSTITUTION WHEN THE APPLICABLE PERIODS LAPSE AFTER SUCH RATIFICATION.

Mr. Concepcion remarked that the problem anticipated by the Body refers to the number of cases that may have to be filed to determine the status of the cases and the periods for which they lapse before the adoption of the Constitution. He stated that the Committee proposes an amendment which would require the Supreme Court to decide the cases as soon as practicable, after the adoption of the new Constitution, adding that instead of the courts waiting for parties to take the initiative, the Supreme Court may, in one or a few cases, pass upon the question as an incident of the cases or matters.

INQUIRY OF MR. PADILLA

Mr. Padilla stated that the Committee on the Judiciary would propose an amendment to increase the membership of the Supreme Court from 11 to 15 and in its discretion may divide into divisions composed of 3, 5 or 7 members to enable them to dispose more expeditiously the pending cases, whether those filed after the February revolution or those pending prior thereto, including less important cases such as those involving labor, workmen's compensation cases or appeals from the Sandiganbayan. Furthermore, he observed that Section 5 of the Transitory Provisions already approved by the Body gives the Supreme Court one year after ratification of the Constitution to adopt a systematic plan to expedite the decision or resolution or cases pending before it and lower courts.

As to whether these two provisions would be sufficient to expedite the disposal of cases, Mr. Concepcion replied that the provisions were adopted to accomplish that purpose and that there are other provisions, one being that in cases heard by the Court en banc, a vote of the majority of all the members who took part in the deliberations will be sufficient.

On whether the proposed additional section would still be necessary considering that the legal effect will always be subject to appropriate judicial proceedings in view of the adoption of plans or measures by the Supreme Court and lower courts to dispose of pending cases, Mr. Concepcion replied that the proposed section contemplates something else than the disposal of backlog cases. He explained that in connection with the disposal of backlog cases, there might be a question as to whether there is already a vested right to the affirmance of the appealed decisions or the dismissal of original cases of petitions for certiorari, prohibition, etc. He clarified that the plan, on the other hand, refers to the disposition of the cases on their merits.

Mr. Concepcion stated that the proposed section discusses the legal effects of the lapse of the period, whether the lapse creates in favor of the respondent in original petitions or the appellee in appealed cases, a vested right to have the petitions dismissed or the appeals affirmed.

On Mr. Padilla's comment that this is a judicial issue, Mr. Concepcion replied that precisely the Supreme Court shall be asked to dispose of the issue once and for all.

On Mr. Padilla's observation that the legal effect of the lapse shall be determined in appropriate judicial proceedings in accordance with the proposed section, Mr. Concepcion replied that with the amendment it shall be determined by the Supreme Court as soon as practicable after the ratification of the Constitution. He added that the Supreme Court, by trying two or three cases, can settle the matter and save the lower courts the task of determining what is the legal effect of the lapse of the applicable periods.

Mr. Padilla stated that he has no objection to the Supreme Court deciding the legal effects of the lapse which would require either party to raise the issue for determination by the Supreme Court. However, he manifested objection to the inclusion of the proposal in the Transitory Provisions.

Mr. Concepcion replied that he precisely proposed the amendment in view of said observation. He stated that inasmuch as there may be a number of cases on the particular question, to avoid multiplicity of such cases, the provision would state that the Supreme Court shall decide the issue once and for all and as soon as practicable.

On whether there can be one decision that will apply to all pending cases, he stated that although there may be variations in the facts and issues, in general, there would be guidelines as to the appropriate steps the parties may take.

At this juncture, Mr. Suarez informed that the Committee is thinking of blending the two sections together and that one Section could include the lapses even before the adoption of the 1986 Constitution, to wit:

THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIOD . . .

Mr. Concepcion pointed out that the second paragraph refers to cases for which the periods have lapsed after the ratification, although these cases had been filed before such ratification.

On Mr. Suarez' suggestion to simply use the phrase "before and after the ratification", Mr. Concepcion explained that should they lapse after the ratification, the provisions of the new Constitution would apply.

On whether the proposal envisions two decisions or rulings to be enunciated by the Supreme Court, Mr. Concepcion stated that the ruling is requested only in connection with cases or matters for which the period would lapse before the adoption of the Constitution.

APPROVAL OF SECTION 21

Thereafter, Mr. Suarez proposed that the two Sections be voted upon separately, the first one, to read:

THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIODS FOR THE DECISION OR RESOLUTION OF THE CASE OR MATTER SUBMITTED FOR ADJUDICATION BY THE COURTS, SHALL BE DETERMINED BY THE SUPREME COURT AS SOON AS PRACTICABLE AFTER THE RATIFICATION OF THIS CONSTITUTION.

Submitted to a vote, and with 19 Members voting in favor and none against, the first section was approved by the Body.

CONSIDERATION OF SECTION 22

Thereafter, Mr. Suarez restated the succeeding section, denominated as Section 22, to wit:

THE PROVISIONS OF PARAGRAPHS (3) AND (4) OF SECTION 14, ARTICLE ON THE JUDICIARY, SHALL APPLY, ALSO, TO CASES FILED BEFORE THE RATIFICATION OF THE PRESENT CONSTITUTION, WHEN THE APPLICABLE PERIOD LAPSES AFTER SUCH RATIFICATION.

Mr. Regalado proposed to delete "also" and to insert the words OR MATTERS after "cases" so that the line would read "shall apply to cases or matters filed before the ratification."

Mr. Suarez accepted the amendments to the amendment, adding that OR MATTERS should accordingly be inserted after "cases" in all other sections containing a similar provision.

Mr. Sarmiento suggested a reading of paragraphs 3 and 4 of Section 14 of the Article on the Judiciary for an intelligent consideration of the proposed amendment. Thereupon Mr. Suarez read paragraph 3, to wit:

Upon the expiration of the corresponding period, a certification to this effect signed by the Chief Justice or Presiding Judge shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served upon the parties.

At this juncture, Mr. Suarez observed that Section 14 of the Article on the Judiciary contains only three paragraphs to which, he said, Mr. Concepcion indicated further amendment.

He then requested for a suspension of session to clarify the matter.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 11:03 a.m.

RESUMPTION OF SESSION

At 11:07 a.m., the session was resumed.

Upon resumption of session, Mr. Suarez informed that the Committee on the Judiciary intends to propose further amendments to Section 14 of the Article on the Judiciary in the next session to include paragraphs 3 and 4, to wit:

3) UPON THE EXPIRATION OF THE CORRESPONDING PERIOD, A CERTIFICATION TO THIS EFFECT SIGNED BY THE CHIEF JUSTICE OR THE PRESIDING JUDGE SHALL FORTHWITH BE ISSUED AND A COPY THEREOF ATTACHED TO THE RECORD OF THE CASE OR MATTER, AND SERVED UPON THE PARTIES. THE CERTIFICATION SHALL STATE WHY A DECISION OR RESOLUTION HAS NOT BEEN RENDERED OR ISSUED WITHIN SAID PERIOD.

4) DESPITE THE EXPIRATION OF THE APPLICABLE MANDATORY PERIOD, THE COURT, WITHOUT PREJUDICE TO SUCH RESPONSIBILITY, IF ANY, AS MAY HAVE BEEN INCURRED IN CONSEQUENCE THEREOF, SHALL DECIDE OR RESOLVE THE CASE OR MATTER SUBMITTED THERETO FOR DETERMINATION, WITHOUT FURTHER DELAY.

MANIFESTATION OF MR. SUAREZ

Mr. Suarez requested that since Section 22 of the Article on Transitory Provisions may be affected by the proposed amendments to Section 14 of the Article on the Judiciary, further discussions on Section 22 be deferred.

He then requested the Members of the Commission to study the wisdom and advisability of making adjustments in the salaries of the President, the Vice-President, the Chief Justice, the Associate Justices of the Supreme Court, Senators, and other constitutional officers, including Members of the Constitutional Commissions. He recalled that the figures suggested were P200,000 for the President; P150,000 for the Vice-President and the Chief Justice; P120,000 for the Associate Justices and the Senators; and P100,000 for all other constitutional officers. He stated that according to the information received by the Committee during the public hearings, the representatives of the Ministry of the Budget informed that there are 23 Ministers, 36 Deputy Ministers, 61 Assistant Ministers and 302 Bureau Directors. He then adverted to the figures suggested for, as well as the present salaries of, the offices of the President, the Vice-President, the Ministers, the Deputy Ministers, the Assistant Ministers, the Bureau Directors, the Chief Justice, the Associate Justices, the Presiding Justice of the Court of Appeals, the Associate Justices of the Court of Appeals, the Commissioners of the Constitutional Commissions and their Deputies, the Senators and the Congressmen.

Mr. Suarez pointed out, however, that the Committee had received an official communication from the Minister of the Budget informing that the position of the Ministry is that there should be no adjustment in the salaries of the top officials of the land because of the imperative to give top priority to the salaries of the government employees who at the lowest level receive only P550.00 monthly.

INQUIRY OF MR. SARMIENTO

In reply to Mr. Sarmiento's query whether the Members of the Constitutional Commission are in a position to fix the salaries of ranking government officials, Mr. Suarez stated that this view is shared by the Committee Members, in view of which, he suggested that the matter be referred to the proper committees — the Committee on the Executive for the salaries of the President and the Vice-President and the Committee on the Legislative for the salaries of Senators and Congressmen.

On whether the Members of the Commission would be in a position to discuss the matter of salaries in the light of the suggestion of the Minister of the Budget that the salaries of the President and the Vice-President be deferred pending the discussion of the salaries for government employees, Mr. Bengzon stated that if the salaries of said officials would not be discussed, the amounts in the present Constitution would continue to be in effect. He stated that this could give rise to a question of propriety because salaries of said officials were included previous Constitutions and it is imperative that the Commission take up and consider the point inasmuch as a new Constitution is being drafted. With respect to the suggestion of the Minister of the Budget, Mr. Bengzon noted that the Minister has no choice but to make said statement which is highly political. He stated that it is nevertheless known that the salaries of the lower officials all the way down to the lowest employee of the government are categorized and based on the salary of the highest officer of the land, the reason being that there is a constitutional ceiling to the salary of the highest government official.

