

R.C.C. NO. 84

VOL. IV, September 16, 1986

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Tuesday, September 16, 1986

OPENING OF SESSION

At 10:05 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Serafin V.C. Guingona.

Everybody remained standing for the Prayer.

PRAYER

MR. GUINGONA: Merciful Father, we, Your sons and daughters in this Commission, offer to You today our renewal of total commitment and dedication to the task before us of framing a Constitution for our people. As we reach the last stages of its completion, we invoke Your Divine Aid for continued moral, mental and physical strength — strength to stand by what is morally right; strength to be able to use our mental capacities to the utmost for the benefit of our people, particularly the underprivileged; strength to carry us through to the last day of our sessions.

Dear Lord, You have brought us together. Help us to liken ourselves as members of a large family under Your paternal care and guidance, each Member different from the other, each blessed with different expertise and having different views yet sharing the same concern, each respecting the opinion of the others, and no one attempting to impose his or her will on another. For it is in the harmonious blending of our efforts and abilities that we will be able to frame a Constitution that is reflective of the ideals and aspirations of our people.

Grant us the resolve to persevere in our efforts and let not our human frailties hinder us from drafting a Constitution truly worthy of our people at the soonest possible time, a Constitution that would secure to ourselves and our posterity the blessings of democracy under the rule of law and a regime of truth, justice, freedom, love, equality and peace. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present[*] Nieva Present

Aquino Present Nollado Present

Azcuna Present Ople Absent

Bacani Present[*] Padilla Present

Bengzon Present[*] Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Absent

Davide Present Sarmiento Present

Foz Present[*] Suarez Present

Garcia Present[*] Sumulong Present

Gascon Present Tadeo Present[*]

Guingona Present Tan Present

Jamir Present Tingson Present

Laurel Absent Treñas Present

Lerum Present[*] Uka Present

Maambong Present[*] Villacorta Present[*]

Monsod Present[*] Villegas Present

Commissioner Rustico F. de los Reyes, Jr. is on official mission.

The President is present.

The roll call shows 30 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

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

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolution on First Reading and Communications, the President making the corresponding references:

PROPOSED RESOLUTION ON FIRST READING

Proposed Resolution No. 545, entitled:

RESOLUTION TO DEFER VOTING ON BASES AND NEUTRALITY UNTIL AFTER THE
PRESIDENT'S VISIT TO THE UNITED STATES.

Introduced by Honorable Villacorta, Concepcion, Suarez, Sarmiento, Nolledo, Davide, Jr., Uka, Tan, Gascon, Quesada, Garcia, Bennagen, Aquino, Tadeo, Bernas, Azcuna, Abubakar, Foz and Rosario Braid.

To the Steering Committee.

COMMUNICATIONS

Letter from Atty. Floro S. Caritan, No. 1-3 Molave Street, 2nd Reyville Subdivision, Pamplona III, Las Piñas, Metro Manila, expressing his views on the proposed "budget priority in compulsory elementary and high school education," saying that this can be a draw-back to some other good provisions in the Constitution because it can mean some delays in infrastructure, agricultural developments, the construction and repair of highways, bridges and roads, because it must be all out for education.

(Communication No. 915 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Atty. Manuel T. Ferrer of the Small Rice Landowners Association of Camarines Norte, expressing full support to the provisions of Section 5 of the proposed Article on Social Justice.

(Communication No. 916 — Constitutional Commission of 1986)

To the Committee on Social Justice

Letter from Mr. Roman Gonzales and three others, Barangay Abogado, Paniqui, Tarlac, urging the Constitutional Commission to consider the upliftment of the veterans who have been left out by Batas Pambansa Blg. 644.

(Communication No. 917 — Constitutional Commission of 1986)

To the (Committee on Social Justice.

Letter from one Taisuke Ogawa of 329-1 Uyanagikamimachi, Katsushiro, Kumamoto, Japan, urging the Constitutional Commission to include the base-free and nuclear-free provisions to see a demilitarized and nuclear-free world.

(Communication No. 918 — Constitutional Commission of 1986)

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

Communication from Mr. Agaton N. Ibarbia I, President Small Landowners Association of Buhi, Inc., Buhi, Camarines Sur, expressing support for the adoption of a provision protecting the small fishermen from being dispossessed by the rich and foreign group of people and the provision for adequate employment opportunities to deprived citizens affected by the land reform laws.

(Communication No. 919 — Constitutional Commission of 1986)

To the Committee on Social Justice.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: I move that we continue the consideration of Committee Report No. 36 on Proposed Resolution No. 537 on the Article on the Declaration of Principles.

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

The honorable chairman and members of the committee will please occupy the front table in order that we may continue our discussion.

MR. RAMA: Madam President, we are now in the period of interpellations. However, yesterday two Gentlemen reserved their right to make a speech on the Article on the Declaration of Principles. May I ask that Commissioner Azcuna be recognized.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Madam President.

I rise to support Section 3 of the Declaration of Principles submitted by the committee. The proposal is to assert Philippine sovereignty on Philippine territory by providing that no foreign military bases will henceforth be allowed on Philippine territory. First of all, this proposal does not seek the immediate dismantling of foreign military bases in the Philippines. It clearly states that it is subject to existing international agreements. The Philippines will honor all its international treaty obligations.

The first thing that we should invite attention to is that the RP-US Bases Agreement is due to expire in 1991. If we let it lapse in 1991 without renewing it, we will not be reneging on any obligation; we will not be violating any

promise; we will not be tainting our honor, for our promise, our agreement and our obligation is merely to let them have these bases up to 1991, and no more. That should be very clear.

After the agreement expires in 1991, the question, therefore, is: Should we extend a new treaty for these bases to stay put in 1991 in our territory? The position of the committee is that it should not, because the presence of such bases is a derogation of Philippine sovereignty.

It is said that we should leave these matters to be decided by the executive, since the President conducts foreign relations and this is a question of foreign policy. I disagree, Madam President. This is not simply a question of foreign policy; this is a question of national sovereignty. And the Constitution is first and foremost a document of sovereignty. If the Constitution is anything at all, it is a definition of the parameters of the sovereignty of the people.

We are tasked here, Madam President, to draft a constitution. In facing that task we encounter certain drawbacks, certain restrictions, certain derogation to the very sovereignty that we wish to assert under this Charter. Shall we leave it undecided? Shall we leave it to be determined in other fora rather than here? We cannot, Madam President, because the very task we are called to do and to perform is a task of definition of sovereignty, and the biggest restriction, infringement and impairment of that sovereignty we encounter right now is the presence of a foreign military bases in our land.

It is akin to a carpenter who is asked to build or rebuilt a house, but the carpenter encounters termites in the house that undermine the very foundation of that house that he is asked to build or rebuild. And some people tell him, "never mind the termites you are asked to build a house and not to exterminate the termites. Build the house now; let others exterminate the termites later on." That cannot be done. It is a prejudicial question that these termites must be removed, otherwise there is no sense in building the house.

Restrictions and derogations of Sovereignty must be addressed, otherwise there is no sense in drafting a document that is called the Constitution, which is a document of political sovereignty.

They say that the Philippines is a petite country, small, like a fragile woman. I vigorously disagree with that statement, Madam President. The Philippines is among the largest countries in the world both in terms of area and population. We are a big country. We have sufficient resources. We have human as well as natural resources that are more than enough to allow us to stand on our own two feet. We do not have to rely perpetually on foreign powers for our defense.

The RP-US Bases Agreement is tied up with the RP-US Mutual Defense Treaty. It is said that we need these bases; that we need this mutual defense treaty for our security, for we are not yet ready to defend ourselves. When will we be ready, Madam President? When will the foreign powers that seek to defend us train us so that we will be able to defend ourselves? Is it not in the interest of a foreign power to make us perpetually dependent on it rather than to train us to stand on our own? As these military agreements expire and as we draft a charter that will assert the sovereignty of our people, it is our task and our duty to give to the people the right to define their own destiny. To leave it out of the proposed Constitution would be to deceive our people. We tell them that they are free, independent, nay, sovereign, yet we do not address the one single factor that derogates and undermines that sovereignty. We pretend that our people are the shapers of their destiny, the masters of their land, the captains of their soul when, in fact, they are not.

I, therefore, propose that we support the committee report that would seek to address this issue squarely because it is an issue of sovereignty. It is an issue that cannot be shirked; it is an option that must be exercised, not by the President, not by the Senators but by the people themselves. If we do not put it in the Constitution, then we are, in

effect, depriving the people of the option to decide this matter.

Thank you, Madam President.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: Commissioner Natividad had also reserved the right to deliver a speech, but he is not here. So, we can proceed to the period of interpellations.

May I ask that Commissioner Bernas be recognized?

THE PRESIDENT: Commissioner Bernas is recognized.

MR. SUAREZ: Madam President, may I be recognized for a parliamentary inquiry?

THE PRESIDENT: Commissioner Suarez may proceed.

MR. SUAREZ: Thank you.

The article under consideration consists of something like 27 sections, Madam President. I wonder if we could adopt the procedure we did when we were discussing the Article on Human Resources which was divided into four main topics. Considering that in the Article on the Declaration of Principles there are 27 sections that would be the subject of interpellations, can we be methodical and systematic in the interpellations as we did when we were discussing the Article on Human Resources which proved to be very productive and very fruitful?

THE PRESIDENT: What is the Gentleman's suggestion?

MR. SUAREZ: My humble suggestion is that we interpellate successively on each section without jumping from one section to another so that there will be a system. In other words, let us start with Section 1, get through with all the interpellations for Section 1, and then move on to Section 2, Section 3, down the line until we complete the whole thing.

Thank you, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: We will suspend the session for a few minutes. The Chair would like to confer with the members of the committee.

It was 10:25 a.m.

RESUMPTION OF SESSION

At 10:36 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

It was agreed upon with the members of the committee this morning that what we shall have is the interpellation on any subject covered by the committee report on the Article on the Declaration of Principles. So the Chair would request those who wish to interpellate to please register or give their names to the Acting Floor Leader.

MR. ROMULO: Madam President, may I ask that commissioner Bernas be recognized.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, just a few questions addressed to the Commission in general.

First, with respect to the second sentence of Section 1, which says:

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

I am interested in the last phrase, "continues only with their consent," which was not in the 1935 Constitution nor in the 1973 Constitution. What does it refer to? Does it refer to the government or to the administration.

MR. TINGSON: Madam President, we are asking the Honorable Azcuna, a member of the committee, to reply if he so desires.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Madam President.

It definitely applies to the administration, Madam President. We believe it also applies to the government in relation to another section here which is the proposal of the Honorable de Castro, which is the right to change governments in case of a long chain of abuses.

FR. BERNAS: Madam President, I would still ask: Is the word "government" to be understood in the sense of an abstract structure or does it refer to the concrete set of warm bodies in whose hands the powers of government happen to reside? Political law makes a distinction between government and administration. What does this refer to and what does Commissioner de Castro's other proposal refer to? Does it mean administration or government?

In other words, does this section mean that every time we are dissatisfied with the performance of the concrete set of people who are with the administration or government, we must have a revolution?

MR. AZCUNA: No, that is not the meaning, Madam President. It means that we change those who are temporarily occupying the government, if the people are not satisfied with their performance.

FR. BERNAS: In other words, the phrase "continues only with their consent" primarily refers to the authority of the concrete set of people, not necessarily of the government.

MR. AZCUNA: Commissioner Nolleto will answer that.

MR. NOLLEDO: Commissioner Bernas is right. The authority of the people in administering the affairs of government will continue with the consent of the people. And, Madam President, it will be noticed that there are two parts contemplated by the words "continues only with their consents" namely: when people go to the polls periodically to elect their government officials; and, secondly, when widespread injustices are being committed; when there is widespread graft and corruption in the government; when the government no longer represents the sentiments of the people and the regular election is not yet forthcoming, the people may, through peaceful means, terminate that authority in accordance with the de Castro resolution.

FR. BERNAS: Which is it, terminate the authority of that administration or terminate the government itself?

MR. NOLLEDO: I would say the administration.

FR. BERNAS: But does this, therefore, exclude the possibility of terminating the authority of government? In other words, does this exclude revolutions

MR. NOLLEDO: It does not exclude revolution when, for example, the government also uses force and commits widespread terrorism. Then, the people under the de Castro resolution may take the law into their hands. That is

the extreme, the last resort; and the people's power must prevail.

MR. TINGSON: Madam President.

FR. BERNAS: Is this last clause inspired or motivated by the February event?

MR. TINGSON: Precisely, our committee has received a number of resolutions advocating the enshrining of the people's power in our Constitution, and this is a direct response of the committee to those resolutions.

FR. BERNAS: So, what this refers to primarily is not the administration but the government itself.

MR. NOLLEDO: I would like to clarify. When we say "government," we are referring to the entity itself.

FR. BERNAS: Yes.

MR. NOLLEDO: When we say "administration," we refer to the people who administer the affairs of the government.

FR. BERNAS: Correct.

MR. NOLLEDO: While we are for the changing of the people who administer the affairs of the government and who commit misrule, we do not topple the government. The government is an intangible entity.

FR. BERNAS: Perhaps, as we say, this was inspired by the February event. Would the committee's reading be that the February event was a change of government or a change of administration?

MR. NOLLEDO: I think in the present situation, it was a change of both. The government and administration were changed because we are adopting a revolutionary form of government. But it does not necessarily mean this situation will always be the situation in all cases. It only happened that there was a need to change the Constitution of Mr. Marcos and to conduct a revolutionary form of government in view of the economic turmoil and the political confusion. But it does not mean that this will uniformly apply in the future, Madam President; that was an extraordinary event that happened last February.

FR. BERNAS: Thank you, Madam President.

So my next set of questions will have reference to the second paragraph of Section 3. The second paragraph of Section 3 has two sentences. Are they inseparable, Madam President? In other words, does the second sentence necessarily follow the first or could the first sentence allow for a situation different from what is described in the second sentence?

MR. AZCUNA: Madam President, the second sentence is a specific case of the first sentence. The first sentence speaks of national sovereignty, self-determination and independence. And the second sentence is a specific situation wherein that sovereignty is being derogated by the presence of foreign military bases and, therefore, it calls for their removal or prohibition.

FR. BERNAS: My question is: Is it the position of the committee that the presence of foreign military bases in the country under any circumstances is a derogation of national sovereignty?

MR. AZCUNA: It is difficult to imagine a situation based on existing facts where it would not. However, in the abstract, it is possible that it would not be that much of a derogation. I have in mind, Madam President, the argument that has been presented. Is that the reason why there are US. bases in England, in Spain and in Turkey? And it is not being claimed that their sovereignty is being derogated. Our situation is different from theirs because we did not lease or rent these bases to the U.S. The US. retained them from us as a colonial power.

FR. BERNAS: So, the second sentence, Madam President, has specific reference to what obtains now

MR. AZCUNA: Yes. It is really determined by the present situation.

FR. BERNAS: Does the first sentence tolerate a situation radically different from what obtains now? In other words, if we understand sovereignty as autolimitation, as a people's power to give up certain goods in order to obtain something which may be more valuable, would it be possible under this first sentence for the nation to negotiate some kind of a treaty agreement that would not derogate against sovereignty?

MR. AZCUNA: Yes. For example, Madam President, if it is negotiated on a basis of true sovereign equality, such as a mutual ASEAN defense agreement wherein an ASEAN force is created and this ASEAN force is a foreign military force and may have a basis in the member ASEAN countries, this kind of a situation, I think, would not derogate from sovereignty.

MR. NOLLEDO: Madam President, may I be permitted to make a comment on that beautiful question. I think there will be no derogation of sovereignty if the existence of the military bases as stated by Commissioner Azcuna is on the basis of a treaty which was not only ratified by the appropriate body, like the Congress, but also by the people.

I would like also to refer to the situation in Turkey where the Turkish government has control over the bases in Turkey, where the jurisdiction of Turkey is not impaired in anyway, and Turkey retains the right to terminate the treaty under circumstances determined by the host government. I think under such circumstances, the existence of the military bases may not be considered a derogation of sovereignty, Madam President.

FR. BERNAS: Let me be concrete, Madam President, in our circumstances. Suppose they were to have this situation where our government were to negotiate a treaty with the United States, and then the two executive departments in the ordinary course of negotiation come to an agreement. As our Constitution is taking shape now, if this is to be a treaty at all, it will have to be submitted to our Senate for its ratification. Suppose, therefore, that what was agreed upon between the United States and the executive department of the Philippines is submitted and ratified by the Senate, then it is further submitted to the people for its ratification and subsequently, we ask the United States: "Complete the process by accepting it as a treaty through ratification by your Senate as the United States Constitution requires," would such an arrangement be in derogation of sovereignty?

MR. NOLLEDO: Under the circumstances the Commissioner just mentioned, Madam President, on the basis of the provision of Section 1 that "sovereignty resides in the Filipino people," then we would not consider that a derogation of our sovereignty on the basis and expectation that there was a plebiscite.

FR. BERNAS: Thank you, Madam President.

Still in relation to this, towards the end of the report, lines 28 to 31 of page 5, we have a portion there for inclusion in the Transitory Provisions. As Section 3 is formulated, is this transitory provision necessary or does Section 3 already take care of this?

MR. NOLLEDO: If I were to decide, with due respect to the committee because the committee recommends a transitory provision on the basis of the second paragraph of Section 3, Madam President, there is no need.

FR. BERNAS: There is no need.

MR. NOLLEDO: There is no need for a transitory provision because it says, "Subject to existing treaties, international or executive agreements." This is on the assumption that the RP-US Bases Agreement is really a treaty because there is a claim that this agreement is null and void, as I pointed out in my sponsorship speech. That agreement was not ratified by the Senate of the United States and it was executed under Resolution No. 3 of

the Congress of the United States under highly questionable circumstances.

FR. BERNAS: With that answer, Madam President, would it, therefore, be possible to drop lines 20 and 21 of page 1 and lines 1 and 2 of page 2 and consider the same matter when we take up lines 28 to 31 of page 5?

