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Thursday, August 14, 1986

OPENING OF SESSION

At 9:49 a.m., the Vice-President, the Honorable Ambrosio B. Padilla, opened the session.

THE VICE-PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE VICE-PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE VICE-PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Jose C. Colayco.

Everybody remained standing for the Prayer.

PRAYER

MR. COLAYCO: Dear Lord and Heavenly Father, when we assumed office on June 2, 1986, we solemnly swore to perform our task of framing a new constitution that will embody the ideals and aspirations of our people, and guarantee the enjoyment of our people's freedom from tyranny and oppression for generations to come. We were then eager and able to do what had to be done. It has been more than two months now since we made that promise. We reaffirm it now.

The task is tremendous, but we have not spared study, time and diligence to accomplish what we have set out to do. In the process, some of us, including Your humble servant, are beginning to falter and to fall behind. Others have had to drop back out of strain and sheer fatigue and exhaustion. Our spirit is faltering; our health weakening. We need Your help.

We beseech You, dear Lord, restore our energy and rekindle our spirit, so that we can carry on and resume our assigned task to its final and successful completion. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present Nieva Absent

Aquino Present Nollado Present[*]

Azcuna Present Ople Present[*]

Bengzon Present[*] Padilla Present

Bennagen Present Quesada Present[*]

Bernas Present[*] Rama Present

Rosario Braid Present Regalado Absent

Brocka Present[*] Reyes de los Present[*]

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Present

Davide Present Sarmiento Present[*]

Foz Present Suarez Present

Garcia Present[*] Sumulong Present

Gascon Present[*] Tadeo Present

Guingona Absent Tan Present

Jamir Present Tingson Present

Laurel Present Treñas Present

Lerum Present[*] Uka Present

Maambong Present[*] Villacorta Present

Monsod Present[*] Villegas Present

The Secretariat is in receipt of official advice of absence of Commissioner Bacani.

The President is absent.

The roll call shows 28 Members responded to the call.

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

The Assistant Floor Leader is recognized.

MR. CALDERON: Mr. Vice-President, I move that we dispense with the reading of the Journal of the previous session.

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

APPROVAL OF JOURNAL

MR. CALDERON: Mr. Vice-President, I move that we approve the Journal of yesterday's session.

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

MR. CALDERON: Mr. Vice-President, I move that we proceed to the Reference of Business.

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications and Committee Report, the Vice-President making the corresponding references:

COMMUNICATIONS

Communication from Mr. Geronimo A. Carreon of 263 Turingan Street, Santiago, Isabela, proposing that teachers should not be compelled to perform election duties; civil service employees should be on equal footing with the military personnel when it comes to retirement; age limit should be required of candidates for president and vice-president, among others.

(Communication No. 538 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Rev. Paul B. Marx, O.S.B., of 418 C Street, N.E., Washington, D.C. 2002, saying that if abortion is legalized, it becomes a primary means of birth control; some people will not even bother with the use of contraception; young people will have increasing irresponsible sexual intercourse because they know they can always get rid of it, but expressing the hope that the new Constitution will contain protection for the unborn from the moment of conception.

(Communication No. 539 — Constitutional Commission of 1986)

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

Communication from Mr. Ric C. Rubia of Claveria, Masbate, transmitting Resolution No. 86-55 of the Sangguniang Bayan of Claveria, requesting the transfer from the Philippine Gamefowl Commission to the local executives the power to issue cockpit license and permit.

(Communication No. 540 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Communication from the European Chamber of Commerce of the Philippines, signed by its President. Arthur G.D. Gilmour, 3rd Floor Electra House, 115-117 Esteban St., Legaspi Village, Makati, Metro Manila, urging the retention of the current 60/40 restrictions on foreign participation in the area of telecommunications and expressing apprehension that further reduction of foreign equity ceiling might dampen the enthusiasm for additional investment and subsequently create an unnecessary gap in the overall development of the telecommunications industry.

(Communication No. 541 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Mr. Benjamin M. Orteza of Butuan City, transmitting Resolution No. 47-86 of the Sangguniang Panlungsod of Butuan, seeking to incorporate in the Constitution the following proposals: (1) that the State shall limit the exploitation, development and use of the country's natural resources to natural-born Filipinos; (2) that salvaging, torture, hamletting, zoning, food blockade and similar acts in any form shall in all cases be prohibited and shall be punishable by law; (3) that the State shall provide free elementary and secondary education; and (4) that youth and student organizations' right and freedom to sympathize with the people's struggle shall not be stifled or suppressed.

(Communication No. 542 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Mr. Oswaldo Bacarza of Dipolog City and sixty-one (61) other signatories expressing strong support to the following: (1) enshrinement of health as a basic human right; (2) nationalization of the drug industry; (3) creation of people's congresses and sectoral consultative committees to enshrine people's participation in policy and decision-making processes of the State; (4) prioritization of health and other social services; (5) enactment of laws to promote better mother-child health; and (6) respect for the right of privacy between patients and doctors, among others.

(Communication No. 543 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Leandro I. Verceles, Suite 612/614 Manila Hilton, United Nations Avenue, Manila, submitting, in behalf of the Philippine Council for Foreign Relations, Inc., proposals in respect to some provisions of the proposed Constitution, specifically on foreign military bases in the Philippines.

(Communication No. 544 — Constitutional Commission of 1986)

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

Letter from Mr. Elly Velez Pamatong of Room 600, VIP Building, 1140 Roxas Blvd., Ermita, Manila, submitting his suggestions on Declaration of Principles for consideration by the Constitutional Commission.

(Communication No. 545 — Constitutional Commission of 1986)

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

Resolution 67-68 of the Sangguniang Panlungsod of Butuan City, signed by City Mayor-Designate Guillermo R. Sanchez and other city officials, expressing support to the approved resolution of the Committee on Amendments and Transitory Provisions, fixing the term of office of President Corazon C. Aquino and Vice-President Salvador H. Laurel for a period of six years counted from February 25, 1986.

(Communication No. 546 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Telemessage from the Association of Philippine Physicians in America seeking the amendment of Section 7 of Proposed Resolution No. 496 so as to allow a natural-born citizen of the Philippines who has lost his Philippine citizenship to be a transferee of private lands.

(Communication No. 547 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Ms. Ruth B. Duran of Pagadian City, transmitting Resolution No. 106 of the Sangguniang Panlungsod of Pagadian City, expressing resentment over the lack of recognition extended to the City Chief Executive by the sponsors/organizers of the Baganian-wide Dialogue on Human Rights held at Pagadian City on June 26, 1986, and the ConCom public hearing held on July 12, 1986 where no Mayor's permit was secured for the purpose.

(Communication No. 548 — Constitutional Commission of 1986)

To the Steering Committee.

One hundred eighty-six letters from students of the Infant Jesus Academy, Silang, Cavite, all seeking to include in the Constitution the following proposals: (1) a No-U.S. Military Bases Agreement; (2) an anti-nuclear power plant; (3) the promotion of Philippine sovereignty over our natural resources; and (4) a No-U.S. or any foreign intervention on Philippine affairs.

(Communication No. 549 — Constitutional Commission of 1986)

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

Communication from Mr. Rodolfo V. Revilla, Jr. of the Forestry Development Center, U.P. College of Forestry, Los Baños, Laguna, seeking for the inclusion in the Constitution a basic statement on the need to conserve our natural resources, and to exempt from the provision that leases for exploration of natural resources be limited to a maximum of twenty-five years, renewable for not more than twenty-five years.

(Communication No. 550 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

One hundred three letters with four thousand eight hundred fifty-one signatories with their respective addresses, all seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 551 — Constitutional Commission of 1986)

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

COMMITTEE REPORT

Committee Report No. 38 on Proposed Resolution No. 540, prepared by the Committee on Amendments and Transitory Provisions, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON TRANSITORY PROVISIONS,

recommending its approval in substitution of Proposed Resolution Nos. 111, 120, 129, 137, 149, 214, 241, 254, 262, 285, 294, 348, 67, 362, 427, 443, 458, 461, 462, 463, 464, 473, 474, 475, 476, 483, 484, 485, 487, 490, 492, 494, 503, 527 and 529.

Sponsored by Hon. Suarez, Ople, Padilla, de Castro, Foz, Maambong, de los Reyes, Jr., Tingson, Lerum, Sarmiento and Tan.

Cosponsored by Hon. Natividad, Jamir and Davide, Jr.

To the Steering Committee.

THE VICE-PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NOS. 496 and 533

(Article on National Economy and Patrimony and Provision on Ancestral Lands)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Mr. Vice-President, I move that we continue the deliberations on the Article on National Economy and Patrimony.

MS. QUESADA: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would like to have a rather irregular motion, if this will be considered by the floor. But I feel hesitant discussing the Article on National Economy and Patrimony without first responding to a clamor, which has been received by the Commission only yesterday, of a broad sector of our country representing the business sector, the labor, the consumers and other sectors. They would like to be part of this discussion which might not be realized if we continue the discussion of the Article on National Economy and Patrimony today. I would like to suggest the postponement of the deliberation on this particular Article for tomorrow and instead continue the discussion on the Article on Local Governments. We have just received the amended Article on Local Governments.

THE VICE-PRESIDENT: What does the Floor Leader say?

MR. VILLEGAS: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: I would strongly object to the motion, first of all, because in response to the request of Commissioner Brocka yesterday, I have fully prepared for a point-by-point examination of the proposal of this coalition of businessmen referred to. Actually that was my plan. I think the request of Commissioner Brocka was very meritorious. This Commission has been bombarded with a lot of proposals on the outside with all sorts of technical jargons like import liberalization, protectionism and many others. In response to the request of Commissioner Brocka, could I ask the Chair for some minutes to actually explain some of these details to the laymen, the nonspecialists in economics? I think they will be given sufficient hearing since I have been in close contact with Ronnie Concepcion and all the others who are in that coalition.

MS. QUESADA: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Many of us feel that this particular Article is a very important part of this document that we are formulating. While we have spent so much time on the Article on Social Justice, we feel that there should also be justice in the discussion of this very vital aspect which would affect the rest of the provisions that we will introduce in this Constitution.

So while we respect the opinion of the members of the Committee, we feel that a broad participation of all these sectors should be allowed in the discussion of so vital an issue as the Article on National Economy and Patrimony. There has been a representation made that tomorrow if this body would be so open enough to hear

them, various groups from the private sector — businessmen, consumers, labor, and many others — would be coming here. I think it is our responsibility to respond to them.

If we had spent some time listening to the proponents of the pro-life when they struggled or lobbied and made representations for the right of the unborn child, I suppose that this issue would have been just as important to be given due consideration. We feel that we are being rushed into finishing an article which will affect the future of our country. We agree that we have economists here, but as Commissioner Brocka suggested yesterday, we would like to have a free discussion on this Article because most of us are not economists. We would like to have these two perspectives or points of view, if this body would be so broadminded enough to respond to this representation.

MR. DE LOS REYES: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Mr. Vice-President, actually, the report of the Committee on the National Economy and Patrimony was just an insertion because what was really scheduled is the report of the Committee on Local Governments which was interrupted because of certain questions raised during the plenary session. Inasmuch as the report of the Committee on Local Governments is ready, and I have asked its Chairman who said that he is raring to sponsor the reformulated report of the Committee on Local Governments, I join Commissioner Quesada in moving that we take up first the scheduled report of the Committee on Local Governments.

MR. DE CASTRO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: We stopped deliberating on the Article on Local Governments because there are certain amendments which the Committee itself will still have to work on. We are now in the middle of the period of sponsorship and debate on the Article on National Economy and Patrimony. We do not like to leave this subject now because leaving it will be like stopping in the middle of the street and forgetting what we have already done. So, let us cross this street. Let us finish first what we have started to do and go to the amendments. Then the new report on the Article on Local Governments may be taken up later on.

Thank you, Mr. Vice-President.

MR. RODRIGO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: May I add something to that? I received this committee report on the Article on Local Governments, as amended, only five minutes ago. I would like to have time to study this matter. So, I am sorry to oppose the motion to postpone consideration of the very important matter of this particular Article on National Economy and Patrimony.

MR. SARMIENTO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Mr. Vice-President, may I join Commissioners Quesada and de los Reyes in their motion to defer discussion on the Article on National Economy and Patrimony. The people of Cordillera are still here. They are waiting for our decision on local autonomy. I think it is but fair that we should tackle local autonomy and local governments before we finish the Article on National Economy and Patrimony. In fairness to them who came all the way from the Mountain Province and also to the Muslims who have representatives in this Commission, may I

request that we defer our discussion on the Article on National Economy and Patrimony, and tackle the Article on Local Governments? After all, the Chairman of the Committee on Local Governments is ready to defend the said Article.

Thank you, Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Mr. Vice-President, I do not see any harm if we postpone our discussion on the Article on National Economy and Patrimony. But I can see very much harm if we rush into this discussion without the desire to hear what others have to say. It is a very sensible desire. What will suffer will only be our schedule.

THE VICE-PRESIDENT: Commissioner Villegas, the Chairman of the Committee, is recognized.

MR. VILLEGAS: I would propose a compromise. Since there are just very few individuals who want to continue the interpellations and also to satisfy the reasonable request of Commissioner Rodrigo, I suggest that we allow one hour to finish the Unfinished Business yesterday, and then we go to the Article on Local Governments during the second half, as we did yesterday. Then I would be willing to postpone the discussion on the Article on National Economy and Patrimony until Monday.

Since there were very important questions raised yesterday that are still very fresh in the minds of the Commissioners, I would ask for at least one hour where we could address the issues raised by Commissioner Brocka, and others can continue to interpellate. Some were pleading for a possibility to continue the discussion this morning, so that is a compromise. Let us take up the Unfinished Business yesterday, and then we can move on to the Article on Local Governments so that the people will have the opportunity to read the revised report of Commissioner Nolloedo. Afterwards we go on as is needed for that Article. We can postpone the deliberation on the amendments to the Article on National Economy and Patrimony until next week.

MR. RODRIGO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: This is only an inquiry. What is the meaning of "listening to the proponents from different sectors"? Will there be another public hearing by the Committee? Will there be a public hearing by the whole body where we will listen to the different representatives of the different sectors who have sent their suggestions regarding national economy? I would like to know the meaning or the mechanics of this question.

MS. QUESADA: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: If the Commissioner has read the papers today, for the first time in the history of the Philippines, a broad coalition of various sectors in our society met at the historic Club Filipino. There is such a growing ferment in these sectors about the direction to which the national economy of our country will be decided on in this Constitution. Many of us feel that the various sectors have not been given broad participation in the discussion of the national economy. It is true that there were various committees and representations made during the public hearings; still we feel that in comparison with the way the Committee on Social Justice conducted its hearings, we as a body have not really gone through hearing all the important points that need to be considered on this very vital area.

So, these sectors have made representations to come here tomorrow and this constituent body will be converted into a big committee to hear them, whether here or outside, so that we can be enlightened on the various aspects

that we need to consider as we finally make our amendments and our decisions on the national economy. So like what we did for certain groups, like the Pro-Life Movement and others, when we sat and heard them, we hope that this coalition of pro-Filipino, pro-industrialization and pro-decolonization of our economy would also be given time to be heard by all of us, not just by a committee but by all the Members of the Commission.

That is the reason behind the request for a postponement — so that we cannot be accused of really having pushed through in a hurry to finish this particular Article in comparison with the other articles which took us about a week.

MR. RODRIGO: I would like to seek for more clarification because the only motion that I heard was to postpone the consideration of the Article on National Economy and Patrimony for tomorrow. It appears that it is not only to postpone the consideration but to convert this body into a committee of the whole and to listen to the different sectors which have proposed certain amendments.

THE VICE-PRESIDENT: The motion has been sufficiently discussed. Shall we submit it to a vote?

MR. RODRIGO: Mr. Vice-President, there is a compromise proposal, an amendment which I think is reasonable. I think we should act on that first.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA: May I move that we suspend the session for two minutes to discuss the compromise.

THE VICE-PRESIDENT: The session is suspended.

It was 10:19 a.m.

RESUMPTION OF SESSION

At 10:29 a.m., the session was resumed.

THE VICE-PRESIDENT: The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Mr. Vice-President, there was some kind of a meeting of the minds and they decided that we finish first the interpellations, after which we would decide what to do next.

Before we proceed with the interpellations, I would call on Commissioner Monsod to clarify certain points.

THE VICE-PRESIDENT: Does Commissioner Alonto want to be recognized first?

MR. ALONTO: Could I be recognized after Commissioner Monsod?

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I just want to clarify certain points that were raised here. First, that there were no exhaustive hearings by this Committee. I believe that the facts and the records will bear me out that there were very exhaustive hearings conducted by this Committee where all position papers submitted were considered. Second, there was a suggestion here that the papers submitted were not considered yesterday and that those who, in effect, are critical of the Committee's report represent the pro-Filipino view. I believe that that is an unkind statement.