REMARKS OF MR. OPLE

Mr. Ople, supporting Mr. Bengzon's stand, stated that the Members of the Commission have an obligation to act on the salaries of the President, the Vice-President and the Members of Congress who would be elected in the first national elections on May 11, 1987. He pointed out that it would be unseemly and unbecoming, if not constitutionally insufferable, for Members of Congress to fix their own salaries and for the Constitutional Commission, in effect, to evade the responsibility of fixing the salaries, because it is important to begin at the top since the salaries of the Members of Congress are interrelated with the salaries of the President, the Vice-President and the Members of the Cabinet. He then adverted to the possibility of the Chief Justice of the Supreme Court receiving a higher salary than the President of the Philippines, which kind of asymmetry is too pronounced for the Commission to overlook and which could be accused of mental and intellectual sloth if it were not to pursue the matter after having taken cognizance of it.

He maintained that Mr. Bengzon was right when he contended that failure to fix the salary of the President would in effect put a cap on upward salary standardization starting at the base of the public service.

On the meeting of the Committee on Transitory Provisions, Mr. Ople stated that the Minister of the Budget opined that it would be politically unpalatable to fix the salary of the President at a level higher than the existing one although this has not been changed for a long time, because there must be a movement of salaries for the lowest paid government employees, by applying the minimum wage law.

SUGGESTION OF MR. DE CASTRO

At this juncture, Mr. de Castro suggested that the Committee on Transitory Provisions meet immediately after lunch to decide on the salaries for constitutional officers.

INQUIRY OF MRS. QUESADA

Mrs. Quesada observed that the 1935 and 1973 Constitutions provide for the salaries under the Article on National Assembly, which is now being proposed in the Transitory Provisions. She questioned the logic of introducing it in the Transitory Provisions instead of placing it in a more appropriate article.

Responding thereto, Mr. Suarez explained the parliamentary situation on the matter of fixing the salaries of the constitutional officers. He pointed out that provisions on the salaries of constitutional officers were left blank in order that they may be considered in the Article on Transitory Provisions, and it is the duty of the Committee on Transitory Provisions to fill up all the blanks in the other Articles pertaining to salaries.

MANIFESTATION OF MR. BENGZON

Mr. Bengzon manifested that there was an anterior motion by Mr. Sarmiento on whether or not the Body should discuss the salaries of Constitutional officers. He suggested that the motion be considered first and that only after the approval of Mr. Sarmiento's motion should the Body consider the suggestion of Mr. de Castro.

WITHDRAWAL OF MR. SARMIENTO'S MOTION

In view of Mr. Bengzon's earlier explanation on the need to include the salaries of constitutional officers as they were included in the 1935 and 1973 Constitutions, Mr. Sarmiento did not insist on his motion.

He affirmed the Chair's observation that the salaries would be determined by the respective Committees or by the Committee on Transitory Provisions.

OBJECTION OF MR. LERUM

As Member of the Committee on Transitory Provisions, Mr. Lerum objected to the inclusion of the salaries of public officials in the Constitution, considering that the salaries fixed in the 1935 and 1973 Constitutions had not been followed because of subsequent salary increases and it might frustrate the lowly government employees who have been receiving compensations below the minimum wage. He stated that the people would anyway monitor the salaries of said public officials.

He moved that the salaries of constitutional officers be not included in the provisions of the Constitution.

REMARKS OF MR. FOZ

Mr. Foz seconded Mr. Lerum's motion that Congress provide for the salaries of constitutional officers.

In reply to the Chair's query, Mr. Foz stated that in the meantime that Congress has not yet provided such salaries, public officials would receive compensations under existing laws. He added that the Office of Budget and Management could adjust the salaries without the need of any constitutional provision.

REMARKS OF MR. BENGZON

Thereupon, Mr. Bengzon pointed out there would be no basis for the salaries if they would not be provided in the new Constitution because the 1973 Constitution had already been repealed, no law could be passed because there is no basis.

REMARKS OF MR. TINGSON

Mr. Tingson opined that the fixed salaries of public officials could be a ground for disapproval of the Constitution by the people. He also cited the cases of Mexico and Indonesia where there had been tremendous drop in money value. He stated that while he realized the need to provide for adequate compensation, the Committee could come up with a reasonable provision so that the people would not be surprised and think that one could be a millionaire by being a Member of Congress.

INQUIRY OF MR. GUINGONA

On Mr. Guingona's observation that it would be improper for Congress to provide for the salaries of its own Members, Mr. Foz stated that Congress is the appropriating body but what worries him is the proposed salary scale which involves millions of pesos for one government position, whereas lowly government employees have been complaining that their salaries could not make both ends meet.

At this juncture, the Chair noted that there was no proposal yet to give millions of pesos for one government position, and the question was whether or not the Commission should provide for such salaries.

Moreover, Mr. Foz explained that under a memorandum issued by the former President, the retirement benefits of the members of the Judiciary are also extended to the members of the Constitutional Commissions; and in addition to his basic salary, a member of the Commission on Audit, for instance, would get some six million pesos upon retirement.

Mr. Foz reiterated his support for Mr. Lerum's motion for the noninclusion of provisions on the salaries of constitutional officers.

REMARKS OF MR. NOLLEDO

Mr. Nollado, however, supported the stand of Mr. Bengzon that there is no reason for not fixing the salaries of constitutional officers, otherwise it would cause a hiatus. He pointed out that the laws adverted to by Mr. Foz refer to retirement benefits of government officials.

He opined that should the Body decide not to fix the salaries of government officials, the Commission may still provide in the Transitory Provisions that the President, Vice-President and other constitutional officers shall have receive the same salaries as they now receive, until Congress provides otherwise.

INQUIRY OF MR. GUINGONA

Mr. Guingona reiterated his inquiry whether it would be more appropriate for the Constitutional Commission or for the President, through an executive order, to provide for the salaries of the Members of Congress, considering that, as pointed out by Mr. Ople, it would be improper for Congress to provide for the salaries of its own Members.

Mr. Foz affirmed that because there would be a new Congress and there is nothing in the existing laws that provide for the salary of its Members, the government would be competent enough to provide therefor.

MANIFESTATION OF MR. BENGZON

Mr. Bengzon affirmed the Chair's observation that the issue was whether or not the Commission would fix the salaries of the constitutional officers, as raised by Mr. Lerum.

Mr. Rama took exception to Mr. Bengzon's statements, observing that aside from the issue raised by Mr. Lerum, the moral issue before the Body is whether or not the salaries of constitutional officers take a quantum leap from the present salary scales as provided by the 1973 Constitution. He underscored that the Body take into account the present economic difficulties, the low salaries of other government employees, and the government's policy on austerity.

REMARKS OF MR. LERUM

Mr. Lerum reiterated that his motion was based on the fact that the fixed salaries as provided for in the 1935 and 1973 Constitutions were not followed because of economic changes. He stated that to fix a high salary for the constitutional officers would make the lowly government employees complain about their low salaries. He pointed out that the matter should be left to Congress which would provide the budget of the government.

REMARKS OF MR. PADILLA

Mr. Padilla, however, stated that the Transitory Provisions should provide for the basic salaries of constitutional officers without their allowances and other benefits, until Congress determines the increase or decrease thereof, considering the economic situation obtaining in the country. He opined that the Constitution may also provide for P800.00 as minimum salary of government employees, and other salaries to be determined by the Office of Budget and Management according to the different position in the government. He underscored, however, that the salary of the President should not be lower than the salary of the Chief Justice of the Supreme Court any other Constitutional official.

At this juncture, the Chair requested Mr. Lerum to reformulate his motion so that the Body could vote on it.

SUSPENSION OF SESSION

On request of Mr. Lerum, the Chair suspended the session.

It was 11:54 a.m.

RESUMPTION OF SESSION

At 12:02 p.m., the session was resumed.

POINT OF INFORMATION OF MR. MONSOD

Upon resumption of session, Mr. Monsod informed that the question of salaries had been approved by the Body when it approved his motion to treat the salaries uniformly by not mentioning any figure in the Constitution itself but merely stating that the salaries shall be provided by law which may not be increased or decreased during the tenure, and placing the starting salaries in the Transitory Provisions.

He then suggested that the Body implement the motion so as to harmonize all references to salaries and to debate on how much the starting salaries would be. He informed, moreover, that Mr. Bacani supported the motion which had been duly approved.

In view thereof, Mr. Lerum temporarily withdrew his motion.

The Chair stated that consideration of the matter would be deferred until confirmation of the motion adverted to by Mr. Monsod which would then be referred to the Committee.

PROPOSED AMENDMENT OF MR. REGALADO

Mr. Regalado proposed the following section with respect to lands of the public domain:

CONGRESS SHALL PROVIDE AN EFFICACIOUS PROCEDURE AND ADEQUATE REMEDIES FOR THE REVERSION TO THE STATE OF ALL LANDS OF THE PUBLIC DOMAIN AND REAL RIGHTS CONNECTED THEREWITH WHICH HAVE BEEN ACQUIRED IN VIOLATION OF THE CONSTITUTION AND THE PUBLIC LAND LAWS OR THROUGH CORRUPT PRACTICES. NO TRANSFER OR DISPOSITION OF SUCH LANDS OR REAL RIGHTS SHALL BE ALLOWED UNTIL AFTER THE LAPSE OF ONE YEAR FROM THE RATIFICATION OF THIS CONSTITUTION.

