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Tuesday, September 23, 1986

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CALL TO ORDER

At 10:02 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Efrain B. Treñas, to wit:

God Almighty, we are about to finish writing the Constitution. We are about to end a significant milestone in the history of our people in their quest for a Constitution truly reflective of their ideals and aspirations. To be sure, we have exerted our utmost efforts to hear the voices of the people. And as many as these voices are, many are also the views and ideas expressed by them. In the same manner, the thoughts and perspectives of the Commissioners differ from one another. These differences are particularly perceptible in issues of tremendous impact on our people. But while disagreement is inevitable, we know very well that we are united in one supreme goal, and this goal, to express it quite simply, is to promote and protect the common good.

We submit to Your divine will. We surrender to Your divine wisdom. Therefore, as we are about to reach our final destination, we humbly pray that You give us the wisdom and the vision to see what else we need to include in the new Constitution, to omit whatever is unnecessary and should not be included therein. So that after we shall have left these august halls — these halls which hear our speeches and debates, these halls which feel our dreams and hopes — we will be reassured and restrengthened in the knowledge that we have given to our people the best Constitution possible.

Finally, I wish to thank You for returning to me health and vigor so that I may continue the task You have assigned to me.

This we pray through Your Son, Jesus Christ.

Amen.

ACKNOWLEDGMENT OF GUESTS

At this juncture, the Chair acknowledged the presence inside the Session Hall of students from St. Paul's College and the Pamantasan ng Lungsod ng Maynila.

ROLL CALL

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

Azcuna, A. S. Muñoz Palma, C.

Bacani, T. C. Quesada, M. L. M.

Bengzon, J. F. S. Rama, N. G.

Bennagen, P. L. Rigos, C. A.

Bernas, J. G. Rodrigo, F. A

Rosario Braid, F Romulo, R. J.

De Castro, C. M. Samiento, R. V.

Colayco, J. C. Suarez, J. E.

Concepcion, R. R. Sumulong, L. M.

Foz, V. B. Tan, C.

Guingona, S. V.C. Tingson, G. J

Jamir, A. M. K. Treñas, E. B

Maambong, R. E Uka, L. L

.Monsod, C. S. Villacorta, W. V.

Nieva, M. T. F. Villegas, B. M

Padilla, A. B.

A.M.

Alonto, A. D.

Lerum, E. R.

Aquino, F. S.

Natividad, T. C.

Calderon, J. D.

Nolledo, J. N.

Davide, H. G. Ople , B. F.

Garcia, E. G. De los Reyes, R. F.

Gascon, J. L. M. C. Tadeo, J. S. L

P. M.

Abubakar Y. R.

Messrs. Regalado and Rosales were sick.

Mr. Laurel was absent.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Rama, there being no objection, the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body subject to the following correction, at the instance of Mr. Azcuna:

On page 1393, before the paragraph submitting Section 11 to a vote, insert the text thereof, to wit:

THE STATE RECOGNIZES THE ROLE OF WOMEN IN NATION-BUILDING AND SHALL ENSURE THE FUNDAMENTAL EQUALITY BEFORE THE LAW OF WOMEN AND MEN.

MANIFESTATION OF MR. ROMULO INCIDENT TO THE APPROVAL OF THE JOURNAL

Mr. Romulo manifested that Messrs. Azcuna and Padilla, President, Muñoz Palma and Ms. Aquino coauthored Section 11.

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS AND COMMITTEE REPORT

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

Communication No. 956 — Constitutional Commission of 1986

Letter from Maria Camilla R. Pascual of 13 Gen. R. Simon, Caloocan City, urging the Constitutional Commission to pick up the best of what has been written since the 1935 Constitution, to use the past as a reference not as something to be cursed or discarded, to use the future as the objective and goal, and then to move fast towards that goal

TO THE STEERING COMMITTEE

Communication No. 957 — Constitutional Commission of 1986

Letter from Datu Melanio B. Limpuson, submitting Resolution No. 04, series of 1986, adopted in a joint meeting of the 1411 CHDF Battalion Officers and Staff and the Subanon tribal and religious leaders, earnestly requesting the division of Zamboanga into three provinces

TO THE COMMITTEE ON THE LEGISLATIVE

Communication No. 958 — Constitutional Commission of 1986

Letter from Mr. Rolando M. Borlaza of Magcaseville Elementary School, Santo Cristo, San Pablo City,

submitting, for consideration of the Constitutional Commission, an article, entitled: "The Meaningful Symbol of Our Flag"

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 959 — Constitutional Commission of 1986

Communication from Ms. Marie Kletke of the Fil-Am Los Angeles Community, 904 N. Avalon Blvd., Wilmington, CA 90744, expressing hope that the draft Constitution will include provisions fostering the development of self-sufficient economic regions vested with economic and political autonomy

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 960 — Constitutional Commission of 1986

Communication from the Catholic Educational Association of the Philippines (CEAP) signed by its president, Mr. Rolando Dizon, expressing the view that the issue of the U.S. bases should not be included in the Constitution but should be left to the government to negotiate so as to protect the highest national interest.

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

Communications Nos. 961, 962, 963 and 964 — Constitutional Commission of 1986

Communications seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from:

- 1) Dr. Editha Lanete and fifty-one (51) physicians of U.P.-P.G.H., Manila
- 2) Mr. Ronald Masangkay and ninety-five (95) other students from De La Salle University
- 3) Ms. Flora Nisce Kagaoan

Minister of Health

Regional Health Office No. 4

IPHO, Morong District Hospital

Morong, Rizal

- 4) Ms. Marie R. Banaag, 42 Bolivia St.,
Better Living Subdivision, Bicutan, Parañaque,
M.M. and five hundred sixty-five
other concerned citizens

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

Communications Nos. 965, 966, 967 and 968 — Constitutional Commission of 1986

Communications seeking to include in the Constitution the following: a) the promotion of Philippine sovereignty over our natural resources, b) an anti-U.S. or any foreign intervention on Philippine affairs, c) a no-U.S. military bases agreement, and d) an anti-nuclear power plant, from:

- 1) Glenn M. Bayon

Infant Jesus Academy

Silang, Cavite

2) Christmas Panganiban

Infant Jesus Academy

Silang, Cavite

3) William V. Panganiban

Infant Jesus Academy

Silang, Cavite

4) Oliver B. Castro

Infant Jesus Academy

Silang, Cavite

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

COMMITTEE REPORT

Committee Report No. 40, on Petition No. 3, prepared by the Steering Committee, entitled:

AN URGENT PETITION TO REOPEN SECTIONS 5 AND 11 OF THE ARTICLE ON THE LEGISLATIVE POWER,

recommending that the same be given due course by the Commission.

Sponsors, Hon. Bengzon, Jr. and Davide, Jr.

TO THE CALENDAR OF UNASSIGNED BUSINESS

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 36 ON PROPOSED RESOLUTION NO. 537 ON THE ARTICLE ON DECLARATION OF PRINCIPLES

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 537 (Committee Report No. 36) on the Article on the Declaration of Principles, entitled:

Resolution to incorporate in the Constitution an Article on the Declaration of Principles.

Thereupon, the Chair recognized the Chairman and Members of the Committee on Preamble, National Territory and Declaration of Principles.

The Chair stated that the parliamentary status would be the continuation of the period of amendments.

(At this juncture, the President relinquished the Chair to the Honorable Cirilo A. Rigos)

PROPOSED SECTION 18

Mrs. Rosario Braid stated that the Committee has decided to combine Sections 18 and 19 of the revised draft to be denominated as Section 18 with the inclusion therein of the flagship provision of the approved Article on Education, Science and Technology, Culture and Sports so that the whole Section 18 would read:

THE STATE SHALL GIVE PRIORITY TO EDUCATION, SCIENCE AND TECHNOLOGY, ARTS, CULTURE AND SPORTS TO FOSTER PATRIOTISM AND NATIONALISM, ACCELERATE SOCIAL PROGRESS AND PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT

Mr. Tingson stated that the Committee is aware of the fact that the Articles on the Declaration of Principles should not be encumbered with unnecessary details, for which reason, it decided to combine Sections 18 and 19 of the revised draft into one provision.

PROPOSED AMENDMENT OF MR. PADILLA

Mr. Padilla proposed that instead of "total human liberation and development", it should simply be HUMAN DEVELOPMENT.

Mrs. Rosario Braid stated that the proposed Section 18 contains the exact wording of the already approved Article on Education. She requested that the said Section be accepted as worded.

Mr. Tingson added that the Committee was just proposing the transposition of Section 1 of the Article on Education to this portion of the Article on the Declaration of Principles. He then sought some comments from Mr. Villacorta, Chairman of the Committee on Human Resources.

REMARKS OF MR. VILLACORTA

Mr. Villacorta confirmed that the Committee on Human Resources is agreeable to the proposal to transpose Section 1 of the Article on Education to Section 18 of the Article on the Declaration of Principles.

REQUEST FOR A VOTE

Mr. Tingson asked that the Committee's proposal be submitted to a vote with the understanding that said provision would be reviewed by the Committee on Style and the Sponsorship Committee.

APPROVAL OF SECTION 18

Submitted to a vote and with 20 Members voting in favor and 2 against, the Body approved Section 18.

PROCEDURE ON AMENDMENTS BY TRANSPOSITION

Mr. Romulo recalled that during the previous session, there were two suggested approaches on the procedure for amendments by transposition but he could not recall which one was adopted. Upon his request, Mr. Azcuna, who together with Mr. Maambong made the suggestion, explained that the procedure merely called for the reiteration of the flagship provision in another Article without transferring it, however, the Sponsorship Committee could just delete later the duplication and retain the one in the Article on Declaration of Principles.

Thereupon, on motion of Mr. Romulo, there being no objection, the Body adopted for Section 18 the procedure stated by Mr. Azcuna.

CONSIDERATION OF SECTION 21

Mr. Tingson read the new formulation of Section 21, to wit:

THE RIGHTS OF THE PEOPLE TO COMMUNICATE AND TO HAVE ACCESS TO INFORMATION SHALL ENJOY THE PROTECTION OF THE STATE.

He informed, however, that Section 21 was further revised by incorporating the amendments of Mr. Davide and others. Upon his request, Mrs. Rosario Braid read the Section,-as revised, to wit:

THE RIGHTS OF THE PEOPLE TO COMMUNICATE AND TO HAVE ACCESS TO INFORMATION THAT WILL ENHANCE PARTICIPATION SHALL ENJOY THE PROTECTION OF THE STATE. THE COMMUNICATION MEDIA HAVE A SOCIAL RESPONSIBILITY TO PROMOTE AND SAFEGUARD THE RIGHTS AND FREEDOMS OF THE PEOPLE.

INQUIRY OF MR. DE CASTRO

Mr. de Castro observed that the provision just read is already contained in Section 6 of the Article on the Bill of Rights which reads:

"The right of the people to information on matters of public concern shall be recognized. Access to official records and to documents and papers pertaining to official acts, transactions or decisions, as well as government research data used as basis for policy development shall be afforded the citizen subject to such limitations as may be provided by law."

Mr. de Castro manifested his objection to the phrase "access to information" without the qualifying phrase "subject to limitations as provided by law". He inquired whether the phrase "access to information" would also refer to intelligence information gathered by the National Intelligence Coordinating Agency (NICA).

Replying thereto, Mrs. Rosario Braid stated that the Bill of Rights defines the limitations on access to information. She explained that the provision complements the freedom to communicate with the necessary resources; that this right could not be exercised unless the people have adequate information; and that intelligence information are included in the exceptions.

On whether information from the private sector could be made available to everybody, Mrs. Rosario Braid stated that the provisions on intellectual rights would protect technical information although certain information should be given to all.

As to whether there would still be need for Section 21 in the light of Section 6 of the Article on ,the Bill of Rights which substantially and categorically embodied the same provision, Mrs. Rosario Braid stated that there are certain information which should be made available to the people, among them business and agricultural information.

PROPOSED AMENDMENT OF MR. DE CASTRO

Mr. de Castro moved for the deletion of Section 21 on the grounds that 1) it is substantially the same as Section 6 of the Article on the Declaration of Principles; 2) the admission that access to information does not include intelligence information; and 3) the provision does not contain the qualification "subject to conditions provided by law"

Mrs. Rosario Braid stressed that access to information has been one of the demands of many developing countries especially when information resources are concentrated in the center while the countryside is deprived of information. On Mr. de Castro's inquiry as to what kind of information should be disseminated, Mrs. Rosario Braid stated that they could be information for the farmer, for the entrepreneur, and for labor and industry.

