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Thursday September 18, 1986

OPENING OF SESSION

At 9:56 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Lugum L. Uka.

Everybody remained standing for the Prayer.

PRAYER

MR. UKA.: Bismillah Ir Rahman ir Rahim.

Most Merciful and Compassionate Almighty God, we who are gathered here humbly ask for Thy Mercy, love and guidance to enable us to write a constitution that shall bring about unity, democracy, justice, peace and prosperity for all our people, Muslims, Christians and tribal communities alike.

As we approach the last days of our great mission in writing the fundamental law of our land, we ask Thee, O God, to guide us to be patient and tolerant of each other's views that we may succeed in our great mission. Help us to follow Thy Ten Commandments, among which is "Thou shalt not kill."

Inspire us, O God, with the noble thought that we are all members of one great family with a common goal or objective in making our dear country a worthy member of the family of nations.

We thank Thee, O God, for all the inspiration and guidance You have given all of us during all our plenary sessions and we are happy with the thought that with Your guidance, we shall succeed in our great mission. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present[*] Nieva Present

Aquino Present[*] Nollado Present

Azcuna Present[*] Ople Present

Bacani Present Padilla Present[*]

Bengzon Present Quesada Present[*]

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid 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 Absent

Guingona Present Tan Present

Jamir Present Tingson Present

Laurel Absent Treñas Present

Lerum Present Uka Present

Maambong Present[*] Villacorta Present[*]

Monsod Present Villegas Present

The President is present.

The roll call shows 32 Members responded to the call.

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I move that we dispense with the reading of the Journal of yesterday's session.

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

APPROVAL OF JOURNAL

MR. RAMA: Madam President, I move that we approve the Journal of yesterday's session.

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

MR. RAMA: Madam President, I move that we proceed to the Reference of Business.

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

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Phan Quang Dan, MD, DrPH, Former Deputy Premier of South Vietnam, P.O. Box 11452, St. Thomas, US Virgin Islands 00801, USA, expressing his opinion that too frequent elections tend to destabilize the political conditions and make it difficult for the Executive to implement its programs, suggesting therefor that a presidency of two seven-year terms might be the best formula to consolidate stability.

(Communication No. 923 — Constitutional Commission of 1986)

To the Committee on the Executive.

Letter from Mr. Antonio C. Pastelero, 5th Floor, Alexander House, 139 Amorsolo St., Legaspi Village, Makati, Metro Manila, proposing that in submitting the new Constitution, the choice should not be limited to ratifying or rejecting it, but on whether our people prefer to return to the 1935 Constitution, or to adopt the new one.

(Communication No. 924 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provision.

Letter from one R.A. Tuvilla of Davao, suggesting that in order to enhance the easy approval of the proposed Constitution during the plebiscite, a question should also be asked whether or not they favor President Aquino to continue in office as President of the Philippines.

(Communication No. 925 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Communication from Mr. Eugenio A. Antonio, Jr., Chapter Commander, First District of Negros del Norte Chapter, Veterans Federation of the Philippines, submitting the Federation's Resolution No. 04-86, requesting the exclusion or deletion from the draft Constitution the issue of the removal of the American bases in the Philippines after 1991.

(Communication No. 926 — Constitutional Commission of 1986)

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

Letter from one Nitnit Mongaya-Hoegsholm Strand-hojsvej 12, 3050 Humlebaek, Denmark, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 927 — Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: I move that we continue the consideration of Proposed Resolution No. 537 on the Article on the Declaration of Principles.

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

MR. RAMA: Madam President, the parliamentary situation is that the period of interpellations has been closed except for a reservation made by Commissioner Ople. So I ask that Commissioner Ople be recognized.

THE PRESIDENT: The Chair requests the honorable chairman and members of the Committee on Declaration of Principles to please occupy the front seats.

We will extend to Commissioner Ople the same privilege granted to the other Members in the previous days of interpellations, with a request, however, that we abbreviate as much as possible the speeches and also the replies of the members of the committee. In other words, the issues that had already been discussed and brought to the floor can just be omitted so as to abbreviate our proceedings.

MR. OPLE: Thank you, Madam President.

Sections 1, 2, 3 and 4 of the committee report on the declaration of principles are closely interrelated and undoubtedly linked together in the perception of the sponsoring committee. I think basically they deal with two paramount issues — national security and national sovereignty. So far, the record of the debates shows that Members of the Commission who have participated differ in their fundamental perceptions of sovereignty and security. These differences must be seen against the contemporary historical realities in which we live and act out our respective individual political beliefs, including the very prestige of this constituent assembly.

As far as a great many of our countrymen are concerned, these realities can be summed up in one word — the threat of a communist takeover of our country. Let us not deny that this threat looms large in the minds of many of our countrymen. This is considered an imminent danger that our people already react in two ways: fight or flight.

Many in the middle class have already sent their families to the United States and others are holding their visas close to their chest, just in case. Young officers of the Armed Forces of the Philippines are getting restive, as they receive reports of their one-sided casualties in the field when they are told to fight defensively while the government promotes an atmosphere of conciliation and restraint during the ceasefire negotiations. Just the other day, past midnight, 150 NPA troops raided an army detachment, wounded several soldiers, burned the headquarters and got off with some 20 armalites in San Pablo City, which is about 80 kilometers away from where we are.

Last Sunday, Mr. Enrile told me — but I am sure he will deny this — that if the government continues the policy of

coddling the communists and if General Ramos chooses to be wishy-washy, he can be rapidly isolated in his own army.

The young officers are already talking of "Remember Jakarta" as their future slogan. That was the signal written all over the world since Santiago de Chile before the uprising against Aliende. We will remember what happened in Indonesia in 1965, where after six generals of the Indonesian army were assassinated by the communists, the whole of Indonesia rose up, as though on signal, and massacred 600,000 of their own countrymen. This is probably a fallacious hope on the part of these young of officers. There is a big difference. In 1965, the Indonesian PKI, the Partai-Komunist Indonesia, was the world's largest communist party but it had no army. They have forgotten that the CPP has an army.

I am taking advantage of this debate, therefore, Madam President, and also by way of laying the premise for my interpellation, to bring to the Commission's attention how people feel about the communist threat. Some of these reactions might be utterly irrational, but they do frame in some way our debate on the bases, neutrality and a nuclear-free territory. We debate on these issues in an atmosphere of nascent civil war, Madam President. For both sides, the bases are larger than life. They are code words for many differences, the sharpest, in the formulation of Commissioner Guingona, being that between democracy and communism. On the other hand, we know what is going on in the opposite camp. Part of the new freedom is that we can learn about the thinking of the CPP and the NDF through their own publications. The CPP, NPA and NDF have just concluded a massive self-criticism and rectification campaign arising from their boycott of the February election and the February revolution. Messrs. Baylosis and Salas have already said their mea culpa for this.

I would like to quote from a discussion paper written by Marte Villalobos, dated March 30, 1986, a sequel to his more famous piece, "Where the Party Faltered." He said the party, instead of missing the February election and the February uprising at EDSA, could have followed a two-stage scenario, a sort of wisdom by hindsight as follows, and I quote:

While the CPP-NDF were preparing for the leap, in the next few years, into the next substage of the strategic defensive, that is to say, the strategic counter offensive, the Marcos fascist regime was toppled in three months!

There can perhaps be no evidence more damning than this — that the Party was pursuing an incorrect strategy, that the Party's strategy was out of sync with concrete reality.

In a two-stage Philippine insurrectional movement, the first stage ends in an uprising or insurrection or a series of uprisings. Thousands are killed or captured. The anti-Marcos forces are unable to seize power, but the bloody repression polarizes the entire country and the left assumes undisputed leadership in the broad antidictatorship front. The second stage culminates in the downfall of the US-Marcos regime. A democratic coalition government (mainly of left and middle forces) is established under left leadership.

Under either scenario of a Philippine insurrectional strategy, the left would have increased its momentum and leverage for eventual seizure of power. It would not have lost the momentum and leverage it lost after the February 1986 uprising, by following a protracted people's war strategy that was no longer attuned to the concrete reality.

Madam President, in general, the debate within the CPP and its front organizations now revolves around the issue of protracted people's war — to what extent this should be sustained or discarded. According to this theory, which is Maoist in origin, the cities are encircled from the countryside. But the so-called "insurrectional approach," the successful Nicaraguan Sandinist approach, provides that mass movements that are urban-based shall have the primary role and the guerrilla forces merely perform a supporting role. What is discernible to me from all this literature is that Maoism is now losing to classical Leninism in the CPP-NPA. According to the journalist Ross

Munro, the International Department of the CPSU (Communist Party of the Soviet Union) Secretariat in Moscow continues to support the old Partido Komunista ng Pilipinas mainly for sentimental reasons, but the intelligence community is pressing for a coalition of the old Lava group and the CPP-NPA. I have a reliable report that Jose Ma. Sison and the Lavas recently conferred in Bulacan, Bulacan, which is the hometown of Commissioner "Soc" Rodrigo.

Such a meeting, if there was, could be one of the decisive moments in Philippine history. This can pave the way to foreign intervention and escalate the threat to our security in a new, qualitative leap. No wonder Senator Jose W. Diokno was quoted by Mr. Munro, after Mr. Diokno left one of the important organizations, which is generally regarded as a front of the CPP, as saying that the communists believed they are so close to victory, they could already take their nationalist alliances for granted. I must say, of course, in fairness to the Soviets that they miss no opportunity to profess their adherence to noninterference in internal affairs of other countries as an anchor of their foreign policy. Soviet government, as far as I observe, has been correct and circumspect in its actuation in the Philippines. But we are speaking of what the authors of one resolution previously turned down by the Commission called, and I quote: "the cold realities of international politics."

Mr. Gorbachev, in his now famous July 28 speech in Vladivostok which was referred to by Commissioners Garcia and Gascon yesterday, acknowledged the very issue facing us in this Commission. I was almost prompted to accuse him of foreign interference in the internal affairs of a friendly country. He said the Philippines was a medium power strategically located from the standpoint of geopolitics. He said if the U.S. left the Philippine bases, that is to say, if we approve Section 3 of this draft article, this gesture will not go unanswered. In his interpellation yesterday, Commissioner Gascon drew from Commissioner Garcia the obliging answer that this statement of Mr. Gorbachev should be taken seriously; that if we approve Section 3 and the U.S. forces have to leave, this can begin the process of demilitarization of Southeast Asia and peace in the region might be assured.

What else did Mr. Gorbachev say in Vladivostok? He said the Soviet Union favored a nuclear-free zone in Southeast Asia. In the case of the South Pacific, he said, "We are ready to sign a protocol even tomorrow." And, of course, he said he would withdraw some regiments from Afghanistan and also from Mongolia on the border of the Soviet Union with China, but he said nothing whatsoever about the pullout of his friendly troops from Kampuchea.

Madam President, that is one reason I would like to leave the options on the bases to the Philippine government. A government has to be more skeptical and more rigorous in the standards of appreciation of such pronouncements from other states. They have to study these assertions thoroughly before they act. They should not take the word of a great power at face value.

The Commission, Madam President, is divided, therefore, between two world outlooks. There is a school of thought that believes communism is not a threat, and that the threat comes from the Armed Forces of the Philippines. This school is largely indifferent to any changes in the global and regional power balance, but will not mind if the U.S. superiority is eclipsed by the Soviet Union. They perceive national security in a different way from some other Filipinos. For many of us, national security means we should not fall to the communists or even to a national democratic coalition, a Sandinista regime in Malacañang in the first stage of a CPP takeover of power. For others among us, I am speaking of Filipinos in general and not of the Members of this Commission, a Sandinista regime might be a consummation devoutly to be wished.

With these premises, Madam President, I would now like to put a few questions to the committee, with your kind indulgence.

THE PRESIDENT: The Commissioner will please proceed.

MR. OPLE: I see that Section 1 is largely a repetition of the original text of the 1935 and the 1973 Constitutions, except for a few changes. The Committee added the word "democratic" to "republican," and, therefore, the first sentence states: "The Philippines is a republican and democratic state." In the second sentence, the same phrase from the 1935 and 1973 Constitutions appears:

Sovereignty resides in the people and all government authority emanates from them and continues only with their consent.

May I know from the committee the reason for adding the word "democratic" to "republican"? The constitutional framers of the 1935 and 1973 Constitutions were content with "republican." Was this done merely for the sake of emphasis?

MR. NOLLEDO: Madam President, that question has been asked several times, out being the proponent of this amendment, I would like the Commissioner to know that "democratic" was added because of the need to emphasize people's power and the many provisions in the Constitution that we have approved related to recall, people's organizations, initiative and the like, which recognize the participation of the people in policy-making in certain circumstances. Also, this was added to assert our respect for people's rights as against authoritarianism or one-man rule. I know that even without putting "democratic" there, democracy is reflected in the characteristics of republicanism; namely, among others, the existence of the Bill of Rights, the accountability of public officers, the periodic elections and others.

MR. OPLE: I thank the Commissioner. That is a very clear answer and I think it does meet a need. I felt I should ask the question, however, because the meaning of democracy has been evolving since 1935. In the old days, it was taken for granted that democracy stood for liberal democracy. I think democracy has since expanded in its scope to include also concepts of national democracy which is what the National Democratic Front stands for — social democracy which is just a synonym for democratic socialism and liberal democracy which is the brand more immediately recognizable to many Filipinos.

Does the word "democracy" in this context accommodate all the nuances of democracy in our time?

MR. NOLLEDO: According to Commissioner Rosario Braid, "democracy" here is understood as participatory democracy.

MR. OPLE: Yes, of course, we can agree most wholeheartedly on that construction of the word.

May I proceed to Section 2. In Section 9, we again adopt the text of the 1935 and 1973 Constitutions, renouncing war as a national policy, but the committee has been speaking throughout of the demilitarization of the Philippines and Southeast Asia as an objective. Commissioner Garcia, in reply to Commissioner Gascon yesterday, said that if the Americans leave the bases in the Philippines presumably because we will approve Section 3 of this draft article, then Mr. Gorbachev would respond in accordance with his Vladivostok blandishment; how, he did not say so explicitly, but the hint was that this would not go unanswered and there could be some movements out of Cam Ranh Bay.

Does renouncing war, in the belief of the committee, as a national policy mean that we should demilitarize unilaterally? Let us take the word of foreign powers on faith that they will reciprocate if we do so and that neutrality is postulated by the committee as a condition sine qua non for sovereignty and independence.

MR. NOLLEDO: If I were to answer that, Madam President, the Commissioner will remember the Kellogg-Briand Pact which condemns aggressive war but does not condemn defensive war. So if we interpret this in the light of the Kellogg-Briand Pact which was the basis of this provision as adopted in the 1935 and 1973 Constitutions, then only aggressive war is condemned. We do not do away with defensive war. So if I were to

state without binding the committee, we do not necessarily talk of demilitarization because demilitarization may negate the possibility of waging a defensive war.

MR. OPLE: I am very reassured by the answer of Commissioner Nollado which merely means that we renounce war as a national policy. We have done so in the 1935 and 1973 Constitutions, but this is not equivalent to saying that we are obliged to dismantle, diminish or downgrade our military capability as part of our renunciation of war.

I would like to proceed now to Section 3, Madam President, which states:

The State shall pursue an independent course in sovereign relations and strive to promote and establish, together with other States agreeable thereto, a zone of peace, freedom and neutrality in this part of the world.

The State has the inherent right to self-determination, national independence and sovereignty. Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

In this formulation of Section 3, especially the first paragraph, Madam President, the idea of an independent foreign policy is linked to the pursuit of neutrality. I would have to revert to that earlier question in the context of the first paragraph. Does the committee postulate neutrality as a condition for an independent foreign policy? May I define "neutrality," Madam President.

Actually, the literature utilizes three terms: Neutralism — India is a neutralist but not neutral. Neutrality — The Swiss are neutral since 1815 because a concord of great powers in Europe guarantees that neutrality and independence, but the Swiss do not belong to any non-aligned movement and, therefore, they are neutral but not neutralist. The third is neutralization — for example, the Swiss Canal is neutralized by a general agreement of the powers for their own common benefit and individual convenience.

Under the neutrality laws which have been accumulating since the 17th century, especially with respect to neutrality in the maritime field — we have one of the foremost authorities on public international law seated in the sponsoring committee who undoubtedly must be familiar with this accretion of laws on neutrality — a neutral state is not necessarily obliged to even issue a statement of neutrality at the outbreak of a war. But it is obliged not to aid any of the combatants and to pay damages if there is a violation by its own citizens of the neutrality act of that country.

The record, however, shows that since World War I, with the transformation of war into wars of annihilation of thousands and millions of people, neutral countries had fared very ill in terms of the respect that they were able to exact from the belligerent power. Let us take for example Belgium. It was a neutral state. It was overrun in World War I and was overrun again in World War II. I suppose a lot depends on the location. Belgium is part of the Benelux, the so-called low countries, and it stands right there in the path of the advancing armies, whether from the West or from the East.

In the case of Switzerland, Madam President, I have some little knowledge of this country. It has one of the most formidable armies in Europe. It has a population of only five-and-a-half million or six million, if we include the expatriate workers. But this is a country capable of summoning in 48 hours half a million of the best trained and the best armed troops in Europe. Surrounded by their own walls of mountains with very narrow and very few passes to the rest of Europe, this country had successfully preserved its neutrality, not because of the guarantees of the powers since 1815 but because it has one of the most formidable armies, although it is a citizen army, in the whole of Europe. Hitler calculated that if he invaded Switzerland in World War II, he would have to pay dearly in terms of at least a million German lives.

What sort of neutrality is contemplated in Section 3, Madam President? Is it a demilitarized neutrality so that,

because of our lovable and trusting nature, we leave ourselves to the tender mercies of our neighbors and some of the great predatory powers in history? Is it merely neutralization or neutralism?

Malaysia, Indonesia and Singapore are neutralist but not neutral. They belong to the nonaligned movement. Cuba is a neutralist but certainly not neutral. Mr. Castro was the chairman of the nonaligned movement before Rajiv Gandhi took it over from him some years ago. Of course, there is ZOPFAN, zone of peace, freedom and neutrality, to which we subscribe, together with the five other ASEAN countries; namely, Thailand, Indonesia, Malaysia, Singapore and Brunei. Of course, this has really risen to more than merely a verbal piety among the ASEAN countries.

It is, of course, frequently invoked with all the becoming incantations in pious tribute to peace and neutrality and freedom from time to time. But, Madam President, can we conceive of a neutral Southeast Asia without the participation of the Indochina states, particularly Vietnam? Can we conceive of neutrality in Southeast Asia without the guarantees of China, the USSR, Japan and the United States?

Even if Mr. Gorbachev says in Vladivostok: "I am prepared to sign a protocol tomorrow for a nuclear-free zone and a zone of neutrality in Southeast Asia," he does not even pay us the courtesy of saying: "As part of the confidence-building measures so that Vietnam, Cambodia and Laos can join such a neutrality pact in the future, I am now announcing that the Vietnamese are withdrawing from Kampuchea." He said that of Afghanistan and of Mongolia on the border with China. He could have granted the intelligence of Southeast Asians a little bit more recognition than that.

So, Madam President, why are we in a rush to put the provision on neutrality in our Constitution, when all our potential partners and guarantors have not said they keep themselves at the proper and necessary threshold of a legal commitment to consider neutrality when the time comes? What actuates, impels or moves us to surrender the flexibility of this country in assuring and promoting its own defense?

We must take this in the context of the previous statements of the committee that we must, as part of mankind, do our part to avoid a nuclear holocaust: the mass annihilation of mankind through a nuclear winter or through mass incineration. Who can dispute the urgency of that appeal? Who cannot believe in the vision of a peaceful world, finally rid of nuclear weapons? I think there is a certain lopsidedness to this argument. There is a tendency to locate all the burdens of responsibility for the threat of nuclear war on just one side of the global alignment of forces.