Mr. Regalado explained that he used the phrase “efficacious procedure and adequate remedies” because “procedural cause” refers to the steps to be taken, while the “remedies” will be the forms or modes of action, which could even be by administrative or judicial proceedings for the reason that there are only jurisprudential bases of the meaning of “reversion”. He noted that although the Rules of Court provides for the procedure for escheat and reversion, there is no substantive provision on the remedy of reversion to the State of lands which were illegally acquired. He pointed out that the cases decided by the Supreme Court only involved violations of the Constitution or the Public Land Law, and that there are no decisions with respect to those acquired through corrupt means. He informed that the procedure in recovering such property in favor of the State was through a pure accion reivindicatoria. He maintained that Congress should be given the opportunity to provide by law for a remedy specifically stating the substantive basis for reversion proceedings to the State of lands acquired in violation of the Constitution and the Public Land Law.

Mr. Regalado observed that during the previous regime there were some acquisitions within the Constitutional provision or the Presidential Decrees which were tailored to make such acquisitions lawful and had expanded the concept of reversion proceedings through the use of the phrase “or through corrupt practices”.

The second sentence, he informed, is a holding sentence so that during the one-year period, such lands cannot be disposed or transferred to other persons. He noted that it would be a freeze on the possible transfer so that within the one-year period after the ratification of the 1986 Constitution and before Congress shall have passed the proposed reversion law, the State can already take steps to recover and that even if the case is pending, at least a notice of lis pendens can be annotated thereon.

INQUIRY OF MR. NOLLEDO

On Mr. Nollado's question which particular Constitution the phrase “in violation of the Constitution” would refer to, Mr. Regalado replied that it would be the Constitution at the time of the acquisition inasmuch as the basis for determining the validity of the acquisition would be the law in force at that time.

As to whether he is referring to the Krivenko doctrine, Mr. Regalado stated that the provision is broader in scope as it expands the concept of reversion proceedings. He informed that in case the land is acquired by an alien in violation of the Constitution, there could be reversion proceedings. He noted that there has been a recent Supreme Court decision that even if the acquisition was originally illegal, if thereafter said acquisition such as land was transferred for

value and in good faith to a third person, the third person acquires the land and holds the title thereto despite the fact that the land was illegally acquired, which decision he is opposed to.

Mr. Nollado stated that the Supreme Court rulings in such cases are erroneous because under the circumstances, no title could have passed on to a third person regardless of good faith.

In reply thereto, Mr. Regalado stated that insofar as those cases decided by the Supreme Court are concerned, there is nothing which can be done about them because of the doctrine of *res adjudicata* and the rule of the law on the case. He underscored the need to have Congress enact a specific law on reversion inasmuch as the concept of reversion, as it is now, is on a case-to-case basis.

Mr. Regalado, moreover, noted that the Rules of Court talks of escheat or reversion proceedings and that while escheat has a substantive basis, meaning there are no heirs when a person dies, reversion has no specific basis, but is only an *accion reivindicatoria* on the part of the State. He informed that it was first started when there was an illegal expansion of land by table surveys in which an 8-hectare land was later, by subdivision on the table without actual field inspections, expanded into several titles of a hundred or thousand hectares. He stated that the government brought *accion reivindicatoria* on the mother title and that in Quezon City alone there are about 200 to 300 such cases.

On whether the provision can be minimized if the Supreme Court ruling is respected inasmuch as such landholdings can be transferred to third persons to circumvent the provision before the ratification of the Constitution, Mr. Regalado pointed to the second sentence in the provision.

(At this juncture, the President, the Honorable Cecilia Muñoz Palma, relinquished the Chair to the Honorable Francisco A. Rodrigo.)

Mr. Regalado maintained that within the one-year period, the government, pending the law on reversion, can proceed on an *accion reivindicatoria* in favor of the State and at least annotate a notice of *lis pendens*.

Mr. Nollado manifested his apprehension of a possible circumvention when an alien who illegally holds a piece of land will apply for naturalization and perhaps, acquire the citizenship and render the provision academic as a Supreme Court ruling states that the individual's acquisition of Filipino citizenship will validate the possession of that land.

In reply, Mr. Regalado adverted to LOI 270 referring to naturalization by administrative proceedings.

Mr. Nollado then inquired as to what would be the effect of the provision on landholding acquired under the parity law because the 1973 Constitution recognizes the validity as between the private parties but does not prohibit the State from escheating the property.

Mr. Regalado noted that with respect to properties acquired under the 1973 Constitution and on which there have been judicial decisions, the doctrine of *res adjudicata* would be binding. He stressed that if the provision is applied retroactively, there would be serious violation of vested rights. The second sentence, he opined, would give the government the opportunity to review land transfers and dispositions. He affirmed that his proposal would not cover lands that are idle or abandoned.

Mr. Nollado informed that Mr. Tadeo has a proposal that such lands shall be forfeited in favor of the State under certain conditions.

Mr. Regalado remarked that there is a difference inasmuch as Mr. Tadeo's proposal is with respect to idle or abandoned lands wherein he contemplated the possibility of expropriation proceedings for purposes of land reform while his own proposal is not an expropriation proceedings which will involve government financial outlay. He added that inasmuch as there was illegal acquisition, reversion in favor of the State is justified.

INQUIRY OF MR. TREÑAS

On the query of Mr. Treñas, Mr. Regalado replied that the proposal refers to any acquisition as long as it is in violation of the Constitution at the time of acquisition.

On the period specified when the alleged violation took place, Mr. Regalado stated that the reversion proceedings have no time basis because what is null and void ab initio is not subject to prescription.

On how such lands which cannot be transferred shall be identified, Mr. Regalado answered that the Ministry involved can look into such properties. He explained that the reason he provided a freeze period was that a number of persons whose properties are now being looked into by authorities are divesting themselves of such properties through sale to third persons.

On Mr. Treñas observation that unless a notice of lis pendens is annotated on the title, such lands may be sold or transferred to innocent purchasers, Mr. Regalado stated that within the freeze period, the government having identified the properties in question may already proceed to file the corresponding accion reivindicatoria and annotate a notice of lis pendens. He opined that even if annotated, the property can still be sold or transferred although the transferor receives or acquires the same subject to the results of the pending case.

INQUIRY OF MR. OPLE

On the query of Mr. Ople, Mr. Regalado denied that there is a color of an ex post facto law to the proposal. He likewise denied that the amendment would disturb existing contracts inasmuch as the test of applicability of the transitory provisions is the validity or invalidity of the acquisition tested under the Constitutional provision and the law in force at the time.

Mr. Ople inquired whether in situations where reversion proceedings have not been completed or have been adjudicated against the State, the amendment would foreclose the government option to seek a reconsideration, to which Mr. Regalado replied that the government could always seek reconsideration or appeal from the decision. He affirmed that the government can always exercise that option.

INQUIRY OF MR. NATIVIDAD

Upon inquiry of Mr. Natividad, Mr. Regalado affirmed that there are three ways through which reversion can be achieved, to wit: 1) violation of the Constitution; 2) violation of public land laws; and 3) through corrupt practices. Mr. Regalado stated that it is an expanded version of the "basis for reversion proceedings".

On the matter of reversion because of corrupt practices, Mr. Regalado stated that Congress, in providing for the law on reversion proceedings for properties acquired through such practices, can specifically mention that such is contrary to the Constitution, contrary to the public land laws like C.A. No. 141 and even make a prima facie presumption that such properties shall be subject to reversion proceedings, thus shifting the burden to the party who claims otherwise to prove that it was not acquired through corrupt practices.

Mr. Regalado denied that he was seeking prior conviction of parties concerned and that the use of the phrase "adequate remedies" could include administrative remedies. He informed that if prior conviction is required, under Article 45 of the Revised Penal Code there is the accessory penalty of confiscation and forfeiture of the fruits and instruments of the crime.

As to what would be included in "real rights", Mr. Regalado pointed out that leasehold rights would be one where property has been leased beyond the permissible areas or limits or not in accordance with administrative regulations, and even such leasehold rights executed by the Minister of Natural Resources.

Mr. Natividad inquired whether leaseholds or lease contracts on the use of communal fishing grounds entered into between wealthy fishpond owner and the Ministers concerned, in violation of the provisions of the Public Land Law, would also be covered by the proposal.

Responding thereto, Mr. Regalado stated that he is not exactly sure what type of fishing grounds is referred to because there are several types which are regulated by the Bureau of Fisheries. However, as a guide, he stated that fish, while still in fishponds, still considered real property and may be the basis of Congress in taking into account the classification of fish and fishponds as real property for incorporation in the projected Reversion Law. He pointed out that it improves the situation in the sense that while formerly there could be no reversion proceeding as long as a party says that he obtained the property in accordance with the Constitution or the laws, there is a further ground that while ostensibly it is in accordance with the laws, if it were acquired through corrupt practices, then that could still be a basis for reversion of the property.

Mr. Regalado explained that he used the word "efficacious" instead of "effective" because whether it is effective or not is tested by the results; but if the term "efficacious" is used, it is an intent to make the procedure ultimately effective.

On the significance of the last sentence, Mr. Regalado stated that during the one-year period from the ratification of this Constitution, while the government authorities are still making a catalogue and a review of these different properties which may have been dubiously acquired, the ones in possession thereof would not be permitted to transfer or dispose of the same and then later hide behind the cloak of the Land Registration Law by saying that it is already in the hands of a third party who acted in good faith. He stated that at least within the one-year period, any transfer or disposition would not bar the applicability of the laws on the property especially the projected Reversion Law.

Mr. Regalado then restated his second sentence which he amended, to wit:

NO TRANSFER OR DISPOSITION OF SUCH LANDS OR REAL RIGHTS SHALL BE ALLOWED UNTIL THE LAPSE OF ONE YEAR FROM THE RATIFICATION OF THE CONSTITUTION.

He pointed out that he decided to delete the previous sentence because it was not specific.

REMARKS OF MR. PADILLA

Mr. Padilla stated that he had serious doubts on the necessity of including this provision in the Transitory Provisions. He contended that, although he agrees that acquisition of property in violation of the Constitution at the time of its acquisition is void, the prohibition in the new Constitution would apply only to violations before or during the previous Constitution.