Mr. de Castro asked for specificity. He observed that "access to information" could mean the whole gamut of information involving secret matters, for which Section 6 of the Bill of Rights contains the phrase "subject to the provisions of law".

REMARKS OF MR. PADILLA

Mr. Padilla stated that "access to information" should not mean open information on confidential matters in the National Intelligence Coordinating Authority and those affecting national security. He also stated that the Revised Penal Code penalizes discovery of secrets through seizure of correspondence, revelation of secrets with abuse of office, and revelation of industrial secrets (Article 290-292). He pointed out that the Bill of Rights already covers matters of public concern but not private information resulting from research covered by patents or copyrights.

REMARKS OF MS. TAN

Ms. Tan agreed with Mr. de Castro that Section 21 should be deleted because it is already provided in the Bill of Rights, although the last sentence, which provides that the communication media have a social responsibility to promote and safeguard the rights and freedoms of the people, would be significant because it involves a moral responsibility of the State.

Reacting thereto, Mr. de Castro added that communication media are already so well-defined that nothing more should be provided in the General Provisions, in reply to which, Mrs. Rosario Braid pointed out that the social responsibility of the State to communication media as provided for in the Article on the Declaration of Principles is so general that it has to be specified in the General Provisions.

MANIFESTATION OF MR. MONSOD

At this juncture, Mr. Monsod read the proposed Section on the role of communication and information in the General Provisions, which provides that the State recognizes the vital role of communication and information in the economic, cultural, societal and political development of the nation, and in promoting peace and international understanding. He affirmed that Section 21 of the Article on Declaration of Principles should be deleted because the same is contained not only in the General Provisions but also in the Article on National Economy and Patrimony.

PROPOSED AMENDMENT OF MRS. QUESADA

Thereupon, Mrs. Quesada proposed to substitute Section 21, which Mr. de Castro proposed to delete, with the provisions found in the General Provisions.

Mrs. Rosario Braid read the pertinent provision found in the General Provisions, as follows: "The State recognizes the vital role of communication and information in national development. It shall promote a comprehensive communication policy."

She pointed out that there is no mention therein of social responsibility, the promotion and safeguarding of the rights and freedoms of the people as provided in the Article on Declaration of Principles.

Mr. de Castro suggested inclusion of the phrase "social responsibility" in the General Provisions.

POINT OF ORDER OF MR. BENGZON

At this juncture, Mr. Bengzon pointed out that the revised Committee Report read by Mrs. Rosario Braid had not yet been filed, and that what was distributed to the Members was Committee Report No. 31 on Proposed Resolution No. 531 which did not contain what Mrs. Rosario Braid read.

In reply, Mrs. Rosario Braid stated that she was referring to the Committee Report, as amended, dated September 1, 1986.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 10:39 a. m.

RESUMPTION OF SESSION

At 10:43 a.m., the session was resumed.

PROPOSED AMENDMENT OF MR. MONSOD

Upon resumption of session, Mr. Monsod proposed to amend Section 21, to read:

THE STATE HAS THE DUTY AND MEDIA THE SOCIAL RESPONSIBILITY TO RESPECT THE RIGHT OF THE PEOPLE TO ACCURATE AND TRUTHFUL INFORMATION.

He explained that his proposed amendment would provide for social responsibility of the media which was not provided in the Articles on National Economy and Patrimony; and the General Provisions.

DELETION OF SECTION 21

Thereupon, Mr. de Castro moved that the Body first vote on his proposal to delete Section 21 before considering Mr. Monsod's proposed amendment, to which the latter agreed.

Submitted to a vote, and with 17 Members voting in favor, and 10 against, the deletion of Section 21 was approved by the Body.

RESTATEMENT OF MR MONSOD'S PROPOSED AMENDMENT

Mr. Monsod restated his substitute amendment on Section 21, which reads: THE STATE HAS THE DUTY AND MEDIA THE SOCIAL RESPONSIBILITY TO RESPECT THE RIGHT OF THE PEOPLE TO ACCURATE AND TRUTHFUL INFORMATION.

In reply to Mr. Bernas' query on how the State could implement its duty to protect the right of the people to accurate and truthful information, Mr. Monsod explained that the government should never again indulge in propaganda and management of news like what happened in the Marcos regime.

On Mr. Bernas' observation that such respect for the right of the people to information could only be implemented by some form of curtailment of the freedom of the press and the freedom of speech, Mr. Monsod pointed out that, on the contrary, the government should not manipulate the media and the information that people should get.

On Mr. Bernas' contention that the government has also the right to project its own ideas, Mr. Monsod stated that what his proposed amendment intends is for the government to refrain from deliberately manipulating the news and to respect the right of the people to accurate and truthful information.

He further explained that it is not actually muzzling the government so that it could not project the information it wants.

Mrs. Rosario Braid stated that social responsibility actually implies that the government should take the necessary steps to promote the welfare of mediamen through professional development programs and incentives that could improve the capability and credibility of media.

She suggested that the word "adequate" be added to "accurate and truthful information", so that the people would not be deprived of adequate information.

In reply, Mr. Monsod pointed out that "adequate" is already included in the words "accurate" and "truthful".

On Mr. Bernas' question, Mr. Monsod underscored that his proposed amendment would not open the door to press censorship.

MRS. QUESADA'S PROPOSED AMENDMENT TO THE AMENDMENT

Mrs. Quesada proposed to delete the words "The State has the right and", so that the provision would read "Communication media has the social responsibility to respect the right of the people to truthful and accurate information."

REMARKS OF MR. ROMULO

On the original formulation of Mr. Monsod's proposed amendment, Mr. Romulo opined that a duty or obligation to follow a certain norm would not only be some kind of censorship but an imposition of pressure on media to follow such norm no matter how noble and desirable it may be.

REMARKS OF MR. BENGZON

Mr. Bengzon stated that even as amended by Mrs. Quesada, Mr. Monsod's amendment would not be necessary because the people have the right to truthful information and media have the social responsibility to provide such truthful information, therefore, the provision would be a surplusage.

He then requested Mr. Monsod to withdraw his proposed amendment.

REMARKS OF MRS. ROSARIO BRAID

Mrs. Rosario Braid explained that media should not only refer to urban media, such as newspapers and television, but also to communication media in the rural areas so that the people could participate in nation-building. She pointed out that such social responsibility would include meeting the information needs of all cultural groups in the country.

Reacting thereto, Mr. Monsod stated that he would be willing to withdraw his proposed amendment if it is the understanding that Section 6 of the Bill of Rights already covers media's social responsibility to respect the right of the people to accurate and truthful information.

REMARKS OF MR. RAMA

Furthermore, Mr. Rama underscored that the freedom of the press has been considered by constitutionalists to be the centerpiece of the Bill of Rights because without it there can be no democracy and progress. He opined that any qualification or modification on such freedom would abridge its meaning and might be abused to the prejudice of truth or national interest.

He stated that it would be dangerous to provide the conditions for such freedom of the press, and that it should be as simple as the provision in the Constitution of the United States, which provides that "No law abridging the freedom of the press shall be passed."

On Mr. Monsod's query on whether Section 6 of the Bill of Rights contemplates the concept of social responsibility, Mrs. Rosario Braid stated that it does not include the people's right to communicate but only

provides for equal access to communication which is actually freedom for the few.

REMARKS OF MR. BERNAS

Mr. Bernas pointed out, however, that there are only two kinds of unprotected speech, namely, libel and obscenity, and everything, including untruthful information, is protected by the freedom of the press.

Mr. Bernas explained that the reason is precisely to allow a clash of ideas so that truth will come out. He stated that for any statement of untruth, the remedy is not prohibition but exposure or, if there is any error, an unlimited debate. He noted that the proposed amendment dangerously trenches on the freedom of debate. He stated that it is not for the Body to tell the press to exercise social responsibility because it is not in a position to say what social responsibility is. He stressed that the very essence of democracy is that the people are able to express themselves on matters that are debatable and it is not for the Constitution to limit this liberty.

At this juncture, in reply to the Chair's query on whether there was still a pending motion to delete, Mr. Monsod replied that there was nothing to delete since his proposal was not approved.

For the record, Mrs. Quesada stated that the first sentence of Mrs. Rosario Braid's original proposal would probably have a bearing on the non-formal kind of communication through which people would have access to knowledge and information that would enhance their social and political participation.

In reply to Mr. Sarmiento's query whether the concern for people in rural areas to have access to communication is already covered by the section referring to "comprehensive rural development" and the section referring to "the obligation of the State to promote a just and dynamic social order" which the Body approved during the previous session, Mrs. Rosario Braid replied that what the Committee wants to accentuate is the importance of adequate and accurate communication as the nerve of government to mobilize and integrate the community into one whole nation. She stated that the provision is a mandate to the State and to every Filipino to help build a socially responsible environment that is vigilant of the role of media and its impact on society. She added this would mean the strengthening of education, research and other support areas of communication.

Mr. Monsod stated that when he proposed his amendment, he had in mind a very limited and modest objective but should the Committee adopt Mrs. Rosario Braid's interpretation, he would rather withdraw his proposal.

Mrs. Rosario Braid then asked for a vote but Mr. Rama stated that there was nothing to vote on because the proposed amendment was withdrawn and the whole section was deleted.

Mr. Davide then inquired whether Mrs. Rosario Braid had a substitute amendment, to which she replied in the affirmative. Mr. Davide then pointed out that it would still be proper for the Body to consider a substitute amendment because under Section 50 of the Rules, an amendment to delete would not preclude another amendment to insert.

Thereupon, Mrs. Rosario Braid proposed her substitute amendment to Section 21, to wit:

SECTION 21. THE COMMUNICATION MEDIA HAVE A SOCIAL RESPONSIBILITY TO PROMOTE AND SAFEGUARD THE RIGHTS AND FREEDOMS OF THE PEOPLE.

Mr. de Castro pointed out that the proposal is exactly the same as that which he proposed to be deleted and which the Body did.

Mr. Bernas, likewise, stated that the proposal precisely carried the idea in what was deleted, which proposal is a very dangerous one as far as freedom of the press is concerned because it cannot be operationalized unless media is told how they should exercise social responsibility.

Thereupon, Mr. Rama asked the Chair for a formal ruling that there is no need to vote on the proposal since it had already been deleted upon Mr. de Castro's motion.

However, Mrs. Rosario Braid requested for a suspension of session to allow the Committee to reformulate the provision.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 11:11 a.m.

RESUMPTION OF SESSION

At 11:23 a.m., the session was resumed.

Upon resumption, Mrs. Rosario Braid presented her reformulated proposal as follows: ALL CITIZENS SHALL HAVE THE RIGHT TO SEEK, RECEIVE AND IMPART INFORMATION FOR EFFECTIVE PARTICIPATION IN NATION-BUILDING

Mr. Davide then proposed to add THE STATE SHALL ENHANCE THE RIGHT OF before "all".

Mr. Bernas observed that the proposal could not be operationalized except by some form of dictation from the State which again trenches on the freedom of the press.

Mr. Nollado stated that the matter could be left to Congress, to which Mrs. Rosario Braid concurred. She added that Congress would come up with the mandate that would strengthen the people's right to have access to information resources particularly in rural areas; strengthen professional development programs for all kinds of media communicators; encourage small media and nonformal media like audiovisuals, provide incentives like tariffs on newsprint in favor of community newspapers or on equipment for provincial radio stations; or provide scholarships for rural journalists and community media workers.

Mr. Bernas observed that the proposal contains a plethora of ideas and is therefore vague; it either says nothing or it say everything, and as a law, it is unwise.

Mr. Nollado agreed with Mrs. Rosario Braid's contention that the proposal could be implemented by Congress of which one way is to require government offices to give periodic bulletins to the people.

Mr. Padilla agreed with Mr. Bernas' observation. Additionally, he stated that the proposal is already covered by the constitutional right of free speech and free press, which is the right of expression without previous restraint or fear of subsequent punishment. He pointed out that many court decisions affirm, guarantee, and protect this constitutional right of free speech and of free press. He stressed that there is no need for the proposed provision which may only impair the exercise of these rights.

REMARKS OF MR. GUINGONA

Mr. Guingona, likewise, expressed reservation about the use of the word "information" stating that it is too broad and needs to be qualified. He noted that in spite of the Committee's effort to reformulate the provision with the phrase "to enhance participation", it would still be too broad and does not specify the information to be included therein. On the matter of issuance of government bulletins, he opined that there is a need for a constitutional provision even if such bulletins do not partake of government propaganda.

