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Saturday, August 2, 1986

OPENING OF SESSION

At 9:35 a.m., 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 Cirilo A. Rigos.

Everybody remained standing for the Prayer.

PRAYER

REV. RIGOS: Most gracious and loving God, let Thy Spirit guide us in our work today. Help us to realize our inadequacy that we may look up to Thee for guidance and wisdom.

Grant us the strength equal to our task, and the faith that will enable us to overcome all difficulties.

In Jesus' name we pray. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Concepcion Present

Alonto Present Davide Present

Aquino Present [*] Foz Present

Azcuna Present [*] Garcia Present

Bacani Present [*] Gascon Present [*]

Bengzon Present Guingona Present

Bennagen Present Jamir Present

Bernas Present Laurel Present

Rosario Braid Present Lerum Present [*]

Brocka Present [*] Maambong Present

Calderon Present Monsod Present

Castro de Present Natividad Present

Colayco Present Nieva Present

Nolledo Present Rosales Present

Ople Present Sarmiento Present [*]

Padilla Present Suarez Present

Quesada Present Sumulong Present

Rama Present Tadeo Present[*]

Regalado Present Tan Present

Reyes de los Present Tingson Present

Rigos Present Uka Present

Rodrigo Present Villacorta Present

Romulo Present Villegas Present

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

The President is present.

The roll call shows 35 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we dispense with the reading of the Journal of the previous session.

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

APPROVAL OF JOURNAL

MR. CALDERON: 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. CALDERON: 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.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from former Senator Magnolia W. Antonino, 15th Floor, G.E. Antonino Building, T.M. Kalaw Street, Ermita, Manila, submitting some proposals for inclusion in the Constitution, to wit: (1) There shall be a Commission on Appointments composed of members of the legislature; (2) The only elective provincial officials shall be the Governor and the Vice-Governor. The Governor and the Vice-Governor shall be the chairman and vice-chairman, respectively, of a provincial assembly composed of all the municipal mayors in the province; (3) The only elective municipal officials shall be the Mayor and Vice-Mayor who shall be chairman and vice-chairman, respectively, of the municipal assembly composed of all barrio captains; and (4) The right of every citizen to possess firearms in his residence subject to reasonable restrictions and qualifications.

(Communication No. 416 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Ramon R. Batino, Jr. of P.O. Box 627, Bacolod City, expressing apprehension over the possible effects of the dismantling of the U.S. bases in the Philippines in the areas of national security, economic stability and religious freedom.

(Communication No. 417 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Alexander de Jesus of the Miners Association of the Philippines, Inc., submitted thru the honorable Commissioner Ambrosio Padilla, suggesting a provision in the Constitution that "a petition for review of a final decision of the Supreme Court during martial law which is manifestly against the evidence and is contrary to law may be filed within one year from the ratification of this Constitution and given due course."

(Communication No. 418 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letter from Mr. Jose R. Reyes of 2278 Pasong Tamo Extension, Makati, Metro Manila, and 28 others, urging the Constitutional Commission to adopt a provision in the Constitution for the renewal of the U.S. Military Bases Agreement upon its expiry in 1991, and to take a firm stand with the forces of freedom, instead of taking a stance of neutrality and nonalignment.

(Communication No. 419 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Ms. Dolores A. Endriga, OIC, School of Urban and Regional Planning, University of the Philippines, Diliman, Quezon City, submitting a resolution adopted by the U.P. School of Urban and Regional Planning Faculty, suggesting incorporation in the Constitution of a provision on housing.

(Communication No. 420 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Ricardo Amador of 32 Badminton Street, New Saint Francis Village, Cainta, Rizal, suggesting among others, the adoption of the electoral college type of voting for national elections.

(Communication No. 421 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Communication signed by 1,254 people with their corresponding addresses, seeking to include in the 1986 Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 422 — Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from the Honorable Bienvenido A. Tan, Jr., Commissioner of Internal Revenue, expressing doubts whether the adoption of important provisions by mere majority vote is a sufficient indication of the real will of the people, suggesting therefor that when voting at the referendum/plebiscite, the electorate can then indicate a vote for the Constitution as a whole document and the disputed provisions thereof and the resulting vote will decide what the final document will be.

(Communication No. 423 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Ms. Rosa Maria Juan Bautista of the Division of Research and Law Reform, U.P. Law Center, proposing provisions renouncing child labor, protecting working children, and giving aid and support to the Juvenile and Domestic Relations Court, and enclosing copies of lectures delivered at the U.P. Institute of Industrial Relations.

(Communication No. 424 — Constitutional Commission of 1986)

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

Communication from the Integrated Bar of the Philippines, entitled: “Explanatory Note of the Proposed Commission on Justice.”

(Communication No. 425 — Constitutional Commission of 1986)

To the Committee on the Judiciary.

Letter from Ms. Antonnette Queri, Campus Ministry Team, requesting a provision protecting the unborn.

(Communication No. 426 — Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Communication from the Family Planning Organization of the Philippines, Sorsogon Provincial Chapter, Sorsogon, Sorsogon, signed by its President, Cecilia A. Ortiz and other officers, petitioning the Constitutional Commission to incorporate in the Constitution a clear-cut statement of national policy on family planning.

(Communication No. 427 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Family Planning Organization of the Philippines, Davao Provincial Chapter, 33-F J.P. Laurel Avenue, Davao City, signed by its Chapter President, Roberto V. Alcantara and other officers and members, expressing among others the desire to have a Commission on Population whose activities are independent of any social or health agency.

(Communication No. 428 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Ms. Rosalita Bengzon Moran of 686 Aurora Blvd., Quezon City, voicing the plight of small land-owners whose landholdings were covered by land reform, saying that small landowners were made the sacrificial lambs to quiet rural restiveness, and that she has not been paid her lawful share for some years now, among others.

(Communication No. 429 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Ben Divina, c/o United Nationalist Democratic Organization, Old Congress Bldg., Manila, submitting a newspaper clipping captioned "Overseas Workers as Capitalists."

(Communication No. 430 — Constitutional Commission of 1986)

To the Committee on Social Justice.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF
PROPOSED RESOLUTION NO. 534
(Article on Social Justice)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: The scheduled voting on the Article on the Legislative, as amended, has to be postponed because the clean copies have not yet been distributed. Also, we have to postpone the voting on Second Reading on the Article on the Executive because there is still an amendment that has to be taken up according to the Vice-Chairman of said Committee.

Therefore, Madam President, I move that we consider Committee Report No. 34 on Proposed Resolution No. 534 as reported out by the Committee on Social Justice.

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

SUSPENSION OF SESSION

THE PRESIDENT: Before we proceed further, the session is suspended for a few minutes.

It was 9:47 a.m.

RESUMPTION OF SESSION

At 9:51 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Consideration of Proposed Resolution No. 534 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 534, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON
SOCIAL JUSTICE.

(The following is the whole text of the proposed resolution per C.R. No. 34.)

COMMITTEE REPORT NO. 34

The Committee on Social Justice to which were referred the following:

Proposed Resolution No. 19, introduced by Hon. Azcuna, entitled:

RESOLUTION ON THE ROLE OF FARMERS AND WORKERS,

Proposed Resolution No. 20, introduced by Hon. Azcuna, entitled:

RESOLUTION TO PROVIDE FOR AUTHENTIC LAND REFORM,

Proposed Resolution No. 25, introduced by Hon. Nollado, entitled:

RESOLUTION LIMITING OWNERSHIP OF PRIVATE LANDHOLDINGS,

Proposed Resolution No. 37, introduced by Hon. Davide, entitled:

RESOLUTION PROPOSING GENUINE AND BROADER LAND REFORM POLICIES AND FOR THE INCORPORATION IN THE NEW CONSTITUTION OF A SEPARATE ARTICLE ON LAND REFORM,

Proposed Resolution No. 82 introduced by Hon. Bennagen, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON SOCIAL JUSTICE SEPARATE AND DISTINCT FROM THE DECLARATION OF PRINCIPLES AND STATE POLICIES,

Proposed Resolution No. 91, introduced by Hon. Gascon and Garcia, entitled:

RESOLUTION URGING THE CONSTITUTIONAL COMMISSION TO CONSIDER THE PEOPLE'S PROPOSAL FOR SOCIAL AND ECONOMIC SERVICES,

Proposed Resolution No. 93, introduced by Hon. Davide, entitled:

A RESOLUTION PROPOSING TO LIMIT THE AREA OF PRIVATE AGRICULTURAL LAND THAT MAY BE ACQUIRED BY NATURALIZED FILIPINO CITIZENS AND PROVIDING FOR THE ESCHEAT OF ANY HELD IN EXCESS OF THE LIMITATION,

Proposed Resolution No. 100, introduced by Hon. Gascon and Garcia, entitled:

RESOLUTION URGING THE CONSTITUTIONAL COMMISSION TO LOOK INTO THE ISSUES AFFECTING THE URBAN POOR,

Proposed Resolution No. 113, introduced by Hon. Quesada, Tan, Bennagen and Sarmiento, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ACCORDING FILIPINO CITIZENS THE RIGHT TO STANDARDS OF LIVING NECESSARY TO MAINTAIN THEIR WELL-BEING; AND THE PROVISION BY THE STATE OF ESSENTIAL SERVICES PERTINENT THERETO,

Proposed Resolution No. 126, introduced by Hon. de los Reyes, Jr., Maambong and Natividad, entitled:

RESOLUTION TO INCLUDE IN THE GENERAL PROVISION OR DECLARATION OF PRINCIPLES A PROVISION TO AID AND ASSIST THE DISABLED, HANDICAPPED, ORPHANS, AGED AND OTHER DISADVANTAGED CITIZENS,

Proposed Resolution No. 167, introduced by Hon. Rosario Braid, entitled:

RESOLUTION TO DECLARE RURAL DEVELOPMENT AS A PRIMARY OBLIGATION OF THE STATE,

Proposed Resolution No. 171, introduced by Hon. Villegas, Sarmiento and Rosario Braid, entitled:

RESOLUTION THAT A BROAD WORKING DEFINITION OF 'SOCIAL JUSTICE' BE ADOPTED,

Proposed Resolution No. 180, introduced by Hon. Rosario Braid, entitled:

RESOLUTION MANDATING COOPERATIVISM AS A BASIC PRINCIPLE OF NATIONAL DEVELOPMENT, COOPERATIVES AS ITS VEHICLE, THE ESTABLISHMENT OF THE NECESSARY CONDITIONS THEREFOR, AND CREATION OF A NATIONAL COOPERATIVE AND LAND REFORM AUTHORITY,

Proposed Resolution No. 181, introduced by Hon. Rosario Braid, entitled:

RESOLUTION TO ELIMINATE DISCRIMINATION AS A BARRIER TO WORK OPPORTUNITIES,

Proposed Resolution No. 227, introduced by Hon. Villegas, entitled:

RESOLUTION TO INTRODUCE A SEPARATE ARTICLE ON SOCIAL JUSTICE AND TO SET CRITERIA FOR DISTINGUISHING ITS PROVISIONS FROM THOSE PROPER TO THE BILL OF RIGHTS AND OTHER ARTICLES,

Proposed Resolution No. 253, introduced by Hon. Villegas, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE TO IMPLEMENT THE STATE'S POLICY OF SOCIAL JUSTICE,

Proposed Resolution No. 277, introduced by Hon. Quesada, Suarez and Sarmiento, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON A NATIONAL HEALTH POLICY FOR A COMPREHENSIVE HEALTH CARE DELIVERY SYSTEM FOR THE ENTIRE COUNTRY,

Proposed Resolution No. 279, introduced by Hon. Nollado, entitled:

RESOLUTION TO PROVIDE IN THE NEW CONSTITUTION THAT THE STATE SHALL FOSTER AND PROMOTE THE ESTABLISHMENT OF COOPERATIVES AND SUPPORTING SERVICES ALL OVER THE COUNTRY ESPECIALLY IN THE RURAL AREAS,

Proposed Resolution No. 316, introduced by Hon. Tingson, entitled:

RESOLUTION PROPOSING TO ADOPT IN THE CONSTITUTION A PROVISION DECLARING LAND REFORM A CORNERSTONE IN THE ECONOMIC REFORM OF THE COUNTRY,

Proposed Resolution No. 320, introduced by Hon. Tingson entitled:

A RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON THE PROTECTION AND WELFARE OF WORKERS,

Proposed Resolution No. 340, introduced by Hon. Tadeo and Suarez, entitled:

RESOLUTION PROPOSING TO INCORPORATE A SEPARATE SECTION ON AGRARIAN REFORM IN THE ARTICLE ON TRANSITORY PROVISIONS,

Proposed Resolution No. 342, introduced by Hon. Tadeo and Quesada, entitled:

RESOLUTION PROPOSING THE AFFIRMATION OF AGRARIAN REFORM AS A FUNDAMENTAL ELEMENT IN ACHIEVING SOCIAL EQUITY AND JUSTICE AND THEREFORE MUST BE ENSHRINED IN THE DECLARATION OF PRINCIPLES OF THE NEW CONSTITUTION,

Proposed Resolution No. 343, introduced by Hon. Tadeo, Aquino, Brocka, Villacorta, Ople, de los Reyes, Jr., Quesada, Maambong, Bennagen, Sarmiento, Garcia, Suarez and Gascon, entitled:

RESOLUTION TO PROVIDE FOR A SEPARATE ARTICLE ON AGRARIAN REFORM AS A FUNDAMENTAL ELEMENT IN THE ESTABLISHMENT OF A JUST, HUMANE AND PROGRESSIVE SOCIETY,

Proposed Resolution No. 366, introduced by Hon. Nollado, entitled:

RESOLUTION TO PROVIDE IN THE NEW CONSTITUTION THAT ALL KINDS OF IDLE OR ABANDONED LANDS NOT PUT TO APPROPRIATE USE AS DEFINED BY LAW WITHIN FIVE YEARS FROM RATIFICATION OF THE NEW CONSTITUTION SHALL BE FORFEITED IN FAVOR OF THE STATE TO BE DISTRIBUTED TO BENEFICIARIES OF LAND REFORM,

Proposed Resolution No. 376, introduced by Hon. Gascon and Garcia, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION AFFORDING MORE PROTECTION TO LABOR AND GUARANTEEING BASIC HUMAN AND TRADE UNION RIGHTS,

Proposed Resolution No. 379, introduced by Hon. Treñas, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION A PROVISION TO EMPHASIZE AND STRENGTHEN THE CONSTITUTIONAL BASE FOR A SOCIAL HOUSING PROGRAM,

Proposed Resolution No. 397, introduced by Hon. Sarmiento and Tan, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION CREATING AN AGENCY FOR THE MANAGEMENT OF GOVERNMENT EMPLOYEES' UNIONS AND ASSOCIATIONS,

Proposed Resolution No. 398, introduced by Hon. Sarmiento and Tan, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION GRANTING THE RIGHT TO FORM UNION AND COLLECTIVE BARGAINING TO GOVERNMENT EMPLOYEES,

Proposed Resolution No. 413, introduced by Hon. de los Reyes, Jr. entitled:

RESOLUTION FOR A CONSTITUTIONAL COMMITMENT OF THE STATE TO ASSIST THE DISABLED INTO BECOMING PRODUCTIVE AND USEFUL MEMBERS OF SOCIETY,

Proposed Resolution No. 419, introduced by Hon. Tan, Villacorta and Rigos, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION GUARANTEEING A DECENT SHELTER FOR EVERY FILIPINO, PROTECTION AGAINST ARBITRARY AND INHUMAN DEMOLITION OF DWELLINGS AND AN ASSURANCE FOR PROPER RESETTLEMENT UNDER A COMPREHENSIVE SHELTER PROGRAM,

Proposed Resolution No. 421, introduced by Hon. Nieva, Monsod, Tan and Bacani, entitled:

RESOLUTION INCORPORATING IN THE NEW CONSTITUTION A PROVISION TO INSURE THAT THE STATE SHALL UNDERTAKE AND IMPLEMENT AN URBAN LAND REFORM AND SOCIAL HOUSING PROGRAM,