Mr. Padilla, likewise, agreed that when there is a transfer or conveyance, the transferee or buyer acquires by derivative title no better rights than his predecessor, such that if the original vendor has no right, then the transferee could acquire no better right. He pointed, however, to two exceptions to this rule, namely, 1) the "Negotiable Instruments Law" which protects a holder in due course, and 2) the "Torrens System" under which a purchaser in good faith for value and without notice acquires good title. The two basic exceptions, he stated, are based on some public policy to ensure the negotiability of a negotiable instrument and the stability of the title acquired under the Torrens System.

He observed that the provision would apply only to violations before the 1986 Constitution. He opined that if the phrase "corrupt practices" would refer to the Anti-Graft and Corrupt Practices Act, then the fault would be attributable to the Land Registration Commission or the Register of Deeds, not necessarily to a third party buyer.

Moreover, he stated that the second sentence would grant one year and, assuming that there is a defect in the title of one who acquired such land, there may be many transactions rushed within the year, especially because it would require an act of Congress to provide a Reversion Law.

Mr. Padilla opined that while the purpose of Mr. Regalado is laudable, it may not be necessary and it would be difficult for this provision to be included in the Transitory Provisions, in view of which, he would vote against it.

Responding thereto, Mr. Regalado stated that he used the generic phrase "corrupt practices" to include the provisions of the Anti-Graft Law or Republic Act 3019; the law on unlawfully acquired property or Republic Act 1379; and any other corrupt practices by public officers under Title 7 of the Revised Penal Code. He pointed out that the second sentence would give the government a one-year period within which to go over these questionable transactions, in effect, needing a clearance within that one-year period before there could be transfers or dispositions on the assumption that possibly by that time, Congress may already have come up with an expanded Reversion law, the proceedings under which may not necessarily be judicial but administrative because there are administrative legalization of titles.

APPROVAL OF MR. REGALADO'S AMENDMENT

Submitted to a vote, and with 13 members voting in favor, 4 against and 1 abstention, the amendment was approved by the Body.

SUSPENSION OF SESSION

On motion of Mr. Rama, the Chair suspended the session until two-thirty in the afternoon.

It was 12:42 p.m.

RESUMPTION OF SESSION

At 3:01 p.m., the session was resumed.

MANIFESTATION OF MR. SUAREZ

Upon resumption of session, Mr. Suarez informed the Body that the Committee on Transitory Provisions had met and proposed to fix only the salaries of the President, Vice-President, Speaker of the House of Representatives, Senate President, Senators and Congressmen, while the other constitutional officers would be receiving the salaries they are receiving under the existing laws, copies of which proposal were distributed to the Members of the Commission. He proposed that these salaries be received by the constitutional officers until Congress otherwise provides, to wit:

President — P200,000; Vice-President — P150,000; Senate President — P150,000; Speaker of the House of Representatives— P150,000; Senators — P120,000; and Congressmen — P120,000.

On the Chair's inquiry whether he had verified from the Secretariat the alleged approval of Mr. Monsod's motion that the question of salaries would be provided in the Transitory Provisions, Mr. Suarez affirmed that the transcript of July 23, 1986 showed that the salaries for the positions of the President and the Vice-President under the Article on the Executive Power, and the legislative positions under the Article on the Legislative, would be determined in the Article on Transitory Provisions, for which reason the Committee was constrained to make such proposal.

AMENDMENT OF MR. BENGZON

Mr. Bengzon observed that the proposed P200,000 salary of the President is equivalent to P16,666.00 a month which is below the salary of an ordinary vice-president of a bank.

In view thereof, together with Mr. Natividad, Mr. Bengzon proposed the following annual salaries for the different government officials: President — P300,000; Vice-President-P240,000; Senate President — P240,000; Speaker of the House of Representatives — P240,000; Senators — P204,000; and Congressmen — P204,000.

He also suggested that the Body specify the salaries of the Chief Justice and the members of the Judiciary as stipulated in the 1973 Constitution, and that the Chairmen of the constitutional offices be ranked equivalent to the Chief Justice, and the members of the Constitutional Commissions be ranked equivalent to Associate Justices.

Mr. Suarez stated that the Constitution should fix only the salaries of the six positions in the Executive and Legislative departments considering certain misproportions like the P110,000 annual salary of the President as against the P131,000 annual salary of the Chief Justice of the Supreme Court.

He opined that while it would not be necessary to provide for the salaries of the other constitutional offices, it is necessary to provide for the salaries of the Members of Congress because there is no existing provision therefor with the abolition of the Batasang Pambansa, and with the adoption of a bicameral legislature.

In reply to Mr. Bengzon's query, Mr. Suarez affirmed that the members of the Judiciary and other constitutional officers would get the salaries they are presently receiving.

Thereupon, Mr. Bengzon reiterated his proposed amendment on the salaries of the President, Vice-President, Senate President, Speaker of the House of Representatives, Senators and Congressmen.

INQUIRY OF MR. GUINGONA

In reply to Mr. Guingona's query, Mr. Suarez affirmed that the proposed amendment refers only to basic salaries excluding allowances and other benefits.

He also stated that the Committee took into account the suggestion of the Minister of Budget that the salaries of the President and other top government officials be not unduly increased, in view of the President's desire to first upgrade the salaries of the rank and, file in government service.

INQUIRY OF MR. SARMIENTO

Mr. Sarmiento informed that the Committee proposal was based on the premise that government officials should be motivated not by monetary considerations but by the desire to serve.

In reply to Mr. Sarmiento's query on the reason for Mr. Bengzon's proposal, the latter explained that although public service would mean some sacrifice, public servants also have their material needs.

On the misproportion of the salary of the President as against that of the Chief Justice, Mr. Bengzon opined that even the salary of the Chief Justice should be adjusted to compensate for the high cost of living. He maintained that the P300,000 annual salary of the President would not be unreasonable in view of the great responsibilities attached to the position.

On whether the phrase "until Congress otherwise provides" would cover this concern, Mr. Bengzon stated that the implementation of said phrase would not apply to the Members of Congress who provide for such salaries but to the succeeding Members of Congress. He added that if the salaries of government officials and legislative

representatives should be provided, the people would have every reason to expect better service, more honesty and integrity from said officials.

INQUIRY OF MRS. QUESADA

On Mrs. Quesada's observation that the increase in salary of the President from P200,000 to P300,000 would give lowly government employees a glimmer of hope, Mr. Bengzon explained that, on the contrary, it would give the various government agencies much elbow room to seek for the increase of their salaries based on the salaries of top officials.

He underscored that if the government would always have deficit spending, he would prefer that it be on the salaries of government employees and officials in order to give them the incentives to serve better.

In view thereof, Mrs. Quesada expressed support of Mr. Bengzon's proposal to raise the salaries of Government officials to reasonable levels.

Mr. Bengzon pointed out that the salaries of lowly government employees could not just be increased because of certain ceilings in higher positions, and with the proposal, the salaries of the rank and file could be properly adjusted.

PROPOSAL OF MR. MONSOD

Thereafter, Mr. Monsod proposed that the salaries of the Members of the Supreme Court and the Constitutional Commissions be also provided in the Constitution. He suggested that the Chief Justice be equally ranked with the Senate President; and the Associate Justices at par with the Senators and Congressmen as provided in the 1973 Constitution. He opined that the Chairman of the Constitutional Commissions should be equally ranked with the Congressmen and the Commissioners be given 5/6 of the former's salary.

Mr. Bengzon accepted Mr. Monsod's proposal as an amendment to his amendment.

INQUIRY OF MR. GUINGONA

In reply to Mr. Guingona's query, Mr. Bengzon affirmed that one of the reasons for his proposal is to effect possible salary increases for the rank and file employees.

On Mr. Guingona's suggestion to also provide for a minimum salary for the rank and file so that the original intent would not be a false hope as far as the lowly government employees are concerned, Mr. Bengzon stated that it is sufficient that the Body has expressed its intent and it is for the Executive Department or Congress, whichever has jurisdiction, to take up the matter and implement it. He stressed that the minimum wage of government employees is not a matter to be stated in the Constitution.

Reacting thereto, Mr. Guingona stated that an increase in the salaries of the highest officials would not necessarily mean that there would be corresponding increase in the salaries of the rank and file employees, in reply to which Mr. Bengzon stressed that there is more leeway in increasing the salaries, except when the government does not have the money, although, it may go on deficit spending if necessary.

AMENDMENT OF MR. FOZ

Mr. Foz proposed and the Committee accepted an amendment by way of an additional clause at the end of the Committee proposal to read as follows:

AT THE EARLIEST POSSIBLE PERIOD, CONGRESS SHALL INCREASE THE SALARY SCALES OF THE RANK AND FILE EMPLOYEES OF THE NATIONAL GOVERNMENT.

OBJECTION OF MR. MONSOD

Mr. Monsod objected to the amendment of Mr. Foz on the ground that these salary scales would need a thorough study of government structure and that the task of the Commission is primarily to decide on the salaries of the constitutional officers.

In response thereto, Mr. Foz clarified that the purpose is to balance the provision.

At this juncture, the Chair noted that the amendment of Mr. Foz would take care of the reservations of Mr. Guingona on the increase of salaries of government employees.

Mr. Foz pointed out that in the General Provisions involving the Armed Forces, there is a provision that the members should receive adequate remuneration.

Upon request of the Chair, Mr. Foz restated his proposed amendment, to wit:

AT THE EARLIEST POSSIBLE PERIOD, CONGRESS SHALL INCREASE THE SALARY SCALES OF THE RANK AND FILE EMPLOYEES OF THE NATIONAL GOVERNMENT.

Mr. Bengzon proposed that "rank and file" be deleted and the words OF THE OTHER GOVERNMENT OFFICIALS AND EMPLOYEES be used instead, which proposal was accepted by Mr. Foz.

Reacting thereto, Mr. Monsod adverted to a section on the Civil Service where a reference in the Journal was made relative to a review of salary structure, job classification and other matters pertaining thereto. He opined that the proposal is a surplusage.