REMARKS OF MR. FOZ

Mr. Foz stated that as originally formulated, the provision should probably belong to the Bill of Rights although, with the Davide amendment, it has become a principle which should be included in the Declaration of Principles. He manifested surprise over the objection to the Section which provides for the right of the people to be informed, arguing that a well-informed citizenry could better perform duties and obligations. He noted that there is no mention whatsoever of prior censorship in the provision although it is very much involved therein.

He noted that it is idealistic and beautiful to speak of the marketplace of ideas insofar as communication and media are concerned although media have failed in its exercise of freedom of the press. He observed that in the Philippines, the American concept of freedom of the press has been followed and such freedom is exercised by publishers, editors and reporters whose actions could only be subject to laws on libel and obscenity but who have forgotten their social responsibility. The latter term, he stated, has been objected to by some Members, although the press, like other sectors, has social responsibilities.

REMARKS OF MR. BENGZON

Mr. Bengzon stated that he shares the sentiments of Mr. Bernas and clarified for the record that should the Section be deleted, it would not mean that the Commission will not protect the right of the people to be informed, that Congress cannot pass laws to ensure this right, or prevent any government agency from issuing its bulletin to give information to its employees. He maintained that all these concepts are precisely enshrined in the first sentence of Section 6 of the Bill of Rights.

INQUIRY OF MR. DE CASTRO

Upon inquiry of Mr. de Castro whether "information" would include intelligence information, Mr. Azcuna replied that intelligence information would be excluded.

On whether "information" would also include police intelligence reports or secret military plans on defense and security, Mrs. Rosario Braid stated that Congress would come up with specific laws defining what should be included in "information". She pointed out that there would be exceptions and that "information" would refer to that which would enable the effective participation of the public.

Mr. de Castro observed that there is nothing in the provision which states that Congress shall determine the exceptions, in answer to which, Mrs. Rosario Braid informed that under the Bill of Rights, intelligence information are exceptions to which the public shall have access.

INQUIRY OF MR. DAVIDE

On Mr. Davide's query, Mr. Azcuna affirmed that the provision does not in any manner infringe, impede, obstruct or impair press freedom, and that it speaks of the right of the citizens.

On whether the provision is not included in Section 6 of the Bill of Rights which refers to the right to information on official documents, researches, acts or decisions and not to information in general, Mr. Azcuna replied in the affirmative. He clarified that the provision is broader inasmuch as it goes beyond "public concern".

Mr. Azcuna affirmed, upon inquiry, that without the provision, the meaning, import and significance of Section 6 may even be minimized or cannot be expanded to include the very right sought to be enhanced in the Declaration of Principles provision.

Mr. Azcuna also concurred with Mr. Davide that the government can implement the provision by such acts as

requiring more telephone connections to the barangays, lowering tariffs on newsprints to encourage more newspapers to compete in the news media, and giving tax exemptions to media people.

REMARKS OF MR. GUINGONA

Mr. Guingona observed that during the period of interpellations, mention was made that the provision does not contain any reference to Congress, although it is implied that Congress could intervene through the enactment of legislative measures. He reiterated his reservation regarding government's participation in the matter of information dissemination inasmuch as it might infringe on the freedom of the press and of speech enshrined in the Bill of Rights.

In response, Mrs. Rosario Braid stated that government participation shall be by way of providing tax exemptions or lower tariffs on newsprints, installing rural telephones and providing scholarships.

INQUIRY OF MR. OPLE

Mr. Ople observed that the provision consists of two parts: (1) the right of the people to know what the government does or intends to do; and (2) the social responsibility of the press subject to standards of accountability like the other sectors. Mrs. Rosario Braid affirmed that this is the intent of the provision.

Mr. Ople noted that stipulating social responsibility for the press and media would exempt them from the accountability of other institutions. He pointed out that Mr. Bernas' question is very important as it asks whether Congress shall have a hand in establishing the standards of social responsibility and accountability of the press.

He informed that press freedom is defined in British jurisdiction as freedom from government licensing although in Malaysia and Singapore, the media are licensed so that one cannot publish without a government permit. In the Philippines, he stated, anyone can publish without registering with the government, except as a business in which capacity a newspaper company registers only with the Securities and Exchange Commission (SEC) or the Bureau of Domestic Trade. He noted that in the past regime, everyone with printing facilities was required by the Media Advisory Council to register with the Office of Media Affairs.

He then inquired whether the provision would authorize Congress to prescribe registration without which social responsibility on the part of media may not be imposed.

In reply, Mrs. Rosario Braid stated that, although, the Committee struck out "social responsibility", the fact that the State shall enhance the rights of citizens to receive information also places the onus of responsibility on the State to provide guidelines which shall promote a more socially responsible media.

As to whether there would be legal guidelines for the press and media, Mrs. Rosario Braid stated that there shall be more "positive sanctions", not in terms of censorship but in encouraging the improvement of professional development of all types of communicators.

On whether journalists would be held accountable professionally by the Professional Regulation Commission, Mrs. Rosario Braid replied that, hopefully, Congress would lead in professionalizing media communicators.

Mr. Ople disagreed with the second part of the provision which he opined would restrain freedom of the press, although, he supported the first part which establishes the people's right to know.

VOTING ON SECTION 21

Upon the direction of the Chair, Mrs. Rosario Braid read Section 21, as amended by Mr. Davide, to wit:

THE STATE SHALL ENHANCE THE RIGHT OF ALL CITIZENS TO SEEK, RECEIVE AND IMPART INFORMATION FOR EFFECTIVE PARTICIPATION IN NATION-BUILDING.

Submitted to a vote, and with 15 Members voting in favor, 17 against and 1 abstention, the amendment was lost.

EXPLANATION OF VOTE OF MR. FOZ

With permission of the Chair, Mr. Foz who voted in favor of Section 21 opposed the proposal that journalists submit themselves to a Regulatory Board for examination and monitoring to determine their professional qualifications.

CONSIDERATION OF SECTION 19

Mr. Nollado informed that Section 19, formerly Section 22, had been reformulated by the Committee, to read:

THE STATE SHALL GUARANTEE AND PROMOTE THE AUTONOMY OF LOCAL GOVERNMENT UNITS TO ENSURE THEIR FULLEST DEVELOPMENT AS SELF-RELIANT COMMUNITIES.

He stated that the Section is a substantial reproduction of Section 10, Article II of the 1973 Constitution and serves as an introductory or curtain provision to the local government provisions in the new Constitution. He pointed out that there are two basic guidelines, namely, 1) promotion of local autonomy; and 2) promotion of self-reliance in community development.

INQUIRY OF MR. ALONTO

Mr. Alonto inquired why the phrase "autonomous regions" in the original draft had been deleted in the reformulation, in reply to which, Mr. Nollado explained that the phrase was deleted for symmetry inasmuch as "promoting the autonomy" and "autonomous region" already indicate "autonomy". He stated that in making the Section meaningful, reference to autonomy is made to encompass all local government units regardless of whether they compose an autonomous region or not.

As to whether the "autonomous region" created by the Constitution is only one form of local government unit, Mr. Nollado explained that an autonomous region consists of different local government units and the moment the autonomous region is established, the need for autonomy is deemed realized.

On whether the State could guarantee the promotion of the autonomous region in order to ensure its fullest development as self-reliant communities, Mr. Nollado reiterated that the autonomous region consists of local government units.

Mr. Nollado then suggested the reinstatement of the term "autonomous region", to which Mr. Alonto agreed to avoid any doubt on the section. Mr. Nollado accepted the amendment, although Mr. Tingson opined that it was just an answer to a question and not an amendment.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide stated that he would not object to restoring "autonomous region" inasmuch as the Article on Local Governments and Autonomous Regions already considers a local government unit as an autonomous region.

Thereupon, he proposed an amendment to read "THE STATE SHALL GUARANTEE THE AUTONOMY OF LOCAL GOVERNMENT UNITS" observing that "promote" and "to ensure their fullest development as self-reliant communities" are already embodied in the Article on Local Government.

The Committee accepted the amendment.

INQUIRY OF MR. MONSOD

Mr. Monsod stated that Section 2 of the Article on Local Government states, as per Mr. Padilla's amendment, that the territorial and political sub-divisions shall enjoy local autonomy and queried whether Section 19 manifests the same idea.

Reacting thereto, Mr. Nollado affirmed that the idea is the same, although not exactly as worded in Section 19 of the Declaration of Principles. He stressed that local government units play a vital role in national development and deleting the provision would do violence to this principle.

Mr. Monsod manifested his intention to seek the deletion of Section 19 which is covered by Section 2 of the Article on Local Governments.

REMARKS OF MR. DAVIDE

Mr. Davide, proponent of Section 19, clarified that he reworded the Section to avoid rewording Section 2 of the Article on Local Governments. He stated that the word "promote" was omitted and that "guarantee" would be a matter of principle. He reasoned that the specific provision in the Article would carry out the intent of the Declaration of Principles guaranteeing autonomy to local government units.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 12:00 p.m.

RESUMPTION OF SESSION

At 12:03 p.m., the session was resumed.

MODIFIED AMENDMENT

Upon resumption of session, Mr. Nollado read the reformulation of Section 19, to wit:

THE STATE SHALL ENSURE THE AUTONOMY OF LOCAL GOVERNMENTS.

Mr. Nollado emphasized that the term "local governments" shall include the autonomous regions. Mr. Monsod, by way of reaction, stated that he wanted to be sure that the Philippines is not going into federalism, to which Mr. Nollado agreed.

Submitted to a vote, and with 23 Members voting in favor and none against, Section 19 was approved by the Body.

CONSIDERATION OF SECTION 20

Thereafter, the Body proceeded to consider Section 23, renumbered as Section 20, on political dynasties.

REMARKS OF MR. NOLLEDO

Mr. Nollado stated that the provision would widen political opportunities by doing away with political monopoly and by providing equal conditions under which the candidates run for public office.

He observed that Filipinos seem to believe that public office is inherited in view of the prevailing practice in many parts of the country. He pointed out that the term "prohibit" does not actually mean prohibition but only regulation and that the prohibition against political dynasty is designed to avoid circumvention of the provision limiting the reelection of public officers and to give a chance to others to run for public office.

Hypothetically, Mr. Nollado stated that a governor, after two reelections, may ask a close relative to run for election to the same position. He stated that as the incumbent, he must have built fortunes and private armies to ensure his perpetuation in office through a close relative upon whom he may exercise moral as well as effective influence, thereby negating the laudable purpose of prohibiting reelection. In this case, he stressed that the built-in advantage enjoyed by the governor would not widen political participation in an election.

REMARKS OF MR. MONSOD

Reacting thereto, Mr. Monsod stated that Mr. Nollado's remarks sounded like a replay of the debate during the discussion of the Article on Local Governments relating to the same concept at which time the Body voted down a similar proposal on prohibition of political dynasties.

He noted that the assumption seems to be that the Members of the Commission are preempting the people's right and underestimating their capacity to choose officials through a pre-screening mechanism which after all makes a public office not accessible to all because of the prohibition for certain people from running for public office. He added that with the new COMELEC to do the job of cleaning up the election process, the people should be given full choice which is the essence of suffrage.

In reply to Mr. Nollado's query whether allowing the incumbent governor who has had two reelections to perpetuate his family in office would not amount to a denial of equal conditions to all candidates for the same public office, Mr. Monsod stated that it would not and suggested that the law should allow everybody who wants to run for public office. He stated that the people should be trusted to make the right choice.

MOTION OF MR. MONSOD

Thereupon, Mr. Monsod moved to delete Section 20 on the grounds 1) that it had already been argued and debated on fully in the Article on Local Governments and on which the Body had already made a decision, and 2) the law should not curtail the right of the people to a free choice on who their political leader should be.

Reacting thereto, Mr. Nollado stated that the issue at that time was whether to authorize Congress to include in the Local Government Code a provision against political dynasty, whereas the current issue is whether to put such a provision as a declaration of principle. He also opined that there was no quorum at that time and, therefore, he would like to give another opportunity to other Members of the Commission to consider the proposal.

INQUIRY OF MR. OPLE

In reply to Mr. Ople's query, Mr. Nollado agreed that the so-called dynasties are the effects rather than the causes of an imperfect social and economic system, especially in the countryside where only few families rotate power among themselves, the reason being that they are the only ones who have the means to sustain political campaigns.

On the suggestion that, such being the case, the Commission should concentrate on the causes, rather than on the effects, for which reason it had drafted an Article on Social Justice with a very comprehensive land reform policy which, if properly implemented in the future, would recast society in the countryside so that opportunity to run for election would be better distributed, Mr. Nollado stated that the recasting of the society would take a long time and, if the situation were allowed to continue, the people would be voting for elitist candidates who will deprive the poor, who are more competent and intelligent, of participation in the democratic process.