MR. NOLLEDO: There is a possibility. But Commissioner Garcia would like to make a comment.

MR. GARCIA: Madam President, I would like to add this fact. We are also stating here a principle that we do not wish to have any foreign military bases of any kind from any power under any administration as a declaration of our principle because the mere acceptance of foreign bases is also a diminution of our sovereignty, although we accept, as has been stated by Commissioner Nollado, that there can be a voluntary or willful giving up of part of our sovereignty under extraordinary circumstances when it is properly ratified by the people. But in any case, it is still a diminution of our sovereignty, if we allow foreign troops and facilities in our land. That is why we would like to state categorically in our Declaration of Principles that we do not wish to have foreign bases, as a matter of principle.

FR. BERNAS: Let me formulate my question differently then. Let us suppose that we were to approve the second sentence of paragraph 2 of Section 3. Would it still be necessary to take up the transitory provision?

MR. NOLLEDO: Madam President, as I see it — please tell me if I am wrong — the way the questions are worded, the Gentleman would like to say that there should be no declaration in the Declaration of Principles that no military bases shall exist in the country because this treaty can be entered into later on and will assume validity if ratified by the people.

FR. BERNAS: That is not what I am saying, Madam President. What I am saying is, it would seem to me that one or the other will suffice.

MR. AZCUNA: May I answer that, Madam President. It will not necessarily suffice because under the first part of Section 3 which says: "Subject to existing treaties, international or executive agreements. . ." it can be renewed because the existing agreements allow renewal whereas under the portion for inclusion in the Transitory Provisions, what we are saying is we do not renew it anymore.

FR. BERNAS: It seems to me the Gentleman is sponsoring two contradictory propositions. One says it is possible to renew, while the other says no renewal.

MR. AZCUNA: Yes. We are saying that the existing agreement allows the possibility of renewal and then the other exercises the option not to renew. It is not inconsistent; we are exercising the option already. We will make the people exercise the option.

MR. NOLLEDO: Madam President, to make it clearer, I say: if we adopt in the Declaration of Principles that no military bases, troops or facilities shall be maintained in the Philippines, then we can still provide in the Transitory Provisions that the RP-US Bases Agreement may continue up to 1991. And after 1991, it will be unconstitutional for the executive department to negotiate a treaty and, therefore, we do not talk of ratification in that regard.

FR. BERNAS: Is the Gentleman, therefore, saying that this second sentence has reference to the period before 1991?

MR. NOLLEDO: Yes, because we have to respect the existing treaty on the basis of the assumption that the RP-US Bases Agreement is valid. And so, when we make a declaration that no foreign military bases or troops or facilities in the Philippines shall be maintained, then we respect only the RP-US Bases Agreement up to 1991. That is the meaning, Madam President.

FR. BERNAS: But the transitory provision seems to be saying exactly the same thing.

MR. NOLLEDO: No, the transitory provision will be to the effect that the RP-US Bases Agreement will continue up to 1991. In other words, our declaration that no foreign military bases, troops or facilities shall be maintained in the Philippines shall only have prospective effect

FR. BERNAS: Madam President, the transitory provision says that the RP-US Bases Agreement will continue until 1991. Is the second sentence of Section 3 saying that it will not continue until 1991.

MR. AZCUNA: No, it does not.

MR. NOLLEDO: No.

MR. AZCUNA: But as I said, it makes it clear that the option to renew, which is allowed under the existing treaty, will not be exercised.

FR. BERNAS: Let me move on to Section 4. The first sentence of Section 4 says: "The Philippines is a nuclear-free country." Does the phrase "nuclear-free" have reference to any form or use of nuclear power?

MR. AZCUNA: No, Madam President. The intention here, as approved by the committee, is really nuclear weapons-free. It should be read in relation to the second sentence.

FR. BERNAS: So that even if we keep the first sentence as it is worded, it would not, let us say, exclude nuclear power plants?

MR. AZCUNA: Yes, Madam President.

FR. BERNAS: It would not. How about nuclear medicine?

MR. AZCUNA: Especially because of the recent developments in plasma physics where the fusion reactor had a recent breakthrough, attaining 10 million degrees Kelvin temperature in New Jersey, which, therefore, may hasten the advent of a new type of nuclear reactor different from the highly radioactive fusion reactor we have now. This fusion reactor would be relatively clean and its raw materials would be water. And it is expected by scientists that this fusion reactor will be available for commercial use at the turn of the century.

FR. BERNAS: Thank you, Madam President.

MR. NOLLEDO: Madam President, I would like to manifest here that the committee was divided on the scope of the words "nuclear-free country." Commissioner Garcia and I believe that the words should cover both nuclear plants and nuclear weapons.

FR. BERNAS: How about nuclear medicine, Madam President?

MR. NOLLEDO: Nuclear medicine, I think, should be excluded for obvious reason.

FR. BERNAS: Thank you, Madam President.

MR. ROMULO: Madam President, I ask that Commissioner Guingona be recognized.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

With regard to Section 1, in reply to the interpellation of Commissioner Bernas, the committee had expressed the

view that the phrase "continues only with their consent" will generally refer to a change of administration through peaceful means, although the committee has not discounted the use of violent revolution.

Madam President, I have submitted a proposed resolution supporting people's power although perhaps it might be well for us to distinguish between people's power and mob rule. But my view is that when we speak of violent revolution, we are now talking of an act that is outside the framework of the rule of law.

And as the honorable Commissioner, former Chief Justice Concepcion, has repeated more than once, the Constitution is an instrument which enshrines the rule of law. And, therefore, any allusion to any act which would be violative of the rule of law might be questionable.

I am not saying that I am against this as provided in the circumstances mentioned under Section 26 which says:

When a long chain of government abuses and usurpations, pursuing invariably the same object contrary to the expressed will of the people, evinces a design to reduce them under absolute despotism, . . .

I am not saying that under these circumstances the people might not have the right to revolt. I think the right to revolt violently would be an inherent right. But I do not know whether this should be contained in the Constitution which, as I said, is an instrument that enshrines the rule of law.

By way of Illustration, it is an inherent right of a person to kill in self-defense, but in the enumeration of the rights of a person to self-defense, one does not usually include the right to kill in self-defense because we would be encouraging people to kill and claim self-defense in the same way that we would be encouraging people to revolt violently and claim this under the allegation that the circumstances cited exist.

MR. NOLLEDO: Madam President, the rule of law that is embodied in our Preamble can be qualified by the so-called Crispino de Castro resolution now embodied in Section 26. The Gentleman admitted that Section 26 constitutes an inherent right. We are dramatizing the importance of people's power by embodying the inherent right in Section 26. And it does not necessarily mean that we will encourage the people to kill because there are situations that are contemplated therein. And when these situations happen, then that inherent right can be exercised.

Even without putting that in the Constitution, I think the people, as rational beings, know that they have the inherent right to use force when the government no longer serves their purpose, when the government becomes dictatorial or when the government ignores their rights completely. And so, with or without that provision in the Constitution, the inherent right of the people to revolt against an oppressive government as an extreme measure is recognized in all civilized countries.

MR. GUINGONA: That is exactly my point, Madam President. We do not have to put it in the Constitution. I do not know of any Constitution which provides for the right to revolt violently.

MR. DE CASTRO: Madam President.

MR. GUINGONA: Anyway, may I go to the next section. Madam President?

MR. DE CASTRO: Madam President.

MR. NOLLEDO: Before Commissioner de Castro speaks, Madam President, I would like the Commission to know that there is a similar provision in the Preamble itself of the Universal Declaration of Human Rights. We are giving importance to that declaration by putting it here in the Constitution.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized. He desires to respond to Commissioner Guingona's query.

MR. DE CASTRO: Thank you, Madam President.

I am the author of Section 26. It is the intention of Section 26, Madam President, to enshrine in our Constitution the abusive regime of 20 years and the peaceful revolution at EDSA. This is also contained in the Declaration of Independence of the United States on July 4, 1776, unanimously approved by the original 13 states of America. But while it is there, it is really the intention of this humble proponent that we should enshrine in our Constitution what we suffered in those 20 years and what we did, which was the peaceful revolution at EDSA on February, 1986.

Madam President, we talk of revolution. This is not a revolution; this is a change of government, a change of the authorities in government, not a revolution. It can be a peaceful one, but indeed we need such action. We need such a provision in our Constitution so our people may know that it is our right to change our government when we have been long abused.

That is the concept of Section 26, Madam President.

THE PRESIDENT: Is Commissioner Guingona satisfied?

MR. GUINGONA: I will not pursue the matter, Madam President, but I might introduce an amendment at the proper time.

THE PRESIDENT: May we have the next interpellator.

MR. GUINGONA: I am not yet through, Madam President, I have a series of points.

THE PRESIDENT: Please proceed.

MR. GUINGONA: Madam President, may I inquire from the honorable members and chairman of the committee about Section 2. When we say the Philippines adopts the generally accepted principles of international law as part of the laws of the land, does the phrase "laws of the land" refer to statutory laws or constitutional laws or both?

MR. NOLLEDO: Both, Madam President.

MR. GUINGONA: I see. There will be no problem if we refer to the international law whether customary or conventional treaties or conventions as part of our statutory law. In case of a conflict between the provisions of these two laws or these two acts, then we can follow the principle of statutory construction and say that the latter act prevails.

However, I have a situation, Madam President. For example, we have provided expressly in our Constitution that ownership of corporations operating public utilities should be 60-40; there should be a 60-40 equity in favor of Filipinos. Suppose a treaty is entered into later which would give the Filipinos a majority equity that is less than what was provided for in the Constitution, there will be a conflict now between two constitutional provisions — the provision of 60-40 as expressly contained in our Constitution and the provision of a majority ownership as provided for in the treaty which is made a part of our Constitution. In that case, the problem would have to go to court. I was wondering whether it would be safer if we just consider treaties or conventions as part of our municipal law and not part of our constitutional law.

MR. NOLLEDO: In that respect, there is no inconsistency, Madam President, because the treaty itself must be constitutional. If it violates the Constitution, then the Constitution shall prevail.

With respect to the problem, if I were the court or should there be a case, I would decide in favor of a definite constitutional provision that the 60-40 equity should be observed. The rule that the Philippines renounces war as an instrument of national policy and adopts the generally accepted principles of international law is a general statement, a mere declaration, while the other provision in the latter part of the Constitution is very definite. The definite provision should prevail.

MR. GUINGONA: But by adopting the provision of the treaty as part of the Constitution, we, in effect, give it the force of a constitutional provision. Anyway, that is just a question.

MR. NOLLEDO: That statement is very important. The statement that I made that it forms part of the Constitution is with respect to the pertinent provisions of the United Nations Charter because we also observe those provisions. It seems to me that all nations, regardless of the provisions of their municipal law, must respect the UN Charter.

MR. GUINGONA: Regarding Section 3, Madam President, I was wondering whether the statement that "The State shall pursue an independent course in sovereign relations" might impair our treaty-making authority as a sovereign state, particularly, in the matter of concluding agreements regarding the installation of military bases in the country. Would it be an impairment? In other words, would this provision prevent or prohibit our government or the State from entering into an agreement concerning the installation and operation of military bases in our country?

MR. NOLLEDO: As I stated, in answer to the queries of Commissioner Bernas, if we adopt the provision that "no foreign military bases, troops or facilities shall exist in the country," then we will respect only the RP-US Bases Agreement up to 1991 and no further agreement of a similar or identical nature can be entered into by the Republic of the Philippines.

MR. GUINGONA: But what if we do not approve the proposal about the foreign military bases?

MR. NOLLEDO: If we just approve, for example, a provision on neutrality or nonalignment, as I said yesterday, nonalignment does not prohibit temporary alliances. Then, in such a case, we do not prohibit the existence of the military bases agreement pursuant to treaties duly ratified by the appropriate body.

MR. GUINGONA: Madam President, I would not object on the proviso that we should strive — and I underscore the word "strive" — to promote and establish together with other states agreeable thereto, a zone of peace, freedom and neutrality in this part of the world provided it is understood that this is a policy statement and would not be immediately implementable. My view is that as long as the need for the retention of the US military bases exists in order to maintain the balance of power that I spoke of last Saturday, and unless we could disassociate the presence of military bases here with the maintenance of the said balance of power, then there should be no talk about neutrality. This is not to say that I do not favor neutrality as a concept.

During the 19th century, the US was the foremost apostle of neutrality. In the early 1900s, Britain and Russia sought to create neutralized states, the so-called Terra Nullio for their mutual benefit. Switzerland was neutralized to avoid potential competition between France, Prussia and Russia but nuclear weaponry was unheard of then. Besides, the rules of the game, Madam President, including the rules involving neutrality, would be effective only if they are observed and respected by all parties to the agreement. But as has been pointed out by Commissioner de los Reyes, history is replete with incidents of violations of neutrality agreements by signatories thereto when such neutrality affected adversely their national interest which is, after all, the primordial interest of any state.

I admit that circumstances may change if in the future American strength in this part of the world becomes preponderant and there would be no need to continue the maintenance of the bases here or if the United States

could, without risking an adverse shift in the balance of power, transfer its bases elsewhere, and they are willing to do so. Then and only then could we speak of neutrality not only as an objective but as a policy which could be made implementable.

Regarding this nuclear-free country provision, Madam President, I was happy when the committee said — I think it was Commissioner Azcuna who said that — that this would only apply to the stockpiling of nuclear weapons, devices and parts thereof. But I was disturbed when Commissioner Nollado or Commissioner Garcia said that the committee was divided. And I would, therefore, like to say in view of this division that in the sense of the committee it is my humble view that we should not foreclose the use of nuclear energy for peaceful means and for the benefit of our country and our people.

I do not only refer to nuclear plants, Madam President. Even with regard to nuclear plants it might be admitted that at present the installation and operation thereof involve high risks. They are expensive and their use at the moment seems to be limited only to electric generation which could, by the way, include mass transit electrification. The phenomenal growth of science and technology especially during the second half of this century could bring about the installation and operation of nuclear plants in the not too distant future with relative minimal risk and which are inexpensive, especially if the price of oil escalates again because of, let us say, political instability in the Middle East.

In the United States there are about 80 nuclear plants in operation. In our part of the world there are at least five countries with nuclear plants. They are Japan, Korea, Taiwan, India and Pakistan. Commissioner Azcuna had mentioned about the new development called thermo-nuclear fusion which is described as a fantastic source of energy in this book he has loaned me entitled, *The Fourth State of Matter: Plasma Dynamics and Tomorrow's Technology* by Ben Bova. That is why I submit, Madam President, that we should be cautious in reaching a decision regarding the banning of the use of nuclear energy for peaceful purposes. Even with regard to the banning of nuclear weaponry, although I do not express any objection to this, I would like the honorable Members of the Commission to remember the question that was raised last Saturday, whether by adopting a nuclear-free policy in the Constitution we would not unnecessarily restrict our defense system.

Madam President, in support of nuclear safety, or what they call the reactor safety of nuclear plants, may I quote one or two sentences from this book entitled, *Nuclear Power: Both Sides* by Michio Kaku and Jennifer Trainer which says:

Although the trauma of an accident would be great, the net risk to society is small compared with other risks that we accept routinely.

For example, airline accidents can also kill hundreds of people and these occur with notable frequency. The consequences of dam failures could be even larger, thousands or tens of thousands of deaths have higher probability than large reactor accidents.

Madam President, with your kind indulgence, I would like to go to another point, to another section, and this would be Section 6 regarding the prime duty of the government to serve and protect the people and that citizens may be required by law with due regard to objections of conscience to render service.

I have three questions regarding this latter part, Madam President. First, when we say "required by law," do we also contemplate executive orders by the President or are we talking of legislative enactments? When we say "required by law" regarding the fulfillment of the duty of all citizens to render personal military or civil service, are we talking of law as a legislative enactment or are we including the requirement to render service by executive order of the President?

MR. NOLLEDO: I would say it is by law, but when the executive order is issued pursuant to law, I would say that executive order may be included when it is within the domain of presidential power. I think it is known that an executive order which is not contrary to law is also law itself. It has the force of law.

MR. GUINGONA: The Commissioner would include executive orders, Madam President.

MR. NOLLEDO: Yes. An executive order, as long as it is not contrary to law, is deemed included, Madam President.

MR. GUINGONA: There would be no need for a congressional delegation of power.

MR. NOLLEDO: No, that is why I said it must not be contrary to law.

MR. GUINGONA: Thank you.

MR. NOLLEDO: And the President, being the commander-in-chief, may exercise his powers by issuing an executive order in order to make meaningful his position as commander-in-chief.

MR. GUINGONA: With this qualification, "with due regard to objections of conscience." I would presume that this would refer to objections to go to war. Am I right about objections of conscience?

MR. AZCUNA: Yes, Madam President, this refers to conscientious objectors — those whose conscience sincerely tell them that they should not kill people under any circumstances.

MR. GUINGONA: I have been told by military people that service in the military does not necessarily require killing or going to the front. A person could serve in the hospital, as a kitchen helper, cook or whatever. How would this affect their conscience?

MR. AZCUNA: Yes, Madam President, the phrase "with due regard to objections of conscience" does not mean that they will not be drafted but they will be given noncombatant duties.

MR. GUINGONA: So that is the sense, Madam President.

MR. AZCUNA: Yes, Madam President.

MR. GUINGONA: And then finally I was thinking that maybe later on I might suggest the changing of the words "civil service" to "CIVIC SERVICE" because there might be a confusion between "civil service" as provided for under the provision on constitutional commissions and this particular provision.

MR. AZCUNA: Madam President, we just followed the wording of the 1935 and 1973 Constitutions, which is "civil service."

MR. GUINGONA: Yes. At the proper time, I shall ask for the deletion of the second paragraph of Section 10, which says:

For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation.

The above paragraph has already been included in the aims of education. Likewise, I shall propose the deletion of the following statement from Section 19:

Towards this end, it shall promote the development of an indigenous socially responsive and nationalist oriented scientific and technological capability.