REMARKS OF MR. GUINGONA

Mr. Guingona expressed support for Mr. Foz' amendment, stating that he could not see the leeway which Mr. Bengzon mentioned because if the lowest paid government employee receives only P500.00 and the Body speaks of a P240,000 monthly salary, the difference is so big that the leeway is out of proportion.

He reiterated that his main concern is for the lowly government employees.

AMENDMENT OF MR. RODRIGO

Mr. Rodrigo stated that while he agrees with the objectives of Mr. Foz' amendment, he does not agree that Congress should set the salary scales of all government employees. He stressed that while Congress appropriates the money, it is not Congress that determines the salary scales so that he suggested that the sentence start with THE GOVERNMENT . . . instead of "Congress . . .".

Mr. Foz accepted the amendment of Mr. Rodrigo.

On the query of the Chair as to who fixes the salaries if not Congress, Mr. Rodrigo stated that each bureau, ministry and department submits to the Budget Minister the salary plans which the President incorporates in his budget message when he submits the general appropriations bill for approval by Congress.

REMARKS OF MR. MONSOD

Mr. Monsod informed the Body that during the discussions on the Civil Service, Minister Romulo had made representations that the Ministry of the Budget is working with the Civil Service Commission on the preparation of plantillas, rankings and job classifications of the entire government machinery with view to aligning salary increases and other related matters. He expressed apprehension that the proposal might, in fact, complicate the matter.

In reply thereto, Mr. Foz stated that the idea is precisely for the government to review because it could not possibly provide for salary increases without a study. He explained that "at the earliest possible time" is some kind of a directive to the government to go into the study right away so that if salary increases could be accommodated, it should be done right away.

At this juncture, the Chair inquired on the reaction of the Committee, to which Mr. Suarez stated that the Committee feels that it would maintain its original position and submit the matter to the wisdom of the Commission.

INQUIRY OF MR. GUINGONA

On whether Mr. Foz would be precluded from adding his proposal to the Committee formulation in case of disapproval of Mr. Bengzon's proposed amendment, the Chair answered in the negative, stating that Mr. Foz' proposal is distinct and separate.

REMARKS OF MR. CONCEPCION

Adverting to the amount of compensation proposed by the Committee, Mr. Concepcion stated that the omission of the Supreme Court would seem to suggest that the officials representing the Executive and the Legislative departments are higher in rank than the Justices of the Supreme Court. He stated that under the principle of co-equality, at least the heads of the three major departments should be included in the provision. He recalled that in the past there seemed to be a tendency for Members of the Legislative department to consider themselves superior to those of the Judiciary and he appealed to the Body to consider the psychological impression by making the Judiciary at par with the Legislative department.

In response, Mr. Bengzon stated that he had accepted Mr. Monsod's amendment to include the Chief Justice and Associate Justices of the Supreme Court.

REMARKS OF MR. DE LOS REYES

In connection with the proposal of Mr. Foz, Mr. de los Reyes stated that the same is already covered by the provisions on the Civil Service, adding that he proposed the section standardizing the compensation of government officials and employees, including those in government-owned or controlled corporations, taking into account the nature of the responsibilities pertaining thereto and the qualifications required for the different positions.

SUGGESTION OF MR. BENGZON

Mr. Bengzon suggested that to simplify matters, the Body first vote on his amendment with respect to the salaries of constitutional officers and then on the proposal of Mr. Foz.

PROPOSED AMENDMENT OF MR. PADILLA

On the proposed annual salaries of the President and Vice-President, Mr. Padilla observed that the Committee proposals have so much disparity between the Legislative and Judiciary in relation to the Executive. He suggested a compromise making the President's salary P240,000 and the Vice-President P180,000; the Senate President and Speaker P150,000; the Senators and Congressmen P120,000; the Chief Justice P150,000 and the Associate Justices P120,000.

Mr. Bengzon did not accept the proposed amendments.

RESTATEMENT OF MR. BENGZON'S PROPOSED AMENDMENT

Mr. Bengzon restated his amendment, to wit:

UNTIL CONGRESS PROVIDES OTHERWISE, THE PRESIDENT SHALL RECEIVE AN ANNUAL SALARY OF THREE HUNDRED THOUSAND, THE VICE-PRESIDENT — TWO HUNDRED FORTY THOUSAND; THE SENATE PRESIDENT — TWO HUNDRED FORTY THOUSAND; THE SPEAKER — TWO HUNDRED FORTY THOUSAND; THE CHIEF JUSTICE OF THE SUPREME COURT — TWO HUNDRED FORTY THOUSAND; THE ASSOCIATE JUSTICES OF THE SUPREME COURT — TWO HUNDRED FOUR THOUSAND; THE SENATORS — TWO HUNDRED FOUR THOUSAND; THE CONGRESSMEN — TWO HUNDRED FOUR THOUSAND; THE CHAIRMEN OF THE CONSTITUTIONAL COMMISSIONS — TWO HUNDRED FOUR THOUSAND; AND THE ASSOCIATE COMMISSIONERS OF THE CONSTITUTIONAL COMMISSIONS — ONE HUNDRED EIGHTY THOUSAND.

INQUIRY OF MR. RODRIGO

In reply to the query of Mr. Rodrigo as to whether the phrase "Constitutional Commissions" mentioned in the proposal refers only to the three Constitutional Commissions — the Civil Service Commission, Commission on Audit and Commission on Elections — or would it include also the newly created Commission on Human Rights and the Tanodbayan, Mr. Monsod stated that it would refer only to the CSC, COA and COMELEC. Mr. Monsod clarified that during the deliberations on the Commission on Human Rights, it was resolved that the agency should not be placed at par with the three Constitutional Commissions.

VOTING ON MR. BENGZON'S AMENDMENT

The Chair submitted Mr. Bengzon's proposal to a vote, and with 20 Members voting in favor, 6 against and no abstention, the same was approved by the Body.

At this juncture, Mr. Suarez suggested that inasmuch as a number of positions are allocated the same salary, its rephrasing be left to the Committee on Style.

RESTATEMENT OF MR. FOZ' AMENDMENT

Mr. Foz restated his amendment to read:

AT THE EARLIEST POSSIBLE PERIOD, THE GOVERNMENT SHALL INCREASE THE SALARY SCALES OF THE OTHER OFFICIALS AND EMPLOYEES OF THE NATIONAL GOVERNMENT.

He then requested for a vote on the proposal.

REMARKS OF MR. RIGOS

Mr. Rigos called attention to Section 9 on the Civil Service approved on July 22, 1986, which states that the Legislative shall provide for the standardization of salaries of government employees and inquired whether the proposal of Mr. Foz is not covered by this section.

In reply thereto, Mr. Foz stated that Section 9 speaks of standardization of salaries of government officials and employees, but the proposal has in mind the increase of salaries in connection with the salary increases that the Commission is providing for top national officials.

AMENDMENT OF MRS. QUESADA

Mrs. Quesada proposed to change the word "increase" to UPGRADE, which proposal was accepted by Mr. Foz.

Mr. Suarez, on behalf of the Committee, stated that in view of the observation of Mr. Rigos, he would leave the matter to the decision of the Body.

VOTING ON MR. FOZ' AMENDMENT, AS AMENDED

Mr. Foz restated his amendment, as amended, to wit:

AT THE EARLIEST POSSIBLE PERIOD, THE GOVERNMENT SHALL UPGRADE THE SALARY SCALES OF OTHER OFFICIALS AND EMPLOYEES OF THE NATIONAL GOVERNMENT.

Submitted to a vote, and with 26 Members voting in favor, none against and no abstention, the same was approved by the Body.

MANIFESTATION OF MR. FOZ

Mr. Foz manifested that his cosponsors of the amendment were Mrs. Quesada, Messrs. Sarmiento, Villacorta and Guingona.

In reply to the Chair's query, Mr. Suarez stated that this new section is denominated as Section 23.

MANIFESTATION OF MR. SUAREZ

Mr. Suarez manifested that the following matters have still to be considered by the Body:

- a) Mr. Davide's amendments consisting of three new sections;
- b) Mr. de los Reyes' proposed transitory provision;
- c) pending deliberations on Sections 7 and 8; and
- d) the provision that was transposed from the Article on the Declaration of Principles governing foreign military bases.

PROPOSED AMENDMENT OF MR. DE LOS REYES

Thereafter, the Chair recognized Mr. de los Reyes to present his proposed amendment, to wit:

THE PRESIDENT IN THE EXERCISE OF HIS LAW-MAKING POWER UNDER SECTION 2, ARTICLE ____ OF THIS CONSTITUTION, AND BEFORE THE HOLDING OF THE LOCAL ELECTIONS, . SHALL MERGE DEPRESSED AND FINANCIALLY DISTRESSED MUNICIPALITIES WITH ADJACENT CITIES

IN ORDER THAT THE NEW LOCAL GOVERNMENT UNITS THUS FORMED CAN ELECT THEIR OFFICIALS ACCORDINGLY.

Mr. de los Reyes recalled that Mr. Maambong had previously made a proposal to the effect that depressed and financially distressed municipalities adjacent to highly urbanized or component cities shall form part of the latter. He stated that Mr. Nollado, as Chairman of the Committee on Local Governments, vigorously objected to the proposal for not being transitory in nature, and to satisfy the objection, a reformulation had been made. Mr. de los Reyes noted that this Commission is not merging at once the depressed and financially distressed municipalities with the adjacent cities but such power is given to the President in the exercise of her lawmaking power under Section 2 of the Article on Transitory Provisions and it is within the discretion of the President whether to merge them or not and if she does, such leeway and discretion would only be for the first local elections after the ratification of the new Constitution.

INQUIRY OF MR. GUINGONA

Mr. Guingona observed that there is nothing in the proposal that speaks of the first local elections. Thereafter, he suggested that it be clearly specified that the officials be elected during the first election after the ratification of the Constitution, to which Mr. de los Reyes acceded.