Mr. Ople contended that, notwithstanding the constraints of lopsided social and political systems, there are in fact many people who, although disadvantaged from birth by accident of being born to the poorest families, wrested public offices in clean and free elections from so-called dynasties. He stated that there are no more dynasties in his province, although there are other provinces where one finds the word "dynasty" misapplied to distinguished families. He observed that Philippine society had not been immobile; in fact, people who are disadvantaged by accident of birth have indeed risen through their own efforts to become successful competitors of entrenched political dynasties in their provinces and cities.

On whether the proponent would agree that the Commission has already established numerous provisions that would militate against the perpetuation of dynasties and that the proposed Constitution directly attacks the causes of the problem instead of addressing them as effects, Mr. Nollado stated that while reelection is prohibited, the person who is no longer qualified to be reelected would let his son continue and perpetuate the family as one office. He said that this is what the proposal wants to remedy.

On whether he would agree that the right of Suffrage should not be abridged and that the right to vote and to be voted upon actually derives from the same concept, Mr. Nollado agreed that the law should not infringe upon the right of suffrage, however, the State should regulate the right of some people to run in order to equalize the opportunities between rich and poor candidates.

INQUIRY OF MR. JAMIR

At this juncture, Mr. Jamir adverted to Mr. Nollado's statement that there was no quorum during the debate on the Article on Local Governments. He inquired whether Mr. Nollado was speaking from the Record or from the Journal of the Commission, to which Mr. Nollado replied that based on his count, at that time, only a very few Members were present when the discussion was held.

Mr. Jamir opined that it is dangerous to talk of lack of quorum when the records show that the question of quorum was never raised, in reply to which, Mr. Nollado agreed that it is a fundamental principle that when no one raises the question of quorum, the presumption is that a quorum exist. He stated, however, that he conducted a physical count of the Members at the time although he did not raise the issue to avoid controversy.

PRIVILEGED MOTION OF MR. DAVIDE

Thereupon, Mr. Davide moved to strike off the Record all statements on the alleged lack of quorum on the ground that it had no basis since nobody raised the question of quorum at the time. He stated, for the record, that at the time the so-called lack of quorum took place, it was the Chairman of the Committee on Local Governments

himself who was presiding and who would, therefore, be estopped from questioning the matter of quorum at that time.

Mr. Nollado stated that he would interpose no objection to the motion.

Mr. Bengzon seconded the motion.

Mr. Nollado stated that his statement was not intended to question the presence of a quorum at that time but only to reinforce his stand that more Members should be given a chance to listen to his arguments in favor of the resolution.

Thereafter, submitted to a vote and there being no objection, Mr. Davide's motion was approved by the Body.

PROPOSED AMENDMENT OF MR. GUINGONA

Mr. Guingona stated that he found the reasons advanced by Mr. Nollado regarding the need to equalize conditions and elections valid.

In view thereof, he proposed to change the word "prohibit" to REGULATE and to add the phrase AS PROVIDED BY LAW at the end of the sentence.

Mr. Monsod, however, reminded the Body of his pending motion to delete Section 20.

REMARKS OF MR. SARMIENTO

In support of the provision, Mr. Sarmiento stated that political dynasties are the Waterloo of young and promising but poor candidates in the provinces and, therefore, the inclusion of the provision against political dynasties would widen the opportunity of competent, young and promising but poor candidates to occupy important positions in government. He noted that, while it may be true that there were government officials who had ascended to power despite the accident of birth, they are the exceptions rather than the rule. He stated that, generally, public officials come from powerful clans with vast economic fortunes. He stressed that considering that the social and economic inequalities would continue to obtain for decades, there is wisdom in including in the Constitution the provision against political dynasties.

REMARKS OF MRS. QUESADA

In support of the provision, Mrs. Quesada stated that the provision would translate into reality the principle behind the participation of the sectoral representatives so that they would have a chance, after three years of having reserved seats, to compete with the political parties and, that the presence of political dynasties would limit the opportunities of the sectoral representatives to compete.

INQUIRY OF MRS. ROSARIO BRAID

In reply to Mrs. Rosario Braid's queries, Mr. Nollado affirmed that the provision would lead to the development of a pluralistic society and would encourage the development of a new political culture.

REMARKS OF MR. MONSOD

Mr. Monsod stated that the Members of the Commission had been extolling people power and saying that the people have a new consciousness but do not seem to have trust that the very same people can make the right choice. He observed that the provision on political dynasty is based on the assumption that there would be violations of the Electoral Code and that people in power would use their offices to have their sons elected. He

maintained that the Commission should not assume that certain sections of the Constitution would be violated and try to compensate it with other sections in anticipation of such violations. He also noted that the provision would add a disqualification for those who may aspire for public office, in effect, amending the provisions of the Constitution which enumerate the qualifications and disqualifications of candidates for public office.

Mr. Monsod then reiterated his motion to delete the section.

REMARKS OF MR. COLAYCO

Mr. Colayco stated that one of the worst effects of political dynasties is that it breeds graft and corruption. He cited as an example a town mayor in Metro Manila who had been in power for 20 years, as a result of which his children were involved in graft, in that one took care of the discos, another received monthly pension from the so-called motels, and still another took care of the gambling casinos and market collections. The irony of it, he stated, was that the Chief of Police looked the other way, because he was given a share of the loot. Mr. Colayco, likewise, mentioned that at the beginning, the people thought that this mayor was acting in good faith but later they found him following the footsteps of his predecessor without being bothered by public criticisms. He further stated that even in the Visayas, there is an influential politician who maintains a strong private army that not even the Armed Forces dared do something about it and whose wife and children are all in power.

INQUIRY OF MR. RODRIGO

Mr. Rodrigo inquired on the definition of "dynasty" and to what degree of consanguinity or affinity is meant by it, in reply to which Mr. Nollado stated that the provision is recommendatory in character in the sense that it would be up to Congress to determine the relationship, although, he opined that it should be within the third degree of consanguinity or affinity.

On whether a nephew could be faulted if he happens to have an uncle who is a public officer, Mr. Nollado stated that to meet Mr. Rodrigo's objection, he would recommend that it should be within the second degree, but he pointed out that in deciding the relationship, Congress would conduct public hearings before a regulatory law may be enacted.

Mr. Rodrigo stated that he could not see from the provision that the matter would be left to Congress, to which Mr. Nollado replied that Mr. Guingona precisely recommended the retention of the phrase "as may be provided by law".

On whether in-laws should also be included in the prohibition, Mr. Nollado replied in the affirmative, stating that close family ties exist in Philippine society, to which Mr. Rodrigo argued that those are exceptions, the general rule being that in-laws do not get along well together.

Mr. Nollado reiterated that it is up to Congress to determine the relationship to which the prohibition would apply.

On the assumption that Congress would decide that it would cover up to the third degree of consanguinity, Mr. Nollado stated that he would not blame Congress for such a decision, considering the close family ties that exist in Philippine society.

On whether it would not be unfair for a nephew

to be disqualified for something beyond his control,

Mr. Nollado stressed that the provision is not prohibitory but regulatory, the purpose being to cut the

nexus after reelection. He stated that after the built-in advantages, like warlordism and Graft and corruption, are

removed, it is possible for the nephew to run for election.

On the argument that the incumbent has the advantage in terms of money, Mr. Rodrigo pointed out that there are many cases of local officials who are not rich, in reply to which, Mr. Nollado maintained that a public official who has been in office for two terms would likely become rich and have a private Army. He stressed that political dynasty is a social malady. He also took exception to Mr. Monsod's statement that the people are against the provision by pointing out that in practically all forums where he appeared, the people overwhelmingly support the rule against political dynasty.

INQUIRIES OF MR. NATIVIDAD

On whether relatives running for a position different from that of the incumbent public official are included in the prohibition, Mr. Nollado stated that it is precisely the reason why he would limit it to a situation where the rule against reelection after two reelections might be circumvented.

Mr. Natividad made the observation that a person who runs for office in furtherance of a dynasty would surely be defeated because the issue against him is that he is part of a dynasty. He suggested, that the people should be allowed to decide, to which Mr. Nollado replied that the situation given by Mr. Natividad is an exceptional case.

Mr. Natividad contended that because one is an incumbent does not mean that he is politically strong, considering that there would be more issues that could be raised against him. He reiterated that it is the people, not the Commission, who should decide.

INQUIRY OF MRS. QUESADA

On Mrs. Quesada's inquiry whether Congress would be precluded from banning political dynasties should the provision be deleted, the Chair stated that it would not.

NOMINAL VOTING ON MR. MONSOD'S PROPOSED AMENDMENT BY DELETION

Upon request of Mr. Nollado, the Chair directed the Secretary General to call the Roll for nominal voting. Thereafter, a second Roll Call was made.

On Mr. Monsod's inquiry whether Members would be allowed to look for the other Members inside the buildings Mrs. Quesada stated that this had been done before when Mr. Regalado was awakened from his rest and asked to come to the Session Hall. However, Mr. Monsod pointed out that Mr. Regalado was not allowed to cast his vote since he came after the Body had voted.

Mr. de Castro confirmed that Mr. Regalado was not allowed to cast a vote, to which Mrs. Quesada replied that he was nevertheless called to the Session Hall.

Mr. Nollado stated that that was only a technicality which should not hamper the proceedings.

Mr. de Castro appealed to the Members to state only the truth and first reflect on whether or not what they are saying is true.

Mr. Nollado stated that the truth was that they actually voted and it was only the place that seemed to be objectionable which, he opined, is a highly technical objection.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Alonto Lerum De los Reyes

Bengzon Maambong Rigos

Calderon Monsod Rodrigo

De Castro Natividad Sumulong

Concepcion Ople Treñas

Jamir Padilla

Against:

Aquino Garcia Sarmiento

Azcuna Gascon Suarez

Bernas Guingona Tadeo

Rosario Braid Nieva Tan

Colayco Nollado Tingson

Foz Quesada Villacorta

Abstention:

Davide

With 17 Member, voting in favor, 18 Members voting against and one abstention, the proposed amendment by deletion was lost.

RESERVATION OF MR. MONSOD

Mr. Monsod made a reservation to ask for another voting on the ground that the previous voting was improperly conducted.

OBJECTION OF MR. SARMIENTO

Mr. Sarmiento objected to Mr. Monsod's motion for another voting, maintaining that the voting was in order.

Mr. Monsod pointed out that although the Rules allow two Roll Calls, what happened was that there were more than two calls Mr. Sarmiento, however, insisted that Mr. Foz and the others were inside the Session Hall.

Mr. Monsod stated that there were three Members who were allowed to vote after the second call, an observation which Mr. de Castro confirmed.

MOTION TO RECONSIDER THE VOTING

Mr. Monsod moved for a reconsideration of the voting.

Mr. Sarmiento reserved the right to oppose the motion.

Thereafter, there being no further objection, the motion to reconsider was approved by the Body.

REMARKS OF MR. GASCON

Mr. Gascon pointed out that Mr. Monsod could not present a motion for reconsideration because he did not vote with the majority, to which, Mr. Monsod replied that the ground for his motion to reconsider the voting was that there had been a violation of the Rules in the sense that three Members were allowed to cast their votes after the second Roll Call.

Mr. Gascon opined that the motion should not be a motion for another voting, to which Mr. de Castro replied that it would amount to the same thing.

SUSPENSION OF SESSION

The Chair suspended the session until two-thirty in the afternoon.

It was 12:48 p.m.

RESUMPTION OF SESSION

At 2:59 p.m., the session was resumed.

OBJECTION OF MR. SARMIENTO TO MR. MONSOD'S MOTION FOR RECONSIDERATION OF THE VOTING ON THE MOTION TO DELETE

Upon resumption of session, on Mr. Monsod's motion to reconsider the voting on the motion to delete Section 23, on which the Chair ruled that it was made without any objection, Mr. Sarmiento stated that the ruling was inaccurate because he registered an objection to the motion before the session was suspended.

He explained that the motion for reconsideration of the voting was out of order because the voting was done properly. He cited the Rules of the U.S. House of Representatives and Jefferson's Manual which provide that "Members appearing after the second call but before the result is announced, may vote or announce a pair" and the Rules of the Batasang Pambansa which states that no Member shall be allowed to vote after the second call and the result of the voting had been announced. He pointed out that three Members actually voted after the second call but before the results were announced.