The above was already included under the section on science and technology.

I have two more sections that I would like to address myself to, Madam President. With regard to Section 24, relative to the grant of asylum, there is a clause at the end which says: "and they shall not be extradited." I was wondering if it would be better to leave to Congress the decision on whether or not a person could be extradited under certain circumstances as part of the conditions of the grant of asylum.

MR. NOLLEDO: Madam President, the words "and they shall not be extradited" follow the words "defense of human rights and in the liberation of their country" because if foreigners come to our country and we give them asylum but the other country will invoke an existing extradition treaty, in that case, we render meaningless the first part of this provision protecting these people as freedom fighters. When we agree to have them extradited, then the country of origin may execute or render them severe punishment, thereby negating the very purpose of the provision.

MR. GUINGONA: Yes, but the committee is already providing that the conditions shall not be laid down by law. However, I believe this could be a condition that may be laid down by law because there may be circumstances when a person should be extradited, especially when there is an extradition treaty. I was thinking it might be more advisable to leave the decision to Congress. In my opinion, this is again another type of an attempt for us to legislate.

MR. NOLLEDO: We will consider the amendment of Commissioner Guingona.

MR. GUINGONA: My last question has to do with Section 26. I repeat that I do not think we should institutionalize violent revolution because our instrument is an instrument which is supposed to enshrine the rule of law.

Thank you, Madam President.

MR. NOLLEDO: With respect to that, I would like to make it of record that Commissioners Ople, Natividad and Maambong have also filed a resolution similar to Section 26, known as the de Castro resolution.

Thank you, Madam President.

MR. ROMULO: Madam President, I ask that Commissioner Nieva be recognized.

THE PRESIDENT: Commissioner Nieva is not around.

MR. ROMULO: Then, may I ask that Commissioner Rigos be recognized.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, I would like to go back to the question raised by Commissioner Bernas on Section 4. Does the committee distinguish between nuclear-free and nuclear weapon-free?

MR. AZCUNA: The sense of the committee is "nuclear weapons-free," although we were divided. The majority wants to limit it to nuclear weapons-free and, therefore, as the text is written, "nuclear-free" means nuclear weapons-free, as clarified in the second sentence.

REV. RIGOS: In other words, there are members of the committee who feel that the wording should be "nuclear weapons-free."

MR. NOLLEDO: Majority of us favor that, Madam President.

MR. AZCUNA: That is the sense in which it is used.

REV. RIGOS: In Section 9, the committee speaks of the family as a basic social institution. It also speaks of

protecting the life of the mother and the life of the unborn child. This is also included in the Article on Family Rights. Is the intention of the committee to delete that portion in the Article on Family Rights in case this is approved here, or would the committee tolerate the mention of this portion in the Declaration of Principles and in the Article on Family Rights?

MR. NOLLEDO: Commissioner Villegas would like to answer.

MR. VILLEGAS: May I answer that, Madam President.

I think this will also apply to other topics. It is the intention of the committee that in the Declaration of Principles, we make general mention of specific rights, whether these be about the family, labor or cooperativism without prejudice to their being fleshed out, so to speak, in the other articles where we can talk about them in greater detail. I think we should not hesitate to have these in a general statement in the Declaration of Principles, although we may find some duplication in the various other articles but with more details. And I think this is also applicable to family rights.

REV. RIGOS: Apparently, that is the same intention in the case of the role of the youth, Section 10; the role of women, Section 11; labor, Section 12; education, Section 13; agrarian reform, Section 14; cultural minorities, Section 15; science and technology, Section 19; and autonomy, Section 22.

The committee intentionally forgot equally important subjects, such as accountability of public officials, the legislative, the executive, the judiciary. These are not found in the Declaration of Principles.

MR. TINGSON: Madam President, we realize that. In a sense, there is a repetition. However, the Declaration of Principles would be a brief, pungent, affirmative, ringing statement that would, as expressed by Commissioner Villegas a while ago, be fleshed out in detail in succeeding articles. Commissioner Rigos may be right in saying that equally important subjects or articles are not included in the Declaration of Principles, and probably he may desire to call our attention to this during the Period of amendments.

REV. RIGOS: In other words, the committee had some bases in deciding to include agrarian reform, cultural minorities, science and technology, but not the legislative, the judiciary, the accountability of public officials.

MR. TINGSON: One of the bases was the priority of importance, according to the perception of the committee when we were deliberating on this. But we might have overlooked a few that probably merit consideration.

REV. RIGOS: In Section 9, page 3, there is a sentence which reads:

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

When is the moment of conception?

MR. VILLEGAS: Madam President.

MR. TINGSON: The bachelor member of our committee seems to have expertise on this matter.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: As I explained in the sponsorship speech, it is when the ovum is fertilized by the sperm that there is human life. Just to repeat: first, there is obviously life because it starts to nourish itself, it starts to grow as any living being, and it is human because at the moment of fertilization, the chromosomes that combined in the fertilized ovum are the chromosomes that are uniquely found in human beings and are not found in any other living being.

REV. RIGOS: I suppose Commissioner Bacani agrees with the Gentleman on that. I just want to be sure that

Commissioner Aquino also agrees with him.

MR. NOLLEDO: The Gentleman is married; he should know the answer. (Laughter)

REV. RIGOS: Thank you, Madam President.

MS. AQUINO: The committee is strongly divided on the matter of human life regarding the phrase "from the moment of conception." There are questions like: Is a mere biological existence, as a potential for human life, qualifiable as a human person? This is a question that has rankled and divided the committee on the interpretation of this section. I, personally, would take exception to the position of Commissioner Villegas on the matter, except that I am bound by the committee decision on this.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: May I interject a comment at this particular point. I think there need not be, even at this particular point, a conflict between the positions of Commissioner Aquino and Commissioner Villegas. The position of Commissioner Villegas is that there is human life there; he is not asserting that there is human personality in the philosophical sense. I think at this stage of the game, there is no conflict here.

One can vindicate human life biologically and genetically without the need to specify human personality in the philosophical sense.

Thank you.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: We would like Commissioner Rigos to know that the phrase "from the moment of conception" was described by us here before with the scientific phrase "fertilized ovum." However, we figured in the committee that the phrase "fertilized ovum" may be beyond the comprehension of some people; we want to use the simpler phrase "from the moment of conception."

MR. ROMULO: Madam President, may I ask that Commissioner Nieva be recognized.

THE PRESIDENT: Commissioner Nieva is recognized.

MS. NIEVA: Madam President, I just want to ask a very simple clarificatory question with regard to the phrase "a zone of peace, freedom and neutrality." Do I understand that this means we cannot declare ourselves unilaterally neutral? When one declares oneself neutral, would this have to be reached in accord with the consent of other nations, especially the big powers? Is that how we are to understand this?

I think it was brought out that if we declare ourselves neutral or that we strive for an independent course which would declare the country a zone of peace, freedom and neutrality, this would not mean a unilateral declaration of neutrality.

MS. AQUINO: Madam President, it is very clear in the tenor of the formulation that Section 3 is an attempt to constitutionalize a desire.

MS. NIEVA: A desire, yes.

MS. AQUINO: A desire for neutrality to be adopted in the region. Neutrality, therefore, is perceived as a process over time. We cannot legislate on neutrality in the Constitution which is independent of the recognition of the

other areas of other countries within the region.

MS. NIEVA: For example, we want to envision that it is not only the United States that would have to respect our neutrality but also China and Russia, the big powers.

MS. AQUINO: As I explained in the sponsorship speech, the legal forms of neutrality may be varied. These may be in the form of a unilateral declaration by way of law or a decree, like the way it was done in Austria and Switzerland. The recognition of the country would concomitantly and, in effect, mean the recognition of the law or decree on neutrality. It could also be done by way of a multilateral treaty by which the country is recognized by the great powers the way it was done in Belgium and Luxemburg.

MS. NIEVA: Therefore, there are two ways to attain neutrality.

MS. AQUINO: Yes.

MS. NIEVA: From the layman's point of view, what would be the advantages, the effectivity of unilaterally declaring one's country as working towards neutrality, if the other powers will not agree to respect that neutrality?

MS. AQUINO: Madam President, we do not speak of advantages or disadvantages here. We look at the Constitution as an essentially sovereign charter, and, therefore, when we provide in it a desire to declare a policy of neutrality in the region, the idea is to break ground. When we break ground in the expression of that desire in the Constitution, this desire takes root.

MS. NIEVA: And we would mandate the State to take all steps to ensure this neutrality.

MS. AQUINO: Yes.

MS. NIEVA: This includes getting the consent of the big powers, whoever they are, that would infringe on our neutrality.

MS. AQUINO: Yes. The wisdom of the committee formulation is that we are very well aware of the experiences of other countries which have declared neutrality unilaterally, independent of recognition of the other nations adjacent to it, which had faced tremendous obstacles in the realization of a neutrality position. We are very well aware of the sad experiences of Austria and Luxemburg. And for that reason, the committee is of the perception that neutrality can be meaningful only if perceived in the context of a regional neutralization.

MS. NIEVA: If we are working for a no-bases stand, will we be working at the same time that the USSR would agree to eliminate its Cam Ranh Base?

MS. AQUINO: Yes, exactly. That would exist in the realm of negotiations on the adoption of a regional neutralization.

MS. NIEVA: Thank you.

MS. AQUINO: That is distinctly possible.

Thank you.

MR. ABUBAKAR: Madam President, may I raise a question?

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: I wonder if it is wise in matters of foreign policy, foreign relations or foreign movement to incorporate this issue in the Constitution. Flexibility is the rule in foreign policy; flexibility is wiser. And as far as our movement in our foreign relations is concerned, whether we are going to the left, to the center or what, that

would make it difficult if we incorporate this issue in the Constitution.

Can we not just leave this free, so as not to have it incorporated in the Constitution? Besides, our ideas, as well as our move in respect to certain positions, will not be known by whatever group or forces that are for or against it.

MR. NOLLEDO: Madam President, when we provide for neutrality, we are providing for flexibility because this includes nonalignment; we are liberating our country from dependence upon any particular power bloc.

MR. ABUBAKAR: Yes.

MR. NOLLEDO: Therefore, I beg to disagree. When we give more options to our government, the latter may adopt means and ways by which we can conduct our foreign relations. As of now, we are too dependent upon the United States. There must be a clear declaration that we are providing nonalignment now known as "neutralism," by which we are free to deal with any foreign country. We can deal with Russia; we can deal with the United States; we can deal with any country in Europe. We, therefore, widen our options by adopting neutrality.

MR. ABUBAKAR: But is not adopting a neutral position adopting a position itself? Why can we not just leave that blank? Nobody would know; no State would know what our position is. When we adopt neutrality, we take a position, so why include that in the Constitution?

I think that flexibility as a foreign policy should be ruled out of any constitutional provision. Our position in any foreign relation is always temporary. Our paramount interest is the foremost consideration. Therefore, if our paramount interest is this, we go there; if our paramount interest is center, we go center; if it is right, we go right. So, why incorporate in the Constitution a position on matters of neutrality that we should or should not adopt?

I think it should not be included in the Constitution. Let us give our people and our legislature time because development of our foreign relation is always moving from right, center to left or I do not know where, so should we not in the wisdom of our position leave this out?

MR. NOLLEDO: For the information of the Gentleman, neutrality does not preclude going to the left, going to the center or going to the right. We can enter into temporary alliances and we will be completely free in the conduct of our foreign relations.

MS. AQUINO: Yes.

MR. ABUBAKAR: Does the Commissioner not think it would be to our advantage not to state anything or something which could be misinterpreted?

MR. NOLLEDO: In view of the situation we are in, and because of the existence of American bases in the country, I think there is a need to declare that we are adopting the principle of neutrality.

MR. ABUBAKAR: But whether we declare the principle of neutrality or not, as long as there are bases here, as long as there is the presence of foreign troops in our country, the adoption of neutrality in the Constitution is meaningless.

MS. AQUINO: Madam President, may I address myself to the query of Commissioner Abubakar.

It is the committee's position that a foreign policy or a status of neutrality is inherent in the expression of the State's sovereign right. Thus, in the exercise of a sovereign right, a state could provide for a policy of neutrality and we see this as the need and the imperative of the times or the historical epoch. We exist in a situation of real politics where we are threatened by aggressive policies of hegemony from the superpowers and the great powers. And in the context of power politics, it is necessary for a small country and a new state such as the Philippines to adopt a definitive position on its foreign policy trend.

MR. ABUBAKAR: I disagree with that view because lessons of history as well as of foreign policy positions have not been respected by the powers. Belgium in World War I was a neutral country but the interest of Germany dictated otherwise. So, would we not be in a better position if we do not state our position, thereby making us always flexible? Why declare that position in a constitution?

MS. AQUINO: I respect Commissioner Abubakar's position on the matter, but then we should also be aware of certain historical accidents of geography and strategic configuration that make the Philippines a strategic fodder for all of the geopowers within the area. For example, by accident of geography, we are placed in such a strategic position that America would want to exert every possible influence on modalities of political penetration to influence our foreign policy drift in favor of an aggressive foreign policy of the United States in the East, in the Indian Ocean, in East Asia and in the Pacific. Russia, on the other hand, with her posture of reactive defense, would be interested also in the Philippines as a reaction to the American geostrategic interest in the country. These are the realities of politics that we have to reckon with, which may make it necessary for the State to definitively adopt the policy of survival.

MR. ABUBAKAR: Madam President, foreign relations and foreign policy are matters of national and international interest. If it is in the interest of a power to take over the Philippines because this strengthens the country's strategic position, neutrality or no neutrality, the powerful state would take the Philippines. So, it would be better, in my opinion, not to state a position at all.

MS. AQUINO: May I ask the Gentleman just one query.

In the context of what Commissioner Abubakar just said that great powers would have interest in the country, do we lie prostrate by not protecting ourselves in terms of any aggressive policy in our Constitution? Should we just voluntarily allow foreign enclaves to lay claim on certain aspects of our territory? Should we not take it upon ourselves as a burden of sovereignty to assert our own rights to self-determination and territorial integrity?

MR. ABUBAKAR: I think that is taken for granted by any independent country, if the independence it enjoys means an absolute power to define its position. What I mean is this: the policy of flexibility would be more to our interest by not defining our position as far as foreign policy or foreign direction is concerned. This is because the mere definition of neutrality in our Constitution will not protect us from any power whose interests — militarily strategic or otherwise — would foreclose the neutrality. So, if it does not offer us any advantage, it is not a guarantee to anything in our favor. It is like playing poker. Why show your hand?

MS. AQUINO: I would concede that. In fact, there are no eternal guarantees of security in foreign policy. But, at the same time, this does not preclude us from taking continuous efforts at preserving our national integrity. A position of neutrality is a giant breakthrough in the right direction towards that. In the absence of eternal guarantees for territorial sovereignty and territorial integrity, it is the best shot that we can take so far.

MR. ABUBAKAR: Does the Commissioner not agree with me that that is a position which is not only flexible but also changes as power changes evolve? Should we rather not declare this in a legislative act and in a foreign relation policy or declaration, instead of putting it in the Constitution? Why raise this policy direction to a constitutional mandate? The Constitution is a sacred document. It defines the position which we will have to take later. But why incorporate this? This could be declared by our Congress; this could be incorporated in a foreign policy declaration. What I question, Madam President, is the wisdom of incorporating this in the Constitution. The Congress can do it, but enthroning it in the Constitution would make this particular policy in foreign relation difficult to correct or modify.

Perhaps tomorrow our situation and the conditions here surrounding us will be different. So, does the

Commissioner not think that a legislative act gives us more flexibility to change direction, to adjust our sails according to the winds so that we will not drown and sink?

MS. AQUINO: Madam President, the foreign policy of neutrality is, for the committee, the ultimate expression of a sovereign will of the people and is inspired by the instinct of survival. I suppose we cannot argue on that. I think the root of our difference is a misunderstanding of the concept of neutrality.

The committee articulated during the sponsorship period that neutrality is a policy or a status of a nation which: 1) advocates peace; 2) opposes a policy of war and aggression; 3) refuses to align itself with military blocs; and 4) is dedicated to the relaxation of peace. There is flexibility that can be read into this kind of foreign policy.

MR. ABUBAKAR: Then why do we have to tap it by declaring neutrality? The Commissioner has enumerated all the reasons for our policy direction which are acceptable to most of us. But what I object to is to enthrone that conflict in the Constitution.

MR. TINGSON: Madam President, Commissioner Garcia would like to add something to this subject.

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you, Madam President.

It is precisely for historically determined reasons that we have to declare a policy of neutrality. Throughout the century, we have, in fact, been either a colony of a colonial power or under its wing. In fact, in the 1935 Constitution, Section 11 of the first ordinance, the Independence Act or the Tydings-McDuffie Law, there was already a move towards a declaration of perpetual neutralization but which was violated. I think we have to realize that for our own survival, it was important for the Philippines to be declared neutral even at that early period of 1935. But this was violated because of the entrance of the bases and the fact that from then on, we have become part of a military power bloc because of our nuclear strategy. We are now part of the nuclear strategy of a power bloc but we do not wish to be part of this.

That is the reason we feel we should strive towards a declaration of a zone of peace, freedom and neutrality in this part of the world as our own contribution to nuclear disarmament and world peace. I think that is very important.

MR. ABUBAKAR: I do not disagree with Commissioner Garcia's conception and assessment of the situation that we are in now. What I perceive is that the Constitution is not the place or the document wherein this position we are advocating should be incorporated. Times are changing; situations are changing. Who knows what Asia will be next year? So, why do we preclude our hands from fashioning a policy that will be for our interest against the interest of any power?

THE PRESIDENT: During the period of amendments, the idea of Commissioner Abubakar can be submitted in the form of an amendment to the committee. But the Chair believes that the committee has sufficiently explained the rationale behind the committee report.

Who is the next speaker?