Proposed Resolution No. 425, introduced by Hon. Sarmiento, Quesada and Tadeo, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION GUARANTEEING INALIENABILITY AND INSURANCE OF A MINIMUM PATRIMONY OF EACH

FAMILY THAT ENSURE DECENT FAMILY LIFE,

Proposed Resolution No. 426, introduced by Hon. Sarmiento, Quesada, Tadeo and Bennagen, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ESTABLISHING WORK AS A RIGHT AND SOCIAL RESPONSIBILITY, STATE ENDEAVOR TO ACHIEVE FULL PRODUCTIVE EMPLOYMENT AND CREATION OF A CENTRALIZED MONITORING SYSTEM AND UNEMPLOYMENT WELFARE PROGRAM,

Proposed Resolution No. 429, introduced by Hon. Suarez, Tadeo and Sarmiento, entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON TRANSITORY PROVISIONS A PROVISION FOR THE EXPROPRIATION OF ALL AGRICULTURAL AND NON-AGRICULTURAL LANDS FRAUDULENTLY ACQUIRED BY GOVERNMENT OFFICIALS AND THEIR CRONIES AND IMMEDIATE SUBJECTION OF THE SAME TO URBAN AND RURAL LAND REFORM,

Proposed Resolution No. 431, introduced by Hon. Natividad, Ople, Maambong and de los Reyes, Jr., entitled:

RESOLUTION PROVIDING IN THE NEW CONSTITUTION IN THE NEW ARTICLE ON SOCIAL JUSTICE THAT AS A RESTITUTION, THE VICTIMS OF CRIME BE GIVEN A SHARE OF FINES PAID IN COURT BY CONVICTED CRIMINALS,

Proposed Resolution No. 479, introduced by Hon. Rosario Braid, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES THE RECOGNITION OF RURAL DEVELOPMENT AND AGRARIAN REFORM AS PRIORITIES OF THE STATE,

Proposed Resolution No. 491, introduced by Hon. Quesada, Tadeo and Aquino, entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION PROVISIONS FOR THE PROTECTION OF THE RIGHTS AND WELFARE OF FILIPINO OVERSEAS WORKERS (FOWs),

Proposed Resolution No. 504, introduced by Hon. Villegas, entitled:

RESOLUTION TO ADOPT AS AMENDED ARTICLE 2, SECTION 6 OF THE 1973 CONSTITUTION FOR INCORPORATION INTO THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION,

Proposed Resolution No. 509, introduced by Hon. Sarmiento and Quesada, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION REQUIRING THE SOCIAL SECURITY AGENCY TO PROVIDE COVERAGE TO ALL WORKERS WHO WORK FOR PRIVATE EMPLOYERS INCLUDING DOMESTIC HELPERS AND SELF-EMPLOYED INDIVIDUALS WHO VOLUNTARILY SUBMIT THEMSELVES FOR COVERAGE,

Proposed Resolution No. 513, introduced by Hon. Garcia and Gascon, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION MORE SPECIFIC PROVISIONS FOR PROMOTING AND PROTECTING THE RIGHTS OF LABOR,

Proposed Resolution No. 515, introduced by Hon. Garcia and Gascon, entitled:

RESOLUTION INCORPORATING IN THE NEW CONSTITUTION PROVISIONS TO REGULATE THE OWNERSHIP, USE AND DISTRIBUTION OF LAND,

Proposed Resolution No. 520, introduced by Hon. Quesada, Bennagen, Brocka, Sarmiento and Suarez, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON AN EFFECTIVE HEALTH CARE DELIVERY SYSTEM, MAINTENANCE OF AN EFFECTIVE FOOD AND DRUG MONITORING BODY AND HEALTH MANPOWER DEVELOPMENT,

has considered the same and has the honor to report them back to the Constitutional Commission of 1986 with the recommendation that attached Proposed Resolution No. 534, prepared by the Committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON SOCIAL JUSTICE,

be approved in substitution of Proposed Resolution Nos. 19, 20, 25, 37, 82, 91, 93, 100, 113, 126, 167, 171, 180, 181, 227, 253, 277, 279, 316, 320, 340, 342, 343, 366, 376, 379, 397, 398, 413, 419, 421, 425, 426, 429, 431, 479, 491, 504, 509, 513, 515 and 520 with Honorable Nieva, Gascon, Tadeo, Monsod, Aquino, Brocka, Suarez, Ople, Quesada, Bacani, Garcia, Lerum, Tan, Villacorta, Bennagen, Bengzon, Jr., Rodrigo, Azcuna, Nollado, Davide, Jr., Sarmiento, de los Reyes, Rosario Braid, Villegas, Guingona, Tingson, Treñas and Natividad as authors.

(Sgd.) Ma. Teresa F. Nieva

Chairperson

Committee on Social Justice

(Sgd.) Jose Luis Martin C. Gascon

(Sgd.) Jaime S. L. Tadeo

Vice Chairman

Member

(Sgd.) Christian S. Monsod

(Sgd.) Lino O. Brocka

Member

Member

(Sgd.) Felicitas S. Aquino

(Sgd.) Jose E. Suarez

Member

Member

(Sgd.) Minda Luz M. Quesada

(Sgd.) Blas F. Ople*

Member

Member

(Sgd.) Teodoro C. Bacani

(Sgd.) Edmundo G. Garcia

Member

Member

(Sgd.) Eulogio R. Lerum

(Sgd.) Christine Tan

Member

Member

(Sgd.) Wilfrido V. Villacorta

(Sgd.) Ponciano L. Bennagen

Member

Member

(Sgd.) Jose F.S. Bengzon, Jr.

(Sgd.) Francisco A. Rodrigo

Member

Member

PROPOSED RESOLUTION NO. 534

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON SOCIAL JUSTICE.

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled, to incorporate in the New Constitution a separate Article on Social Justice, with the following provisions:

ARTICLE_

SOCIAL JUSTICE

SECTION 1. Social Justice, as a social, economic, political, moral imperative, shall be the primary consideration of the State in the pursuit of national development. To this end, Congress shall give the highest priority to the formulation and implementation of measures designed to reduce economic and political inequalities found among citizens, and to promote the material structural conditions which promote and enhance human dignity, protect the inalienable rights of persons and sectors to health, welfare and security, and put the material wealth and power of the community at the disposal of the common good.

SECTION 2. Towards these ends, the State shall regulate the acquisition, ownership, use and disposition of property and its fruits, promote the establishment of self-reliant, socio-political and economic structures determined by the people themselves, protect labor, rationalize the use and disposition of land, and ensure the satisfaction of the basic material needs of all.

LABOR

SECTION 3. The State shall afford full protection to labor both domestic and overseas, organized or unorganized, and shall promote full employment and equality of employment opportunities regardless of sex, age, culture or creed.

SECTION 4. The State shall guarantee the rights of workers to self-organization, collective bargaining and negotiations, peaceful and concerted activities for their own protection, welfare and mutual aid, including the right to strike. It shall also guarantee job security, just and humane conditions of work and participation in policy and decision-making affecting their rights and benefits. The State shall promote voluntary modes of settling disputes between workers and employers and shall regulate their relations in a manner that recognize the primacy of the right of labor to its just share and at the same time protecting the right of capital to realize its growth potential and reasonable returns on investments.

AGRARIAN AND NATURAL RESOURCE REFORM

SECTION 5. The State shall undertake a genuine agrarian reform program founded on the primacy of the rights of farmers and farmworkers to own directly or collectively the lands they till. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such retention limits as the National Assembly may prescribe and subject to a fair and progressive system of compensation.

SECTION 6. The State shall recognize the right of farmers and farmworkers, and of cooperatives to participate in the planning, organizing, and management of the program and shall provide support to agriculture through appropriate technology, and adequate financial, production and marketing assistance.

SECTION 7. The State shall apply the principles of agrarian reform in the disposition of other natural resources, including lands of the public domain under lease or concession, subject to prior rights of original inhabitants and without violating the homestead rights of small settlers and the rights of indigenous communities to their ancestral lands.

AQUATIC RESOURCES REFORM

SECTION 8. The State shall protect the rights of fishermen and local communities to the beneficial or communal use of marine and fishing resources, both inland and offshore, and shall provide appropriate financial, technical and research assistance for the development and conservation of such resources.

SECTION 9. The State shall promote the integrated development of agricultural, fishing and marine resources to meet the basic needs of the people and the industrialization objective of the country.

URBAN LAND REFORM AND HOUSING

SECTION 10. The State shall regulate the ownership and use of urban land for the common good and undertake a continuing Urban Land Reform and Housing program that will ensure decent housing at affordable cost to deserving low-income citizens in urban centers and resettlement areas, together with complementary infrastructure, neighborhood services and employment-generating economic activities.

SECTION 11. Urban poor dwellers shall not be evicted nor their dwellings demolished without due process of law. No resettlement shall take place without consultation with the communities to be relocated and their involvement in its planning and implementation.

SECTION 12. The housing program shall extend to low-income rural dwellers in the context of a comprehensive agrarian reform and development program.

HEALTH

SECTION 13. The State shall protect and promote the people's right to health and to this end, establish and maintain an integrated and comprehensive health care program that shall make essential goods and social services available to all citizens at affordable cost, with priority for the needs of the disadvantaged, the sick, women and children, aged and disabled.

SECTION 14. The State shall maintain an effective food and drug monitoring system and promote appropriate health manpower development and research on health care problems.

SECTION 15. The State shall establish a special body for disabled persons which shall consolidate the functions of existing government agencies and provide for the rehabilitation, self-development and self-reliance of the disabled towards their total integration to the mainstream of society.

WOMEN

SECTION 16. The State shall afford protection to working women by providing for optimum working conditions especially in relation to their maternal functions. It shall ensure equal work opportunities and equality in employment and compensation.

SECTION 17. The State shall develop facilities and services that will promote the welfare and well-being of women to realize their capabilities for maximum participation in the service of the country.

INDIGENOUS COMMUNITIES

SECTION 18. The State shall undertake, foster and protect the development of the education, culture, communications, health and the economy of indigenous communities, in consideration of their cherished traditions, values, beliefs and practices.

ROLE AND RIGHTS OF PEOPLE'S ORGANIZATION

SECTION 19. In the pursuit of the ends of Social Justice, the State shall respect the independence and the role of people's organizations as a principal means of empowering the people to pursue and protect their legitimate and collective interests and aspirations.

SECTION 20. The State shall respect the basic right of people and their organizations to free, direct and responsible participation at all levels of social, political and economic decision-making, ensuring that proper and adequate consultation mechanisms shall be instituted in the formulation and implementation of local, regional and national priorities, plans, programs and projects that affect the people's lives.

MR. RAMA: I ask, Madam President, that the Chairman of the Committee on Social Justice be recognized to make her sponsorship speech.

THE PRESIDENT: The honorable Chairman of the Committee on Social Justice, Commissioner Nieva, is recognized.

We request the members of the Committee to please occupy the front table.

SPONSORSHIP SPEECH OF COMMISSIONER NIEVA

MS. NIEVA: Madam President, our Committee on Social Justice is now presenting Committee Report No. 34 which is contained in Proposed Resolution No. 534, to wit: RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON SOCIAL JUSTICE.

Our Committee hopes that social justice will be the centerpiece of the 1986 Constitution. The rationale for this is that social justice provides the material and social infrastructure for the realization of basic human rights the enhancement of human dignity and effective participation in democratic processes. Rights, dignity and participation remain illusory without social justice.

Our February 1986 Revolution was not merely against the dictatorship nor was it merely a fight for the restoration of human rights; rather, this popular revolution was also a clamor for a more equitable share of the nation's resources and power, a clamor which reverberated in the many public hearings which the Constitutional Commission conducted throughout the country.

If our 1986 Constitution would enshrine the people's aspirations as dramatically expressed in the revolution and ensure the stability, peace and progress of our nation, it must provide for social justice in a stronger and more comprehensive manner than did the previous Constitutions.

Social justice, in its substance and as a reflection of the needs of Philippine society, must include the following: provision for basic needs, equalization of access to productive resources and promotion of people's organizations. In a nation where more than half of the people are below the poverty line, the first target of a social justice measure should, therefore, be provisions, direct and indirect, for adequate responses to these basic needs such as health, shelter and education. It is not the intent, however, that the State will take away the initiative from the people and will do everything. This is against the principle of enhancing human dignity. The State should only provide, in most cases, the necessary and sufficient condition for the people to take the active role. And one such important condition is the democratization of productive resources. In a very real way, inequality in the sharing of the fruits of development can be traced to the concentration of productive resources in the hands of a very small minority, and this is especially true of land and capital resources. Therefore, access to these resources must be democratized if the nation is to permanently achieve social justice. Here, the State must go beyond merely affirming the social character of property or the concept of stewardship for the common good. It must also promote measures to realize this democratization; and models and experiences also of other countries abroad in land reform, cooperatives, profit sharing and workers' participation in industry are not lacking.

The successful implementation of all these programs would, however, require the active participation of people's organizations in all levels and it is through these people's organizations that the creativity and initiative of the people are harnessed and which embody and activate grassroots democracy. It is, therefore, proposed that the State promote the formation of various forms of people's organizations as effective vehicles for grassroots democracy and the promotion of social justice.

Our Article consists of the following major areas of concern: the social justice concept, labor, agrarian and natural resources reform, urban land reform, housing, health, indigenous communities and the role and rights of people's organizations.

In Sections 1 and 2, the provisions mandate the State to give social justice the highest priority to promote equality in the social, economic and political life of the nation through the redistribution of our resources, wealth and power for the greater good.

Sections 3 and 4 deal with labor. Here, it expands the scope of State protection for the close to 21 million labor force in the country by including not only domestic but also overseas workers estimated at no less than half-a-million and it also takes cognizance of the vast majority of workers who are not organized. The percentage of unionized workers is estimated at about 5.1 percent only of the total labor force, while the vast majority in the public sector, in small businesses, agriculture and self-employed workers do not enjoy the rights of organized labor.

We have also added a new concept in Section 4, not only of collective bargaining but also collective negotiations which would extend the right to bargain for the protection of the rights of the unorganized sector and the rights to strike and the promotion of voluntary modes of settling disputes between the workers and employers. This addition was made in view of the manifestations of both labor and management that they would not want compulsory arbitration as provided for in the 1935 and 1973 Constitutions.

Another important aspect here is the statement that recognizes the primacy of the right of labor to its just share and at the same time in protecting the right of business enterprises to realize reasonable returns on investments.

On the area of agrarian and natural resources reform, Section 5 stresses the social justice principle that to him who tills the soil principally belongs the fruits of his labor. Therefore, Section 5 mandates that farmers and farm workers have the right to own the lands they till, individually or collectively, through cooperatives and similar organizations.

The scope of land reform is also extended to all agricultural lands, subject to maximum retention limits to be provided by Congress and a fair and progressive system of compensation.

Section 7 underscores the importance of cooperatives and similar farmers organizations, as well as adequate support systems in technology, financing and marketing as imperative requirements for a successful land reform program. In Section 7, we specify that agrarian reform should apply also to other natural resources; for example, lands of public domain under lease or concession. However, the prior rights of the original inhabitants, small settlers and cultural communities should be respected.

Section 8 provides for the very first time a specific reference to the rights of small fishermen who number about 700,000 so that they may be given the beneficial use, direct or communal, of marine and fishing resources, as well as assistance — financial, technical and research — for the development and conservation of these resources. We feel that this is a very important provision in view of the fact that the sea area is six times bigger than the land area in our country.

On urban land reform and housing, which is contained in Sections 10 and 11, we feel that the Committee addresses the urgency for an effective and continuing urban land reform and housing program for the more than 25 million Filipinos who do not enjoy the advantages of home and landownership. We are an ill-housed nation with a high percentage of our urban population estimated at five million squatters living in subhuman conditions. This concern was the target of the 1984 plebiscite and is now provided for in Article XIV, Section 12 of the 1973 Constitution. However, efforts in implementing this program have been far from satisfactory. An example of this are the BLISS programs which are certainly not within the reach of the poor majority.

