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Friday, September 19, 1986

OPENING OF SESSION

At 9:59 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 Jaime S. Tadeo.

Everybody remained standing for the Prayer.

PRAYER

MR. TADEO: Diyos ng kasaysayan, Diyos ng mga dukha at inaapi,
Tunghayan Mo kami sa araw na ito.

Nagsusumikap magbalangkas ng isang Saligang-Batas
Na dapat kumatawan sa adhikain ng sambayanang Pilipino.

Tinig ng bayan ay tinig Mo, laluna't tinig ng
nakararaming gutom at uhaw para sa katarungan
at kalayaan.

Sana'y dinggin naman ang sigaw ng bayan,
Sa halip na pakinggan ang mga bulong ng mga
dayuha't mapang-api.

Ikaw, Panginoon,
At ang bayan ang dapat naming tanging
Kilalaning Panginoon sa aming ginagawa.
Sana'y maging tapat kami sa bayan sa halip na maging
sunud-sunuran sa ibang panginoon.

Ikaw ay nagsasabing gagamitin ang karunungan ng
mga mangmang upang mapahiya ang mayayabang
na pantas.

Hinihiling namin sa Iyo,
Sa darating na araw ng paghatol at pag-uusig.
Punuan Mo ang aming pagkukulang
At patawarin ang aming pagtalikod sa Iyo at sa bayan.
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 Present[*]

Bacani Present Padilla Present

Bengzon Present Quesada Present[*]

Bennagen Present Rama Present

Bernas Present[*] Regalado Present

Rosario Braid Present Reyes de los Present

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present[*] Rosales Present[*]

Davide present Sarmiento Present[*]

Foz Present[*] Suarez Present

Garcia Present[*] Sumulong Present

Gascon Present Tadeo 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

The President is present.

The roll call shows 29 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 Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from H. George Feliciano and Lydia Feliciano and Tito dela Cruz and Delia dela Cruz, convenor couples of the Citizens Alliance For The Constitutional Protection of The Unborn, submitting a compilation of position papers and summary of arguments favoring the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 928 — Constitutional Commission of 1986)

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

Communication from the National Council of Churches in the Philippines, signed by its General Secretary, La Verne D. Mercado, objecting strongly to the inclusion in the Constitution of a provision that would mandatorily allow the teaching of religion in the public elementary and high schools within regular class hours.

(Communication No. 929 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Ms. Rosario A. Magnaye of Looc, Romblon, suggesting to the Constitutional Commission the development of Pilipino and English as the two national languages of the Philippines.

(Communication No. 930 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Frank Y. Arcellana, President, N.O. Nukes, Phil. Social Science Center Building, Mariano Marcos Avenue, Quezon City, and fifty thousand seven hundred eleven (50,711) other signatories with their respective addresses, calling for nuclear-free provisions in the Constitution of the Republic of the Philippines.

(Communication No. 931 — Constitutional Commission of 1986)

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

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 AMENDMENTS

MR. RAMA: I move that we take up this morning the Article on the Declaration of Principles. We are still in the period of amendments.

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

The honorable chairman and members of the Committee on the Declaration of Principles will please occupy the front table.

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

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, Section 9 on page 3 of the committee report, lines 1 to 3, states:

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

There have been some lengthy debates on this subject and we need not repeat the arguments today. However, I propose to delete the words "from the moment of conception" and add the word "CHILD" after "unborn" so that the sentence will read: "The State shall equally protect the life of the mother and the life of the unborn CHILD."

THE PRESIDENT: Is the committee ready to respond?

MR. TINGSON: Madam President, the member of our committee who is the chief articulator of this particular section is Commissioner Villegas. May I ask that he be recognized to answer questions along this particular section.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, the position of the committee is that the phrase "from the moment of conception" is completely indispensable in order to protect the life of the unborn from its very beginning. We are sorry to say that we cannot accept the amendment.

REV. RIGOS: Madam President, as already articulated in this hall, a good number of the Commissioners are very unhappy about the words "from the moment of conception." Anyway, we believe that giving protection to the life of the unborn is sufficient enough to be in the Constitution. In order not to prolong the discussion on the subject, I request that we vote on this resolution.

MR. NOLLEDO: Madam President, may I interpellate Commissioner Rigos?

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

Does the Commissioner agree with me that from the time of conception, there is already life?

REV. RIGOS: Even before the time of conception there is life.

MR. NOLLEDO: I think the Commissioner will qualify his answer if I ask the second question. Is the life human?

REV. RIGOS: It is human.

MR. NOLLEDO: Not before conception, because the sperm has life by itself. The egg has life also and the moment they unite, there is already life.

REV. RIGOS: Yes.

MR. NOLLEDO: Then that life is human?

REV. RIGOS: Yes.

MR. NOLLEDO: Does it have personality?

REV. RIGOS: That is the debatable point. It depends now on one's authority. There are those who wait until two months before they speak of the personality of the child, and we do not have the time to debate on that in this Commission

MR. NOLLEDO: As a lawyer, I would like to tell the Commissioner that there is a presumptive personality because under Articles 40 and 41 of the Civil Code of the Philippines, for all purposes favorable to the fetus, it is considered born, and, therefore, one can make a donation to him or to her, and it can also succeed. Does the Commissioner agree with me?