MANIFESTATION OF MR. MONSOD

Mr. Monsod explained that his motion was based on the fact that the voting did not appear to be regular because there were Members who rushed into the Session Hall and were undecided whether to vote "yes" or "no" until another Member told them what was the voting on. He further stated that the votes of two Members were actually not heard on the record.

MANIFESTATION OF MS. AQUINO

Ms. Aquino stated that when the voting was taking place, she was in the lounge taking lunch but was aware of the proceedings in the Session Hall, and had to rush back to the Session Hall to cast her vote. She said that she would not have voted more intelligently when she felt starved.

Mr. Monsod explained that he was not saying that Ms. Aquino was not aware of the proceedings but that, because of the circumstances under which the voting was done, there was doubt on what the vote was. He pointed out that there were Members who voted even after the second roll call, and a third roll call had to be made for them to cast their votes, which practice was irregular.

MANIFESTATION OF MR. MAAMBONG

Considering that Mr. Monsod was asking for a reconsideration of the voting because of uncertainties, Mr. Maambong pointed out that the proper motion should be a motion for recapitulation of the result of the voting as provided in Section 1, Rule 15 of the Rules of the U.S. House of Representatives, which states that "either before the announcement of the result or after such announcement, the Speaker may order the vote recapitulated. A motion that the vote be recapitulated is not privileged. A member may not change his vote on recapitulation if the result has been announced, but errors in the record of such votes may be corrected."

MANIFESTATION OF MR. VILLACORTA

Reacting to Mr. Monsod's observation, Mr. Villacorta, however, explained that there is nothing wrong if Members temporarily leave for personal reasons and rush back to the Session Hall later.

He stated that before leaving the Session Hall, he had already decided to vote in favor of the Committee proposal, and that it would be unparliamentary to impute ill motives or ignorance to one's vote.

Mr. Monsod clarified that he was not referring to Mr. Villacorta as the one who was undecided on his vote.

REMARKS OF MR. DAVIDE

Mr. Davide stated that he abstained from voting. He maintained, however, that the motion for reconsideration of the voting was in order, considering that the votes of two Members were not registered when their names were called.

RULING OF THE CHAIR

The Chair ruled that the motion for reconsideration was in order and that the motion of Mr. Monsod would be submitted to a vote.

Mrs. Quesada opined that voting on the motion would not resolve the matter.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Monsod, the Chair suspended the session.

It was 3:13 p.m.

RESUMPTION OF SESSION

At 3:27 p.m., the session was resumed.

WITHDRAWAL OF MR. MONSOD'S MOTION FOR RECONSIDERATION

Upon resumption of session, Mr. Sarmiento contended that even if there would be a recapitulation of the result of the voting, no Member may be allowed to change his vote.

At this juncture, Mr. Monsod withdrew his motion for reconsideration of the voting in order not to exacerbate the matter.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to reword Section 23 to read: THE STATE SHALL ENSURE EQUAL ACCESS TO OPPORTUNITIES TO PUBLIC SERVICE AND PROHIBIT POLITICAL DYNASTIES.

He explained that he changed the word "office" to SERVICE to mean elective and appointive positions because "political dynasties" does not apply to elective positions alone. He pointed out that, in fact, it applies more to appointive positions because it is easier to get political appointments from an elected official who is a relative than to have a political dynasty on the basis of an expensive election.

Mr. Davide also explained that he substituted "broaden" with ENSURE EQUAL ACCESS TO because what is important is equal access to opportunities whereas "broaden" may be construed to mean that the State is mandated to create as many offices to accommodate as many people as possible.

Mr. Tingson accepted the amendment.

MR. RODRIGO'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Rodrigo then proposed to delete "and prohibit political dynasties".

Mr. Abubakar manifested his support for the proposal.

Mr. Davide asked for a vote, to which Mr. Tingson agreed.

Thereupon, Mr. Nollado registered his objection to the proposal.

Mr. Rodrigo stated that his amendment to the amendment was not accepted nor rejected but left to the decision of the Body.

Mr. Guingona pointed out that deletion of the phrase would mean that the other Members would no longer be able to introduce further amendments on political dynasties.

POINT OF ORDER OF MR. NOLLEDO

At this juncture, Mr. Nollado raised a point of order on the ground that the Body had previously decided to retain the phrase sought to be deleted. He pointed out that the intention of the Committee is to prohibit political dynasties and this intention must be correlated with the provision itself, which means that Mr. Rodrigo's proposal was out of order.

Mr. Rodrigo maintained that his proposal is in order because what was previously voted down was the deletion of the whole section whereas his proposal merely seeks the deletion of a portion of the reworded proposal.

Mr. Nollado, however, contended that the very substance of the provision is found in the phrase "prohibit political dynasties" and it was in that sense that the Body voted in favor of retaining the provision.

Thereupon, Mr. Maambong pointed out that the point of order raised by Mr. Nollado is covered by Section 50 of the Rules which states that "a motion to strike out being lost shall not preclude an amendment or motion to strike out and insert" for which reason the Committee and the Chair allowed Mr. Davide to introduce his amendment, otherwise the proposal of Mr. Davide would also have been out of order. He opined that Mr. Rodrigo's proposal to amend Mr. Davide's amendment is valid.

However, Mr. Nollado maintained that Mr. Rodrigo's proposal is to delete the very substance of the provision which, in effect, is a restatement of the original motion which was defeated.

Mr. Rodrigo disagreed because the original substance of the provision, even before the amendment, is to broaden opportunities to public office.

Mr. Nollado stated that it was not the substance.

Mr. Rodrigo explained that the matter of political dynasty is just a collatilla and in the reformulated amendment by substitution the substance is to broaden opportunities to public office. He stressed that he sought the deletion of the phrase "and prohibit political dynasties" in order not to restrict opportunities for public office. He added that the phrase is even incompatible and inconsistent with the very substance of Mr. Davide's proposed amendment.

At this juncture, Mrs. Quesada requested Mr. Maambong to explain the parliamentary situation, to which the latter replied that the Committee had an original formulation which was sought to be deleted but the motion was lost which, in effect, means that the original Committee formulation remains and is now subject to further amendments.

On Mrs. Quesada's query whether the basic concepts contained in the proposed provision would be changed, Mr. Maambong replied that the concept could be changed and the whole provision would be open to amendment because the motion to delete was lost.

Thereupon, Mrs. Quesada stated that the Body should respond to the people's call during the public hearings to never allow political dynasties in the country again.

Thereafter, Mr. Guingona queried whether the Members would be precluded from proposing further amendments if Mr. Rodrigo's proposal would be approved, to which Mr. Rodrigo replied that if the proposal would be substantially the same as the portion deleted then it could not be considered anymore.

The Chair agreed with Mr. Rodrigo's opinion.

Adverting to Mr. Rodrigo's statement that the prohibition on political dynasties is only correlative to the first part, Mr. Nollado stated that when he was asked by Mr. Ople whether it is the intention of the Committee to prohibit political dynasties to broaden opportunities to public office, he replied in the affirmative. He stressed that he vigorously objected to Mr. Ople's view that by prohibiting political dynasties, the opportunities to public office would likewise be limited.

Ms. Tan opined that the Body originally voted on the issue of prohibiting political dynasties.

Mr. de Castro opined that the issue is no longer political dynasties but the proper application of Section 50 of the Rules. He requested the Chair to apply the said rule.

At this juncture, Mr. Abubakar stressed that the voice of the people is the voice of God and that the Body should not suppress that voice but give substance and reality to what the people want. He then manifested his

concurrence with Mr. Rodrigo's proposal.

Mr. Sarmiento stated that Mr. Monsod originally proposed to delete the entire provision which was voted down by the Body and then Mr. Rodrigo proposed to delete what the Body had already approved in principle which, he opined, is out of order. He added that Section 50 contemplates a motion to delete and insert but Mr. Rodrigo's motion is only for deletion. He stated that this is also a violation of the Rules.

Mr. de Castro opined that Section 50 of the Rules is applicable to the situation. He then manifested his concurrence with Mr. Maambong's explanation.

Mr. Sarmiento stated that considering the first sentence of Section 50, which reads "A motion to strike out and insert is indivisible", the whole section must be read in toto and not by parts.

At this juncture, Mr. Davide stated his rejection of Mr. Rodrigo's amendment to his proposed amendment. He added that his proposal is only to change certain words in view of which Section 50 would not apply.

Mr. de Castro pointed out that Section 50 is composed of two sentences; the first refers to deletions while the second refers to insertions.

Mr. Rodrigo stated that the Body should vote whether or not to approve his amendment to Mr. Davide's proposal by substitution.

Thereupon, Mr. Davide explained that his proposal is merely to change the words "broaden" and "office" which cannot be technically considered as an amendment by substitution.

Mr. Nollado agreed with Mr. Suarez' observation that the former raised a point of order against Mr. Rodrigo's proposal because its substance was already voted upon by the Body and this should bar any other motion to delete the same substance of the provision.

Mr. Nollado also affirmed Mr. Suarez' observation that the substance of the provision consists of two principles: 1) the broadening of opportunities for public office; and 2) the prohibition against political dynasties. Mr. Nollado added that before Mr. Monsod's proposal to delete the entire provision, all the discussions centered around the issue of whether or not political dynasties would be prohibited. He opined that for this reason, Section 50 would not be applicable because what is sought to be deleted is the substance of the provision which had already been approved by the Body.

At this juncture, Mr. Rodrigo stated that Mr. Davide proposed a whole sentence which, he opined, is an amendment by substitution in view of which he proposed to amend Mr. Davide's amendment. He stressed that this had not yet been voted upon by the Body. He clarified that what was voted upon was the deletion of the entire Section which would, in effect, delete the very important principle that "The State shall broaden opportunities to public office". He stated that he would presume that those who voted against the deletion of the entire Section had in mind this important principle. He underscored that he is not moving for the deletion of the entire Section but only that specific portion which has been reworded by Mr. Davide.

He also noted that Mr. Davide had not accepted his amendment and that the Body should vote on his amendment to the amendment.

REMARKS OF MR. PADILLA

Mr. Padilla restated the parliamentary situation by clarifying that Mr. Davide had proposed an amendment and Mr. Rodrigo had submitted his amendment to the amendment which Mr. Davide did not accept. He observed that the Body had to vote on Mr. Rodrigo's amendment to the amendment in accordance with Section 48 of the Rules,

to wit: "When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order".

(At this juncture, the Presiding Officer designated Mr. Maambong as Acting Floor Leader.)

INQUIRY OF MR. MAAMBONG

Mr. Maambong inquired whether the Committee accepted the amendment of Mr. Davide to delete the word "broaden" and, in lieu thereof, to substitute the phrase ENSURE EQUAL ACCESS TO; and also to delete the word "office" and replace it with SERVICE so that the whole section, as amended, would read: "The State shall ENSURE EQUAL ACCESS TO opportunities to public SERVICE and prohibit political dynasties". The Committee reiterated its acceptance of the proposed amendment.

Mr. Maambong then observed that Mr. Nollado had raised a point of order under Section 50 of the Rules and unless the same is acted upon, the Body could not vote on the pending motion of Mr. Rodrigo.

Thereupon, he requested a ruling from the Chair on the point of order of Mr. Nollado.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 4:03 p.m.

RESUMPTION OF SESSION

At 4:06 p.m., the session was resumed.

Upon resumption of session, Mr. Maambong invited attention to Mr. Nollado's point of order.

Thereupon, the Chair ruled that the point of order was not well taken in view of Section 50 of the Rules.

Mr. Nollado appealed from the ruling of the Chair.

Mr. Maambong informed that an appeal from the ruling put of the Chair is not debatable and can be immediately put to a vote.

At this juncture, Mr. de Castro inquired on the basis of Mr. Nollado's appeal, to which Mr. Nollado replied that it was based on his arguments against Mr. Rodrigo's motion.

VOTING ON THE RULING OF THE CHAIR

Submitted to a vote, and with 18 Members voting in favor and 14 against, the ruling of the Chair was upheld by the Body.

RESTATEMENT OF MR. DAVIDE'S AMENDMENT

Thereafter, Mr. Maambong informed that the Body was ready to vote on Mr. Rodrigo's amendment to the amendment. As amended by Mr. Davide, Section 20 would read "The State shall ENSURE EQUAL ACCESS TO opportunities to public SERVICE and prohibit political dynasties" and that Mr. Rodrigo's amendment would seek to delete the phrase "and prohibit political dynasties".