This section also provides that the housing program should necessarily provide for complementary infrastructure, neighborhood services and opportunities for employment, because the Philippine experience in the resettlement areas for squatter families has shown that unless the abovementioned conditions are present, the "relocatees" are forced to leave these areas and come back to the cities where at least they have some livelihood opportunities.

Then, Section 11 would place in the Constitution protection for the thousands of homeless urban poor who have to be evicted or resettled. And we provide here that this cannot be done unless the targets or the beneficiaries should be consulted and given a share in the decision-making as regards the protests against relocation and the implementation of this.

In Section 12, we would also extend the housing program to low-income rural dwellers within the context of the comprehensive agrarian reform program.

Sections 13, 14 and 15 are based on what we all realize is the principle that a healthy nation is a strong nation. In previous Constitutions, there had only been a passing mention of the important sector of health. And here we hope to provide for an integrated and comprehensive health care program at an affordable cost to the average citizen, especially to the majority of the disadvantaged. As we know, many here in the Philippines would say that it is cheaper to die than to go for medication.

Also, in Section 14, the State shall maintain an effective food and drug monitoring system. The problem of the dumping of harmful and adulterated food and drugs in the country from foreign countries has been a very significant problem that has to be addressed through this provision.

In Section 15, we take cognizance of the need of the millions of disabled persons so that they may be integrated into the mainstream of society.

Sections 16 and 17 are the sections for women, and here, we especially recognized the need for protection for the working women vis-a-vis their maternal function for optimum working conditions, and also a provision that would provide for women to fully realize their capabilities in the service of the country.

Section 18 deals with the indigenous communities. We say that the State should take into serious consideration the needs of the indigenous communities consistent with their cherished traditions, values, beliefs and practices.

And, finally, in the last Sections 19 and 20, we highlight the importance of people's organizations in order to realize the above objectives of social justice. All throughout the Constitution we have stressed the importance of people's participation. Here we highlight this and say that we hope that the State should not only respect the rights of the people and their organizations but that it should institutionalize this participation and consultation mechanisms at all levels of social, political and economic decision-making. By people's organizations, of course, we are referring to all sectoral organizations: trade unions, peasant organizations, urban poor, cooperatives and consumer organizations, human rights groups, basic Christian communities and the like.

May we suggest, Madam President, that in the period of amendments, we should take the different sections one by one so that we need not tackle the different areas simultaneously. Perhaps, this will expedite the discussions and the amendments thereto.

MR. RAMA: Madam President, I already told the interpellators about the desire of the Committee to take the provisions one by one in chronological order.

THE PRESIDENT: And the interpellators will please register with the Floor Leader.

MR. RAMA: Yes. But some of them have replied that the provisions are very important; some of them very novel. They would be allowed to ask questions on one provision to another for purposes only of the interpellations. But during the period of amendments, we will follow the strict rule of introducing amendments section by section in chronological order.

So, may I ask that Commissioner Nolleto be recognized, please?

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLETO: Thank you, Madam President.

I would like to pose some questions to the honorable Chairman and the members of the Committee on Social Justice. With respect to Section 9, page 1, after providing for the concept of social justice, it is provided that:

Towards these ends, the State shall regulate the acquisition, ownership, use and disposition of property and its fruits, promote the establishment of independent and self-reliant, socio-political and economic structures determined by the people themselves.

I notice that if we analyze this provision, there are two parts involved. The first part is about diffusion of property; and the second part refers to supporting structures. I also notice that, as I heard the honorable Chairman explain the provisions, the report does not cover only the concept of property and its supporting structures. But the report touches upon the rights of women and the disabled, including the rights of the people to organize.

So, if the Committee will agree, I recommend that Section 2 should reflect not only property and supporting structures but provisions pertinent to women's rights, the disabled, etc., for purposes of symmetry. What does the Committee say about this?

THE PRESIDENT: May we have the response from any member of the Committee?

MR. NOLLEDO: No, because after giving the general concept of social justice, the report says: "Towards these ends." It seems that the words following the phrase "Towards these ends"- do not reflect the entire report. It speaks of property and supporting services only. So, if the Committee is amenable, I recommend that there should be some wordings indicative of the recognition of women's rights, rights of the disabled designed to give importance to human dignity. We will present the amendment later on.

MS. NIEVA: Yes. I think that is implied also on lines 9, 10 and 11 on the reduction of social, economic and political inequities. More or less, the women's rights would be covered in the economic and social inequities. That is a very good observation and I think we can tackle that suggestion in the period of amendments.

MR. NOLLEDO: Thank you.

On page 2, Section 4, with respect to the words "participation in policy and decision-making" on line 15 and the words "just share" on the part of labor and ending on "investments" on line 22, am I correct in including, taking all these words together, that the Committee is recommending "profit sharing" and that the workers be represented in management?

MS. NIEVA: Yes.

MR. NOLLEDO: So, there are two aspects that are involved. The workers should also participate in management.

MS. NIEVA: That is right.

MR. NOLLEDO: Perhaps, they should have representation in the board of directors of a corporation. And profit-sharing is also recommended.

MS. NIEVA: Yes, but we are not mandating profit-sharing as such. We are recognizing the importance of profit-sharing.

MR. NOLLEDO: What does the sponsor mean by not mandating because on line 12, it says: "shall regulate."

MS. NIEVA: Yes, but profit-sharing can be encouraged in various ways. There have been contradictory reviews in this regard and even the Ministry of Labor did not recommend a mandatory profit-sharing scheme, but various schemes that would result in the same benefits for labor.

MR. NOLLEDO: And, therefore, it is reasonable to conclude that the provision on profit-sharing is not self-executory.

MS. NIEVA: Yes.

MR. NOLLEDO: There must be an implementing statute should Congress decide to adopt profit-sharing, am I right?

MS. NIEVA: That is the way I see it. Maybe Commissioner Aquino, who is the Chairperson of the Subcommittee on Labor, might want to add something to that.

MS. AQUINO: The committee report does not provide for mandatory profit-sharing. It is very clear from the tenor of the presentation that at best we are providing for a mandate on equitable sharing of fruits, without specifically saying that the scheme of profit-sharing is self-implementing. We considered here the position of the Ministry of Labor when they did not specifically advocate for a specific mandate on profit-sharing. But Section 4 is best understood as the major centerpiece of social justice while Section 2 essentially recognizes the social function of the means of production, and that would include labor and capital.

MR. NOLLEDO: Madam President.

MS. AQUINO: Commissioner Nolleto is correct, it is not self-executory as it is formulated here.

MR. MONSOD: Madam President, may I just suggest that when we read the entire section, we should high light the fact that when we talk of the phrase "participation in policy and decision-making" on lines 8 and 9 on page 2, it is qualified by the phrase "affecting their rights and benefits." Secondly, on line 17, the whole idea is the promotion of voluntary modes of settling. disputes and at the same time the role of the State in enforcing mutual compliance thereto. With respect to profit-sharing, I think the operative words are "to its just share" and we read that in connection with the voluntary modes.

MR. NOLLEDO: I thank Commissioner Monsod for his answer. I notice that the report dispensed with "compulsory arbitration." May we know from the Committee the reason for dispensing with the provision found in the 1935 and 1973 Constitutions which runs like this: "That the State may provide for compulsory arbitration." There is no provision on compulsory arbitration in the report.

MS. NIEVA: One thing that was very clear in all the public hearings that we held with the different labor groups, as well as the management group, is that both partners were very firm in ruling out "compulsory arbitration." They felt that the two partners should be left free without government interference in deciding their labor disputes.

MR. MONSOD: Perhaps the intent of the Committee is to emphasize the primacy of voluntary modes. That is the reason for that. but nothing in this Article precludes it because there may be sections in various laws where that is provided for. We just do not want to show in this section that that is the way it should be settled as a primary way of settling disputes because that was the wish of both management and labor.

MR. NOLLEDO: In the event that the methods of voluntary arbitrations prove ineffective and neither party wants to give way, thus resulting in a stalemate, what is then the consensus of the Committee on what will be the procedure if there is no compulsory arbitration and the parties could not agree? Will the strike continue? Suppose there are many strikes in different parts of the country, may not national chaos or confusion exist should the methods of voluntary arbitration do not prove successful?

MR. MONSOD: Madam President, there are certain steps there and, of course, it ends with the right to strike by the labor group. We are saying here that this function of the State in regulating the relations between labor and management is not absent. The State is always there. But we are saying that settlement of disputes should be made to the extent possible and to all the rights available to labor and management, therefore, it should be through voluntary means and the rights available to labor should be given, such as the right to strike.

MR. NOLLEDO: And do I understand it correctly that the provision does not prevent the legislature from providing for a process known as compulsory arbitration? Am I correct?

MS. AQUINO: Yes. May I specify the procedures in labor and management negotiations. First, the primary focus of settling labor and management conflict is through the voluntary modes of settling disputes. We first avail of the grievance procedures that are usually provided in the collective bargaining agreement. In the absence of a CBA. they are usually provided in the internal rules and regulations of the company. Then we avail of the conciliation proceedings, which is part and parcel of the voluntary modes of settling disputes usually under the guidance of the Ministry of Labor.

In the 1973 Constitution, there is a specific proviso for compulsory arbitration. As has been previously cited by the Committee Chairman. there is an overwhelming reaction against a specific mandate for compulsory arbitration. Even the management sector is very reluctant in reinstating the same formula in this Constitution, such

that when we attempted to incorporate in the committee report the phrase "promote voluntary modes of settling disputes," the idea is to focus primarily on the voluntary modes of settling disputes rather than to preempt the procedures of settling management and labor conflict through compulsory arbitration. We very well know that the effect of compulsory arbitration is that any labor-management conflict is immediately certified by the National Labor Relations Commission, and that if there is an impending strike, automatically, by compulsory mandate of the law and upon certification, the strike would have to be lifted. Both labor and management are in confluence in terms of their position that all disputes should first be approached by exhausting voluntary modes. This does not preclude, however, Congress from providing for statutory implementation of other modes of settling disputes.

MR. NOLLEDO: Thank you.

With respect to Section 5, line 20, the terms "farmers" and "farm workers" were used. Does the sponsor understand that the term "farmers" includes tenants, whether on leasehold or sharehold? Am I correct?

MS. NIEVA: Yes.

MR. NOLLEDO: And that the word "farmworkers" refers to employed farmers in a plantation by administration?

MR. MONSOD: Yes.

MR. NOLLEDO: And when we talk of the phrase "to own directly," we mean the principle of direct ownership by the tiller?

MR. MONSOD: Yes.

MR. NOLLEDO: And when we talk of "collectively," we mean communal ownership, stewardship or State ownership?

MS. NIEVA: In this section, we conceive of cooperatives; that is, farmers' cooperatives owning the land, not the State.

MR. NOLLEDO: And when we talk of "collectively," referring to farmers' cooperatives, do the farmers own specific areas of land where they only unite in their efforts?

MS. NIEVA: That is one way.

MR. NOLLEDO: Because I understand that there are two basic systems involved: the "moshava" type of agriculture and the "kibbutz." So, are both contemplated in the report?

MR. TADEO: Ang dalawa kasing pamamaraan ng pagpapatupad ng tunay na reporma sa lupa ay ang pagmamay-ari ng lupa na hahatiin natin sa individual na pagmamay-ari — directly — at ang tinatawag na sama-samang gagawin ng mga magbubukid. Tulad sa Negros, ang gusto ng mga magbubukid ay gawin nila itong "cooperative or collective farm." Ang ibig sabihin ay sama-sama nilang sasakahin.

MR. BENNAGEN: Madam President, nais ko lang dagdagan iyong sagot ni Ginoong Tadeo.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Kasi, doon sa "collective ownership," kasali din iyong "communal ownership" ng mga minorya. Halimbawa sa Tanay, noong gumawa kami ng isang pananaliksik doon, nagtaka sila kung bakit kailangan pang magkaroon ng "land reform" na kung saan ay bibigyan sila ng tig-iisang titulo. At sila nga ay nagpunta sa Ministry of Agrarian Reform at sinabi nila na hindi ito ang gusto nila; kasi sila naman ay magkakamag-anak Ang gusto nila ay lupa at hindi na kailangan ang tig-iisang titulo. Maraming ganitong kaso mula sa Cordillera hanggang Zambales, Mindoro at Mindanao, kayat kasali ito sa konsepto ng "collective

ownership."

Marami pong salamat.

MR. NOLLEDO: May I continue my questions, Madam President?

THE PRESIDENT: Please proceed.

MR. NOLLEDO: Thank you very much.

On line 22 of Section 5, with respect to the words "just distribution of all agricultural lands," am I right in saying that "agricultural lands" refers only to privately owned lands, because retention limits and payment of compensation are mentioned?

MR. TADEO: Ang ibig sabihin nito ay all arable public and private lands sapagkat sa Section 7, makikita natin dito ang "principles of agrarian reform in the disposition of other natural resources, including lands of public domain."

MR. NOLLEDO: That is the reason I ask about that. I presume that Section 7 covers lands of the public domain and that Section 5, lines 22 and 23, should necessarily refer only to private lands. I am calling the attention of the Committee to some conflicts because one does not talk of retention limits or the system of compensation with respect to lands covered by the public domain.

So, I ask that the Committee reconcile the two provisions when the appropriate time comes, because the term "all" is used and then two instances were mentioned that will qualify the term "all agricultural lands." That will indicate that all agricultural lands contemplated in Section 5 should refer only to privately owned lands.

MR. MONSOD: Yes, Madam President, Section 7 would include public agricultural lands. So, the reason we mentioned retention limits, as the Gentleman correctly pointed out in Section 5, is that this would apply to privately owned lands.

MR. NOLLEDO: Thank you.

What has the Committee done about the small landholders? Small landholders, as defined by the Supreme Court, refer to those who own 24 hectares or less, because the Supreme Court itself, in the case of Nilo vs. Court of Appeals, decided in 1984 that small landholders consist of the retirees, the public school teachers, etc., who acquired lands out of their small savings because they wanted to be farmers during the period of retirement.

Does the Committee agree with me that these small landholders should be given adequate protection and that their landholdings should not be subject to expropriation in order to give the same to the others and thus create a new group of impoverished people?

MS. NIEVA: That is why we have provided here on line 23, "subject to such retention limits as Congress may prescribe."

MR. NOLLEDO: Madam President, if the members of the Committee will not mind, when we consulted with the farmers in Naga City, who were well experienced and very knowledgeable, they told us that it is not the area of the land that should count but its productive state. It seems to me that land reform experts keep on saying that the land area is material and pertinent and should be given primary consideration. Does the Committee agree with me then that it is the productive state of the land that should prevail? Because it may happen that one owns 24 hectares but the production will be much lesser compared to two hectares owned by a farmer, because the 24 hectares, no matter how much fertilizer one may use, will not yield what the two hectares may yield. Am I correct? Does Commissioner Tadeo agree with me?

MR. TADEO: Iyong tanong ni Ginoong Nollado kangina tungkol sa "retention limits" na nasa line 23 ay patungkol sa owner-cultivator. Magkakaroon ng limit ang mga may-ari ng lupa na sila na rin ang nagbubungkal nito. The phrase "retention limits" refers to owner-cultivator. Agricultural lands refer to all arable public and private lands regardless of crop, size of landholding and tenurial arrangement. Ayon sa karanasan ng magbubukid, ang pangunahing batayan ng pagpapaunlad ng kanilang kabuhayan at kapakanan ay ang pagmamay-ari ng lupa. Naniniwala silang sa pamamagitan ng pagmamay-ari ng lupa, magkakaroon sila ng labis na kapital. Ang kapital na hinahanap natin sa labas ng bansa ay natutulog lamang sa lupa. Ito ang natutulog na surplus kapital na kung magagamit ay mapauunlad ng magbubukid ang kanilang kabuhayan.

MR. NOLLEDO: Salamat po sa inyong paliwanag.

Commissioner Monsod would like to speak.