MR. ROMULO: Madam President, I ask that Commissioner Natividad be recognized.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Ginang Pangulo, ako po ay nagrereserba ng pagkakataong magsalita tungkol sa mungkahi ni Komisyonado Rodrigo, ngunit hindi ako nagkaroon ng pagkakataon sapagkat napakaraming nauna sa aking magsalita. Kaya't ako ay nagpapasalamat sa ating Floor Leader dahil binigyan ako ng pagkakataon ngayon na ilagay ko sa katitikan ng Komisyon na ito ang aking loobin tungkol sa Section 3 at sa mungkahi ni Komisyonado

Rodrigo. Naniniwala akong sapagkat isinulat ko ito noong simula pa, nasabi na ang halos lahat, ang matuwid at saligan ng sang-ayon at maging ng tutol sa pamamalagi pa rito ng mga himpilang hukbo ng Amerikano. Gayunpaman, magiging malaking pagkukulang ko sa tungkulin bilang Komisyonado ng mabunying kapulungang ito kung hindi ko ilalagay ang ambag, ang butil ng binhi na inihahasik natin sa kapakanan ng mga susunod pang salinlahing Pilipino.

Kakambal pa ng pagpasok ni Commodore Dewey sa look ng Maynila noong 1899 ang pagsibol ng suliraning ating tinatalakay ngayon sapagkat ibigin man natin o hindi, kung бага sa isang dalaga, ang Pilipinas ay isang tunay na mutya ng kariktang maraming puso ang nagnanais makasungkit ng matamis niyang "oo." Nasa sangandaan tayo ng Karagatan ng Tsina, ng Pasipiko at ng Selebes. Nasa isang pook ang ating bayan na lubhang mahalaga sa larangang panghukbo. Kaya naman sa mula't mula pa, maraming dayuhan ang nabibihag sa atin.

Mula pa noong 1898 hanggang sa mga sandaling ito, umaalitubtob na lagi ang usapan tungkol sa mga base militar na ito. At noong 1933, ito ang laman ng Hare-Hawes-Cutting Bill na tinutulan ng sambayanang Pilipino, at ng Tydings-McDuffie Law noong 1934.

Ang maniningning na kaisipan ng ating mga dakilang ninuno ay iniambag sa pagsusuri, paglilimi at pag-aaral sa kasunduang ito. At hindi naman masasabi ng sino man sa atin dito at sa labas ng bulwagang ito na ang ating mga ninuno at magulang ay kapos sa pag-ibig sa bayan o nakasangkapan upang ipagkanulo ang ating bayan. Nag-aalinlangan akong sabihing tayong apatnapu't pito rito ang siyang dapat magpasiya ngayon kung tatapusin na ang pamamalagi ng base militar dito sa ating bansa matapos na ito ay pag-aralan ng napakaraming taon ng ating mga magulang at ninuno. Huwag nang isaalang-alang ang 42,265 kataong kababayan nating empleyado ng mga baseng ito, bukod pa sa 900 na kontratista. Mayroong 500,000 kababayan tayong nakikinabang sa mga base; ang isipin na lamang natin, lalo na sa mga panahong itong nakalugmok ang kabuhayang bansa, ang isang bilyong dolyar na katumbas ng dalawampung bilyong pisong pakinabang ng Pilipinas sa baseng ito.

Maraming taon na ang nagdaan mula nang sumulpot ang suliraning ito. Maraming utak ng lalong matatalino nating ninuno at magulang ang piniga upang ilagay sa ayos ang suliraning ito. Kung taon ang binilang nila, ano naman at sa isang iglap tayong apatnapu't pito na sa loob ng dalawang linggo ay maghihiwa-hiwalay na, magkakanya-kanyang landas, ang magwiwikang ngayo'y kayang-kaya nating tapusin ito at lutasin agad. Hindi kaya sa pagmamadali natin, maiwan natin at makaligtaan ang maraming bagay na bukas makalawa, magbubunga at maghahatid ng lalong mga susunod pang suliranin ng ating sambayanang Pilipino?

Sabi ni Ambassador Pelaez, limang taon ang kailangan upang maging tunay na handa sa pag-uusap ang mga taong may tunay na kakayahan at kaalaman sa suliraning ito. Huwag tayong magmadali sapagka't wika nga ng kasabihang Pilipino, "Ang lumalakad nang matulin, kung matinik ay malalim." Kaya't mga kasama, itinataguyod ko ang mungkahi ng kapatid na Komisyonadong Rodrigo na ipaubaya sa pamahalaan ang maaaring lumikha ng lupong bubuun ng mga sadyang may kinalaman at kakayahang tauhan ng Ministri ng Tanggulang Bansa, Ministri ng Suliraning Panlabas, Ministri ng Pananalapi at Ministri ng Katarungan, upang pag-aralan, matamang limiin, suriin at paraanin sa lalong masinsing bistay at lambat mula ngayon hanggang 1991, upang maging tunay tayong handa sa pag-uusap at kahit sa pakikipagbunong braso sa mga Amerikano tungkol sa mga himpilang hukbong ito.

At matapos itong pag-usapan, matapos na magkasundo ang dalawang panig, pinakamahalaga sa ating ipaubaya sa buong sambayanang Pilipino ang pangwakas na pasiya o ang pagpapatibay sa kasunduang ito na ang kasamang nakataya ay ang buhay, kapalaran at kinabukasan ng kasalukuyan at mga sumusunod pang salinlahing Pilipino.

Salamat po, Ginang Pangulo.

MR. GASCON: Madam President.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Yesterday, I made mention that today, September 16, is the International Day of Peace, and that one project related to the International Day of Peace is the observance of a million minutes of peace which will begin at 12:00 noon. So I would like to make the motion that we reflect on the struggle for peace of all our brothers and let us remind ourselves that Christ Himself offered His peace to us.

So, at twelve noon, if it is possible, let us commemorate this day of peace.

THE PRESIDENT: The motion was already presented by Commissioner Gascon yesterday and it was seconded; now it is being reiterated.

Is there any objection that this Commission during its session this morning will observe a one-minute silence for the purpose of joining the rest of the world in the United Nations celebration of International Day of Peace at twelve noon today?

MR. TINGSON: Madam President, the entire Committee on Preamble, National Territory, and Declaration of Principles seconds the motion.

THE PRESIDENT: As it is now twelve o'clock, let us devote this one minute to silent meditation and prayer for peace, and we invite all those in the gallery to join us in this one minute of silence.

Everybody rose for a one-minute prayer.

Let us pray that the Lord may grant peace to the world, to all mankind, but most specially to the Filipino people and to our country. Amen.

MR. GASCON: I would like to offer this prayer of St. Francis:

Lord, make us all Your instrument of peace;
Where there is hatred, let us bring love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light;
Where there is sadness, joy.
Lord, make us all Your instrument of peace.

MR. ROMULO: Madam President, I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Madam President.

May I address a few questions to the committee, particularly to Commissioners Nollado and Azcuna. May I request the presence of Commissioner Nollado?

THE PRESIDENT: Are there questions that Commissioner Sarmiento desires to propound?

MR. SARMIENTO: Madam President, my first question is with respect to the concept of sovereignty. We have four types of sovereignty; namely, legal sovereignty, political sovereignty, internal sovereignty and external sovereignty. May I focus on political sovereignty.

Political sovereignty refers to the supremacy of the law of the State within its territory. The basis of such supremacy is physical control of people and territory emanating from physical power. It is also understood to

mean the supreme coercive power exercised by a determinate body of persons possessing a monopoly of certain instruments of coercion. My question, Madam President, is this: Does Commissioner Nollado agree with me that the existence of the military bases in our country is a derogation of this kind of sovereignty?

MR. NOLLEDO: Yes, Madam President, because of the many one-sided provisions, especially on jurisdiction found in the RP-US Bases Agreement.

MR. SARMIENTO: May I mention some of these articles. For instance, Article III, DESCRIPTION OF RIGHTS, of the Agreement provides:

It is mutually agreed that the United States shall have the rights, power and authority within the bases which are necessary for the establishment, use, operation and defense thereof or appropriate for the control thereof and all the rights, power and authority within the limits of territorial waters and air space adjacent to, or in the vicinity of, the bases which are necessary to provide access to them, or appropriate for their control.

Article VI, MANEUVER AND OTHER AREAS, reads:

The United States shall, subject to previous agreement with the Philippines, have the right to use land and coastal sea areas of appropriate size and location for periodic maneuvers, for additional staging areas, bombing and gunnery ranges and other intermediate air fields . . .

I think Commissioner Nollado is referring to this article. Am I correct?

MR. NOLLEDO: Yes, Madam President. The United States has an untrammelled right to exercise jurisdiction in that respect in all parts of the country, and while a Filipino may not enter a Filipino military base because he might be considered a spy, a member of the United States Armed Forces under the RP-US Bases Agreement may enter any military installations belonging to the Republic of the Philippines. One can just imagine the great disparity of rights between a Filipino and an American in complete derogation of our political sovereignty.

MR. SARMIENTO: Madam President, my question is with respect to Section 2 which reads:

The Filipino people commit themselves to peace, equality and freedom. They renounce war as an instrument of national policy and adopt the generally accepted principles of international law as part of the laws of the land.

Will renunciation of war or adherence to peace mean nonparticipation in any way to any form of hostility? Would this include not allowing foreign bases in our territory as staging areas for attacking other countries?

MR. NOLLEDO: I agree with the Gentleman. It seems to me that with that opinion, even if we do not say here that foreign military bases should not exist in the country, the existence of foreign military base in itself will infringe upon the principle and spirit behind Section 2 of the Declaration of Principles.

MR. SARMIENTO: I thank the Gentleman for that answer.

I am reminded of incidents in the past when American bases were used on countless occasions as staging areas for attacking other countries. During the Korean war, the bases were used as maintenance stations for American ships and aircraft and as supply depots during the rightists' coup against Sukarno. Allan Pope flew for the CIA AP-26 from Clark to help crush the Indonesian nationalist forces. In August 1964, US planes were flown from Clark to bomb the Vietnamese countryside, including certain towns and cities.

MR. NOLLEDO: Madam President, those acts of the United States were violative of the Constitution of the Philippines, not only of the 1935 Constitution, but also of the 1973 Constitution, and if these acts continue, then they will be also violative of the Constitution of 1986. Any President who cooperates in the violation thereof should be guilty of an act that constitutes a basis for impeachment.

MR. SARMIENTO: May I proceed to another question, Madam President?

MR. TINGSON: Madam President, some of the members of our committee would probably say, and that includes me, that one way of preserving peace sometimes is to go to war. We all talk of the impending war, but World War I and World War II were precisely waged by the United States and other nations to end wars and hopefully, that there might be permanent peace.

Many a time, Madam President, democratic, peace-loving nations like us are forced to the corner, so to speak, and we cannot but preserve our integrity as a country, so we go to war. Some of us would say that because precisely we want peace, we have to go to war although that may not be the best way to preserve peace.

MR. SARMIENTO: I will not contest the answer of the Gentleman, although I have reservations.

MR. NOLLEDO: As far as I am concerned, I am not bound by the answers of the acting chairman.

MR. ABUBAKAR: May I raise a question on the statement of the chairman.

THE PRESIDENT: May I request the Commissioners to seek permission from the Chair, if they wish to interpellate or interrupt because we still have one Member on the floor.

MR. SARMIENTO: Thank you, Madam President.

The same section speaks of generally accepted principles of international law as part of the laws of the land Madam President, will this cover the right to self determination ?

MR. NOLLEDO: Yes, as embodied in the U.N. Charter.

MR. SARMIENTO: And will this include maintaining international peace and security, and to that end take effective collective measures for the preservation and removal of threats to the peace?

MR. NOLLEDO: Yes.

MR. SARMIENTO: And will this cover the principle enshrined in Article XVI of the Charter of Economic Rights and Duties of States which states, "individually and collectively should eliminate neo-colonialism and all forms of foreign domination"?

MR. NOLLEDO: Certainly, Madam President.

MR. SARMIENTO: Will Commissioner Nolleddo agree with me that these principles are contradictory to the existence of foreign military bases in our country?

MR. NOLLEDO: Yes, and as I said before, even without providing that foreign military bases should not exist in the country, the existence of the American bases would contradict those principles of international law just cited and which we have adopted as part of the law of the land.

MR. SARMIENTO: Thank you.

My last question is on Section 9 which speaks of the obligation of the State to protect the life of the mother and the life of the unborn from the moment of conception. Will the Gentleman agree with me that this is a companion provision of Sections 1, 2 and 3 of the article, because we cannot speak of the right to life of the unborn in the face of nuclear annihilation or a nuclear extinction? So that it would be useless to approve this section without approving Sections 1, 2 and 3. Will Commissioner Nolleddo agree with me?

MR. NOLLEDO: I fully agree with the Commissioner, Madam President.

MR. SARMIENTO: Thank you.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

At the outset, I am worried about the answer of Commissioner Nollado to the questions of Commissioner Sarmiento, so I am seeking this clarification. Are we to understand, Madam President, that the totality of sovereignty in Section 1 and the principle of renunciation of war as an instrument of national policy, as well as the acceptance of the principles of international law as part of the law of the land, would, in effect, be sufficient against the retention of Section 3? Does this mean that because of the Gentleman's answers to the question of Commissioner Sarmiento on sovereignty, on renunciation of war and the adoption of the generally accepted principles of international law, Section 3 may not be necessary?

MR. NOLLEDO: No, Madam President. I never intended that. I just wanted to point out that even without that provision, the existence of the American bases would be illegal in the Philippines. But if we will look at the provisions that have just been cited, we cannot readily conclude that the existence of foreign military bases in the country is illegal. And that is the reason we are making it clear that the Philippines should prohibit emphatically the existence of foreign military bases in the country.

MR. DAVIDE: I like that answer because there was some confusion in the answers given to Commissioner Sarmiento. And so, even if we have to concede the totality of sovereignty in the sense stated by Commissioner Sarmiento, even if we have to concede the full meaning of renunciation of war as an instrument of national policy, even if we have to concede the breadth and width of the meaning of the adoption of the generally accepted principles of international law, it is still necessary that we place in black and white a position or a principle against the maintenance of bases.

MR. NOLLEDO: The Commissioner is absolutely right.

MR. DAVIDE: Madam President, there is a contention that we have to leave to the President and to Congress the matter of the issue on the bases because we are merely appointed Commissioners and we do not supposedly have the necessary materials on which to base a decision on the matter.

Is it not a fact that insofar as the bases are concerned, the Filipino people had been fighting against them long before the Second World War?

MR. NOLLEDO: The Commissioner is right. Even the past presidents had been silently fighting against the existence of foreign bases in our country; they were only afraid of the United States, that was why they could not fight openly.

MR. DAVIDE: As a matter of fact, the Filipino people in the 1930s rejected the Hare-Hawes-Cutting Act because of provisions serving military, naval and other reservations which are inconsistent with true independence, violative of national dignity and subject to misunderstanding.

MR. NOLLEDO: Commissioner Davide is right.

MR. DAVIDE: Nevertheless, is it not a fact that even in the Tydings-McDuffie Law, the United States expressed the fullest intention to place the Philippines under the principle of perpetual neutralization?

MR. NOLLEDO: Yes, there was a provision in the Tydings-McDuffie Act authorizing the President of the United States to negotiate for perpetual neutralization of the Republic of the Philippines.

MR. DAVIDE: And that was, therefore, the obligation of the United States government?

MR. NOLLEDO: Yes, that was an obligation which was not fulfilled.

MR. DAVIDE: A solemn and sacred obligation; as a matter of fact, a commitment to the Filipino people yet colonial rule.

MR. NOLLEDO: A commitment that was not fulfilled.

MR. DAVIDE: It was even a promise to a people under Colonial rule.

MR. NOLLEDO: A promise that was not fulfilled.

MR. GARCIA: Madam President, I would like to add to that point. This was, in fact, included in the 1935 Constitution, in Ordinance I, Section 3, where all of the elements of the Tydings-McDuffie Law or the Philippine Independence Act were made part of the Constitution. It is, therefore, the obligation of the Filipino people. But this was violated.

MR. DAVIDE: In other words, Madam President, it was an obligation of a sovereign power, a sacred and solemn duty to a colonial people. But it became the right of a colonial people to attain and be given that status.

And so, necessarily, would Commissioner Nolleto consider that agreement as a treaty, when after the Tydings-McDuffie Act was approved, came this 1947 RP-US Bases Agreement?

MR. NOLLEDO: They say that it is an executive agreement, but I disagree because an executive agreement is only transitory in character and concerns such matters as customs, trade, et cetera. But the RP-US Bases Agreement concerns our very sovereignty and jurisdiction, so I would not consider that a valid treaty. Even if it had been considered a treaty, it was never ratified by the Senate of the United States. It seems to me that in that respect, the Senate of the United States did not believe in the validity of the treaty; it was only the Philippine government which ratified the same at a time when we could not muster sufficient national will to oppose the same.

MR. DAVIDE: Madam President, my point is, legally, jurisprudentially, it was particularly in the nature of a treaty because it affected the sovereignty, the national integrity of the Philippines. Is that not correct?

MR. NOLLEDO: The Gentleman is right, Madam President.

MR. DAVIDE: Yet, what actually happened was that the Congress merely passed a resolution authorizing the President to enter into the treaty. Is that not correct?

MR. NOLLEDO: Is the Gentleman referring to the Congress of the U.S.?

MR. DAVIDE: I refer to the first Philippine Congress which, after the war, decreed a resolution authorizing the President to enter into the treaty.

MR. NOLLEDO: Commissioner Davide is right. That resolution was dated July 28, 1945.

MR. DAVIDE: And after the resolution was somehow complied with by the President, the agreement was never submitted to the people by way of a plebiscite.

MR. NOLLEDO: It was not submitted to the people.

MR. DAVIDE: Even if it was, in truth and in fact a treaty?

MR. NOLLEDO: Yes.