Third, if there is any suggestion that we should listen to one sector or a group who wants to propound its views, despite the fact that we have finished the public hearings, what this Commission should do is to convene in caucus to discuss this among ourselves. And if there is going to be a reopening of this through a consultative meeting or a committee hearing or the committee of the Whole, then it is our obligation to listen to all sides. If this Commission does not feel that it can give opportunity for all proponents of different views to be heard, then it is not fair to listen to only one view.

Thank you.

THE VICE-PRESIDENT: Is there any objection to the motion of the Floor Leader that we proceed to the period of interpellations on the Article on National Economy and Patrimony and later on decide to go into caucus as suggested by Commissioner Garcia yesterday? (Silence) The Chair hears none; the motion is approved.

So we request the Chairman and the Committee members to take their places in the front table to continue the period of interpellations on the Article on National Economy and Patrimony.

MR. RAMA: Mr. Vice-President, before we do that, I ask that Commissioner Bengzon, the Chairman of the Steering Committee, be recognized.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Mr. Vice-President, we have revised the schedule of the articles to be deliberated upon and the new schedule is on top of each of the Commissioners' desks. But due to the situation today, I think we will have to revise it again. That is why I am before this microphone. I was told by Commissioner Alonto that Friday is the most important holiday for the Muslims all over the world. Looking at the new schedule, we will find that the Article on Local Governments is scheduled for Friday. So Commissioner Alonto has requested this Member to inform the Commission that he plead for a deferment of the consideration of the Article on Local Governments until Saturday.

Therefore, as Chairman of the Steering Committee, I would like to move that we consider the Article on National Economy and Patrimony starting today up to tomorrow, and then we consider the Article on Local Governments on Saturday. Also, together with this motion, Commissioner Alonto is requesting that the Commissioners make an additional sacrifice of having an all-day session on Saturday so we can finish the Article on Local Governments.

THE VICE-PRESIDENT: Is there any objection to the motion of the Chairman of the Steering Committee?

MR. ALONTO: I second the motion, Mr. Vice-President.

MR. SUAREZ: Mr. Vice-President, may we be recognized?

THE VICE-PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Mr. Vice-President.

Substantially, in principle, we have no objection to the proposal submitted by the Chairman of the Steering Committee, but I was going to pick up the suggestion which was advanced yesterday by the honorable Commissioner Garcia that after the period of interpellations, we will call a caucus preferably during lunchtime today. Hopefully, we can finish the period of interpellations in an hour-and-a-half. Then we could determine in the caucus the procedure to be adopted in connection with the Article on National Economy and Patrimony without committing ourselves to accepting the proposal earlier submitted by the Chairman of the Steering Committee that we will continue the discussion on the National Economy up to tomorrow.

I think that is a better way of doing it rather than making a commitment on the floor this morning. Let us resolve

that in the caucus. That is my respectful suggestion.

MR. BENGZON: All right.

THE VICE-PRESIDENT: So, we agree to continue the interpellations.

MR. BENGZON: Yes. But has the body agreed that we will defer the consideration of the Article on Local Governments on Friday? In other words, has the body agreed that we will not take up the Article on Local Governments on Friday because that is the meat of the plea of Commissioner Alonto?

MR. SUAREZ: I think there is merit in that suggestion. However, I have here with me the memorandum of the Chairman of the Steering Committee where he sets August 18 and 19 for the continuation of the discussion on Committee Report Nos. 24 and 32 on the Article on National Economy and Patrimony. In other words, even under this schedule, there is no need to terminate the discussions on the Article on National Economy and Patrimony and, hopefully, the caucus would be productive of results insofar as the scheduling of discussions is concerned.

Thank you.

MR. BENGZON: Yes, all I am asking is that we do not take up the Article on Local Governments on Friday. Then we can discuss the rest during the caucus.

MR. SUAREZ: How about this afternoon?

THE VICE-PRESIDENT: Commissioner Alonto is recognized.

MR. ALONTO: Thank you, Mr. Vice-President.

I merely want to add something that would make the Constitutional Commission realize that our request for not putting up the report of the Committee on Local Governments tomorrow is due to what we call in Islam as Yaum ul Nahr or the Day of Sacrifice — the most important religious holiday in the Muslim world. Because of that, we, as Muslims could not attend to other work except to celebrate that day. That is why we requested the postponement of the deliberations on the Article on Local Governments from Friday to Saturday.

THE VICE-PRESIDENT: Is there any objection to the motion to postpone or transfer the discussions on the Article on Local Governments from Friday to Saturday? (Silence) The Chair hears none; the motion is approved.

The Floor Leader is recognized.

MR. RAMA: Mr. Vice-President, the motion to continue and finish the period of interpellations has already been approved. I ask that we continue the period of interpellations now.

THE VICE-PRESIDENT: That is why I have been asking the Chairman and the Committee members to take the front seats for any further or additional interpellations from other Members of the Commission.

MR. VILLEGAS: Will the members of the Committee join me here in occupying the front table?

MR. MONSOD: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: This committee report was signed by all the members of the Committee and, therefore, may I ask that the other members of the Committee join us at the table in front.

THE VICE-PRESIDENT: May the other members of the Committee join the Chairman.

Mr. Floor Leader, are there any further interpellators?

MR. RAMA: There were some reservations but the parliamentary situation is that the Chairman of the Committee on the National Economy and Patrimony is supposed to answer pending questions in the last session. So, I ask that Commissioner Villegas be recognized.

THE VICE-PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: This is in response to the very meritorious request of Commissioner Brocka yesterday for me to give a very brief technical explanation of some terms used in specific proposals that we have received from different groups. I fully sympathize with the noneconomists in the Commission who really have been given very short time to prepare to respond to specific technical issues that are being raised. If the Commissioner would bear with me, I would like to literally deliver a short lecture on economic terms since there are words and phrases that we will have to grapple with like "protectionism," "import liberalization," "national industrialization" and "industrial policy." It is understandable that lay persons would want, first of all, to have simple definitions of these terms. There were also requests for a more open presentation of specific issues on which we may be able to vote either in caucus or during the period of amendments. That is also the intention of these introductory remarks — to delineate the issues that came from yesterday's period of interpellations. In a way, I am also responding to the implication of Commissioner Brocka's statement that there should be complete mental honesty, as we say in Spanish, "cuentas claras." So, let us not have hidden agendas, so to speak, in this Article.

Let me first comment on the apprehensions expressed by a number of interpellators yesterday about the frequency with which the words "private," "private enterprise" and "private individual" appear in the Article. I checked the number of times the words "State" or "government," or "President" or "Congress" appear, and I can assure the body the number of times that the word "State" is mentioned is about five times that the number of times the word "private" is mentioned.

First of all, I would like to say that the majority of the members of the Committee are unabashedly in favor of an economy that is propelled mainly by private individuals private groups or nongovernmental agencies. So the first issue that is very easy to delineate is: Do we want an economy that is propelled mainly by an activist State or do we want an economy that is propelled mainly by the private sector? Definitely, the spirit of the committee report is that we want an economy that is propelled mainly by the private sector and there is absolutely no hidden agenda about the specific statement.

It is very clear that in all the public hearings and in the Committee meetings, although there were always dissenting opinions, there was a categorical no to the following forms of economy:

1. State capitalism — This is a form of economy in which — although recognizing that the means of production can still belong to private individuals — the government decides to take over a lot of economic activities from food distribution like KADIWA, to steel mills, to all types of goods and services, such as had occurred during the Marcos regime. This is a form of economy that has been clearly repudiated by this committee report — we do not want "state capitalism." We do not want the State to get into all types of — to paraphrase Commissioner Aquino, "economic adventurism" — economic activities in which it is not competent.
2. Socialism — It is also very clear in the committee report that we gave an even more resounding no to socialism. It is defined as a form of economy in which the goods of production, the means of production, can be owned only by the State in principle. That, of course, is even more condemnable than state capitalism, from the standpoint of the committee report.
3. Communism — I do not have to say that the most categorical no has been given to communism which

incidentally, is the most bankrupt form of economic organization, and which has made Deng Xiaoping, the head of China, very famous all over the world.

The main reasons for our choosing the private sector as the engine not only of economic growth but of equitably distributing income and generation of full employment which are the three goals of economic development can be summarized in the following:

1. It is based on our belief in human freedom that a private-sector economy maximizes the opportunity for individual freedom.
2. As regards state capitalism: As explained by Commissioner Monsod yesterday, it is very clear that even if it is legitimate for the State to take over some economic activities since that is very possible in a mixed economy, but given today's circumstances when the government is unable to provide billions and billions of pesos for social services like education and health, and for paying the salaries of schoolteachers at the rate of P3,000 a month, it is really irresponsible for the Philippine government to start interfering in economic activities when it cannot even take care of its own household.
3. The proof of the pudding is in the eating. All over the world, from Communist China to Socialist France or Spain, to Australia and New Zealand with their labor parties, to capitalistic United States, there is a consensus: Let the private sector — the private entrepreneurs, the small-scale capitalists — be the engine of economic development. Deng Xiaoping, Mitterrand, and Reagan all agree to this consensus. Hence, if one wants to be completely empirical, if one is impatient with motherhood statements and with ideologies, I think the strongest evidence is that in no part of the world is the State recognized as the main engine of growth.

Another issue that was brought up during the period of interpellations was the question of "national industrialization." That is one of the magnificent obsessions of this coalition that we are willing to listen to and, I must repeat, we have time and time again listened to in the past public hearings. As I must say also in fairness to some members of the Committee, they were given all the chances to explain what they meant by "national industrialization."

This is just to elaborate on what I answered Commissioner Aquino about a specific point. Pardon me for sounding pedantic but let us make sure that we understand the word "industrialization."

In order to understand the word, we must understand that there are several sectors of the economy and one of these is called the primary sector which is involved in either agriculture, fisheries or mining. Anything that has to do with the growing of raw materials is called primary. Every country that has enough agricultural resources starts with a situation where anywhere from 60 to 80 percent of the labor force is involved in hand-to-mouth existence, producing raw materials just for day-to-day survival.

As the income of that nation increases, and it is able to provide sufficiently for its most basic necessities which have to do with food and clothing and shelter — which are basically taken from the so-called primary sector or the raw material sector — then the secondary sector called "manufacturing" starts becoming predominant, both in the share of the labor force and in the value of the product that is produced by the whole nation. Strictly speaking, industrialization is the increasing predominance of the secondary sector called "manufacturing" in both the labor force and in the value of the goods and services produced in the economy.

Then there is the tertiary sector which is the sector that produces services from education to banking, to health services, to insurance — all those phases of the economic life in which tangible goods are not produced but intangibles called services, which also expand, as agriculture and manufacturing, are only auxiliary to both agriculture and manufacturing.

To update the body with the latest terminology, there is now the so-called "quaternary sector" which produces services which have absolutely nothing to do with helping agriculture or manufacturing. It is not a handmaid to either agriculture or manufacturing.

What is this sector? This is the sector that is becoming very predominant in every industrialized country. It includes tourism the arts, and all other intangibles which people who earn \$10,000, \$12,000, or \$13,000 per capita increasingly spend their money on. For example, they travel all over the world buying art collections. That is what we call the quaternary sector.

It is obvious in the experience of all modernized countries that industrialization in itself is not a fetish nor an idol that has to be worshipped on the economic altar. It is just one stage of the development process. As we get individuals to earn more and more, they go from primary to secondary, then to tertiary and finally, to quaternary.

That is the background behind the reluctance of the majority of the members of the Committee to start singling out sectors in a constitution that should last for centuries. The moment we single out the second sector called "manufacturing," which is industrialization, then we have to say, "Therefore, 30 to 50 years from now we should accent the service sector.

Incidentally, in the United States, the service sector is already the predominant sector. More than 40 percent of the labor force is in services. It is no longer in manufacturing, and that is increasingly the case in Japan.

And so, this is the reason we have been very careful not to build into our Constitution some very legitimate short-term and medium-term concerns of this coalition. These phrases, "short-term," "medium-term" "long-term," were used by Commissioner Rosario Braid yesterday. And I must respectfully disagree with Commissioner Rosario Braid that we cannot incorporate into a constitution short-term, medium-term and long-term. Otherwise, we will not know where to stop.

The phrase "industrial policy" which was used by a number of interpellators yesterday is also fraught with dangers. Let me cite the following:

Item 1. Stalin was obsessed with an industrial policy to industrialize at any cost. In the name of state militarism, he actually had millions of small Russian farmers called kulaks liquidated because they refused to cooperate with his "industrial policy."

Item No. 2. Mao Tse Tung had his great leap forward, again following an industrial policy to get China to industrialize at any cost. That violated human rights galore because the Chinese were forced to go through years and years of starvation since their leader, Mao Tse Tung, and the other members of the Communist Party were so obsessed with the great leap forward.

It is very dangerous to talk about forcing through a certain policy as regards which sector to favor at any given time.

Commissioner Bennagen yesterday used the phrase "non-market forces" when he was referring to crony capitalism. When we start constitutionalizing which sectors to encourage, we are completely forgetting that what should determine which sector should be given attention to at any given time is the market, not some high-and-mighty planning agency, or a state corporation that will say we have to do this and we have to do that.

That is the detailed background about why there was hesitation to start mentioning sectors. That is why we agreed, and that was the work of a team led by Commissioner Suarez, to have that omnibus provision which states that all economic sectors shall be given optimum opportunity to develop. We thought that was a better phrase rather than singling out a specific sector. But as I said yesterday, as long as we can avoid the risk of forcing

through industrialization, at an opportune time, I am willing — and I am sure the members of the Committee would be willing — to entertain an amendment that could mention industrialization but always in tandem with other economic sectors.

Then there is this very open question on the role of foreign investors. Actually, this is in response again to an interpellation, the first one of Commissioner Bennagen's, when he questioned the phrase "undue foreign control." In this world of interdependence, the moment we are interdependent on all the other parts of the world, control is always relative. To a certain extent, we are controlled, whether we like it or not, by those who supply us with petroleum, those who lend us money and those who provide our babies with indispensable milk. That is why in the Committee meetings, it was decided that we should expurgate from the Constitution phrases like "foreign domination," "foreign control" and "neo-colonialism" because they sound self-flagellating. They are very indicative of an inferiority complex, and those were the words used by the Committee members. They were fully discussed, and we decided that we would remove such phrases as "foreign control," "neocolonialism," et cetera because we do not put those negative things in a constitution for then we would sound foolish.

It is very clear that we need foreign investment. There is no question about that and that is the stand of the Committee. It is a supplement to domestic savings. Now, to go beyond that motherhood statement, domestic savings today in the Philippines are in the worst state we ever had in our postwar history. During the last 20 years, we could invest 30 percent of our national income or what is called "GNP." Out of that 30 percent, only 25 percent was raised by Filipinos; the 5 percent had to be borrowed and that is why we went on a borrowing spree. Does the body know what is the state of investment now in the Philippines after the devastation wrought by the last regime? Instead of 30 percent we can invest only 15 to 18 percent, and out of that, most of it has to be literally squeezed from the domestic sources because as we very well know, our international credit standing is very bad. That is why it is very clear that for many years to come we will need foreign capital to supplement domestic savings in order to help the millions and millions of Filipino people who are unemployed, underemployed and those who are below the poverty line. So when we say we need foreign capital, it is not to fatten the pockets of the rich. It is to provide opportunities for the millions of people who are looking for work.

And, finally, let me just explain this. I am sure the body will end up more confused and I am not saying this with a condescending attitude. As I mentioned to Commissioner Romulo in private, the issue of "import liberalization," for the information of those who have not been following economic literature, has been debated over the last 200 years. What is this issue of "import liberalization" and what is the related concept of "protectionism" which Commissioner Brocka found very intriguing?

As I said, when we were just beginning our process of development, the majority or 60 to 80 percent of our people are in agriculture. We are producing merely food products and raw materials. We have very little manufacturing. Now, there is a legitimate argument in favor of protecting fledgling local industries. Suppose we want to start food processing or fish canning, say, sardines. In the beginning, we just start our process of development. Obviously, the Japanese and the Koreans can produce canned fish more efficiently because they already have a lot of tinplates being produced there. They already have tremendous technologies and economies of scale, not to mention the abundant capital that they are able to get at 4 to 5 percent rate of interest. On the other hand, the local fish cannery are going to be at a tremendous disadvantage in the beginning because they have a very small market and they do not have abundant capital. So it is legitimate to protect those industries when they are still "infants." That is why it is called the "infant industry argument." That was exactly what we did in the '50s and the '60s.

There is absolutely nothing wrong in protectionism at the beginning of the efforts of industrialization; but, without boring this body with all the debates that have been going on for decades, in contrast, Taiwan, Korea, Thailand

and Malaysia were able to phase out their infant industry protection after 10 to 15 years. They started to get their industries to open up more and more to outside competition so they could have the psychological pressure to be more efficient.