REMARKS OF MR. COLAYCO

Mr. Colayco observed that the Body is departing from the past practice that when a proponent does not accept an amendment to his amendment, the Body votes on the main amendment first. He stated that in the event Mr. Rodrigo's amendment to the amendment is voted upon favorably, it would be a reconsideration of the first vote taken on the main section and that it would resurrect the same issue.

He noted that the first issue was that the Body rejected the motion to delete the Section prohibiting political dynasties and hence the Section was approved. Accepting Mr. Rodrigo's amendment to the amendment, he opined, would amount to entertaining a motion for reconsideration. He stated that should the Body vote in favor of this motion for reconsideration, it would go back to the original situation and that another Member can then introduce an amendment to amend the vote which struck out the Section which the Body agreed, by an 18-17 vote, to retain.

Further, he observed that Mr. Rodrigo's motion is inconsistent with the first vote which approved the retention of the Section.

The Chair called attention to Section 48 of the Rules which states that "When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order."

Mr. Colayco, in reply, stated that the basic issue is whether Mr. Rodrigo's amendment is not inconsistent with the first position taken and voted upon affirmatively by the Body.

Mr. Rodrigo interposed to state that the matter was already decided by the Body which was the subject of Mr. Nollado's point of order, which in turn, the Body had also voted upon.

Mr. Maambong clarified that Mr. Rodrigo's proposed amendment is to delete the words "and prohibit political dynasties" and voting "yes" would be for the deletion of the phrase.

At this juncture, Mr. Maambong reminded that in case of nominal voting, 1/5 of the Members should request for nominal voting, but he asked that the 1/5 requirement be waived.

INQUIRY OF MR. DE CASTRO

Upon inquiry of Mr. de Castro, the Chair affirmed that any Member can ask for nominal voting. The Chair also affirmed that voting "yes" would mean deleting the phrase "and prohibit political dynasties" and "no" would mean that the phrase shall remain.

NOMINAL VOTING ON MR. RODRIGO'S AMENDMENT TO THE AMENDMENT

Upon request of Mr. Gascon, there being no objection, the Secretary-General called the Roll for nominal voting after which a second Roll Call was made.

EXPLANATION OF VOTES

By Mr. Gascon:

Mr. Gascon in voting No stated that there should be a categorical statement on the prohibition against political dynasties and that he personally believes that Mr. Rodrigo's motion is a motion for reconsideration on a matter which had been decided upon.

By Mr. Suarez:

Mr. Suarez voted No stating that the Members should have integrity in their decisions.

By Mr. Tadeo:

In voting No, Mr. Tadeo observed that there should be a prohibition against political dynasties so as to broaden opportunities for public office. He stated that he could not perceive rhyme or reason in the Body's action inasmuch as the matter had already been decided.

By Ms. Tan:

Ms. Tan voted No because the Body was being fooled.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Abubakar Maambong Lerum

Bengzon Monsod Romulo

Calderon Natividad Sumulong

De Castro Ople Tingson

Concepcion Padilla Treñas

Jamir Rigos Uka

Against:

Aquino Davide Quesada

Azcuna Foz De los Reyes

Bacani Garcia Sarmiento

Bennagen Gascon Suarez

Bernas Guingona Tadeo

Rosario Braid Nieva Tan

Colayco Nollado Villacorta

Abstention:

None

With 18 Members voting in favor, 21 against and no abstention, the proposed amendment of Mr. Rodrigo was lost.

MR. GUINGONA'S AMENDMENT TO THE AMENDMENT

Mr. Guingona proposed to add the phrase AS MAY

BE PROVIDED BY LAW inasmuch as "political dynasties" would be defined by law.

Mr. Davide rejected the amendment to his amendment on the ground that it would not be appropriate to state "as may be provided by law" in the Declaration of Principles and that Congress, in the exercise of its plenary powers, can provide for the necessary guidelines in the implementation of the rules against political dynasties.

Upon inquiry of Mr. Guingona, Mr. Nollado stated that he would have no objection to it inasmuch as the definition of "political dynasties" would be left to Congress.

MODIFICATION BY MR. DAVIDE

Thereupon, Mr. Davide proposed AS MAY BE DEFINED BY LAW in lieu of "as may be provided by law" which Mr. Guingona and the Committee accepted.

Mr. Gascon inquired whether it should be "TO PUBLIC SERVICE" or "FOR PUBLIC SERVICE", to which Mr. Davide replied that the word "TO" is better although "FOR" can be used.

Mr. Davide stated that it should be left to the Committee on Style. He then proposed to place a comma (,) after "service" since the definition by law would refer to "political dynasties".

INQUIRY OF MR. SUAREZ

Mr. Suarez pointed out that there might be some points of inconsistency because the first part says that the State should give equal access to opportunities in order that the people can render public service although the last part would prohibit political dynasties in the manner prescribed by law.

As to whether this is a limitation on equal access to opportunities, Mr. Davide stated that on the contrary, eliminating political dynasties would ensure that there will be greater opportunities to public service. He noted that what should be considered would be the common good for the greater number of people who shall be benefited. Prohibiting political dynasties, he averred, would open the opportunities of public service to more people inasmuch as it would not be a monopoly of the few.

On whether this is to prohibit incumbents and their relatives from aspiring for the same position so that everyone shall have an equal access to the opportunity to vie for this position, Mr. Davide replied that it is his perception. He stressed that the law may not allow relatives to aspire for the same office and that it may also provide that during an elective official's incumbency, his relatives would not be allowed to run for a position or be appointed to any position within the same political unit.

He pointed out, however, that the relative may not be prevented from running in another province.

APPROVAL OF SECTION 20

Mr. Nollado restated the formulation of Section 20, to wit:

THE STATE SHALL ENSURE EQUAL ACCESS TO OPPORTUNITIES FOR PUBLIC SERVICE, AND PROHIBIT POLITICAL DYNASTIES AS MAY BE DEFINED BY LAW.

Submitted to a vote, and with 25 Members voting in favor, one against and one abstention, Section 20 was approved by the Body.

PROPOSED AMENDMENT OF MR. TINGSON

Thereafter, Mr. Tingson proposed the deletion of Section 24 which was renumbered as Section 21.

REMARKS OF MR. GUINGONA

Mr. Guingona expressed support for the proposal notwithstanding the fact that he favored the extension of asylum to foreigners who are persecuted in their countries in defense of human rights and the liberation of their country. He pointed out that, although the right of asylum is among those enumerated in the Universal Declaration of Human Rights, the grant of asylum should not be contained in the fundamental law but could well be the subject of statutory law which could determine when and to what extent such right may be exercised, taking into consideration various factors, among which is the economic condition of the country.

Mr. Guingona stressed that the Members should concern themselves more with Filipinos who are suffering from poverty, although this should not be taken as closing the doors completely to the possible entry of deserving refugees. He suggested, however, that the law should go slow on the grant of asylum Without prejudice to being less selective in granting asylum as the country's economic recovery progresses.

On the problems attendant to the grant of asylum, Mr. Guingona stated that unless adequate safeguards are provided, it is possible that undesirable aliens would enter the country including those who might engage in espionage. He also noted that refugees are extended rights under the Refugee Convention of 1951, the Protocol of 1967 as well as the Declaration of Territorial Asylum which entitle them to "quasi-consular" functions to be discharged by the asylum state.

He stated that Congress would have to set quotas in order to forestall the massive influx of refugees when situations like the take-over of Vietnam by the Communists occur. Moreover, he contended that the provision could make matters worse with the stipulation that refugees granted asylum shall not be extradited because it is possible that those claiming refugee status would also be guilty of acts of sedition, murder, or other nonpolitical offenses. He also stated that should there be an extradition treaty, the Philippines would be bound by its terms, otherwise violation of the basic principle *pacta sunt servanda* could lead to a renunciation or abrogation of the treaty by the offended state.

REMARKS OF MR. GARCIA

Mr. Garcia objected to the deletion of the provision on the ground that it had already been adopted by the Committee on Bill of Rights and that it was sought to be placed under the Declaration of Principles which had been accepted by the Committee on Preamble, National Territory and Declaration of Principles. He pointed out that the only Committee amendment was the deletion of the last phrase stating that they shall not be extradited.

He also stated that the provision is actually contained in Item No. 1 of Article XIV of the Universal Declaration of Human Rights which provides that everyone has the right to seek and enjoy in other countries asylum from persecution which is, in fact, a peaceful and humanitarian act.

With respect to the Declaration on Territorial Asylum, Mr. Garcia stated that the granting of political asylum is governed by certain articles in this Declaration, among which is Article I which provides, to wit:

"That asylum granted by a State in the exercise of its sovereignty to persons entitled to invoke Article XIV of the Universal Declaration of Human Rights, including persons struggling against colonialism, shall be respected by all other States.

"The right to, seek and to enjoy asylum may not be invoked by any person with respect to whom there are serious

reasons for considering that he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes."

Mr. Garcia stated that it shall rest with the State granting asylum to evaluate the grounds for its grant. He then reiterated his protest against the deletion of the provision which, he stressed, had been simply transposed to the Article on the Declaration of Principles.

REMARKS OF MR. TINGSON

Mr. Tingson explained that Section 24 was originally authored by Messrs. Nollado and Garcia, both of whom refused to articulate the said section. He stated that he just took it for granted that both of them were no longer interested in the provision, thus his proposal to delete the section. He pointed out that, as Members of the Committee, they have the privilege of presenting the provision.

Thereupon, Mr. Maambong stated that whatever questions may be propounded by the Members would be answered by both Messrs. Garcia and Nollado.

REMARKS OF MR. BERNAS

Mr. Bernas recalled that during the deliberations on the Article on the Bill of Rights, it was Mr. Nollado who proposed this provision to which he had opposed but which the Body approved on the understanding that it would be transferred to the Article on the Declaration of Principles. He maintained that the Body could not reopen the discussion on the matter of asylum without suspending the Rules because, in effect, the motion to delete is a motion for reconsideration which came two months late.

Reacting thereto, Mr. Nollado stated that the provision was adequately discussed before the Commission and was, in fact, amended by Mr. Ople when he added the phrase "as may be provided by law" on the ground that it should be Congress that should decide the conditions under which the right of asylum may be granted.

Thereupon, on request of Mr. Maambong to verify the records of the proceedings, Mr. Bernas suggested that the Body go back to the records and find out what had been approved.

SUSPENSION OF CONSIDERATION OF SECTION 24

Thereupon, Mr. Maambong moved to suspend consideration of Section 24, renumbered as Section 21, in view of Mr. Bernas' manifestation.

Mr. Ople seconded the motion, noting that his name was mentioned as one of those who amended the original provision. He recalled that he took part in the general debate and in the interpellations but he could not recall being present during the period of amendments.

There being no objection, the motion was approved by the Body.

CONSIDERATION OF SECTION 25

Mr. Tingson stated Section 25 which had been renumbered as Section 22, to wit:

THE CIVILIAN AUTHORITY IS AT ALL TIMES SUPREME OVER THE MILITARY.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed an amendment to insert a comma (,) after the words "is" and "times".

Mr. Tingson accepted the amendment on behalf of the Committee.

APPROVAL OF SECTION 25

Submitted to a vote, and with 31 Members voting in favor and none against, Section 25 (renumbered Section 22) was approved by the Body.

CONSIDERATION OF SECTION 26 AMENDMENT OF MR. DE CASTRO

On Section 26, which had been renumbered as Section 23, Mr. de Castro proposed the deletion of the whole section on the grounds 1) that the provision was recommended to him by the Armed Forces of the Philippines not knowing that it was taken from the Declaration of Independence on July 4, 1776 of the original 13 States of the United States; and 2) that the provision which speaks of the right of the people to change their government may be used by a small minority to harass or rise against the government.

MANIFESTATION OF MR. OPLE

Mr. Ople manifested his intention, in association with Messrs. Guingona, Maambong, Natividad and de los Reyes, to delete the whole section and to propose an amendment by substitution in reconciliation with Mr. Azcuna's amendment.

APPROVAL OF MR. DE CASTRO'S AMENDMENT

Submitted to a vote, and with 25 Members voting in favor, none against and 4 abstentions, Mr. de Castro's amendment to delete Section 26 (renumbered Section 23) was approved by the Body.

SUSPENSION OF SESSION

On motion of Mr. Maambong, the session was suspended in order to give time to the proponents of Resolution No. 457 to come up with a new formulation.

It was 4:51 p.m.

RESUMPTION OF SESSION

At 5:26 p.m., the session was resumed.