On the meaning of the phrase "depressed and financially distressed municipalities", Mr. de los Reyes stated that "depressed municipalities" are those municipalities, the earnings of which could not even pay for the salaries of its mayor and employees and have to depend on the aid of the national government in order to survive. He noted that the provincial governments do not attend to the municipalities and it is the city governments with which they can better survive if they are made part thereof.

INQUIRY OF MRS. QUESADA

In reply to Mrs. Quesada's query on how the people in the depressed municipalities could be involved in the decision that would merge them with the adjacent cities in the event they have some reservations about the merger, Mr. de los Reyes stated that the objections could be met by the fact that this provision is only transitory in nature, because the merger would be for the purpose of the first local elections after the ratification of the Constitution, the merger being covered by the provisions on the Article on Local Government where the creation or cessation of any municipality would be dependent on the votes cast in a plebiscite.

On the possibility that some confusion brought about by the merger may arise, Mr. de los Reyes explained that the Commission would merely empower the President to effect the merger in the exercise of her sound discretion.

INQUIRY OF MR. MONSOD

In reply to Mr. Monsod's suggestion to change "shall merge" to "may merge" considering that the power vested in the President is discretionary, Mr. De los Reyes stated that he has no objection.

Mr. Monsod observed that the merger of the depressed and financially distressed municipalities with adjacent cities for the purpose stated would be class legislation. He also expressed doubt whether it is a proper subject for the Transitory Provisions considering that; firstly, it is discretionary, and secondly it is for the purpose of forming political units to serve specific ends.

Responding thereto, Mr. de los Reyes disagreed that the provision is class legislation since it would apply to all depressed municipalities similarly situated. He maintained that the prerogative of Congress to legislate on certain matters and to refuse to legislate on others does not mean class legislation but simply that Congress is given

enough leeway and discretion to do what it thinks is best for the inhabitants of the said municipalities.

Mr. Monsod pointed out that the provision seems too specific and too limited that even the criteria for what is depressed or financially distressed could be overridden by the political considerations of merging areas for purposes of the elections. In reply, Mr. de los Reyes stressed that the contemplation is that this would be subject to the recommendations of the Commission on Elections to the President.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:09 p.m.

RESUMPTION OF SESSION

At 4:38 p.m., the session was resumed.

WITHDRAWAL OF PROPOSED AMENDMENT

Upon resumption of session, after hearing the views of some Members of the Commission and the possible misinterpretation that it might cause, Mr. de los Reyes withdrew his proposed amendment.

PROPOSED AMENDMENT OF MR. VILLACORTA

Thereafter, Mr. Villacorta, jointly with Messrs. Romulo, Treñas, Uka, Calderon, Sarmiento, Foz, Monsod, Azcuna, Rama, Rigos, Guingona, Bengzon, Abubakar, Garcia, Tadeo, Tingson, Nollado, Bennagen, Suarez, Rodrigo and de Castro, and Mrs Quesada, Rosario Braid, Ms. Tan and Mrs. Nieva; proposed to amend Section 8 to read:

ANY WRIT OF SEQUESTRATION AND FREEZE ORDER ISSUED OR WHICH MAY BE ISSUED IN RELATION TO THE RECOVERY OF ILL-GOTTEN WEALTH SHALL CONTINUE TO BE OPERATIVE FOR ONE YEAR AFTER THE CONVENING OF THE FIRST CONGRESS; PROVIDED THAT CONGRESS IN THE NATIONAL INTEREST, AS CERTIFIED BY THE PRESIDENT, MAY EXTEND SAID PERIOD.

Explaining the proposed amendment, Mr. Villacorta pointed out that if a person is to live sixty years, it would take him nine lifetimes to spend the \$10 billion looted by Mr. Marcos, which is three times the national budget for 1986 and nineteen times the allocation for education and sports.

He stated that the money stashed away by Mr. Marcos and his cronies could fund a seven-year free elementary education and a four-year free secondary education in addition to 6.6 billion textbooks to be purchased 4 million classrooms and 8,000 school buildings built throughout the country, and could have saved the fate of some 56 state colleges and universities. He added that it could also have been appropriated for social services, health services, the payment of salaries of government employees, members of the Armed Forces and the police forces.

He stressed that six months would be too short a period for the Presidential Commission on Good Government to recover the ill-gotten wealth of the former President. He noted the time involved in securing court orders and investigating other property and assets in different parts of the world.

He stressed that although sequestration as a remedy may be considered harsh, the acquisition of ill-gotten wealth deserves an extraordinary process which, however, does not leave the innocent without any legal remedy since he can invoke judicial process to have his property released. He underscored, however, that it is important that the

guilty should not be allowed to run away with the ill-gotten wealth to the great prejudice of the Filipino people who rightly own said wealth.

REMARKS OF MR. GUINGONA

As cosponsor of the proposed amendment, Mr. Guingona pointed out that firstly, the ill-gotten wealth acquired represents not only simple cases of malversation of public funds bribery, extortion, theft and graft, but a grand larceny that plundered the national economy. Secondly, he stated that what would be recovered would surely benefit the Filipino people. Thirdly, he noted the need for action because the ill-gotten wealth which are sought to be recovered would probably disappear before the scheduled date of court hearings, since bank accounts, shares of stocks, expensive jewelries and other personal properties could easily be removed or transferred to inaccessible places beyond the reach of the Philippine Government. Finally, he stated that the parties adversely affected can still challenge the legality of whatever freeze or sequestration order may be issued before administrative bodies or courts of justice.

MR. REGALADO'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Regalado proposed to delete the words "writ of" before "sequestration" since writs are issued by courts and not by quasi-judicial bodies like the PCGG. He stated that the deletion would make the provision broad enough to include sequestration orders, whether issued by an administrative body or possibly by any court of justice.

Mr. Villacorta accepted the amendment to his amendment.

In this connection, Mr. Bengzon pointed out, however, that the sequestration orders issued by the PCGG are called writs of sequestration pursuant to the authority given under Proclamation No. 3, in reply to which, Mr. Regalado stated that the word "Order" in the proposal would already include writs of sequestration although the latter term is not properly used. He also affirmed that his interpretation would not make the writs of sequestration issued by the PCGG questionable.

In reply to Mr. Regalado's inquiry, Mr. Villacorta affirmed that Congress may, if necessary and as certified by the President, extend the period of one year.

REMARKS OF MR. TINGSON

As a member of the Committee, Mr. Tingson stated that although the PCGG had become synonymous with sequestration, and cases had been filed questioning its power to sequester, nothing of its actions had been declared illegal. He underscored that the task of the PCGG should be judged in terms of actual results and not in terms of legal niceties, for it had already turned over some P2 billion in cash, 200 land titles for lands in Metro Manila, Rizal, Laguna, Cavite and Bataan worth several billion of pesos, and which lands are available for low-cost housing projects. He added that in the legal custody of the PCGG are expensive jewelries, 42 aircrafts, vessels, shares of stocks and other real properties, also amounting to several billions of pesos, not to mention the properties abroad, particularly in New Jersey, and several bank deposits and securities in Hawaii, New York and Switzerland.

He noted that the success of the PCGG in recovering a great bulk of properties and assets of the former President was not realized by the governments of China, Ethiopia, Iran and Nicaragua. Although the PCGG may have made some mistakes in its exercise of powers, he opined that its action would be better than doing nothing at all.

He disclosed that a recent survey released by the Philippine Survey and Research Center showed that 69 percent of the Filipino people approved, 16 percent disapproved, and 15 percent were neutral on the PCGG's sequestration

activities of the properties of the Marcoses and their cronies.

Finally, he urged the Committee to accept the proposal for the best interest of the Filipino people.

REMARKS OF MR. ROMULO

Speaking in favor of the proposed amendment, Mr. Romulo disputed the argument that orders of sequestration do not comply with the requisites for the issuance of search warrants. He stated that an order of sequestration is not actually a search warrant but a provisional remedy like a preliminary attachment, preliminary injunction and receivership, which may be issued ex parte to preserve the property until question of ownership has been finally decided.

Secondly, on the contention that only courts should be authorized to issue orders of sequestration, Mr. Romulo underscored that due process does not demand that the proceedings be judicial. He cited the fact that the Securities and Exchange Commission can grant provisional remedies like preliminary attachment, preliminary injunction and receivership.

Third, on the argument that sequestration orders are violative of the constitutional presumption of innocence, he explained that the law may provide when certain facts are proven by prima facie evidence that guilt is presumed if there is reasonable link between the facts established and the inference of guilt. Mr. Romulo further stated that Section 8 of the Anti-Graft and Corrupt Practices Act presumes that the wealth amassed by a public official manifestly out of proportion to his salary and other lawful income is ill-gotten.

Fourthly, on the contention that there is violation of due process by the fact that the application for the issuance of the orders of sequestration would be addressed to the PCGG by PCGG agents themselves, Mr. Romulo adverted to the case of Erlanger and Galinger vs. The Court of Industrial Relations, where it was similarly argued that the parties charged with unfair labor practice were being denied due process of law on the ground that the CIR was the accuser, prosecutor and judge rolled into one. In this case, Mr. Romulo stated that the Supreme Court brushed aside the argument stating that the findings of the prosecutors were not conclusive upon the CIR which remained free to accept or reject them. He stressed that the agents who apply for the issuance of orders of sequestration are not the same officers who issue the order and that the PCGG retains the discretion to deny the application of its agents. He noted that the same can be said of the agents of the Bureau of Customs who initiate seizure proceedings which are heard by the Bureau's hearing officers, or of the Bureau of Internal Revenue examiners who make the initial findings on assessments on which the BIR Commissioner finally decides.

Lastly, on the fear that the PCGG could run roughshod on civil rights, Mr. Romulo pointed out that its actuations are always subject to judicial review. He stated that even if the law does not provide for judicial review, the decision of any administrative tribunal may always be scrutinized by the courts, if it acted without jurisdiction or with grave abuse of discretion or committed an error of law.