In contrast, in the Philippines, we lingered too long on this stage of protecting our industries. That is my opinion. There are other economists who are entitled to their contrary opinion. They will say: "But we need to protect industries forever and ever because there are so many changes in the world economy."

"Efficiency" is a relative term. The Americans are protecting their sugar. I listened to them and I assure everyone I have listened to them so many times. But that is exactly the point. The nonspecialists, the lay persons, are going to hear equally convincing arguments to protect local industries or to let local industries compete in the world market. On one hand, to protect local industries, pity all of those people who are going to be unemployed. On the other hand, let these local industries compete in the world market after a given time. Why? It is because there are millions of Filipino consumers of canned sardines, textile products and all types of housing materials. If the Filipino consumers are forever asked to pay prices which are two, three or three-and-a-half times more than what they can get from other countries, who are we protecting? I am not saying that I am dogmatic about one or the other. I am listening to them, and I still continue to listen to them. But these types of debates should better be left to the halls of Congress and not to Commissioners who do not have either the expertise or the time to actually decide, at a given period of our economic history, who is right — the coalition or the government ministers who are in favor of import liberalization.

I am not, in any way, taking sides in this specific presentation. So this is, as I said, a short economic lecture, and I must beg the body's indulgence because I really inflicted this group with a professorial stance. However, that was the request of Commissioner Brocka. Now, we are open for interpellations.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Ople be recognized.

THE VICE-PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Mr. Vice-President.

The most topical of the subjects covered by Commissioner Villegas' brief but sweeping presentation — I congratulate him for condensing several volumes worth of expertise in just a few minutes — is all about import liberalization. This is, of course, part of the structural adjustment prescription of the International Monetary Fund and the World Bank, is it not?

MR. VILLEGAS: It does not have to be part, in fact; it can be done completely independent of what the World Bank and the IMF people tell us.

MR. OPLE: Yes, but the IMF's coercive power helps not so long the political will of governments otherwise incapable of, let us say, choosing a painful step of import liberalization.

MR. VILLEGAS: I must say this: Get some help. But let me just say that, as early as 1964 to 1965, more than 20 years ago, Gerry Sicat, who was then a professor of the UP School of Economics, and John Power, too, wrote voluminous tracts and essays saying we have to liberalize imports. We have to get the economy on an export-oriented track. That was the opinion of a group of UP people.

MR. OPLE: Even among the objectors — Commissioner Villegas will have to agree — let us say, our friends in the Philippine Chamber of Commerce and Industry, and some of their affiliated trade or manufacturing associations, there is agreement in principle that import liberalization must be allowed in order to expose our industries to more

competition and, perhaps, even competition among themselves. That is how they develop the muscle to stay competitive, meaning the ability to produce better goods at lower costs. But do we have to choose this greatest slump in our economic history in order to execute an import liberalization policy when, as a matter of fact, we have about 50 percent over-capacity in our existing industrial plants? Do we have to choose that most notorious slump in our economic history when so many thousands have lost their jobs? Can we not take charge of a phasing process and postpone this to better times? I refer to the decision to liberalize imports.

MR. VILLEGAS: In fact, I have made my economic opinion publicly known. I am in favor of a two-year postponement, and for us to study industry by industry to find out why they are still "noncompetitive." If after two years we prove that they are noncompetitive, not because of incompetence or inefficiency due to high rates of electricity and inefficient telecommunication facilities, then I am willing for an indefinite postponement. That is my view. But as I said, my view will be opposed by others, and the best place to debate on this is in economic policy-making.

MR. MONSOD: As a matter of fact, the framework of our economic program that has been approved by the Cabinet does provide for a two-year period within which liberalization can be looked into. But let me just point to several other facts. One must take a look at the so-called unutilized capacity of 50 percent. If we are referring, for example, to the unutilized capacity in the automotive industry, it is better that this is not revived because it is never going to be competitive in this country. Television manufacturing and picture tube manufacturing are likewise not in competitive scale. During the years of martial law, we made the mistake of enacting an investments program based on what they called measured capacity which was fitted to the local market. So, the scale at which these industries were approved was only fitted to the local market.

Just one example is the case of picture tubes. The largest capacity in this country is 700,000 tubes; actually, the average is 350,000. The economic scale is three million picture tubes a year. No matter what we do, despite efforts to revive it, the industry is not going to be competitive unless we bring in new equipment and modernize the bottleneck in the industry. But another aspect to consider is this: perhaps, people should look into these companies which ask for protection. I was fortunate to have been a member of the private sector task force in the past two months, and I would like to say that many of these companies — in fact, all of the companies we questioned as to whether they were unprofitable during the last three years — did not provide their financial statements. We found out, for example, that the SPPP Production which produces phosphate used for detergents had its most profitable year in history in 1984, and that it was operating at a 93-percent capacity. The SPPP charged that they cannot compete with the dumping prices here, which were provided by the foreign affiliate of the 40-percent foreign owner of that company.

If we take a look at the tire industry, it is the same thing. It is profitable and has never lost money. The glass industry has been under protection for 20 years and has been asking for another 10 years of protection because they did not invest in economic and efficient facilities over the past two years. They bragged they could have invested, but somehow the money disappeared. Now they want protection because they again want to have profits and savings out of the consumers money in order to put up this new facility that will enable them to be competitive. This company is owned by a crony.

We can go on and on on this question of protectionism and nationalism, but I would like to make one last point. Mention was made that this plan is dictated by the World Bank and the IMF. That is not true. The plan was formulated by Filipinos. As a matter of fact, it is a complete framework to which IMF objects because part of that framework is selective repudiation of foreign debt.

Thank you.

MR. OPLE: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I think there should be a good number of such cases where companies continue to invoke protection and probably lie to the government. A good number of these are multinationals. But I think that is for the government to deal with, especially when they tell lies to government agencies. But I think what I would like to be able to foresee is precisely that awkward transition. When we have so much overcapacity in our industry, so many thousands are being laid off and then we get hit with import liberalization. But I also agree that within the framework of import liberalization, certain cautionary steps can be taken so that there is intelligent damage control for those industries already existing.

But I want to project the future. Commissioner Villegas said that we ought not to be discussing economic policy in the Constitutional Commission and should probably leave this to the future Congress. But is not the setting of strategic visions for the country, including in the economic policy field, part of the business of writing a constitution?

MR. VILLEGAS: The strategic objectives, like products and services, should be for Filipinos. We should not have undue foreign control, of course. But how to do it, whether or not to permit foreigners to go into textile or into car manufacturing or into natural resources, are the issues that would clutter a constitution. Definitely, there are strategic directives, like it being national, independent and self-reliant. Obviously they would be motherhood statements but is not the Constitution a listing of motherhood statements?

MR. OPLE: Yes, umbrella statements which do not have to be motherhood statements or virginity statements.

MR. VILLEGAS: Yes, that is right.

MR. OPLE: And within that context, would it not be superfluous in this draft Constitution to lay out a kind of strategic vision for industrialization? After all the world consists of the rich industrialized countries and the poor nonindustrialized countries.

MR. VILLEGAS: No. In fact, I encourage any amendment that would incorporate that word. I just reserve the right to make sure that it does not lead to some of those horror stories that I enumerated.

MR. OPLE: Mr. Vice-President, we are not in the period of amendments, but in order to test the intent of the Committee in connection with Commissioner Villegas' very illuminating presentation, would the Committee, of which I am a member, entertain a new section, at the proper time, that will read something like this: THE STATE SHALL ESTABLISH POLICIES THAT PROMOTE NATIONAL INDUSTRIALIZATION BASED ON A SOUND FOUNDATION OF AGRICULTURAL DEVELOPMENT AND AGRARIAN REFORM CONSISTING OF INDUSTRIES THAT OPTIMIZE THE USE OF INDIGENOUS RESOURCES AND ARE FULLY COMPETITIVE AND THE STATE MAY AID BASIC INDUSTRIES BUT THEY SHALL STAND ON THEIR OWN ECONOMIC PERFORMANCE. Would a commitment to industrialization of this tenor which I consider very constructive and responsible and set in parameters that take account the major thrust of the Committee's proposals be acceptable?

MR. VILLEGAS: Yes.

MR. OPLE: Does Commissioner Villegas think this can find a place at the proper time?

MR. VILLEGAS: Yes. My tentative reaction is that the tenor of the proposal is acceptable. My immediate reaction is to clarify what the Gentleman means by "national industrialization," because we know very well that some people use "national" to mean "nationalized."

MR. OPLE: "National industrialization" here is used in the generic sense.

MR. VILLEGAS: Is it Filipino-oriented?

MR. OPLE: Yes. It is national industrialization in the sense that when we do attain industrialization, it will be seen that we did not discriminate against any part of the country, whether in terms of locating physical plants or in providing jobs or benefits or distributing the benefits flowing out of it. It is in that sense that "national" is used here.

MR. VILLEGAS: I said the proposal looks acceptable. We just have to make sure that each word is well explained.

MR. OPLE: I am glad that the Committee agrees that we should set forth some strategic visions for the future in terms of our economic aspirations as a nation. These are not attempts to make laws but to set visions. I understand from the Floor Leader that there will be a caucus.

MR. RAMA: Yes, Mr. Vice-President.

MR. OPLE: If that is correct, I thank him for nagging me about a caucus, so that I can leave the other matters I had hoped to present to the Committee in that forum.

Thank you, Mr. Vice-President.

MR. VILLEGAS: Thank you.

We already have a copy of the Gentleman's series of amendments and this will be definitely studied by the Committee.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Commissioner Garcia has reserved his right to speak before we go into a caucus. I ask that Commissioner Garcia be recognized.

THE VICE-PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you, Mr. Vice-President.

First of all, I feel it is unfortunate that there has been a hardening of positions this morning. If there is really a difference of ideas, I submit that we must try to identify these differences and try to work together so that we can hammer out what could be the consensus of this body regarding our plans for economic recovery. In fact it was my proposal yesterday that we come together in a caucus so we can discuss these differences and find out where we stand on very vital issues.

The members of the Committee requested me to formulate a very brief statement as to an alternative vision. This is what I have done, and during the caucus I hope to give each member a copy. It is only two pages. I wish to put it on record that this alternative vision takes into account the actual conditions of the country and grapples with the reality so as to forge ahead. It is not a perfect answer; it is definitely imperfect but it is an attempt.

Therefore, I object to some of the statements of Commissioner Villegas who has-used labels during the discussions this morning. It is unfortunate because if we approach it in that way, it probably closes our mind to some of the ideas that we can listen to. And so, I will read the piece that I have been asked to draft.

It is a framework of an economic alternative. There are no ready-made models of ideal societies. The task of

forging alternatives for our nation and our people falls on the shoulders of all Filipinos who search for justice, freedom and dignity. In this effort, we propose here, for the purposes of discussion, our vision of an alternative future, describing particularly the outlines of its economic structure. The alternative society we want must have an economy which embodies the following three central objectives:

1. Self-reliant development of the nation's productive forces geared to satisfy the needs of our people;
2. Filipino control of the economy; and
3. Economic democracy towards social equity.

I will very briefly explain each point.

1. Self-reliant development of productive forces — Two processes are crucial in the building of a genuinely self-reliant national economy: agrarian reform and development on the one hand, which we worked at in the Article on Social Justice, and nationalist industrialization on the other. The former provides for the freeing of productive forces locked up in antiquated patterns of feudal land ownership and, as explained earlier on the floor, sets the stage for the more rational, efficient and equitable exploitation of the nation's agricultural resources. In this process, the State extends necessary technical, financial and other support services to farmers; promotes the shift from emphasis on production for exports to the primacy of production for local basic needs; and provides for greater linkage between the agricultural and industrial sectors, encouraging, among others, the local processing of agricultural products.

Nationalist industrialization builds on the surplus generated in the agricultural sector, provides inputs to further enhance agricultural production and absorbs the work force released from the latter. The process involves the promotion of an indigenous, scientific, technological and entrepreneurial base that will harness the full productive capacities of our people and be capable of producing basic goods and services for the majority of our population. By this, the following are implied: greater reliance on local resources as inputs for our production needs; measures to protect our industries from undue competition from foreign enterprises and imported products; a de-emphasis on export-oriented production towards prior production for local consumption needs; and, finally, the promotion of backward linkages in our industrial sector, meaning, the establishment of capital goods industries that will further enhance our productive capacities.

2. Filipino control of our economy — The principle of economic sovereignty must underlie all efforts towards self-reliance and the full development of our nation's productive forces. This means, first of all, that the entry of foreign capital, technology and business enterprises into the national economy shall be effectively regulated to insure the protection of the interest of our people.

Secondly, it means resistance to dictation imposed by the International Monetary Fund and the World Bank with regard to the conditions of the repayment of our external debt in order to insure that the terms are not contrary to our development objectives.

I think the phrase "selective repudiation" has been mentioned by Commissioner Monsod.

Thirdly, it involves the nationalization of specific vital industries and the reservation to Filipino capital of certain privileged areas of investment.

3. Economic democracy towards social equity. — Economic democracy means the democratization of the ownership of the means and processes of production; popular participation in the control and management of their use and the equitable distribution of their fruits and increments. Inasmuch as economic sovereignty insures that Filipino interests are served, economic democracy guarantees that the interest of all Filipinos, beginning with the

underprivileged and disadvantaged, is protected. Economic democracy means the promotion of different and preferably more egalitarian and democratic forms of economic organizations and property ownership from corporate and private to state, mixed, cooperative and social enterprise — what we discussed yesterday — as a mixed economy.

It also means the direct involvement of all sectors of society in the formulation and implementation of national development programs initiated by the central government. Thus, the importance also of central planning. I realize that these are imperfect ideas; in fact, I believe that all of us will be writing, no matter how hard we try, an imperfect Constitution. I also realize that we have differences of ideas, but in this very critical manner, this will affect, as you said, generations to come and that is why it is important for us to really thresh out and understand where we differ and where we agree. Hopefully, we will respect the differences and rejoice in the points of convergence. And this is what I hope we can accomplish during the caucus. This is a modest contribution; I know there are others who may have other ideas and we should welcome this.

I would like to thank the Chair for being very kind in providing me these few minutes.

MR. VILLEGAS: Thank you very much.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Mr. Vice-President, a member of the Committee would like to make a response. I ask that Commissioner Bennagen be recognized.

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Mr. Vice-President.

I am a member of the Committee but I would like to say a few words in relation to what may be a change in the committee report arising from the approval of the Article on Social Justice and the submission of a report on the Declaration of Principles.

In the deliberations of the Committee, there was originally the idea of describing the economy as mixed in the way that we mentioned yesterday, and in order to recognize the complementarity of efforts of the private sector — individuals, cause-oriented groups, civic organizations and other private organizations and not necessarily individual big businessmen. However, in the Article on Social Justice as well as in the Article on Declaration of Principles and State Policies heavy demands would be made on the State. If we do not underscore the reciprocal relationship of the State and the private sector we may not be able to provide the adequate and appropriate mechanism for the expected response to the social justice provisions, as well as those in the Declaration of Principles.

At this point, I must say that I am impressed by the brief discourse of the Committee Chairman, although I must hasten to add that for all its brevity, it caricatures the contours of the economic systems that are in existence worldwide. That is expected from such a brief discourse but it glosses over the adaptations that have been made by various economies, especially those that have chosen a more autonomous path of development, not necessarily according to the classical models of capitalism or socialism.

My view is to be more historically specific, as enunciated partly by Commissioner Garcia, that we must be able to examine the historical conditions that have brought us to where we are now and make the necessary adjustments. We must be able to examine carefully the changing character of the social structure and the appropriate partnership between the private sector and the State or government. I do not think that privatization, in the way

that it has been described as if it were a matter of "either or," will be sufficient to respond to the provisions in the various articles that I have already mentioned. I am saying, therefore, that there is a need to revise in massive terms many of the provisions so that some internal consistency will be arrived at, and I hope to be able to make some contribution in the caucus towards the attainment of this kind of internal consistency that is demanded by the seeming contradictory articles that have so far been submitted.