MR. DAVIDE: So, necessarily, the 1947 Agreement was void from the very beginning not only because of the absence of a ratification because it was, in fact treaty, but also because of the open defiance or, rather, the open rejection of the United States to comply with a solemn and sacred duty.

MR. NOLLEDO: Aside from that, I think the RP-US Bases Agreement of 1947 violated the 1935 Constitution, which contained as an ordinance thereof the Tydings-McDuffie Act.

MR. DAVIDE: So that is an additional ground why it was void from the very beginning.

MR. NOLLEDO: And when it is null and void, it does not exist at all; it cannot even be ratified.

MR. DAVIDE: And so, the further renegotiations had no legal standing because the source or the basis was void from the beginning?

MR. NOLLEDO: The Commissioner is right.

MR. DAVIDE: Was the latest negotiation in 1982 or 1983?

MR. NOLLEDO: 1983, Madam President.

MR. DAVIDE: Granting, for the sake of argument, that the previous agreement or treaty was valid, the renegotiation was undertaken under the 1973 Constitution, Madam President. Is that not correct?

MR. NOLLEDO: Yes, the Commissioner is correct.

MR. DAVIDE: And the Freedom Constitution has declared that the 1973 Constitution was not validly ratified. Does the Commissioner agree, Madam President?

MR. NOLLEDO: I agree, because I was a member of the 1971 Constitutional Convention and the Commissioner was also a member of that convention.

MR. DAVIDE: Yes. So the 1973 Constitution was not validly ratified and this particular fact is confirmed by the Freedom Constitution?

MR. NOLLEDO: That confirmation is right, Madam President.

MR. DAVIDE: And since the President of the Philippines entered into this latest renegotiation under a void constitution, his act, therefore, did not attain any valid and legal effect?

MR. NOLLEDO: Yes, Madam President.

MR. DAVIDE: It is, therefore, with more reason that we have to strike out this illegal and void agreement, and it is, therefore, the distinct duty of this Commission to decide once and for all the matter so we will not perpetuate what Commissioner Garcia described to be a historical aberration.

MR. NOLLEDO: The Commissioner is right, Madam President.

MR. DAVIDE: Even if we are merely appointive, our work will still be submitted to the people and we have to decide now and for the people to decide once and for all. Is that not correct, Madam President?

MR. NOLLEDO: Yes, Madam President.

MR. DAVIDE: I will go to another point.

MR. TINGSON: Madam President, before Commissioner Davide continues his question, may I interject something?

THE PRESIDENT: Commissioner Tingson will please proceed.

MR. TINGSON: This is apropos of the debate just a while ago.

MR. DAVIDE: Madam President, may I inquire before an interjection is made. Is it an answer to my question?

MR. TINGSON: Yes, Madam President.

MR. DAVIDE: Is it an answer different from that of Commissioner Nollado who spoke for the committee?

MR. TINGSON: It would be different. Precisely, I am trying to get this word to interject because the answers of Commissioner Nollado did not reflect the unanimous feeling and opinion of the committee. And I thought I would say something, humble as it might be, to at least reflect the feeling of the minority.

THE PRESIDENT: The Commissioner will please proceed.

The body knows that the committee has two dissenting views on these issues and, therefore, we will allow the chairman to answer.

MR. TINGSON: Madam President, I concede that the Tydings-McDuffie Law did provide a suggestion from the United States government — and which was the basis later on of the Commonwealth — that the Philippine government would become neutral.

However, Madam President, my feeling and opinion is that after we accepted the Tydings-McDuffie Law, we became a commonwealth in 1935, a nation on our own to make up our own mind. I believe that looking back, the Filipino people are grateful that we did not opt for neutrality, because if we did, we would have been in an embarrassing situation when the Japanese bombed Pearl Harbor and Camp John Hay and violated the sovereignty of the Philippines. I say this because as a neutral country, we would not be able to come to the succor and help of our ally, the United States. It would have been further embarrassing if only American blood had been shed in defense of this country that was being invaded by our common enemy.

Madam President, while it is true that there was a neutrality clause in the law, I maintain that it was a suggestion by the United States that the Filipino people take up arms. Our response was that we will not be neutral; we will fight on the side of democracy. And I am glad that we did. In the foxholes of Bataan and Corregidor, thousands of our fellowmen mixed their blood with the blood of the American soldiers.

It may be true that the American soldiers were here to defend their country, but they did fight on Philippine soil beside the Filipinos.

That is my own perception, Madam President, and I thought I would say that by way of interjecting, at least, part of the feelings of the minority members of the committee with regard to Sections 2 and 3.

MR. DE CASTRO: Madam President, I am a member of the committee with a minority view. I just like to ask one question of the Honorable Nollado.

THE PRESIDENT: Commissioner de Castro will please proceed.

MR. DE CASTRO: Madam President, the Honorable Nollado said that the RP-US Bases Agreement is void ab initio, void right from the very beginning. Did I hear him correctly?

MR. NOLLEDO: That is the view of Senator Diokno and Commissioner Davide. The Commissioner is correct, Madam President.

MR. DE CASTRO: So in the adoption by Commissioner Nollado of that view, he views the RP-US Bases

Agreement as void from the very beginning.

MR. NOLLEDO: Yes, Madam President.

MR. DE CASTRO: Then, what is the relevance of lines 29 to 31, page 5, which state.

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

The committee is then accepting the validity of the RP-US Bases Agreement up to 1991. Am I correct in my interpretation?

MR. NOLLEDO: Not necessarily, because we consider that the agreement exists, in fact, but it is not valid. It is a de facto agreement. We cannot deny that we cannot go against realities. We cannot just say that there is no agreement at all. There is an agreement but it is null and void. We feel that there existed an agreement; an agreement that exists, in fact, but not valid and, therefore a de facto agreement.

MR. DE CASTRO: If it is not valid, therefore, the provision has no relevance in the Constitution. In the Constitution, we accept valid agreements, valid statements, valid on everything and yet we say that this RP-US Bases Agreement is void ab initio. So the provision has no relevance at all.

MR. NOLLEDO: I beg to disagree, Madam President. We recognize the existence of the agreement because we cannot go, as I said, against reality. So there must be some provision in order to facilitate the passing away of this agreement, which we still consider null and void.

THE PRESIDENT; Commissioner Davide will please continue.

MR. DAVIDE: Yes, Madam President. Before doing so, I would just like to comment on the interjection of Commissioner Tingson. My comment to the interjection is that until now, I really do not know whose war was the World War II insofar as the Philippines is concerned. I feel that it was a war of the United States. We lost lives in defense of America; the Americans did not lose lives, in reality and in truth, to save the Philippines. It only protected its own interest. Anyway, I have here the Foreign Relations Journal which contained the article of Ambassador Emmanuel Pelaez. Apropos of the statements of Commissioner Tingson, I would quote the following:

Unfortunately for the Philippines, the ambience in which the negotiations for the military bases agreement took place worked against her. She had just been devastated by over three years of Japanese occupation and war. Her cities and towns were in shambles, her people hungry. She was totally dependent on the United States for her rehabilitation. On the other hand, America had emerged from the conflict as the strongest nation in the world, champion of the free world. This disparity in situations reflected itself in the terms of the Military Bases Agreement. It was not so much a treaty between two sovereign nations as it was the extension of American sovereignty in the Philippines through the establishment of U.S. enclaves of extraterritoriality on her soil. The terms of the Military Bases Agreement were of prewar colonial vintage. Filipinos accepted the bases as a necessary evil.

So I would say that even if there is such a provision in the proposed Article on the Declaration of Principles which recognizes the treaty up to its expirations, it is more of an accommodation. It is not indeed a recognition of its validity from the very beginning.

My next question is with regard to Commissioner de Castro's speech. Madam President, I went over his sponsorship speech and I found out that his main thesis is that the American bases would necessarily be for the protection of the Philippines. In short, it is necessary to protect the Philippines. Am I correct in my assessment,

Madam President?

MR. DE CASTRO: I suggest that the Commissioner read it again because that is not the main issue.

MR. DAVIDE: That is one of the principal arguments the Commissioner gave — the protection of the Philippines. Or, is it the protection of Japan because he said, and I quote:

As I said before, about 92 percent of Japan's oil supply passes through these choke points to China Sea. If these choke points are closed or controlled by a superpower Japan's oil supply will have to travel halfway around the world. Eventually, Japan's economy has to fall on its knees to the power that control said choke points.

Japan is a power recognized in Asia. Am I correct?

MR. DE CASTRO: Madam President, I am talking of the strategic value of the Philippines. I am not talking of the bases to protect the Philippines. I am pointing on the strategic value of the Philippines which concerns the whole mainland of Asia, Japan and the Southeast Asian countries.

MR. DAVIDE: Yes, we agree. And the value of the Philippines in that regard would benefit Japan because about 92 percent of Japan's oil supply passes through these choke points to China Sea.

MR. DE CASTRO: I am not talking of the benefits that will go to Japan, but of the strategic value of the Philippines.

MR. DAVIDE: It is strategic in the sense that it will, among others, protect the choke points, which would benefit Japan?

MR. DE CASTRO: Not only Japan but the whole Asian region because about one-half of our oil supply and more than 90 percent of the strategic materials for Asia and the Asia mainland pass through these choke points.

MR. DAVIDE: Precisely, Madam President. The bases must be maintained in the Philippines in order that these choke points can be protected and that Japan will not be deprived 92 percent of its oil supply.

MR. DE CASTRO: No, Madam President. I invite the Commissioner's attention to page 2 of my sponsorship speech, captioned "The Strategic Importance of the Philippines.

MR. DAVIDE: Yes, I have gone over it and, among others, the conclusion is about Japan.

MR. DE CASTRO: Madam President, when we talk of strategic value, we are not talking of the benefit that another country will take. It is the strategic value of a certain country so located in strategic place. Its value is to the region, not to any particular nation.

MR. DAVIDE: Precisely, Madam President.

MR. DE CASTRO: It just so happens that Japan takes 92 percent of its oil from the Middle East.

MR. DAVIDE: The strategic value depends not on the perception of the Philippines because, in effect, the Philippines is not the salvador del mundo of this area.

MR. DE CASTRO: No, Madam President. When we talk of strategic values, we are not talking of perception but of facts and figures.

MR. DAVIDE: That is correct, but perception is based on facts. The perception that the Philippines is a strategic location or of strategic value is a perception of the United States of America. I would like to bring the Commissioner's attention to the latest statement given by U.S. Defense Minister Casper Weinberger in the article "The Five Pillars of Our Defense Policy," which was published in the Asia-Pacific Forum, and I quote:

The foundation stones underlining our Pacific policy include: First, the key importance of our security relationship with Japan.

Second, our commitment to stability in the Korean Peninsula.

Third, our efforts to build an enduring relationship with the People's Republic of China.

Fourth, our support for the political and economic vitality of the Association of Southeast Asian Nations.

Fifth, our long standing partnership with Australia and New Zealand.

Madam President, does not the Commissioner believe that under these five pillars of defense policy, the Philippines will be used only as a strategic point to protect the interests of these areas?

MR. DE CASTRO: Madam President the Commissioner is talking of the strategic and tactical wisdom of Mr. Weinberger. I am talking of the strategic importance of the Philippines not of the strategic and tactical wisdom of Mr. Weinberger.

MR. DAVIDE: Whatever it is, this is a U.S. policy announcement, its five pillars of defense policy. Whether strategic or tactical, the fact is that the maintenance of the bases in the Philippines is not for the Filipinos but for the Americans.

Thank you very much, Madam President.

MR. DE CASTRO: On the other hand, may I ask a question of the Honorable Davide regarding his statement that World War II is a war of the United States of America and not of the Philippines. Madam President, does the Commissioner know that on September 8, 1942, the Japanese forces landed in the Philippines?

MR. DAVIDE: I was very, very young at that time, Madam President.

MR. DE CASTRO: That is the problem, Madam President. People born in 1964 talk about World War II.

MR. DAVIDE: But history points out that the Japanese came to the Philippines because the Americans were here and they have bases here.

MR. DE CASTRO: If they landed in the Philippines and, in fact, they landed in Lingayen Gulf and in the Province of Quezon, were they not violating our sovereignty? Were they not violating our dignity as a people?

MR. DAVIDE: At that time, there was a violation, in like manner there was from the Americans.

MR. DE CASTRO: Shall we not, therefore, fight the invaders even if it is a war of the United States, of Switzerland, or of Britain? The fact is that they invaded our territory, sovereignty and dignity as a people.

MR. DAVIDE: There can be no question that we have to fight. But the idea here is to find out the cause, to determine what was the cause. So we have to consider the cause and the effect. What was the cause? We have to shoulder the effect. We have to remedy the situation.

MR. DE CASTRO: When enemy forces land in our shores, we do not think of the cause. We think of fighting and repelling them. This is the reason we went to war against the Japanese because they invaded our country.

MR. DAVIDE: Probably at that time, there was no time to think of the cause.

THE PRESIDENT: I think the matter has sufficiently been discussed.

MR. GUINGONA: Madam President, may I be allowed to ask one question of the honorable Commissioner Davide?

MR. DAVIDE: Madam President, I was only interpellating the members of the committee. I do not know whether or not it is in accordance with the Rules that an interpellator can also be interpellated.

THE PRESIDENT: Commissioner Davide is correct.

MR. GUINGONA: This is by way of clarification only, Madam President. Anyway, I submit.

SUSPENSION OF SESSION

MR. ROMULO: Madam President, in view of the time, may I ask a suspension?

THE PRESIDENT: The session is suspended.

It was 12:42 p.m.

RESUMPTION OF SESSION

At 4:39 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that we offer a one-minute prayer for the speedy recovery of the father of one of our colleagues.

THE PRESIDENT: We request Commissioner Tingson to lead the prayer for the speedy recovery of the father of Commissioner Felicitas Aquino.

MR. TINGSON: Our Dear Loving Heavenly Father, You are the Source of every good and perfect gift. You are the One who gives us life, health, happiness, joy. You give life, You take life, and we rejoice in that. We know that You are the Greatest Physician who made the blind see, the lame walk, You touched the leper, he was made good. you are able to do the same today because You are the same yesterday, today and forever.

Father, across the vast expanse of the Pacific, ten thousand miles from here, we project our thoughts and our prayers towards Mr. Aquino, who has just been operated on in Houston, Texas. He is all alone there away from his country, from his family. We join our hearts, those Commissioners amongst us here in this Commission, and the public joining us today, and in unison we beg of You, touch him, Dear Lord, heal him and be very near him, console him with Thy divine and healing presence.

This we believe You will do, for we exercise our faith which is seeing the invisible and believing the impossible. Thank You, Lord. We all pray all of these in the Loving and Matchless Name of Jesus Christ, Our Lord, Amen.

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

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

May I go very briefly in seeking clarification on some provisions. May I call attention to Section 1. I wonder who among the members of the committee would like to clarify this question regarding the use of the word "democratic" in addition to the word "republican." Can the honorable members of the committee give us the reason or reasons for introducing this additional expression? Would the committee not be satisfied with the use of

the word "republican"? What prompted it to include the word "democratic"?

MR. TINGSON: Madam President, Commissioner Nollado will answer that.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Madam President, I think, as a lawyer, the Commissioner knows that one of the manifestations of republicanism is the existence of the Bill of Rights and periodic elections, which already indicates that we are a democratic state. Therefore, the addition of "democratic" is what we call "pardonable redundancy," the purpose being to emphasize that our country is republican and democratic at the same time. When we use "democratic," we do not use it in the lingo of socialist or communist states because even they also use "democratic." "Democratic" will attain its true meaning if we consider it in the light of the manifestations of republicanism. In the 1935 and 1973 Constitutions, "democratic" does not appear. I hope the Commissioner has no objection to that word.

MR. SUAREZ: No, I would not die for that. If it is redundant in character but it is for emphasis of the people's rights, I would have no objection. I am only trying to clarify the matter.

Madam President, I thank the Commissioner for the clarification because he was candid enough to admit that this is redundant in character but, nonetheless, he emphasized the necessity of including it in Section 1.

MR. NOLLEDO: I also thank the Commissioner, Madam President.

MR. SUAREZ: The other clarification is on Section 2. Instead of using the objective term "Philippines," the committee is now using the subjective term "Filipino people," which is really a very good expression and more emphatic. But my problem is with respect to the addition of the term "peace, equality and freedom" because under the 1973 Constitution, the term employed was "justice, cooperation and amity with all nations." Madam President, may we know the reason for deleting this term which is as vital as "peace, equality and freedom," especially the expression "amity with all nations."

MR. NOLLEDO: Madam President, the reason we deleted the term is that it is already covered by "peace" and "equality." For example, equality among nations indicates that regardless of their sizes, all nations are equal with each other as embodied in the UN Charter. With respect to friendship with all nations, we assume that there is peace when friendship among nations exists. However, if the Commissioner feels it is necessary to retain said term, we will welcome amendments to that effect at the proper time.

MR. SUAREZ: I thank the Commissioner. May I now go to Section 3. The wording here is not positive in the sense that while the State may pursue an independent course in foreign relations, it is mandated to strive to promote and establish, together with other states agreeable thereto, a zone of peace, freedom and neutrality in this part of the world. I take it that we are not really stating here that we are establishing an area or a zone of neutrality but that we are only striving to promote and establish a zone of peace, freedom and neutrality. Is my understanding correct, Madam President?

MR. NOLLEDO: Yes, the Commissioner is correct. In this section, we are stating a desired objective to establish, together with other states, a zone of peace, freedom and neutrality but we would like, together with the other nations, to make our own contribution to world peace. We feel the position of neutrality will help towards this desired objective. It is not a unilateral declaration of neutrality but a declaration of a desired objective.

MR. SUAREZ: I thank the Commissioner for the clarification because I thought he had in mind a unilateral achievement of this goal. So it must be a joint effort with other states which are also part of the region or zone.

The other clarification is with respect to Section 4 which employs the words "storing" and "stockpiling of nuclear

weapons, devices or parts thereof." What is the committee's reason in employing the word "storing" as distinguished from "stockpiling"?