INQUIRY OF MR. BERNAS

In reply to Mr. Bernas' query on the need for the provision if indeed the powers presently exercised by the PCGG are normal legal powers, Mr. Romulo stated that it is normal within Proclamation No. 3 and the executive orders issued thereunder.

Mr. Bernas pointed out, however, that the arguments presented by Mr. Romulo were based on decisions made prior to the Freedom Constitution, to which Mr. Romulo stated that even if one would argue that this sequestration order partakes of search and seizure, one could distinguish it within jurisprudence.

Mr. Bernas maintained that said provision would not be needed in the Transitory Provisions because it could be justified even in normal jurisprudence on search and seizure order, to which Mr. Romulo replied that the existing jurisprudence merely helps to distinguish it from search and seizure; however, an order of sequestration, without Proclamation No. 3 is unknown in law, and must be anchored on Proclamation No. 3 so that once the new Constitution is ratified, it would then supersede the Freedom Constitution and no doubt would arise as to whether the PCGG could issue sequestration or freeze orders.

He emphasized that in case of conflict, an exception is being recommended in the Transitory Provisions. He affirmed that specifically, the possibility is that the exception would be from the provisions in the Bill of Rights.

Thereupon, Mr. Bernas reserved a turn to speak against the proposal and to move for its deletion.

REMARKS OF MR. OPLE

Mr. Ople recalled that the present formulation of Section 8 was based on the proposal submitted by Messrs. Maambong, de los Reyes and himself to the Committee and which was refined subsequently by other contributors. He stated that he would, therefore, support the Committee's formulation of Section 8. To some degree, he noted that the amendment proposed by Mr. Villacorta improved the section in two aspects, namely, the deletion of the words "search and seizure"; and that in lieu of the grace period of six months after the convening of the First Congress, the sponsors changed it to one year and kept the clause "provided that Congress, in the national interest, as certified by the President, may extend said period".

He then interpellated Mr. Romulo.

On whether the provision would in effect ratify, by constitutional fiat, all the orders so far issued by the PCGG and its agents and task forces locally and abroad, Mr. Romulo stated that the amendments deal only with the powers and not with the actions that had been taken pursuant to such powers. He affirmed that the provision would not preempt the Supreme Court and the courts of justice of jurisdiction over orders that have been questioned before them.

On the contention that there are conceivable situations where the Constitutional provision authorizing the PCGG to exercise the powers of sequestration and freezing of assets in case of ill-gotten wealth, should clash with the Bill of Rights and if such situations arise, the Bill of Rights, presumably by virtue of this provision, would have to yield to the exigencies that are the justification for these powers of the PCGG being enshrined in the Transitory Provisions, Mr. Romulo stated that the provisions could be reconciled in the sense that a sequestration order is not the equivalent of a search and seizure order; however in the event that such doubts do exist the amendment would precisely create an exception. He denied that he supported Mr. Bernas' thesis.

On whether the provision is an extraordinary measure justified by the nature of the exigencies that it seeks to correct and that where the Bill of Rights and these powers come into conflict, the Bill of Rights must necessarily yield to the exigencies that are sought to be corrected by the proposed powers of the PCGG in Section 8, Mr. Romulo agreed that it may have to, although both provisions could be reconciled by distinguishing an order or a writ of sequestration from a writ of search and seizure. He reiterated that in the event that both are irreconcilable, the Committee would propose an exception for reasons of national interest. On whether some discretion is left to the courts to uphold the Bill of Rights in such situations, Mr. Romulo stated that firstly, it is the Committee's position that there is no conflict and, secondly, when one makes an exception, it does not mean that the Bill of Rights is disregarded because due process is still guaranteed and the complainant or the respondent is not deprived of his day in court.

Mr. Romulo agreed that the amendment to be introduced would delete "search and seizure" in Section 8, precisely

to illustrate that sequestration and freeze order is not equivalent or similar to a search and seizure order. He opined that a writ of sequestration could stand without recourse to search and seizure.

On whether the amended section, once approved, would mean that for search and seizure proceedings the PCGG from the time of the ratification of the Constitution must apply to the court, Mr. Romulo stated that normally, if a request for search and seizure is written, the new Bill of Rights mandates that the person should go to court because it is only the court, upon personal examination of the affiant, which could issue a search and seizure order and, therefore, upon the ratification of the Constitution, the PCGG would be left with no discretion in the matter of search and seizure proceedings except to apply to the court for the necessary permission, unless the exception is created assuming that the PCGG is asking for a search and seizure order.

Mr. Romulo agreed that where search and seizure orders are deemed necessary to support the writs of sequestration, the PCGG would have no choice under the provision;-as amended, except to apply to the courts.

On whether there is anything in the section which would lend support to the thesis inherent in the powers of the PCGG as defined in the Freedom Constitution and in Executive Orders 1 and 2, Mr. Romulo stated that the Freedom Constitution and the various Executive Orders do give those powers to the PCGG which, he affirmed, includes the presumption of the right to vote on sequestered shares as though the final ownership had been determined.

On whether, as a consequence of the section as amended, the PCGG may vote on sequestered shares in certain corporations even before final determination of their ownership in an appropriate court, and forthwith proceed to take over a company, its management and its operation, Mr. Romulo pointed out that the Executive Orders were issued precisely to confirm the authority of the PCGG and that it is the voting of the shares that allows them to sit in the Board of Directors. He stated that the running of the company proceeds from the fact that they are able to vote the shares that have been sequestered and, therefore, are entitled to the corresponding number of seats in the Board of Directors.

On whether this section might, in effect, be a constitutional license to the PCGG to take over sequestered companies and run them even before a court of competence could rule on the true ownership of such shares, Mr. Romulo replied that such is the authority given to the PCGG by said Executive Orders. He pointed out that the writ of sequestration as presently described and authorized would allow them through the Board of Directors and the appropriate representatives in the Board of Directors to help operate the company.

Mr. Ople reiterated that he was partly responsible for Section 8 as formulated, although it does not settle some profound issues that the people want answered with respect to the PCGG powers. He stated that there is no question that the Commission would want to help the PCGG accomplish its historic tasks but that it is necessary to bring out the facts and consequences of the operation of Section 8, as amended, if approved. Thereafter, he expressed the desire to ponder over the magnitude of said consequences for the Bill of Rights, for the freedom of the citizenry, for the old axiom underlying the moral world that the end shall not justify the means. He stated that he would keep an open mind until the period of voting.

Responding thereto, Mr. Romulo stated that even conceding that a sequestration and freeze order is tantamount to search and seizure, this does not mean its invalidity considering the absence of initial judicial determination. He then quoted the ruling cited in the case of *Phillips vs. Commissioner*, to wit:

"Where adequate opportunity is afforded for a later judicial determination of the legal rights, summary proceedings to secure prompt performance of pecuniary obligations to the government have been consistently sustained. Where only property rights are involved, mere postponement of the judicial inquiry is not a denial of

due process if the opportunity given for the ultimate judicial determination of the liability is adequate."

REMARKS OF MR. NOLLEDO

Mr. Nollado stated that the Philippine Commission on Good Government came into existence at a critical period in history when the repressive, graft-ridden and inglorious Marcos regime ended, leaving dry the national treasury and burdening the new government with a gargantuan foreign debt.

He pointed out that Proclamation No. 3, issued in a state of revolutionary government, gave the incumbent President the right to give priority, among others, to the people's mandate to recover ill-gotten properties amassed by the leaders and supporters of the Marcos regime, through orders of sequestration or freezing of assets or accounts. He stated that, pursuant to this Proclamation, Executive Order No. 1 was issued creating the PCGG which had issued sequestration orders after it had determined, based on evidence, the existence of a prima facie case.

Mr. Nollado stressed that the Suarez report on the PCGG was designed to give constitutional support to the Commission in view of which, he fully endorsed said report, subject to Mr. Villacorta's amendment, for the following reasons, to wit:

- 1) the PCGG is tasked with a delicate, transcendental and difficult work of ferreting out ill-gotten wealth hidden in subtle ways like the use of dummies, employment of nominees, use of bearer certificates, and others where discovery of real ownership of properties could be done only after going over voluminous and technical documents;
- 2) the PCGG: should not be bound strictly by the provisions of Section 3 of the Bill of Rights because sequestration orders are being issued for preservative reasons;
- 3) the functions of the PCGG are vested with public interest and dictated by the imperative demands of public policy and, therefore, its powers are derived from and based on the police power of the State,
- 4) the exercise of powers by the PCGG affects merely property rights which involve stolen properties partaking of the nature of contrabands reachable by the hands of the State in the exercise of its police power;
- 5) as said by Senator Jovito R. Salonga, the PCGG observed due process by requiring determination of a prima facie case before a sequestration order may be issued;
- 6) to transfer to the regular courts or to the Sandiganbayan the power to sequester may subject the cases to the usual delay in judicial proceedings. In this connection, if the records are voluminous, the ordinary court or the Sandiganbayan may also appoint commissioners in order to determine the propriety of issuing a seizure order, or the equivalent of a sequestration order.

Finally, he stressed that the extraordinary situations where the PCGG finds itself in need extra legal actions or remedies.

REMARKS OF MR. BERNAS

Mr. Bernas observed that there is something schizophrenic about the arguments in defense of the proposed amendment.

Adverting to Mr. Salonga's lecture in the Gregorio Araneta University Foundation in which he argued for the legality of the actions of the PCGG and concluded that what matters are the results and not the legal niceties, Mr. Bernas pointed out that the former seemed to suggest that the PCGG should be allowed to make some legal

shortcuts.

If all the actions of the PCGG are legal, Mr. Bernas inquired why it still asks for constitutional protection: He stated that all that PCGG is actually asking for is an exception, which the Constitutional Commission should not be given for the following reasons:

First, the purpose of the February revolution and the work of the Constitutional Commission is to hasten constitutional normalization and at the heart of constitutional normalization is the full effectivity of the Bill of Rights, the enforcement of which cannot be stopped to give way to PCGG's functioning. He stressed that due process of law must be observed.