Thank you, Mr. Vice-President.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Quesada be recognized for the clarifying question.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Mr. Vice-President and members of the Committee: First of all, I would like to preface my submission by saying that when I do express my opinions, it is an expression not only mine but of the people who would like to speak through us. I have always maintained that the dialogue with the people is a continuing process; that it is not only after we have gone through a series of public hearings that we close the doors to a continuing kind of representation. So, when I bring forth some opinions, it is not only mine but that of the people who would like their voices also heard through this humble Representation. When I said this, it was with the apprehension that the Constitution we are making, particularly on this provision on national economy, might not truly be reflective of the aspirations, the needs and the interests of these particular sectors who will be affected by what we finally write. That is why when we finally amend and approve these provisions, we hope that we shall have really given the full realm of discussions, not only among ourselves but among the people who want to be heard. I made that earlier presentation of the people's position not to disparage the points of view or the perspectives of the members of the Committee who felt slighted because I said something about the people who had this pro-Filipino protection and pro-national industrialization set forth in a different kind of tone. But it was not mine personally; I was only expressing a point of view that was relayed to us during a breakfast forum where we just came from, and that is why I was speaking with the kind of sentiment they wanted the body to hear. That is why I moved for that kind of opportunity for tomorrow because I did not want this discussion to end up just today without the benefit of a public representation. But, anyway, what they would like to ask is: How does this Article on National Economy and Patrimony really assure the protection of the Filipino interest? They said that we have publicly assured them that the Constitution is going to be pro-people, pro-God and pro-Filipino. And they felt that it is in this Article where we can truly express this pro-Filipino interest.

So, I would like now the Committee to tell me in layman's terms how I can tell a worker, a peasant, a small businessman or even the big Filipino businessmen how this particular Article will protect their interest, without having to refer to Sections 13, 14, 15 or all the sections. What are these fundamental principles that are carried here that will assure them that we have the interest of the Filipinos first and foremost when we shall be approving this particular Article? I would want to relay this again in order to relieve their apprehension that it might not be for their interest. I think that is the kind of assurance we must give them because they are going to be the ones who will ratify or reject this particular Constitution and it might be this particular Article which they feel will not be serving their interest. That is how I would like to be assured in a few non-technocratic economic terms.

MR. VILLEGAS: Mr. Vice-President, first of all, against whom do we protect the interest of the Filipino people? That is the first question. And who may abuse the interest of the Filipino people? It could be certain individuals who may misuse natural resources and may expropriate natural resources for their own selfish use. So what is the

provision that will protect that? It is the provision on the adherence to the regalian doctrine — the idea that the State is there to protect the interest of Filipinos, and is the one that owns all the natural resources and will have a lot of controls in the way those natural resources are going to be used and exploited. As suggested by Commissioner Bennagen, the cultural minorities, in one specific provision here, will be able to hold ancestral lands and have priorities to specific use of the lands. So that would be one interest that can be protected. Second, the people should be protected against the selfish foreigners who may come here to exploit in contrast with the other foreigners who are not selfish and who may be here to help out against those who are exploitative. There are provisions that will limit their control of Filipino enterprises, depending on what the whole Commission will finally decide.

What about protection in general? We are assuring the fullest liberty for every single Filipino to undertake economic enterprises that would lead to their livelihood, so there will be no interference from the State as regards their putting up small and medium-scale enterprises, their going into small farms and their getting together as cooperatives in order to help one another. These are probably the best guarantees for the full flowering of liberty in the economic field without the oppressive "Big Brother" trying to dictate what economic activities we should enter into.

MS. QUESADA: Thank you.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Mr. Vice-President, the last interpellator is Commissioner Tadeo. I ask that he be recognized.

THE VICE-PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Mr. Vice-President, gusto ko lang pong ipaalam ang aking posisyon bilang Vice-Chairman ng Committee on the National Economy and Patrimony. Totoong napakaselan para sa isang magbubukid na ang mga kasama niya'y hindi lamang economist kung hindi lawyer-economist pa. Kaya makikita ninyo iyong kahirapan sa deliberation pa lamang. Sa simula pa lamang ng deliberation ay ipinasok ko na ang "national industrialization" at iyan ay alam ng bumubuo ng Committee. Dito sa Article on Social Justice, ipinasok ko rin ang "national industrialization." Ibig kong ang aking magiging posisyon ay nababatay mismo sa national situationer na tinalakay ng anak ng kagalanggalang nating Vice-President, si Alexander Padilla. Ito ay natutunan ko kay Alex nang talakayin niya sa isang symposium ng promotion ng Church People's Rights and Response ang kanyang posisyon tungkol dito sa ating national economy and patrimony. Sinabi ni Mr. Padilla na sa Article on National Economy and Patrimony na Filipino ang dapat na maging sole determinant o ang kauna-unahang principle, ngunit sa paggamit ng "private," kasama riyan ang foreigners. Nakatatatag ang pagbanggit ng "private," maaaring gamitin ang "private," ngunit dapat sabihing "private Filipino entrepreneurs," para maialis natin ang ating national economy and patrimony sa kamay ng mga dayuhan. Dalawa ang kanyang sinabi: sole determinant ay Filipino. Pangalawa, pinakamahalaga raw na ang principal beneficiaries ay ang Filipino.

Sa kamay ng Con-Com nakalagay ngayon ang kapakanan ng 55 milyong mamamayang Pilipino. Ano ang sinabi niya? Sang-ayon sa record ng Central Bank noong 1972 hanggang 1981, ang kabuuan ng ating imports ay \$44 billion; ang kabuuan ng ating exports ay \$33 billion — lugi tayo ng \$11 billion sa isang tinatawag nating kolonyal na kalakalan, na tayo'y bilang tagapagluwas lamang ng hilaw na sangkap at tagabili ng kanilang mga yaring produkto. Sang-ayon sa record ng 1983, \$7.48 billion ang kabuuan ng imports. Ang kabuuang exports ay \$5 billion, — lugi tayo ng \$2.48 billion, bunga ng kolonyal na kalakalang tagapagluwas lamang tayo ng hilaw na sangkap at tagabili ng mga yaring produkto nila. Sa ganitong kalagayan makikita natin ang pangangailangan sa national industrialization, ngunit ibig ko lamang sagutin ang Chairman ng Committee on the National Economy and Patrimony nang sinabi niyang, "We need foreign investments." Lubos akong nasasaktan sapagkat narito ang

kasalukuyang kalagayan. Sa bawat dolyar na ipinapasok ng dayuhan sa Pilipinas sang-ayon kay Alexander Padilla, \$25 ang kanilang hinihiram sa atin. Ano ang sabi ni IBON? Sa bawat P25 na pinamuhunan ng mga dayuhang ito, P100 naman ang inuutang sa atin. They decapitalize our economy.

Tungkol naman sa repatriation, ano ang sinasabi ni Alexander Padilla, ng CEPO at ng Bantigue Study? Sa bawat dolyar na ipinapasok nila, ang inilalabas nila ay \$3.95. Sang-ayon sa Central Bank, sa bawat ipinapasok na dolyar ng mga dayuhan dito, ang inilalabas nila ay \$3.58. Sang-ayon kay Hilarion Henares, sa isang dolyar na ipinapasok nila, \$5.66 ang inilalabas. They decapitalize our economy, pagkatapos sasabihin nila na maliwanag ang record ng U.S. Bank of America. Wala silang ipinasok na kapital sa Pilipinas. Ang nag-invest diyan, ang nagdeposito riyan ay mga Pilipino. Seventy-five to 85 percent ang pinauutang ng Bank of America sa mga dayuhan, pero kapital na Pilipino.

Ilan lamang iyan sa mga halimbawa para makita ninyong hindi natin kailangan ang kapital nila. At sinasabi ng aking kasama at kaibigang Chairman ng Committee on the National Economy and Patrimony na kailangan ang foreign investment dahil indispensable daw ang gatas. Alam ba ng kasamang Chairman na ang ating niyog mula sa 44 to 45 U.S. cents per pound ay bumagsak ng 17 percent? Kayat bagsak na ang coconut industry. At alam ba natin na sa kanayunan, 78 percent ay malnourished — ang ibig sabihin ng "malnourished," may poverty; ang ibig sabihin ng "malnourished," kamatayan. Sabi nga ni Doctor Edelino de la Paz, sa bawat sampung batang isinisilang, walo ang namamatay bunga ng malnutrition. At 90 percent ng ating gatas ay inaangkat natin sa labas ng bansa, bagamat ang ating coconut ay napakayaman sa protina — 20 to 21 percent, kamukha ng gatas na inaangkat natin sa labas ng bansa. Ngunit hindi natin dinedevelop ito; iniaasa nating maging hilaw na sangkap.

Ang metal na binibili ng Hapon sa atin na P10 isang kilo, kapag ibinalik sa atin, transistor at telebisyon na. Kailangan ko pa bang banggitin sa inyong economists ang backward integration at ang forward integration? Napakasakit ang ginagawa sa atin. Noong dati ay nagpapalahi tayo ng manok sa Nueva Ecija; pangunahin ang Nueva Ecija sa mga mag-iitlog sa buong Pilipinas. Pero nang sabihin ng mga technocrats nating higit pang mabuti kung umangat tayo ng mga breeding stocks, 100 percent perpetually dependent ang Pilipinas sa manok, sa baboy at sa baka — hindi na tayo nagpapalahi sa Pilipinas. Ano ang sinasabi ng ating Director ng Animal Science sa UP Los Banos? Kapag inangat natin ang breeding stock, aangat rin natin ang technology kung paano sila palalakihin. Kaya 85 percent ng ating itlog ay inaangkat sa labas ng bansa. Ito ang isang kalagayang sinasabi ng anak ng kagalanggalang nating Vice-President Ambrosio Padilla.

Sinasabi namin na ang pag-unlad ay mayroong tatlong kailangan: genuine agrarian reform, national industrialization at isang nasyonalistang democratic government. Hindi yung gobyerno noong nakaraan. Tinawag ito ng ating kagalanggalang na anak ng ating Vice-President na democratic coalition government; hindi iyong pamahalaang hindi mapagkalinga sa mga dukha. Iyon ang ibig naming sabihing perspective ng state capitalism — na ang istrategikong mga industriya ay hahawakan ng pamahalaan at ang hahawakan lamang ng mga pribado'y iyong mga industriyang hindi makakaapekto sa interes o public welfare ng sambayanang Pilipino; hindi iyong pamahalaang kamukha noong nakaraan. Ang sinasabi namin ay isang nasyonalistang democratic government na hahawak ng mga istrategikong nahawakan ng estado — hindi tumataas ang bilihan, hindi tumataas ang koryente, hindi tumataas ang pamasaha, walang tumataas sa loob ng 30 to 50 years. Ayaw namin ang economic concentration of power sa kamay ng ilan lamang: Kaya ang gusto namin, kinakailangan nating mag-brainstorm at katayin natin ang Article on the National Economy and Patrimony sapagkat dito mismo nakaatang ang buhay ng nagugutom na sambayanan. Seventy-three percent of rural households have incomes below the poverty line.

Nasa atin ang kayamanan: nakaupo tayo sa bundok na ginto, pinakamayaman ang Pilipinas sa buong Asya at sa buong mundo, subalit ginawa lang tayong kasangkapan ng mga dayuhan. Babasahin ko sa inyo ang kahulugan ng economic underdevelopment:

Economic underdevelopment is a people's state of incapacity to produce their means of production — the machines, the tools that will enable them to produce goods and to render services. The tools that produce needle and scissors; the machines that produce engines; the mills that produce textiles; the equipment that produce typewriters and xerox machines.

Ano ang sinasabi ni Senator Diokno? Ninety-five percent ng ating essential commodities ay inaangkat natin sa labas ng bansa. Ni hindi tayo makagagawa ng pako, ng palito, ni anumang bagay na hindi natin aangkatin ang makina sa labas ng bansa. What essentially distinguishes a developed nation from an underdeveloped nation is that the former manufactures the means of production while the latter does not. And because the latter does not, its capacity to generate wealth as well as employment is severely constricted.

THE VICE-PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I made a reservation yesterday, Mr. Vice-President, to make further statements or to ask questions because I expected to be given certain papers which I think are relevant to the discussion of the Article on National Economy and Patrimony. But the information that I received is just a set of preliminary findings. This has to do with the economic and technical assistance program between the United States and the Philippine government. I think this is the so-called Quirino-Foster Agreement or Memorandum of Agreement, which I was told has been the basis of U.S. Government assistance to the Philippines.

I said that this is just preliminary information. On the basis of the available information that I have, this agreement is one-sided in so many provisions in favor of the United States, particularly the United States Agency for International Development. Many provisions are said to be onerous to the point of being exploitative. But in connection with this, I would like to go deeper into this but at the moment, I would like to find out if the Committee is amenable to accepting some kind of an amendment that will authorize or direct the government to review existing multilateral or bilateral economic and technical agreements and programs with foreign governments with a view to doing away with those which imposed onerous conditions on the Philippine Government supposedly to obtain foreign assistance and also to retain others which actually redound to the benefit of the country. Would such an amendment fit into the Article on National Economy and Patrimony?

MR. VILLEGAS: The President, through the NEDA, has the responsibility of safeguarding the economic interests of the nation. If the Gentleman thinks that he would like to expand that specific reference to the NEDA and its role, including this type of "watchdog task," I think we will entertain a specific amendment.

MR. FOZ: I have drafted a proposed amendment which I would like to take up with the Committee at the proper time.

Thank you.

SUSPENSION OF SESSION

MR. RAMA: Mr. Vice-President, I move that we suspend the session so we can go into a caucus until two-thirty this afternoon.

THE VICE-PRESIDENT: The session is suspended.

It was 11:57 a.m.

RESUMPTION OF SESSION

At 2:48 p.m., the session was resumed.

THE VICE-PRESIDENT: The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Mr. Vice-President, I call on the Chairman of the Committee on the National Economy and Patrimony and the members to be seated at the front for further interpellation.

THE VICE-PRESIDENT: Commissioner Villegas and the members of the Committee are requested for the continuation of interpellations on the Article on National Economy and Patrimony.

Mr. Floor Leader, is there any registered interpellator?

MR. RAMA: Mr. Vice-President, there are no more registered interpellators, but I would like to ask the Commissioners if they would like to interpellate because that was the request of those who had a different view from that of the Committee.

I ask that Commissioner Gascon be recognized to interpellate.

THE VICE-PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Thank you, Mr. Vice-President.

I am a member of the Committee and I asked some questions for clarification yesterday, but I would like to ask some more comments from the Chairman of the Committee and the members with regard to some points.

For example, with regard to a vision for the economic development of our country, Commissioner Garcia presented three major points, and maybe we could use these as a basis for further discussion. The Commissioner stated that the economy must embody the following three central objectives: First, a self-reliant development of the nation's productive forces geared to satisfy the needs of our people; second, Filipino control of the economy; and third, economic democracy towards social equity. The first statement is very clear — a self-reliant development of the nation's productive forces geared to satisfy the needs of our people. This is elucidated in the first section. What I would like to concentrate on is the second point — Filipino control of the economy. What specific provisions would assure for such, if this is embodied in the proposed Article?

MR. VILLEGAS: All the provisions that limit the participation of foreigners, for example, to 40 percent in natural resources, according to the present committee report, to only one-third in public utilities, and in other areas where the Congress can decide to limit the ownership to 100 percent Filipino — there is that provision in one of the sections which give Congress the power to decide on investment areas. If the Gentleman will recall, we even removed the word "traditional" in order to give greater leeway to Congress to decide on the areas to be Filipinized. Then definitely on land use, Filipinos have priority and foreigners have tremendous limitations in the way they can take advantage of agricultural lands.

MR. ROMULO: Mr. Vice-President, if I may also add. There are also present laws that further regulate foreign ownership. The Board of Investments, for example, regulates any investment beyond 30 percent for a foreigner; foreigners cannot come in beyond 30 percent without the explicit permission and approval of the Board of Investments; retail trade is reserved by law to 100-percent Filipino; finance companies must observe the 70-30 setup, and so on. We really have so many laws requiring the majority control to be in the hands of Filipinos, quite apart from what we have stated in the Constitution. The Investment Code has further regulations with regard to

majority Filipino equity. It is relaxed only in the case of pioneer and preferred, in those cases, the foreigner starts to disinvest after the eleventh year until he becomes the minority. All of these must be taken into account.

MR. GASCON: With regard to Section 9, I asked some questions on it yesterday, but I would like to be further clarified. Section 9 reads:

The Congress shall reserve to citizens of the Philippines or to corporations or associations at least sixty percent of whose voting stock or controlling interest is owned by such citizens or such higher percentage as Congress may prescribe, certain areas of investments when the national interest so dictates.

Are there areas of investment significant to our development efforts that only foreigners can provide?

MR. VILLEGAS: Does the Gentleman mean "provide" in terms of capital or technology?

MR. GASCON: As far as investment is concerned in developing certain priority areas for our economic development, are there areas where there is much need for foreign investments?

MR. VILLEGAS: During the public hearings, we heard people from the mining and oil exploration industries, who presented a very strong case, that foreign investment is actually indispensable because there is no risk capital available in the Philippines. If the Gentleman will remember, the figure cited over the last ten years is that P800 million literally went down the drain in oil exploration and up to now, no oil has been found, and all that money was foreign money. These people asked a rhetorical question: Can you imagine if that money belonged to Filipinos?

MR. GASCON: I would like to read a commentary and elicit some reaction.