I want to know from the committee whether or not this is the official stand: that the United States and its allies are primarily responsible today for the threat of the nuclear annihilation of mankind. I have not heard a single word of reproach on the Soviet Union, as though the other side of this global nuclear configuration is completely blame-free.

My friends, I am one of those who support Section 4 in its proper formulation. I am going to vote for a nuclear weapons-free Philippines. I want to call the attention of the committee that it was the resolution of Commissioner Rustico de los Reyes that became the basis for the formulation of Section 4, unless it got lost along the way. We are, therefore, from the beginning responsible for this provision to eliminate nuclear weapons from Philippine soil. But I have a question with respect to that, Madam President, and anyone in the committee can answer.

We all know the debate in Western Europe. It was Helmut Schmidt, a leader of the German people for 30 years and perhaps, the most outstanding social democrat in the European continent, who just said goodbye to the Bundestag. When he said goodbye recently, I was reminded that it was this man, considered the number one anti-American in the Social Democratic Party of Germany, who invented the two-step approach to medium-range

nuclear missiles in Europe. He said: "Stage one, let us talk to the Soviets whether they can remove those 300 SS20s on the European side of the Soviet Union which are targeted to various points in Western Europe. Then Europe would reject the Pershing missiles of the United States." That became the official position of Western European democracies. Bresdner refused to remove those missiles. So the European parliaments and their people, through referenda and plebiscite, said: "Since the Soviet Union did not remove the missiles in spite of our urgent entreaties, we allow the United States to station Pershing missiles in our country." And, Madam President, that is true of Germany, Italy, the lowland countries, and Great Britain. It was not a unilateral, one-sided suicidal abdication of the right to equal security. Of course, we are told now by Mr. Gorbachev in his speech in Vladivostok, "We are considering not adding anymore to about 120 SS20s in Siberia, targeted to Far Eastern countries." It is part of a campaign apparently on the part of the Soviet Union to build stronger links to the dynamic economies, especially of East Asia.

But, Madam President, in Europe, in terms of conventional forces, the Warsaw Pact outnumbers the NATO by three to one in manpower; two to one in armor and about three to one in combat aircraft. So the strategic issue in NATO is only one.

Madam President, suppose the Warsaw Pact countries massively attack Western Europe. We have no hope of stopping them. We are inferior in conventional forces, unless we fall back on battlefield tactical nuclear weapons. Europe then must surrender.

I do not want to imagine such a situation occurring in our own part of the world in the future. Suppose there is a massive invasion of the Philippines by conventional forces which we cannot match with our own conventional forces, will Section 4, in the view of the committee, foreclose entirely the option of stopping the enemy by means of battlefield tactical nuclear weapons? We would have a very little choice — surrender or use battlefield tactical nuclear weapons. What is the contemplation of the committee, if such a contingency arises after we approve a nuclear weapons-free Philippines?

MR. AZCUNA: The committee, Madam President, does not contemplate a rigid position where we foreclose any possible right to defend ourselves through nuclear weapons; it is just a policy. Hopefully, we will establish as a principle that we do not want our territories used for stationing nuclear weapons. The possibility the Commissioner has in mind can be met by tactical nuclear weapons from other areas not necessarily stationed in our territory. It can also be met by other nonnuclear weapons which can be developed such as laser weapons which are being developed now, a neutron bomb which is just as devastating. There are other ways of meeting such a contingency. However, we are studying a possible reformulation of Section 4, Madam President, to be able to make it sufficiently flexible in the event the national interest is threatened. As we stated, this is just a policy and when we say policy, it admits exceptions. This is not a rigid rule.

MR. OPLE: It is a very clear and excellent answer, Madam President. I would like to go back to Section 3. This has to do with the second paragraph which states:

The State has the inherent right to self-determination, national independence and sovereignty. Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

Madam President, I would like to ask the committee what this phrase, "subject to existing treaties international or executive agreements," contemplates. Does it contemplate in particular the existing military bases agreement signed on March 14, 1947 between the Philippine Republic and the United States? Does it also contemplate the mutual security and defense treaty signed between the two states in 1951?

MR. AZCUNA: It contemplates all existing treaties and agreements which may have a bearing on that provision,

including the ones the Commissioner mentioned.

MR. OPLE: In that case, Madam President, may I ask the committee to relate this to their statement yesterday that the base agreement, and presumably also the mutual defense treaty, between the Philippines and the United States is null and void ab initio? If that is the conviction of the committee, why do we refer to this nonexistent treaty in the second paragraph of Section 3?

MR. AZCUNA: Madam President, the stand of the committee members that the agreement may be so fatally flawed as to be null and void from the very beginning refers to the extension of the area covered by military bases beyond the naval reservations and fuelling stations authorized under the Tydings-McDuffie Act, the basis of the ordinance appended to the Constitution in 1935 which was ratified in a plebiscite. So that, at least, there is a portion of the territory covered by the military bases agreement that would be valid and it would be only null and void under that theory with respect to those territories beyond the naval reservation and fuelling stations authorized under the Tydings-McDuffie Act. So there is a valid portion and, therefore, the provision would still apply.

MR. OPLE: That is a very substantial change from the opinion made by the committee yesterday and also reassuring for some of us who feel that we should take seriously this second sentence of the second paragraph of Section 3 and respect our international treaties and agreements; otherwise, we will be an outcast nation.

Madam President, I also seek clarification of the statement made yesterday by Commissioner Garcia in response to what he characterized as a hypothetical question from the floor. He said that under Section 3, the Philippine government could still negotiate a new treaty on the bases beyond 1991. Is this a committee position?

MR. NOLLEDO: May we ask Commissioner Garcia to please reply to the question.

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you, Madam President.

In answer to a hypothetical question yesterday, I said that if we allow the military bases agreement to lapse in 1991, if and when it was necessary to enter into a new treaty, then it must be under certain very rigorous standards or requirements. In fact, Commissioner Nolleto said later that an amendment was being proposed by a Member of the Commission precisely regarding these requirements. Specifically, one of these very important requirements would be to submit the matter to the people in a referendum.

MR. OPLE: I want to thank Commissioner Garcia for his answer but in my opinion, it does not quite live up to the obligations created by the Transitory Provisions which are submitted, along with Sections 3 and 4, at the end of this draft article we have. The provision states:

Upon the expiration of the RP-US Bases Agreement in 1991, foreign military bases, troops and facilities shall no longer be allowed in any part of the Philippine territory.

Is the Commissioner saying that this admits of equivocal interpretation that in spite of the very categorical, unconditional and unqualified prohibition of foreign bases, troops and facilities, he still can see the possibility of a negotiation of a new treaty?

MR. GARCIA: No, Madam President. Precisely, what I am trying to say here is the committee's position that there should be no foreign military bases after the treaty lapses in 1991.

In answer to a hypothetical question, I am not referring here to the committee report but to a possible proposed amendment.

MR. OPLE: I see. Then that is clear, Madam President.

MR. GARCIA: It is clear that the present military bases agreement would lapse in 1991.

MR. OPLE: Even this proposed amendment is hypothetical at this stage. Is that correct?

MR. GARCIA: Exactly.

MR. OPLE: I thank the Commissioner for that answer. It satisfied my sense of rationality now. The Commissioner was not referring to the text of these provisions but prospectively to a proposed amendment which I understand has been drafted by Father Bernas, without prejudice to other formulations being worked out of a similar import.

MR. GARCIA: Exactly.

MR. OPLE: I thank the Commissioner very much for that answer. I just have a few questions left.

MR. GARCIA: Madam President, while I am on the floor, may I please respond to a few points raised by Commissioner Ople?

THE PRESIDENT: The Commissioner will please proceed.

MR. GARCIA: I would simply like to state this: We have been discussing the presence of U.S. military bases in the Philippines, and that is why we have been trying to understand the role of the United States in the Philippines and in the Pacific. We are not referring to Soviet military bases in the Philippines, that is why a large portion of our arguments have been centered on U.S. military presence, both in this country and in the Pacific. If the Commissioner heard the entire presentation yesterday, what we were condemning was the proliferation of nuclear weapons and warheads both by the United States and Russia. In fact, I cited the numbers yesterday, a grand total of most strategic and tactical weapons of 37,657 for the United States and 17,656 for the USSR or a total of more than 55,000 strategic and tactical nuclear weapons.

Regarding the presence of Soviet and American military bases in the region, there are 520 military installations as of 1984 in the Pacific and more than 2 dozen Soviet military bases in the region.

MR. OPLE: In the interest of the integrity of facts I will appreciate it if Commissioner Garcia will also take the trouble to identify the sources of his data. I promise to do the same on my part so as to enable our colleagues and the general public to check the authenticity and the sources of our data.

MR. GARCIA.: Yes, Madam President.

THE PRESIDENT: Is Commissioner Ople requesting that right now?

MR. OPLE: No, I stated that as a principle which extends to all Members of the Commission, Madam President.

MR. GARCIA: This, in fact, has been presented to Madam President by the Alliance for Philippine Concerns: the case for a nuclear-free Philippines, a proposal for a nonnuclear provision in the Philippine Constitution. The sources of the data are contained in this presentation which was given to us. If the Chair can give me a few minutes, I will identify the basic reference material.

MR. OPLE: Can we just have the leave of the Commission to add this annotation to the transcript?

THE PRESIDENT: It will be best for Commissioner Garcia to just submit whatever document he has later on for the record.

MR. GARCIA: In fact, Madam President, if Commissioner Ople wishes, I can submit to him the exact names of

all the bases mentioned here on pages 5, 6 and 7 of this report on the case for a nuclear-free Philippines.

MR. OPLE: Yes, I am interested in the sources because we live in alleged massive disinformation of the superpowers, Madam President. It will help if, for example the data came from a prestigious institute like the Institute of Strategic Studies of the United Kingdom. This will probably command more faith than if it came from, let us say, a more bias source. What I am saying is that I am not raising any point concerning the accuracy of the data. What I am raising is a proposal for a self-imposed obligation on the part of every Commissioner, including myself, to identify the sources of data and information for the protection of the Commission itself.

MR. GARCIA: All right. There are two other sources here which I would like to cite: William R. Finney, *The Pacific Basin System on U.S. Security in U.S. Foreign Policy and Asia-Pacific Security*, a Transregional Approach, edited by William T. Tao and William R. Finney, Westview Press, Bolder, Colorado, 1982, pages 192 and 195.

THE PRESIDENT: We would appreciate it if that document which Commissioner Garcia has now be submitted to the Secretariat.

MR. GARCIA: Madam President, this document has been submitted to us by the Alliance for Philippine Concerns.

THE PRESIDENT: All right. So we can have the time to examine it.

MR. DE CASTRO: Madam President, I request that each Member of the Commission be given a copy of the source of those information because it is my knowledge that nuclear weapons are top secret matters, more particularly when it involves the number and capability of such weapons. In the case of the United States, I believe only the President of the United States and perhaps the Chief of Staff of the Joint Staff know it. In the case of Russia, perhaps only Mr. Gorbachev knows it. These are top secret matters that only top leaders know. So I would like to know the sources of those information so that we can make appropriate investigation as to the truth of such information.

Thank you, Madam President.

MR. OPLE: May I continue, Madam President?

THE PRESIDENT: Commissioner Ople will please proceed.

MR. OPLE: This is presumably I have the floor and I think the Chair has kindly requested Commissioner Garcia to submit the identities of his sources, an obligation I impose upon myself right now, Madam President.

MR. GARCIA: Excuse me, Madam President. I was interrupted. I was in fact trying to say something.

THE PRESIDENT: Just a minute, Commissioner Garcia. Commissioner Ople is in the process of his interpellations and remarks so that if there is any reply to him, we will call Commissioner Garcia as soon as Commissioner Ople finishes his interpellations.

MR. OPLE: Madam President, according to the record, Commissioner Gascon was given one hour and thirty-five minutes yesterday. Most of that time was taken up by the committee in terms of rather extensive replies to the questions of Commissioner Gascon. I am not going to exceed that limit, Madam President. May I proceed to resume my interpellation? I still want to go back, just very briefly, to the point of the nullity or the invalidity of the bases agreement. I just want to ask the committee, considering the lapse of forty years since the end of World War II, the Joint Resolution No. 93 of the U.S. Congress, the Treaty of General Relations and the bases agreement of 1947. I am very struck by the novelty of this finding now that this bases agreement was null and void from the

beginning. Do I take it that the eminent men of the law, including past Presidents, involved with the incremental improvements of these agreements since 1946 missed this point entirely through the thicket of their well-known legal erudition? Was there a legal amnesia for 40 years? Did the law profession in the Philippines sleep like Rip Van Winkle for 40 years in order to wake up here with a new insight into the bases agreement of 1947 to discover suddenly that it is void ab initio? If that is correct, I want to pay obeisance to the men who provided this revelation because it merely means that after 40 years, legal brains, undoubtedly superior to the generations of lawyers that had existed before, had now turned up this spectacular finding. I do not believe that President Roxas raised this. President Recto did not raise this nor President Garcia or Macapagal. But this happens now and then. If it is a brilliant discovery, we must assign the credits. Besides, what eminent man of the law in our time shares this finding?

MR. NOLLEDO: May I inform the good Commissioner that it was Senator Jose W. Diokno, who topped the bar and the CPA examinations, that presented this theory. He was the first to present this theory, it seems to me. But if my memory serves me right, I heard President Macapagal also raising this issue before but he did not pursue it any further. It was Jose W. Diokno's opinion that inspired us to conclude that the RP-US Bases Agreement is null and void.

MR. OPLE: President Macapagal was a signatory to the Mutual Security Treaty of 1951.

MR. NOLLEDO: That is the reason he did not pursue the theory of nullity. I would like to check that fact because somebody told me about it. But it was the opinion of Senator Diokno that made some of my colleagues here delve deeper into the question. But if the Commissioner will look at the facts, there was really a violation of the 1935 Constitution because the Tydings-McDuffie Act was made part of the 1935 Constitution. Any lawyer worth his salt will readily conclude that there was a violation. There are two kinds of illegal contracts — null and void ab initio and inexistent. We do not even classify the RP-US Bases Agreement as inexistent because we recognize the existence of the agreement. It is existing in fact but not valid. We have recognized the principle that the government is not estopped by the illegal acts of its officers and also that when it comes to a very transcendental issue of sovereignty, I think the issue of nullity should be given importance. When we talk of nullity, we do not mean that the agreement does not exist at all. The right to question the nullity of a contract does not prescribe. That is a well-known principle in law.

MR. OPLE: Having made that interpretation, Madam President, will Commissioner Nolleddo, therefore, still feel at ease with this second sentence of paragraph 2, Section 3, which says, "subject to existing treaties international or executive agreements"? According to the previous comment of Commissioner Azcuna himself, a distinguished man of law, especially public international law, the bases agreement is one of those included in this clause.

MR. NOLLEDO: Is Commissioner Ople aware that he was also one of those learned men who made me raise quizzical eyebrows about the validity of the RP-US Bases Agreement when he appeared before our committee and admitted that while the so-called RP-US Bases Agreement was ratified by the Philippine Senate, it was never ratified by the U.S. Senate?

MR. OPLE: I am glad the Commissioner remembers that. I stand by that. There are many defects in this agreement, but it is not equivalent to saying that it is null and void from the beginning, therefore, inexistent. Therefore, out of line with this clause, the beginning clause of the second sentence, second paragraph of Section 3, will the committee then consider an amendment to this at the proper time? Maybe we should eliminate any mention of existing international or executive agreements which will embarrass the committee and this Commission if we hold on to the interpretation that there is not existing agreement from a legal point of view.

MR. NOLLEDO: There is an existing treaty, but we did really classify it as null and void because we cannot go,

as I said, against reality. The bases and the agreement exist, but we consider the agreement null and void to reinforce our other arguments that there should be no military bases in the Philippines.

MR. OPLE: So this is a rhetorical interpretation in the Aristotelian sense of buttressing an argument.

MR. NOLLEDO: The Commissioner can call it that. But as a lawyer, I believe the agreement suffers from a taint of unconstitutionality.

MR. OPLE: And the Commissioner feels that his legal skills are called upon at this time in history to strengthen and buttress the argument of the committee on the bases.

MR. NOLLEDO: I think every lawyer wants to maintain his professional standing and I am taking the risk in that regard.

MR. OPLE: I want to leave Section 3 as fast as I can and that leaves only one more question on this particular section, Madam President. This has to do with the issue raised in the resolution passed in the recent caucus. The reason for that resolution, if I remember it right, was that if this Commission now votes on Section 3, this can affect the political leverage of President Aquino in the United States. Although before we used to say that the work of this Commission cannot be linked to the visit of President Aquino, I yielded to the overwhelming arguments of Commissioner Garcia in that crux. I shared his conviction very forcefully expressed at that time that the work of this Commission should not be linked to the visit of President Aquino.

Will the Commissioner not agree with me that when the committee approves Section 3, the effect is to cancel all these options, which President Aquino has been saying to the whole world she would like to keep open until 1991? Will that not be the objective effect, even if unintended, that all these options are cancelled because Section 3, with the Transitory Provisions, will close this issue? The provision will not keep it open. It will preempt the President of the competence of her office to pass upon foreign policy and international relations and national security. And it will probably cause the gravest political embarrassment to President Aquino which she has ever experienced in her very promising six or seven-month reign so far

MR. NOLLEDO: I agree with the Commissioner, but our group is taking the bold stand on the matter. Perhaps, other Commissioners may find our stand unpalatable but this does not mean that we are not receptive to any possible amendment to the provision.

MR. OPLE: So that, in effect, the Commissioner is not standing pat on his original position. He is now showing his signs of flexibility, which I welcome.

MR. NOLLEDO: We are standing pat on our original stand, but we do not do away with the Rules of this Commission. We have to subject ourselves to the will of the Commission and we have to go with procedural rules, like amending this provision, Madam President.

MR. OPLE: I thank the Commissioner for that. I am not a member of the Aquino government like the three others that have been invited to serve here. What I want to say is that I have a great feeling for any Philippine government as the constitutional organ of the Filipino people, irrespective of the accident of personalities.

MR. NOLLEDO: Madam President, if the Commissioner will permit me, may I ask him some questions because he said he has a great feeling for any Philippine government.

MR. OPLE: For the Philippine government, about the Filipino people.

MR. NOLLEDO: Naturally, the Commissioner has a feeling for the Filipino people.

MR. OPLE: Madam President, I think to raise this question at all is to cast aspersion on my integrity.

MR. NOLLEDO: No, Madam President. I beg the Commissioner to answer my questions.

MR. OPLE: I am speaking of the Philippine government.

MR. NOLLEDO: No, I do not mean any implication of that kind, Madam President. I would like to know what the Commissioner's stand is on our assertion that the existence of the American bases impairs the sovereignty of the Republic of the Philippines.

MR. OPLE: It does, to an extent that the Philippine government allows the rights of the Filipino people in this relationship to be trampled upon. That is the reason I have greater hopes that if we gave to the existing government under its present head a becoming courtesy that it is capable of exercising its own undaunted constitutional competence on matters of national security and foreign policy, it will not disappoint us.

MR. NOLLEDO: Does the Commissioner really believe that the existence of the American bases in the Republic of the Philippines is indispensable to our national security?

MR. OPLE: It is not. What I care about, Madam President, since I am now engaged in a very pleasant dialogue with my colleague in the committee, is precisely that there is only one significant political leverage the Filipino people have relative to this great superpower, the hegemonic superpower, that is the United States of America. That political leverage, that bargaining clout, if I can be so blunt as to call her that, has never been this great since 1898. What I care about is why this great historic political leverage available to the Philippine government should be set aside by this Commission when we deny President Aquino the options that she talks about, which she would like to be open until 1991. That is exactly what we are doing. We are throwing away the political leverage of the Philippine government. Never as great since 1898 and 1947, this political clout can be used to redress the historic inequalities between the two countries.