REV. RIGOS: Yes, that is the debatable portion of the article here.

MR. NOLLEDO: If from the time of conception it has life and it is human, and if there is any move to put an end to that life, would we consider that murder aside from being called abortion because the fetus is helpless?

REV. RIGOS: Even under the Penal Code, that would be murder, intentional or unintentional.

MR. NOLLEDO: In the Penal Code, it is called abortion, but from the layman's point of view, it is murder. Would the Commissioner agree with me?

REV. RIGOS: I agree with the Commissioner.

MR. NOLLEDO: Therefore, would the Commissioner agree with me that the words "from the time of conception" should not be deleted in order to protect the human being inside the womb of the mother?

REV. RIGOS: If we just say "the life of the unborn," it is up to Congress to define whether it should begin from the time of conception or two weeks or eight weeks after that. But here we are trying to be very specific by saying "from the moment of conception."

MR. NOLLEDO: Shall we deny ourselves the opportunity to protect life even at that stage because if we will leave it to Congress, then Congress might adopt some legal aspects derived from the ruling of the Supreme Court that the life becomes viable only after, say, four months? Why do we not decide in this Commission now?

REV. RIGOS: I would not preempt the wisdom of the Congress composed of the Representatives elected by the people.

MR. NOLLEDO: Therefore, if we leave it to Congress, we consider also the possibility that Congress may reinstate the words "from the time of conception."

REV. RIGOS: Congress probably would listen to the sentiments of their constituents.

MR. NOLLEDO: Thank you.

Madam President, on behalf of the committee, considering that the amendment covers a transcendental question and although we have a quorum, can we not suspend the voting on this question until after the other Members of the Commission shall have come? This is with due respect to Commissioner Rigos, if he will be kind enough to agree with the suspension of the voting.

REV. RIGOS: Madam President, I agree with the suggestion of Commissioner Nolleddo.

MR. NOLLEDO: Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I be clarified on certain points made by Commissioner Rigos. Did I get him correctly as having said that life begins even before the moment of conception?

REV. RIGOS: Yes. I said that.

MR. DAVIDE: So what really is the Commissioner's contemplation on the commencement or the beginning of human life?

REV. RIGOS: It is too specific. It does not give way to the opinions of other authorities.

MR. DAVIDE: But the Commissioner believes that at the moment of conception there is human life.

REV. RIGOS: I will leave that to Congress to define, but in Congress they have more time to consider other views.

MR. DAVIDE: The Commissioner said that life begins even before the first moment of conception and now he is saying that he is not so sure whether at the first moment of conception there is life.

REV. RIGOS: I said that there is life even before conception.

MR. DAVIDE: That is exactly the point. If the Commissioner believes that life begins even before the first moment of conception, why would he propose that we delete the words "moment of conception"?

REV. RIGOS: The view that there is life even before conception is one of the various views, and there is life at the moment of conception; other authorities would wait until two weeks; others would wait until eight weeks.

MR. DAVIDE: May we be favored with an authority regarding the existence of life even before the first moment of conception?

REV. RIGOS: Dr. Gloria Enriquez, head of the Zoology Department of the University of the Philippines and whom I consulted on this matter, told me so when I interviewed her during my research on this subject.

MR. DAVIDE: But anytime before the first moment of conception, there is no fertilization yet, there is no meeting of the sperm and the ovum.

REV. RIGOS: But the sperm and the egg are supposed to be alive. That is what Dr. Enriquez believes by life even before conception.

MR. DAVIDE: We are talking about fertilization. We cannot speak of life independently of the ovum and

independently of the sperm.

REV. RIGOS: We are talking of the unborn here.

MR. DAVIDE: Precisely. So, insofar as the unborn is concerned, life begins at the first moment of conception. Therefore, there is no need to delete. There is no need to leave it to Congress because that is a matter settled in medicine.

REV. RIGOS: No.

MR. DAVIDE: That life begins at the moment of conception?

REV. RIGOS: As Commissioner Quesada related here a few days ago, there are cases in the life of the mother that should be considered in the question of abortion.

MR. DAVIDE: Those are totally different. We are talking about the right of the mother, not the right of the unborn child from the first moment of conception. So, if the Commissioner's proposal is precisely to provide possible protection to the mother, that is an entirely different matter. The section provides for protection to the life of the mother and the life of the unborn from the moment of conception.

REV. RIGOS: Yes, we think that the word "unborn" is sufficient for the purpose of writing a Constitution, without specifying "from the moment of conception."

MR. DAVIDE: I would not subscribe to that particular view because according to the Commissioner's own admission, he would leave it to Congress to define when life begins. So, Congress can define life to begin from six months after fertilization; and that would really be very, very dangerous. It is now determined by science that life begins from the moment of conception. There can be no doubt about it. So, we should not give any doubt to Congress. too.