MR. MONSOD: Other considerations when we talk about retention limits to be determined by Congress would be economic size and local conditions. As the Commissioner said, there may be some areas where the economic size will differ because of local conditions. These are some of the considerations that will be taken into account by Congress. We just do not want to provide the details because that is not our work.

MR. NOLLEDO: With the kind indulgence of my colleagues in the Commission, I still have two or three questions. With respect to Section 6, lines 27 and 28, with emphasis on the words "planning, organizing, and management of the program," I would like to underscore the word "management." This particular section also covers cooperatives and farm workers. Would the Commissioner agree with me if I conclude that it is perhaps the intent of the Committee that farm workers will also participate in the management of the farm in some way?

MR. TADEO: Yes.

MR. NOLLEDO: So the farm workers who are plain laborers can participate in the management of the farm where they work as employees, not as tenants.

MR. TADEO: As regular farm workers or even non-regular farm workers.

MR. NOLLEDO: Farm workers in the contemplation of the Code of Agrarian Reforms, refer to farm laborers without tenancy relationship.

MR. TADEO: Oo, iyan ang ibig sabihin ng farm workers. Dapat umiral din sa farm workers ang principles of agrarian reforms, hindi lamang sa tillers of the soil with tenancy relationship. Sinasabi nating talagang kasama ang mga farmers at farm workers. Ginamit natin itong "farmworkers" sa kadahilanang itong mga manggagawa natin sa mga babuyan at manukan ay agricultural workers din.

MR. NOLLEDO: What is the concept of the Committee about agro-industrial farms owned by corporations? To what extent may they own landholdings? I did not find any provision in the report about these entities that may be owned by Filipinos or perhaps partly by aliens.

MS. NIEVA: I think that would pertain more to the Article on National Economy and Patrimony.

MR. TADEO: Kay Commissioner Nollado, ayon kay Dr. Mahar Mangahas, nang imbitahin namin siya sa isang public hearing, ang kanyang definition ng "land" ay ito: In principle, the term "land" should include all forms of natural resources including mineral, forest and water resources, whether public or private, whether titled or untitled, or whether presently controlled by Filipinos or non-Filipinos over which there is social conflict induced by an unjust distribution. Kasama po iyan.

MR. NOLLEDO: Salamat po.

MR. MONSOD: May I just clarify one more point?

MR. NOLLEDO: Yes.

MR. MONSOD: When the Commissioner asked about the phrase "planning, organizing, and management," he should have noticed that the phrase that follows is "of the program" which refers to the agrarian reform and natural resources program. Perhaps, he should distinguish that from participating in the management of companies engaged in agriculture. This section does not refer to that. However, those who work in those companies would be covered by the provisions on labor where we are talking about their participation in policy-making and decision-making affecting their rights and benefits.

MR. NOLLEDO: Thank you.

My last question is on page 4, Section 13, line 9. We talk of social services available to all citizens at affordable cost. That means they have to pay. What is affordable to the middle-class may be different from what is affordable to families belonging to the upper class.

I am concerned that paupers die because of lack of medical care. We often notice that newspapers campaign for funds to save the lives of poor people who are sick.

I would like to say in advance to the Committee that this Member would present an amendment to the effect that the State shall provide free medical care to paupers. Paupers are those who have no source of livelihood or if they have some source of livelihood, they do not earn enough to maintain their family even in a hand-to-mouth existence. I will not accept as a reason that the State cannot afford. If there is a will, there is always a way. I think it is the duty of the State to see to it that no Filipino shall die because of lack of medical care. Does the Commissioner agree with me?

MS. NIEVA: Yes. I think we will welcome that amendment at the proper time.

MR. NOLLEDO: Thank you, Madam President.

MR. RAMA: The next interpellator is Commissioner Guingona.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Madam President, this is just for clarification regarding Section 3, line 1 on page 2. When we talk of the phrase "promote full employment," do I understand that the Commissioner also includes in this concept or perception the free choice of employment?

MS. NIEVA: Yes.

MR. MONSOD: Yes.

MR. GUINGONA: Would this free choice of employment be without prejudice to known union security measures, such as the close-shop agreement? Would it affect these?

MS. NIEVA: I am not very clear about what the Commissioner is asking.

MR. MONSOD: Perhaps, the Commissioner is referring to Section 4 because I think "full employment" on Section 3 is a macroeconomic approach saying that the State should pursue policies that will increase the number of employment opportunities and will try to promote full employment in that sense.

When the Commissioner is talking about specific labor-management relations at the firm level, he is referring to Section 4. Maybe Commissioner Aquino can amplify this matter.

MR. GUINGONA: Is the Commissioner saying that it will not affect those security agreements?

MS. AQUINO: The only concern of the provision on full employment is to address the two problems of employment — unemployment and underemployment. It does not have any effect on the union-shop or the close-shop agreements in the security of employees.

MR. GUINGONA: Thank you.

Secondly, after having gone through the work that we have been doing since June 2, and when I say "we," I refer not only to the honorable Commissioners but to the members of our Secretariat, I fully appreciate a right which is contained in this Universal Declaration of Human Rights to which our country is a signatory and which has been ratified by us — the right to rest and leisure. I wonder whether this could be included in the Article on Social Justice since this is provided under Article 24 of the Universal Declaration of Human Rights, which says:

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

MS. NIEVA: We shall be amenable to any suggestions or amendments at the proper time.

MR. GUINGONA: When we talk of social justice, one usually connects it with social security. I wonder what would be the reaction of the honorable members of the Committee if later on I propose an amendment to the effect that the State shall aim to maintain a comprehensive system of social insurance for the protection of every person from the economic consequences of unemployment, old age, sickness, disability, widowhood, and other such circumstances.

MS. NIEVA: Yes. As we said, we would gladly entertain any suggestion.

MR. GUINGONA: Thank you.

The last point, Madam President, is about housing. I think all of us are convinced about the importance of housing and I see that the Committee has provided for this concern in this Article on Social Justice. But as indicated by the honorable Chairman, the provision here is more of a declaration of principle which would not be self-executory.

Commissioner Villegas and I submitted a proposed resolution which will provide for a special provident fund to be used exclusively to provide homes for the homeless poor at subsidized costs. This we gathered from the concept of a BAYANIKASAN which was espoused by the late Dr. Salvador Araneta. Apparently, the Committee did not accept the basis of securing the necessary funds. I wonder whether the Committee could perhaps study the possibility of finding a source for this special provident fund because although, as former Senator Rodrigo has said, we should make our Constitution brief and concise, we should also be aware that all these declarations in the Constitution would be meaningless unless they are realized. And as former Senator Manglapus said:

If you need to give details in order to give meaning to a provision in the Constitution, then there is nothing wrong with giving or spelling out details.

Thank you, Madam President.

MS. AQUINO: We appreciate the concern of the Commissioner. But this Committee has actually become the forum already of a lot of specific grievances and specific demands, such that, understandably, we may have been, at one time or another, dangerously treading into the functions of legislation. Our only plea to the Commission is to focus our perspective on the matter of social justice and its rightful place in the Constitution. What we envision here is a mandate specific enough that would give impetus for statutory implementation. We would caution ourselves in terms of the judicious exercise of self-censorship against treading into the functions of legislation.

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

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Thank you, Madam President.

This is in connection with Section 4 on the rights of workers. Before asking the questions, I just would like to state that there are at least three other provisions which we have approved in various parts of our New Constitution which are relevant to this. The first one is the provision on the civil service which provides that the civil service embraces all instrumentalities, agencies and branches of the government, including government-owned or controlled corporations with original charters. The second provision is also found in the same subarticle on the civil service. This provision reads:

Notwithstanding any provision in this article of the Constitution, the right to self-organization shall not be denied to government employees.

Finally, the third relevant provision is the one found under the Bill of Rights which provides:

The right of the people, whether in the private or public sector, to form unions shall not be abridged.

In the case of the first provision on civil service, I have always maintained that this provision about the scope or extent of the term "civil service" does not nullify the Bill of Rights provision on the right to form unions; it merely defines the scope of the civil service; it does not grant any right, much less does it deprive any group of workers, whether in the government or in the private sector, of any right, particularly that of self-organization and with its concerted activity. With regard to the second provision also on the civil service, I have said that it reinforces the workers' right to organize and engage in concerted activities which must necessarily include the right to strike. About the third provision in the Bill of Rights, I have said that it embraces the right to engage in concerted activities. One of these concerted activities is to negotiate with the employer on terms and conditions of employment, and another concerted activity is to declare a strike as an ultimate tool of labor in case of disengagement from negotiations with management.

Section 4 in the proposed Article on Social Justice reads:

The State shall guarantee the rights of workers to self-organization, collective bargaining and negotiations, peaceful and concerted activities for their own protection, welfare and mutual aid, including the right to strike.

The first question is: When we speak of workers, do we have in mind those in the private as well as in the public sectors?

MS. NIEVA: Yes, we do. However, we have that reservation as regards the members of the Armed Forces and the civil defense.

MR. FOZ: Madam Chairman, I was informed before that the original provision on this Article would make an exception with regard to members of the Armed Forces and members of the civil defense, referring to members of the police.

MS. AQUINO: The Committee is sharply divided on this matter. In fact, the subcommittee report carried a specific proviso which would exempt members as of the Armed Forces, members of the civil service and the civil defense from availing of the right to strike. But in view of the very strong divergence of opinions within the Committee, I think there was a consensus to just reflect it for purposes of the committee report and throw it to the body for deliberation.

MR. FOZ: With that last response of Commissioner Aquino, is the Commissioner saying that the Committee has

no precise intention as to the scope of this first sentence under Section 4, whether this should apply to both private and public employees?

MR. MONSOD: What the Committee is saying is that it recognizes that there may be exceptions to this rule and we want to throw it to the body precisely to define it more clearly before it is finalized.

MR. FOZ: The Committee has in mind members of the Armed Forces and members of the police force.

MR. MONSOD: As among the exceptions?

MR. FOZ: What other exceptions could there be?

MR. MONSOD: That is why we wanted to throw it to the floor for discussion in case the body may want to discuss other exceptions. But from our point of view, it is also possible that we will arrive at a phrase saying "in accordance with law." There are many ways to tackle that issue.

MR. FOZ: Thank you.

I have another question. Section 4, line 4 says: "collective bargaining and negotiations." What is the difference between collective bargaining and negotiations? Do they not amount to the same thing?

MS. NIEVA: Yes. Collective negotiations are especially intended for the great majority of workers who, are not covered by CBAs. We feel that there are different ways of negotiating for the protection of their rights. Generally, when we say collective bargaining, we refer to those that are unionized and covered by CBAs. As mentioned here, those constitute only about 3.1 percent of the total labor force of the country, so we felt that there has to be worked out some other way of negotiating for the rights of these greater majority of people who are not covered by CBAs.

MR. FOZ: In other words, in a private firm for instance, the employees may group among themselves or organize an association short of calling their association a labor union?

MS. NIEVA: Yes, there are different ways.

MR. FOZ: Then they can negotiate with management to terms or conditions of employment.

MS. NIEVA: That is right.

MR. FOZ: Short of organizing themselves into a normal labor union or organization.

MS. NIEVA: These may be preliminary steps that they may take.

MR. FOZ: I recall a provision under our existing Labor Code precisely encouraging, without making it mandatory, the formation of what it calls "employees committees." These are voluntary groups of employees to be set up within different companies. The only unfortunate thing about that provision is that it gives management the initiative to form such employees committees. But then, perhaps the law involving the matter could provide that the initiative should come from the employees themselves to avoid any management influence in the running of such committees.

MS. NIEVA: That is right. This can be left again to the legislature to work out.

MS. AQUINO: May I clarify the concept of collective negotiation. It is an innovative concept introduced to us by the Institute of Labor and Management Relations of UP. The specific concern of this concept is, first, to address the difficulties of the nonunionized employees and laborers and second, that of the government employees. These two groups would suffer the same difficulty in not having a specific collective bargaining agent to represent them.

So the process of collective negotiation is to offset that disadvantage already. The idea is to recognize it and provide a constitutional mandate for the process of collective negotiation.

MR. FOZ: Thank you.

My next question is on page 2, line 8 of Section 4 which states: "participation in policy and decision-making." Does the Committee have in mind representatives of the employees being allowed to sit in the board of directors of the companies organized as corporations?

MR. MONSOD: The Commissioner's question has relation to the earlier question of Commissioner Nollado. We suggest that the Commissioner read that, together with the following phrase: "affecting their rights and benefits." The proper implementation of that provision would rest to a large degree on management and labor themselves because that is not something that can be mandated by the Constitution. In some cases, labor does not want to be in certain bodies of the management and the company for their own reasons; in others they do. So we are leaving a lot of room here for management and labor to discuss and agree on the areas on which the participation should be promoted.

MR. FOZ: But may not Congress in implementing this provision provide that employees should be allowed to sit in the board of directors of a corporation to participate in the discussion of matters affecting their rights and benefits?

MR. MONSOD: If the Commissioner is saying that they will be invited to participate in the discussion when it affects their rights and benefits, that probably is in order. I do not know whether the Commissioner means that they are the elected directors of the company but can only participate in areas affecting their rights and benefits. I do not think that the intent of this Committee is to tell Congress to mandate that labor sit on the board. There is nothing in this provision that says that.

MR. FOZ: But they may be allowed under such a law to sit in the board of directors if the matters on hand to be decided will affect their rights and benefits.

MR. MONSOD: All these details could be a matter of legislation.

MR. FOZ: That is right.

My last question which is about compulsory arbitration has been taken up by a previous Commissioner during the interpellations. I would just like to get it clarified again that we are not ruling out compulsory arbitration in certain cases, so that the law to be passed by Congress providing for compulsory arbitration in certain serious cases may serve as an ultimate way of resolving industrial or labor disputes in case of failure of labor and capital to decide or to settle their own disputes.

Thank you.

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

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Thank you, Madam President and members of the Committee.

First of all, may I make a few comments on the Committee provisions on social justice, which I see as a unifying theme for several articles. I agree with the Chairman of the Committee when she said that this is the centerpiece. I have difficulty in seeing this as a separate article unless it is of a general nature. I had hoped that some provisions on agrarian reform and on labor could be included in the Article on National Economy and Patrimony. In this way, we do not give the Article on National Economy and Patrimony the impression that it is dealing primarily

with the formal economy but not with the subsistence sector which consists of the majority of our population.

What I am saying is that the concept of non-monetized economy is perhaps an area that could be addressed by both the Articles on Social Justice and on National Economy and Patrimony. Likewise, I see the need, after reviewing about 25 constitutional provisions in different countries, for locating the concepts of social justice within a more comprehensive framework. It is one which views rural transformation and the delivery of services side by side with the transformation in attitudes and the transformation of some of the values and philosophies of development. I see that this Article is addressed to the need to move from a "zero-sum society" where one sector wins and the other loses to a "nonzero-sum society" which is a society of sharing. I, therefore, see the need for linkages with non-formal education, attitudinal changes, a value placed on egalitarianism, and, further, a reorientation in the attitudes of workers so that they may become more productive and able to compete in the formal economy.

Having said this, I see the need to harmonize the provisions with the Articles on Human Resources and on National Economy and Patrimony. In Section 5, the provision on Agrarian Reform, I do not see the State's concern for forging partnership with nongovernment and voluntary community-based institutions. I think that those of us who have examined the history of land reform have seen successful examples of voluntary land sharing. The Negros example, for instance, has merit in terms of a model for future land reform. Let me cite a study of the Club of Rome which reviewed the impact of 20 years of rural development in all the Third World countries. They found that government-led development has led to more poverty and a greater widening of disparities. Therefore, I hope to see the promotion of partnership with nongovernment agencies which perhaps is what is meant by the provisions on people's organizations except that it is not as explicit as I had hoped.