Secondly, he stated that "good deeds repeated, ripen into virtue; bad deeds repeated become vice", and the Constitution should not allow the new Government to acquire the vice of disregarding the Bill of Rights. He added that vice becomes ingrained and difficult to correct, the vicious persons would think they have vested right to its practice and would fight tooth and nail to keep the franchise.

Thirdly, he noted that the argument that what matters are the results and not the legal niceties, is very disturbing especially when said by a staunch Christian like Mr. Salonga and becomes doubly disturbing and discombobulating when repeated by another staunch Christian like Mr. Tingson.

Mr. Bernas observed that the argument makes the PCGG an auctioneer placing the Bill of Rights on the auction block, and if the price is right, the search and seizure clause would be sold. Additionally, he called the present government a hostage to the hoarders of hidden wealth, who will release the hidden wealth if the ransom prize, which is the Bill of Rights, is paid. He underscored that the Bill of Rights is not for sale, nor can it be used as ransom money.

He stressed that the country could survive and grow strong only if the values enshrined in the Constitution are considered to be beyond monetary estimation.

He then suggested that the entire Section 8 be deleted and let the PCGG have two options: it can pursue the arguments of Mr. Salonga and just go on with its activities, but if it is not sustained, it has to bow to the Bill of Rights.

Finally, on the PCGG defense of its legal niceties, Mr. Bernas quoted Thomas More who said, "I'll give the devil the benefit of law for my nation's safety sake." He reiterated that Section 8 should be deleted.

MR. RAMA'S RESERVATION ON BEHALF OF MS. AQUINO

At this juncture, Mr. Rama made a reservation to insert Ms. Aquino's speech into the record if she fails to arrive, which reservation was noted by the Chair.

REMARKS OF MR. SARMIENTO

Speaking in favor of the proposed amendment, Mr. Sarmiento stated that the concept of sequestration as explained by the PCGG is a reasonable method employed in order to recover ill-gotten wealth, and the errors committed in its implementation should not be used as an argument against the exercise of sequestration powers. He pointed out that the Judiciary could not act more judiciously and expeditiously than the PCGG to recover ill-gotten wealth because of the current judiciary reorganization.

He opined that there is no greater injustice than what was committed against the nation by those who plundered the national treasury, while on the other hand, sequestration constitutes a valid exercise of police power for the

national interest and directed to correct the injustice committed against the Filipino nation.

He recalled that in 1965, only 45 percent of Filipino families were below the poverty line; and in 1975, it increased to 51.49 percent. He stated that the Commission should not fail the Filipino people on this very crucial issue.

QUESTION OF PRIVILEGE OF MR. TINGSON

At this juncture, Mr. Tingson rose on a question of privilege relative to the reference made by Mr. Bernas, whose arguments, he said, were based on pure legalism.

He stated that no one can dispute the majesty of the Bill of Rights for which he favorably voted. He pointed out, however, that the crimes committed by the former President were extraordinary which must be solved by extraordinary measures. He stressed that he was just adopting the principle which the Jesuits believe, that the end does not justify the means.

REMARKS OF MR. PADILLA

Speaking in favor of the proposed Section 8, Mr. Padilla adverted to Section 1(d), Article II of the Freedom Constitution which provides for the recovery of ill-gotten properties amassed by the leaders and supporters of the previous regime and the protection of the interest of the people through orders of sequestration or freezing of assets.

He noted that it would be correct to replace "and" with "or" as observed by Commissioner Regalado. The alternative "or" is found in Section 1(d), Article II, of the Freedom Constitution (Proclamation No. 3). It also appears in Executive Order Nos. 2 and 14.

He added that the deletion of the phrase "search and seizure" as found in the original Committee Report would limit the scope to sequestration or freeze orders, considering that the Bill of Rights already covers the issuance of search and seizure warrant.

He concurred that the PCGG has the power to sequester or freeze assets constituting ill-gotten wealth but subject to judicial action, in compliance with notice and hearing under due process, considering some violations in the exercise of such power.

He stated, however, that sequestration or freeze orders have no relation with the convening of Congress, so that the limit should be anchored on the ratification of the 1986 Constitution which allows the continuance of the exercise of power as provided in the Freedom Constitution.

Moreover, he distinguished freezing of assets for the purpose of conserving the suspected ill-gotten wealth from takeover of business that is considered ill-gotten. He stated that the government can take over an entire business if it is actually a government property like the Bataan Shipyard and Engineering Company, Inc. (BASECO), but could only freeze certain assets or shares of stock to place them under the custody of law so that they could not be transferred nor disposed of and be subject to the legal action for their forfeiture in favor of the State.

He also disclosed that the term "sequestration" was used in Presidential Decree No. 885, known as the Anti-Subversion Act, and could not properly refer to the seizure or taking over and assumption of the management, control and operation of ongoing private business.

INQUIRY OF MR. CONCEPCION

On the argument that national interest demands extraordinary measures to be adopted by the PCGG, Mr. Concepcion expressed his apprehension that the argument would seem to assume that due process is less demanded by public interest. He pointed out that the issuance of warrants of arrest are intended to curb abuses even by those who exercise authority. He expressed doubts on the measures being undertaken by authorities to recover properties, and inquired if the orders of sequestration had been specific in identifying the objects of sequestration; whether said objects of sequestration were placed under the custody of the courts so that the parties adversely affected may seek legal remedies due them; and whether certain acts like voting on shares of stocks and disposing some assets, had previous judicial authority.

In reply, Mr. Romulo assured that the PCGG has sequestered particular assets as some print-outs indicated the nature of assets and the specific shares in certain banking institutions. He also adverted to the procedure followed by the PCGG whereby upon receipt of data from a private person, in the form of a verified complaint, or from any government agency, or upon its own motion, the PCGG conducts either a covert or open verification of information. In this connection, Mr. Romulo stated that the provision indirectly seems to suggest that particular information is gathered before the writ of sequestration is issued.

On whether he would object to specifying in the proposed provision certain conditions such as compliance with due process at least insofar as specific matters are concerned to ensure that measures are taken not merely on the basis of what the government entity concerned in issuing the order deems best but as a condition for the enjoyment of the authority the period of which is being extended, Mr. Romulo expressed willingness to consider it at the proper time.

On whether the actions would be referred to a court as soon as the sequestration or freeze order is issued, Mr. Romulo replied in the negative. He then read the second phrase which consists of the first stage which is *ex parte* and analogous to an *ex parte* hearing for the application of a writ of attachment; and the second stage which is a preliminary investigation. He then explained in detail the steps taken during and after the issuance of sequestration orders. He concluded that the sequestered properties are in the custody of the Commission and not in the custody of a court.

Mr. Concepcion suggested that a provision be inserted to ensure that property is placed under the custody of the court, to which Mr. Romulo agreed. He opined, however, that the only problem is the time that this would require considering the difficulty of completing an investigation within a fixed period.

Mr. Romulo, likewise, agreed that it would be better if the courts are advised immediately and for the courts to determine whether the investigation is being conducted as expeditiously as it should be, rather than leave it to the sound discretion of the entity that conducts it; provided that the court has the opportunity to finish the preliminary investigation prior to freezing the property which is the primary objective before filing it in court.

On the suggestion that after the sequestration order is served, the action be reported to a court of justice, Mr. Romulo stated that the respondent could have the right to go to court if he feels that the PCGG has abused its authority.

On Mr. Romulo's clarification as to what would happen to the main case if the writ of sequestration was delivered to the court for investigation to determine whether it had been properly exercised, Mr. Concepcion stated that the court would allow the investigation to continue, but always subject to the control of the court which would determine if proper action is being taken and that the parties affected are not unduly harassed. To dispel doubts about it, he suggested that the court decide the question immediately. He agreed that the determination of further

action to be taken would have to be done by the PCCG but subject to the supervision of the court.

On Mr. Romulo's contention that the respondent could always go to court to challenge the action, Mr. Concepcion stated that while courts are available to all, not all people could go to court. He stressed that in the case of sequestration, the respondent is fighting the government which has more facilities at its disposal. He inquired why the property of any person, be he criminal or not, should be subject to the disposition of any government agency other than the courts of justice, since this is an act of deprivation or disposition pending the investigation.

At this juncture, the Chair reminded Mr. Romulo that some of the ideas expressed by Mr. Concepcion could be taken up at the proper time should there be a proposal to amend the provision.

REMARKS OF MRS. QUESADA

Mrs. Quesada supported the proposal of some members of the Commission to strengthen the role of the PCGG to recover the hidden wealth which could benefit the 55 million Filipino people. On the orchestrated effort to discredit the PCGG, Mrs. Quesada opined that there is a need to have this provision to constitutionalize the good that the agency is doing to recover the much needed wealth.

She also stated that a lot of people are awaiting action on this hidden wealth case because it is a grand crime that not only the Filipino people but the rest of the world are watching how the wheels of justice would work in the new Administration.

REMARKS OF MR. CONCEPCION

Mr. Concepcion stated that his main apprehension is that the Body, by allowing the PCGG its past performance and its present practice, may convey the impression that the provisions in the Bill of Rights concerning searches and seizures are not being adopted by the Commission in the traditional form. He contended that the arguments start from the assumption that the properties being frozen or sequestered are part of the properties that had been stolen, in other words, putting the cart before the horse. He underscored that he was stressing the importance of the provisions on the Bill of Rights because those are intended for the protection of the people against government abuse. He stressed that everybody wants to recover the stolen properties but the question is whether the properties being sequestered were really stolen. He opined that he would not want the provisions on the Bill of Rights to be less effective now than they were before, considering that from a constitutional viewpoint, the provisions concerning searches and seizures are intended more for the protection of the people. He stressed that these powers have been reserved to the people and withdrawn from the government which the PCGG represents. He deplored the fact that in looking at the immediate needs, the general need of the nation to survive as a democratic society has been overlooked.

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 6:18 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on October 7, 1988

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.