Thank you, Madam President. (Applause)

MR. VILLEGAS: Madam President, since there was the suggestion that we postpone the voting on this move to delete, can we take up other amendments that have been suggested on Section 9?

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla seeks to be recognized, I suppose, on this point.

MR. PADILLA: On the unborn, Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I would like to ask Commissioner Rigos a question.

After the word "unborn," instead of deleting the phrase "from the moment of conception," will the Commissioner agree if we delete the words "the moment of," so it will read: ". . . protect the life of the mother and the life of the unborn from conception"? On the question of what is the precise moment of conception or days before or after, maybe we could keep the committee report by deleting the words "the moment of" and just say "the life of the unborn from conception."

REV. RIGOS: Commissioner Aquino, my adviser on this subject, has just arrived; I have to consult her on whether or not we can accept that.

MR. PADILLA: I wonder whether Commissioners Villegas and Bacani would consider my suggestion, although there is a need to delete "the moment of," that we say: "the life of the unborn from conception."

MR. VILLEGAS: We have discussed this already, and we will accept that amendment.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: According to the records I have here, Commissioner Bernas likewise presented an amendment on Section 9 which is also to delete the phrase "from the moment of conception." We would like to have a clarification from Commissioner Bernas.

FR. BERNAS: The amendment I had is to substitute the phrase "from the moment of conception" with "FROM ITS BEGINNING."

MR. RAMA: I see.

FR. BERNAS: That is from the language of God and human's best. But I would accept also the Padilla amendment.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I would reiterate the motion of Commissioner Rigos for the deletion of the phrase "from the moment of conception," meaning, the wording should be "the life of the unborn." There is enough law and jurisprudence to protect a fetus. In fact, even in Articles 40 and 41 of the Civil Code, a fetus is considered born for all purposes favorable to it, subject to the conditions in Article 41. I would like to address this problem with objectivity and prudence and I sincerely hope that we do not exploit our imagined fears on the possibility of a statutory fiat for abortion. The issue of abortion is at best diversionary. Culturally, we are not predisposed to legalizing abortion such that the imagined fear is, I would say, off-marked.

MR. VILLEGAS: Let me just summarize very briefly the arguments why we have to say "from conception." I think there are enough Commissioners here, therefore, we can already vote, Madam President.

Precisely, we are basing the argument on pure objectivity because natural scientists who are the most objective in studying positive sciences have come to the conclusion that life begins at conception. Human life begins at conception. I quoted yesterday the authoritative findings of this conference in Washington on abortion where they decided — and the ratio was 19:1 — that human life begins at conception. This included the five percent who remained in doubt. This is where we should use the moral principle already articulated by Bishop Bacani. When there is doubt even by a very small percentage, the moral principle is "Do not kill," because the awesome risk of taking the life of a human being is there. And so, whether we are in the majority among the 19 or whether we are in the five or one percent, the conclusion is: We have to protect human life from conception.

MS. AQUINO: Madam President, I have no quarrel with the fact that a fertilized ovum or a zygote has life, but my question is: Would the deletion of the phrase "from the moment of conception" legalize abortion? We do not, one bit, intend to give statutory fiat to the legalization of abortion by deleting "the moment of conception."

I would think that we are overreacting to possible natural fears, but as Commissioners, should we abide by that kind of a fear in drafting this Constitution?

MR. VILLEGAS: Let me just answer that. The fears are based empirically on observation of human beings not only in the United States but even here who precisely are willing to cite American jurisprudence to allow the killing at two months or at three months. There are enough individuals who are actually articulating the jurisprudence now existing in the United States. So the fears are not unfounded; they are based on empirical

observations of specific individuals who are moving towards the American disaster.

MS. AQUINO: Madam President, this will be my last intervention and we would rest our case according to the decision of the Commission.

The drift of the argument of Commissioner Villegas is that when we delete "the moment of conception," we are sanctioning murder or killing. This is not at all justified under the premises presented in the interpellations and in this intervention now, and I would have to take exception to that kind of a suggestion.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: Thank you.

In addition to the statements of Commissioner Villegas, I think Commissioner Villegas is fully justified in making that implication. That implication is a possibility although Commissioner Aquino said that abortion is sufficiently punished under the Revised Penal Code. We must admit that the Revised Penal Code is a mere statutory enactment and can be repealed at any time while we are raising the issue against abortion to the constitutional level. If we can protect the unerring adult by abolishing that penalty, how much more of an innocent child in the womb of the mother, the cherished gift and loving gift from God.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: This is just a minor intervention for the retention of the phrase "from conception." Let me just put this in the context of the present Constitution which has really been for the defense and the enhancement of life. In fact, the clinching argument for us in the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights, for the abolition of capital punishment was formulated very beautifully by Commissioner Bernas when he said: "It is not proven that the taking away of life saves life." Therefore, he said: "Why should we insist on imposing the death penalty?" There was a doubt one way or the other that we favored life, but our provisions are for the enhancement of the quality of life. Hence, let us be consistent, let us be prolife. Should there be the slightest iota of doubt, then let us still affirm life. Second, the drift of this Constitution has been for the underprivileged, for the defenseless and certainly, nobody is as defenseless as the fetus in the womb of his mother.