Mr. Maambong stated that Section 26, renumbered as Section 23, was originally proposed under Resolution No. 457 authored by Messrs. Ople, de los Reyes, Natividad and himself and that Mr. de Castro had another formulation which appeared in the Committee Report but which was deleted upon his motion. Mr. Maambong pointed out that there is a new formulation authored by Messrs. Ople, Guingona, de los Reyes, Natividad and himself and another formulation authored by Mr. Azcuna. He then inquired from the Committee if the proponents have already agreed on a common formulation.

In reply, Mr. Tingson asked for the recognition of Mr. Ople who, in turn, yielded the floor to Mr. Azcuna for the presentation of the agreed formulation.

PROPOSED AMENDMENT OF MR. AZCUNA AND OTHERS

Mr. Azcuna read the agreed formulation of Section 23, to wit:

WHEN GOVERNMENT SYSTEMATICALLY VIOLATES THE CONSTITUTION AND THE LAWS, IT FORFEITS ITS AUTHORITY, AND THE PEOPLE MAY TAKE STEPS TO REDRESS THIS FUNDAMENTAL WRONG AND ASSERT THEIR RIGHT TO A DEMOCRATIC GOVERNMENT THROUGH NON-VIOLENT MEANS.

Mr. Azcuna manifested for the record that the new formulation as agreed upon was coauthored by Messrs. Ople, Guingona, de los Reyes, Natividad and Maambong.

Upon inquiry of Mr. Maambong, Mr. Azcuna stated that copies of the new formulation were distributed to the Members for their comments.

SUSPENSION OF SESSION

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

It was 5:29 p m.

RESUMPTION OF SESSION

At 5:30 p.m., the session was resumed.

INQUIRY OF MR. DE CASTRO

In reply to Mr. de Castro's query, Mr. Ople explained that it is the people who will determine the existence of a systematic violation of the Constitution and the laws or series of usurpations and abuses that become unbearable.

On whether a small group of people like the Marcos loyalists can determine such violation of the Constitution and the laws, Mr. Ople opined that under the present situation when the interim Constitution is in force, there could be no ground for a tiny minority with certain political motives to invoke the provision to justify a revolt against the existing government. He underscored that the level of violations of the law should be unbearable. He also opined that a group of labor unions would not be a threat to the existence of a government.

On the steps that the people may take in the event of violations of laws contemplated by the provision, Mr. Ople explained that the people had been vested the powers of initiative, referendum and recall under the Article on the Legislative; and the power to summon a national Constitutional Convention or by themselves act as a Constituent Assembly, as provided for in the Article on Constitutional Amendments, and they may use such powers to redress a fundamental wrong as when the Constitution is systematically violated. He stated, however, that the Constitution cannot allow the use of arms in correcting a fundamental wrong, but provides for nonviolent and moral means which are based on spiritual values.

INQUIRY OF MR. RIGOS

In reply to Mr. Rigos' query on whether the use of violence would be justified to redress government abuses with the use of the military, Mr. Ople underscored that basically the state under the Constitution abhors lawless violence and, therefore, the use of the Armed Forces beyond the Constitution and the law forfeits the authority of the government under the same Constitution. He stated, however, that the proposal would not encourage the use of violence even at the point of desperation over severe tyrannical rule, but only nonviolent and moral means to

defend and assert the people's right to a democratic government.

He affirmed that if violence is the only means left, it has to be morally justified based on the Constitutional provision.

MR. GARCIA'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Garcia pointed out that the proposed amendment would not be necessary because the Preamble of the Universal Declaration of Human Rights already provides that "if man is not to be compelled to have recourse as a last resort to rebellion against tyranny and oppression, human rights should be protected by the rule of law". He also stated that it is inherent in people to choose viable means to correct serious abuses because even armed revolutions are justifiable if they are successful and through such means people are able to govern under a new set of just laws. He opined that the formulation of the proposal was restrictive.

On whether he would be amenable to the deletion of the words "through nonviolent means" so that the phrase would read ASSERT THE RIGHT TO A DEMOCRATIC GOVERNMENT, Mr. Garcia believes that the entire proposal would not be necessary because of the fundamental principle in the Universal Declaration of Human Rights that peaceful means should be adopted and if only human rights would be respected, people do not have to resort to rebellion or armed struggle. He reiterated that such inherent right of the people, as contained in Populorum Progressio, need not be provided.

Mr. Ople, stated that if an inherent right is the basic premise of all written Constitutions, then there would be no harm in explicating it in the Article on the Declaration of Principles, considering that in the contemporary experience, it is a practical and workable approach to the ultimate defense of the democratic rights of the people under a climate of unbearable tyranny.

On Mr. Garcia's contention that the Preamble of the Universal Declaration of Human Rights already provides that, as a last resort, the people may choose such viable means and objectives to put an end to a long-standing tyranny, Mr. Ople stressed that the proposal would serve as a warning to future tyrants that the systematic and continuous disregard of the Constitution and the laws will bring about a confrontation with the people, who seek to redress abuses through peaceful means, other than through the power of initiative, referendum and recall.

Mr. Garcia then proposed the alternative formulation: "The State with its institutions belongs to the people. Whenever a government fails to serve the people, they may exercise their inalienable right to alter, reform or abolish it." He explained that it would be better not to explicate the means so that the choice of the people on the mode of changing the government would not be limited.

Mr. Ople insisted on the original proposal as formulated by Messrs. Azcuna, de los Reyes and himself.

MR. SARMIENTO'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Sarmiento opined that although the people have the inherent right to change the government, it is necessary to explicate the same in the Constitution. He observed, however, that the words "through nonviolent means" in the proposed amendment might preclude other modes of changing an existing despotic government as used in the Philippine Revolution of 1896, and in the wars against America and Japan. He also adverted to the Constitution of Turkey and El Salvador which both assert the right of the people to resist a political power, and the right to insurrection. He added that even Apolinario Mabini advocated the use of force when necessary, as in the revolution against the Americans whom he considered as tyrants, which advocacy of violence as a last resort was also upheld by St. Thomas Aquinas, John of Salisbury and Francis Suarez.

He then proposed to delete the words "through nonviolent means".

REMINDER OF MR. MAAMBONG

At this juncture, Mr. Maambong reminded the Members that the Body was in the period of amendments, and that the five-minute rule should be observed. He added that only two Members would be allowed to speak in favor of an amendment and another two to speak against, subject to the time limit.

INQUIRY OF MR. PADILLA

Mr. Padilla inquired whether the proposed amendment was inspired by the February revolution, which some claim was a political miracle. He said that in case of violation of the Constitution and the law, the proper remedy is judicial. Mr. Ople replied that in the event of a systematic violation of the Constitution and the laws, recourse to the courts would be futile or no longer available.

On Mr. Padilla's query whether the redress of grievances should not start with the right to peaceful assembly, Mr. Ople agreed that it should be so in the narrower context of redress of grievances but stated that "redress" in the proposal is used in its generic meaning.

On whether the right to a democratic government could also be expressed through periodic elections, Mr. Ople replied that it could in normal times but the situation the provision contemplates is one wherein the people are already alienated from the government to the point of desperation and therefore the ability to conduct a free and honest election may have been greatly impaired.

On whether the people could also resort to rebellion to assert their inherent right to change a government that does not serve their needs, Mr. Ople replied that the provision only sanctions nonviolent means to attain that end and any employment of force would be considered in excess of the constitutional authority.

Mr. Padilla stated that the U.S. Declaration of Independence also recognizes the right of the sovereign people to change a tyrannical government but the U.S. Constitution does not contain a provision similar to the one being proposed. He opined that there is no need for including the section in the Constitution.

POINT OF ORDER

At this juncture, Mr. Bengzon raised a point of order on the ground that the Body has passed the period of interpellations. He stated that the Rules allows the proponent five minutes to explain

his proposal and two speakers for, and two speakers against. Noting that Mr. Padilla was articulating his objection to the proposal, Mr. Bengzon pointed out that Messrs. Garcia and de Castro had already spoken against it.

Mr. Ople pointed out that Mr. de Castro did not speak against.

Thereupon, Mr. Davide commented that even in the period of amendments any proponent thereof could still be interpellated but the rules stipulate a limit on the number of those who could speak against a particular amendment. He stressed that there is no rule which limits the number of those who could interpellate a proponent of an amendment.

Mr. Bengzon maintained that all interpellations should be made during the period of interpellations and debate, while in the period of amendments a proponent could articulate on his proposal, with two speakers for and two against, subject to the five-minute rule.

Mr. Davide contended, however, that for the period of amendments, there is no rule which limits the number of

Members who could interpellate the proponent of an amendment. He added that the Rules merely limits to two the speakers who could speak against a particular amendment.

Mr. Maambong concurred with Mr. Davide's opinion. He added, however, that Mr. Bengzon's observation is also correct because there are many Members who stand not to propose an amendment but to speak for or against it. He suggested that for a Member to be entitled to the five-minute rule, he should stand to propose an amendment.

Mr. Bengzon suggested enforcement of the Rules with respect to amendments.

REMARKS OF MR. DAVIDE

Thereupon, Mr. Davide stated that instead of proposing an amendment, he would speak against the section for the following reasons: (1) it is unnecessary and superfluous because it is already covered by Section 1 of the Article; and (2) it is restrictive because when the provision states "when the government systematically violates the Constitution and the laws, it forfeits its authority and the people may take steps to redress this fundamental wrong", the people could only change such government if the violations are systematic and only through violent means when, in fact, the people could redress their grievances through the Judiciary without necessarily replacing the government.

At this juncture, Mr. Maambong stated that four Members had already spoken against the proposal so that only Members who are going to speak in favor should thereafter be allowed. He then asked that Mr. Guingona be recognized to speak in favor of the proposal.

POINT OF ORDER

Thereupon, Mr. Davide raised a point of order on the ground that it was not yet the turno en contra.

Mr. Maambong asked that Mr. Davide withdraw his objection in a spirit of liberality.

Mr. Ople opined that the other Members who are in favor of the proposal should be allowed to speak.

Thereafter, Mr. Davide withdrew his point of order.

REMARKS OF MR. GUINGONA

Thereupon, Mr. Guingona expressed support for the proposal in its entirety to include the phrase "through nonviolent means" in order to emphasize that the people should opt for nonviolent means and to resort only to an armed struggle as a final alternative. He stated that although he agrees that the people have the inherent right to take up arms against the government, this should not be written in the Constitution because violent revolution connotes an act committed beyond the framework of the law. He adverted to Mr. Concepcion's remark that the Constitution is a document that enshrines the rule of law.

MANIFESTATION OF MR. MAAMBONG

Thereafter, Mr. Maambong manifested that no other Members have registered to speak in favor of the proposal. He then requested that the Chair allow those who may want to present amendments to ask some questions first.

In reply to Mr. Bennagen's query whether the proposal only contemplates change of government and not political structure, Mr. Ople stated that the section contemplates a situation where there is total and complete breakdown of all government structures, in which case, the people could rise up and change the government through nonviolent means.

On whether "nonviolent means" seeks to constitutionalize a philosophy of pacifism, Mr. Ople explained that pacifism is passive noninvolvement or evasion of a crisis, hence, the proposal is not a commitment to pacifism because it would involve a very aggressive and vigorous activity on the part of the people.

In reply to Mr. Abubakar's query whether "through nonviolent means" could be deleted, Mr. Ople stated that he was under mandate by several other Members to preserve the phrase.

On whether it would be better to delete the whole provision and leave to the people what steps they would take to replace a tyrannical government, Mr. Ople stated that he would make a brief reply to the query after the interpellations. Also, upon inquiry, he stated that he subscribes to the idea that the voice of the people is the voice of God.

Mr. Abubakar opined that since Mr. Ople subscribes to this idea, the whole provision could be deleted. Mr. Ople stated, however, that the provision is the ultimate test of the general principle laid down in Section 1 of the Article.

Thereupon, Mr. Maambong read the Section as follows:

SEC. 23. WHEN GOVERNMENT SYSTEMATICALLY VIOLATES THE CONSTITUTION AND THE LAWS, IT FORFEITS AUTHORITY, AND THE PEOPLE MAY TAKE STEPS TO REDRESS THIS FUNDAMENTAL WRONG AND ASSERT THE RIGHT TO A DEMOCRATIC GOVERNMENT THROUGH NONVIOLENT MEANS.

Mr. de Castro manifested agreement with Mr. Davide's opinion to delete the entire section.

VOTING ON MR. OPLE'S AMENDMENT

Submitted to a vote, and with 11 Members voting in favor and 22 against, the proposed amendment of Mr. Ople was lost.

CONSIDERATION OF SECTION 23

Thereupon, the Body proceeded to the consideration of Section 23 on the separation of Church and State. Mr. Maambong informed that consideration of Section 21 on the grant of asylum had been deferred.