Both India and Brazil restrict foreign investment in computer hardware. India also restricts foreign investment in nuclear technology, motorcycle manufacture and steel production, among others. The results have been encouraging. Their products may not be as superior in quality as what the Europeans and North Americans can produce, but they are not dependent on international market forces to obtain these commodities. Currency devaluations need not affect them as painfully as they do to us, Filipinos, because the Brazilians and Indians produce basic commodities. Moreover, by restricting even the entry of technical personnel, Brazil and India have produced a core of qualified local scientists and technicians, and have thus created the beginnings of a scientific culture in their countries. Thus, in any plan for further industrial expansion, they have the facilities and personnel to train future technicians and need not rely on foreign "experts" who would need to be paid in foreign exchange.

Incidentally a recent American-broadcasting corporation news report argued that South Africa could conveniently resist economic sanctions. Why? Because of uncertainty of foreign support. The South Africans have developed their own coal base, energy industry, food production, and computer industry for the past 15 years. Again, power could have been cheaper had they decided to import petroleum, and food and computers would be cheaper if they just allowed importations of foreign investments. But for them, autonomy was important. Indeed, by being self-reliant, they just might be able to resist foreign pressure.

Compare their case with that of ours. We cannot get our economic recovery program started because we need foreign investments and loans, and import liberalization is imposed on us to obtain standby IMF loans. To think that we do not even practice apartheid. What does the Committee think of this concept of giving certain restrictions on certain areas of the economy so that we can be more self-reliant? Is that a possibility?

MR. VILLEGAS: That is very much within the spirit of Section 9, and that is an issue that will be studied by an investment board and by Congress. That is very much within the possibility of the present Constitution.

MR. GASCON: Are foreign investors the only or major source of finance, technical expertise and managerial

talent?

MR. VILLEGAS: They are a supplementary source.

MR. GASCON: What are other sources for domestic market?

MR. VILLEGAS: Domestic sources, of course.

MR. MONSOD: There are generally considered five sources of investments, domestic savings of investment: domestic savings, foreign debt, foreign investments, multilateral or bilateral grants and government expenditures. These are the five major sources or categories of investment.

MR. GASCON: Is it possible to tap, let us say, Filipino nationals abroad as a major source of financial technical expertise for developing our economy?

MR. VILLEGAS: Definitely. In fact, that is the plan of a number of groups — to launch what they call a Philippine Fund addressed to the more than one million Filipinos in the United States and other foreigners who sympathize with the Philippines.

MR. MONSOD: As a matter of fact, a good point that the Gentleman raised is that if there are only a limited number of sources, then we have to take a look at the totality of our loss.

A large number of Filipinos abroad who have acquired American citizenship, for example, have been making representations that they should be given the opportunity to invest in this country, in the country of their birth, because they are interested in its future. We have received communications from them, if they can be allowed to be given certain rights as to ownership of property.

In our report because it was a Committee decision, the limit, for example, of residential land that they may own is 1,000 square meters. But they are asking if we can increase the limit to give them a chance to invest. They are also asking if their investment can be considered Filipino investments considering that they are former citizens, natural-born citizens who are no longer citizens. These are ways to attract them and we have to balance the needs of the economy with our thinking on these restrictions. We cannot say we do not need investment. But while we want to limit certain forms of investment, we might end up limiting all and shutting ourselves out from investment.

If we look at the enumeration, it seems to me that one of the main areas we should now induce is domestic savings. This is why this whole Article is based on the economic philosophy that private initiative should be encouraged because the other sources are really less desirable sources — foreign debt, foreign investment, grants or doleouts from others, and government expenditures.

THE VICE-PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I just add something? I was informed by two real estate businessmen that the world trade mission was created to invite Filipinos abroad to invest in the Philippines. So, these Filipinos who acquired foreign citizenship but who are still desirous to invest in the Philippines will be another source of funding.

MR. GASCON: With regard to investments, does the Philippines have a clearcut policy on foreign investments? Are there restrictions and rules on it?

There was a comment made by Charles Lindsay and Ernesto Valencia in their article, "Foreign Direct Investment in the Philippines," that our rules on foreign investments are so complicated and full of exceptions that concededly any foreign investment can be justified in our country. Is that the case? If this is so, is it not about time that the Constitution establish clear non-negotiable conditions for foreign investments? If there are none, I would

like to be clarified since I am not a student of economics.

MR. VILLEGAS: As far as I know, there are very specific guidelines about foreign investments promulgated by such agencies as the Board of Investments (BOI). There is even the Foreign Investment Code passed by Congress. The lawyers may be able to say more about the implementation.

MR. GASCON: I would like to be clarified particularly on the conditions to foreign investments, if there are any?

THE VICE-PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: There are, in fact, complaints that the conditions are too rigid and, indeed, too complicated rather than that there are plenty of loopholes. Let us begin with what is called "permissible investments." Beyond 30 percent in this category, you have to go to the Board of Investments for permission to invest. The Board of Investments has to decide whether that particular permissible investment tends to monopolize or is contrary to any of our announced policies or laws, or whether it will enter a field that is already fully exploited by Filipinos. So there are already three safeguards.

For other types of investments, Book I of the Investment Code applies. This is where there is the so-called pioneer and nonpioneer, preferred and nonpreferred investments. The rules are very specific again as to what is classified as pioneer investments. There is an IPP (Investment Priority Plan) issued by NEDA every year which determines what particular industries are considered pioneer and which particular industries are under preferred. There are also incentives given the investor under each category. As I say, if it is a pioneer investment, initially it can be owned 100 percent by a foreigner. But after the eleventh year, the foreign investment starts to divest so that by the twentieth or, at the latest, the twenty-fifth year, he must become a minority — he will own only 40 percent. The same thing happens with regard to preferred investments. The difference between preferred and pioneer investments lies in what the preferred investment gets by way of incentives. That is practically the whole package. In the Export Processing Zone, for example, where 100-percent foreign ownership is allowed, the only activity undertaken is of processing raw or semi-raw materials for export. More or less, those are the total investment packages. I think that when they say one is able to justify any foreign investment under these laws, it is not correct. On the contrary, my own experience is that a great many investment laws are so rigid that, in fact, desirable investments are disallowed.

MR. GASCON: With regard to the EPZA, are there steps being taken towards greater Filipinization since the Gentleman said that at this point in time it is 100-percent foreign-owned?

MR. ROMULO: No, because it is meant to precisely attract foreign processors to come in. Filipinos can also invest in the Export Processing Zone, but it is not meant primarily for Filipinos. The idea is precisely to attract foreign processing firms and, therefore, create jobs for Filipinos.

MR. GASCON: Has such a program, in the past years, been successful or beneficial to the economy?

MR. ROMULO: I think it has not been as successful as expected because it was not properly conceived and implemented. They now run into competition against other foreign processing zones which are far more efficient and attractive. In fact, I would say that many of the firms in EPZA are closing down.

MR. VILLEGAS: Just to present economic statistics in the ASEAN, I think the statement the Gentleman quoted is contradicted by the evidence — that over the last 10 years foreign investments in the Philippines has grown very, very slowly. Actually, over the last three years, foreign investments have been declining in contrast with Malaysia and Indonesia, not to mention Singapore. So the statement that it is easy to invest in the Philippines is contradicted by the facts.

MR. GASCON: Line 22 of Section 3 states:

. . . The Congress may by law allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming in rivers, lakes, bays, and lagoons.

Hypothetically, does this provision suggest that priority in the utilization of natural resources shall be granted to large establishments? Does the phrase "may by law allow small-scale utilization" mean that if it does not allow by law, that priority is given to large establishments?

MR. VILLEGAS: No, I do not think the implication is there.

MR. GASCON: Does the provision suggest that since Congress may allow cooperative fish farming by law, cooperatives in aquaculture are not to be given primary consideration?

MR. VILLEGAS: No, I do not think it means that. This was just an attempt to operationalize the preferential option for the underprivileged, to make special mention of it, because historically natural resources in this country have been exploited by capital-extensive groups.

MR. GASCON: With regard to the basic objectives of equity and efficiency, economic efficiency is defined as the utilization of the minimum necessary amount of resources to attain a desired outcome. Clearly, equity is not antagonistic to this notion. In fact, equity may be a major cause of demoralization among laborers and the poor, resulting in inefficiency. Efforts towards greater equity can, in fact, inspire greater productivity on the part of labor and the poor when they realize that their efforts are being rewarded on a level at par with that of others in society, knowing that the segment of society remains idle and others are in luxury because of the inequitable distribution of wealth and access to opportunities.

Are equity and efficiency necessarily divorced or do they go together, just for purposes of discussion?

MR. VILLEGAS: In fact, they should go together in this first section of our Article. If the Gentleman will notice, the first goal mentioned is equity.

MR. GASCON: In the Gentleman's opinion, what are the steps that we should take towards achieving efficiency in our economy? Would it probably be providing for greater equity?

MR. VILLEGAS: Yes.

MR. GASCON: So, what should be the primary goal in the beginning?

MR. VILLEGAS: In the Article on Social Justice, I think we have a lot of very clear-cut guidelines on how to make small farmers more productive through land reform, for example.

MR. GASCON: I thank the honorable Chairman of the Committee.

MR. MAAMBONG: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I ask that Commissioner Jamir be recognized.

THE VICE-PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Mr. Vice-President, I have a very simple request to the Committee.

May all the others concerned and I be enlightened as to the exact meaning of "mixed economy"?

MR. VILLEGAS: I will attempt an answer, and the other members of the Committee can supplement my answer.

A "mixed economy" is an economy where economic activities are in the hands of private individuals, whether they be single proprietorships, partnerships, corporations, cooperatives, without any prejudice to the possibility of the state also operating economic enterprises that are considered vital for the common good. So, this has to do with the way economic enterprises are owned and operated. A "mixed economy" is one that admits of both possibilities — economic enterprises in the hands of private individuals and economic enterprises in the hands of the state. As to which specific blend is chosen in a very particular period of a nation's history will depend on circumstances. As Commissioner Monsod was saying, government expenditures as a source of investment for establishing economic enterprises are extremely limited right now because as we very well know, as we go through from one social justice provision to another, we need billions and billions to give health services, to even subsidize the expropriations of land, et cetera. After the government tries to implement the Article on Social Justice, the government will be bankrupt. Therefore, we just have to leave the establishment of economic enterprises to private individuals.

MR. MONSOD: May I just add two principles that we thought would be very useful in determining whether government should go into a particular activity or not. The first is that before government goes into activities that are not purely government functions, it should first prove that it can do those activities efficiently which are its appropriate functions. That is the first principle. Until then it should not go into other activities. It must first efficiently perform those that are appropriately government functions — garbage, police, customs, et cetera, before it goes into the production of, say, bicycles.

The second principle is that the government should not go into activities which the private sector can do more efficiently. It may regulate such activities, if these are monopolies; it has the power of regulation and police power, if necessary. But it should not engage in activities that the private sector can perform more efficiently.

MR. BENNAGEN: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I would like to answer the question on what "mixed economy" is in historical perspective. This arises from an understanding of the classical model of the development of economies from an alleged primitive communal type that eventually develops into a slave type, then to a feudal type, then to a capitalist type, and socialist and so on. These are ideal types in the sense that they are pure economic organizations or economic systems. Unfortunately, this is not the case in the real world. It is not the case that all economies undergo this kind of evolution, particularly in the case of Third World countries whose economies have already been distorted by all sorts of historical experiences as well as by the current influences of all sorts of economic models. We are saying, therefore, that the development of economies, in terms of these ideal types, is already foreclosed. This means that we cannot develop as a pure capitalist type, nor can we develop as a pure socialist type for a number of reasons. Even in the present Philippine economic context, we have a full range of economic subsystems from subsistence economies that characterize Negrito societies to a kind of communal organization as in some cases of the Lumad of Mindanao and the Cordilleras of Northern Luzon. These are subsystems within the overall national economic system, in addition to all those economic systems that were discussed earlier both by Commissioner Monsod and Commissioner Villegas.

In other words, in the real world of Philippine economy, there are various ways of harnessing the resources of nature and human groupings to meet the needs of an evolving society. It is important that we examine the precise interrelationships of all these economic subsystems within Philippine society, and the interrelationship of this total national economy with the rest of the world. At present, it would be a mistake to speak of a pure economic system in the Philippine context or in a tribal society or even in the case of advanced capitalism or of socialism. It would

be a mistake to think in terms of pure types. This is why in the early stages of our deliberations in the Committee, we argued that we would like to describe the Philippine economy as a mixed economy. It is not pure capitalism, it is not a pure kind of economic system whatsoever but a mixture of all these various economic subsystems.

Thank you, Mr. Vice-President.

THE VICE-PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, may I ask that Commissioner Rosario Braid be recognized for additional clarificatory questions?

THE VICE-PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Will the Committee members enlighten me on some questions I have raised in a general manner earlier. The first question is whether some of these provisions would allow for evolution towards South-South trade; meaning, the development of mechanisms and procedures by which we could encourage trade between the Third World countries, starting perhaps with ASEAN. This would, of course, permit the development of appropriate technology and some semblance of an appropriate import substitution policy. I am sure that this is one step to a future direction.

MR. VILLEGAS: I think Commissioner Ople has a proposed amendment to which Commissioner Rosario Braid may want to introduce some amendments. In the international field, it should be the responsibility of the State to help industries attain access to technology, markets and finance as may be applicable, and to make common cause with other like-minded states — that is where the South-South trade comes in — in negotiating better terms of trade for developing countries. Foreign investments are also determined to be necessary. So, this could be an appropriate place where the Commissioner's concern for South-South trade or relationships could be introduced.

MS. ROSARIO BRAID. On the matter of technology transfer, since we have very weak provisions on technology transfer, are there ways by which a provision could strengthen existing policies on technology transfer? As we know from available literature, all countries particularly Third World countries, have suffered more from technology transfer agreements. They have become more dependent. As a matter of fact, the costs of technology transfer are tremendous. UNCTAD has made estimates of costs of technology transfer compared with the gains which show that developing countries have not gained much.

MR. VILLEGAS: We will welcome an amendment. At the moment, we do not have a phraseology in mind.

MR. MONSOD: Perhaps we might also add that we would like to see provisions to that effect. The provision has to be harmonized with the sentiments already expressed in this body against foreign investments. You cannot have your cake and eat it, too. We have to balance these different interests and we must also devote a large part of our own domestic resources. In many countries, 2.0 percent or more of the gross national product is appropriated for research. That is a political decision as well as a budget decision — to put money in appropriate technology and not just transfer technology from other countries.

May I go back to another point which the Commissioner raised earlier about like-minded states developing common interests for terms of trade? I think we have to be a little careful not to constitutionalize international cartelization.

MS. ROSARIO BRAID: Lastly, regarding multinationals, we have to live with the reality that they are in our midst. They can accomplish many positive things but, at the same time, we are distressed that there are not enough regulatory measures. We need measures that would ensure that the Filipinos can bargain from a position of strength as evidenced by the problems effected by Dole and Del Monte plantations in the fruit industry.

In Malaysia, Kenya and Indonesia, multinational companies are regarded in a more positive light because they have initiated such schemes as nucleus estates — the Felda and Feltra. Our multinational corporations like Sime Darby or San Miguel and other local corporations could help anchor small landholdings by providing the needed production input in partnership with government.

Can the Commissioner provide some more schemes in the scenario of how we can live with the reality of the presence of multinationals and yet be able to develop survival schemes, develop ways by which partnership can be forged with government, and so forth? In this way we can inform everyone that we have short-term tactics for survival. But we should be working towards the goals of independence and sovereignty. In short, we have to face the reality now, and work out a way by which we could meet the economic problems of the country, yet keeping our primary goal in mind.

MR. VILLEGAS: Yes, I think that can also be inserted in the last phrase of the amendment I referred to coming from Commissioner Ople: "FOREIGN INVESTMENTS DETERMINED TO BE NECESSARY TO THE COUNTRY'S ECONOMIC DEVELOPMENT MAY BE WELCOMED ON EQUITABLE GROUNDS WITHIN THE FRAMEWORK OF A NATIONAL POLICY OF SELF-RELIANCE AND INDEPENDENCE." The Commissioner may also want to introduce some refinements for her concepts to be incorporated.

MS. ROSARIO BRAID: Thank you.

MR. MAAMBONG: Mr. Vice-President.

THE VICE-PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: I ask that Commissioner Quesada be recognized for additional questions.

THE VICE-PRESIDENT: Commissioner Quesada is recognized for additional interpellations.

MS. QUESADA: Mr. Vice-President, I would like to have some clarification on Section 2, starting on line 21 of page 1 to page 2, which states: "subject always, however, to the duty of the State to promote distributive justice and to intervene when the common good so demands."