And so, this is the first time I beg this Commission to make an affirmation for life for this is one of the more beautiful things that will come out in this Constitutional Commission. Commissioner Ople spoke of setting a moral tone by means of this Constitution and I think this is a privileged moment for that.

Thank you, Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: So that I can vote intelligently on this issue, may I address one question to Commissioner Bacani?

BISHOP BACANI: Yes, Madam President.

THE PRESIDENT: The Commissioner may proceed.

MR. SARMIENTO: Thank you.

According to the latest statistics, we have 20,000 abortions in Metro Manila a year; 500,000 abortions committed every year in the Philippines; 15,000,000 abortions committed around the world. In the midst of these abortions, we have two positions: One position is that the right of the unborn begins from the moment of conception. This is supported by *Gaudi'um et Spes*, *Mater et Magistra*, the Catholic Bishops' Conference of the Philippines, the Sacred Congregation for a Doctrine of Faith and *Apostolicae Sedis* issued by Pius IX. But we have also this position which is advanced by another member of the church, Fr. Dancel of the Society of Jesus. He said:

There can be no mind before the organism is ready to carry one and no spirit before the mind is capable of receiving it. I feel certain that there is no human soul, hence, no human person during the first few weeks of pregnancy as long as the embryo remains in the vegetative stage of its development.

So may we be clarified on this point, Commissioner Bacani. What is the official church position? There seems to be two contrasting church positions on this point.

BISHOP BACANI: Even in the Catholic Church, there would be one out of a thousand who does not agree. But let me cite to the body an article from two textbooks. One of them a liberal one, written by Philip Keane, is entitled: *Sexual Morality: A Catholic Perspective*. This is considered a liberal Catholic textbook. Let me read also from another textbook used here in the Philippines, written by Fr. Henry Peschke, S.V.D. It is good the body brought that out, because one of the papers given us pointed out that there is no Catholic consensus on this.

There is certainly a consensus that abortion is wrong and that life should be protected from the moment of conception but that the argument really revolves on the moment of ensoulment, as they say. Let me read a paragraph from this article entitled "The Enduring Consensus" by Philip Keane.

Perhaps one of the most significant facts about current Roman Catholic moral theology is that it has consistently insisted on the moral evil of abortion, in spite of the pluralism that has entered into so many other aspects of moral theology. The tradition of the right to life has been sacred in Western thought for centuries. Catholic moralists do not seem at all ready to abandon this tradition in the area of abortion. They are not ready on any widespread basis to concede that the evil in abortion is an ontic but not a moral evil. Hence, the Church's stand on abortion remains a basically unified one. . .

And then from Fr. Peschke:

On the background of these biblical doctrines and also influenced by the inheritance from Judaism, the young Christian Church formulated its judgment on abortion. From the earliest times it was one of decided rejection. The condemnation developed in sharp opposition to the attitude of the Greco-Roman world, in which abortion and infanticide were not viewed as serious moral offenses.

Throughout the centuries Christianity continued to consider abortion as a crime. Grave sanctions were issued by the Church against Christians who would dare to commit this sin already in the first centuries. Vatican II once more takes a severe stand against it. It writes: "From the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes." The intrinsic reasons for the abjectness of abortion are the same as those which militate against the crime of murder and the killing of an innocent in general.

So that is just to assure the Members of this Commission of the unity in this tradition.

MR. SARMIENTO: Thank you, Madam President, and I also thank the Commissioner.

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

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: In making a decision as to which life takes priority, the life of the mother or the life of the unborn, what criteria are contemplated by the committee on which to base the decision?

MR. VILLEGAS: We have articulated this moral principle called the principle of double effect. Whenever there is need, for example, to perform a surgical operation on the mother because of a disease or some organic malfunctioning, then the direct intention is to save the mother. And if indirectly the child's life has to be sacrificed, that would not be abortion, that would not be killing. So, in those situations which we said are becoming rarer and rarer because of the tremendous advance of medical science, the mother's life is safe.

MR. BENNAGEN: That is only insofar as the physiology is concerned. Does it take into account also the psychological status of the mother, the socioeconomic circumstances that surround the state of the mother?

MR. VILLEGAS: As we have said during the interpellations, there are thousands of other ways of helping the mother economically, psychologically, culturally. Precisely, it is the responsibility of society, private individuals, religious and charitable organizations and the State to apply all of those positive means to help the mother psychologically, socially, culturally, but definitely, not to opt for undoing a wrong by another wrong. We can never right a wrong by another wrong.

MR. BENNAGEN: Thank you, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

May I take up some interesting legal points with Commissioner Nollado in order that all of us can be properly guided. I take it that the Commissioner concedes that this provision will affect not only our criminal laws but also our civil laws governing the rights of children. Is my understanding correct?