MR. AZCUNA: Madam President, these are technical terms taken from treaties or agreements regarding nuclear weapons. They are used to denote the manner of placing these nuclear weapons in a territory. There is a technical difference, Madam President, that is why we use the two words.

MR. SUAREZ: To a common man like I, I do not see any substantial difference between "storing" and "stockpiling," but if the Commissioner assures us that there is a technical meaning to the word "storing" as distinguished from the technical word "stockpiling," then we accept his statement, Madam President.

MR. AZCUNA: Yes, there is, Madam President. I can show the Commissioner the two treaties I mentioned.

MR. SUAREZ: In other words, there is a need to use these two words separately.

MR. AZCUNA: Yes, Madam President.

MR. SUAREZ: Let us go to Section 6, line 13, which states: "with due regard to objections of conscience." This has reference to citizen's military training for performance of military duties and to matters involving not only conscience but also religion. Is my understanding correct, Madam President? I remember that Cassius Clay, who later became the famous Muhammad Ali, during the Vietnam War, pleaded that he should not undergo military training because of certain religious concepts as a Muslim. Does the Commissioner have those things in mind when he speaks of "objections of conscience"? There may be religions that forbid the members of their denominations or sects from participating in this military exercise.

MR. TINGSON: Madam President, we take it, of course, that that would fall within "objections of conscience" because religion involves the conscience of a person and there are religious sects that, in their doctrinal dogmas or statements of doctrines, specifically prohibit their members to take up arms. So they could be given civic or noncombatant assignments in times of war.

MR. SUAREZ: So the phrase "objections of conscience" could very well refer to religious objections.

MR. TINGSON: We think so, Madam President.

MR. SUAREZ: Section 9, Madam President, has something to do with family life and, of course, the controversial provision regarding the right of the unborn from the moment of conception. May I address some legal points regarding this matter, but I do not think it would be fair to the Honorable Villegas.

MR. TINGSON: Madam President, he is here, and if it is not too inconvenient for him, we will give him the floor being a member of the committee.

MR. SUAREZ: No, Madam President, we can conduct our dialogue at the back. I have no objection.

MR. TINGSON: It would be better if the Commissioner looks at him while he speaks. It would be more convincing.

MR. SUAREZ: Madam President, there is a disturbing word here that needs clarification, and it is "equally" which appears on line 1, page 3. The State is required to equally protect the life of the mother and the life of the unborn from the moment of conception. This is a collision of rights but according to the phrasing, these rights must be of equal weight. If it involves the life of the mother and the life of the child, how are we going to resolve that problem, Madam President?

MR. VILLEGAS: As I stated in my sponsorship speech, 99 percent of the cases indicated that taking care of the

health of the mother is taking care of the child and vice versa. Because of the progress of medical science, the situations when a moral dilemma exists are very, very few. The intention behind the statement is precisely for the State to also make sure that it protects the life of the pregnant mother. She goes to all sorts of trouble as we have discussed in the provisions on health. Protecting the life of the mother, giving her all the necessary social services will protect the child. So it happens only in very, very few instances which we mentioned, like ectopic pregnancies when the fertilized ovum is implanted outside of the uterus. I repeat, medical science has made the situation very, very exceptional. And we said that even in those instances, which I consider to be less than one percent of the situation, there is a moral principle which we referred to as the principle of double effect in which if one has to save the life of the mother in an operation, it is morally and legally permissible to so operate even if the child will have to be indirectly sacrificed. There is no murder involved there because one does not intend the death of the child. One is correcting a medical aberration of the mother.

MR. SUAREZ: Thank you, Madam President. Suppose it is the other way around. Do we have to save the child as against the life of the mother?

MR. VILLEGAS: Yes, Madam President.

MR. SUAREZ: Although I do not want to sound dramatic, it could very well happen.

MR. VILLEGAS: Yes, it could.

MR. SUAREZ: In a situation like that, how would this equality provision be operational?

MR. VILLEGAS: It is the same principle of double effect. If you are not killing the mother directly, if the operation is to save the child and there is the indirect effect of the mother's life being sacrificed, then I think the principle of double effect also applies.

MR. SUAREZ: So we do not lay moral and legal liability or responsibility as well upon the doctor who will determine and make the judgment accordingly.

MR. VILLEGAS: Yes, Madam President.

MR. SUAREZ: That is clear, Madam President. In other words, notwithstanding this mandate appearing in our proposal that the State shall equally protect the life of the mother and the life of the unborn from the moment of conception, we would not lay the blame upon the doctor who is called upon to make the judgment?

MR. VILLEGAS: Yes, Madam President.

MR. SUAREZ: Thank you, Madam President. This matter of the protection of the unborn from the moment of conception may have a little problem with respect to the application of the laws. Our Vice-President has already called attention to the fact that we have laws against abortion, whether willful, deliberate or induced. Is the committee not satisfied with the provisions now existing in the Revised Penal Code that it goes farther and give protection even to the unborn from the moment of conception?

MR. VILLEGAS: Yes, Madam President. As Commissioner Padilla already said, it is important that we have a constitutional provision that is more basic than the existing laws. In countries like the United States, they get involved in some ridiculous internal contradictions in their laws when they give the child the right to damages received while yet unborn, to inheritance, to a blood transfusion over its mother's objection, to have a guardian appointed and other rights to citizenship; but they do not give him the right to life.

As has happened after that infamous 1972 U.S. Supreme Court decision, babies can be killed all the way up to 8 and 8½ months. So precisely this basic provision is necessary because inferior laws are sometimes imperfect and

completely distorted. We have to make sure that the basic law will prevent all of these internal contradictions found in American jurisprudence because Filipino lawyers very often cite American jurisprudence.

MR. SUAREZ: Madam President, there is another legal point, but I hope the Commissioner and I can thresh this out together for the benefit of the other Commissioners. In our Civil Code, whenever we speak of a child, we speak in the context of a born child so much so that we have what are known as legitimate, illegitimate, legitimated, spurious and adulterous children and children born out of rape incidents. These all speak in terms of a born child, and these born children necessarily enjoy legal rights pursuant to the constitutional provision that every person has the right to life, liberty, property and the pursuit of happiness.

MR. VILLEGAS: Yes, Madam President.

MR. SUAREZ: Going to these unborn children who will be given protection from the moment of conception, does the Commissioner have in mind giving them also proprietary rights, like the right to inheritance?

MR. VILLEGAS: No, Madam President. Precisely, the question of whether or not that unborn is a legal person who can acquire property is completely a secondary question. The only right that we want to protect from the moment of conception is the right to life, which is the beginning of all the other rights.

MR. SUAREZ: So, only the right to life.

MR. VILLEGAS: Yes, it is very clear, only the right to life.

MR. SUAREZ: That is the only right that is constitutionally protected by the State.

MR. VILLEGAS: That is right, Madam President.

MR. SUAREZ: And that right to life, unfortunately, collides with the right to life of the mother.

MR. VILLEGAS: In very, very few instances, Madam President.

MR. SUAREZ: In most instances, I suppose.

MR. VILLEGAS: In most instances they collide?

MR. SUAREZ: Yes, because it could very well mean that if there is a miscarriage or if an abortion is induced, it could jeopardize the life of the mother. So, in those situations, they collide because what the Commissioner is saying is the right to life of the unborn child.

MR. VILLEGAS: Yes, the right to life, Madam President.

MR. SUAREZ: In other words, to be born or to get out of the womb of the mother and become a child in the real sense of the word, legally, conceptually and everything?

MR. VILLEGAS: Yes, Madam President.

MR. SUAREZ: So what kind of protection does the Commissioner have in mind in order that we can give life to this unborn child from the moment of conception?

MR. VILLEGAS: "Protection" means any attempt on the life of the child from the moment of conception can be considered abortion and can be criminal.

MR. SUAREZ: So, principally and exclusively, if I may say so, what the Commissioner has in mind is only an act outlawing abortion.

MR. VILLEGAS: Exactly, Madam President.

MR. SUAREZ: So that is the real thrust and meaning of this particular provision.

MR. VILLEGAS: That is right.

MR. SUAREZ: Can we not just spell it out in our Constitution that abortion is outlawed, without stating the right to life of the unborn from the moment of conception, Madam President?

MR. VILLEGAS: No, because that would already be getting into the legal technicalities. That is already legislation. The moment we have this provision, all laws making abortion possible would be unconstitutional. That is the purpose of this provision, Madam President.

MR. SUAREZ: I thank the Commissioner. That is all, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Tadeo be recognized.

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Ginang Pangulo, mga bumubuo ng kagalanggalang na komite, mayroon akong tanong tungkol sa nakasaad na "The Philippines is a republican State." Ako po ay labis na nabighani dahil nagkaroon ito na "democratic."

Ang pagkakaalam ko sa republican government ay representative government — government of the people, by the people and for the people. Nakikita ko po rito na kung "republican" lang, hindi ito pure democracy where people directly governs. Nagandahan ako rito sapagkat ang ibig sabihin ng democratic government ay isang pamumuno na mayroong direct governance ang mamamayan tulad ng ginawa natin na bago tayo umupo at gumawa ng isang Saligang Batas, sumangguni muna tayo sa mga tao sa pamamagitan ng public at committee hearings. Ito ba ang ibig sabihin ng "democratic"?

MR. NOLLEDO: Madam President, I will speak in English and, perhaps, in some instances, in Filipino.

The Commissioner will notice that I said it was a justified redundancy because some manifestations of a democratic state are already found in republicanism. But in view of the many provisions where we recognize people's power in the form of people's organizations, referendum, initiative, recall, where the people participate even in legislation and in the removal of public officials, I think the word "democratic" must be included and must be aligned with republicanism.

Marami ng mga pangyayari na inilagay natin sa Saligang Batas ang karapatan ng mga taong bayan na hindi lamang sila ay kokonsultahin kung hindi sila mismo ang magbibigay ng tinatawag nating "judgment" o kung ano ang inaakala nilang nararapat sa ilalim ng mga pangyayari.

MR. TADEO: Ang ibig ho bang sabihin nito ay ang isang miyembro ng Kongreso, alkalde o gobernador matapos mahalal, batay sa karanasan, ay nakakalimutan na ang mamamayan o isang pamumuno na patuloy na sumasangguni sa kanyang mamamayan?

MR. NOLLEDO: Kasama na po iyon.

MR. TADEO: Samakatuwid, ang ibig sabihin ay ang pinunong hinalal ay magiging daluyan lamang ng ideals and aspirations ng taong bayan at iisang-tabi niya ang kanyang pansariling kapakanan sa kapakanan ng nakararami?

MR. NOLLEDO: Tumpak po ang sinabi ng Commissioner.

MR. TADEO: Ang ibig po bang sabihin nito ay bago ibinaba ni Minister Mitra ang presyo ng palay sa halagang P3 ang kilo, sumangguni muna siya sa mga magbubukid na siyang maaapektuhan nito?

MR. NOLLEDO: I have my own reservations regarding that. If we look at the existing laws, I think Minister Mitra acted within his powers. But I agree with the Commissioner that it would be much better if the minister consulted the people affected based on the spirit behind the Constitution that we are preparing. I think it would have been better if he consulted the farmers who were affected by the decision.

MR. TADEO: Nakita ko na ang salitang "democratic" ay bilang patotoo sa ginawa natin sa Article on Social Justice, Section 5, na sa pagpapatupad ng reporma sa lupa, kasama ang magbubukid sa planning, organization and management of the program. Ito rin ba ang ibig sabihin ng "democratic"?

MR. NOLLEDO: Kasama rin po iyon.

MR. TADEO: Ang ibig din po bang sabihin ng "democratic" ay katulad ng nasasaad sa Section 15 sa ilalim ng "Role and Rights of People's Organizations"?

The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

MR. NOLLEDO: The declaration that we are a democratic state is implemented by that provision in a constitutional way, Madam President.

MR. TADEO: Patutuo rin ito ng Section 16.

The right of the people and their organizations to effective and reasonable participation at all levels of social political and economic decision-making shall not be abridged.

MR. NOLLEDO: Tama po si Commissioner Tadeo.

MR. TADEO: Ang ibig po bang sabihin ng "democratic" ay ang people's power ay hindi natapos sa lansangan, kung hindi ito ay bahagi ng pagtatayo ng istraktura ng ano mang pamahalaan?

MR. NOLLEDO: Opo.

MR. TADEO: Salamat po. Ginang Pangulo, gusto ko pong tanungin si Commissioner Villegas tungkol sa Section 9, lines 1 to 3:

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

Batay po sa isang talakayang ginawa sa St. Joseph "Forum on Filipino Children, na napalagay sa Malaya, November 24, 1985 issue, sinabi ni Dr. Edeline de la Paz, executive director of the Council for Primary Health Care, na walo sa sampung batang Pilipino ang namamatay taun-taon dahil sa gastroenteritis, pneumonia, malnutrition at iba pang nakahahawang sakit. Among zero to four-year old children, 1.8 million are undernourished, while 4.9 million children representing 50 percent of the preschool children population are suffering from nutrition anemia.

Sinasabi pa rin sa istatistika na dumami ang mentally retarded sa Pilipinas bunga ng kahirapan, na ang dating bilang bago magsimula ang martial law ay 12,000 lamang. Pagkaraan ng labing-apat na taon, umabot ito sa 1.47 million at dumadami pa ito ng tatlung libo bawat taon. Sangayon pa rin sa ulat ng Ministry of Health, ang kaso ng pagkabalihaw ay dumadami ng 100, 200 o 300 porsiyento bunga ng malnutrition.

Batay sa ulat ng Ministry of Health, 90 porsiyento ng utak ng isang bata ay nadedevelop simula sa pagsisiping pa

lamang ng mag-asawa hanggang sa ang bata ay umabot sa edad na limang taon, kaya kailangan ng isang ina ang kumpletong pagkain. Subalit sinabi ni Dr. Edelina de la Paz ang mga sumusunod: "Foreign control of the economy, in the final analysis, is the true killer of our children."

Ginang Pangulo, kung ilagay ba natin sa Saligang Batas ang tungkol sa Section 9, lines 1 to 3, page 3, at ang ating ekonomiya ay hawak pa rin ng mga dayuhan, ano po kaya ang mangyayari? Inuulit ko sinasabi ni Dr. Edelina de la Paz na ang foreign control of the economy ang dahilan. Ito ang pumapatay sa mga batang Pilipino. Ano po kaya ang nararamdaman ni Commissioner Villegas na ang pumapatay pala sa mga batang Pilipino ay ang foreign control of the economy?

MR. VILLEGAS: Madam President, Dr. de la Paz is entitled to her opinion. I would like to tell the Commissioner that nationalist economist Alejandro Lichauco has also said very categorically that the problem of mass poverty has absolutely nothing to do with the number of babies being born in this country. There are causes which he also attributes to foreign control or imperialism, but I think the question is completely irrelevant as far as Section 9 is concerned.

MR. TADEO: Ginang Pangulo, sinasabi sa panukala na mula sa pagkabuo pa lamang, from the moment of conception, dapat na nating pangalagaan ang bata. Batay sa pananaliksik ng siyensa sa kalusugan, mula sa pagkabuo ng bata hanggang limang taon 90 porsiyento ng utak nito ay nadedevelop kaya kailangan itong pangalagaan. Ang ibig sabihin, ang ina ay dapat na mayroong kumpletong sustansiya sa panahon ng kanyang pagdadalangtao; dapat mayroon siyang maayos na kabuhayan para mabigyan niya ng sustansiya ang bata from the moment of conception. Hindi po kaya katotohanan lamang ang sinabi ni Dr. Edelina de la Paz?

MR. VILLEGAS: As I said, she is entitled to her opinion and this body is not the forum to dispute her contention.

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

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Madam President, when we say "existing treaties" on Section 3, do we refer to those treaties existing at the time of the ratification of the 1986 Constitution?

MR. AZCUNA: Yes, Madam President, it refers to treaties existing at the time of the effectivity of the new Constitution.

SR. TAN: Therefore, does this mean that if we pursue an independent course in foreign relations and strive to promote a zone of peace, freedom and neutrality this will prevent us from participating in joint military air and naval exercises with Asian countries as part of our mutual security?

MR. AZCUNA: I believe this will not, Madam President. The concept of "a zone of peace, freedom and neutrality" does not prevent the participants in that zone from being even militarily prepared to protect that neutrality. A modern concept of neutrality as cited by General de Castro in a paper he has given us includes the neutral's power to defend itself.

MS. AQUINO: Madam President, may I just qualify the answer of Commissioner Azcuna. Neutrality now has been commonly accepted to cover the necessity for armed neutrality. A country that advocates a position of neutrality should be in a position to defend a position of neutrality such as in this concept. It is in this context that Commissioner Azcuna's answer is correct. However, if this will be a military exercise that will be concomitant with, for example, a military pact of NATO or any other military alliance that pertains to a superpower, then it is not allowed because that would violate the essence of neutrality in that point.

SR. TAN: I thank the Commissioner. With regard to women, Section 11, page 3, states:

The State recognizes the role and participation of women in nation-building and shall ensure the right of women to equal protection with men in all spheres . . .

Madam President, if the Constitution is ratified, would this provision automatically nullify all existing laws which deny women equality with men?

MS. AQUINO: Yes. The intent of this section as differentiated from the social justice provision on women is to provide for a self-implementing constitutional mandate that will repeal all of the discriminatory and anti-feminist clauses in the new Civil Code and in the Revised Penal Code. We have a list of those; we have made a survey on those.

SR. TAN: That is wonderful, Madam President. Section 12 states:

The State affirms the primacy of labor as a social and economic force and shall foster their welfare and protect their rights, subject to the corresponding claim of capital to reasonable growth and returns.

The term in question is "subject to" because it would mean, of course, subservient or below capital. Was that the intention of the committee?