Mr. Tingson informed that only Mr. Bacani has a proposed amendment on Section 23.

PROPOSED AMENDMENT OF MR. BACANI

Mr. Bacani proposed an additional sentence, to wit:

WHILE THE SEPARATION OF CHURCH AND STATE BE MAINTAINED, THE STATE SEEKS THE COLLABORATION OF THE CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE TOTAL WELL-BEING OF ITS CITIZENS AND ACKNOWLEDGES THE RIGHT OF CHURCHES AND RELIGIOUS BODIES TO COMMENT ON GOVERNMENT POLICIES AND ACTUATIONS.

Mr. Bacani stated the reasons, to wit: 1) it is necessary that the Church and State should be independent of each other; 2) it is necessary that Church and State should collaborate towards total upliftment of the well-being of the citizens. He informed that his study of some 135 Constitutions revealed that 8 have explicit provisions on the separation of Church and State while 2 have something substantially similar to it. He noted that 7 of the 8 Constitutions belong to communist countries. He maintained that the statement on separation of Church and State should be balanced by a corresponding truth that the State seeks or welcomes the collaboration of the churches

and religious bodies to promote the citizens' well-being.

MR. RODRIGO'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Rodrigo proposed to amend Mr. Bacani's amendment, to wit:

THE SEPARATION OF CHURCH AND STATE SHALL BE MAINTAINED. THE STATE, HOWEVER, WELCOMES THE HELP AND COLLABORATION OF CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS.

He stated that the rest of the sentence can be deleted.

Mr. Maambong requested Mr. Bacani to concretize his proposed amendment inasmuch as the Members of the Committee did not understand it well. Upon Mr. Maambong's inquiry, Mr. Bacani affirmed that his amendment would be after the word "inviolable".

Mr. Bacani then stated that he would like to retain the proposed amendment of Mr. Rodrigo. As amended, the provision would then read: "The separation of Church and State shall be maintained. THE STATE HOWEVER WELCOMES THE HELP AND COLLABORATION OF CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS."

Mr. Azcuna, speaking on behalf of the Committee, did not accept the amendment.

Upon inquiry of Mr. Maambong, Mr. Bacani stated that he would insist on the amendment, at least on the proposal of Mr. Rodrigo. He observed that none of the eight constitutions clearly provides that the separation of Church and State is inviolable.

REMARKS OF MR. BERNAS

Mr. Bernas opposed the amendment. He noted that there are already two provisions touching on the separation of Church and State in the Constitution, namely: 1) the provision in the Bill of Rights on the non-establishment of a State religion; and 2) the provision lifted from the 1973 Constitution being proposed by the Committee. Both provisions, he stated, have a long history of jurisprudence. He stated that the relation between the Church and State is a dynamic and changing relationship and that such changes have taken place not only because of the State's self-understanding of itself but also because of the churches' understanding of themselves. He noted that this is a delicate relationship which involves balancing the values of "separation" and "religious liberty".

The Constitution, he observed, contains two concepts — the freedom of religion and the non-establishment of State religion which are not exactly the same, but are distinct rights which sometimes oppose each other. He stated that there are times when insistence of the separation of Church and State may trench on freedom of religion and that the delicate task of balancing could be best done in the context of concrete cases.

The amendment, he observed, would be an invitation to the entanglement of religion with the State and opined that the cooperation between the two should grow dynamically without encouragement from anybody inasmuch as there is always the danger that the State shall try to impose itself on the Church. He noted that instead of opening such possibility, the Constitutional provision should be left as it is. He remarked that "collaboration" may in fact be interference. He urged that the Body remain silent on the matter and leave the development of the relation between the Church and State through case law, where positions are argued in the light of actual circumstances. He stated that the lesser is said about the relationship, the safer it would be for the nation.

REMARKS OF MR. TINGSON

Mr. Tingson stated that Filipino forefathers provided the following under Title 3, (Religion), Article V, of the Malolos Constitution:

"The State recognizes the freedoms and equality of religious worship as well as the separation of the Church and the State."

He observed that from that time, when all the civilized world found a compelling reason to enshrine in its laws the principle of separation of Church and State, the people's understanding of this principle has improved so much so that even in the face of a widespread awakening of the churches to political and socioeconomic realities, the Church and State have not taken over each others prerogatives, except in countries where these realities are much too harsh so as to engender a revolutionary atmosphere.

He noted that by and large, democracies of the free world have adhered to this time-honored principle, which principle should be reinstated in the basic law as its absence could invite dire possibilities in the future.

Mr. Tingson observed that even John F. Kennedy, President of the United States during the early 1960's, reminded the Americans that the principle of the separation of Church and State exists and remains inviolable. He noted, however, that the number of years spent in observing this would not guarantee its inviolability.

Furthermore, he stated that religion is a pervasive and overwhelming fact of national existence and while the notion to regulate religious observance is not entertained, religion should not unduly influence the formulation and implementation of state policies.

It is a historical fallacy, he said, to attribute to the churches an intrinsic desire to override government in its functions and that the historical action has been one of evolution, from the former state of fusion to one of present-day separation. He stated that he would like to believe that old societies found it beneficial and necessary to fuse the functions governing observances and rituals, and that many of the latter prophets were secular and religious leaders of the Israelites.

Much later, he stated, it was conceived that an individual might be free in his worship, or even in the absence of it. Conquests, he noted, brought within national boundaries a divergence of religious views and that it was reasoned that a government might allow free exercise of religious beliefs on condition that it retains the basic attributes of its existence and effectiveness. The spirit of democracy, he stated, has won for religion and government a new perception to treat each other with understanding and tolerance.

He stated that the separation of Church and State has long been established and enjoys a respected place in the country's heritage. He recalled that in the Constitutional Convention of 1971, there were debates on this principle. He noted that for religion to flourish in society, it should observe this principle inasmuch as the space provided for it in the sphere of spiritual influence is wide and broad enough that it need not aspire to control the political sphere to fulfill itself.

The overriding concern, he stressed is that the Church or the State can destroy itself by interfering with the business of the other. He underscored the need for government to referee conflicting aspirations and to guide and give direction.

He noted that the principle does not necessarily mean enmity between the Church and the State although it is best that the principle separating them is recognized.

SUGGESTION OF MR. RIGOS

Mr. Rigos suggested that the Body vote on the sentence recommended by the Committee and later on vote on the proposed amendment.

Mr. Maambong observed that even the first sentence has been amended from "The separation of church and state shall be inviolable" to "The separation of Church and State shall be MAINTAINED".

REMARKS OF MS. AQUINO

Ms. Aquino opposed the amendment to the Committee formulation. She noted that as articulated by Mr. Bernas, the religion clauses in the Constitution are constantly in tension over the interpretation of this provision. She also observed that if there is a problem which arises from the religion clauses, there is a requirement of the best possible efforts to accommodate according to settled usage in law and jurisprudence. She stated that freedom of religion does not mean license to disregard the command of the sovereign State and neither does disestablishment mean total abstention of the State from the regular mode of support or even donation to some of the church institutions.

She observed that jurisprudence in the U.S. and Western countries shows that the States have staked their existence on the faith that the separation of Church and State is good both for them and that jurisprudence is zealously guarding against the fusion of secular establishments with sectarian institutions.

REMARKS OF MR. BACANI

Mr. Bacani observed that two points have been made: 1) the necessity to uphold the "separation of Church and State" as affirmed by the amendment; and 2) the need to maintain a balance. The purpose of the amendment, he clarified, is not to negate that separation but to redress an imbalance. He noted that during martial law, the Church had to be critical of the regime and that the principle was invoked against the prophetic ministry of the Church.

He recalled that President Marcos, in the Iglesia ni Kristo compound, accused churchmen of violating the principle, when they were only exercising their prophetic function.

He stated that Mr. Bernas himself, in a letter to Mr. Tingson, who was a Delegate to the 1971 Constitutional Convention, said that "according to Wilfred Parson, the phrase does not have any meaning at all".

He stressed that the intention is not to deny or eliminate the Constitutional provision but that the Church would welcome cooperation and collaboration. He stated that he agreed to delete the rest of his amendment inasmuch as it includes the right of the churches to exercise prophetic criticism which is another form of cooperation. He stated that Mr. Nollado would explain the background of the 1973 provision and how Mr. Marcos favored it because of his displeasure with the Catholic hierarchy.

INQUIRY OF MR. RIGOS

Mr. Rigos inquired whether the word "inviolable" had been changed to MAINTAINED.

Mr. Bacani stated that he would be willing to accept "inviolable".

Mr. Maambong stated that the proposed amendment is an amendment by substitution inasmuch as the original formulation had been changed. The amendment of Mr. Bacani, he noted, is to change "inviolable" to MAINTAINED and thereafter to add the sentence proposed by Mr. Rodrigo.

REMARKS OF MR. BERNAS

Mr. Bernas clarified that he does not oppose the separation of Church and State and that the statement "The separation of Church and State is inviolable" is a harmless statement which he would be willing to tolerate. He stated that the jurisprudence on Church and State shows the arguments are based not on the statement of separation of Church and State but on the establishment clause of Section 8 of the Bill of Rights. He stressed that what he is against is the explicit invitations for cooperation because it could entangle the Church and State and may serve as an opening for fanatics to try to dictate their will on the State. He noted that during the past regime there were concrete problems and there were attempts to use the doctrine of separation of Church and State.

REMARKS OF MR. NOLLEDO

Mr. Nollado spoke in support of Mr. Bacani's proposal on condition that the word "collaboration" be changed to COOPERATION. He noted that the latter term would really lead to an entanglement as contemplated by Mr. Bernas. He confirmed the statement of Mr. Bacani that the provision was inserted through the intervention of Mr. Marcos who was alarmed by the opposition to his regime by certain sectors of religion, basically the Roman Catholic Church and certain Protestant ministers. He opined that the use of "cooperation" would attune the provision to realities. He informed that, as Mr. Bernas observed in his position paper submitted to the 1971 Constitutional Convention, the prohibition against the establishment of religion should not be based on complete separation of Church and State, a modern slogan which could be misleading.

Mr. Rodrigo accepted the change of the word "collaboration" to COOPERATION and to delete the words "help and", so that the amendment would read:

THE SEPARATION OF CHURCH AND STATE SHALL BE INVIOABLE. THE STATE, HOWEVER, WELCOMES THE COOPERATION OF CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS.

Ms. Aquino refused to accept the amendment and insisted on the formulation that the separation of Church and State shall be inviolable.

Thereupon, Mr. Maambong restated the first sentence, to wit:

THE SEPARATION OF CHURCH AND STATE SHALL BE INVIOABLE.

At this juncture, Mr. Davide stated that this sentence should not be taken as part of Mr. Bacani's amendment because it is the original wording of the Committee Report which may still be subject to amendments. He then suggested that the Body vote on the second sentence.

Mr. Maambong agreed that the voting be limited to the second sentence, to wit:

THE STATE, HOWEVER, WELCOMES THE COOPERATION OF THE CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS.

At this juncture, Mr. Abubakar proposed to include the word "mosque". In reply, Mr. Bacani stated that "religious bodies" was precisely used in order to include the Muslims and other religious groups. Mr. Abubakar insisted, however, on the inclusion of the word "mosque" as a separate institutional structure of worship for the Muslims, in reply to which Mr. Bacani explained that "church" does not mean place of worship but an institution or group of people.

POINT OF ORDER

At this juncture, Mr. Bengzon raised a point of order on the ground that the Body should first act on the pending motion.

Thereupon, Mr. Maambong stated that Mr. Abubakar had earlier indicated that he was against the amendment. He then requested the Chair to take note of Mr. Abubakar's statements so that they may be considered during the voting, to which Mr. Abubakar replied that he was not against the amendment but was merely insisting on the inclusion of the word "mosque".

VOTING ON THE AMENDMENT

Thereafter, submitted to a vote, and with 6 Members voting in favor, 26 against and 2 abstentions, the amendment was lost.

APPROVAL OF SECTION 27

Thereupon, Mr. Maambong stated Section 27, which had been renumbered as Section 24, to wit:

THE SEPARATION OF CHURCH AND STATE SHALL BE INVOLABLE.

Submitted to a vote, and with 36 Members voting in favor and none against, Section 27 was approved by the Body.

MANIFESTATION OF MR. TINGSON

Mr. Tingson manifested that the Body had finished with the original draft of the Committee Report, however, there would be five more amendments for additional paragraphs.

ADJOURNMENT OF SESSION

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

It was 7:07 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA

President

Approved on September 24, 1986

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