In Section 9, page 3, there is a provision on the promotion of integrated development of agricultural fishing and marine resources. I think we have to go back to the experiences in the past 20 years of implementation of large-scale integrated area development program of the government which failed to improve the lives of the marginalized groups. It failed to trickle down to the poorest of the poor. The concept of integrated development may not be perceived as a positive concept. There are also new modes of organizing development in the rural areas which are smaller scale integrated development projects built around the smaller communities. We have nucleus states which are patterned after Malaysia, Kenya and Indonesia. We have communal farming. And I see that although this is the intent, perhaps there is a need to come up with more specific and alternative ways of organizing labor and rural institutions. I say this because, as I have said, at least 25 Constitutions have been more specific in presenting alternative models of development. Although there is one mention of cooperatives in this Article, I am quite disappointed that it has not been given more mention. In many countries, cooperative associations are given due importance as models of organizing social and economic institutions. If we review the experience in cooperatives, we find many successful programs in developing countries as well as in developed countries like the United States, England, Scandinavia, Japan and others. I think that we are perhaps still suffering from the negative history of cooperatives. Perhaps, it is because they have not been given their rightful place in terms of the appropriate legal mandate, as well as structures of government.

I, therefore, hope that since a provision in the Declaration of Principles supports cooperativism as a principle, the Committee may see fit the need to include one on democratic cooperatives. The latter could serve as instruments in guiding the ownership, utilization and exploitation of natural resources, as well as in the operation of public utilities. I hope that during the period of amendments, I would have a chance to suggest some amendments along my concern for the need to see social justice within a more comprehensive framework which is linked with attitudinal changes and a transformation of the development philosophy of society.

Thank you, Madam President.

MS. NIEVA: I thank the Commissioner for those observations. I think Commissioner Bennagen would like to add his remarks.

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

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: The observations of Commissioner Rosario Braid are well taken. As a matter of fact, we would like to emphasize that the Committee on Social Justice has had the greatest number of consultations with various sectors of our constituency and that we spent a great deal of time in trying to evolve a comprehensive framework which, unfortunately, could not be included in this report. At some point, we had with us several formulations: one including something like around 70 provisions but we thought that that would just not do in a Constitution. What we did was to synthesize and digest these provisions, and this is the result. We wish to assure our fellow Commissioners that we spent a great deal of time, a great deal of debate in trying to come up with an Article that seeks to encompass the various philosophies that came out as a result of the debate but not to raise false hopes among our citizens. With an Article like this in the Philippine society, all would be well in the next decades or even in centuries.

We did not fail to incorporate aspects of attitudinal change, as well as structural change, and these are fairly evident in the first two sections. As indicated in Section 1, we did emphasize that social justice should be a social, economic, political and moral imperative. The moral component is important because we feel that a justice provision should be on the side of the poor, the disadvantaged, the so-called deprived and the oppressed. This is a point that has been raised a number of times especially by social scientists. Specifically, I would like to mention Dr. Mahar Mangahas who, in his extensive studies on social justice, feels that the State itself has been a major source of injustice and that, therefore, the State should be able to correct that and must assume a moral stance in relation to the poor, the deprived and the oppressed, a moral stance that we feel should also permeate the bureaucracy, the technocracy and eventually, with the changes in structures, also the whole of our Philippine society.

We are arguing therefore that our best efforts tried to encompass the results of the numerous consultations which in a sense could be captured in terms of the cry for the correction of centuries of social injustice. As to the specific linkages between this Article and the others, we should be able to see those when all the other Articles shall have been seen in their interrelationship.

With that general comment, I would like to go to Section 9, which is specifically referred to in relation to the duty of the State to promote integrated development of agricultural, fishing and marine resources. When we discussed these, we did not have in mind the experiences of integrated area development, a concept which is very good on paper but extremely bad in implementation. Note also that we emphasized that this integrated development project should respond to the basic needs of the people. I think the integrated area development projects responded to the demand of the external market rather than to the needs of the people. We also said that the efforts of integrating the development processes in agriculture, in fishing and marine resources should also provide the basis for industrializing the country. That was the intent of the provision and no reference was ever made to the integrated area development concept.

Thank you, Madam President.

MR. MONSOD: Madam President, this is just a small reference to what Commissioner Rosario Braid said. When we talk about voluntary distribution and cooperation between owners and farmers, I think that is the reason Section 5 says: "To this end, the State shall encourage and undertake." It is because we feel that there are

voluntary arrangements that are being made and should be respected and encouraged.

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

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

Before I pose some questions, I wish to assure the Committee that I am 101 percent in favor of the objective of the social justice provisions because the touchstone is — as attributed to the late President Magsaysay — "He who has less in life should be more favored in law." This actually dates back to even the 17th century legal philosophers and writers who state that, in the exercise of proprietary rights, it should be *bajo el principio de que a los que la vida ha dado menos deseele mas por la ley*.

I also take note of the observations of one of the Committee members that there was an attempt at self-censorship here in that they tried to condense so many provisions to make these appear as a sort of a declaration of principles, although this Committee has desired to be emancipated from the original Committee on Declaration of Principles and State Policies.

I notice that the 1935 Constitution had only one section on social justice; the same is true with the 1973 Constitution. But they seem to have stood us in good stead; and I am a little surprised why, despite that attempt at self-censorship, there are certain provisions here which are properly for legislation, which I will take up, of course, at the proper time. But many of these formulations here — forgive me for saying so, because of my benighted limitations on the concept — appear to be a little too technocratic for me, will the Commissioner please help me by clarifying some of these esoteric cogitations so I will know how I will vote when this is presented on the floor, instead of voting with a group as they vote, for the simple reason that I do not belong to any group in this Commission.

First, Section 1, line 7, attempts a definition of what social justice is, when it says, "Social justice, as a social, economic, political, moral imperative . . ." If that was an attempt at a definition, I wonder why the Committee did not look at, as part of the imperatives, the legal aspect. Because after all, regarding social justice — for those who are not lawyers, but every lawyer knows this — the classic definition given by Justice Laurel in the case of *Calalang vs. Williams* is:

Social justice is neither atomism, nor communism, nor anarchy but the humanization of laws and the equalization of social and economic forces by the State, so that justice, in its rational and objectively secular conception may at least be approximated.

I do not know why the Committee sort of overlooked the legal imperative for purposes of social justice. Perhaps there might be a reason. Then it also says that it "shall be the primary consideration in the pursuit of national development." It seems to give the impression that all other considerations should take a back seat to the social justice aspect.

Line 13 states: "the inalienable right to human dignity, and redistribute wealth and power . . ." I do not know whether the power referred to here is political power vis-a-vis Section 19, or some other kind of power. I suppose the Committee can help me along this line later.

Line 16 states: "shall regulate the acquisition, ownership, use and disposition of property and its fruits." We all know that the ownership of property has, among its attributes, the *jus fruendi* — the right to the fruits. Since it is specifically provided here, we could be misunderstood; or is it correct, or was it intentional that this phrase thereby excluded the other attributes of ownership, like the *jus possidendi* — the right to possess; the *jus*

disponendi — the right to dispose; the jus abutendi — the right to abuse; and the jus destruendi — the right to destroy? Here the Committee singled out the right to the fruits. I wonder why. Or should that have been already implied as part of all the attributes of ownership?

The phrase "and promote the establishment of independent and self-reliant socio-political and economic structures," has for its antecedent "property." Perhaps at a later time, the Committee could help me find my way into the maze of the statements as to what are the self-reliant, socio-political and economic structures involved for purposes of these restrictions on property.

On the other portion about the right to strike, I will leave that later to the Committee after the comments of Commissioner Foz.

Line 19 refers to a genuine reform program founded on the primacy of the right of farmers and farm workers. I wonder if it means that leasehold tenancy is thereby proscribed under this provision because it speaks of the primary right of farmers and farm workers to own directly or collectively the lands they till. As also mentioned by Commissioner Tadeo, farm workers include those who work in piggeries and poultry projects.

I was wondering whether I am wrong in my appreciation that if somebody puts up a piggery or a poultry project and for that purpose hires farm workers therein, these farm workers will automatically have the right to own eventually, directly or ultimately or collectively, the land on which the piggeries and poultry projects were constructed.

The provision says "all agricultural lands, arable, public and private." Of course, we have the rice and corn lands right now as part of the agricultural reform program. Of course, I understand there is a move to include coconut lands, fishponds and sugarcane lands, but I was wondering about agricultural lands which are exclusively devoted to the cultivating and raising of vegetables. How about those which are used only for feed grains — not rice and corn — like sorghum? Are they all included since the phrase "all agricultural lands, arable, public or private agricultural lands" is all-embracing? Perhaps, I could later ask for a clarification.

Again, this is for the cogitative pleasure of the Committee over the weekend so that by Monday, I may have succeeded in depriving another committee of a happy weekend for the simple reason that I do not enjoy any weekend because I work on weekends. That is why ever since I was "concominuted" in this organization, I have lost my weekends.

Commissioner Tadeo had mentioned self-cultivation. I think he used the phrase "ang nagbubungkal ng lupa." I wonder if that involves personal cultivation or cultivation through workers because we all know there has been plaint of schoolteachers. They were able to acquire a little piece of land — less than seven hectares as covered by P.D. No. 27 — for their old age and retirement. If we were to require personal cultivation, I do not know how a poor retired schoolteacher, at the age of 65, can still handle the plow and the harrow.

On another matter: Congress may prescribe a fair and progressive system of compensation. I do not know if it is embraced in the concept of "just compensation" under the Rules of Court, as well as in jurisprudence, on the matter of appropriation as an exercise of the State's right of eminent domain. This merely means the simple formula of just compensation — the fair market value plus the consequential damages minus the consequential benefits, provided that the consequential benefits shall not exceed the consequential damages.

But what bothers me is the progressive system of compensation. That again, to my mind, is within the arcanum of the economists because I have never pretended to be an economist — I do not think I will ever be one — for the simple reason that monetarily, I do not know how to count.

Section 7 provides that:

... the State shall apply the principles of agrarian reform in the disposition of other natural resources ...

It has been mentioned here that natural resources include mineral lands. I do not know whether offshore mineral lands within the continental shelf are also included here. The provision includes inland or offshore marine and fishing resources. I was wondering, however, whether it would include waters used for hydroelectric power. Assuming that they are all included since Section 7 says that the State shall apply the principles of agrarian reform, I was wondering what scheme or formula could be used for the principles of agrarian reform in applying them to mineral lands, whether offshore or inland, forest lands, sources of hydroelectric power; and with respect to mineral lands, whether it will affect the age-old concept of the regalian doctrine with respect to minerals under one's own property.

Section 8 is with respect to the communal use of marine and fishing resources. I assume that the Committee has taken into account the problem posed to the Laguna Lake Development Authority on which there was a very strong sentiment when we had a public hearing at Calamba.

Section 9 again is a matter on which I will seek the assistance and succor of the Committee later to explain to me what is meant by an "integrated development of agricultural, fishing and marine resources."

The provision also speaks of the industrialization objective of the country. I do not know what is the objective of the present government, whether we are going to stick to an agricultural economy like Thailand which has weathered several crises, or whether we are aspiring for an industrialized program wherein we suffered serious financial reverses of those 10 or 11 major projects, or we are opting instead for the agro-industrial system.

With respect to Section 10, it states that: "The State shall regulate the ownership and use of urban land," as distinguished from rural land. In 1984, there were decisions of the Supreme Court with respect to the distinction between urban and rural land. One held that the distinction between urban and rural land was dependent on the actual use or the purpose to which the land was devoted. The other decision was to the effect that whether it is urban or rural depends upon its geographical situation, whether it is within a town, municipality or city or outside thereof. This I will later ask the Committee to enlighten me on.

On Section 11 regarding urban poor dwellers, I do not know if the discussion yesterday covered the concept of urban poor dwellers, or to put it bluntly, squatters. We have an Anti-Squatting Law and a presidential decree on anti-squatting. I do not know if that was the purpose here, but I would think it would refer to squatters because of the provision about dwellings and habitations.

I have no property that can be squatted upon by squatters and "squattresses" in the urban area, but what bothers me is the provision: "No resettlement shall take place without consultation with the communities to be relocated." Will it be the terms of relocation, the circumstances under which they can be relocated or the places to which they will be resettled or relocated? For instance, they will say that they are willing to be resettled; they will leave the land on which they are squatting but they want to be resettled or relocated in a particular community. If they cannot be resettled there, they will not agree to be resettled. Considering their involvement in its planning and implementation, could they also be given the right to be consulted and insist on the type of dwellings that they will be resettled to, as well as the facilities thereof?

In other words, the provision is so broad that they can say they would be willing to be resettled only in such a place provided that it has three bedrooms and two bathrooms. We actually resort to *reductio ad absurdum*. I am just trying to point out the dangers in the broad scope of language because while there are those who affect the mastery of the language, we must also be careful about the tyranny of language.

There is still a provision here that I cannot really understand. It says:

The housing program shall extend to low-income rural dwellers in the context of a comprehensive agrarian reform and development program.

Does this refer to residential lands classified as private property but on which the squatters outside the urban areas have settled and who now demand to be placed under a comprehensive agrarian reform program? It would be a little dangerous because sometimes we give farm lots to our workers in the provinces which they are occupying in order to facilitate their access to the lands which they till; and yet they may demand these farm lots as part of a comprehensive agrarian reform program so that ultimately the owner of the land will be left with only his own residential lot. All his other residential lots on which these farmers, who were originally given just an entitlement to possess and use for their dwelling, will eventually go to the farmers, in addition to the agricultural lands they till. In other words, the means granted to them to till the riceland was also at the same time an enabling mechanism for them to eventually oust the owner from both the agricultural portion of his lands, as well as the residential part thereof.

With respect to Section 16, I believe I will seek guidance from the Committee, either together or individually, in understanding the phrase "optimum working conditions especially in relation to their maternal functions." I will have to ask my daughter who is a pediatrician what are these "optimum working conditions" which have to be taken into account in connection with maternal functions. Why maternal functions are specified here, I do not know because definitely I am sure women cannot have paternal functions.

Section 17 states:

The State shall . . . promote the welfare and well-being of women to fully realize their capabilities in the service of the country.

Does this refer to educational service, civil service or military service?

Section 19 provides:

. . . people's organization as a principal means of empowering the people to pursue and protect through peaceful means their . . . aspirations.

I do not know what is meant by political participation because we have had a lot of discussions here about political participation by the common tao, not only for political purposes. So, I hope that by Monday, after we shall have lost our respective weekends, we can meet here early and then after the Committee has guided me, perhaps I can formulate some acceptable, rational and sane amendments. But if the Committee can explain them fully to me, then I will not participate anymore because I am satisfied and that will save the Secretariat the duty of having to mention my participation in the Journal of this Commission, such mention I am not particularly interested in at all.

Thank you.

MS. NIEVA: Thank you.

I think Commissioner Garcia who is responsible for the section on social justice and people's participation would like to respond.

MS. QUESADA: Madam President, before Commissioner Garcia responds, I would like to respond to the tenor of Commissioner Regalado which smacks of professional ethnocentrism, meaning superiority, just because he can talk in legalistic terms and we cannot express ourselves in the way that the legalist minds can express themselves.

His view that we were irrational and that we had to come out with a more sane and rational presentation of our provisions certainly sounded very condescending.

MR. REGALADO: Madam President, I said I intend to come up with sane and rational amendments. There was no attempt at legalese. In fact, what I pointed out was that some phrases are actually phrases used by technocrats. How many of us really understand these phrases? I confess, without any attempt at self-delusion, that there are some phrases I really cannot understand, an example of which is "an integrated economic program." I frankly do not know what it really is. Other phrases like "socio-economic structures and processes," frankly, I do not know what they mean. I am always the first to confess to something I do not know.

THE PRESIDENT: May we have the next speaker of the Committee?

Commissioner Garcia is recognized.

MR. GARCIA: Actually, one of the parts which were deleted in the version was the definition of social justice.

Earlier in our deliberations in the Committee, we were striving to recognize one definition; of course, it was not a very easy task. In fact, I think during the period of amendments, even the Committee members will find out that we differ. I recognize that this is a very complex area and, therefore, even among the members of the Committee, there may be differences.