MS. AQUINO: Madam President, at this point we would like to inform the Commission that at the proper time the committee will advance an amendment which will delete the phrase "subject to the corresponding claim of capital to reasonable growth and returns." This is best appreciated in the context of the approved provision in the Article on Social Justice which adopted this qualification. The committee's intention is to make a clear declarative pronouncement of the primacy of the rights of labor in the Article on the Declaration of Principles. This is actually a takeoff from Commissioner Bacani's resolution.

SR. TAN: So we have an amendment which, I think, would take care of it. Madam President, I just have an observation. It has been said several times that we are not in a position to make any decision about bases, nuclear arms or neutrality because we are not equipped with sufficient knowledge. I wonder whether the committee has any opinion about this.

MR. AZCUNA: Madam President, our opinion is that we have sufficient knowledge to make a decision since this revolves on sovereignty and the effects of foreign military bases on national sovereignty, as well as the fact that we have had the opportunity to consult with experts, read materials and go into the history or the whole background of the Philippine experience on bases and nuclear weapons. There are available materials and we have culled into them. We believe, Madam President, that it is not correct to say that we are not equipped to deal with this. We, in fact, have shown in our discussion that we are all very well aware and well informed about this matter.

MS. AQUINO: Also, Madam President, it is the committee's position that the best springboard for knowledge is not really so much the technical expertise on the matter than it is the sense of history. The historical situation has taught and provided the imperative for this kind of a provision. The historical situation now is different from the historical situation 20 years ago.

In Asia, there is a common drift of adopting a position that we refuse to be taken for granted anymore. We are now intolerant of the imperialist pretensions of the superpowers. The military bases agreement which is the lesson of history is not a magnanimous document as it is being touted to be. In fact, it is a straitjacket. So the best teacher we have which guides us so far is our sense of history.

SR. TAN: My dilemma is that when I keep on hearing that we are not equipped, then we are also not equipped to suggest deletion, is it not?

MR. AZCUNA: As I said, I feel that both sides of the debate have shown remarkable understanding and wealth of information and it only goes to show that we are equipped to deal with this problem one way or the other.

SR. TAN: Yes. My point is, if there are still some of us here who are not equipped, then they are also not equipped to propose deletion.

MR. GARCIA: If I may share my own thoughts in this matter, I think it is a very important question. My own question to those who are saying that we are not equipped, not capable and that we are only appointed would be this: Why have we lost the political will and the constitutional confidence to draft a truly sovereign charter, especially when we have to face the issue which touches on the violation of our territorial integrity and the colonial vestige of extraterritoriality? Secondly, I say this to those who have proposed also that we should not touch this precisely because we are not politicians. We can act independently and be guided by considerations beyond partisan politics and beyond the lifetime of just one administration. I also want to say that now is the time and this body is the forum to decide on the bases issue for principles must guide leaders, not leaders who can rewrite principles everytime a new administration comes into power; not that we do not trust our leaders, but we must support principles that can be embodied by our leaders. That is the reason why we want to have in the Article on the Declaration of Principles a statement. We cannot shirk from this responsibility of saying something on the bases.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: As mentioned by Commissioner Azcuna, there has been a very scholarly presentation of both sides. It is true that knowledge is available to us as much as it would be available to an elective legislative assembly. Of course, some of us on the other side of the fence are saying that this body should not be the final arbiter for such a very momentous decision as on the military bases which have been in our country not only yesterday but for many past administrations. The history of these military bases has been officially accepted by past Presidents of our country, and the legislature has had intimate dealings with the Ministry of Foreign Affairs and with experts on jurisprudence Rationales and papers have been written and produced in favor of the retention of the military bases and issued officially by our Foreign Affairs Ministry.

As to what the other side is saying, it would be best for our country if such a momentous decision would not be given finality here since, in a sense, we are only appointed. We do not have the final seal of approval to make a final decision on something like this. It might be best to just leave the matter into the hands of the chief executive assisted by the Ministry of Foreign Affairs, the ambassadors in the United States and elsewhere and the experts who would be more available as compared to the limited public hearings that we had. The public hearings were so limited indeed. I remember that we did not just discuss the bases during our hearing. They were really perfunctory discussions.

When I was in Albay, Bacolod, San Carlos and even here in Metro Manila, I remember that some of us were saying that it might be better to leave the matter to our chief executive assisted by the Ministry of Foreign Affairs.

MR. GARCIA: Madam President, I would simply say this: Why have we become all of a sudden so different in the writing of this sovereign Charter? Tomorrow may be too late. There has been so much study on nuclear weapons and nuclear arms. In fact, I remember in the public hearings we had in the old Congress building on July 4, this year, Senator Tañada said very clearly that one can make a mistake on the bicameral or unicameral issue, the parliamentary or the presidential issue, but one cannot make a mistake on this issue of the bases and nuclear weapons. There is so much data. As of 1984, the United States has 11,857 deliverable strategic warheads

excluding sea-launch cruise missiles and euromissiles. The USSR had 7,865 strategic warheads, a total of nearly 20,000 strategic warheads for both superpowers. When we add tactical nuclear warheads, the figures would be 37,657 nuclear weapons for the U.S. and 17,656 for the USSR or a total of 55,000 strategic and tactical nuclear weapons. This is merely 16 billion tons of TNT or an average of three tons for every man, woman and child living on earth today — far more than what is needed to annihilate all of humanity. We should know that just one trident submarine alone carries four times the fire power expended in the entire Second World War.

The point I am trying to make is this: We are sure that there is so much evidence in our bases wherein nuclear weapons are deposited. We have data. We can go through the data very carefully if we bother or care to. The point is, it is such of an urgent nature that we have to decide.

In other words, I cannot imagine a Constitutional Commission saying that we are drafting a very important law for the land and not addressing such a vital issue of the survival, security and safety of our people. Otherwise, why write a charter at all? For me, this is a very elementary question. If we have a child and the future of the child is at stake, are we not going to answer the most vital issues — the life of the child and the country of the child? So for me, that is very important. I mean, if we have to stop this Constitutional Commission right now and have an on-the-spot inspection of the bases, if we can be allowed, to see what is going on, we will know the kind of weapons being used. Right now, there is a USSR carrier that is docked. I am sure that that carrier which is nuclear capable, with 12,000 men in it, has nuclear weapons. Otherwise, this is what General Laroque says: "If it is nuclear capable, it normally has those weapons." And that is a threat. Every year there has been over a hundred accidents of nuclear weapons. Every year there is one. The point is we do not want to be part of these nuclear madness, this annihilation; neither do we want to be involved in a war not of our own making nor be destroyed or annihilated because of a nuclear accident. I think we must take a stand in this body.

MR. TINGSON: Madam President.

THE PRESIDENT: Is there any other Member outside of the committee who would like to speak?

MR. DAVIDE: Madam President.

THE PRESIDENT: I understand the Floor Leader has a long list.

MR. RAMA: Yes, Madam President.

MR. DAVIDE: Madam President, parliamentary inquiry.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I was about to raise this yesterday, but I wanted to hold my peace. I would raise it now.

I notice that the committee report indicates that Commissioner Tingson, as vice-chairman, signed without any reservation whatsoever. However, he spoke against the report yesterday. Today he is speaking against the report. Yet, in his sponsorship speech, he did not make any reservation regarding Sections 3 and 4. My parliamentary inquiry is: Is it not that under the Rules, a person who signs a committee report without reservation, taking into account the suppletory effect of the Rules of the Batasang Pambansa, cannot anymore speak against the report?

THE PRESIDENT: There is a parliamentary inquiry; we will study the matter.

MR. AZCUNA: For the information of Commissioner Davide, the honorable vice-chairman voted against the sections he is speaking against and if that is not reflected in the report, this is just really a typographical error. I notice that Commissioner Crispino de Castro has a reservation but it is just interrelated in handwritten note. This is just a typographical error, Madam President. It is of record in the committee, and I can attest to that, that

Commissioner Gregorio Tingson voted against these provisions in the committee report.

MR. TINGSON: Madam President, may I also say one word inasmuch as I was alluded to.

We all hear of very dark possibilities of destruction among our people and the world itself in case of nuclear war, and we all say that this is a very momentous problem that must be debated upon. I would suggest that we forget some legal technicalities, if only for the interest of everyone of us to fully participate, including the acting chairman of this committee. I would not have said anything a while ago, but due to the fact that nobody stood to say something for the other side, hence, I stood and said something for the other side.

THE PRESIDENT: In fact, the Chair is not following all the Rules of the body. It has been very liberal in applying said Rules. But for purposes of not prolonging our discussions too much, I request that what has already been said need not be repeated. I think we are all conversant with the views that have been given during the three-day debate that we have had.

So may we have the next interpellator, please.

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

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

I would like to refer to Section 3, specifically lines 19 and 20: It states: "The State has the inherent right to self-determination, national independence and sovereignty." I find this a little odd, sandwiched as it were in a statement on a "zone of peace, freedom and neutrality" and a statement on "treaties, international or executive agreements" in relation to foreign military bases.

May I know the contemplation of the committee in relation to this particular phrase: "self-determination, national independence and sovereignty."

MR. AZCUNA: Yes, this whole section has to do with the assertion of sovereign independence by the State especially in its foreign relations. The lead sentence of Section 3 states that the State shall pursue an independent course in sovereign relations and then it goes to specific case, and that is, to strive to promote a zone of peace, freedom and neutrality in this part of the world together with other states.

The next paragraph under Section 3 again states the inherent right of the State to self-determination, national independence and sovereignty. The second sentence again goes to a specific case which involves that principle; that is, foreign military bases, troops and facilities. And because of that first sentence, it seeks under the specific case to forbid such foreign military bases as a violation of that principle in the first sentence.

MR. BENNAGEN: But does not the phrase "self-determination, independence and sovereignty" include other categories apart from foreign military bases?

MR. AZCUNA: It does. Yes, this is just a specific case; it does not exhaust the range of possibilities under the first sentence or under the concept of sovereignty.

MR. BENNAGEN: As a state principle, should it not be somewhere else to include all these other categories?

MR. AZCUNA: Not necessarily. The committee feels at this point that this particular category looms quite large in this field that it bears to be mentioned, specifically, together with the principle.

MR. BENNAGEN: So it is for greater emphasis that it is placed here?

MR. AZCUNA: Yes, that is right.

MR. BENNAGEN: But it does not preclude other categories?

MR. AZCUNA: It does not preclude other categories.

MR. BENNAGEN: Thank you. Let me go to Section 5.

The State values the dignity of the human person, guarantees full respect for human rights and undertakes to uplift the social, economic and political condition.

The first reference is to dignity of the human person" but it is followed by a list of human rights and a list of social, economic and political conditions. Is the reference still to the person or to the social concept of that human person?

MR. AZCUNA: What section?

MR. BENNAGEN: Section 5, lines 7, 8 and 9 on page 2.

MR. NOLLEDO: Yes. The social concept of the human person is included because when we talk of the human personality, we must necessarily live by bread. However, man does not live by bread alone, we have to respect his human dignity and human rights. So when we talk of the phrase "social, economic and political condition," we talk of his position as a human being the physical being. When we talk of political condition," we talk of his participation as a member of the community where he can participate as a voter or as a candidate, and those things taken together are affected by the respect for human dignity and honor.

MR. BENNAGEN: Is it the idea, therefore, that for human rights to be valued and protected, there should be a conscious effort on the part of the State to enhance social, economic and political conditions?

MR. NOLLEDO: I would agree with the Commissioner because the respect for human rights may actually exist independently of the social, economic and political condition. But as we have stated here, when we talk of human rights, we talk of the whole gamut of rights pertinent to the existence of the human person. So we do not talk only of civil and political rights, as indicated by Commissioner Padilla here, but we talk also of social and economic rights. That was the reason why when we established the Commission on Human Rights, we basically referred to violations of civil and political rights but we do not necessarily do away with the social and economic rights that belong to the person.

MR. BENNAGEN: Thank you.

Section 7 of page 2, lines 15 to 20 states:

The prime concern of the State is the promotion and establishment of a socio-political and economic system that will ensure the independence of the nation and aims to secure for the people the benefits of full employment, a high standard of living, equality in economic opportunities, security in old age, and other basic human rights.

May I know the contemplation of the committee on the nature or characteristics of this "socio-political and economic system," particularly as it promises to "ensure the independence" etc.?

MR. AZCUNA: The statement of principle contained in Section 7 refers to a "socio-political and economic system" that ensures national independence and aims to secure for the people economic benefits of better quality of life as full employment, a high standard of living, equality in economic opportunities, security in old age and other basic human rights.

MR. BENNAGEN: Would this include full industrialization?

MR. AZCUNA: I suppose that would be included in the benefits of full employment, and then also, of course, agrarian reform, if it will have to take into account the explication of these principles in other parts of the Constitution.

MR. BENNAGEN: Reference is made to "high standard of living," and I recall that in the Article on National Economy and Patrimony, we opted for quality of life instead of standard of living. In due time, would the Commissioner be open to some amendments?

MR. AZCUNA: Yes.

MR. BENNAGEN: Then, reference is made to "security in old age." why is there a particular effort to single out security in old age in the Declaration of Principles and State Policies?

MR. AZCUNA: This was felt to be a concern among the Commissioners who filed a resolution to this effect, and the committee agreed that we must protect not only the young, but also the elders and the senior citizens because they are at a disadvantage.

MR. BENNAGEN: I ask that because the Commissioner seems to be guided by some kind of principle that the more we enumerate, the more we limit the options, and I am a little bothered why old age is singled out.

MS. ROSARIO BRAID: We have provided security for other sectors in the other provisions. As we would note, we have done it for the youth, the women, labor and other sectors. So, those belonging to this sector have not been ignored. We thought we would include it in this particular section.

MR. BENNAGEN: On page 3, lines 10 to 12, part of Section 10 states:

For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation.

We had this debate in previous articles on the distinction between "nationalism" and "patriotism." In the cottemptation of the committee, would "nationalism" include, among other things, ideas of service to society, the distinctions existing among classes and ethnic groups? Does it allow for a clear understanding that even as we strive to build ourselves into a nation, we are also aware of the need to recognize that there are existing contradictions in Philippine society, that we do not wish to develop a kind of nationalism that pretends to be homogeneous and at the same time chauvinistic in relation to other nations?

MR. AZCUNA: That is right.

MR. BENNAGEN: I ask that because we did emphasize in one section on the Article on Human Rights that to counteract the tendency towards some kind of national chauvinism, there should be some effort towards relating ourselves to other nations. Then on Section 12, I understand that Commissioner Tan has a related question, but I still feel that there is indeed a need to amend this to harmonize the rather contradictory tendency of the use of the phrase "primacy of labor" and the subsequent use of the words "subject to." Somehow, they do not belong together.

The last line on page 3 and the first two lines on page 4 state:

The State shall promote rural development and agrarian reform as priorities, with cooperativism as its organizing principle.

MS. ROSARIO BRAID: Not really, but we thought we would emphasize cooperativism because we felt that we

should have a mechanism that will support these very important areas of rural development and agrarian reform. May I just add that nowhere in the other articles have we mentioned rural development, so we thought we would do it in this Article on the Declaration of Principles. We will note too in the Evening Post today that one of the gaps pointed out in the researched report on the present government is its lack of policy on rural development. So this is a very appropriate provision that can respond to some criticisms, such as lack of strategy in rural development.

MR. BENNAGEN: We normally link rural development with urban development but there is no statement on urban development.

MS. ROSARIO BRAID: It was mentioned this morning that there are areas we have not dealt with. One explanation for this is that we have to respond to resolutions that were sent to our committee. That is really in the case of urban development. But the Articles on the Executive, Legislative and Accountability of Public Officers deal with procedures and time-bound practices rather than principles. So what we have in this Article on the Declaration of Principles are principles that will stand the test of time. For this reason, we felt that only those concepts and principles that we can say will remain beyond and for a reasonable period of time should be contained in this article. But in terms of urban development, I think if the body would be willing to submit amendments, we will welcome it at the appropriate time.

MR. BENNAGEN: Would rural development include agrarian reform or would there also be industrial development as part of rural development?

MS. ROSARIO BRAID: Yes. Industrialization will be a part of rural development.

MR. BENNAGEN: Thank you.

Still on the same page, Section 18 states:

The State recognizes the human right to a healthy environment and the singular demand of nature to follow its own rhythm and harmony.

I like the last clause "the singular demand of nature to follow its own rhythm and harmony" because it challenges the literary imagination. But, precisely, what is the meaning of this in relation to the next sentence which states:

The State shall therefore maintain ecological balance even as it harnesses our natural resources for the common good and the sustenance of future generations.

It has been said that in ecology the less we tamper with nature, the more it follows its rhythm and harmony.

MR. GARCIA: In a sense, this is an effort to respect the rhyme and rhythm of nature, the purity of the rivers, the ecological life of our lakes against pollution, the protection of the forest and our preserves. It is necessary to respect nature just as we respect human life and the needs for the development of a country.

MR. BENNAGEN: When we say we respect nature, would it include also man or human beings as part of this nature with its own rhythm and harmony?

MR. GARCIA: Yes. In fact, it is for man that we protect the environment.

MR. BENNAGEN: No, it is not just for man because this implies a tendency to exclude man from our concept of nature. I am asking whether or not in this concept man would be viewed as part of nature.

MR. GARCIA: Precisely, the stress here is the right of man to a healthy environment. The only reason why we want to protect and harness nature is for man's good and benefit.

MR. BENNAGEN: Yes. As formulated, there is a tendency to separate man from that ecosystem of which he is a part. What I am saying is, we restore in this article a principle that was lost in the Article on Human Rights, wherein we argued that there is a need for us to promote ecological consciousness.

MR. GARCIA: Yes.

MR. BENNAGEN: In due time, would the Commissioner accept some amendments to include ecological consciousness as a necessary perspective for this Section 18?

MR. GARCIA: Yes.

MR. BENNAGEN: Thank you.

On the same page, Section 19, lines 26 to 28, states:

Towards this end, it shall promote the development of an indigenous, socially responsive and nationalist oriented scientific and technological capability.