MR. NOLLEDO: I did not say it will affect; it will confirm our civil law and criminal law on the matter. Abortion is now criminally punished under the Revised Penal Code and that under Article 40 in relation to Article 41 of the Civil Code of the Philippines, to that child who is not yet born, there is accorded a presumptive personality, subject to being born under the conditions required by law, basically the separation from the maternal womb while alive.

MR. SUAREZ: Thank you for the clarification.

May I concentrate first on the criminal law implications of this provision. The Commissioner is right in calling attention to the fact that under the Revised Penal Code, there are already provisions governing abortion, and if I remember it correctly, there is a crime known as intentional abortion and unintentional abortion, plus abortion attended with some violence, et cetera.

If we are going to approve this particular provision from the criminal standpoint, then the offense of abortion after the moment of conception would be considered a crime of a higher category like murder. Would the Commissioner not agree with me?

MR. NOLLEDO: Not necessarily, although we categorize that as murder, because the child cannot defend

himself.

MR. SUAREZ: Yes. There is a crime known as infanticide which contemplates a situation where the mother could kill her own child. There is a specific provision in the Revised Penal Code governing that kind of crime. In this particular case, if we approve this constitutional provision, how would we classify this incident where a mother commits an intentional abortion which is tantamount to killing the unborn child after the moment of conception? Would we consider that infanticide or murder?

MR. NOLLEDO: It is called abortion, subject to a mitigating circumstance which will lower the penalty if the mother killed the fetus in order to hide her dishonor. In the case of infanticide, if my memory serves me right, the child is already born, and that the child has less than three days of life.

MR. SUAREZ: So what we are saying is: This constitutional provision would not materially affect, alter or revoke the provisions governing abortion under the Revised Penal Code.

MR. NOLLEDO: The Commissioner is absolutely right. In that case, Congress may increase or decrease the penalty depending on the circumstances. But if we adopt this provision, Congress cannot abolish the laws against abortion.

MR. SUAREZ: So, in the same manner, all of the accomplices, like the attending physician, the midwife, the pharmacist who may have given these abortives would be affected. Their respective criminal liabilities would not at all be affected by this constitutional provision because their crimes are already covered by the present provisions of the Revised Penal Code.

MR. NOLLEDO: The Commissioner is correct.

MR. SUAREZ: Thank you.

May we go now to the civil aspects, since the Commissioner mentioned Articles 40 and 41. I take it that the Commissioner and I are agreed that it is birth which gives legal personality to the fetus or unborn child or conceived child or whatever we call it. Is that proposition acceptable to the Commissioner?

MR. NOLLEDO: Yes, that is expressly provided in Article 40 of the Civil Code of the Philippines.

MR. SUAREZ: When we speak of birth, we mean that that child must get out of the womb of the mother and breathe some oxygen from this world. Is that the correct interpretation in layman's language?

MR. NOLLEDO: The Commissioner is right. That is upon the cutting of the umbilical cord.

MR. SUAREZ: Right. And so, if we are going to respect the rights of the unborn child from the time of conception, that is going to affect not only our codal provisions governing this birth or personality but also hereditary and successional rights. Is my conclusion correct?

MR. NOLLEDO: Even if we do not adopt this, the Civil Code provision already gives right to an unborn child. If we adopt this, we talk only of protection against possible ending of the life of the child. The civil aspects would not be affected in any way.

MR. SUAREZ: Would I be, therefore, correct in assuming that this constitutional provision, notwithstanding the codal provisions governing legitimacy, successional rights, hereditary rights, would not be affected materially or substantially?

MR. NOLLEDO: The Commissioner is absolutely right.

MR. SUAREZ: Thank you for the clarification.

MR. NOLLEDO: Thank you for the questions.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: This is still on the future practical implications should this particular provision be approved by this body. What would now be the implication in the practice of certain contraceptive methods, like the use of IUD, which according to the report of Commissioner Villegas, is an abortifacient? Will this now be banned?

MR. NOLLEDO: The Commissioner will notice that when we talk of protection to life, we do not talk of preventive pregnancy. Preventive pregnancy can still be covered under what we call "population control policy." But the moment there is life, I think it is our duty to God and country to protect that life.

MS. QUESADA: The presentation of Commissioner Villegas and contained in the documents or materials which have been given to us, shows that some of these methods are abortifacient in nature because there is already the fertilization of the ovum. It is the implantation of the fertilized ovum that is prevented by the use of the intrauterine device.

MR. NOLLEDO: Commissioner Villegas will answer the Commissioner's question.

MR. VILLEGAS: This was the subject of interpellations of Commissioner Regalado and we made a distinction, if it can be scientifically proved that some contraceptives are abortifacients, and that they actually kill the fertilized ovum. Then, definitely those types of contraceptives will be declared unconstitutional, once we have this specific provision.

MS. QUESADA: Would this mean that the law will run after the producers of these contraceptive devices?

MR. VILLEGAS: Exactly, yes.

MS. QUESADA: And this covers also those who import these particular methods?

MR. VILLEGAS: Definitely.

MS. QUESADA: And would this mean that the practitioners — the family planning program implementors, the Ministry of Health, the Population Commission, private practitioners, et cetera — will now be held liable for the use of such abortifacient contraceptive methods?