Anyway, let us discuss the definition and concept of social justice. I would like to discuss with the body one of our earlier formulations of social justice which are not incorporated in the document but which we discussed in the subcommittee. In speaking of social justice, we deal with justice not as practised among individuals but justice as embodied in the structures and institutions of society; namely, its system of law such as regulating the relationship between the owner and the worker of the land; or the relationship between the man who sells his labor and the manager of the company or the owner of that business enterprise. It is distribution of wealth and political power. I mention this precisely because one of the insistent points throughout this whole Article is that if we were to have justice, there will have to be a redistribution of not only economic wealth but also political power. What we intended to say when we spoke of power is that political power must also be in the hands of the majority so that they can help shape the future that affect their lives. Regarding people's organization, the Gentleman will find this as the enabling vehicle through which justice can be attained through some kind of involvement and participation in decision-making.

Finally, also in the norms and common understanding which govern this, a concept of social justice involves a vision of man in society. Fundamental to this vision are two notions which must be held in a sort of dynamic tension. First, man is a person with personal dignity and possessed of certain rights which the State did not confer and cannot take away. He can never illegitimately become simply the instrument of another man or of the State. Also, man has certain inalienable rights which are inherent to his dignity.

Secondly — and this is very important — he is by nature a member of various communities. He is a member of the family; he can be a member of indigenous communities; he can be a member of a sector; and finally he is a member of the national and the world community. He needs these communities to achieve his full development as a person. The communities themselves are concerned about his welfare. And just as he receives from them, he is obliged to contribute to them. So, the definition that we originally agreed on in the Committee but which is not part of the Article is that social justice is a condition of the structures and institutions of society which reflect on the one hand the inherent dignity and inalienable rights of the person, and the obligation of the community to use the material wealth and political power at its disposal for the welfare of all its members, especially the poor and the weak; and on the other hand, the individual's obligation to the community and to the welfare of all its

members.

As we can see, there is a dynamic tension throughout this Article on Social Justice — the individual and the community, and their mutual obligation to each other. We must admit that there is a definite bias for the poor and the weak; but as the Gentleman himself mentioned, those who have less in life must have more in law.

Finally, why the primacy of social justice? Because, we want to tell the State that the emphasis should not be simply on economic growth but basically, to create egalitarian conditions, to create social justice. This is what will provide lasting peace that could be the condition or the atmosphere within which all other projects prosper.

MR. MONSOD: Madam President, may I just add an idea. In case there is some apprehension about what this means, Section 1, lines 10 to 14, provides that the State will directly redistribute power in the sense that it takes a position from one person and gives it to another. I think this should be read in the context of Congress in the clause: "Congress shall give the highest priority." We must assume that Congress does it in terms of measures that reduce social, economic and political inequities, promote structures, redistribute wealth and power. So, it is in that context that this should be read.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Commissioner de Castro is the next registered interpellator.

MS. NIEVA: Excuse me, Madam President. I think Commissioner Tadeo would like to give some reactions to the questions for clarification that were raised by Commissioner Regalado.

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Madam President, ibig ko lamang sagutin ang mga paglilinaw ni Commissioner Regalado.

THE PRESIDENT: Commissioner Tadeo may proceed.

MR. TADEO: Natutuwa naman ako sa mga tanong dahil kinakailangan talagang linawin ang mapanlikhang kaisipan ng magbubukid. Hindi kami "technocrat" bagamat nagpapasalamat kami kay Commissioner Regalado na, sa kauna-unahang pagkakataon, ang magbubukid ay tinatawag niyang "technocrats." Ngunit ito ay buhat lamang sa mapanlikhang kaisipan ng magbubukid. Iisa-isahin ko ang mga katanungan ni Commissioner Regalado at sasagutin ko nang isa-isa.

Sinasabi niyang ipinagbabawal daw namin ang leasehold; hindi ito totoo. Ang tenurial status ay ganito; mayroong share tenant na 50-50, 60-40, 55-45, or 70-30 ang sharing. Ang isa naman ay ang leasehold na mayroong fixed rental; hindi rin ito ipinagbabawal. Ang isa rin ay iyong owner-cultivator o owner-operator na hindi rin ipinagbabawal. Ang ibig lang sabihin ay, mula sa isang yugto ng reporma sa lupa — leasehold — tayo ay patungo na sa ganap na pagmamay-ari. Kayat isang yugto lamang ang leasehold.

Sa pangalawang katanungan ng Ginoo ay medyo hindi kami nagkaunawaan. Ipinaalam ko kay Commissioner Regalado na hindi namin inilagay ang agricultural worker sa kadahilanang kasama rito ang piggery, poultry at livestock workers. Ang inilagay namin dito ay farm worker kaya hindi kasama ang piggery, poultry at livestock workers.

Ang pangalawang katanungan ay tungkol sa coverage. Ang coverage nito ay all agricultural lands — all arable lands, public and private. Ang ibig sabihin ay kasama ang coconut, sugar, sorghum — na binanggit ng Ginoo kangina — vegetable, pineapple at banana plantation. Ang ibig pa ring sabihin ng arable agricultural land ay cultivated area at iba pang mga lupaing maaaring sabihing nababagay sa agrikultura.

Ano ang ibig sabihin ng owner-cultivators? Itinatanong ninyo kung ang ibig sabihin nito ay personal cultivation. Ang ibig sabihin dito ng retention limits ay ang owner-cultivators. Ang ibig sabihin ng owner-cultivators ay ang panginoon ng lupa ay gumagawa rin sa bukid at lahat ng gawain sa bukid ay kanyang pinamamahalaan: wala siyang regular na farm workers. Siya ay namamahala sa land preparation, transplanting, care of crops hanggang sa pag-aani bagamat wala siyang regular na farm workers.

Tungkol naman sa fair and progressive compensation, maganda ang katanungan ng Ginoo dahil ito ay nabibilang sa mga matitinding usapin. Ang ibig sabihin ng fair and progressive compensation ay ganito: Kapag ang lupa mo ay malawak — big landholding — ang halaga nito ay dapat maging mas mababa kaysa maliit na lupa. Habang lumiliit ang lupa, lumalaki ang halaga ng lupa; subalit habang lumalaki ang lupaing sinasakop, lumiliit ang halaga ng lupa ngunit hindi sa kapinsalaan ng land reform beneficiaries. Linawin natin ngayon ang just compensation; ito ay mahalaga kaya nagpapasalamat ako sa katanungan. Ano ang ibig sabihin ng just compensation sa jurisprudence? Sinasabi nating ito ay ang fair market value. Under Republic Act 3844 on the right of preemption and right of redemption, sinasabi po na ang just compensation ay ang reasonable capacity of the farmer to pay, ang kakayahan ng magbubukid na bayaran ang lupa. Ang gagamitin nating kahulugan ng just compensation ay hindi 'yung nasa jurisprudence kundi ang RA 3844 on the right of preemption and right of redemption.

Tungkol naman sa Section 7, maganda po ang katanungan ng Ginoo kaya nililinaw ko. Ano ba ang other natural resources? In principle, the term "land" should include all forms of natural resources, including mineral and forest resources. Tama ang katanungan ng Ginoo. Hindi po maaaring manahin ang mina sa ilalim ng agrarian reform dahil ito ay pag-aari ng State ayon sa regalian doctrine. Ang ibig po naming sabihin ay hindi dapat maabala ang ecological balance ng lupa; ang minahan ay maaaring kunan ng mina, huwag lamang iiwanang nakatiwangwang ang lupang maaaring pang-agrikultura. Napakarami ng landless agricultural workers ngayon. Ano ang mangyayari sa landless agricultural workers sa tunay na agrarian reform? Narito ang tinatawag na statistics sa kasalukuyan: Ang bilang ng landless agricultural workers noong 1971 ay 800,000. Ayon sa National Census and Statistics Office, noong 1984, ang bilang na ito ay umabot na sa 1.9 million. Sinasabi ng mga nananaliksik na mayroon nang tatlo hanggang apat na milyong landless agricultural workers. Kaya isinama natin ang Section 7 upang ang mga landless ay madala natin dito.

Noong magkaroon ng public hearing, sinabi ni Commissioner Bernas na mayroon nang 605,000 kaingineros na pumapanot ng ating bundok. Magiging isang malawak na disyerto ang Pilipinas. Saan natin ngayon dadalhin ang mga kaingineros na ito? Dito sa sinasabi nating public domain sa Section 7.

Tungkol naman sa communal fishing, ang halimbawa nito ay ang Laguna Lake na binanggit ng aking kababayang Commissioner Natividad. Sa Laguna Lake, iilan lamang ang nagmamay-ari ng fish pens at nakikinabang sa biyayang bigay ng Panginoon sa atin. Dapat ay magkaroon din ng karapatan sa direct and communal use ang mga small fishermen. Iyan ang ibig sabihin dito.

Sa Section 9, ang ibig sabihin ay hindi tayo dapat tumigil sa pagpapaunlad ng ating agrikultura bilang isang agricultural country. Ang kailangan ay ang tinatawag na integrated o pinag-isang pagpapaunlad ng agrikultura kapanabay ng pagpapaunlad ng industriya gaya ng coconut na isang tree of life. Huwag tayong titigil sa pagiging hilaw na sangkap lamang nito; kailangan natin itong gawing gatas sapagkat mayroon itong 20 hanggang 21 porsiyentong protina na maaaring tumugon sa malnourishment ng bansa. Ang ibig sabihin nito ay hindi dapat tayong tumigil sa raw materials lamang; dapat ay magkaroon ng high value added.

Tumungo tayo sa Section 12 ukol sa urban comprehensive agrarian reform program. Ayon sa RA 1199, sa 300 square meters na lupa ng magbubukid na ibinigay noong panahon ni Magsaysay ay maaaring maglagay ng bahay upang maalagaan niyang mabuti ang bukid. Hindi niya kinukuha ang residential lot na pag-aari ng panginoon

may lupa. Sa isang ektaryang lupa ay magkakaroon lamang siya ng 300 square meters na home lot. Makakatulong naman ang pagkakaroon ng tirahan doon; hindi naman ito makapipinsala sapagkat araw-araw ay maaalagaan ng magbubukid ang lupa. Kung ang bukid naman ay walang home lot at hindi naman pumupunta ang magbubukid — absentee tenant — babagsak pa ang produksyon. Kaya hindi po ito makapipinsala.

MR. VILLACORTA: Madam President.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: I would like to briefly react to the statement of Commissioner Regalado with respect to the primary consideration given social justice.

He mentioned the Calalang vs. Williams case, and if I may quote from that case, social justice will be promoted "through the exercise of power underlying the existence of all governments on the time-honored principle of *salus populi est suprema lex*." So, I think that even in law and in this particular judicial decision the primacy of social justice as a desideratum of governments was reiterated.

MS. QUESADA: Madam President, gusto ko ring sagutin ang sinabi ni Commissioner Regalado na hihintayin pa ang Lunes upang pag-usapan ang ibig sabihin ng "optimum working conditions especially in relation to maternal functions."

Sa aking palagay, ito ay masasagot na natin at hindi na kailangang hintayin pa ang weekend upang ipaliwanag kung ano ang ibig sabihin ng "working conditions" na mahalaga para sa kababaihan.

Ang ibig sabihin ng optimum working conditions ay ang mga kundisyon sa paggawa kung saan hindi makararanas ang kababaihan ng anumang harmful o mapanganib na kundisyon. Ang working condition ay kailangang maging healthful at safe. Halimbawa, kung ang isang buntis na manggagawa ay ma-expose sa maraming hazardous elements sa loob ng isang pagawaan, siguradong masama ang epekto nito sa kanyang embryo, ang kanyang magiging anak. Kaya kailangang ang conditions of work ng isang nagdadalangtao ay maging safe and healthful. These would refer to the physical, chemical, biological and other conditions in the work environment.

Isa pang optimum condition na kailangang healthful para sa kababaihan ay ang hours of work, lalo na iyong scheduling. Kapag ang isang buntis ay pinagtrabaho sa gabi, masisira ang kanyang biological rhythm. Mahihirapan siyang mag-adjust dahil mayroon na siyang dinadala na kailangang protektahan. Kaya kailangang bigyan ang kababaihan ng special care. Ang isa pang kundisyon sa loob ng pagawaan na maaaring magbigay ng kabuwisitan ay ang social at psychological environment. Maraming mga tao ang walang appreciation sa pangangailangan ng mga nagdadalangtao.

Ano ang maternal functions? Ito ay may reference sa kababaihan dahil sila lang ang nagbubuntis at naghihirap sa pagdadala ng siyam na buwan sa sanggol sa kanilang sinapupunan. Kaya kailangang bigyan ng lipunan ng special care ang kababaihan dahil kaiba ang kanilang function kaysa sa lalaki. Sa palagay ko, ito ang simpleng paliwanag na hindi technocratic.

MR. REGALADO: Madam President, may I comment on that?

THE PRESIDENT: Is there any other comment from the members of the Committee?

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Madam President, I am a member of the Committee except that I chose to be on this side.

In the interest of having debates that would generate more light than heat so that our weekend will not be spoiled, let me share with you two quotations. On the first quotation, a philosopher gives us his answer on the question: What is justice?

No other question has been discussed so passionately; no other question has caused so much precious blood and so many bitter tears to be shed; no other question has been the object of so much intensive thinking of the most illustrious thinkers from Plato to Kant; and yet this question is today as unanswered as it ever was. It seems that it is one of those questions that man cannot find a definitive answer for, but can only try to improve the question.

I think we have done that in terms of the questions that have emerged. But let me read the second:

A society in which the questionings of justice ceased to be a constant prod and perplexity would not be humane in any sense that matters.

Thank you, Madam President.

MR. REGALADO: Madam President, may I say something on this?

I am wondering whether the Committee will also take into account the employment of minors. Right now, we have laws protecting female workers and minors. But I notice that under the present labor laws, there are provisions about apprentices, handicapped workers and minors. Perhaps the Committee may take into account that the State shall also provide protection for minors because the present protection to minors is only a statutory precept which could be amended. And yet from what I understand — and I think Commissioner Ople will bear me out on this — about 28 percent of the labor group are minors.

MR. RAMA: Madam President, I ask that Commissioner de Castro, who has been standing there for the last hour, be recognized.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

I like the Article on Social Justice because, as President Magsaysay said, we should give more laws to the poor. Bibigyan mo, aniya, ng pangdamit ang isang tao, ang mahirap, sa kanyang likod at nang siya naman ay mabuhay nang husto. I also like the peroration in Tagalog of Commissioner Tadeo yesterday: "Kaming mga dukha ay dapat bigyan ng nararapat ng ating gobyerno." I like it because I am also a dukha.

My father was a rig driver; my mother was a vegetable vendor in the market. We lived in a one-room house, with a rotten roof and almost no sidings, squatting on the lot of a cousin.

I also like to see that while we are helping the poor, I hope that they are also helping themselves. That is the reason I objected to the illiterates voting because they refuse to receive adult education and learn how to write, and instead go drinking at night, spending what they earned the day before.

I read the Article last night — I must confess I read it no less than three times — and I have my comments here. I am glad that I found a brilliant man, a Commissioner, who is also in the same category as I am, failing to understand the many phrases. Sa amin kung tawagin ito ay "naglulubid ng buhangin." I am glad that I am not alone. I was about to stand and say the same thing as Commissioner Regalado did. But they may say that I am not even a seventh grade graduate not to understand these things. I am glad that a distinguished legal mind in our Commission finds himself in the same position as I am. That is why I am saying this. Of the many times I read this Article, I thought it contains socialistic, if not communistic, ideas. Pardon me if I am wrong.

Of the few words I understand on page 2, Section 4, line 6, does the word "strike" include a wildcat strike? I had

to see Commissioner Ople and ask him what a wildcat strike is. According to him, it is a strike without notice. So, will any member of the Committee answer my question if it includes a wildcat strike?

MR. VILLACORTA: Madam President, I will not answer the second question but the first one. Being a professor of political science, I think I know something about communism. I do not know what the honorable Commissioner means by communism as reflected in Section 2. If he will recall, Section 6, Article 11 of the 1973 Constitution is almost identical to our Section 2.