Would this include support for basic science research for both the natural and social sciences? I ask this because one gets the feeling that the principal focus is on applied science and technology. Would it also include basic science research in the natural sciences and social sciences?

MS. ROSARIO BRAID: Yes. We remember that in our discussion on the Article on Science and Technology we did note the importance of linking science and technology to the political, social environment and the need to come up with a more multidisciplinary approach to science and technology; which means that we cannot divorce it from the social sciences but that science and technology should include both social, natural and technological sciences.

MR. BENNAGEN: No, I am referring also to the relationship between basic and applied science research.

MS. ROSARIO BRAID: These are included in the concept.

MR. BENNAGEN: Basic and applied?

MS. ROSARIO BRAID: Yes.

MR. BENNAGEN: Yes, because developing countries have a tendency to put their resources into the applied sciences to the neglect of basic natural and social science research. I feel it is important to pay attention to basic sciences.

MS. ROSARIO BRAID: Yes, we fully agree.

MR. BENNAGEN: On page 5, Section 21, lines 3 to 8, states:

The State shall protect the right of the people to communicate and shall promote access to information to enhance social and political participation. The media and other forms of communication have a social responsibility in assisting the people to enjoy their rights and freedom.

In the other provisions we usually make a listing of aspects of society to include social, economic and political. But in this section, particularly in relation to access to information, reference is made only to social and political. Is it not the case that economic information is of extreme importance in enhancing greater participation among the people? Is it the contemplation of this article that access would be in relation to the whole range of information?

MS. ROSARIO BRAID: Yes, we quite agree that "economic" is subsumed under "political." We have to underscore "political" because we want to emphasize the need to awaken the people so that they will be able to

identify the needs and requirements, so they will be able to participate in their own development. However, this does not include economic information.

MR. BENNAGEN: When the time comes for amendments, would the Commissioner accept an amendment to include information?

MS. ROSARIO BRAID: Yes.

MR. BENNAGEN: Thank you, Madam President.

MR. GUINGONA: I rise on a question of privilege, Madam President.

THE PRESIDENT: Commissioner Guingona may proceed.

MR. GUINGONA: I tried to speak earlier because I felt alluded to by the implied accusation of the acting chairman of the committee when he said that he had to speak because the Commissioners who shared his views were silent. The reason for our silence, Madam President, is because of the ruling of the Chair to which we have submitted that Commissioners who want to interpellate the committee members are not subject to interpellations.

Thank you, Madam President.

THE PRESIDENT: Thank you.

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

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Thank you, Madam President.

I am inviting attention to Section 6 which was touched by Commissioner Suarez, particularly the phrase; "with due regard to objections of conscience."

This has reference to the provision in Article II, Section 2 of the 1935 and 1973 Constitutions which reads:

The defense of the State is a prime duty of government, and in the fulfillment of this duty, all citizens may be required by law to render personal military or civil service.

In the committee report, the exception or qualification "with due regard to objections of conscience" was inserted. Does that mean that a citizen or a student may not be required to render personal military or civil service on the excuse that his faith or his religion prohibits such a service?

MR. AZCUNA: No, Madam President. This provision was taken from the original resolution of Commissioner Davide which seeks to provide for substitute service on the part of conscientious objectors. First, this provision refers to situations where there is a sincere, real, honest objection of conscience and not a pretended or fictitious one. Of course, the ability to distinguish one from the other, that we can leave to Congress or to the courts or to the other authorities.

Second, as we mentioned earlier, the intent is not to exempt from service a conscientious objector. The phrase "due regard" means that as much as possible, such a person who is a genuine conscientious objector be not assigned to combatant duties. There are other duties both in the military service and the civil service which will not entail combat work.

MR. PADILLA: But there is no such distinction that they will not be assigned to combat work. Why? This is because his faith tells him not to believe in killing or being killed in war even if it be in defense of his country or it may be that his religion does not allow military training because he does not believe in this prime duty of the

citizen to defend his country.

This may be a dangerous phrase. Commonwealth Act No. 1, known as the National Defense Act, in some instances, requires military training. This was upon suggestion of General Douglas MacArthur when he was the military adviser of President Quezon. In fact, in all the schools, we have the ROTC which may not be sufficient. But there are some steps towards military training, not for offense but for defense.

The constitutionality of Commonwealth Act No. 1 was once challenged, but the Supreme Court has upheld its validity.

I recall the case of *Gerona vs. Secretary of Education*, 106 Philippines 2, where some students who were Jehovah's witnesses refused to salute the flag on the ground that their faith does not permit them to do so. That was the constitutional issue. The freedom of religious belief or the freedom of a person as a citizen cannot prevail over the police power of the State that would require the act of saluting to the flag as a prerequisite to education.

We all know that the Supreme Court has upheld the validity of that school regulation requiring all students, especially in the public schools, to salute to the flag. May I be allowed to read a portion of that decision:

In requiring the school pupils to participate in the flag salute, the State, through the Secretary of Education, is not imposing a religion or religious belief or a religious test on said students. It is merely enforcing a nondiscriminatory school regulation applicable to all alike, whether Christians, Muslims, Protestants or Jehovah's witnesses.

The State is merely carrying out the duty imposed by the Constitution which charges supervision over a regulation to all educational institutions. . . .

And the court concluded:

The children of Jehovah's witnesses cannot be exempted from participation in the flag ceremony. They have no valid right to such exemption. Moreover, exemption to the requirement will disrupt school discipline and demoralize the rest of the school population which by far constitute the great majority. The freedom of religious belief guaranteed by the Constitution does not and cannot mean exemption from noncompliance with such reasonable and nondiscriminatory law, rule and regulation by the proper authority.

In other words, the police power of the State prevails over the individual conscience of religious objection. I think it is a correct rule, otherwise, we may have some of our students or our citizens claiming privileges that are imposed as duties on all citizens for the defense of the country.

So, will the committee consider the elimination of the phrase "with due regard to objections of conscience" which was not in the 1935 and 1973 Constitutions?

MR. NOLLEDO: Will the Commissioner permit me to make a comment on that? As stated by Commissioner Azcuna, if it is possible to reconcile the conflict of conscience and the police power of the State, then that possibility should be explored and made real. For example, if one refuses to join the army because he is prohibited by his religion to kill, then he can be assigned to a noncombatant function. However, if the conflict is irreconcilable and when he just merely says that his conscience does not permit him to join the army because he does not like to join it, then the police power of the State may still prevail in that situation. So, I think it is appropriate to put the phrase "with due regard to objections of conscience" whenever the conflict can be reconciled. But when the conflict is irreconcilable, I will agree with the Commissioner that the police power of the State shall prevail.

MR. PADILLA: It cannot be reconcilable if we call it not an exemption but, in effect, it will be an exemption. In

other words, granting a few some rights or privileges which are denied to the others just because they claimed that this is part of their religious belief will be very dangerous. There may be a new religious sect that will have one of its cardinal principles of faith the refusal to perform the duties of citizenship by not following what the Constitution says as "to render personal military or civil service." When we try to distinguish about combatant duties just because we say that only the Lord can kill or can give life and therefore can withdraw life and because the commandment says, "Thou shalt not kill," therefore, we can say "I do not want to learn how to bear a firearm; I do not want to shoot." How can we win a war if the soldiers do not know how to shoot? A war is for defense, not for friends. I hope the committee will consider this. This only means that they will not be assigned to combatant duties, but the committee report does not say so. It only says "with due regard to objections of conscience."

MR. NOLLEDO: That is the reason why we are explaining. We cannot put all the details there. We must know that there is a colliding freedom of religion; we have to consider other freedoms. We do know that there are several freedoms guaranteed by the Bill of Rights. When freedoms collide, then we have to reconcile.

MR. PADILLA: It is not a question of collision of freedoms. What is that collision of freedoms? The rights contained in the Bill of Rights do not collide with each other.

MR. NOLLEDO: Let us take the case of the Quakers. The Quakers are pacifists; they do not like to bear arms and kill people; then they can be assigned to the medical corp or to noncombatant functions of the army. That is a very good situation where freedom of religion is given importance, otherwise we will be diminishing the importance of certain freedoms guaranteed by the Bill of Rights. We cannot ignore those freedoms.

MR. PADILLA: If they are better qualified than doctors and nurses, well and good, because I do not also want everyone to be combatants in the field. There may be some who claim to be generals or majors, but they are only in the headquarters. They have never been in the frontline. There may be undue discrimination, especially if we base it on his conscience or his religion or his faith. The duties of citizenship must apply equally to all. I do not believe that religious freedom should prevail over the fundamental provision on the Declaration of Principles under Article II, Section 2 of the last two Constitutions. Why should we insert that phrase and make this provision more controversial, more doubtful and less effective? I hope this point may be considered.

Madam President, in the discussions of Sections 3 and 4, I have been hearing about the U.S. military bases, nuclear-weapons, nuclear-free country, etc. and that World War II in the Pacific was the war between Japan and the U.S. and not our own war. I agree that that was not our own war because we did not want to engage in war, much less against Japan, a more powerful nation, both economically and militarily. But we might have forgotten the misleading and deceptive slogan of the then highly militarized Japan, entitled "Greater Asia Coprosperity Sphere." I have not heard of any lengthy discussions on that slogan of the militarized Japan.

The historical fact is that the military, naval and aerial forces of Japan bombed Pearl Harbor not to wage war against the U.S. or to invade and occupy the continent of the United States. It was to cripple the naval and military forces of the United States so that this slogan of coprosperity sphere of Japan could proceed with less interference or intervention from the United States. And so, Japan, after starting its invasion of Manchuria, went downward Asia and it then bombed Camp John Hay and also Clark Field. Thereafter, the Japanese landed on Philippine soil and entered the City of Manila on January 2, 1942. But Japan in this coprosperity sphere wanted to invade and dominate all of Asia. History will show that the military forces of Japan under those extreme military rulers invaded not only the neighboring cities like Hongkong, but also French Indo-China, now Vietnam, British Malaysia, Dutch Indonesia, the Philippines, Singapore, Burma, New Guinea and Thailand. They went farther down to New Guinea even with the intention of invading Australia. That was the military plan of the highly militarized Japan. We have a Clark Field but I understand that many of these countries that were invaded and

occupied by Japan during World War II in the Pacific did not have any U.S. military base.

MR. NOLLEDO: May I interject? Technically, the war was really between the United States and Japan because at that time the Philippines was under the control of the U.S. government and we were considered American nationals. Everyone knows that.

MR. PADILLA: I did not say American Philippines but I said "including French Indo-China, British Malaysia and Dutch Indonesia."

MR. NOLLEDO: American Philippines.

MR. PADILLA: All right, the Commissioner wants to call it American Philippines. The fact is that the United States had joined alliance with what we call the "free world." In the battleground of Europe, Hitler, in Union with Mussolini, invaded Poland and the other neighboring countries of Europe including France, and he even wanted to invade England and also attempted to invade Russia. So the United States, allied with the free forces against Hitler and Mussolini in Europe, had to extend also her military might against expansionist Japan not only against the Philippines but all over Asia. That is one fact that we verily do not realize.

MR. NOLLEDO: Would the Commissioner agree with me that at that time there was an impression created by the Americans upon the Filipinos and a belief foisted upon us that with the existence of the American bases in the Philippines, we would be protected against external aggression? And what happened? We were bombed considerably by the Japanese and the American bases did not secure our country from external aggression. The Americans failed to defend the Philippines at that time.

MR. PADILLA: With or without U.S. military bases, in all these countries that were included in the plan of the Greater Asia Coprosperity Sphere, Japan was still bombing, invading and occupying all these countries of Asia. It is not correct to say that there was very little bombing here actually. It is not correct to say that we were bombed, invaded and occupied because of the U.S. military bases. I believe that is a conclusion which is not supported by facts.

MR. NOLLEDO: I understand that Manila, where the Americans were also stationed, was the most devastated city after Poland in the whole world.

MR. PADILLA: That is not correct. The City of Manila was made a free city upon the entry of the Japanese forces. It was then General Homma who issued his military decrees saying, "The Philippine Constitution, the Philippine laws are not applicable, only my military decree." That is a fact. Hence, when was the other portion of Manila and the other side of the Pasig River destroyed? It was not during the invasion of the Japanese, but rather when the Japanese were retreating at practically island by island after General MacArthur's liberation forces proceeded in its liberation movement from Australia up to the Philippines.

MR. NOLLEDO: History will support me that the Japanese came here with full hatred against the Americans. They were looking for the Americans and not for Filipinos who fought them. It was only secondary that they were after the Filipino guerrillas. They were always looking for the Americans in order to kill them. Hence, that constituted a burden upon the Filipino people.

MR. PADILLA: The Japanese imperial forces were not interested in a few Americans or a few Filipinos. They were interested in their expansion to dominate the entire Asia. They were not interested in few Americans who were interned in Santo Tomas or some of the guerilla forces that were later on arrested, detained and tortured by the Japanese.

From 1942 to 1945, the Filipino people suffered immensely. Many of the older Members of this Commission

could verify that fact. The younger ones who were born after 1945 have not experienced the difficulties, tribulations and the enormous exactions made by the Japanese imperial forces in the Philippines. It was Bataan and Corregidor that delayed the timetable of the Japanese expansionist movement for that so-called Greater Asia Coprosperity Sphere.

MR. NOLLEDO: That was the reason why the United States imposed upon us Resolution No. 93 because the Philippines is strategically located for the protection of U.S. allies, like Australia and New Zealand.

MR. PADILLA: What is that Resolution No. 93 and on what date was it filed?

MR. NOLLEDO: Resolution No. 93 was the actual basis of the RP-US Bases Agreement allegedly for the mutual defense of the Philippines and the United States.

MR. PADILLA: We are talking of the world war in the Pacific, from 1942 to 1945.

MR. NOLLEDO: Yes, Resolution No. 93 was the effect of the Japanese war. The United States thought that because of the delay in sending the Japanese forces due to the strategic location of our country, the Philippines was necessary for the defense of the United States.

THE PRESIDENT: Can we go to another subject?

MR. PADILLA: I will just finish my observations, because these are very important.

THE PRESIDENT: In fact, I would like to add that my husband fought in Bataan and he participated in the Death March and was imprisoned in Capas, Tarlac — for the Filipino people and not necessarily for the Americans.

MR. PADILLA: Yes. General Douglas MacArthur had to abandon Bataan and Corregidor because they could not possibly defend further the Philippines which had already been invaded and occupied by the Japanese imperial forces.

But the heroism of the Filipino soldiers and generals in Bataan and Corregidor together with the American soldiers delayed successively the timetable of the Japanese imperial forces. We had to wait three long years but the people with the help of genuine guerrillas were imploring the aid of Divine Providence for the redemption of that solemn pledge of General Douglas MacArthur: "I shall return."

Madam President, we have to realize that militarized Japan at that time was very abusive and aggressive, much more abusive even than the Marcos dictatorial regime. With this very strong military decision of Japan to dominate Asia not only economically but also politically, as stated in that misleading slogan of "Greater Asia Coprosperity Sphere," I regret to even believe how the different countries of Asia could have succeeded in preventing or removing this Japanese domination. That is why the Filipino people are grateful to General MacArthur who represented the liberation forces that worked for the redemption and liberation of the Philippines and the entire Filipinos from the Japanese yoke of forceful invasion, occupation and domination.

Thank you, Madam President.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: This is just for the record. When we were fighting the Japanese, my soldiers asked me: "Sir, why are we fighting a US war?" I said, "No, we are not fighting a war for the United States. We are fighting this war because the Japanese violated our sovereignty and our dignity." The same answer I gave Commissioner Davide; the Japanese violated our women and the small children were being thrown up the air and caught with

bayonets. This is what we were fighting for.

During the Japanese regime, I humbly say that I happened to be a division commander of a guerrilla unit of 12,000 men all armed in the Province of Bukidnon. There were a few Americans and I pointed to them: "We are not fighting your war; we are fighting because the Japanese transgressed our sovereignty."

On the matter of the strategic importance of the Philippines, allow me to state that it was indeed a Japanese tactical error or strategical error to first subdue the whole Philippines, offering almost no resistance at all before they proceeded to the other places. That was a great strategic error, and this was written in military books. The plan of the Japanese was to totally conquer the Philippines before they proceeded to Burma, Malaysia, and so on. They were inflexible in their plans, such that even if the resistance of the Filipinos in Bataan and Corregidor was almost negligible, they still would have to first conquer the whole Philippines before they could proceed to their next objective. Their plan was inflexible and so they were unable to follow their timetable. It was not because of Resolution No. 93, but it was really an error of the Japanese.

I heard that the United States was the only one with a powerful weapon like the atomic bomb which she used on Hiroshima and Nagasaki. For the benefit of those born after 1945, I will say that that is an error because at that time the Germans were already perfecting their missiles ready to be used in England. Hence, General Patton and General Montgomery rushed towards Berlin in order to get the German scientists and destroy the production of these missiles. They were lucky because they went ahead although General Eisenhower told them to stop because it is their agreement that the Russians will first enter Berlin. General Patton did not obey that. He went through their plan, got the scientists of Germany, transported them to the United States and perfected the atomic bomb. But the missiles of Germany were already prepared to be used on Great Britain. Only by the courage and the disobedience of General Patton to the agreement that it would be the Russians who will first enter Berlin. But General Patton said, "No, I am on my way. I will have to go to my objective."

The reason why the atomic bomb was perfected was because the German scientists were immediately captured by General Patton, transported them to the United States and perfected the atomic bomb. The missiles of Germany were ready when they were conquered.

I agree with the President's statement that her honorable husband fought the war, not because he fought for America but because he fought for the sovereignty and the protection of the dignity of our women and our children who were abused by the Japanese forces.

Thank you, Madam President.

THE PRESIDENT: Thank you.

Who is our next speaker?

ADJOURNMENT OF SESSION

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

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

It was 6:37 p.m.

[*]Appeared after the roll call.

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