My understanding of "distributive justice" is justice that would have preferential option for the poor. This is what I understand when we talk about the common good — that the common good would actually be to the most number of people who are deprived and disadvantaged. So, I was wondering why there is a need to add the phrase "to intervene when the common good so demands." Is this not redundant to the term "promoting distributive justice"?

MR. VILLEGAS: There are positive ways of promoting the shift to justice, which has nothing to do with intervening. There are specific cases when intervention is necessary, and I think it precisely strengthens the power of the State to come in and actually prejudice specific sectors to be able to help the poor. If we will just say "promote distributive justice," it is not strong enough.

MS. QUESADA: So, actually, this is related to "distributive justice" and "common good" here does not refer to any other.

MR. VILLEGAS: As the Commissioner said, it refers to the 70 percent of Filipinos who are living below the poverty line.

MS. QUESADA: So, the Gentleman thinks that this has to be strengthened. It has to be explicitly stated that we are intervening for the common good because we would like "distributive justice" to be really implemented.

MR. VILLEGAS: That is right.

MS. QUESADA: Thank you.

MR. MONSOD: May we just add that Section 2 must be read together with Section 1 because Section 1 provides that priority be given to the welfare of the poor. This is a continuous idea in Sections 1 and 2 and in other sections of the Article.

MS. QUESADA: Yes, thank you.

MR. BENNAGEN: For further clarification, Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I think this was also discussed rather briefly yesterday in relation to the first sentence of Section 2. As formulated, it seems to be highly voluntaristic on the part of the private sector to contribute to the common good, which is why we said that at certain points the Constitution mandates the State to intervene when there is need for distributive justice. In other words, it does not leave the private sector alone to do what it wishes even at the expense of distributive justice.

MS. QUESADA: Thank you.

Through a review of the 1973 Constitution, I gather that Section 3 of this Article actually covers Section 8 and Section 9, Article XIV of the 1973 Constitution; is that right?

MR. VILLEGAS: Yes.

MS. QUESADA: In relation to lines 6 and 7 which state: "and other natural resources shall not be alienated," I would like to find out the difference of this particular phrase with that of the statement contained in Section 8 of the 1973 Constitution that all lands of the public domain, waters, minerals, et cetera belong to the State. Being a lay person, I would like to be clear on whether there is any difference between the phrases "belonging to the State" and "shall not be alienated."

MR. VILLEGAS: I am sorry. The Commissioner is still using an obsolete draft. There was a correction. I think the Commissioner is using a draft where the phrase "other natural resources are owned by the State" was omitted.

MS. QUESADA: I see; I am sorry.

MR. VILLEGAS: With the provision of agricultural lands. We are using now the corrected copy, modified for bicameral.

MS. QUESADA: I am probably holding an old copy then.

MR. VILLEGAS: I would like to read it then. Section 3 of the corrected draft states:

All lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests, flora and fauna and other natural resources are owned by the State.

That is the regalian doctrine. To continue: "With the exception of agricultural lands, all other natural resources shall not be alienated." So, one whole line was skipped in the copy of the Commissioner.

MS. QUESADA: Another point of clarification is the phrase "and utilization of natural resources shall be under the full control and supervision of the State." In the 1973 Constitution, this was limited to citizens of the Philippines; but it was removed and substituted by "shall be under the full control and supervision of the State." Was the concept changed so that these particular resources would be limited to citizens of the Philippines? Or would these resources only be under the full control and supervision of the State; meaning, noncitizens would

have access to these natural resources? Is that the understanding?

MR. VILLEGAS: No, Mr. Vice-President, if the Commissioner reads the next sentence, it states:

Such activities may be directly undertaken by the State, or it may enter into co-production, joint venture, production-sharing agreements with Filipino citizens.

So, we are still limiting it only to Filipino citizens.

MS. QUESADA: I am glad to understand that then. On Section 7, may I know why in this particular instance, on line 29, there was a specification on the size of property; that is, not to exceed an area of 1,000 square meters. In the 1973 Constitution, it was stated: "as the Batasang Pambansa may provide." What was the rationale behind "explicitating" this in this particular provision?

MR. VILLEGAS: It was the majority opinion, although there were some people who dissented, that we should even be more restrictive. However, we would welcome any amendment to going back to the 1973 version.

MS. QUESADA: I just want to find out if this is an improvement instead of a retrogression.

MR. VILLEGAS: It depends on the point of view. Some people think it is an improvement; others, a retrogression.

MR. SARMIENTO: May I give my comments?

THE VICE-PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: The Committee is divided in this issue of whether the property should be limited to 1,000 square meters. But lately we have been receiving comments and feedbacks from groups that this should be expanded because there are many Filipinos who want to invest in the Philippines. But I think this matter should be left to legislation for Congress to decide. They are in a better position to find out what should be the exact size or area which Filipinos who lost their citizenship can acquire as property.

MS. QUESADA: Going back to Section 3, the section suggests that:

The exploration, development, and utilization of natural resources . . . may be directly undertaken by the State, or it may enter into co-production, joint venture or production-sharing agreement with . . . corporations or associations at least sixty percent of whose voting stock or controlling interest is owned by such citizens.

Lines 25 to 30, on the other hand, suggest that in the large-scale exploration, development and utilization of natural resources, the President with the concurrence of Congress may enter into agreements with foreign-owned corporations even for technical or financial assistance.

I wonder if this first part of Section 3 contradicts the second part. I am raising this point for fear that foreign investors will use their enormous capital resources to facilitate the actual exploitation or exploration, development and effective disposition of our natural resources to the detriment of Filipino investors. I am not saying that we should not consider borrowing money from foreign sources. What I refer to is that foreign interest should be allowed to participate only to the extent that they lend us money and give us technical assistance with the appropriate government permit. In this way, we can insure the enjoyment of our natural resources by our own people.

MR. VILLEGAS: Actually, the second provision about the President does not permit foreign investors to participate. It is only technical or financial assistance — they do not own anything — but on conditions that have to be determined by law with the concurrence of Congress. So, it is very restrictive.

If the Commissioner will remember, this removes the possibility for service contracts which we said yesterday were avenues used in the previous regime to go around the 60-40 requirement.

MS. QUESADA: Section 10 states, and I quote:

The Congress shall establish an independent central monetary authority, the majority of whose governing board shall come from the private sector, which shall provide policy direction in the areas of money, banking, and credit.

Is my understanding correct that the Committee is leaving it to Congress to define the criteria on who become members?

MR. VILLEGAS: Yes, Mr. Vice-President, as long as it is independent of the executive, that is our constitutional mandate. We want to avoid that situation where the ministers from the executive branch systematically dominate the Monetary Board which actually leads to a lot of excesses in spending.

MS. QUESADA: Is it possible, when the proper time comes, to qualify the private sector to insure that even in this Constitution we are already protecting Filipino interests? Private sector could mean people sitting in this very important governing board of the Monetary Authority but who might not be protecting the interests of the Filipinos. Is that not possible?

MR. VILLEGAS: We will welcome suggestions on how to ensure that Congress will really take into account the interests of all in the private sector.

MS. QUESADA: We would not want to give Congress the ultimate responsibility to define. But should we not, at this point when we have the chance to define just who this private sector is, define it so that we can qualify it to mean that the private sector would refer to those primarily carrying Filipino interests?

MR. VILLEGAS: Does the Commissioner think of an adjective like private Filipino sector?

MS. QUESADA: Yes.

MR. VILLEGAS: There would be no quarrel with that qualification.

MS. QUESADA: Regarding Sections 12 and 13, I take it that these two sections address the mode of participation and control by the State of economic enterprises, particularly vital industries, during periods of external aggression and other national emergencies. In this respect, does the Gentleman not think that it is necessary to define "vital industries" to eliminate any ambiguity in the exercise by the State of this power when the eventuality arises?

MR. VILLEGAS: No, this was fully discussed in the Committee and the decision was that the word "vital" is so dependent on changing circumstances that we would actually be tying the hands of the State if we start enumerating what are vital now. What may be vital tomorrow may not be vital now. So, I think it would also be presumptuous of the Constitutional Commission to actually define what will be vital forever.

MS. QUESADA: On the proposed Section 15, is it the understanding that part of the intent of this particular section precludes the intervention of foreign-vested interest in the actual operation and management of public utilities either as an officer, employee or consultant? Would this not be unduly constitutionalizing dummies?

MR. VILLEGAS: No, in this specific section we are limiting the participation in equity to one-third and there is no mention of any other control that they can have.

MS. QUESADA: So, there is no safeguard at all that those who would get into these corporations or associations

may actually be dummies?

MR. VILLEGAS: I think that will now have to be enforced by Anti-Dummy Law and all sorts of legislation. It is very difficult to see all the loopholes in the Constitution. For the information of the Commissioner, there is an Anti-Dummy Law.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: All the provisions limiting foreign ownership in different enterprises are all subject to the same danger where there are Filipinos who allow themselves to be dummies of foreigners, and it is very difficult to guard against that. But the Anti-Dummy Law should take care of those cases because there are both civil and criminal penalties or sanctions for allowing oneself to be a dummy of foreign interests.

MS. QUESADA: Should there not be some kind of provision here that would penalize Filipinos who act as dummies?

MR. MONSOD: That is already in the Anti-Dummy Law, and we would get into very detailed legislation because there are also different intensities or difficulties or degrees of being a dummy. We would have to go into quite a bit of detail if the Commissioner wants to go into that. Or we can put a general statement that Filipinos who allow themselves to be dummies of foreign interests shall be dealt with by law.

MS. QUESADA: Something like what Commissioner Ople said about dual allegiance being dealt with in accordance with law.

MR. MONSOD: Yes, we would welcome any suggestions the Commissioner may have along those lines in order to reflect the intent of this Commission.

MS. QUESADA: Thank you very much, Mr. Vice-President.

MR. MONSOD: Thank you.

THE VICE-PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, I ask that Commissioner Tingson be recognized.

THE VICE-PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Mr. Vice-President, I have one or two questions to ask of the Committee and Commissioner Ed Garcia. The first question I would like to ask the Committee is that stated in Section 10, about the operation of banks:

The Congress . . . shall have supervisory authority over the operations of banks and exercise such regulatory authority as may be provided by law over the operations of finance companies and other institutions performing similar functions.

I notice that there are quite a number of banking facilities in our country today that are being run by people who do not seem to be Filipinos to me — I do not know whether they are Filipinos. Is this something that the Committee would like to curb to see to it that under our new Constitution such important financial agencies or banks of the country would be controlled completely by Filipino citizens?

MR. VILLEGAS: There are very strict regulations of the Central Bank right now limiting what foreigners can do in the banking sector. Again, that is something legislation has already been addressing systematically.

MR. TINGSON: But is that the sense of the Committee now, to make it more strict?

MR. VILLEGAS: Yes, Mr. Vice-President.

MR. TINGSON: Thank you very much.

I have in my hands a well-written treatise entitled: Framework of an Economic Alternative. Our colleague mentions the alternative society we want — sort of an ideal society — that must have an economy which embodies the following three central objectives:

The first one is a self-reliant development of the nation's productive forces geared to satisfy the needs of our people. I think I do understand that. That is clear.

The second is also self-explanatory — Filipinos should have control of the economy and that is called economic nationalism.

But regarding the third one, may I hear from the proponent what is exactly meant by "economic democracy towards social equity"? It sounds something beyond my comprehension for I am not an economist and I would like to know the meaning of "economic democracy towards social equity."

MR. GARCIA: Mr. Vice-President, may I be permitted to answer?

THE VICE-PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you very much.

This was precisely the debate in our caucus. In fact, when we were discussing the idea of private initiative. . .

MR. TINGSON: I wanted the Gentleman to state it for the record. That is one of the reasons I am asking.

MR. GARCIA: In discussing the issue of private initiative, it is important to distinguish. It is not sufficient to have the wealth of the country in the hands of private initiative as the engine of economic growth. We must stress and emphasize again and again that it is not only for Filipinos but for the majority of Filipinos. In other words, it must be socialized as much as possible; the base must be broadened in terms of participation, management and control. If there can be sectors in our society that want to participate in economic enterprise, that must be recognized. To say "private" is not sufficient. That is why I was advocating to include and recognize the cooperative or social sector to broaden it.

Secondly, on the whole idea of popular participation, the mechanisms of consultation or sectoral representation, for example, in the Monetary Board and in other institutions are necessary to insure that those who decide policies affecting the lives of a great majority also concern those social sectors, not just the limited concept of "private." My difficulty with stressing "private" is that sometimes or very often, our experience historically is that it becomes confined to just a very few. That has been our problem. In fact, accusations or critiques have been made against state- or public-led development. I can also cite many examples where simply relying on private initiatives without stressing or underscoring the whole social character of economic growth leads to so much injustice.

MR. TINGSON: Within the purview of what the Gentleman is saying, would he welcome friendly foreigners to lend us their technical expertise in helping develop our country?

MR. GARCIA: Part 2 of this proposal, Filipino control of the economy, in fact, says that the entry of foreign capital, technology and business enterprises into the national economy shall be effectively regulated to ensure the protection of the interest of our people.

In other words, we welcome them but on our own terms. This is very similar to our position on loans. We welcome loans as long as they are paid on our own terms, on our ability to pay, not on their terms. For example,

the case of Peru is instructive. They decided first to develop and grow, and were willing to pay only 10 percent of their foreign exchange earnings. That, I think, is a very commendable position given the economic situation of a country such as Peru. The Philippines is a similar case, especially when we realize that the foreign debt was made by a government that was bankrupt in its desire to serve the people.

MR. MONSOD: Mr. Vice-President, I think we have to make a distinction that it is not really realistic to say that we will borrow on our own terms. Maybe we can say that we inherited unjust loans, and we would like to repay these on terms that are not prejudicial to our own growth. But the general statement that we should only borrow on our own terms is a bit unrealistic.

MR. GARCIA: Excuse me. The point I am trying to make is that we do not have to borrow. If we have to borrow, it must be on our terms. In other words, banks do not lend out of the goodness of their hearts. Banks lend to make a profit.

MR. TINGSON: Mr. Vice-President, I think the trouble in our country is that we have forgotten the scriptural injunction that the borrower becomes a slave to the lender. That is the trouble with our country; we have borrowed and borrowed but we forget that we become slaves to those who lend us.

MR. MONSOD: Mr. Vice-President, we do not have to borrow. But we have to have domestic savings, or we should be willing to be taxed by the government for government expenditures because there are very few ways by which we can raise funds for investment.

MR. TINGSON: Yes, I appreciate that. I thank Commissioner Garcia very much.

I have only one more question to ask the Committee. On page 5 of the first part of the committee report, the following proposed resolutions can be found: Proposed Resolution No. 412, introduced by Honorable Rosario Braid, entitled: RESOLUTION LIMITING THE PRACTICE IN THE PHILIPPINES OF THE VARIOUS PROFESSIONS TO FILIPINO PROFESSIONALS; and Proposed Resolution No. 432, introduced by Honorable Maambong, Ople, Natividad and de los Reyes, Jr., entitled: RESOLUTION LIMITING THE PRACTICE OF ANY PROFESSION TO FILIPINO CITIZENS SAVE IN CASES OF RECIPROCITY TO ALIENS OF ANOTHER COUNTRY UNDER CONDITIONS PRESCRIBED BY LAW. Since the Committee did take cognizance of these resolutions, I suppose the Committee is in sympathy with the idea in these resolutions although I cannot find specifically where it is stated in the report. Am I right to say that?

MR. VILLEGAS: Yes, when it was discussed yesterday, although the intention of the Committee was to send it to the Committee on General Provisions. It seems it never got there; it got misplaced. So, what we suggest is that at the appropriate time some amendments be introduced which we will entertain.

MR. TINGSON: Filipino doctors in America are trying their best to have the U.S. change their regulations so that they, too, can have reciprocity there. If we ask it from another country, would there not be a corresponding response on our part to also give the same privilege to the countries that offer such reciprocity to us?

MR. MONSOD: I think we have to realize that sometimes we are in a very poor bargaining position. Also, the situation may not be the same in both countries. In our country, we may need to put more limitation than they would in theirs for the common good.

MR. TINGSON: I understand.

MR. BENGZON: May I also add that, perhaps, we would already be treading into legislation at that particular point.

MR. TINGSON: I just wanted to find out. Thank you very much.

Finally, I suppose the Gentleman will agree that scientific knowledge is no respecter of racial or geographical boundaries. Therefore, if there is no Filipino know-how and, for example, we need medical experts, we certainly would not prevent European or American doctors from coming, and giving them the privilege of practicing along that line, would we?

MR. VILLEGAS: That is really something that can be studied by the Congress and by the executive on a case-to-case basis.