MR. DE CASTRO: With a twist.

MR. VILLACORTA: Is the Gentleman saying that the 1973 Constitution has elements of communism . . .

MR. DE CASTRO: This is with a twist. This is not exactly identical to the 1973 Constitution.

THE PRESIDENT: Will the Gentleman please allow Commissioner Villacorta to finish his reaction to his question?

MR. DE CASTRO: I am sorry, Madam President.

MR. VILLACORTA: If I may read Section 2:

. . . the State shall regulate the acquisition, ownership, use and disposition of property and its fruits . . .

This is almost identical to Section 6, Article II of the 1973 Constitution. In fact, the 1973 Constitution is even stronger because it says, "equitably diffuse property ownership and profits" which we do not have here. That is closer to socialism, in fact. If the Gentleman is referring to the second part of Section 2 which says, "promote the establishment of independent and self-reliant socio-political and economic structures," I do not see anything communistic. "Independent" simply means self-reliant. If we are not for mendicancy and charity, we are for teaching the poor to fish but not giving them fish. If the Chair will allow me, I will give an enumeration of the salient sections of this Article that provide assistance to the poor, being far behind the starting line in comparison to the elite and the more privileged sectors. We are simply providing aid, not perpetual assistance and patronage to the poor.

For example, Section 4 guarantees the right of workers to self-organization, again a right guaranteed in the previous Constitutions; Section 5 gives the opportunity for tillers of the soil to own the land that they till; Section 6 provides participation of farmers and farm workers in the planning and management of agrarian reform programs; Section 8 grants fishermen's right to communal use of marine and fishing resources; Section 10 provides for ownership and use of urban land for the common good; Section 17 protects the welfare of women and affords them ample opportunities to serve the country; Section 18 is on the development of indigenous communities; and lastly, Sections 19 and 20 provide for the independent role and effective and reasonable participation of people's organizations at all levels of decision-making, and insure adequate consultation mechanisms for said participation.

These are the salient features of the Article on Social Justice. Pardon my ignorance and probably density but I do not see anything communistic here.

MR. DE CASTRO: Thank you.

I am not a professor of political law; I may not see what the Gentleman sees but he may not see what I see. Last night as I was reading this Article, my daughter from Switzerland who happens to be vacationing with me, a diplomate in international law and foreign relations and has studied the government of Russia and the governments of the international community, said: "Ano iyan, Papa?" Sabi ko: "Binabasa ko ito pero hindi ko

maintindihan." "Tingnan ko nga," sabi niya. Then she said: "Papa, mayroon naman yatang communism iyan." I did not see what she saw, and I cannot see what the Gentleman sees, and perhaps he does not see what I see. I will go to my question. On line 6, page 2, does the word "strike" include a wildcat strike?

MR. MONSOD: May we answer that?

MR. DE CASTRO: Yes.

MR. MONSOD: No, it would not include a wildcat strike.

MR. DE CASTRO: Then why not say so?

The air controllers of the Manila International Airport just staged a wildcat strike and as a result, hundreds of international passengers slept on the cement floor.

MR. MONSOD: That is why earlier, when this question was raised by Commissioner Foz, we said that we would be willing to entertain amendments that would clarify this. One of the phrases that could be entertained is the phrase: "In accordance with law," among several alternatives.

MR. DE CASTRO: Thank you.

Then the Committee prefers that the members of the Commission see it. Kung makakalusot ay lusot naman. Mabuti at nakita naman. I am not asking for honesty but let us be frank. When we put up a paper before this Commission, let us not allow the other Members to be looking for what it really means. I become suspicious of any paper being placed on my table now. On page 2, Section 6, line 26, the term "farm workers" is mentioned. Ang sabi ni Ginoong Tadeo, ito ay ang mga katulong sa paggawa sa farms — mga mag-aani. Are they part of the farm workers to participate in planning, organizing and managing the program?

MR. TADEO: Magandang muli ang katanungan ni Commissioner de Castro, pero bago ko sagutin iyan, gusto ko lang pong banggitin ang nakasulat sa Acts of the Apostles 2:44-45.

MR. DE CASTRO: Saan po ito?

MR. TADEO: Mayroong salita roon sa Chapter 2 ng Mga Gawa ng Mga Apostol sa Bibliya.

MR. DE CASTRO: Hindi po ako nagbabasa ng Bibliya.

MR. TADEO: Ito po ang sinasabi sa Acts of the Apostles 2:44-45:

Ang pag-aari ay para sa kalahatan at ito'y ibibigay, ipamamahagi batay sa pangangailangan ng bawat isa.

Ngayon po, sinasabi rin sa Mateo 23:23, "Ang pinakamahalaga'y ang katarungan." Iyon ang pinakamahalaga sa lahat. At ito'y katarungang dinadala namin sa inyo. Maganda po ang katanungan ng Ginoo ngayon. Hindi kasama rito ang mga farm workers sa hasyenda, at iyong mga nanggagapasan, hindi rin po kasama.

MR. DE CASTRO: So, temporary farm workers are not included here?

MR. TADEO: Iyon lang mga nasa plantasyon, korporasyon, at pasture leases or concessions.

MR. DE CASTRO: Are temporary farm workers not considered farm workers?

MR. TADEO: Mayroon po kasing ganitong mga farm workers; talaga pong medyo "complicated" iyan. Mayroon po tayong mga regular at seasonal workers. Mayroon din po tayong sakada. Ang ibig po nating sabihin, ang mga regular at seasonal workers ay kasama rin sa sinasabi nating mayroong cooperative right.

MR. DE CASTRO: Mabuti sana'y maipaliwanag natin sapagkat nalilito ako. Iyong mga nanggagapasan, nag-aani

at naglalagay ng fertilizer ay mga temporary, hindi ba sila kasama rito?

MR. TADEO: Hindi po sila kasama. Tama po. Maganda pong katanungan.

MR. DE CASTRO: Section 11, page 3 says: "Urban poor dwellers shall not be evicted nor their dwellings demolished without due process of law." There is no question that this refers to squatters. Is that right?

MS. NIEVA: That is right.

MR. DE CASTRO: Are we constitutionalizing squatters?

MR. MONSOD: No, actually if we read the whole page, it says "without due process of law."

MR. DE CASTRO: Yes.

MR. MONSOD: I think the intent of the provision is to avoid the abuses of the past where the military and police just go in, bulldoze the dwellings and beat the people up. We are not making a judgment as to title to the property. We are just establishing a principle that due process must be observed.

MR. DE CASTRO: That is a general statement against the army and the police, bulldozing houses and beating them up. The Gentleman is accusing them without due process.

MR. MONSOD: Madam President, we just mentioned that there were instances like those but we were not saying that the military and the police do these everytime. There were instances like those, and we cannot deny that these happened in the past because of the policy of the State then under Mr. Marcos.

MR. DE CASTRO: I am only after the accusation without due process. Lately, when some people learned that that portion in the Pasig area was a prized property of Mr. Marcos, everybody went there and put their stakes. The police went there, and without going to court, they drove away those who were already building their shanties. This is of public knowledge. Is this a violation of this portion which is being drafted?

MR. MONSOD: Under this provision, if the processes were not observed, that would be a violation. This does not say, however, that they cannot be evicted. It just says that due process must be observed.

MR. DE CASTRO: Now, to my example — when these people learned that the property belonged to the Marcoses, they immediately went there and staked their claims. And so, the police and the army, without due process, went there and drove them away.

Is this now a violation of this Constitution?

MR. MONSOD: It would be, if they did not observe due process.

MR. DE CASTRO: Thank you.

I hope I can still learn the many "lubid ng buhangin" in the Article on Social Justice.

MS. NIEVA: Thank you very much.

May we just make a request. Since the body will be submitting proposed amendments and since we are a rather large committee of 17 members who are very democratic in our consultations, it might take us a little more time than the other committees to be able to come to an agreement on some of the proposed amendments. So, may we request that we receive copies of the proposed amendments ahead of time so that we will have time to meet on these and we will not waste time trying to get a consensus on whether we will adopt or reject the amendments as proposed. We would be very grateful for that.

MR. RAMA: Madam President, for the last interpellator this morning, I ask that Commissioner Padilla be recognized.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Thank you, Madam President.

The Declaration of Principles in the 1935 Constitution reads:

SECTION 5. The promotion of social justice to ensure the well-being and economic security of all the people should be the concern of the State.

This was rewritten in the 1973 Constitution this way:

The State shall promote social justice to ensure the dignity, welfare, and security of all the people.

The Bill of Rights provides as its first section due process and equal protection of the law; Section 2 speaks on expropriation of private property. I notice in this Article on Social Justice the many duties of the State because practically every section begins with the phrase "The State shall." We are imposing many duties on the State. Likewise, we are granting additional rights. Is it the intention of the Committee to grant more rights in addition to those mentioned in the Bill of Rights?

MS. NIEVA: Yes. Those mentioned in this Article on Social Justice cover the social and economic rights of the citizens — social, economic and cultural rights. Whereas the Bill of Rights more specifically refers to the political rights of the citizens, as well as their civil rights.

MR. PADILLA: No. The Bill of Rights states the fundamental, inalienable, God-given rights of the people. These are the basic restraints, we might say, or limitations on the exercise of governmental power for the benefit of the people. But the provisions of the 1935 and 1973 Constitutions speak of all the people. Mention was made of *salus populi est suprema lex*. *Salus populi* means the welfare of the people, not any particular sector of the people. And in the exercise of the police power, the State promotes the general welfare, the common good and the interest of all the people. If we grant some exceptional rights to some sectors or classes of people, even in favor of labor workers, farmers, farm workers but in contravention of the rights of the other sectors of society, we are not promoting the common welfare of all the people.

For example, Section 1 says: ". . . redistribute wealth and power." Does this mean that private property can also be redistributed, or does it refer to property belonging to the State or the public domain and other lands that are not privately owned properties, which are covered by the law on land registration, known as the Torrens system? Can registered private property be redistributed also under this provision? That is one basic question that should be clarified. When the Committee proposes to redistribute power, I suppose that is covered by our electoral system — this refers to the election of the President, Vice-President, Senators, Congressmen, the local officials and others because sovereignty resides in the people. I cannot understand redistribution of political power unless it is through periodic elections under a representative government. The question is on the redistribution of wealth — I understand it means material wealth. If they are the natural resources of the country, they should be available to all with equal opportunity; there should be no discrimination; there should be no injustice. But does the statement "redistribute wealth for the common good" mean that one who has private property — according to Commissioner Bengzon in a brief remark to me, one has, for example, a farmland of only 20 hectares or so, planted with calamansi, and he also has a small mill to produce calamansi juice, not only for local consumption but also for possible export — should have his business expanded, or should such kind of property be redistributed? That is a question I am propounding to the Committee because it is a basic principle.

MR. MONSOD: Earlier we said that the intent of the sentence beginning with line 9 of Section 1, which says: "To this end, Congress shall give the highest priority," is that there should be measures that will promote those items enumerated therein, such as the reduction of social, economic and political inequities, the promotion of structures and processes and the redistribution of wealth and power. With regard to the provisions on labor, for example, giving labor certain rights to bargaining and negotiation, giving workers the right to strike in accordance with the law, as well as participation in decisions that affect their rights and benefits, these in effect will redistribute some of the profits or revenues of the firm. But this should at the same time protect the right of business enterprises to realize their growth potentials and reasonable returns so that, in effect, this redistribution will not, in any way, run the business enterprise to the ground.

The agrarian natural resources reform program would also be a form of redistribution, but should this be subject to retention limits which would cover economic units, and should this be subject to a fair and progressive system of compensation?

With regard to the redistribution of power, we refer to measures that see to it that the electoral process, for example, works in such a way that it is enforced so that people truly have access to elective offices, regardless of whether they are rich or poor. The measures that were approved yesterday and which opened up the system so that minority parties and sectoral groups can have access to legislative seats are measures that would also result in redistribution of power. As we have mentioned earlier, this does not mandate anybody to say: "Tomorrow, take away your position in government and give it to somebody else," or "We will take away your land and give it to Joe or Juan de la Cruz on the other side." There are certain processes that must be honored and respected and which also require justice.

BISHOP BACANI: May I also respond to an earlier question of Commissioner Padilla on whether we are adding more rights in this proposed Article. I think the distinction that was given during the presentation of the provisions on the Bill of Rights by Commissioner Bernas is very apropos here. He spoke of self-executing right which belong properly to the Bill of Rights, and then he spoke of a new body of rights which are more of claims and that these have come about largely through the works of social philosophers and then the teaching of the Popes. They focus on the common good and hence it is not as easy to pinpoint precisely these rights nor the situs of the rights. And yet, they exist in relation to the common good.

So that while we speak here of contraventions — are these rights contraventions of other rights — on close analysis, one finds out that they are not contravention of the rights of anybody else, but the point of reconciliation with those rights must be discovered. This is what we are trying to do here. We are not saying that it is always easy to find out the point of reconciliation of these rights with other rights; and yet that exists. And so these claims are asserted and it is for lawmakers to determine more precisely just where the point of reconciliation lies or must lie.

MR. MONSOD: Madam President, just one more point. Commissioner Padilla mentioned earlier about costs in respect to this program. I think the Committee took pains to mention, for example, on line 20 of page 3 where we talk about housing. If the Gentleman will notice, we put in the words "at affordable cost," and on line 9 of page 4 on social services, we again used the same phrase. The message we are putting here is that there should not be free goods. We are saying that those who benefit should pay for these benefits, but the poor sometimes cannot afford the real cost of the benefit and, therefore, in those cases provision must be made so that they are given to them at affordable cost.

MR. PADILLA: There are so many explanations on subsequent paragraphs of the committee draft. My only question was on the phrase "redistribute wealth and power." For example, the Bill of Rights provides the rights and freedoms of the people, not only of employees or workers, but of all the people. The Bill of Rights provides

"the right to form associations, unions, or societies for purposes not contrary to law shall not be abridged." That is the fundamental right for self-organization. The committee report grants the additional rights to workers, not only "to self-organization, collective bargaining and negotiations, peaceful and concerted activities for their own protection, welfare and mutual aid, including the right to strike." It seems that with the right to strike, especially by employees of the government, we are adding more rights than what are provided in the Bill of Rights.

With regard to material wealth or property which may either be public or private, our Constitution says that no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws. Section 2 of the Bill of Rights provides that private property shall not be taken except by competent authority for public use and upon payment of just compensation. These are the first two sections in the Bill of Rights. They are the fundamental principles of good government. Section 17 of the Universal Declaration of Human Rights, a copy of which I received this morning, says:

Everyone has the right to own property alone, as well as in association with others. No one shall be arbitrarily deprived of his property.

This Universal Declaration of Human Rights is essentially the same as our provision in the Bill of Rights. When I learned that the word "wealth" includes private property, although it is followed by the phrase "for the common good" which expresses common welfare or the promotion of social justice for all the people, the alarm may be sounded against the so-called urban land reform issued by President Marcos during martial law as P.D. No. 1517 which he himself did not implement except in the so-called depressed urban areas. The committee report also mentions "Urban Land Reform," on page 3, line 19. Does this mean that the Committee is endorsing P.D. No. 1517 and that a tenant will have the right to acquire the premises he has occupied for, say, ten years as a tenant? And is the supposed right of the tenant compulsory as against the lessor's, a supposed compulsory obligation on the part of the owner? It seems that the Committee, in including "Urban Land Reform," is not only recognizing and adopting the very extensive but objectionable decree of the former regime, but it may constitutionalize said PD on urban land reform. Said PD was issued not for the common good or the common welfare, but to appease or flatter the group of urban tenants as a particular sector of our society. Is that the intention?

BISHOP BACANI: Commissioner Padilla, please understand that the provisions in the Article on Social Justice are not in contradiction with the other sections of the Constitution, but they are meant to be complementary. Hence, when we speak here of redistributing wealth, this is with due respect for the rights that are already enshrined in the Bill of Rights — that this will not be without due process of law. The Gentleman seems to see these rights not as explications or complements of what are said in the Bill of Rights, but as contradictions which are not intended to be.