My friends, we all know about the realities of international politics: that the only law for every nation is its own self interest until there is a world government when the whole world will become one state. But until that time comes, may I counsel a necessary and becoming prudence, let us not out of a trusting nature give away the only possessions we have in terms of being able to compel the United States to respond to the grievances of our government and people, and that is the bases agreement.

President Aquino is not bound to extend this agreement. Under the resolution that I filed together with Commissioners Rustico de los Reyes, Teodulo Natividad and Regalado Maambong, what did we say there? Abrogate the bases agreement without waiting for 1991, but let the Philippine government, let President Aquino keep the options. We should not tell the Americans yet. Whether she will abrogate or entertain a joint initiative or even a unilateral initiative from the United States for a new treaty, then all these political leverage will be available to her. She can abrogate, she can agree to a new negotiation for a completely new treaty. That was the point of our original resolution, Madam President. What we wanted was to make this historic political leverage available in full to the President of the Philippines, whoever he is or whoever she is. This is the long-awaited historic moment to compel the United States in bargaining to redress, at last, all these historic inequalities between our two peoples in that lopsided relationship that began in 1898. There are many Americans who also welcome this opportunity to correct these inequalities which for some of them are also painful.

MR. NOLLEDO: By inequalities, is the Commissioner referring to the one-sided provisions, the onerous conditions of the RP-US Bases Agreement?

MR. OPLE: Among others, Madam President, I would like to see the Philippine government in due course, for example, if President Aquino in the exercise of her options decides not to abrogate but to call for a new treaty. I would like her to be able to use this clout in order to achieve for the Philippines a CBI scheme. What is CBI? This

is the Carribean Basin Initiative according to which the manufactured goods outside of textiles of about 20 Carribean countries, including Central America, enter the United States market free of duty. That, if extended to this country, it would propel us within 10 years to a level of development higher than that of Korea and Taiwan.

MR. NOLLEDO: Would the Commissioner commit to support the Bernas amendment authorizing the President to enter into a new treaty subject to ratification by the people?

MR. OPLE: This is not yet on the agenda, Madam President. However, I gathered from Commissioner Bernas that this is partly derived from the resolution that we filed earlier, and so claiming partial paternity, I see no reason why we should repudiate our own off-spring at the proper time because this is not yet in the agenda.

Madam President, I now leave Section 3, and it will take me just about 10 minutes more to wind up on other sections. Section 9, line 29 on page 2, on the right to life, states:

The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution.

The focus of this sentence is on the sanctity of family life. Will this term "sanctity," which I interpret as being synonymous with purity and inviolability, disauthorize Congress from passing a divorce law? I am not saying in the immediate future, but I hope this Constitution will live for ages, let us say, 20 years or even 30 years from now. After all Italy, where the Holy See is, approved a divorce law about 10 years ago in a referendum, and that is the very citadel of our faith as Catholics and Christians. Will the words "sanctity of family life" interpreted as being inviolable and being pure be sullied by future legislation that will grant marital partners a wider freedom of choice than what they now enjoy under existing law?

MR. VILLEGAS: As far as the committee's opinion is concerned, I think that statement does not take any stand one way or the other about the possibility of divorce. That will be left to legislation and it will be up to the people to decide.

MR. OPLE: The question is very simple and very clear, Madam President. Will these words disauthorize Congress to pass a divorce law in the future?

MR. NOLLEDO: The answer is no because we do not talk of the sanctity of marriage; we talk of the sanctity of family life as a whole.

MR. OPLE: The answer is satisfactory. I would like to proceed to the next sentence closer to the heart of Commissioners Bacani and Villegas which reads:

The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

Yesterday, I had the good fortune to listen to some of the interpellations precisely on this sentence. Commissioner Villegas on behalf of the committee then said, "This could be related to some statements in the general provisions on family planning." Does this mean that, in providing for the protection of the life of the unborn from the moment of conception, this is going to be taken as a signal to dismiss the relevance and validity of all family planning programs in the Philippines? Is that how the committee views this?

MR. VILLEGAS: No. As we made it very clear yesterday, any contraceptive that is not abortifacient can still be legal, according to this specific provision.

MR. OPLE: I will vote for this provision, Madam President. I think that in writing a constitution, we write not only provisions of a fundamental law. We set the tone whether we like it, or the tone of a whole civilization, and that is why I also voted for the elimination of the death penalty under certain conditions, subject to certain powers

of Congress to provide for exceptions in the case of heinous crimes. Overall, we should raise the tone of our public and social morality through a constitution; and the reverence for life, that time and life is, of course, being rendered cheap by all the threats to our safety in a very disorderly environment. Still a commitment to the protection of life, even in its incipient stage, is a declaration of a commitment to a higher tone of our civilization. But at the same time, I would be very concerned if the committee now taking off from its forthcoming victory on this Section 9 will start considering this as a mandate to discredit, to actually dismiss family planning programs in this country. I heard Commissioner Villegas say that purposeful programs to limit the size of families have failed everywhere. He quoted President Reagan, whose wisdom might lie in other fields than in family planning, as having said that social and economic development is the only key to the reduction of human populations. He referred to the new U.S. policy, which is driving Mr. Salas and his UNFPA to a new lookout. He has applied to be transferred to Tokyo because of this new restrictive atmosphere on family planning in the United States.

But, of course, may I say that family planning is not a rigid idea. May I tell the body that in the Soviet Union, which I know a little bit since I have traveled there no fewer than seven times, even within that vast country, there are two kinds of population crises. In the European part, it is the crisis of a steadily diminishing population; and, therefore, the State holds up medals of heroism for heroic mothers who would give birth to more than eight children. But in the Asian part of the Soviet Union, there is a reverse problem. They are reproducing at a faster rate. This possesses momentous political and economic implications for the Soviet Union after the year 2000, when the Asiatic population begins to match the European population. And what will we have — crisis of leadership about distribution of leadership and power, especially in the higher strata of the Soviet policy and bureaucracy. But India is different. Japan is different. The Philippines is different. We are a developing country. If my data are still current — I used to sit in the Population Commission — about 10 years ago, our population growth rate was 3.5 percent according to the University of the Philippines. Then it declined over 10 years to only about 2.6 percent. The NEDA now says it is 2.4 percent if I am not mistaken. And yet, these were years of stagnation in manufacturing. As a matter of fact, Philippine manufacturing has never exceeded 14 percent of the total employed force of this country since 20 years ago. Commissioner Villegas is an authority on that. He uses this argument very fiercely in the debates on protectionism.

Since we did not really grow spectacularly in those 10 years, still the rate of growth of the population dropped precipitously from 3.5 to only 2.4 percent at this time. Will we not give the population policy of the government and of the nongovernmental organizations some credit for having accomplished this small miracle in population control?

MR. VILLEGAS: That is one of the most statistically debatable issues. Although this is a completely separate question which is not related to Section 9 of the Article on the Declaration of Principles, still my position is that it is subject to the flux and the changes in economic policy, in urbanization and in industrialization. It should be something that should not be found in a constitution, but should be subject to legislation. If family planning is found necessary, let it be in the legislative process. However, as I said, that is a completely separate question.

MR. OPLE: This is a slight revision of the views which the Commissioner gave yesterday, but I hope this is the official one.

MR. VILLEGAS: What I stressed yesterday was to support in the separate discussion on the Article on the General Provisions the idea of deleting any reference to population policy precisely because today it may be that we want to limit population. Tomorrow it may be that we want to increase population.

MR. OPLE: Thank you very much for that clarification.

I want to ask now: Does this belong to the province of Commissioner Villegas or Commissioner Bacani? We say,

"Protect the life of the unborn from the moment of conception." Is there in jurisprudence anything now that will help us visualize the precise moment, the approximate moment when conception begins and, therefore, the life of this new human personality entitled to all the protection of the laws in the Constitution begins? Is there any standard legislature or jurisprudence that will support an interpretation of the moment of conception?

MR. VILLEGAS: Jurisprudence? None. Precisely, this is one thing that we have to obtain from the declaration of natural scientists. In this regard, I would like to read this specific statement by natural scientists about when human life begins. This is taken from the Handbook on Abortion by Dr. and Mrs. J.C. Wilke. The most distinguished scientific meeting of recent years that considered this question of when human life begins was the First International Conference on Abortion held in Washington D.C. in October 1967. It brought together authorities from around the world in the fields of medicine, law, ethics and the social sciences. They met together in a think tank for several days. The first major question considered by the medical group was: When does human life begin? The medical group was composed of biochemists, professors of obstetrics and gynecology, geneticists and so forth, and was represented proportionately as to academic discipline raised in religion. For example, only 20 percent were Catholics. Their almost unanimous conclusion, 19 to 1, was as follows:

The majority of our group could find no point in time between the union of sperm and egg which is the fertilization or, at least, the blastocyst stage and the birth of the infant at which point we could say that this was not a human life.

Parenthetically, the blastocyst stage is shortly after fertilization and would account for twinning. They continued:

The changes occurring between implantation, a six-week embryo, a six-month fetus, a one-week-old child or a mature adult, are merely stages of development and maturation.

There has not been before a more important or a more qualified body of natural scientists who, as a group, has thoroughly discussed and come to conclusion on this subject until such time as some other groups of equal scientific importance might possibly come to a different conclusion. We believe that the abortion debate from a scientific standpoint must proceed on the assumption that this is human life. So, human life begins at fertilization of the ovum.

MR. OPLE: But we would leave to Congress the power, the mandate to determine.

MR. VILLEGAS: Exactly, on the basis of facts and figures they would obtain from experts.

MR. OPLE: Yes, to legislate a kind of standard so that everyone will know what moment of conception will mean in terms of legal rights and obligations.

I am about to finish, Madam President. I should have wanted to dwell at length on Section 26 which reflects an original resolution that I, with some others, filed on the right of an oppressed people to revolt against their government but this was I think sufficiently covered in the dialogue with Commissioner de Castro yesterday.

My final question then pertains to a favorite section of Commissioner Nolleto and that is Section 23 concerning broadening opportunities for public office and prohibiting political dynasties. I really wish that there had been more time to develop a good debate concerning political dynasties. What I can see here is that the first part of Section 23 would broaden the opportunities for public office and then contract the role of dynasties so that there is a kind of mutual displacement. Would that interpretation be right, Madam President? In other words, we broaden public office at the expense of political dynasties.

MR. NOLLETO: The Commissioner is right. That is correct

MR. OPLE: Political dynasties thrive in many parts of the world and are contingent on many factors, although

they may be called with other names. I think what is abhorrent about political dynasties is the monopoly of political power. Is that right?

MR. NOLLEDO: The Commissioner is correct.

MR. OPLE: Yes; another abhorrent part is that there is a class distinction involved here. Usually, these are families favored by the accident of birth; meaning, they were born to families already with accumulated property. Therefore, that is the injustice that attaches to political dynasties. At the same time, when we survey some of the interesting provinces around Metro Manila, I think they partake of the different characteristics in terms of traditional political power. I begin to tread now on some sensitive spots when I point to Batangas.

Batangas is a Laurel country. But in the case of Batangas, I recall that Sotero Laurel was the Secretary of the Interior of the Aguinaldo government in Malolos. Since the revolution, the Laurels have been a leading political family in Batangas. We are very privileged to have with us now, right here in this Commission, one Laurel, one of the most eminent of them all. Under the Commissioner's definition of political dynasties, would that encompass the Laurel family?

MR. NOLLEDO: I have not actually studied the details involving the Laurel family. But it seems to me that Don Pepito denies that he has any political ambition at all and he said that the political dynasty provision should not apply to the Laurel family.

For the information of the body, we have not defined the meaning of political dynasty. Actually, if we will read this in short, "the State shall prohibit political dynasties," it is up for Congress to define.

MR. OPLE: Yes.

MR. NOLLEDO: But my concept is that Congress shall see to it that after the permitted reelection has been exhausted, I think the close relatives should not inherit the position because of undue advantage to others who are equally bright but do not possess the necessary financial support. Perhaps the son may not run after the last reelection but he can run later on. I am giving an idea to Congress. The denial is not absolute.

MR. OPLE: Yes. I suppose we are looking for a socio-political framework of analysis for this provision and I think the dialogue has already been fruitful.

Let us move the inquiring eye to my own province of Bulacan. In Bulacan, there are no dynasties in the sense of a stable monotonous leadership from the same family across generations. The first Governor of Bulacan under the American occupation in 1901 was the grandfather of Governor Ignacio Santiago. Then there was a long pause of several decades in the political career of that family. Finally, one deserving offspring of that line, who is Ignacio Santiago, came up and became the governor of Bulacan. Is that not prohibited in this provision?

MR. NOLLEDO: We recommend to Congress that the prohibitions should just cover relationships probably up to the third civil degree or degree of consanguinity or affinity. We can limit only up to the third civil degree or fourth civil degree depending on the wisdom of Congress.

MR. OPLE: For example, Commissioner Nollado suddenly develops a yen for politics and there are some among his children who, with a good genetic foundation, later on also develop a liking for politics in Palawan. I transpose this to the Commissioner's own situation so that the Commissioner will begin to understand our concern that actually human genes can be functioning in such a way that some families like politics. The others do not like politics; they like business.

Just about 25 years ago, I was just an ordinary inhabitant of a barrio in Hagonoy, Bulacan. I was disadvantaged from the beginning by the accident of birth because I was born to a very poor family. But now mainly through

luck and through no merit of mine, I think I have risen somewhat in the world so that I attracted the attention of the people in my hometown and they wanted me to lead them. Will a gifted child belonging to my family be eternally proscribed from presenting himself for public office later on because of this disqualification?

MR. NOLLEDO: No. As I said, we have not defined. It is up to Congress to state the circumstances under which the prohibition may apply. If in the case of my son, if I feel that I have already exhausted my right to be reelected, as a manifestation of self-sacrifice and out of delicadeza, I will tell my son not to run even if there is no prohibition against political dynasty.

MR. OPLE: What I feel is an inner demand for logic and rationality so that this provision can be actually attached to some principles of equity without doing violence to the freedom of choice of the voters because they are entitled to as broad a freedom of choice as the environment can provide and if they want somebody to run for office even if he is closely related to someone in office, do we have the right to curtail the freedom of the voters?

MR. NOLLEDO: I would like to be specific. I hope the Commissioner will agree with me. Suppose I am the governor. I ran for reelection and I was reelected. Again, I ran for reelection. That will be my last chance to be reelected to the same office. However, I felt that I could not run any more because I am already old and decrepit. Hence, I develop my son to be my successor.

In the meantime, when my son runs, I still hold the position. Would we concede that I have an undue advantage over other candidates because I hold the position. I have all the facilities of the government at my command, and then I let my son continue bringing the alleged honor of the father and continue the position?

MR. OPLE: Madam President, in fairness to the others, I want to terminate my interpellation now. But before I leave this podium, may I just say some concluding words concerning this section on political dynasty.

I believe that the roots of political dynasties, to the extent that these are repugnant in a democratic society, are in the society itself — a feudal socioeconomic structure — whereby those who were advantaged by the accident of birth and have been born to considerable possessions and property can acquire an unfair advantage over others. But I think, ultimately, the solution should be to reform these iniquitous social and political structures, but we should minimize invasions into the domains of privacy of people; that is, the freedom of choice of the electorate. The right to be voted upon is inherent in the right of suffrage, and I hope that Commissioner Nolleddo will accept that interpretation.

So at the proper time, I would be happy to consult with Commissioner Nolleddo concerning a proposed amendment to this section.

Thank you, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: We are now in the period of amendments. I ask that Commissioner Davide be recognized.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

Madam President, before we move to the period of amendments, may we address a few questions only to Commissioner Ople, just to clear up one point.

THE PRESIDENT: Is Commissioner Ople ready to answer Commissioner Suarez?

MR. OPLE: I will be most happy to answer.

THE PRESIDENT: Commissioner Suarez may proceed.

MR. SUAREZ: Thank you.

Notwithstanding the fact that the Gascon record yesterday had been broken, may I take one minute of the Commissioner's time? Will the Commissioner bear with me?

MR. OPLE: That I would like to verify because I promised not to exceed the time limit of Commissioner Gascon. (Laughter)

MR. SUAREZ: I will consume only one minute of the Commissioner's time.

I was listening intently to the Commissioner's analysis of the Gorbachev statements made in Vladivostok last July 28, and I appreciate the Commissioner's analysis and review. May I only clear up one point?

I take it that when Mr. Gorbachev made this statement that if the United States would pull out of Clark Air Base and Subic Bay, that step would not be left unanswered, if I may quote the Commissioner correctly from his statement.

MR. OPLE: Yes, I confirm that that is a precise quote.

MR. SUAREZ: Thank you.

The implication of that statement is that if the United States would pull out of Clark Air Base and Subic Bay, then the Russians, in turn, may pull out of Cam Ranh Bay. Am I right?

MR. OPLE: The official Soviet position, Madam President, is that they have no military bases outside their own country. The most they admit about Cam Ranh Bay is that they go there to fuel and to refit.

MR. SUAREZ: Thank you.

It is because it is a warm water port.

MR. OPLE: Yes. In effect, that is what Mr. Gorbachev offered by way of a tantalization of . . .

MR. SUAREZ: It is a sort of an international quid pro quo; in other words, something to that effect.

MR. OPLE: It was very vaguely worded. This will not go on unanswered and I think whether it is the United States or the Soviet Union, it is right for a country like the Philippines to proceed from a position of skepticism about these promises, especially if they are very vague.

MR. SUAREZ: Thank you.

The people from Central Luzon always go for the jugular like the Commissioner and me, so may I ask directly my question? Assuming that Mr. Gorbachev was speaking in good faith, would the Commissioner, as a Filipino, not be comfortable if the United States pulls out of our country and Russia, on the other hand, would not use Cam Ranh Bay as a port of call for its nuclear-powered vessels?

MR. OPLE: Madam President, the security configuration of Asia and the Pacific and of the world is something that is ridden with complexity. I would actually welcome a situation someday, where there is no foreign military presence in Southeast Asia, but I would go about this very cautiously in terms of seeing to it that we do not expose our security unnecessarily to the mercies of competing powers.

MR. SUAREZ: And that would be the ideal situation for Filipinos like the Commissioner and me?

MR. OPLE: We should strive towards that, Madam President.

MR. SUAREZ: I thank the Commissioner for his clarification.

MR. RAMA: Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. TINGSON: Madam President, a member of our committee, Commissioner Garcia, feels that he has some very important points to state directly in answer to some of the statements of Commissioner Ople a while ago. He wonders if, as a member of the committee, he would not be allowed to do it now.

THE PRESIDENT: How long should he talk, because the Chair understands that there was quite a lengthy discussion already on this point yesterday and Commissioner Garcia took a long time in explaining his points?

MR. GARCIA: Yes, Madam President.

THE PRESIDENT: Would it be just about the same thing?

MR. GARCIA: Madam President, I was trying to answer a few points which Commissioner Ople presented, but I was interrupted.

THE PRESIDENT: Are these new ones which the Commissioner has not answered before?

MR. GARCIA: Some of them are new ones, but there are a few points which I would like to stress.

THE PRESIDENT: All right, just the new ones because some other issues have already been raised earlier by others.

MR. OPLE: May I reserve the right to give a rebuttal in accordance to customary parliamentary procedure, Madam President.

THE PRESIDENT: Yes. Commissioner Garcia is recognized.

MR. GARCIA: First of all, there are many points which Commissioner Ople touched. I do not wish to answer every single point. I only want to stress major points.

The best leverage, I believe, one can give to any Philippine President is to be the head of truly sovereign nation, and that such is perceived among the concerts of nation.

The presence of foreign bases in our land is seen, especially by many Third World nations, as a serious impairment and derogation of our sovereignty. That is why we have been saying that the best thing that can be given to any Philippine President — not only this President but future Presidents — is precisely for this body to be able to declare that the State is fully sovereign; and that is our position.