MR. TINGSON: I am very much aware of the Christian virtue of gratitude. For instance, Dr. Jose Rizal was in high praises in his writings of his benefactors, European tutors, in gratitude for giving him the benefits of education and other help he received in Europe. Similarly, since for so many years we were under the tutelage of the United States, we should also have a feeling of gratitude towards Americans. I know an American from Memphis, Tennessee whose name is Mr. Ed McAteer and is the head of the Round Table in the United States. He has helped quite a number of our Filipino students. Of course, we do not want him to feel that he is no longer welcome in our country. We do not want them to feel that this country is only for the Filipinos and they are not allowed anymore. Certainly, that is not our feeling; is it?

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: When we speak of foreigners, we make distinctions between the citizens and their government. When we criticize foreign intervention, we criticize the intervention of government as reflected in its foreign policy but not the citizens. I think that distinction should be very clear in our mind so that it will not be understood that when we speak against Americans, we are speaking also against all American citizens.

MR. TINGSON: That is very helpful. Thank you very much.

MS. QUESADA: Mr. Vice-President, I would like to respond to Commissioner Tingson.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: The Gentleman asked if we should not allow experts like medical specialists to come to the Philippines and practice their profession in the spirit of friendship or goodwill. As far as I know, there are existing provisions of the Professional Regulatory Act that prevent the practice of professions in the Philippines unless such professionals are fully registered in the Philippines. We have not established that kind of parity. And there will be vehement objection to putting that provision on the entry of foreign experts to practice their profession in the Philippines in the Constitution. As a matter of fact, there are experts in the Philippines; and we export our experts to other countries. They are very exportable; they are well in demand all over the world. So, I would really be cautious about including that in the understanding that when we talk about technical exchange, we would not allow that encroachment on the realm of our own professionals.

Thank you.

MR. VILLEGAS: Thank you.

THE VICE-PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, I understand that when Commissioner Gascon made his interpellation, he forgot to ask a question or two. So, may I ask that Commissioner Gascon be recognized?

MR. BENNAGEN: Mr. Vice-President, before he is recognized, I want to ask Commissioner Garcia one brief question.

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Regarding the Gentleman's answer to the question of Commissioner Tingson on economic democracy, there is one provision on page 4, Section 8. It says:

The President, after consultations with the appropriate public agencies and the private sector, including labor and peasant organizations, shall recommend to Congress and implement an integrated and coordinated approach to national development.

Is that, in any way, related to the Gentleman's understanding of economic democracy — only as a part, not necessarily the whole concept of economic democracy and if he feels that it is not, would the Commissioner be willing to provide us with some amendments to strengthen the participation of other sectors in the overall planning and implementation of national economic programs?

THE VICE-PRESIDENT: Commissioner Garcia may reply, if he so desires.

MR. GARCIA: Thank you very much.

That type of popular participation is one mode of participation that is envisioned. In fact, I was envisioning that even in central planning of the economy like what is being done by the NEDA, popular participation can be incorporated to make it truly democratic. That is what I meant by this democratic participation even in the highest levels of economic planning for the nation.

MR. VILLEGAS: Commissioner Sarmiento has something to say.

MR. SARMIENTO: Commissioner Ople gave us a list of his amendments. Will these two amendments be closer to the Commissioner's idea of "economic democratization"? For instance, amendment (d): "THE SUSTAINED DEVELOPMENT OF A NATIONAL TALENT POOL OF ENTREPRENEURS, MANAGERS, PROFESSIONALS AND SKILLED WORKERS OR CRAFTSMEN IN ALL FIELDS SHALL BE A SHARED RESPONSIBILITY OF THE STATE AND THE PRIVATE SECTOR." Then another amendment, now (f): "IT SHALL BE THE POLICY OF THE STATE TO ENCOURAGE WORKERS AND FARMERS, AS WELL AS OTHER SECTORS TO PARTICIPATE DIRECTLY IN ECONOMIC DEVELOPMENT BY FORMING THEIR OWN COOPERATIVE ENTERPRISES WHICH SHALL ENJOY SUCH INCENTIVES AS CONGRESS MAY PROVIDE."

MR. GARCIA: I think the second one especially is in the same spirit. As I have mentioned earlier, there are two aspects actually: First, is the participation and consultation level; and, second, is basically management control and ownership which perhaps is a higher level, depending on the stage of economic level that will be reached by the country.

MR. MAAMBONG: Mr. Vice-President, may I ask that Commissioner Gascon be recognized.

THE VICE-PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Thank you, Mr. Vice-President.

I just have one or two more questions on Section 3; then as a response, actually an echo to Commissioner Garcia's beautiful paper on economic alternatives, I jotted down some reflections and perspectives on the economic problem myself and I would like to share them with you.

With regard to Section 3, line 25, says:

The President, with the concurrence of Congress, by a special law, shall provide the terms and conditions under which a foreign-owned corporation may enter into agreements with the government involving either technical or financial assistance for large-scale exploration, development, and utilization of natural resources.

I do recall that in the June 30 and July 2 drafts of this proposed Article, the phrasing was:

The Legislature may, by two-thirds vote of all its Members, by a special law, provide the terms and conditions under which a foreign-owned corporation may enter into agreements with the government, involving either technical or financial assistance.

As I asked yesterday what "concurrence" means, the Commissioner said that it is a simple majority. What was the rationale of the Committee for diminishing the two-thirds vote of Congress to a mere concurrence of the majority?

MR. VILLEGAS: The Commissioner might have been absent during that meeting, but the majority voted.

MR. GASCON: Yes. What was the rationale for the decision of the majority of the members of the Committee?

MR. VILLEGAS: I think the rationale was, since we need a lot of financial assistance at this particular time of our development, we have to make it easier for foreign investors to come in.

MR. GASCON: In Commissioner Nollado's textbook on the 1973 Constitution, he pointed out that one major reason for the inclusion in the 1973 Constitution of an explicit provision allowing service contracts was that there was doubt about their constitutionality based on the 1935 Constitution. Also, Professor Merlin Magallona of the UP College of Law pointed out in the paper "Nationalism and the New Constitution" that, in effect, service contracts legalized dummyism in natural resource exploitation. Thus, if the spirit behind this Article on National Economy and Patrimony is the development of a self-reliant and independent national economy, should not Congress be extracareful in allowing foreigners to exploit our already scarce natural resources? Since these resources are scarce already, should not their utilization be reserved first and foremost to Filipinos?

MR. VILLEGAS: Since the Committee was divided on this, I think this is one thing that can be brought to the body.

MR. GASCON: So what does the Commissioner think of that particular question; should we not be more extracareful instead of the other way around?

MR. VILLEGAS: I would rather throw it to the body.

MR. GASCON: Thank you.

I would like to share or echo some of my reflections primarily based on the good points of Commissioner Garcia, if I may.

The Constitution, the fundamental law of the land, shall be the foundation by which all future legislations concerning our society shall be based, and it shall provide the principles which should guide the actions of our future leaders as well as the people of the Republic. Hence, I believe that all the Commissioners have a responsibility to try their best to produce a constitution from which shall evolve a society that shall aim to ensure progressiveness or a continual betterment in the quality of life of the individual Filipino.

To elaborate on this vision, we must point out primarily what the problems of contemporary Philippine society are and from there, what our objectives should be. In this Article on National Economy and Patrimony, we must confront the problem of underdevelopment. Simultaneously, it also gives us the opportunity to provide the basic ingredients for a national development program. It would not be right to leave such a program totally in the hands of one government agency. The people must not be excluded from meaningful participation in the decision-making process that involves their interests. And I believe that is what we are doing now when we speak of providing greater opportunities for private sectors which include people's organizations and people's movements in the definition of our economic program.

Hence, it is appropriate to have such a provision in this Constitution.

I perceive the main problems of the economy to be: First, scandalous poverty for the majority of the population while a few live in luxury; second, the inability to sustain a process of national capital accumulation; and, third low development of our productive forces.

In our analysis, massive poverty stems from the combination of unequal distribution of wealth and power, and economic backwardness. Unequal distribution of wealth necessarily means that there is a lack of democratic access to the factors of production, as well as the means of production. Hence, basic property rights and regulations should be questioned. In our view, private ownership and exclusive rights to access to our resources and means of production naturally lead to potential abuse and, therefore, overconcentration of such resources in the hands of a few leaves the rest of society unable to accumulate their own surplus and they become vulnerable to exploitation by the powerful minority.

Thus, both private and state capitalism can lead to the poverty of the majority because in both instances the producers are directly separated from the productive process which is still controlled by a few. The producers cannot determine what goods shall be produced. When I speak of producers, I speak primarily of the workers. And profits are utilized in a manner that only a few decide upon. Both private and state capitalism follow the rule of the market, meaning, they will invest in the production of goods which are the most profitable.

In contemporary Philippine society, the most profitable goods are those which are demanded by the sectors with money. These are the local high-income market and the export market. Mass consumer goods are, therefore, neglected. Corollary to this, the majority of the workers are not the targeted market; they are not the consumers. Hence, there is no incentive to increase their wages.

Our economy is also highly integrated into the world capitalist market. This is unhealthy for us because it creates unnecessary dependence on foreign markets, foreign capital and foreign goods. I say "unnecessary" because I believe we have the resources to produce our own: they are only untapped and wrongly allocated.

In order to develop our productive forces or our capability of producing goods and services, we must first be able to accumulate surplus so as to rechannel it into further investments in the economy.

But if ours is a dependent country, having to import all the time for a lot of things — especially, as Commissioner Tadeo has mentioned, we have to import machines to produce — we should start with this proposal by really making a definite position on industrialization so that we can begin to build machines which make machines.

If ours is a dependent economy, this will continue to give the country a balance of trade deficits. Financing the deficits with massive loans compounds the problems, and all these factors result in our surplus being siphoned out by the foreign investors or traders. Such a country that always relies on others for its own development will not be able to genuinely create improvement in its own economy when it so desires.

What happens then to our national sovereignty? All economic agenda for development, if we continue to operate within the same dependent framework, shall always have to be first approved by our trading partners or foreign creditors.

What type of a society do I envision, therefore, and from this vision, what things must we have on our agenda for development?

First, let us define development. Development here is meant as the act of breaking away from that which envelops and, therefore, constrains our movement and of relying principally on our latent resources and potentials to move towards a more advanced state.

Bearing this in mind, we must then strive for our economy that is self-directed, self-sustaining and self-reliant. We are in favor of an economy that guarantees an increase in the standard of living for a majority of our people, but we do not want this increase to be due to or dependent on, decisions of foreigners or events outside the control of our elected leaders. A case in point is our current economic recovery program. Our country has become so dependent on foreign capital inflow to finance importations of basic commodities and production inputs that our country cannot seem to begin in the path towards growth without foreign investments and debts. And, understandably, the foreigners will not invest in the Philippines merely because of their admiration of our revolution; rather, they want an assurance of profitability regardless of the socio-political and economic problems of our people.

Thus, it will take time for this recovery program to begin, and many of our people are daily being killed softly by unemployment and starvation. Our task, therefore, in this Commission is to bequeath to future generations a direction for the State to create an independent, self-sustaining, self-reliant and self-sufficient economy, and the sooner we explicate that the Philippine economy belongs first and foremost to Filipinos, then the better so as to reduce gradually our dependence on foreign capital for our development efforts.

Then the producers should be given the right to determine what goods shall be produced. The economy should be receptive to the needs of the majority of its citizens. In order for the producers to have such power of self-determination, they should have direct access to the means of production. This is the economic democracy which Commissioner Garcia speaks of. Hence, a democratization of access to these sources, and a more equitable distribution of wealth should be a priority. The owner works, and the worker owns.

We must have an economy whose priority is the welfare of the Filipino. Thus, it must be independent and free from the dictates of trading partners and must uphold the interest of the Filipinos.

However, it is not enough merely to call for a nationalization of industries. Property rights and control of such industries should be diffused among all Filipinos, and such industries must be geared not to the demands of the foreigners but to the needs of the Filipinos. We must move away from dependency on others to answer our unemployment or poverty problems. Therefore, we must tap our own resources to develop our own productive process. We must try to wean our economy away from the global capitalist market so that our country shall become less vulnerable to world market price fluctuations or capital flight.

These are some of my basic ideas in support of a genuinely independent and self-reliant economy and of the democratization of our economy.

Thank you.

MR. BENGZON: Mr. Vice-President, just so it cannot be said that the Committee is not aware of the Rules, we would like to state for the record that we were tolerant in listening to the privilege speech of Commissioner Gascon, although we felt that it was out of order. We allowed him to finish although it would have been proper to make his privilege speech simply part of the record.

MR. GASCON: I would like to thank the Committee for its tolerance.

MR. MAAMBONG: Mr. Vice-President, considering that we have no more interpellators, may I be allowed to propound some questions to the Committee?

THE VICE-PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: First of all, something has been said here by Commissioner Tingson about Proposed Resolution No. 432 which was filed by this Member and Commissioners Ople, Natividad and de los Reyes, Jr.,

limiting the practice of any profession to Filipino citizens save in cases of reciprocity to aliens of another country that permits Filipinos to practice their profession within its territory under conditions prescribed by law. A similar resolution was filed also by Commissioner Rosario Braid.

I just want to make it of record that this resolution which we filed is not actually our own formulation. We practically copied it from RA 5181; unfortunately, after we had filed it, we received very adverse comments. I do not know for what reasons, but perhaps some were thinking that we were not trying to protect Filipino citizens. Nevertheless, we will bring this up later on to the Committee.

I would like to go to another point, Mr. Vice-President. I am not an economist, so I would like to get certain verifications from the Committee. I have here an article which says that foreign investments are concentrated in each sector of Philippine economy such as banking, manufacturing and mining. Is this true?

MR. VILLEGAS: Not in banking, and in manufacturing it depends on which manufacturing sector.

MR. MAAMBONG: So, that is not exactly true.

MR. VILLEGAS: No.

MR. MAAMBONG: Another statement here is that multinational corporations dominate major lines of industry, as in drugs and pharmaceuticals, food processing, petroleum and tire manufacturing. Is this true, Mr. Vice-President?

MR. VILLEGAS: In tire manufacturing, yes, but in drugs, the biggest market share is in the hands of United Laboratories. In fact, it is unique in the world. There is only one country in the world where 25 percent of the pharmaceutical market is in the hands of one company which happens to be a local company.

MR. MAAMBONG: I thank the Commissioner for that clarification. Then, finally, there is a statement here that foreign interests also hold sway over assembly and packing, export production and trading. Is this exactly correct?

MR. VILLEGAS: Again, that depends on which sector. In bananas, it has been basically multinational. In other export crops, like coconut, it is not.

MR. BENGZON: Mr. Vice-President, may I just clarify the statement of Commissioner Villegas with respect to the fact that 25 percent of drug purchases is concentrated on one company. We just like to state that this was the situation in the old dispensation, but this is precisely what the present Ministry of Health is trying to break and which, I believe, it has already broken in the sense that every drug purchase is now open to bidding. There are no more negotiated purchases. We just want to make that clarification.

MS. QUESADA: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I just like to correct the information that there is no monopoly of the drug manufacturing business in the Philippines which is not controlled by foreign big business or multinationals.

The Commissioner just referred to the drug distribution which has been the monopoly of United Laboratories until the intervention of the new government.

But insofar as the production of drug is concerned, it still remains in the hands of foreign big business. That is the reality and that is what we are trying to drive at in our rationalization of the drug policies of the country.

MR. VILLEGAS: It really depends on what the Commissioner means by monopoly. If by monopoly, she means one specific multinational firm controlling more than 10 percent of the market share, it does not exist. But if we

put all multinational firms together, then we can say that the foreign or multinational sector has the biggest market share, and that is true. But there is cut-throat competition between them, so that is not monopoly. I think the Commissioner has to define her term "monopoly."

MS. QUESADA: Perhaps not monopoly, but I refer to the production of very essential drugs.

MR. VILLEGAS: Yes, they may be producing but, as I said, the American and European multinational firms are at one another's throat competing like mad, and that is not monopoly in economic literature.

MR. BENNAGEN: Mr. Vice-President, my understanding of the question of Commissioner Maambong has something to do with foreign control or foreign monopoly.

MR. MAAMBONG: No, my main point is to check the veracity of the quoted statements because I will ask the Committee questions in connection with Sections 9 and 15. I am just laying the basis, and it appears to me that my basis is wrong because most of the answers of the Committee are to the effect that the one I am reading is not actually correct. Anyway, may I ask another question. There is a statement in this report that I have that nearly 40 percent of the country's top 100 corporations are either foreign firms or subsidiaries of foreign corporations or have sizeable foreign equities. Is this a correct statement?

MR. VILLEGAS: What is sizeable?

MR. MAAMBONG: It says that nearly 40 percent of the country's top 100 corporations are either foreign firms, subsidiaries of foreign corporations or have sizeable foreign equity.

MR. VILLEGAS: What is "sizeable foreign equity," more than 40 percent?

MR. MAAMBONG: I really do not know, I am just reading a report. Is this not also correct?

MR. VILLEGAS: If by "sizeable," it means 15 or 20 percent, it might be true because there is that much foreign equity definitely.