MR. VILLEGAS: Yes, if they are accomplices to the use of these abortifacients.

MS. QUESADA: Would this mean that the law will also run after the "arbularyos" and the sellers of herbs in downtown Quiapo market, and the stallowners around Quiapo Church who acknowledgedly are selling herbs which contribute to abortion? Would these be the implications of the decision that we shall make here?

MR. VILLEGAS: Definitely, yes.

MS. QUESADA: Thank you.

MR. BENGZON: Madam President, apropos of the interpellations of Commissioner Quesada, may I ask a follow-up question?

THE PRESIDENT: The Commissioner may proceed.

MR. BENGZON: In connection with these questions asked by Commissioners Quesada and Villegas, which would lead to possible liability and prosecution of those persons that she mentioned, I assume that such possible

liabilities and prosecution would only come to play if it is proven that such acts were deliberately done and if such methods were used deliberately to abort a fertilized ovum. Then, those liabilities would possibly attach. Am I correct?

Therefore, if such methods are used by these persons involved such as the health workers, social workers, et cetera, without their knowing that there was in fact a fertilized ovum already existing in the womb, then there is no liability at all that would attach. Am I correct?

MR. VILLEGAS: There would not be, but of course, the informal campaign should be there for us to be aware.

MR. BENGZON: Thank you.

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

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, I just want to ask a follow-up question. I do not mind saying that I am in favor of this protection which had been articulated by Commissioner Villegas, but as lawyers, we have to put our feet on the ground. When we go to court to present a case against a perpetrator of an alleged abortion, there are certain things we have to present before the judge, and one of these is proof that the woman is in fact pregnant.

I will not ask this question of Commissioner Nollado because this is not a legal question; it is actually medical. Under the present medical advances, at what point of conception — I am talking of weeks or months — can a doctor or a hospital certify that the woman is in fact pregnant? There are varying answers to this. Some say that medical science has advanced to such an extent that a doctor can actually provide a medical certification that the woman is pregnant from the moment of conception or from two weeks. Some say it is two months; then there are some who say about the frog test, I have nothing against this text. I think that is not a very correct indication of pregnancy. What is the present medical science on this, Madam President?

MR. VILLEGAS: Manuals on pregnancy precisely state that normally, the woman realizes that she is pregnant when she misses her period. By that time, the human life in her womb shall have been present for approximately two weeks.

MR. MAAMBONG: All right, just one more point on this. Suppose a woman has gone to the hospital and let us assume, for purposes of argument, that she has in fact been pregnant for two weeks. At the present stage of our medical science when she gets examined after fertilization of two weeks, can a doctor in a hospital or a hospital anywhere in Manila or in the Philippines certify that a woman is already pregnant two weeks after fertilization?

MR. VILLEGAS: It would depend on the expertise of the doctor and the possible equipment that she or he has.

MR. MAAMBONG: That is precisely my point.

Let us suppose that we go to the Makati Medical Center, which is the best equipped in the Philippines, and let us suppose that they have the best equipment. Can Makati Medical Center present truthfully a certification that a woman has been pregnant two weeks after fertilization?

MR. VILLEGAS: Yes. Given the present status of medicine, that certification can be given, of course, with statistical probability that is always contained in such a certification.

MR. MAAMBONG: I am not questioning the Commissioner's answer. But is this answer documented by facts? I ask so, because as of the moment, I am of the impression that under the so-called "frog test," "rabbit test" or whatever it is, it has to be at least two months from fertilization before a doctor or a hospital can issue that certification.

MR. VILLEGAS: This statement about the woman being pregnant from the time she misses her period and the human life in her womb being approximately two-weeks old has been made by medical experts and that is where the scientific evidence can be found. But I think the details of when certification can be made precisely are details that should be left to Congress to determine if and when it is questioned.

MR. MAAMBONG: I can understand that.

MR. COLAYCO: Madam President, may I intervene.

MR. MAAMBONG: Yes.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

Essentially, the problem presented by Commissioner Maambong really involves legal evidence. It all boils down as whether the evidence presented by the government, taking into account the evidence presented by the counsel for the defense, will be accepted by the court or not. Commissioner Villegas has tried to prove that his conclusions are supported by available scientific data. But whether there has been really life when the attempted or alleged abortifacient or whatever method is used to abort a child is present, that involves a question of evidence.

MR. MAAMBONG: I can agree with that. That is precisely why I premised my question on the fact that as lawyers, we have to put our feet on the ground.

MR. COLAYCO: Yes, that is true.

MR. MAAMBONG: When we go to court, the court will always ask: "All right, you are charging somebody with abortion. Where is your certification to the effect that the woman was pregnant?" It is just like in physical injuries. To my layman's thinking, I understand that the pregnancy of a woman can be proven only from two months. That is why I am asking Commissioner Villegas if we have medical facilities to show that a woman can be proven pregnant two weeks after pregnancy. If that is so, then we can now have that medical certificate and present it to the court.

That is the only point.