Secondly, the other point I want to stress is regarding the effort of this country to move towards a zone of peace, freedom and neutrality in this part of the world. I believe that the first steps in the pursuit of peace must be made in a bold and daring manner by the sovereign states of the Southeast Asian region. We should exercise this sovereignty, and we should exercise the initiative among the nations of Southeast Asia, both the ASEAN nations and the nations of the former Indo-Chinese colonies.

We simply cannot hide behind the shield of one of the two superpowers. Precisely, we must provoke the process of peace by challenging the superpowers to some sanity and shake them out of their warlike mentality.

I believe that we must declare by our initiatives that might is not always right. And yet this is what has happened in the world of diplomacy, in the world of foreign relations where might has been exercised and "right" automatically follows; but that should not be so.

Thirdly, the studies of eminent scientists, including those of Filipinos, for example, Dr. Frank Arcellana and Jorge Emmanuel, have shown the geopolitical implications of a nuclear winter. As far as U.S. military bases in the Philippines are concerned, these are the conclusions:

The military bases, in the face of nuclear war and weapons, are obsolete. Invoking the nuclear winter scenario, nuclear weapons, which are tools of indiscriminate mass killings and destruction, will not only be unable to protect us; they will eventually kill us all.

Secondly, the justification of U.S. overseas bases as essential for national security is no longer valid, since the nuclear winter scenario recognizes no national boundaries. Such terms like defensive perimeter or offensive outposts are archaic in the face of a nuclear war.

It is, in fact, suggested even by United States scientists as a gesture of concern for the human rights of the people of the South Pacific and of Asia for the U.S. to fall back, not only to Saipan or Tinian but all the way back to the deserts of Nevada.

A third point which is very important regarding the bases is the fact that nuclear accidents do happen. The reason we say there is the urgency to address the bases issue in this Constitution is that tomorrow may be too late. Nuclear accidents do happen.

The U.S. Defense Department has stated, and I quote:

There has been a total of 33 nuclear accidents involving U.S. nuclear weapons throughout the period that the U.S. has had these weapons. Two accidents released radioactive material; one, in Palomares, Spain on the 17th of January 1966 which involved the crash of an airplane, a bomber plane. And the other is in Thule, Greenland on the 21st of January 1968.

The Center for Defense Information estimates that since 1945, there has been an average of one major U.S. nuclear accident per year and as many as 250 minor nuclear accidents during that time. This is very important.

There is another type of accident which can be critical. We form part of what is known as a C-3-I system which refers to command, controlled communication and information. There have been at least five major accidents involving false alarms. A C-3-I type of accident is that which happened on the 9th of November 1970 where a mechanical error triggered the early warning system of the North American Air Defense Command in Colorado. For six minutes, missile bases were put in a higher state of nuclear alert and check interceptors were scrambled. Fortunately, this error was discovered before nuclear missiles could be launched. The danger of nuclear accidents is another reason for the removal of nuclear weapons and bases from the Philippines.

Lastly, I would simply like to acknowledge our debt.

We have not been the first ones to advance the argument that the RP-US Military Bases Agreement is null and void ab initio. As Commissioner Nollado has pointed out, former Senator Jose W. Diokno has advanced his argument. The members of the anti-bases coalition, like former Justice J.B.L. Reyes, have also advanced their argument. Former Senator Lorenzo Tañada has advanced his argument especially in the public hearings. The point we simply want to make is this: The military bases agreement is seriously flawed because it was a violation of the Philippine Constitution. All the provisions of the Philippine Independence Act were incorporated in the 1935 Constitution and consequently became a part of it. By virtue of Section 3 of Ordinance 1, it was appended to

the 1935 Constitution. Section 10 of the Philippine Independence Act which was incorporated therein only provided for naval reservations and fuelling stations. Any change in the Constitution has to be amended in the manner provided for by Section 1, Article XV of the 1935 Constitution, which states:

Such amendments shall be valid as part of this Constitution, when approved by a majority of the votes cast at an election at which the amendments are submitted to the people for their ratification.

I would like to point out that there was a plebiscite held on March 11, 1947 but it was only on parity rights. In fact, those Commissioners who were at that time already involved would remember the campaign slogan of Roxas when he was campaigning for the plebiscite "No parity, no money." And yet, I want to point out that three days later the military bases agreement was concluded. Why was it not included in that plebiscite? Another point that must be remembered is that at that time also there were negotiations being undertaken regarding the Philippine Rehabilitation Act. In other words, the three agreements — the Philippine Rehabilitation Act, the Philippine Bell Trade Act, the parity amendment and the Military Bases Agreement — came as one single-embryo program of the Truman administration for Philippine independence. And as one author pointed out, clustered together with the economic and financial means of bludgeoning the new Republic were the military facilities which brazenly derogate Philippine sovereignty.

We have to consider the historical circumstances which surrounded the agreement. We have to consider the state of affairs of the Philippine nation after the world war. We have to consider the very weak position of the Philippine government at that time considering we have just emerged from a colonial experience.

These are the reasons. These are the situations which somehow seriously impair or give rise to a serious flaw in what actually happened at that time. Therefore, the position that the committee takes is to correct this historical aberration. It is as clear as that. And only after we have done this can we proclaim to the people that we now have a sovereign charter that makes a pronouncement without fear on this point after we have known all the facts.

Thank you, Madam President.

THE PRESIDENT: Thank you.

MR. OPLE: Madam President, it will take me just three minutes to provide a rebuttal.

THE PRESIDENT: The Commissioner may proceed.

REBUTTAL OF COMMISSIONER OPLE

MR. OPLE: On point No. I made by Commissioner Garcia that the best leverage for a President is to be the head of a genuinely sovereign nation, leading to the argument of taking away the bases agreement without recourse to Section 3, I want to express my conviction that the Philippines is no less sovereign than Cuba, Nicaragua, Vietnam, Mozambique, Angola or any of these countries that claim to be nonaligned but whose foreign policies as we all know are closely geared to Soviet foreign policy. Therefore, I maintain that President Aquino is the worthy head of a truly sovereign nation, even by the standards of some of these countries whose foreign policies are anti-American.

On the second point, about "might" prevailing over "right," we do not live in an antiseptic global society, Madam President. We live with messy realities. In a Constitution like this, we hope to exalt the primacy of "right" over "might," but in the world as a whole, until the world becomes a single state which has been the dream of visionaries from Aristotle to Kant, to the poet Tennyson and many other visionaries of the age, until that point is attained in world history when all the states can become one under a juridical global entity — not yet the United Nations which falls short of that — I think we have to live by our wits, and I will not answer this nuclear winter

thesis. I do not know if it helps the argument of those who are for Section 3 as it is now worded, since this is an admission that regardless of bases anywhere, in the event of a nuclear war, no one will escape the annihilation of a nuclear winter.

I just want to point out that the reason why Commissioner Garcia is able to supply abundant data about nuclear accidents in the United States is that the U.S. is an open society. It was a cause for jubilation throughout the world when Mr. Gorbachev, in a sharp departure from policy, made available to western scientists the details of the Chernobyl accident. That was supposed to be a very courageous radical act on the part of the Gorbachev regime in order to open up their own information a little bit to the rest of the world. I would rather live in an open society, Madam President.

The fourth is about the theory of the invalidity of the bases agreement. If it is really a nullity, then I can live with that. I am merely saying that in the second paragraph of Section 3 we refer to international treaties and agreements, the existing ones. According to the members of the committee, these definitely include the bases agreement. So, I just want to point out that on one hand the committee says this is a nullity in existence, null and void from the beginning, and on the other hand, the committee then enshrined these agreements in Section 3 of the Constitution which is an ironic repudiation of its own legal position.

Therefore, I think we should be allowed to propose amendments to this section consistent with the belief of the committee that there is no agreement at all in legal contemplation.

Thank you, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

PERIOD OF AMENDMENTS

MR. RAMA: Madam President, before the motion for suspension, I would just ask that Commissioner Davide be allowed to state his amendment.

MR. DAVIDE: Thank you, Madam President.

I submitted earlier my proposed amendments to the entire Article on the Declaration of Principles consisting of thirteen pages.

My first proposal will be on Section 1, page 1. On line 7, I seek for the insertion of the word "UNITARY" before "republican." On line 9, I seek for the insertion before the word "all" the following. "THEIR WILL AND CONSENT ARE THE ONLY SOURCE OF," then delete the phrase "emanates from them and continues only" on the same line 9.

On line 10, I seek for the deletion of the words "with their consent." So that Section 1 will read as follows: "The Philippines is a UNITARY republican and democratic State. Sovereignty resides in the Filipino people and THEIR WILL AND CONSENT ARE THE ONLY SOURCE OF all government authority."

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Our committee would like to go on luncheon recess now, and we are requesting the other Commissioners who have not yet presented their amendments to us to do so because we are going to meet as a committee at lunch time. With due respect to Commissioner Davide, we would suggest that he continue where he

is now ending after lunch time during the period of amendments.

MR. DAVIDE: I second the proposal.

MR. TINGSON: Yes, and the other proposals.

THE PRESIDENT: Commissioner Davide has 13 pages of amendments. Has the committee been furnished with these copies?

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: They will have enough work.

SUSPENSION OF SESSION

MR. RAMA: Madam President, I ask that we suspend the session until after lunch at two-thirty in the afternoon.

THE PRESIDENT: The session is suspended until two-thirty in the afternoon.

It was 12:11 p.m.

RESUMPTION OF SESSION

At 2:55 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Davide be recognized to present his amendment.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The proposed amendments on Section 1 had been presented this morning and I would like to find out from the committee its reaction to said amendments.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Before the committee responds, would it be in order if I propose an amendment to the Davide amendment?

THE PRESIDENT: The Commissioner may proceed.

MR. DAVIDE: I would like to find out first the amendments.

MR. AZCUNA: Madam President, on behalf of the committee, I would like to inform Commissioners Davide and Bernas that the committee at its meeting this noon has reformulated Section 1 taking into account some of the proposed amendments, particularly those of Commissioner Davide. As reformulated, Section 1 would now read as follows: "The Philippines is a republican democratic State. Sovereignty resides in the Filipino people and all government authority emanates from them."

We delete the word "and" between "republican" and "democratic," put a period (.) after the word "them" and delete the words "and continues only with their consent." This is a committee amendment based on proposed amendments from the floor submitted to us.

So if there is any proposed amendment, it should be based on this present committee wording.

MR. MONSOD: Madam President, may I have the floor. I have an anterior amendment on what has been stated by the committee.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: My amendment is to delete the word "Filipino" because we are talking about the Philippines and this phrase stands and has been standing in that way and I believe it is very familiar with our students and with our people.

MR. TINGSON: We accept the amendment.

Thank you.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Just a few questions addressed to the committee. When the committee says that "all government authority emanates from them," that is, from the people, is it understood that in order to preserve a government of laws, it is only the public officers who should have the authority that is given to them by law?

MR. AZCUNA: Yes.

FR. BERNAS: And that such authority is limited by law?

MR. AZCUNA: That is correct. Ours is a government of laws and not of men.

FR. BERNAS: And that authority continues only with the consent of the people.

MR. AZCUNA: That is the intendment.

FR. BERNAS: Thank you.

In that case, I will have no amendment.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Chair asks Commissioner Davide's opinion since he has a proposed amendment to this.

MR. DAVIDE: Just one clarificatory question before I decide to agree to a withdrawal of the proposed amendment.

The question is: Even with the deletion by the committee of the last phrase, it would still necessarily follow that as a republican and democratic government with sovereignty residing in the people and all government authority emanating from the people, such an authority would continue not only in accordance with law or as defined by law or to continue with the consent of the people, but the same may be expressed either by appointment or by election.

MR. SUAREZ: Madam President, may I be recognized for an anterior amendment?

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

It is in connection with the title of the article. I would rather feel comfortable if we only retain the title "Declaration of Principles" and delete the phrase "and State Policies." So, may I formally move for the deletion of this particular phrase and we go back to the captions appearing in the 1935 Constitution?

THE PRESIDENT: What does the committee say?

MR. AZCUNA: In the 1973 Constitution, the title is "Declaration of Principles and State Policies." We feel like retaining "State Policies" because a lot of these provisions we are proposing are not principles but more of basic policies which we want the State to have an orientation towards. Since titles should be reflective of the content, we believe that the words "and State Policies" should be retained. It is not new. It is in the 1973 Constitution.

MR. TINGSON: Madam President, we thought an excellent paper presented by Commissioners Maambong and Suarez divides our report into two — that would be under "principles" and under "policies." For instance, under "principles" would be the declaration that the Philippines is a republican and democratic State; that sovereignty resides in the people; that the Philippines renounces war and adheres to the principle of self-determination. Under "policies," we include the declaration that the Philippines is a nuclear-free country, the policy on the defense of the State, and other policies on the sociopolitical economic system. There are quite a number of articles under "State Policies." As a matter of fact, according to Commissioner Maambong, there are more "state policies" than "principles" in our report.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I move that we consider the title after we have finished all the provisions because we do not know yet what will remain after the period of amendments.

THE PRESIDENT: Is the proponent agreeable to that?

MR. SUAREZ: Yes. I would have no objection to that. Madam President.

Thank you.

MR. TINGSON: The committee also agrees, Madam President.

THE PRESIDENT: Is Commissioner Davide through already?

MR. SARMIENTO: Madam President.

THE PRESIDENT: Have we settled Commissioner Davide's problem?

MR. DAVIDE: There was no answer yet from the committee. I was interrupted.

MR. AZCUNA: The committee believes that the sense is still the same that government authority emanates from the people. Naturally, if the people withdraw that authority, then the government would no longer have legal basis for continuing it. But, of course, the manner in which the people will withdraw the authority is defined elsewhere in the Constitution and, as a whole, I would say that the people exercise the sovereignty through elections as well as through their representatives because this is a republican form of government. It may also be done directly by referendum and initiative and recall.

MR. DAVIDE: Thank you for the information.

I am withdrawing the proposed amendment because of the reformulation.

MR. AZCUNA: Thank you.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: We also introduced an amendment sponsored by this Representation, Commissioners Rama, Bacani and Colayco. We distributed copies of that proposed amendment which reads: "THE SOVEREIGN WILL OF THE PEOPLE SHALL BE ASSERTED THROUGH THE SECRET VOTE IN FREE, FAIR, CLEAN AND HONEST ELECTIONS HELD PERIODICALLY."

May I know from the committee if the committee formulation embraces this amendment so that we will not insist with that amendment?

MR. TINGSON: We considered the Commissioner's excellent idea behind his amendment, and so we agree with him that the first sentence should be retained. "The Philippines is a republican democratic State. Sovereignty resides in the people and all government authority emanates from them."

But we feel that we cannot anymore state in Section 1 this amendment: "THE SOVEREIGN WILL OF THE PEOPLE SHALL BE ASSERTED THROUGH THE SECRET VOTE IN FREE, FAIR, CLEAN AND HONEST ELECTIONS . . ." because that is already behind the statement when we stated that the Philippines is a republican democratic State.

MR. SARMIENTO: Thank you for that excellent reply.

May I pose this query? The Commissioner mentioned in the first sentence "republican democratic State." Is there such a thing as a "republican democratic State"? I ask so because our understanding is that we have a republican State, not a concept which is quite strange, quite odd: "republican democratic State." May we be clarified on this concept?

MR. AZCUNA: Yes. There are two forms of democratic state — the republican democratic state and the direct democratic state. There are two forms of democracy — direct democracy and representative or republican democracy.

MR. SARMIENTO: When we speak of republican democratic state, are we referring to representative democracy?

MR. AZCUNA: That is right.

MR. SARMIENTO: So, why do we not retain the old formulation under the 1973 and 1935 Constitutions which used the words "republican state" because "republican state" would refer to a democratic state where people choose their representatives?

MR. AZCUNA: We wanted to emphasize the participation of the people in government.

MR. SARMIENTO: But even in the concept "republican state," we are stressing the participation of the people. Let me quote the words of Jose P. Laurel in his book, Bread and Freedom, The Essentials of Popular Government. He said:

That when we refer to popular government or republican government or representative democracy, we refer to some system of popular representation where the powers of government are entrusted to those representatives chosen directly or indirectly by the people in their sovereign capacity.

So the word "republican" will suffice to cover popular representation.

MR. AZCUNA: Yes, the Commissioner is right. However, the committee felt that in view of the introduction of the aspects of direct democracy such as initiative, referendum or recall, it was necessary to emphasize the democratic portion of republicanism, of representative democracy as well. So, we want to add the word "democratic" to emphasize that in this new Constitution there are instances where the people would act directly, and not through their representatives.

MR. SARMIENTO: In which case, may I propose that we restore the word "and" to distinguish popular representation from direct participation of the people? Let us restore the old committee formulation, "republican and democratic State," to stress or to give emphasis.

MR. AZCUNA: The committee agrees.

MR. SARMIENTO: Thank you.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: The same point, Madam President.

MR. AZCUNA: The same answer.

THE PRESIDENT: The same resolution.

Will Commissioner Azcuna please read the new formulation?

MR. AZCUNA: The new formulation of Section 1 reads as follows: "The Philippines is a republican and democratic State. Sovereignty resides in the people and all government authority emanates from them."

VOTING

THE PRESIDENT: Is there any comment? Are we ready to vote on this amendment that has been submitted by the committee which considered all the other amendments proposed by the Commissioners?

As many as are in favor of Section 1 as read by the committee, please raise their hand. (Several Members raised their hand.)

As many as are against please raise their hand. (No Member raised his hand.)

The results show 35 votes in favor and none against; so Section 1 is approved.

MR. RAMA: Madam President, may I ask that Commissioner Davide be recognized to amend Section 2.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

These are very simple amendments.

On Section 2, line 11, add after "to" at the end of the line the following: "THE PURSUIT OF TRUTH, JUSTICE." Then on line 12, it is just a transposition. We just transpose "freedom" before "peace," so that it will read: "freedom, peace and equality." Section 2 will now read: "The Filipino people commit themselves to THE PURSUIT OF TRUTH, JUSTICE, freedom, peace and equality." That is the first sentence. This is jointly authored by Commissioner Rama and this Representation.

THE PRESIDENT: Is the first sentence accepted?

MR. TINGSON: We cannot accept the addition of the words "TRUTH" and "JUSTICE" in this particular section of our committee report, because this particular section of our committee report refers to foreign policy and those two words would not necessarily come in consonance with what we are trying to say there. Besides, the words "TRUTH, JUSTICE" are prominently mentioned in our Preamble.

THE PRESIDENT: Is that satisfactory, Commissioner Davide?

MR. DAVIDE: Madam President, this is not just a declaration of a foreign policy; this is a declaration of a firm commitment to the ideals of truth, justice, freedom, equality and peace. Justice is not just a matter of foreign policy. To me, it is the aspiration of all peoples of the world. We cannot have freedom, we cannot have equality, we cannot have peace without justice. We cannot have justice without truth. So, it is, in fact, the totality of the universal aspiration of man. If the reason is that it is in the Preamble, we would rather delete Section 2 because freedom, peace and equality are already there.

So, this is just to arrive at a point of symmetry. One is a priority, the second is a commitment by way of declaration of principles.

MR. TINGSON: Could we make a compromise? We will accept the Commissioner's proposed word "JUSTICE" but let us not mention "TRUTH" anymore.

MR. DAVIDE: Does it mean that we are not pursuing "TRUTH" as a goal? I would agree; after all, JUSTICE is included in "TRUTH," indirectly but not categorically.

Thank you.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I would like to support the inclusion of "TRUTH" in that section, since it is said that this is already the age of information. But even as we are in an age of information, there is a great deal of disinformation in international affairs. So I feel that the inclusion of this search for "TRUTH" is an important aspect of our foreign policy.

Thank you, Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, will the proponent or the committee include either the word "PROGRESS" or "PROSPERITY" after the word "peace"? We know that a man in his home or in his office may have peace, even freedom and justice but if there is no policy of betterment, improvement, progress or prosperity, he may not be a happier man. He may be stagnant in his enjoyment of freedom and peace. I believe that if it is a policy or an aspiration of the people, we should have a word like "PROGRESS" or "PROSPERITY" after "peace." In several other occasions, Madam President, many of the Commissioners have already used the word "PROGRESS" unintentionally. We take out the word "and" after the word "peace" then add "AND PROGRESS."