MR. GARCIA: Madam President, may I try to respond. I would also like to give the rationale. I think what Commissioner Bacani said was a very good answer. With regard to the phrase "redistribute wealth and power," I think the rationale for this is that, in our society when we have unlimited access to economic wealth and economic power, we are effectively cutting off a large majority of the people from enjoying those same rights which normally are enjoyed by a few. Those who amass both wealth and power have undue advantage over those resources and are effectively cutting off a majority from the enjoyment of these.

However, I do not see in this draft Article any kind of undue limitation on private property. In fact, Congress is supposed to promote and provide those measures which, under certain conditions and with due process, are always for the common good. Can we then limit excessive property regarding land, for example, if it is excessive, but with due process always and for the common good?

So, what I am trying to say is that basically the rights which we say could be enjoyed by all are illusory if the

protection over unlimited access to both wealth and power is not, in a sense, checked and controlled.

MR. PADILLA: We have seen former President Marcos or some of his allies in government distributing land certificates, but oftentimes he was distributing the lands of private owners. So, it is very easy to distribute what is not yours.

But the fundamental Latin maxim is *nemo dat quod non habet*. Justice Laurel in *Lying* to explain "social justice" in that case of *Calalang vs. Williams* also had difficulty in defining social justice. But he stated, as quoted by Commissioner Villacorta, "*salus populi est suprema lex*." And it was very difficult to make a positive definition, for what appears in the *Calalang* decision is like a negative definition, that social justice is not anarchy; it is not despotism; it must be the equilibrium of all forces. I cannot quote exactly. Maybe Commissioner Nollado who has his book on the Constitution can quote that.

But Justice Laurel was stressing the equitable equilibrium of all political, economic and social forces, so as to attain the objective of common welfare, the common good, the welfare of all the people. And as stated in the Constitution, it says "all the people."

Madam President, it is not safe nor correct to be granting additional rights to a few sectors in the guise of promoting the common welfare at the expense of other sectors of society which must all be united in the common effort to produce wealth. I have always been saying, Madam President, that the solution to our basic problems is for more production that will benefit not only the capitalist in management of business and commerce and agriculture, but also those involved therein including the farm workers, the workers, the distributors, wholesalers and retailers. In other words, the entire fabric of society.

BISHOP BACANI: May I reply, Madam President?

Commissioner Padilla, the idea here is to attain the good of all those who have less but should be enabled. What is being done here is to enable the depressed sectors of our society, those who have been deprived precisely to exercise their rights so that all in society would benefit. In other words, the intention is not to harm anybody or anybody's rights, but to be able to empower others who are not able to assert claims or who, though they may have rights, are not able to enforce them at present. Let us take the example of access to fishing grounds. If there are people who claim that they have licenses to a certain area for fishing and then they fence off the others, people who do not have licenses may in fact be deprived of their own livelihood. So empowerment of these small people so that they will have access to those lands may perhaps lend to dismantling of fishpens which may have been legally attached at a certain point but to the prejudice of these little fishermen. The dismantling of these fish pens will be in accordance with social justice because it will benefit those who are deprived while at the same time still enable those who are now being deprived of the exercise of a fishing license in order to live with dignity.

MR. PADILLA: Madam President, I agree with Commissioner Bacani, but his example of Laguna de Bay refers to something that is communal or that belongs to the people. It is not correct to limit the utilization or exploitation of water resources to a few who are privileged and who may have, as the Commissioner said, licenses. There must be an equal opportunity for all the fishermen, whether big or small, especially because these are public waters. I agree that one, two or ten people are exploiting our communal waters, and that is wrong. I agree with that but there must be an assurance of equality or equal opportunity. To allow a few and deprive a great majority is social injustice; that is moral injustice and, even in law, is legal injustice. With that example of Commissioner Bacani, we do not seem to be in disagreement. But when he says "those who have less," should they have more? The slogan is: "Those who have less in life should have more in law." Let us take, for example, a millionaire who has five million pesos worth of properties, but his neighbor is a poor laborer who wants to work but cannot even find work, and he can hardly support his family, much less give education to his growing children. This is social

inequality, but it does not mean that the rich man must redistribute his assets or his properties among the less favored. It is a good Christian virtue to share your benefits because after all, those benefits come from Almighty God. In connection with this, Commissioner Villacorta has made reference to this statement of the Chinese philosopher, Confucius, which says: "Do not give him (that means his neighbor) fish, but teach him how to fish." Some handouts are not the solution; he must learn a trade and work for his living.

If we have no social discrimination, and we extend equal opportunity to all and there is justice in the administration and dispensation of equal rights, then we may have the correct solution to our many nagging problems, particularly our economic bankruptcy.

BISHOP BACANI: Would Commissioner Padilla be excluding, for example, the redistribution of land with due compensation from among the just acts that can be done by society or by the State? Would the Gentleman be excluding that as a possibility within the purview of justice?

MR. PADILLA: Madam President, since 1935, it has already been provided that big landed estates can be divided to small lots and distributed among deserving Filipinos. Now, many decisions have justified that provision because there is no reason for a family — especially during the Spanish regime — to receive a grant of public land which extends to as far as our eyes can see, and covers not only some towns but sometimes some municipalities. Let us consider also the case of an enterprising agro-industrialist who owns some hectares where he plants, for example, palm trees to produce palm oil needed in the manufacture of soap and other cosmetics which we used to import, especially from Malaysia. Then there is the case of a Filipino firm that has planted palm trees and has built a mill to produce palm oil. And the example can apply to coconut or any other product. In these cases the owner/corporation owns 1,024 hectares which was the limit prescribed under the 1935 Constitution, and employs many technicians and workers who are usually prosperous or enjoying the comforts of life with dignity. The question is, would such a farm devoted to productive agriculture and transformed to industrial products necessary for our economy be subject to redistribution?

MR. TADEO: Madam President, ang mga katanungan po ninyo kangina tungkol sa mga lupain at sa "just distribution" naming tinatawag ay hindi naman nag-aalis ng "right to property." Ang ibig po kasing sabihin ng right to property rito sa Universal Declaration of Human Rights ay ito: kapag ang pag-aari mo'y hindi pumipinsala sa iyong mga kalapit. Sinasabi nating social conflict and unjust distribution kapag ang nakapaligid sa iyong pag-aari ay ang mga magsasakang walang lupa at iba pang manggagawa sa bukid na walang lupa. Ito'y masasakop nitong genuine agrarian reform.

Nabanggit ng Commissioner ang mga palm and coconut trees. Ang totoo, hindi tayo dapat magtanim ng palm trees sa Pilipinas sa kadahilanang ang coconut natin ay sapat na sapat na sa atin at kumukumpetensiya lamang ito sa ating coconut oil at coconut trees. Masasakop din ito ng genuine agrarian reform.

Ang pagpapatupad ng tunay na agrarian reform ay gagawin sa isang lehislatura kung saan mayroon itong phasing — mayroong phase 1, phase 2 at phase 3. At tungkol dito sa small landowner na inyong pinangangambahan, ang pagpapatupad ng genuine agrarian reform sa small landowner ay sa huling bahagi kung saan ang industriyalisasyon ay maunlad na. Kung makikita niyang hindi na produktibong manatili pa siya sa lupa, mas magaling pang lumipat na siya sa industriya.

Tungkol naman sa palm trees na sinasabing bahagi rin ng ating agricultural lands, ang ibig pong sabihin, magsisimula riyan sa farm workers' union. Dapat magkaroon sila sa organization ng tinatawag na joint consultation dahil mayroong social injustice. Dapat magkaroon sila, halimbawa, ng profit sharing. Ang pagpapatupad ng genuine agrarian reform ay hindi naman biglaan; ito ay mayroong mga phasing.

Ang dahilan ng kahirapan natin sa Pilipinas ngayon ay ang pagtitipon-tipon ng vast tracts of land sa kamay ng iilan. Lupa ang nagbibigay ng buhay sa magbubukid at sa iba pang manggagawa sa bukid. Kapag inalis sa kanila ang lupa, parang inalisan na rin sila ng buhay. Kaya kinakailangan talagang magkaroon ng tinatawag na just distribution. Ang puntong ginagamit natin ay ang sinabi sa Chapter 2 ng Acts of the Apostles na binanggit kangina: Ipamahagi ang lupa; at ang right to property, batay sa pangangailangan ng bawat isa. Kung lumalampas na sa pangangailangan ng isa at pumipinsala na sa iba, ang karapatan niya sa lupa ay nawawala. Ngunit hindi siya inaalisan, Madam President, ng right to property. Ang tinatawag nating retention limit ay makatarungan pa rin. Ano ba ang pag-aari na kayang bumuhay ng isang pamilya? Kaya makikita ninyo rito ang pagiging makatarungan nitong napalagay ditong genuine agrarian reform.

MR. PADILLA: May I just give one last remark because I do not wish to continue my interpellation much longer. If the holding of property can be injurious to the rights of others, that is the limitation already recognized in the Civil Code on jus abutendi. Article 431 provides:

The owner of a thing cannot make use thereof in such manner as to injure the rights of a third person.

However, the old Roman principle, as remarked by Commissioner Regalado, has jus utendi, fruendi, disponendi, possidendi and also abutendi. The Christian principle has already been adopted and the owner has no right to abuse because the enjoyment of his property should not injure the rights of others.

Thank you, Madam President.

MS. ROSARIO BRAID: Madam President, may I just have one minute?

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: I am just trying to follow up Commissioner Padilla's concerns which are for balanced social order without really lessening or underestimating the need to reduce inequalities and to move towards preferential options for the poor, but to focus also on the need to improve individual capacities for productivity. This is why I underscored earlier the need for cooperatives that would increase and provide better incomes for producers and better buying powers for consumers. What we should really focus on is the need to improve individual capabilities and productivity and to improve access to opportunity by strengthening capabilities through education and information so that the individual can compete. This would, therefore, lead to an equilibrium or what is called a better, a more balanced social order. I think that is what Commissioner Padilla would want to underscore in the amendments.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: I ask that Commissioner Bengzon be recognized for two short announcements.

THE PRESIDENT: Commissioner Bengzon is recognized.

CONSIDERATION OF

PROPOSED RESOLUTION NO. 535

(Recognizing the invaluable support
and contribution of the PSSC)

PERIOD OF SPONSORSHIP AND DEBATE

MR. BENGZON: Madam President, I just would like to get these two proposed resolutions out of the way. May I inform the body that there were two big organizations which helped the Commission in the public hearings and in

this connection we have Proposed Resolution Nos. 535 and 532 to be presented to the body.

Proposed Resolution No. 535 is in recognition by the Constitutional Commission of the invaluable support and contribution of the Philippine Social Science Council in the public consultations and for providing resource materials for the drafting of the new Constitution. This was sponsored by Commissioners Bennagen, Villacorta and Garcia.

Madam President, I move that we consider Proposed Resolution No. 535.

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

Consideration of Proposed Resolution No. 535 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 535, entitled:

RESOLUTION IN RECOGNITION BY THE CONSTITUTIONAL COMMISSION OF THE INVALUABLE SUPPORT AND CONTRIBUTION OF THE PHILIPPINE SOCIAL SCIENCE COUNCIL IN THE PUBLIC CONSULTATIONS AND FOR PROVIDING RESOURCE MATERIALS FOR THE DRAFTING OF THE NEW CONSTITUTION.

(The following is the whole text of the proposed resolution.)

PROPOSED RESOLUTION NO. 535

RESOLUTION IN RECOGNITION BY THE CONSTITUTIONAL COMMISSION OF THE INVALUABLE SUPPORT AND CONTRIBUTION OF THE PHILIPPINE SOCIAL SCIENCE COUNCIL IN THE PUBLIC CONSULTATIONS AND FOR PROVIDING RESOURCE MATERIALS FOR THE DRAFTING OF THE NEW CONSTITUTION.

Whereas, the Constitutional Commission called for all sectors of society to help and join hands in the historic task of drafting a new constitution reflective of the genuine needs and aspirations of the people;

Whereas, the Philippine Social Science Council, in response to this call, offered its services to the Members of the Constitutional Commission;

Whereas, despite financial and time constraints, the Philippine Social Science Council actively participated in these public consultations by providing facilitators in various parts of the region where public hearings took place;

Whereas, the Philippine Social Science Council even offered their building facilities where some of the public hearings were held;

Whereas, the Philippine Social Science Council also provided relevant and useful resource materials needed in the drafting of our new constitution: Now, therefore, be it

Resolved by the Constitutional Commission, To give due recognition to the invaluable support and contribution of the Philippine Social Science Council in the public consultations and for their full cooperation by providing relevant and useful resource materials for the drafting of the new constitution.

Resolved, further, That a copy of this Resolution be transmitted to the Philippine Social Science Council.

APPROVAL OF PROPOSED RESOLUTION NO. 535

(Recognizing the invaluable support

and contribution of the PSSC)

MR. BENGZON: Madam President, I move that we approve Proposed Resolution No. 535.

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

Proposed Resolution No. 535 is approved.

CONSIDERATION OF

PROPOSED RESOLUTION NO 532

(Expressing the profound appreciation
of the Con-Com to the NAMFREL)

PERIOD OF SPONSORSHIP AND DEBATE

MR. BENGZON: I move that we consider Proposed Resolution No. 532.

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

Consideration of Proposed Resolution No. 532 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 532, entitled:

RESOLUTION EXPRESSING THE PROFOUND APPRECIATION OF THE CONSTITUTIONAL
COMMISSION TO THE NATIONAL MOVEMENT FOR FREE ELECTION (NAMFREL) FOR THE
INVALUABLE ASSISTANCE IN ORGANIZING PROVINCIAL CONSULTATIONS.

(The following is the whole text of the proposed resolution.)

PROPOSED RESOLUTION NO. 532

RESOLUTION EXPRESSING THE PROFOUND APPRECIATION OF THE CONSTITUTIONAL
COMMISSION TO THE NATIONAL MOVEMENT FOR FREE ELECTION (NAMFREL) FOR THE
INVALUABLE ASSISTANCE IN ORGANIZING PROVINCIAL CONSULTATIONS,

Whereas, the Constitutional Commission is tasked with the drafting of a charter "truly reflective of the ideals and aspirations of the Filipino people";

Whereas, consultations with the Filipino people whose ideals and aspirations are sought to be reflected in the proposed charter is essential;

Whereas, owing to the limited time allowed to finish the draft of the charter, preparations for the provincial consultations have to be made in the shortest time possible;

Whereas, the NAMFREL, in the very limited time given to it, selflessly extended all the assistance necessary for the success of the provincial consultations in forty-seven places outside Metropolitan Manila;

Whereas, the NAMFREL, notwithstanding the constraints and sacrifices personally encountered by individual members in terms of demands on their time and money, untiringly continued to extend their support and involvement that carried the public consultations to its successful culmination: Now, therefore, be it

Resolved by the Constitutional Commission, To express its profound appreciation to the National Movement for Free Election (NAMFREL) for the invaluable assistance, selfless cooperation and untiring support in organizing the public consultations all over the country;

Resolved, further, That a copy of this Resolution be transmitted to all the chapters of the NAMFREL mobilized to organize the public consultations.

APPROVAL OF PROPOSED RESOLUTION NO. 532

(Expressing the profound appreciation
of the Con-Com to the NAMFREL)

MR. BENGZON: Madam President, I move that we approve Proposed Resolution No. 532.

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

MR. ROMULO: Madam President, Commissioner Guingona has a short announcement.

MR. GUINGONA: Madam President, I would like to inform our esteemed colleagues that the sponsoring Committee will start working next week and will be making use of computers including the ones that we got from IBM.

Thank you.

ADJOURNMENT OF SESSION

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

THE PRESIDENT: The session is adjourned until Monday at nine-thirty in the morning.

It was 1:05 p.m.

[*] Appeared after the roll call.

[*] With reservation on language.

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