MR. COLAYCO: But let us not forget that the principle which is established in this section is nothing but a principle.

MR. MAAMBONG: Yes.

MR. COLAYCO: That is all.

MR. MAAMBONG: I am satisfied with the Commissioner's answer.

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

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Madam President, I am apprehensive that when this provision is adopted, the exploration of knowledge on an issue that is so complex will be brought to a stop even before it has begun. The provision has been a source of conflicting opinions. An important issue such as this and which elicits diverse and complex responses should be more productively addressed by legislation, which has a better chance of concretely addressing our hidden fears and possibly providing a more manageable consensus on the issue.

Madam President, I would submit that this issue belongs properly to the domain of legislation.

THE PRESIDENT: Are we ready now for a vote?

MR. VILLEGAS: I think we are ready to vote, Madam President.

MR. GASCON: Madam President.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Before we vote, I would like to be clarified on the parliamentary situation. Commissioner Rigos made a motion to delete.

THE PRESIDENT: We are going to vote on Commissioner Rigos' amendment.

MR. GASCON: So, it will not be on Commissioner Padilla's amendment to the amendment.

THE PRESIDENT: Commissioner Padilla's amendment to the amendment.

MR. VILLEGAS: The motion to delete will be the first, then later on we can take Commissioner Rigos' amendment.

MR. RAMA: It is Commissioner Rigos' amendment to his anterior amendment.

THE PRESIDENT: The amendment of Commissioner Rigos is to delete the phrase "from the moment of conception."

MR. VILLEGAS: That is right.

THE PRESIDENT: In other words, Commissioner Rigos' amendment is on line 2 of page 3, which reads: "The State shall equally protect the life of the mother and the life of the unborn CHILD." Did I state it correctly, Commissioner Rigos?

REV. RIGOS: Yes, Madam President.

BISHOP BACANI: Madam President, it will be clear that if we vote "yes," it is for the deletion of the phrase "from the moment of conception." If we vote "no," it is for the retention. Madam President, may I ask for a nominal voting.

MR. PADILLA: Madam President.

THE PRESIDENT: Let us settle first Commissioner Rigos' motion to delete the phrase "from the moment of conception " without prejudice to Commissioner Padilla's amendment.

MR. PADILLA: My proposal, Madam President, is just to delete the words "the moment of."

MR. VILLEGAS: That is accepted, Madam President.

THE PRESIDENT: Which one, Commissioner Rigos' amendment?

MR. VILLEGAS: No, Commissioner Padilla's amendment.

THE PRESIDENT: Yes, but we have here the amendment of Commissioner Rigos which we have to dispose of, first, unless Commissioner Rigos is withdrawing his amendment.

REV. RIGOS: I am not withdrawing my proposed amendment.

THE PRESIDENT: It is very clear.

MR. REGALADO: Madam President, just a parliamentary inquiry.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Will we follow the procedure that we had yesterday, that if the motion to delete is carried, that is without prejudice to the filing of another amendment?

THE PRESIDENT: Yes, to whatever remains.

MR. REGALADO: Embodying the proposal of Commissioner Padilla?

THE PRESIDENT: That is right, because the committee report will remain as is, so it can be subject to another amendment.

MR. REGALADO: Thank you, Madam President.

THE PRESIDENT: Are we ready now or shall we have more introductions?

BISHOP BACANI: Madam President, if it is retained, will the amendment of Commissioner Padilla still be acceptable?

MR. VILLEGAS: That is right. The body is ready to vote, Madam President.

NOMINAL VOTING

THE PRESIDENT: All right, what is to be voted upon is the deletion of the phrase "from the moment of conception," on lines 2 and 3 of page 3, Section 9, and there is a request for nominal voting. So, if the vote is "yes," it is to delete "from the moment of conception." If the vote is "no," then that means to say that the phrase "from the moment of conception" remains.

Will the Secretary-General please call the roll?

THE SECRETARY-GENERAL, reading:

Abubakar Maambong No

Alonto Monsod No

Aquino Yes Natividad No

Azcuna No Nieva No

Bacani No Nollado No

Bengzon No Ople

Bennagen Yes Padilla No

Bernas No Quesada Yes

Rosario Braid No Rama No

Calderon No Regalado No

Castro de No Reyes de los No

Colayco No Rigos Yes

Concepcion No Rodrigo No

Davide No Romulo No

Foz Rosales

Garcia Yes Sarmiento No

Gascon No Suarez Yes

Guingona No Sumulong No

Jamir No Tadeo Yes

Laurel Tan No

Lerum No Tingson

MR. TINGSON: Madam President, I am voting yes because I believe that this would better be taken care of by legislature later on.

THE SECRETARY-GENERAL, reading:

Treñas Villegas No

Uka No Munoz Palma No (Applause)

Villacorta

THE PRESIDENT: There should be no clapping or booing, please.

SECOND ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Ople

Alonto Treñas

Foz Villacorta

Laurel

THE PRESIDENT: Commissioner Rosales has just entered.

THE SECRETARY-GENERAL, reading.