MR. MAAMBONG: Maybe the next question will clarify it. It says here that, according to the figures released by the Securities and Exchange Commission, these corporations accounted for 40 percent of sales, and 70 percent of net profits of the top 100 corporations in 1984. Is this a correct statement?

MR. VILLEGAS: I would not be able to answer, because I have to look at the data.

MR. MAAMBONG: Anyway, all these questions lead me to my next question. Under Sections 9 and 15, it appears to me that our form of control or regulation when it comes to foreign investments is actually in terms of the percentages in their interest.

MR. VILLEGAS: Yes.

MR. MAAMBONG: And if we do not use the word "control," our regulation is only up to that extent. When a foreign entity comes in and tries to do business in our country, we only check what its equity contribution is and that is it.

MR. VILLEGAS: No, there are also other controls, depending on which sector of the economy the Commissioner is examining. For example, in the financial sector, multinationals cannot borrow without limit anymore because of a regulation of the Central Bank coordinated with BOI that they are limited to the equity that they have brought in.

MR. MAAMBONG: I think I am beginning to understand.

MR. VILLEGAS: Or they can remit profits in a limited way. There have been so many controls, precisely that is the reason why, as I said earlier, compared to Malaysia, Indonesia and Singapore, foreign investments in the Philippines have been a pittance over the last ten years.

MR. MAAMBONG: So would it be more correct to say that we have control or regulation in terms of: first, when a foreign investor or foreign business firm comes in, we have regulations on the business organization itself?

MR. VILLEGAS: Yes.

MR. MAAMBONG: Then, secondly, when they conduct their business transactions, we have other forms of control?

MR. VILLEGAS: That is right.

MR. MAAMBONG: And when they go into some kind of business operations, we have other sets of control?

MR. VILLEGAS: Yes. Even their use of land is controlled.

MR. MAAMBONG: My next point is, all these controls that we are talking about are embodied in our laws, and taken in totality these provisions which we are now discussing do not, in any way, as of this moment and until Congress acts otherwise, destroy whatever controls or regulations are existing as of now.

MR. VILLEGAS: No, they do not.

MR. MAAMBONG: I am happy to hear that.

I am particularly interested in the nationalization laws that we have. Just to mention a few, we have the Anti-Dummy Law, which is actually Commonwealth Act 108, amended several times.

MR. VILLEGAS: Could the Commissioner please define his terms? By "nationalization," does he mean "Filipinization"?

MR. MAAMBONG: Filipinization? Other authors call it "nationalization," but let us use the Commissioner's word.

As I was saying, we have the Anti-Dummy Law or Commonwealth Act 108, amended several times; we have the Anti-Dummy Board or RA 1130; the Retail Trade Nationalization Law; and the Rice and Corn Industry Law. We have the different flag laws: the Anti-Dumping Law and the Filipino Retailers Act or RA 1292. All these laws, as of this moment, are not affected by the present configuration of our draft Constitution?

MR. VILLEGAS: No, they are not.

MR. MAAMBONG: This is my next point. We have mentioned here in one of the provisions, words or phrases like "monopolies," "combinations in restraint of trade," and "unfair competition." My question is: Are they understood, as used in the provision, in relation to the definition of the same terms in the Revised Penal Code, because Article 186 thereof mentions "monopolies and combinations in restraint of trade"; Article 189 speaks of "unfair competition"; Article 187 speaks of "importation and disposition of falsely marked articles"? Or do these terms, as used in the provision of this Constitution now being formulated, have meanings more general than those indicated in the Revised Penal Code?

MR. VILLEGAS: No, we read them in the context of the Revised Penal Code.

MR. MAAMBONG: They are in the context of the Revised Penal Code. Thank you.

The last point is this: Under Section 7, we have here a provision which refers to natural-born citizens of the

Philippines. Would it affect the Committee's thinking if this term "natural-born citizen" were taken out and instead we just say "a citizen of the Philippines," which means naturalized citizens would also be given the same privilege under Section 7?

MR. VILLEGAS: A naturalized citizen?

MR. MAAMBONG: We just say, for example, "Notwithstanding the provisions of Section 6 of this Article, a citizen of the Philippines who has lost his Philippine citizenship," meaning, that if he was a naturalized citizen of the Philippines, went to the United States, lost his citizenship, and then came back, then he can be a transferee of a private land solely for residential purposes. Would it affect so much the thinking of the Committee?

MR. VILLEGAS: We can bring that up in the committee meeting.

MR. MAAMBONG: I am prompted to ask this because I actually received a telegram recently from a certain Dr. Philip Chua, President of the Association of Philippine Physicians in America, 1830 Mirmar Road, Munster, Indiana 46321, USA, and I understand the Committee also received the same telegram, but the request was more than what I am talking about because they are saying that this Article should allow them to be transferees of private lands without any mention of the dimensions of the land.

That would be all for my questions.

MR. MONSOD: May we ask and reiterate our request to all those who have any proposed amendments, if we can have them so that the Committee can have an emergency meeting right now in order to consider all of these amendments?

MR. SUAREZ: Mr. Vice-President.

MR. MAAMBONG: Commissioner Suarez, I think, is going to say something.

MR. SUAREZ: Thank you.

We would like to clarify that last proposition which Commissioner Maambong advanced regarding extending the same privilege given to natural-born citizens under Section 7 of the proposed draft to naturalized citizens. Is the Gentleman referring to a situation where, say, one who was originally Chinese becomes naturalized as a Filipino citizen; goes back to Taipeh, then loses his Filipino citizenship, would be given the same right as that of a natural-born Filipino citizen to be a transferee of a residential lot equivalent to, say, 1,000 square meters? Is that what the Gentleman had in mind?

MR. MAAMBONG: Yes, that was what I had in mind.

MR. SUAREZ: The Commissioner would not want to make a distinction between a natural-born citizen and a naturalized Filipino citizen who both lost their Filipino citizenship by virtue of the fact that they had gone abroad and had established not only residence or domicile abroad but also acquired the citizenship of the country where they have been residing.

MR. MAAMBONG: No, because I am thinking purely in terms of logic. When one becomes a naturalized citizen of the Philippines, he can acquire land just like a natural-born citizen. In other words, if he acquires another citizenship, he had that right to acquire land but he lost it because he lost his Filipino citizenship. My thinking is just to renew that kind of right under Section 7. If we have to give this right at all, the natural-born and the naturalized citizens should be at par with each other, as far as the rights they originally had. For example, if a natural-born citizen can run for public office, a naturalized citizen cannot, and even if the latter regains his Filipino citizenship, we cannot give him parity in terms of running for public office, because the naturalized

citizen never had that qualification in the first place. That is just my thinking based on logic, but I really do not know the thinking of the Committee on this regard.

MR. SUAREZ: We are trying to clear up this point. Does not the Commissioner see any substantial difference between a natural-born Filipino citizen and a naturalized citizen going back to his old country probably in the years to come, because of the fact that he or she may have acquired a piece of land of about 1,000 square meters?

MR. MAAMBONG: I really do not see any substantial difference because if we relate this to the purpose of Section 7, the 1,000 square meters will only be purely for residential purposes. He cannot go into business just because of this. So, when he comes back, the intention is really to stay on his residential land.

MR. SUAREZ: Thank you.

At the proper time, the Committee will study that proposed amendment if it is submitted.

MR. MAAMBONG: Thank you.

MR. BENGZON: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: I think the Floor Leader is about to ask for a recess, but before he does that, may I just make an announcement in my capacity as Chairman of the Steering Committee.

I know that there are a lot of us who are taking break, so I know they are listening. When we come back after the break may I suggest that it would probably be better for us to vote on the Article on Social Justice on Third Reading, because the clean copy was already distributed yesterday. I have taken some informal surveys and polls so if we will have a majority when the session is resumed, then I would move for a voting of that Article on Social Justice on Third Reading.

MR. MAAMBONG: Mr. Vice-President, with the indulgence of the Chairman of the Steering Committee, I would rather dispose of two pending interpellations. And if that is all right with the Chairman of the Steering Committee, so that we will not have any business hanging on this matter, I ask that Commissioner Foz be recognized.

THE VICE-PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Mr. Vice-President, in Sections 3 and 9, the provision on equity is both 60 percent, but I notice that this is now different from the provision in the 1973 Constitution in that the basis for the equity provision is voting stock or controlling interest instead of the usual capital percentage as provided for in the 1973 Constitution. We would like to know what the difference would be between the previous and the proposed provisions regarding equity interest.

MR. VILLEGAS: Commissioner Suarez will answer that.

MR. SUAREZ: Thank you.

As a matter of fact, this particular portion is still being reviewed by this Committee. In Section 1, Article XIII of the 1935 Constitution, the wording is that the percentage should be based on the capital which is owned by such citizens. In the proposed draft, this phrase was proposed: "voting stock or controlling interest." This was a plan submitted by the UP Law Center.

Three days ago, we had an early morning breakfast conference with the members of the UP Law Center and precisely, we were seeking clarification regarding the difference. We would have three criteria to go by: One

would be based on capital, which is the capital stock of the corporation, authorized, subscribed or paid-up, as was employed under the 1935 and the 1973 Constitutions. The idea behind the introduction of the phrase "voting stock or controlling interest" was precisely to avoid the perpetration of dummies, Filipino dummies of multinationals. It is theoretically possible that a situation may develop where these multinational interests would not really be only 40 percent but will even extend beyond that in the matter of voting because they could enter into what is known as a voting trust or voting agreement with the rest of the stockholders and, therefore, notwithstanding the fact that on record their capital extent is only up to 40-percent interest in the corporation, actually, they would be managing and controlling the entire company. That is why the UP Law Center members suggested that we utilize the words "voting interest" which would preclude multinational control in the matter of voting, independent of the capital structure of the corporation. And then they also added the phrase "controlling interest" which up to now they have not been able to successfully define the exact meaning of. But they mentioned the situation where theoretically the board would be controlled by these multinationals, such that instead of, say, three Filipino directors out of five, there would be three foreign directors and, therefore, they would be controlling the management of the company with foreign interest. That is why they volunteered to flesh out this particular portion which was submitted by them, but up to now, they have not come up with a constructive rephrasing of this portion. And as far as I am concerned, I am not speaking in behalf of the Committee, I would feel more comfortable if we go back to the wording of the 1935 and the 1973 Constitutions, that is to say, the 60-40 percentage could be based on the capital stock of the corporation.

MR. FOZ: I understand that was the same view of Dean Carale who does not agree with the others on this panel at the UP Law Center regarding the percentage of the ratio.

MR. SUAREZ: That is right. Dean Carale shares my sentiment about this matter.

MR. BENGZON: I also share the sentiment of Commissioner Suarez in that respect. So there are already two in the Committee who want to go back to the wording of the 1935 and the 1973 Constitutions.

MR. SUAREZ: It is good to have lawyers in the Committee.

MR. FOZ: Another question. In Section 4, the size of the homestead for acquisition through purchase by an individual or citizen is only 24 hectares, which is just a reiteration of the previous provision of past Constitutions. But in view of the increasing population and the diminishing availability of alienable land, is this figure of 24 hectares still practical and feasible?

MR. VILLEGAS: If the Commissioner continues reading lines 10 to 14 of the provision, it says: "The Congress, taking into account . . . shall determine by law the size of lands of the public domain which may be developed, held or acquired . . ." which means that this is really only the maximum limit and that Congress may determine a smaller limit.

MR. FOZ: Congress may still delimit the size?

MR. VILLEGAS: Yes, exactly, depending on the circumstances.

MR. FOZ: Section 11, about the formation or organization of private corporations, is not clear on how government corporations may be organized or created. Is the Committee saying that government-owned or controlled corporations may be created not only by special law but also by general law?

MR. VILLEGAS: In fact, we are thinking of going back to the 1973 phraseology.

MR. SUAREZ: By special charter; that is the meaning of this exercise. Majority of the committee members feel that we should go back to the 1973 terms and conditions.

MR. FOZ: Thank you.

In Section 15, the equity requirement in the case of public utilities is two-thirds of the voting stock or controlling interest. We understand that a telecommunication company or firm is covered by this provision because it is considered a public utility. Now, I remember there is a similar provision in the report of the Committee on General Provisions. If this provision is approved along with the other provisions of this committee report, then there would be no need for the counterpart provision in the Committee on General Provisions.

MR. VILLEGAS: Yes.

MR. FOZ: Would this be an advanced approval of what is contained in the Committee on General Provisions?

MR. VILLEGAS: Yes.

MR. FOZ: Thank you.

THE VICE-PRESIDENT: Are there any other interpellators?

MR. MAAMBONG: Yes, Mr. Vice-President. I ask that Commissioner Quesada be recognized for one additional question.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Mr. Vice-President, I just like to make some clarification on one point which, if satisfactory, may need no amendments from this Member, and this is in connection with the ecological protection of the environment in relation to foreign investments. I have here with me papers on the ecological effect of the Dole Philippines and the Kawasaki Steel Mills, and how these particular investments in our country have contributed to the degradation of our flora and fauna. So does the Gentleman think that it is proper to introduce a provision mandating the investors to insure some kind of protection for our natural resources? The mention of ecological consideration is only in relation to Congress taking into account conservation, ecological, and developmental requirements of the natural resources when determining the size of the lands of the public domain which may be developed, held or acquired. Does not the Commissioner think that it is proper to introduce an amendment on this particular environmental concern?

MR. VILLEGAS: We would welcome a suggested amendment.

MS. QUESADA: Thank you.

MR. NATIVIDAD: Mr. Vice-President.

MR. MAAMBONG: I ask that Commissioner Natividad be recognized.

THE VICE-PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: I have read much about the criticisms of some economists that we ruined our economy from the time of the American regime up to this time because of free trade. What is the Chairman's opinion on this? Has our economic ruin been spawned by our loyalty to the economic doctrine of free trade and has this maintained our colonial level of economic situation?

MR. VILLEGAS: I do not think the Gentleman should make a sweeping statement. Definitely, if we go all the way back to the early 1900s and the way that free trade started, certainly there were adverse effects of free trade because we really did not have any incentive to start early enough in manufacturing since we were encouraged to be a grower of raw materials. But there were free trade policies followed — as has been explained by other interpellators — by Singapore, Korea, Taiwan, not to mention Hongkong, that led to the miraculous economic

growth in these countries. So it is really very difficult to make a generalization that it was only free trade to blame, because other countries that followed free trade benefitted immensely from that approach.

MR. MONSOD: Mr. Vice-President, may I also add that if one has studied our economy since we acquired independence, it is actually the reverse. Our economy is one of the most protected economies in the world. And those who advocate protectionism now are usually those who are inefficient, inept and, in some cases, corrupt.

MR. NATIVIDAD: So this spread or article about free trade does not, in fact, have solid basis; is that the Commissioner's conclusion?

MR. VILLEGAS: In economics, definitely, there are never dogmas, and that is the problem with some people who have very closed opinions. They see things in black and white. And considering the present circumstances, we can definitely benefit from more openness to international competition.

MR. NATIVIDAD: More or less, would this Article on the National Economy and Patrimony sustain this doctrine of free trade?

MR. VILLEGAS: No, I think this Constitution is very silent on that. In fact, if we accept the amendment of Commissioner Ople, it contains very specific statements on international trade.

MR. NATIVIDAD: There will be modifications then?

MR. VILLEGAS: That is right, yes.

MR. NATIVIDAD: How about this matter of protectionism, how does this Article treat that subject matter?

MR. VILLEGAS: It is silent.

MR. NATIVIDAD: How about on our present policy on floating rate, is this provision silent also?

MR. VILLEGAS: Yes. That is a very specific technical decision that our monetary authority should be given a lot of leeway.

MR. NATIVIDAD: There is no hint whatsoever in this Article on that?

MR. VILLEGAS: No, definitely not.

MR. NATIVIDAD: Thank you, Mr. Vice-President.

THE VICE-PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, with that last interpellation, I move to close the period of sponsorship and debate on the Article on National Economy and Patrimony under Committee Report Nos. 24 and 32.

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

ADJOURNMENT OF SESSION

MR. MAAMBONG: Mr. Vice-President, I move to adjourn the session until tomorrow at nine-thirty in the morning to give the committee members and the Commissioners time to prepare the proposed amendments.

THE VICE-PRESIDENT: Does the Chairman of the Steering Committee agree to the motion?

MR. BENZONS: Yes, Mr. Vice-President, in order to give the Commissioners a lot of time within which to prepare their amendments. As a matter of fact, for those Commissioners who are ready with their written amendments, I encourage them to submit the amendments to the Chairman or to us in the Committee.

THE VICE-PRESIDENT: Is there any objection? (Silence) The Chair hears none; the session is adjourned until tomorrow at nine-thirty in the morning.

It was 4:51 p.m.

[*] Appeared after the roll call

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