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I remember that Commissioner Padilla wanted the insertion of the word "PROGRESS" even in the Preamble. In the earlier stages, we rejected that particular proposal but we found out that when the Commission worked on several other proposals, progress became a necessary element in national development.

And so, I am willing to accept that particular amendment even if it is merely "THE PURSUIT OF PROGRESS." I am accepting the amendment wholeheartedly.

THE PRESIDENT: How about the word "TRUTH"?

MR. DAVIDE: I conceded to the committee that it should not be included anymore.

MR. PADILLA: Will the committee agree with Commissioner Davide on the insertion of the words "AND PROGRESS"?

FR. BERNAS: Madam President.

MS. AQUINO: Madam President, we welcome other opinions from the other Members of the Commission on the amendment of Commissioner Padilla. The committee is not yet prepared to make a stand on the Commissioner's amendment.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I find it very difficult to find the connection between the first sentence with the second sentence despite the amendment. For that reason, I would ask for the deletion of the first sentence.

MR. BENGZON: If that is a motion, Madam President, I second it.

MR. TINGSON: The committee accepts the amendment; that is, the deletion of the first sentence.

MR. SUAREZ: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Considering the position taken by the members of the committee which is very meritorious, may we amend the use of the pronoun "they" and instead insert the words "THE PHILIPPINES" or "THE FILIPINO PEOPLE."

Thank you.

MR. BENGZON: I join Commissioner Suarez in that motion.

THE PRESIDENT: What does Commissioner Davide say?

MR. DAVIDE: Madam President, with all due respect to the last stand of the committee which had in the first place solemnly enshrined the first sentence in Section 2, I vigorously object to the amendment by deletion. The only reason given on why it should be deleted is that it has no connection with the second sentence. It is now a matter of what should be given priority. Is it the first sentence or the second sentence, because both are significant? As a matter of fact, to me, it is the second sentence that would have been unnecessary because if we commit ourselves to the pursuit of truth, justice, peace, equality, freedom and progress, necessarily we will renounce war. It is peace that is there. Peace is inconsistent with war.

So, I would propose, as an amendment to the proposed amendment to delete, that we separate these sentences into separate paragraphs — the first sentence as the first paragraph and the second sentence as the second paragraph of Section 2. So, even if there appears to be no continuity, yet these are two very important principles.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: It is not just that there is no connection between the two or at least there is no obvious connection, but that it does not seem to be necessary, especially considering the fact that all of these are found in the Preamble anyway. All of these we have solemnly declared in the Preamble and our Preamble, I think, means something also.

MR. TINGSON: Madam President.

THE PRESIDENT: Does the committee need some time?

SUSPENSION OF SESSION

MR. TINGSON: Yes, we would like to have a minute or two of suspension please.

THE PRESIDENT: The session is suspended for a few minutes.

It was 3:21 p.m.

RESUMPTION OF SESSION

At 3:24 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Madam President.

The committee has now come up with this formulation of Section 2 which is Section 3 of the 1973 Constitution, as proposed by Commissioner Bengzon in his resolution submitted to the committee. This reads as follows: "THE PHILIPPINES RENOUNCES WAR AS AN INSTRUMENT OF NATIONAL POLICY, ADOPTS THE GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AS PART OF THE LAWS OF THE LAND AND ADHERES TO THE POLICY OF PEACE, EQUALITY, JUSTICE, FREEDOM, COOPERATION AND AMITY WITH ALL NATIONS."

MR. SARMIENTO: Madam President.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized first.

MR. SARMIENTO: Madam President, we also introduced an amendment sponsored by this Representation, Commissioners Rama, Bacani and Colayco after the word "land" in the original committee formulation. We proposed the addition of the following: "AND WELCOME CULTURAL, SOCIAL AND ECONOMIC RELATIONS WITH ALL NATIONS IRRESPECTIVE OF IDEOLOGY, RACE OR CULTURE." May we know the stand of the committee on this proposed amendment? Is this covered by the committee's reformulated section?

MR. AZCUNA: Madam President, we feel that it is already embraced in the new formulation now where we have "COOPERATION AND AMITY WITH ALL NATIONS." So, that covers relations with all nations regardless of ideology, race or culture, because it is "ALL NATIONS."

MR. SARMIENTO: So, we will not insist on our proposed amendment.

MR. AZCUNA: Thank you.

MR. SARMIENTO: Then one last point. I notice that we have retained Section 3 of the 1973 Constitution and

Commissioner Bernas is very thankful because he will not be revising his book on political law, Philippine Constitutional Law.

I notice that we have an enumeration of concepts like peace, equality, justice, freedom, cooperation and amity. May I know from the committee if these concepts cover the word "love" because here we renounce war; make love not war?

MR. AZCUNA: Yes, love being the willingness of good for others is embraced in "AMITY."

MR. SARMIENTO: Thank you, Madam President.

MR. AZCUNA: The Gentleman is welcome.

THE PRESIDENT: How about Commissioner Bernas?

FR. BERNAS: In the light of the reformulation made by the committee, I am withdrawing my amendment.

THE PRESIDENT: What does Commissioner Davide say?

MR. DAVIDE: In the light of the reformulation by the committee of this section, I am also withdrawing the amendments to the first sentence.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: May I be allowed to inquire from the committee because, depending on the answer, I may not have to introduce an amendment. When we speak of "laws of the land," do we refer to statutory laws and constitutional law? As I have observed earlier, I believe the principles and provisions of international law, both customary and conventional, should not be placed at par with the provisions of our Constitution in this jurisdiction because there could be conflicts between the provisions of treaties, for example, and the express provisions in our Constitution.

I cited an example about the ownership ratio with respect to corporations operating public utilities where our Constitution expressly provides a 60-40 ratio. Suppose a treaty provision provides for a majority participation of Filipinos, if we were to refer to the treaty provisions as part of our statutory laws only, then there would be no problem because a conflict in the two provisions would inevitably result in the unconstitutionality of the treaty provision. So, I would like to ask the members of the committee whether or not in referring to "the laws of the land" we mean both the statutory and constitutional laws.

MR. AZCUNA: May I answer that for the committee? When we talk of the generally accepted principles of international law as part of the laws of the land, we mean that it is part of the statutory type of laws, not of the Constitution.

MR. GUINGONA: I see. Thank you very much.

MR. AZCUNA: Yes, Madam President.

MR. RAMA: Madam President, there are no registered speakers on the section.

THE PRESIDENT: Are we ready to vote?

MR. RAMA: We are ready to vote.

THE PRESIDENT: Will Commissioner Azcuna please read again?

MR. AZCUNA: It shall read: "THE PHILIPPINES RENOUNCES WAR AS AN INSTRUMENT OF NATIONAL POLICY, ADOPTS THE GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AS PART OF THE LAW OF THE LAND, AND ADHERES TO THE POLICY OF PEACE, EQUALITY, JUSTICE, FREEDOM, COOPERATION AND AMITY WITH ALL NATIONS."

VOTING

THE PRESIDENT: As many as are in favor of the amendment, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 37 votes in favor, no vote against and no abstentions; Section 2, as amended, is approved.

MR. RAMA: Madam President, I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. AZCUNA: Madam President, before we recognize any proposal for amendment, the committee has amended this. May we inform the body on the present wording of Section 3 as amended by the committee?

THE PRESIDENT: May we have the rewording?

MR. AZCUNA: The committee has amended the second paragraph of Section 3. The first paragraph remains as is.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Regardless of the amendment of the committee, I think I have an anterior amendment. My amendment is to delete Section 3. A motion to delete has precedence, Madam President.

THE PRESIDENT: Commissioner Azcuna is about to read the new formulation. So, we will just allow him to read.

MR. AZCUNA: Yes. This is just a new formulation, so this will be what Commissioner Rodrigo will be deleting, if he wants.

The second paragraph reads: "The State has the inherent right to self-determination, national independence and sovereignty. TO ENSURE THE INTEGRITY OF SUCH RIGHT, FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN THE PHILIPPINE TERRITORY EXCEPT UNDER TERMS OF A TREATY DULY CONCURRED IN BY THE SENATE, RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING NATION."

That is the proposal and the transitory portion connected to that has also been amended to read as follows: "UPON THE EXPIRATION OF THE RP-US BASES AGREEMENT IN 1991, U.S. MILITARY BASES, TROOPS AND FACILITIES SHALL NOT BE ALLOWED EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE II (DECLARATION OF PRINCIPLES)."

This is the majority position of the committee. There was a minority view which preferred to transfer this portion to the Transitory Provisions.

MR. DE CASTRO: The minority view, Madam President, is for the deletion of the original Section 3 and a reformulation that in the event that the RP-US Military Bases Agreement will be extended after 1991, the treaty shall be reviewed and ratified by the people.

MR. AZCUNA: Yes. May we just add that this reformulation of the present wording of the second paragraph of Section 3 is based on the Bernas amendment being proposed to the committee.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I move for the deletion of Section 3 found on pages 1 and 2 of Committee Report No. 36 and the provision found on page 5, denominated "Portion for Inclusion in Transitory Provisions." I have already given my reasons in the speech which I delivered during the period of debate and added to those were the arguments adduced in the speeches of other Commissioners who spoke in support of my stand.

It is only now, for the first time, that I found out that this has been amended by the committee — by a majority of the committee, with a minority dissenting vote. I also move for the deletion even of that amended provision by the committee for the same reason that decision on this matter should be left to the government, particularly to the executive. And, I repeat, in the treaty itself, there is a provision for its renegotiation and reassessment in 1988 or 1989. We should not close the door to that. And, I might add, I am also in favor of presenting to our people in a referendum, for approval or disapproval, the renegotiated treaty after the renegotiation and reassessment in 1988 and 1989. I do not believe in imposing, by means of this Constitution, so many conditions on the government. Who are we to impose so many conditions on the government? Remember that we are only appointive Commissioners. The government is headed by the President. If the present President is still the President in 1988 or 1989, the people believe that she was elected in the snap election. If there should be another President, said President will have been elected by the people. And we will have Congress composed of Senators elected at large and Members of the House elected by the people from their respective districts. Let us not preempt them on this matter. And so, I move for the deletion of Section 3, as originally stated in Committee Report No. 36, and the portion denominated "Portion for Inclusion in Transitory Provisions," more particularly line 15 on page 1 of the report up to line 2 of page 2 and on page 5, lines 28 to 31. I also move, in case the committee is rewording this, for the deletion of the sections as amended by a majority of the committee.

MR. AZCUNA: The committee rejects the motion to delete, Madam President, and we reiterate the Bernas amendment which we have accepted.

MR. RODRIGO: In that case, Madam President, I think we have discussed this matter lengthily and sufficiently enough — as a matter of fact, too much — and so I ask for a vote.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Since the reformulation is largely the one I suggested, before we vote, may I just be allowed to say a few words against the deletion. But before that, let me say that since we will definitely vote on the deletion, I move that the vote be paragraph by paragraph, not one vote for Section 3 and one vote for the Transitory Provisions, but two votes for Section 3 and a third vote for the Transitory Provisions.

I would like to say a few words about the second paragraph. The second paragraph as presently formulated does not bar renegotiation. It says: "TO ENSURE THE INTEGRITY OF SUCH RIGHT"; namely, integrity, independence and sovereignty, "FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE

ALLOWED IN THE PHILIPPINE TERRITORY EXCEPT UNDER TERMS OF A TREATY DULY CONCURRED IN BY THE SENATE."

That, therefore, says that renegotiations are in order because the normal process of a formulation of a treaty starts with negotiation by the executive department and then is eventually followed by submission to the Senate for its concurrence. So it does not bar renegotiation.

Second, the other condition is that whatever the Senate concurs in shall be ratified by a majority vote of the votes cast by the people in a referendum held for that purpose.

The presence of military forces in a sovereign territory is something that is of transcendental importance. Hence, whether or not military bases or foreign troops should be kept in our nation is something that should be decided not just by the government but also by the people themselves whom, in the very first section we just approved in this Declaration of Principles, we recognize as the possessor of ultimate sovereignty in our nation. So, we should not deprive our people of the right to decide their destiny.

We said in Section 1 that aside from the fact that our government is a republican state, that is, a representative government, we also say that it is a democratic state because we have included in our Constitution some elements of direct democracy. We recognize now the importance of periodic consultation of the will of the Filipino people on matters that are very important. We are not satisfied just with election. The fact that we elect our representatives is not an act of complete trust in our representatives; we always retain the right to review their decisions. This matter of military bases is one where we make a reservation because it touches the very heart of our nation; it can affect the survival of our people and the survival of our nation.

Our people have a right to know; our people have a right to be defended against those who may wish to impose their will on them.

Third, on the last phrase "AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING NATION," we enter into a treaty and we want the other contracting party to respect that document as a document possessing force in the same way that we respect it. The present situation we have is that the bases agreement is a treaty as far as we are concerned, but it is only an executive agreement as far as the United States is concerned, because the treaty process was never completed in the United States because the agreement was not ratified by the Senate.

So, for these reasons, I oppose the deletion of this section because, first of all, as I said, it does not prevent renegotiation. Second, it respects the sovereignty of our people and the people will be in a better position to judge whether to accept the treaty or not, because then they will be voting not just on an abstraction but they will be voting after examination of the terms of the treaty negotiated by our government. And third, the requirement that it be recognized as a treaty by the other contracting nation places us on the same level as any other contracting party.

It will probably be said that, if at all, this should go to the Transitory Provisions. I would say that it should not go to the Transitory Provisions because this is not a provision that is of a transient character.

We place in the Transitory Provisions those provisions which self-destruct upon the passage of time. This is not a provision which will self-destruct. This is a provision which will apply to the future, whether we are dealing with the Russians, the Japanese, the Chinese, the Vietnamese, the Americans or anybody.

If at all, if we approve this, the sponsorship committee could very well transfer this to Section 21 of the Article on the Executive where we deal with treaties. In other words, what this will mean is that, when it comes to military bases in our nation, for the international agreement to be valid, it is not enough that it be a treaty; it is further

required that it be ratified by the people, in much the same way that we had to go through a process of ratification when we allowed the parity rights of the Americans.

Thank you, Madam President.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: There were two matters raised by Commissioner Bernas. The first is for us to vote on these matters piecemeal. I oppose that. I think that these provisions are so intimately interrelated that they have to be dealt with jointly.

The second is: I insist on a deletion. I am informed that there is a group consisting of a majority of Commissioners who want to present their own substitute provision. I think it would not be fair to those other Commissioners if they are preempted.

So, I think the best procedure is to delete. Let us first erase the blackboard, as it were, so we can start from tabula rasa. Then allow the Commissioners to submit their proposals, instead of being preempted by an amendment already prepared by Commissioner Bernas, which I heard only now. I think we should start from scratch, in fairness to all the Commissioners.

So, I insist on a vote on my motion to delete.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: We have with us a proposed amendment signed by 26 Commissioners. It is, in effect, a deletion of the original wording. In short, the proper subject matter now would be substitution.

The whole of Section 3 will have to be deleted but to be substituted. So, we cannot vote separately by, first, deletion and then later, insertion of a new one. It should be a vote on deletion or amendment by substitution which in effect would amount to a deletion of the original wording.

MR. RODRIGO: Madam President, I am not a signer of that proposal. I was asked to sign that. I said "No, I am not signing it because I am the proponent of an amendment by deletion."

So, I think the best procedure is, as I said, like a blackboard, erase what is now written and give a chance to everybody to write anew. Anyway, what do we lose by so doing?

I ask that we vote on my motion to delete, Madam President.

MR. DAVIDE: No, Madam President.

SR. TAN: Madam President.

THE PRESIDENT: Excuse me, Commissioner Tan.

SR. TAN: I think this is railroading. I did not want to say this, but now I have to say it. I have heard this argument so many times. The first is, "Let us not tie the hands of the President." I think that is sheer hypocrisy. We have tied her hands in everything, from the economy to the language to the urban poor and now we say, "Let us not tie the hands." That is sheer and selective hypocrisy.

MR. NOLLEDO: Madam President.

THE PRESIDENT: May the Gentleman please allow Sister Tan.

SR. TAN: "We were just appointed, so let those who are elected. . ." In my memory, in my experience, I have no positive impression of those who were elected. The impression that those who have been elected all of a sudden become embodiments of wisdom and integrity. That is not my experience. (Applause)

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. RODRIGO: Madam President.

MR. NOLLEDO: I join Commissioner Davide's opposition to the motion of Senator Rodrigo. In fact, that Senator Rodrigo adopted the motion makes him a party to the motion to delete and substitute. So, I think Commissioner Davide is correct.

MR. RODRIGO: Madam President, may I speak on a matter of privilege first?

THE PRESIDENT: Please proceed.

MR. RODRIGO: I hate to say this but may I request Commissioner Tan to withdraw the word "hypocrisy"? I think it is unparliamentary, especially coming from a Sister of Charity.

Madam President, I would not want to ask for the deletion of that unparliamentary word. I just wanted to place my reaction on record.

Madam President, may I ask that we vote on my motion to delete.

THE PRESIDENT: All right. Is there any objection?

MR. DAVIDE: Madam President, parliamentary inquiry.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: There was an admission by Commissioner Rodrigo that there is a substitute proposal for Section 3. My question then is: Suppose the particular motion to delete will be acted upon favorably, would it foreclose any Member of the Commission to introduce a new one in lieu of the vacant Section 3?

MR. RODRIGO: No.

THE PRESIDENT: Commissioner Rodrigo is answering the Commissioner's questions already: it will not foreclose.

MR. RODRIGO: It will not foreclose.

THE PRESIDENT: In other words, it will open, if it is deleted.

MR. RODRIGO: It will open. It will precisely open the door. We can then start from what we call tabula rasa — a clean slate.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: An amendment to delete removes the entire section.

THE PRESIDENT: The original section.

MR. DAVIDE: Yes. So, technically, it cannot anymore be open for any possible amendment to be placed there. And that is the reason why my proposal is that the particular amendment of Commissioner Rodrigo must be considered merely as an amendment by substitution.

I hope that any of the proponents of this substitute proposal will come to the rescue. We might be technically foreclosed in presenting this.

May I request a suspension of the session?

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 3:53 p.m.

RESUMPTION OF SESSION

At 4:32 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, I have a pending motion for deletion.

THE PRESIDENT: Will Commissioner Rodrigo please clarify his motion?

MR. RODRIGO: On the basis of the original Committee Report No. 36, I move to delete Section 3, from line 15 on page 1 up to line 2 on page 2, and the section denominated "Portion for Inclusion in Transitory Provisions" found on page 5, lines 28 to 31.

THE PRESIDENT: Is this particular portion in Section 27 necessarily included?

MR. RODRIGO: No, Section 27 is not included.

THE PRESIDENT: No, I mean this portion denominated "Portion for Inclusion in Transitory Provisions," lines 28 to 31.

MR. RODRIGO: Yes.

THE PRESIDENT: Is that an accompanying motion?

MR. RODRIGO: They are inseparable. This is so intimately interrelated with Section 3 that they have to be dealt with together.

THE PRESIDENT: After conferring with all the parties, the Chair rules . . .

FR. BERNAS: Madam President, before the Chair rules, may I just ask for a clarification of the motion?

THE PRESIDENT: Please proceed.

FR. BERNAS: Do I understand Commissioner Rodrigo to say that he is asking for the deletion of the original as found in the original committee report?

MR. RODRIGO: Yes.

FR. BERNAS: Not the reformulation?

MR. RODRIGO: It is only now that I heard the reformulation. If the reformulation be the status now, I also move, and I so move for its deletion.

THE PRESIDENT: We will go into that. We do not know yet what will happen with the first motion to delete the original, as originally placed.

FR. BERNAS: Madam President, to clarify that point, I am temporarily withdrawing my amendment to Section 3.

THE PRESIDENT: In other words, Section 3 stands as originally written by the committee.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: The committee, therefore, withdraws the acceptance of the Bernas amendment and we will insist on our original formula in Section 3.

MR. RODRIGO: And there is no amendment yet to the "Portion for Inclusion in the Transitory Provisions."

THE PRESIDENT: No, excuse me. We will first vote on the motion to delete Section 3 in the Transitory Provisions on page 5. And the ruling of the Chair is that should this motion to delete win, it will not preclude anyone, any Commissioner or the committee from submitting a new formulation of Section 3. That is the ruling of the Chair and that may guide those who will vote on the motion to delete.

MR. RODRIGO: For the record, Madam President, I concur with that ruling of the Chair and I so stated during the debate.

THE PRESIDENT: Since sufficient arguments have been submitted for the last two days on the statement of Commissioner Rodrigo as his basis for his motion to delete, we will proceed to vote.

MR. GASCON: Madam President, I would like to make a motion for nominal voting.

THE PRESIDENT: On the motion to delete?

MR. GASCON: Yes, Madam President.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: May I request a further clarification. Will this be a vote of yes and no? If it is, what will the vote yes represent?

MR. RODRIGO: Yes is for deletion.

MR. DE CASTRO: Yes is for deletion; no is for the retention of the provisions as formulated by the committee?

MR. RODRIGO: Yes. Yes is a vote in favor of my motion to delete.

MR. DE CASTRO: And no is for the retention of Section 3?

MR. RODRIGO: Section 3 and the Transitory Provisions.

THE PRESIDENT: Without prejudice to any amendment or reformulation of that original committee report.

MR. DE CASTRO: Thank you, Madam President.

MR. RODRIGO: That is correct.

NOMINAL VOTING

MR. RAMA: I move for a nominal voting on the motion to delete.

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

FIRST ROLL CALL

THE PRESIDENT: The body will now vote on the motion to delete, and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Natividad Yes

Alonto Nieva

Aquino No Nollado No

Azcuna No Ople

Bacani Yes Padilla Yes

Bengzon Yes Quesada No

Bennagen No Rama Yes

Bernas No Regalado Yes

Rosario Braid No Reyes de los Yes

Calderon Yes Rigos Yes

Castro de Yes Rodrigo Yes

Colayco Romulo Yes

Concepcion Yes Rosales Yes

Davide No Sarmiento No

Foz No Suarez No

Garcia No Sumulong Yes

Gascon No Tadeo

Guingona Yes Tan

Jamir Yes Tingson Yes

Laurel Treñas

Lerum Uka Yes

Maambong Yes Villacorta No

Monsod Yes Villegas Yes

Is Madam President voting?

THE PRESIDENT: No, I am not voting.

SECOND ROLL CALL

THE PRESIDENT: The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Abubakar Yes Nieva Yes

Alonto Yes Ople Yes

Colayco Yes Tadeo

Laurel Tan No

Lerum Yes Treñas Yes

THE PRESIDENT: The results show 29 votes in favor, 15 against, and no abstention; the motion to delete is approved.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I be recognized to propose a substitute now, pursuant to the original ruling that the deletion will not preclude the possibility of a substitution.

THE PRESIDENT: Please proceed.

FR. BERNAS: I would like to substitute the second paragraph of the reformulated provision which was withdrawn and which reads: "THE STATE HAS THE INHERENT RIGHT TO SELF-DETERMINATION, NATIONAL INDEPENDENCE AND SOVEREIGNTY. TO ENSURE THE INTEGRITY OF SUCH RIGHT, FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN PHILIPPINE TERRITORY EXCEPT UNDER TERMS OF THE TREATY DULY CONCURRED IN BY THE SENATE, RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS SUCH BY THE OTHER CONTRACTING NATION."

MR. ROMULO: Would Commissioner Bernas accept an amendment to his new provision?

FR. BERNAS: I will listen to the amendment.

MR. ROMULO: It will read as follows: "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY. WHEN ENTERING INTO EXECUTIVE AGREEMENTS, TREATIES AND OTHER INTERNATIONAL AGREEMENTS, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, THE NATIONAL INTEREST AND THE RIGHT OF SELF-DETERMINATION."

FR. BERNAS: I would be willing to accept the first sentence, but the second sentence falls short of some of the elements which I would like to introduce. So, perhaps, a conference might be in order.

MR. ROMULO: Yes.

SUSPENSION OF SESSION

MR. AZCUNA: May I ask for a suspension?

THE PRESIDENT: The session is suspended.

It was 4:43 p.m.

RESUMPTION OF SESSION

At 5:17 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, I ask that Commissioner Bernas be recognized.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, we identified the points of agreement and we also identified the points of disagreement and these points of disagreement we will throw to the floor for decision.

In the first place, I accepted the first sentence of their substitute amendment: namely, "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY." So, since this is a provision by itself in the general provision, I wonder if we could discuss this separately, approve it separately from the rest; get it out of the way, in other words.

THE PRESIDENT: May the Chair be clarified first by the chairman of the committee or Commissioner Azcuna. Do we now have a first paragraph in Section 3?

MR. AZCUNA: We have a pending anterior amendment which will be articulated by Commissioner Suarez. We ask that he be recognized.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

This is an anterior amendment to that submitted by Commissioner Bernas and this is in connection with Section 3. We propose this amendment by substitution to paragraph (1) of Section 3, and it would read: "THE STATE HAS THE RIGHT TO SELF-DETERMINATION AND SHALL PURSUE AN INDEPENDENT FOREIGN POLICY AND ENDEAVOR TO PROMOTE A ZONE OF PEACE, FREEDOM, AND NEUTRALITY IN THE REGION. WHEN ENTERING INTO TREATIES OR INTERNATIONAL OR EXECUTIVE AGREEMENTS, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY AND THE NATIONAL INTEREST."

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I believe that that formulation partakes of a reformulation of the ideas and subject of the first paragraph that has been deleted and partakes of a reconsideration.

MR. SUAREZ: We realize that, Madam President, but we are submitting this reformulated principle pursuant to what was agreed upon on the floor that any one of the Commissioners would be free to submit a reformulated provision.

MR. MONSOD: But that is not a reformulation, Madam President; the idea is exactly the same as the provision that was deleted.

THE PRESIDENT: Yes, but the ruling of the Chair was that anyone can present a new or whatever formulation of the section. In fact, the Chair was expecting the committee to do so.

MR. ROMULO: May we submit it to a vote, Madam President?

THE PRESIDENT: Which shall we submit to a vote?

MR. SUAREZ: May we know the stand of the committee first before we submit to a vote?

MR. AZCUNA: The committee accepts, Madam President.

MR. ROMULO: The amendment of Commissioner Suarez which the committee accepted.

MR. DE CASTRO: Madam President, the minority view here does not accept.

MR. SUAREZ: The committee speaks in two voices.

THE PRESIDENT: The Chair understands that the committee is divided on all these points.

MR. AZCUNA: The committee is like a symphony; it has a dominant and a subtonic voice.

MR. TINGSON: But, Madam President, both of them result in harmony, we hope.

MR. ROMULO: May we request a vote?

MR. SUAREZ: May we thank both sides of the committee, Madam President.

MR. ROMULO: Yes. We are ready to vote, Madam President.

THE PRESIDENT: May we have it again?

MR. SUAREZ: This is the proposal we are submitting for consideration by the honorable Members of the Commission: "THE STATE HAS THE RIGHT TO SELF-DETERMINATION AND SHALL PURSUE AN INDEPENDENT FOREIGN POLICY AND ENDEAVOR TO PROMOTE A ZONE OF PEACE, FREEDOM AND NEUTRALITY IN THE REGION. WHEN ENTERING INTO TREATIES OR INTERNATIONAL OR EXECUTIVE AGREEMENTS, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY AND THE NATIONAL INTEREST."

VOTING

THE PRESIDENT: Does anyone have any comment on this? Are we ready to vote?

As many as are in favor of the first paragraph of Section 3 as read by Commissioner Suarez, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

The results show 17 votes in favor, 27 votes against and no abstention; the proposed first paragraph is lost.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: To go back now to the result of our conference, the first sentence reads: "THE STATE SHALL

PURSUE AN INDEPENDENT FOREIGN POLICY," and as stated initially, I would request that this be considered and approved separately.

THE PRESIDENT: As the first sentence of Section 3?

FR. BERNAS: Yes, Madam President.

THE PRESIDENT: Is the committee agreeable that we vote only on the first sentence?

MR. AZCUNA: Yes, Madam President.

MR. DE CASTRO: The minority view accepts, Madam President.

THE PRESIDENT: Is there any objection to this first sentence of Section 3 which has been unanimously accepted by the committee? (Silence) The Chair hears none; the amendment is approved.

May we have the second sentence?

FR. BERNAS: The second sentence is a reformulation of the original reformulation: "NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED IN PHILIPPINE TERRITORY EXCEPT UNDER THE TERMS OF THE TREATY DULY CONCURRED IN BY THE SENATE, RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING STATE."

MR. AZCUNA: The committee accepts.

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Prior to that, we have three points of disagreement on this suggested provision. Firstly, we would like it to be in the Transitory Provisions. Secondly, we would qualify the paragraph with the opening phrase: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991." And thirdly, we would leave the question of whether or not it should be ratified in a referendum by the people up to Congress. So, those are our three points of divergence.

FR. BERNAS: Madam President, may I request that we discuss the question of Transitory Provisions or Declaration of Principles last? In other words, we discuss first the substance and the merits and then later on we shall discuss whether to put it in the Declaration of Principles or in the Transitory Provisions; and having decided that, then we make whatever changes may be necessary if we have to transfer it to the Transitory Provisions.

The position I would be taking is that this is not a transitory principle but a principle that will remain in force for as long as it is not deleted from the Constitution. These three requirements that military bases can be allowed only by a treaty and the treaty must be duly concurred in by the Senate must be ratified in a referendum, and must be accepted as such by the other contracting State. But the other matter we can discuss later on.

MR. ROMULO: Yes. As I said, our disagreement is with regard to the transitory nature of this provision. It is our feeling, Madam President, that this is a contingent, transitory or temporary matter. To put it in the main declaration would seem to imply that we would have foreign bases forever. And what we wish to emphasize by putting it in the Transitory Provisions is precisely that we are dealing only with the American bases which we hope, even if a new treaty is entered into, will be dismantled as soon as practicable.

FR. BERNAS: On the other hand, Madam President, if we place it in the Transitory Provisions and mention only the American State, the conclusion might be drawn that this applies only to foreign military bases of the United

States. The conclusion might be drawn that the principle does not apply to other states.

MR. ROMULO: That is certainly not our meaning. We do not wish any other foreign military base here and I think the phrase which says: "NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES. . ." makes that very clear even if it is in the Transitory Provisions.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will either of the two Gentlemen yield to just one question for clarification? Is there anything in this formulation, whether that of Commissioner Bernas or of Commissioner Romulo, that will prevent the Philippine government from abrogating the existing bases agreement?

FR. BERNAS: To my understanding, none.

MR. ROMULO: I concur with Commissioner Bernas.

MR. OPLE: I was very keen to put this question because I had taken the position from the beginning — and this is embodied in a resolution filed by Commissioners Natividad, Maambong and Regalado — that it is very important that the government of the Republic of the Philippines be in a position to terminate or abrogate the bases agreement as one of the options. And the reason we have put this forth is that we do not believe in merely a renegotiation of the existing bases agreement if it comes to that. We believe that this is flawed from the beginning, which is not the same thing as saying that it is a nullity. But I think we have acknowledged starting at the committee level that the bases agreement was ratified by our Senate; it is a treaty under Philippine law. But as far as the Americans are concerned, the Senate never took cognizance of this and, therefore, it is an executive agreement. That creates a wholly unacceptable asymmetry between the two countries. Therefore, in my opinion, the right step to take, if the government of our country will deem it in the national interest to terminate this agreement or even to renegotiate it, is that we must begin with a clean slate; we should not be burdened by the flaws of the 1947 Military Bases Agreement. I think that is a very important point. I am glad to be reassured by the two Gentlemen that there is nothing in these proposals that will bar the Philippine government at the proper time from exercising the option of abrogation or termination.

Thank you, Madam President.

MR. ROMULO: Madam President, I think the two phrases in the Bernas formulation take care of Commissioner Ople's concerns.

The first says "EXCEPT UNDER THE TERMS OF A TREATY." That means that if it is to be renegotiated, it must be under the terms of a new treaty. The second is the concluding phrase which says: "AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING STATE."

FR. BERNAS: I might also add, Madam President, that as far as the present agreement is concerned, there is nothing to prevent the government from rejecting this treaty under the principle of *rebus sic stantibus*, if there are grounds under that principle.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

May we clear up some points from Commissioner Bernas?

THE PRESIDENT: Please proceed.

MR. SUAREZ: Is the proposal prospective and not retroactive in character?

FR. BERNAS: Yes, it is prospective because it does not touch the validity of the present agreement. However, if a decision should be arrived at that the present agreement is invalid, then even prior to 1991, this becomes operative right away.

MR. SUAREZ: In other words, we do not impress the previous agreements with a valid character, neither do we say that they are null and void ab initio as claimed by many of us here.

FR. BERNAS: The position I hold is that it is not the function of this Commission to pass judgment on the validity or invalidity of the subsisting agreement.

MR. SUAREZ: Thank you for the clarification.

The other point is that the proposal requires recognition of this treaty by the other contracting nation. How would that recognition be expressed by that other contracting nation? That is in accordance with their constitutional or legislative process. I assume.

FR. BERNAS: As Commissioner Romulo indicated, since this certainly would refer only to the United States, because it is only the United States that would have the possibility of being allowed to have treaties here, then we would have to require that the Senate of the United States concur in the treaty because under American constitutional law, there must be concurrence on the part of the Senate of the United States to conclude treaties.

MR. SUAREZ: Thank you for the clarification.

Under the 1935 Constitution, if I recall it correctly, treaties and agreements entered into require an exchange of ratification. I remember that is how it was worded. We do not have in mind here an exchange of ratification by the Senate of the United States and by the Senate of the Philippines, for instance, but only an approval or a recognition by the Senate of the United States of that treaty.

FR. BERNAS: When I say that the other contracting state must recognize it as a treaty, by that I mean it must perform all the acts required for that agreement to reach the status of a treaty under their jurisdiction.

MR. SUAREZ: Without need of an exchange of ratification?

FR. BERNAS: Madam President, exchange simply means that the two have ratified it. It is not a physical exchange.

MR. SUAREZ: Thank you, Madam President.

MR. ROMULO: Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, I am against the sentence that starts with "NO FOREIGN" which is expressed in the negative because that is not only mandatory but prohibitive. We use the sentences "No person shall be deprived of life, liberty, or property"; "no law shall be passed abridging the freedom of the press"; but I do not believe it is proper in this Declaration of Principles to start with a negative and prohibitive provision.

My other point is, if there should be a treaty, according to our Constitution — and I think it is confirmed in our Article on the Legislative or Article on the Executive — that treaty which is signed or entered into by the executive

is referred to the Congress, particularly to the Senate for ratification. And if two-thirds or three-fourths vote ratified the treaty, then that is final. So, I do not believe it is necessary, and I think it is even violative of the Constitution, to require, as an indispensable requisite, that that treaty entered into by the President and confirmed or ratified by the Senate should be further submitted for ratification by the people in a plebiscite. That would be contrary not only to the present Constitution but to the Constitution that we are drafting.

The President and Members of the Senate are elected by the people. They are the representatives of the people. And once a treaty has been entered into by the executive and ratified by the Senate, that is in effect a treaty entered into by the two departments of government for the benefit and even in the name of the people. But there is no need for further requirement of a plebiscite; otherwise, we will have several treaties and we may have to call for several plebiscites. That is not only unnecessary but expensive.

Many times we always say that we want the confirmation or ratification of the people. That is well and good. The people are the sovereign source of government authority. But if we say that we are a republican democratic state, the will of the people is also expressed by the two departments of government — the executive and the legislative. And when a treaty is entered into by the executive with the concurrence of the Senate or of the Congress, that should be final. It does not need any further submission to the sovereign people for ratification in another plebiscite.

So I am against the proposal of Commissioner Bernas.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: I think that even if the treaty is ratified by the Senate, the Senate cannot speak competently on behalf of more than 55 million Filipinos. I believe, Madam President, that maintenance and existence of foreign military bases in the Philippines is in derogation of the sovereignty of the people. And we stated in the Declaration of Principles that sovereignty resides with the people and all government authority emanates from them. If we maintain foreign military bases in the Philippines, that is a limitation of our sovereignty, and only the Filipino people directly can give consent to that limitation. And so, I strongly endorse the proposal of Commissioner Bernas.

If we state here in the Commission that we do not enjoy the mandate of the people and therefore we should not decide on whether or not to maintain foreign bases in the Philippines, why do we deny to the people themselves the right to determine whether foreign military bases should be maintained in the Philippines?

Thank you, Madam President. (Applause)

THE PRESIDENT: May we request our guests in the gallery to please refrain from clapping or from making any outright manifestation.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I just want to address a question or two to Commissioner Bernas.

This formulation speaks of three things: foreign military bases, troops or facilities. My first question is: If the country does enter into such kind of a treaty, must it cover the three — bases, troops or facilities — or could the treaty entered into cover only one or two?

FR. BERNAS: Definitely, it can cover only one. Whether it covers only one or it covers three, the requirement

will be the same.

MR. MAAMBONG: In other words, the Philippine government can enter into a treaty covering not bases but merely troops?

FR. BERNAS: Yes.

MR. MAAMBONG: I cannot find any reason why the government can enter into a treaty covering only troops.

FR. BERNAS: Why not? Probably if we stretch our imagination a little bit more, we will find some. We just want to cover everything.

MR. MAAMBONG: I would like to stretch my imagination but I am just asking the honorable Commissioner in what instance the Philippine government could enter into a treaty with the American government or another government and allow troops to come in without any bases or without any facilities.

FR. BERNAS: By the term "bases," were we thinking of permanent bases?

MR. MAAMBONG: Yes.

FR. BERNAS: But let us suppose that we are in very serious danger. Then the government might say: "Well, we need foreign troops to help ourselves."

MR. MAAMBONG: And so, do we need an advanced treaty to effectuate that situation?

FR. BERNAS: Yes.

MR. MAAMBONG: My second and last point is: If we go by sequence in this formulation, the first thing to do is for the President to enter into a treaty; then that treaty will go to the Senate; then after it has been concurred in by the Senate, it goes to the people.

FR. BERNAS: That is correct.

MR. MAAMBONG: Would it be a referendum or a plebiscite?

FR. BERNAS: It would be a referendum.

MR. MAAMBONG: Would that be the sequence?

FR. BERNAS: Yes.

MR. MAAMBONG: And after that, does it go to the other party?

FR. BERNAS: It goes to the other party. As far as the action of the other party is concerned, they could ratify it even before the referendum. But if our referendum rejects it, then there is no treaty. In other words, when the executive department enters into negotiations with the other contracting nation or contracting state, we would have to say that under our law for this purpose, these are the requirements. So they would have to be prepared to accept that. Hence, even before our people could ratify it, the other party could ratify it ahead, but for as long as our people have not ratified it, it does not bind us. Similarly, our people could ratify it ahead of the United States Senate, for example, but for as long as it is not accepted by the United States Senate, it does not bind us.

MR. MAAMBONG: Of course it goes without saying that as far as the ratification of the other state is concerned, that is entirely their concern under their own laws.

FR. BERNAS: Yes, but we will accept whatever they say. If they say that we have done everything to make it a treaty, then as far as we are concerned, we will accept it as a treaty.

MR. MAAMBONG: Thank you.

FR. BERNAS: Perhaps I will modify my answer to the Gentleman's other question about troops. The example I gave the Gentleman is probably not a correct example because what he might be contemplating is some degree of permanency in the placement of troops here, not a temporary placement. I would not imagine this as applying to temporary help that others may give us.

MR. MAAMBONG: Now that Commissioner Bernas mentioned it, this may be nitpicking a little bit, but could we enter into a treaty wherein we allow facilities to be here without necessarily allowing bases?

FR. BERNAS: I think that is a possibility because, for instance, one can maintain a silo here for nuclear weapons — unless we disallow nuclear arms, of course. But they might want various kinds of facilities which are not necessarily troops, not necessarily bases.

MR. MAAMBONG: Thank you.

I have no further questions.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, this is not a question, but may I ask that when we vote on the amendment, we vote separately on the question of a date, and then the question of the mandatory referendum. I suggest that they be taken separately.

THE PRESIDENT: I beg the Commissioner's pardon?

BISHOP BACANI: I would like to ask that when we vote on the amendment, we vote separately on the question of the date requirement and then the question of the mandatory referendum.

FR. BERNAS: Madam President, I think that is what will naturally follow.

MR. ROMULO: Madam President, may I now introduce my amendment to the Bernas formulation?

THE PRESIDENT: Is that the proposed amendment to Commissioner Bernas' formulation?

MR. ROMULO: Yes, Madam President, and which has been accepted by the committee. The amendment is the introduction of two phrases. My first amendment shall read: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991, NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED IN THE PHILIPPINES EXCEPT UNDER THE TERMS OF A TREATY DULY CONCURRED IN BY THE SENATE." Now comes my second amendment: "AND WHEN CONGRESS SO REQUIRES RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING STATE."

FR. BERNAS: Madam President, may I request that we take this one by one. So the first amendment would be: "AFTER THE EXPIRATION. OF THE RP-US AGREEMENT IN 1991." Then we follow this with: "NO FOREIGN MILITARY BASES."

Is it correct to understand, therefore, that implicit in this is an absolute prohibition for bases, troops and facilities of any other nation than the United States?

MR. ROMULO: I would say, it is stronger; it is explicit.

FR. BERNAS: Did the Gentleman say "NO OTHER"?

MR. ROMULO: No, I said: "NO FOREIGN."

FR. BERNAS: Does the term "NO FOREIGN" apply to all?

MR. ROMULO: To all.

FR. BERNAS: I would have no difficulty, but actually the committee has already accepted my amendment.

MR. ROMULO: Yes, may we have the reaction of the committee?

MR. AZCUNA: The majority view would reject that proposed amendment to the amendment, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I heard from Commissioner Romulo the negative prohibitive word "no." In line with my observation just recently given, the original proposal was in the affirmative: "ANY FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED ONLY IN ACCORDANCE WITH A NEW TREATY, . . . AND WHEN CONGRESS SO REQUIRES, RATIFIED BY THE PEOPLE IN A REFERENDUM OR PLEBISCITE."

Will Commissioner Romulo not accept my proposal to change the negative to positive?

MR. ROMULO: Yes, Madam President, I have no objection, since even the original formulation of Commissioner Bernas really reads this way: "ANY TREATY ALLOWING FOREIGN MILITARY BASES."

FR. BERNAS: Madam President, the following really is the amendment which was accepted by the committee: "NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED." And the reason for this negative statement is precisely that we want a mandatory and prohibitive language. So, since Commissioner Padilla prefers not to have a mandatory and prohibitive language, and the committee, together with me, wants a mandatory, prohibitive language, then we put the matter to a vote.

MR. ROMULO: Madam President, it is our interpretation, if I may speak for Commissioner Padilla as well, that this would be mandatory.

FR. BERNAS: But we feel that the negative expresses the mandatory and prohibitive character more strongly.

THE PRESIDENT: Does the Chair understand that Commissioner Padilla is not agreeable even if the sentence starts with: "FOREIGN MILITARY BASES . . . SHALL NOT BE ALLOWED"?

MR. PADILLA: I am opposed to the word "NO" as a beginning.

THE PRESIDENT: There is no "NO." It starts with the word "FOREIGN."

MR. PADILLA: In that case, instead of "SHALL NOT BE ALLOWED," I propose "SHALL BE ALLOWED ONLY IN ACCORDANCE WITH A TREATY."

MR. OPLE: Madam President, may I express my support for the original formulation, which I think sufficiently conveys the sentiment of the Commission for a mandatory and prohibitive statement on this matter.

Thank you, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May we ask Commissioner Romulo one question?

MR. ROMULO: Yes.

MR. SUAREZ: My question is on the introductory predicate to the main proposal? and I quote: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991." Just a while ago, I cleared up this matter with Commissioner Bernas as to whether or not his proposal would have any retroactive application. Commissioner Bernas answered in the negative because according to him, this proposal is prospective in character. However, with this phrase, we might be giving a constitutional benediction to the legality of the RP-US Bases Agreement which is bound to expire in 1991. Would that not complicate the situation, Madam President?

MR. ROMULO: No, I believe that introductory phrase is necessary only because we are putting it in the Transitory Provisions, and its only purpose is to particularize the foreign bases we are talking about.

MR. SUAREZ: Since Commissioner Bernas has admitted the fact that in any event this will have no retroactive effect, would it still be necessary to provide this introductory phrase with a predicate like "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991"?

MR. ROMULO: Yes, because the point of referral is the U.S. Military Bases Agreement. As I had expressed to Commissioner Bernas, we want to restrict this only to the U.S. military bases problem, and not to any other foreign country.

MR. SUAREZ: The way it is formulated by Commissioner Bernas, does it refer to any and all kinds of foreign military bases?

MR. ROMULO: Yes.

MR. SUAREZ: Since we are not singling out the United States bases, I would feel more comfortable if we just make a blanket statement without any predicate which might lead to a conclusion that we here in the Commission are not giving a semblance of a blessing of legality to the RP-US Bases Agreement, Madam President.

FR. BERNAS: Madam President, perhaps what is making things a little difficult for us is, so far we have left undecided where this provision will be.

MR. ROMULO: Yes.

FR. BERNAS: Although originally, I had suggested that we decide that later, that is, whether this provision will be in the Declaration of Principles or in the Transitory Provisions. For the purpose of a single-minded discussion of this, perhaps we should put that question out of the way first.

THE PRESIDENT: Which question? Is it whether the provision should be in the Transitory Provisions or in the body?

MR. ROMULO: That is right.

FR. BERNAS: But I would ask that question, Madam President, only with respect to the second sentence.

MR. ROMULO: May I point out to Commissioner Suarez that the original committee report uses the same phrase: "Upon the expiration of the RP-US Bases Agreement in 1991," so, I do not feel that it has the effect that concerns him. But I agree with Commissioner Bernas that we should put the prejudicial question as to whether or not this provision should be in the main body of the Declaration of Principles or in the Transitory Provisions.

FR. BERNAS: I refer to the second sentence, Madam President.

MR. ROMULO: What does the Gentleman mean by the second sentence?

FR. BERNAS: In the first sentence we said: "The State shall pursue an independent foreign policy." That, definitely, should be in the Declaration of Principles.

MR. ROMULO: Yes, I agree.

FR. BERNAS: Madam President, just a question: Where will we put this provision?

THE PRESIDENT: Does the Commissioner mean the general provision that says: "NO FOREIGN MILITARY BASES SHALL BE. . .?"

MR. ROMULO: Yes, Madam President.

FR. BERNAS: That is correct.

THE PRESIDENT: The question is whether or not it should be in the Transitory Provisions or in the body.

FR. BERNAS: And our formulation will depend on where we intend to put it.

REV. RIGOS: Madam President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: If the body approves the proposal referring to the date 1991, it has to be in the Transitory Provisions. However, if the Bernas amendment is approved, with no mention of 1991, it has to be in the Declaration of Principles.

FR. BERNAS: That is why, Madam President, I was saying that the language we will approve will depend also on where we will put the provision. If we decide that this will be in the Transitory Provisions, then we should put it in transitory language.

MR. ROMULO: Let us put the basic question to a vote. Shall it be in the main body or shall it be in the Transitory Provisions, disregarding for the moment that it is a different formulation? If we want to clarify it, I move that this subject matter be placed in the Transitory Provisions.

THE PRESIDENT: Which subject matter? Please specify that.

MR. ROMULO: The second sentence of Section 3.

THE PRESIDENT: The second sentence of Commissioner Bernas?

MR. ROMULO: Yes.

THE PRESIDENT: Without any change?

MR. ROMULO: No change at all.

FR. BERNAS: We will discuss the changes after.

MR. NATIVIDAD: Madam President.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Before we vote, I would just like to be clarified on the reason why Commissioner Romulo wants it to be in the Transitory Provisions. Is it because the Gentleman considers military bases to be temporary in nature?

MR. ROMULO: Exactly.

MR. NATIVIDAD: That we do not intend to have these military bases forever?

MR. ROMULO: Exactly.

MR. NATIVIDAD: And we want this to be transitory in nature because if we ever have these military bases in our country, it is with the understanding that it is transitory, temporary and that is why Commissioner Romulo wants it to be in the Transitory Provisions.

MR. ROMULO: The Commissioner is correct.

MR. NATIVIDAD: Thank you, Madam President.

MR. ROMULO: May I now ask for a vote?

MR. SARMIENTO: Madam President, before we vote, may I briefly state my opposition to the motion?

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, this Representation personally believes that the Bernas formulation is so transcendental and fundamental that it should have a place in the Declaration of Principles and State Policies. It should not be in a transitory or transient provision. Several years ago, in 1947, Senator Confesor, a Nacionalista Senator, stated that military bases were established by the United States not so much for the benefit of the Philippines as for the benefit of the United States. According to him, this issue was very crucial, so important, which is why Senator Confesor's words were quoted extensively by Senator Recto in many of his speeches.

Madam President, since this issue is so crucial, so important to our lives, and quoting Nollado: "This affects our national survival and dignity as a people," this should have a place in the Article on the Declaration of Principles. I oppose the motion that it should be transferred to the Transitory Provisions.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Just a point of clarification also. Is it the understanding that even if the body should vote that this will be contained in the Transitory Provisions, we will have to settle the matter now?

MR. ROMULO: Yes, absolutely.

FR. BERNAS: Is that the understanding?

MR. ROMULO: That is my understanding.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: If that is the understanding, may I move that we take up the merits of the proposal and then decide later to transfer it, if that would be the decision of the body.

MR. ROMULO: Madam President, that is what we have been doing all these days, taking up the merits of this case. I do not see why we should delay that any further.

THE PRESIDENT: Besides, Commissioner Bernas has already submitted his motion that we vote on whether the subject of the U.S. military bases should be in the Transitory Provisions or in the body of the Declaration of

Principles.

Are we ready to vote?

MR. ROMULO: Madam President, I think we have to clarify what we are voting on. Earlier, I made a motion that the subject of the U.S. military bases should be placed in the Transitory Provisions. So if the body votes for my motion, we are voting for transferring it to the Transitory Provisions. That is a "yes" vote.

MR. OPLE: Madam President, may I put a question to Commissioner Bernas? Will he entertain a question for clarification?

FR. BERNAS: Very willingly, Madam President.

MR. OPLE: The way Commissioner Bernas' amendment is now formulated, is this in effect granting constitutional authority to future governments of the Republic of the Philippines to enter into treaties for foreign military bases.

FR. BERNAS: Yes, under the terms stated here.

MR. OPLE: Madam President, that is the reason I have decided to vote for the amendment proposed by Commissioner Romulo because I do not want anything in the Constitution, beyond the existing bases agreement, to authorize a future government to host other foreign military bases and that is the reason the proper place for this should be in the Transitory Provisions.

Thank you, Madam President.

FR. BERNAS: If that is the intention, then we might as well say as a general principle: "NO FOREIGN MILITARY TROOPS OR FACILITIES SHALL BE ALLOWED IN PHILIPPINE TERRITORY." And we take care of the United States in the Transitory Provisions.

MR. OPLE: I can live with that, but I do not know what Commissioner Romulo has to say.

FR. BERNAS: Because if we agree to say: "NO FOREIGN MILITARY TROOPS OR FACILITIES SHALL BE ALLOWED IN PHILIPPINE TERRITORY," that will be the end of the discussion on this, and we take care of the U.S. bases in the Transitory Provisions.

MR. OPLE: There are two choices, I believe: whether to say this now as a blanket prohibition with a qualification in the Transitory Provisions, or we just keep silent about it; meaning, there is no authority given to any future government to contract with foreign powers for keeping military bases in the Philippines.

FR. BERNAS: May I, therefore, formally move that we make that prohibition explicit, with the understanding that we will deal with the United States military bases separately.

MR. ROMULO: Madam President, I have a pending motion. I think it should be decided. I am against mentioning "foreign bases" in the main provision of the Constitution. I think that belongs to the Transitory Provisions, so that a time will come when we will be done with that issue.

THE PRESIDENT: All right. So are we ready to vote?

MR. GARCIA: Madam President, I think there is no clarity in the issue. I think it is very clear in the proposal made by Commissioner Bernas that in the Declaration of Principles we want to state that no foreign military bases of whatever origin, whatever country will be established in this land.

THE PRESIDENT: Yes, but there is a pending motion submitted by Commissioner Romulo.

MR. GARCIA: Yes, I understand, Madam President. But what I am trying to say is that, it is not clear. It is very obvious that if we try to put in the Declaration of Principles a statement which says that no foreign military bases of whatever origin, whatever country will be in this land, then that is a principle we are stating. And in the Transitory Provisions, there is where we can state our position regarding the present agreement on the bases with the United States. That, I think, is what we are trying to establish. Therefore, the requirements which are stated in the proposal of Commissioner Bernas are part of that Declaration of Principles.

FR. BERNAS: Madam President and Commissioner Romulo, just for purposes of clarifying this, may I modify the motion of Commissioner Romulo saying that we are deciding for now where to treat the U.S. military bases.

MR. ROMULO: All right.

FR. BERNAS: And that Commissioner Romulo's motion is that we treat the U.S. military bases in the Transitory Provisions without prejudice to our treating foreign military bases in general in the Declaration of Principles.

MR. ROMULO: Without prejudice to Commissioner Bernas' submitting that amendment if he so wishes. But let us settle whether the U.S. military bases matter shall be in the main part of the Declaration of Principles or in the Transitory Provisions. My motion is that it be placed in the Transitory Provisions.

MR. PADILLA: Madam President, I am in favor of not placing this matter of military bases under the Article on the Declaration of Principles. With regard to its proper place as a transitory provision, I feel that the proper time to discuss that would be when we are discussing the Transitory Provisions.

I do not want to repeat the sad situation where I found myself when I was trying to restate the phrase "imminent danger thereof" in relation to the suspension of the privilege of habeas corpus. While it was admitted that the proper place was the discussion on the executive department, my proposal was not considered because it was claimed that the provision of habeas corpus under the Bill of Rights had already been decided.

So that if this motion is approved and it is considered in the Transitory Provisions, then it should be subject of further discussion when we discuss and deliberate on the Transitory Provisions.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 6:12 p.m.

RESUMPTION OF SESSION

At 6:21 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Commissioner Romulo is recognized.

MR. ROMULO: Madam President, may I propose my amendment to the Bernas amendment: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991, FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN THE PHILIPPINE TERRITORY EXCEPT UNDER THE TERMS OF A TREATY DULY CONCURRED IN BY THE SENATE, AND WHEN CONGRESS SO REQUIRES RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING STATE.

VOTING

THE PRESIDENT: As many as are in favor of this formulated amendment of Commissioner Romulo, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

As many as are abstaining, please raise their hand. (Two Members raised their hand.)

The results show 26 votes in favor, 15 against and 2 abstentions; the amendment is approved.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I offer an amendment by insertion? I propose to say: "AND WHEN CONGRESS VOTING JOINTLY SO REQUIRES," instead of simply saying "WHEN CONGRESS SO REQUIRES."

MR. ROMULO: Will the Gentleman explain what "VOTING JOINTLY" means?

FR. BERNAS: It means not voting separately. The Congress votes as one body, and not as two separate bodies, as what the Commission provided in the provision relating to martial law.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: We will have a bicameral legislature — a Senate composed of 24 Senators elected at large and a House which may be composed of more than 200 Members. In a bicameral legislature, the universal practice is for the two Houses voting separately. Let us remember that the treaty-ratifying Chamber is the Senate, so that if the Senate should ratify the treaty and Congress may decide by a vote of the two Houses to refer further the ratification by the Senate to the people, I think that in this case the two Chambers should vote separately. If it is otherwise, the 24 Senators will be absorbed and will be a drop in the bucket and will be overwhelmed by numbers from the Lower House.

THE PRESIDENT: Is the Bernas amendment accepted by Commissioner Romulo?

MR. ROMULO: No, I am not accepting the amendment, Madam President, I leave it to the body.

FR. BERNAS: Madam President, may I just say a few words?

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I quite agree that the normal process in a bicameral body is for the two Houses to vote separately, but we have, as we have done in the body of the Constitution relevant to the executive department, made exceptions to that in recognition of the transcendence of certain issues. We did that for the extension of martial law and for the confirmation or rejection of martial law. This matter of foreign military bases is of similar transcendent importance and so we are quite aware that the amendment being proposed is an exception to the general rule. And its purpose is to give a broader base for the decision on whether the people should be allowed to participate or not.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: It is true that under the Article on the Executive, we did provide for joint voting but in the

circumstances when Congress had to concur in, revoke or extend a proclamation of martial law, the very nature of the circumstances called for urgency in action which also likewise called for immediacy in decision. In this particular case, with respect to the submission of the agreement or other treaty to a referendum, the element of urgency is not involved. That is where the difference lies. Furthermore, it should be noted here that there is a prior ratification by the Senate. The analogy or the rationale for that in the matter of martial law does not apply in the present situation.

MR. RAMA: Madam President, I agree with Commissioner Regalado that there is no parallelism between the requirement in the Article on the Executive and the present provision. As a matter of fact if we go by constitutional law, it is only the Senate that should have been authorized to ratify a treaty; so the parallelism is not there.

May I ask for a vote now, Madam President?

THE PRESIDENT: Is it on the amendment of Commissioner Bernas?

FR. BERNAS: The amendment simply inserts "CONGRESS VOTING JOINTLY."

MR. AZCUNA: Before we vote, Madam President, a majority of the committee accept the proposed amendment of Commissioner Bernas, so let us throw it to a vote.

VOTING

THE PRESIDENT: As many as are in favor of Commissioner Bernas' amendment, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 16 votes in favor, 24 against and 1 abstention; the amendment is lost.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I be allowed to introduce an amendment?

THE PRESIDENT: To the approved text?

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: Please proceed.

MR. DAVIDE: The amendment consists in the substitution of the word "Congress" with the words "THE HOUSE OF REPRESENTATIVES." The clause will therefore read: "AND WHEN THE HOUSE OF REPRESENTATIVES SO REQUIRES RATIFIED BY THE PEOPLE IN A REFERENDUM OR PLEBISCITE CALLED FOR THAT PURPOSE."

THE PRESIDENT: What does Commissioner Romulo say?

MR. ROMULO: Since we did not accept the amendment of voting jointly, I regret to say we cannot accept that amendment either.

MR. DAVIDE: May I be allowed to explain, Madam President?

THE PRESIDENT: Please proceed.

MR. DAVIDE: The reason for this is not the same as the reason for the joint session and a joint voting. The idea here is that since the Senate is the body to ratify, we should allow the possibility of the people participating in a very crucial treaty affecting the national integrity and the national territory. The proposal seeks for an act of the Lower House or the House of Representatives, because the House of Representatives is composed of people more directly attached to the governed. They are in direct contact with the governed. They are elected as proposed by districts and, therefore, they reflect more the genuine sentiments of the people. And in this particular respect, the Senate, while it may ratify the treaty, may also be checked by the Lower House. We have two Houses to provide the possibility of an internal check. This check within the Congress was precisely the main reason why there was a proposal to adopt the bicameral system. This is a matter which is so significant and so important as to affect the lives of every citizen of the country, and the Senators being elected merely at large, campaigning in a very impersonal manner, may not be able to telegraph really the genuine sentiments of the people.

And so my proposal really is that we must leave it to the Lower House to determine if, for the final effectivity and validity of a treaty regarding the hosting of foreign bases, the matter may be addressed directly to the people in a plebiscite. I hope that in this particular respect, we can somehow allow the direct participation of the people.

VOTING

THE PRESIDENT: Let us submit it to a vote.

The Davide amendment proposes to say: "AND WHEN THE HOUSE OF REPRESENTATIVES SO REQUIRES," instead of "Congress."

As many as are in favor of the Davide amendment, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

The results show 15 votes in favor and 27 against; the amendment is lost.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: My understanding is that what we have just approved is a provision for the Transitory Provisions. Am I correct?

THE PRESIDENT: That is right.

FR. BERNAS: So for the main body, may I propose an amendment? I think this expresses what is already admitted or accepted by everybody, and my only desire is to make it explicit that in the Transitory Provisions we treat the United States separately. I would like to put in a general principle in the body itself which reads: "FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN PHILIPPINE TERRITORY." This is with the understanding that what applies to the United States is what we have just approved.

That will follow the statement: "The State shall pursue an independent foreign policy."

THE PRESIDENT: Yes.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I had earlier stood up to call attention to the danger of giving constitutional authority to future governments to contract with other states the hosting of foreign bases on Philippine soil as a general principle. I said I could live with a statement of the nature that Commissioner Bernas had introduced in a reversal of the previous statement granting constitutional authority to future governments to host foreign military bases; I could live with that. However, I think I would feel more comfortable if we delete entirely from the Declaration of Principles any reference to foreign military bases. There is no authority at all to future governments to contract with foreign states the hosting of military bases here.

Thank you.

FR. BERNAS: Madam President, I believe we have discussed this enough and I am willing to submit it to a vote. As I said, this is a principle whereby we are just explicating what is accepted by everyone — that no foreign military bases, troops or facilities shall be allowed in the Philippines and what we have provided in the Transitory Provisions with respect to the United States is a clear exception.

So, I request a vote, Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

NOMINAL VOTING

MR. SARMIENTO: Madam President, may I ask for nominal voting on the Bernas amendment?

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

The Secretary-General will call the roll.

FIRST ROLL CALL

THE SECRETARY-GENERAL, reading:

Abubakar Natividad No

Alonto No Nieva

Aquino Yes Nollado Yes

Azcuna Yes Ople

Bacani Padilla

Bengzon No Quesada Yes

Bennagen Yes Rama

Bernas Yes Regalado

Rosario Braid Yes Reyes de los No

Calderon No Rigos No

Castro de No Rodrigo No

Colayco Romulo No

Concepcion No Rosales No

Davide Yes Sarmiento Yes

Foz Suarez Yes

Garcia Yes Sumulong

Gascon Yes Tadeo

Guingona No Tan Yes

Jamir Tingson No

Laurel Treñas No

Lerum Uka No

Maambong Villacorta Yes

Monsod Villegas No

Is Madam President voting?

THE PRESIDENT: I would like to cast my vote. I am voting yes. (Applause)

SECOND ROLL CALL

THE PRESIDENT: The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Abubakar Yes Laurel

Bacani No Lerum No

Colayco No Maambong

Foz Yes Monsod No

Jamir No Nieva No

Ople No Regalado No

Padilla No Sumulong No

Rama No Tadeo No

THE PRESIDENT: The results show 17 votes in favor of the Bernas amendment, 27 against and no abstention; the amendment is lost.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Madam President, I am still disturbed by the inclusion of the predicate "After the expiration of the RP-US Agreement in 1991" because we may be construed as putting a stamp of legality and validity to the RP-US Military Bases Agreement. So may I move formally for the deletion of this phrase, irrespective of the fact whether

this particular provision would be transferred to the Transitory Provisions or not.

THE PRESIDENT: I think the decision here was that the provision shall be in the Transitory Provisions. That was how we voted, was it not?

MR. SUAREZ: Yes, but even if it is already in the Transitory Provisions, may I still formally move? Madam President, as I said, we may be accused or charged with having put a stamp of approval to the legality of the RP-US Military Bases Agreement.

MR. JAMIR: Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: I believe that that is in the nature of a reconsideration, and I wonder if Commissioner Suarez voted with the majority.

MR. SUAREZ: No, Madam President, honestly I did not vote with the majority, but if it is to be construed in the nature of a motion for reconsideration, I beg to differ from that observation, with due respect to my distinguished colleague, because as we agreed upon, the rule of the game is that we will be free to introduce such amendments as may be favorably or unfavorably acted upon and considered by the body. So I invoke that principle in submitting this new proposal because I really cannot rest until this matter is finally resolved.

Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: This is a parliamentary inquiry.

The report of the Committee on Amendments and Transitory Provisions has not been taken up by the Commission. In other words, we are not yet in the period of sponsorship on the report of the committee. Would the vote on the Romulo amendment be considered merely as a recommendation to the Committee on Amendments and Transitory Provisions since the main report of the committee has not yet been taken up by the body?

THE PRESIDENT: What does Commissioner Romulo say?

MR. ROMULO: Firstly, Madam President, I am only following the committee report of the Committee on Preamble, National Territory, and Declaration of Principles, which on page 5 has a provision for inclusion in the Transitory Provisions. Secondly, I think the Commission as a whole would transcend a committee, and so we decide as we have decided that this would go into the Transitory Provisions. I do not think that there is any substantial prohibition against that.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, in the past when we voted on matters that would be transposed to the Transitory Provisions, we just voted on the concepts and on the ideas. But today on this particular matter that we have voted upon, we did not only vote on the concepts; we also voted on the text. Thus, when the body voted on the text of that particular provision that remains, that should be taken up and shall form part of the report on the Transitory Provisions. That was the way I looked at it when I voted for this.

MR. DAVIDE: Madam President, I ask that question because the proposal of the committee for a provision in the Transitory Provisions actually partakes merely of a recommendation that it should be in the Transitory Provisions. And then, when we take up the report of the Committee on Amendments and Transitory Provisions, that should be taken into account in the totality of the discussion of the report of the said committee.

MR. BENGZON: Madam President, just one word in reply to Commissioner Davide. I think it will be recalled that this Commission recessed precisely in order that the text of the amendments of Commissioners Romulo and Bernas could be harmonized. And when this Commission went back into session, the text had been finished and had been harmonized. There were only two or three areas that could not be agreed upon which were submitted to the body. Thus, what was really voted upon was not only the idea or the concept but also the text of the provision itself. So as approved by the body, it should go in toto to the report of the Committee on Amendments and Transitory Provisions.

THE PRESIDENT: The Chair concurs with the manifestation of Commissioner Bengzon that what has been approved is the text as is, and that this particular text shall be placed in the Transitory Provisions.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I would like to ask in connection with the Commission's rejection of the amendment of Father Bernas. Just what is the meaning of our action in rejecting the amendment of Father Bernas? The amendment, if I recall, states that: "NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED IN PHILIPPINE TERRITORY."

By so rejecting or disapproving the Bernas amendment, are we saying, Madam President, that we are for maintaining military bases in this country now and forever and ever?

THE PRESIDENT: Will Commissioner Romulo or Ople give an answer?

MR. ROMULO: Gladly, Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: On the contrary, we are saying exactly the opposite. What is provided in the Transitory Provisions is that no other foreign military bases, troops or what-have-you will be allowed in our territory.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Madam President, I think what we did, having in mind the sequence of the Bernas amendment, was merely to remove any constitutional authority for future governments to contract with foreign states in hosting military bases. So, I confirm, for my part, the statement of Commissioner Romulo on this subject.

Thank you.

MR. FOZ: But, Madam President, that could be true had we approved the amendment. But since we rejected that amendment, then the implication is that this Commission has taken a position that we cannot survive without military bases in this country, that this country cannot survive without military bases.

THE PRESIDENT: But what about what has been approved, that after the expiration of the RP-US Agreement in 1991, foreign military bases shall not be allowed in the Philippines, except . . .?

MR. FOZ: But the understanding was that these Transitory Provisions apply only to the RP-US Military Bases Agreement and will not govern as a permanent provision in the main body of the Constitution.

THE PRESIDENT: Will Commissioner Romulo clarify this for everybody?

MR. ROMULO: Madam President, I made it very clear that this provision applies firstly as a temporary provision for the U.S. military bases and, secondly, to any other foreign military bases in our territory. I made that very clear to Commissioner Bernas.

MR. FOZ: I cannot see the point, Madam President. If we are going to provide something in the Transitory Provisions, why is the Commission reluctant to provide anything at all in the body of the main Constitution?

MR. ROMULO: Is the Gentleman going to suggest a motion therefor? We have debated and voted on this matter.

THE PRESIDENT: Commissioner Foz is just asking clarification on the rationale of the vote from those who voted against. But the Chair believes that Commissioners Ople and Romulo have already clarified that.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I think the confusion is this. We are saying that except for the provision in the Transitory Provisions on the U.S. bases, there shall be no more foreign military bases in Philippine territory. And yet we voted down the Bernas amendment which precisely states that.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Parliamentary inquiry, Madam President.

Considering the ruling of the Chair that the text of this particular proposal submitted by Commissioner Romulo had already been voted upon and would, therefore, be transferred to the Transitory Provisions, when the time comes for the discussion of this provision as part of the Transitory Provisions, would any one of us be precluded from submitting any appropriate amendments thereto? As in my case, I submitted a formal motion for the deletion of the introductory phrase to the provision. Would I be precluded later on, at the appropriate time, Madam President?

THE PRESIDENT: May we have the view of Commissioner Romulo?

MR. ROMULO: I think so, Madam President. Insofar as the ruling of the Chair is concerned, after the manifestation of Commissioner Bengzon, I believe that we have settled this matter.

MR. SUAREZ: Madam President, I happen to be the chairman of the Committee on Amendments and Transitory Provisions and quite a number of provisions have been referred to us, provisions which have been approved in the respective committees and also on the floor. Is it my understanding that insofar as the Committee on Amendments and Transitory Provisions is concerned with reference to these referred provisions, we will do it only in a mechanical character, without opportunity or right on the part of the Commissioners to espouse appropriate amendments?

MR. BENGZON: May I be privileged to answer, Madam President?

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, I precisely made that distinction earlier when I stood up, because as far as I can recall, those other matters which were referred to the Committee on Amendments and Transitory Provisions were only approvals in concepts. No text was approved by the Commission insofar as those matters are

concerned, but only the idea or the concepts. The body decided that these concepts are properly to be treated in the Transitory Provisions. Therefore, when the time comes for the report on the Transitory Provisions to be presented in plenary session, then those concepts could still be crafted by this Commission, because the Commission did not approve the text of those concepts, unlike in this particular case which we did tonight.

MR. OPLE: Madam President, will the chairman of the Steering Committee yield to a question?

It is, of course, presumed under the Rules that this Commission can command any of the committees. Is the Committee on Amendments and Transitory Provisions, of which I am a member, being commanded by this Commission just to receive this transitory provision and act simply as a mechanical conduit for bringing it back to the floor? And, subsequent to that, may I ask whether this is equivalent to discharging the Committee on Amendments and Transitory Provisions?

MR. BENGZON: Firstly the Commission decided on the text of this particular concept and, therefore, the Commission has approved not only the concept but also the text and the wording, and decided that it should be included in the provision on Transitory Provisions. Insofar as this particular matter is concerned, the whole thing is foreclosed.

Secondly, I do not think and please do not consider it as a discharge of the committee's responsibility. It is just this particular text that was approved, unlike the other concepts that we have approved which we just submitted to the Committee on Amendments and Transitory Provisions and it was up to them to craft the words, after which the matter should be brought back to the floor for discussion.

MR. OPLE: So the committee is not being discharged of its task?

MR. BENGZON: The committee certainly is not being discharged of its task even insofar as this provision is concerned. It just happens that this Commission gave its final imprimatur, not only insofar as the concept is concerned but also the text.

MR. OPLE: And I presume that this action of the Commission is a precedent that will apply to other committees in the future?

MR. BENGZON: If it is clear, as it has been clear, that that is the decision of the Commission which is the highest body of this Assembly.

MR. OPLE: I thank the Gentleman for his interpretation, but I did have reservations about the right of this Commission to override a committee without prior notice and without prior consultations. I suppose as a member of the committee, I accept the superior authority of the Commission, but I hope that in the future, prior consultations could be effected so that the integrity of the committees under the Rules will be properly safeguarded.

Thank you, Madam President.

MR. BENGZON: Thank you.

MR. SUAREZ: Madam President, for purposes of record, we would like to take strong exceptions to the statements or the observations made by the chairman of the Steering Committee and we would like to make of record further our reservation of the right to ventilate this matter anew at the proper time when this proposal is submitted for consideration in the Committee on Amendments and Transitory Provisions.

Thank you, Madam President.

MR. NOLLEDO: Madam President, may I be given only two minutes.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: I wholeheartedly support the contention of Commissioner Suarez in view of the observations of Commissioner Foz, because I think the provision is not clear. I believe that the second part of the provision of the Romulo amendment is tailored in order to lay down the terms and conditions under which the RP-US Military Bases Agreement may be extended, aside from the fact that the provision was decided by us to be included in the Transitory Provisions, and by the very term of transitory provision, it is only temporary in nature. In view of the serious observation of Commissioner Foz, I think Commissioner Suarez is fully justified in ventilating anew this issue in the committee level.

MR. RAMA: Madam President, I think we have ignored the nature of the Committee on Amendments and Transitory Provisions. As a matter of fact, it is quite different from the rest of the committees. The committee should take care of contingencies that arise from the discussion on the other articles. That is the business of this particular committee. This is a contingency that arose from some provisions under the Article on the Declaration of Principles that have to be transferred to the Transitory Provisions. By its very nature, the committee should accept those contingencies.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: I would like to show an example of a decision by the body of referring a resolution to another committee.

I had proposed Resolution No. 121 on graft and corruption. It was referred on First Reading to the Committee on Accountability of Public Officers. When we discussed the provisions of the Article on the Accountability of Public Officers, I was informed by the Committee on the Accountability of Public Officers that it should be referred to the Committee on Preamble, National Territory, and Declaration of Principles. The Commission did not discuss the merits of my resolution but just referred it to the Committee on Declaration of Principles. My said resolution will now be the subject of discussion by the whole Commission.

In this particular case. Madam President, we took care of all the merits of the resolution and the results of the votes showed 26 in favor, 15 against and 2 abstentions. We even tried to propose that Congress shall vote jointly, but this was lost by a vote of 16 in favor and 24 against. Again, Commissioner Davide came out with the proposal to substitute the word "Congress" with "HOUSE OF REPRESENTATIVES." The results of our votes showed 15 in favor and 27 against. There is no more discretion on the part of the Committee on Amendments and Transitory Provisions, consisting only of about 11 members, as against those 26 who voted in its favor. To my mind, Madam President, with the Commission having voted on the merits of the whole provision and having referred this to the Committee on Amendments and Transitory Provisions, I sincerely believe that there is nothing more that we can take up in the committee except to include the same in its report.

THE PRESIDENT: This is the ruling of the Chair.

There was a parliamentary inquiry made by Commissioner Suarez but as the Chair already stated, what was submitted to a vote was the text and the place where that particular text is to be placed. So, I believe that the matter is settled.

As to the question whether any amendment to the text will be in order or not when the report of the Committee on Amendments and Transitory Provisions is submitted, that will be resolved when the time comes. Therefore, the Chair will not make any commitment on that but will reserve its resolution on that particular point.

MR. ROMULO: Madam President, just an observation on the basis of what Commissioner Nollado said. This transitory provision is precisely designed to protect us and not to give the executive department unconditional discretion. Precisely, we want it to be a new treaty. It cannot be an extension of the old one. Secondly, the treaty must be ratified by the Senate and if Congress so decides, ratified by the people and finally, it must be recognized as a treaty by the other party.

MR. NOLLEDO: Madam President, may I ask a question.

THE PRESIDENT: Please proceed.

MR. NOLLEDO: Would Commissioner Romulo agree with me that the second part of the provision, the conditions he is talking about, necessarily refers to the present RP-US Military Bases Agreement in view of the introductory part of that provision?

MR. ROMULO: Certainly, that is our report.

MR. NOLLEDO: Thank you.

MR. ROMULO: Madam President, it has been a long day. I have a minor amendment which was originally proposed but I think I will delay that for tomorrow.

THE PRESIDENT: Is the Chairman through with Section 3?

MR. ROMULO: Madam President, my proposal is on the second sentence of Section 3. Since they are urging me to go ahead, let me propose it.

MR. FOZ: Madam President, are we foreclosing now any further amendment to Section 3?

MR. ROMULO: No, I am only proposing. Please allow me to finish my amendment.

MR. FOZ: I am sorry.

THE PRESIDENT: Commissioner Romulo will please proceed.

MR. ROMULO: "WHEN ENTERING INTO ANY TREATY THE PARAMOUNT CONSIDERATIONS SHALL BE NATIONAL SOVEREIGNTY, NATIONAL INTEREST AND THE RIGHT OF SELF-DETERMINATION." That will form the second sentence of Section 3, the first sentence being: "The State shall pursue an independent foreign policy."

THE PRESIDENT: That has been approved.

MR. ROMULO: Yes, Madam President, so what I am proposing now is a second sentence which shall read "WHEN ENTERING INTO ANY TREATY THE PARAMOUNT CONSIDERATIONS SHALL BE NATIONAL SOVEREIGNTY, NATIONAL INTEREST AND THE RIGHT OF SELF-DETERMINATION."

THE PRESIDENT: What does the committee say?

MR. AZCUNA: May we ask from the proponent whether he has in mind treaties granting foreign states military bases since we rejected earlier a general provision prohibiting them?

MR. ROMULO: It would exclude such a treaty.

MR. AZCUNA: So under Commissioner Romulo's proposal it contemplates only other treaties.

MR. ROMULO: Yes.

MR. AZCUNA: Because treaties granting military bases to foreign states will not be allowed.

MR. ROMULO: Yes, that is right.

MR. AZCUNA: Under the understanding of the Gentleman's previous amendment.

MR. ROMULO: That is correct.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Has the committee accepted the proposal?

THE PRESIDENT: Not yet.

MR. AZCUNA: Could I just inquire from our members? May we proceed first, Madam President, before we decide?

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I would like to ask the proponent one question. Would the treaty here include agreements that have to do with the exploitation of natural resources?

MR. ROMULO: I do not think that that is a subject of a treaty. Is Commissioner Bennagen talking of service contracts or the law of the sea?

MR. BENNAGEN: I do not know.

MR. ROMULO: No, I do not think that that would be subject of the treaty.

MR. BENNAGEN: We are saying that at some point, there may be some necessity to go into this, not just in terms of executive agreements for service contracts.

Thank you, Madam President.

MR. AZCUNA: The committee accepts, Madam President.

THE PRESIDENT: The committee accepts.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I wish that this amendment would be accepted by the main proponent. After "sovereignty," we only add the following: "AND TERRITORIAL INTEGRITY."

THE PRESIDENT: Is that accepted?

MR. ROMULO: The committee has accepted and I certainly have no objection.

MR. AZCUNA: The committee has no objection and we also accept that, Madam President.

THE PRESIDENT: Any other comment? Is there any objection to the second sentence which has been read by Commissioner Romulo and amended by Commissioner Davide? (Silence) The Chair hears none; the amendment is approved.

ADJOURNMENT OF SESSION

MR. RAMA: Madam President, I move that we adjourn until tomorrow at nine-thirty in the morning.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: The committee would like to suggest to the Floor Leader and to the leadership that we take up first Section 9 tomorrow, if possible.

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

The session is adjourned until tomorrow at nine-thirty in the morning.

It was 7:12 p.m.

[*]Appeared after the roll call.

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