Rosales No

THE PRESIDENT: The results show 8 votes in favor and 32 against; so, the proposed Rigos amendment is lost.

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

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, my proposal is just to delete the words "the moment of," so the phrase will

read: "the life of the unborn from conception." I think this was accepted by the committee.

MR. VILLEGAS: Yes, the amendment is accepted by the committee.

THE PRESIDENT: This amendment has been further enhanced by Commissioner Bernas' amendment which added the words "from conception"?

MR. VILLEGAS: "From conception," Madam President.

VOTING

THE PRESIDENT: Are we ready to vote on the amendment which has been accepted by the committee? The proposed amendment reads: "The State shall equally protect the life of the mother and the life of the unborn from conception."

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

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

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

The results show 33 votes in favor, 3 against and 4 abstentions; the sentence, as read with that amendment of Commissioner Padilla, is approved.

MR. RAMA: Madam President, may we take a vote on the provisions of the whole section, as amended.

THE PRESIDENT: We will first read Section 9. Is there any other amendment?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I have a proposed amendment to the first paragraph of Section 9. It is a very minor amendment to add the words "AND MARRIED" after "family." So the first sentence will then read: "The State recognizes the sanctity of family AND MARRIED life and shall protect and strengthen the family as a basic social institution."

THE PRESIDENT: What does the committee say?

MS. AQUINO: Madam President, the committee regrets that it cannot accept the amendment, precisely on the premise that family life is premised on married life.

MR. DAVIDE: So, when the committee therefore used the words "family life," it is deemed to include married life.

MR. VILLEGAS: Yes.

MS. AQUINO: That is the consensus in the committee.

MR. DAVIDE: With that explanation and clear intention, I am not insisting on my proposed amendment.

MS. AQUINO: Thank you.

MR. VILLEGAS: Thank you.

THE PRESIDENT: Is there any other amendment? Commissioner Bennagen is recognized.

MR. BENNAGEN: Since there was the question whether or not family life includes married life, does it also

include instances where there is no marriage but there is family life? Is that also the understanding in the committee? There are cases of family life without necessarily having to get married.

MS. AQUINO: It is included.

MR. BENNAGEN: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I just want to add the words "AND PRIMARY" after the word "natural" on line 3, page 3 of Section 9. This would harmonize with the section on Education that was introduced by Commissioner Aquino. So it will read: "The natural AND PRIMARY right and duty of parents."

MS. AQUINO: The committee accepts the amendment.

THE PRESIDENT: How will it read?

MS. AQUINO: Section 9, lines 3 to 6 on page 3, will now read: "The natural AND PRIMARY right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the aid and support of the government."

MR. COLAYCO: Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: May I ask if Commissioner Monsod will entertain an amendment.

MR. MONSOD: May we hear it first.

MR. COLAYCO: I suggest to put "PRIMARY" before the word "duty" on line 3, so it will read: "The natural right and PRIMARY duty." The word "natural" is necessarily primary.

MR. MONSOD: We use the word "PRIMARY" to denote the superior right of the parents as against the State.

MR. COLAYCO: I will not insist; I was just thinking.

MR. GASCON: Madam President.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: I have another amendment to the same sentence. On line 5, delete the words "aid and," so it will read: ". . . development of moral character shall receive the support of the government." I feel that the words "aid and" are already covered by the word "support."

THE PRESIDENT: What does the committee say?

MR. TINGSON: We accept the amendment.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, I want to ask a question regarding the interpretation of Commissioner Aquino on what Commissioner Bennagen meant when he mentioned "no marriage at all" or "no civil marriage." What does the Commissioner mean? Are they the same?

MR. BENNAGEN: No. I contemplate on the possibility of consenting adults plus children living a family life.

BISHOP BACANI: Yes, but together they have a mutual and a stable compact.

MR. BENNAGEN: Yes.

BISHOP BACANI: I see. I was wondering if it was something, at least, less than that, then the State shall strengthen that type of living-in situation. That is not the idea.

Thank you.

MR. RAMA: Madam President, I move that we vote on the whole Section 9.

THE PRESIDENT: Will the chairman please read Section 9, as amended.

MR. TINGSON: Section 9, as amended, reads: "The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution. IT SHALL ACCORD EQUAL PROTECTION TO life of the mother and the life of the unborn from conception. The natural AND PRIMARY right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the government."

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Before we vote, I just want a clarification on the last phrase "development of moral character." I would like to know from the committee if this is well considered, considering that with the insertion of the phrase "development of moral character," it would appear that the right and duty of parents is limited to development of moral character and I do not think that is the intention. I just want a one-sentence explanation on this.

MR. TINGSON: It is not limited to that, but the committee felt that that is of primary importance; that it deserves to be mentioned because the morality of a young man covers, more or less, the whole plethora of his personality.

MR. MAAMBONG: I ask this because this phrase "and the development of moral character" does not appear in the 1973 Constitution. However, I will not insist on my clarification, with the assurance that the words "development of moral character" do not limit the duty and right of parents.

MR. TINGSON: The phrase does not appear in the 1973 Constitution but we want to make our Constitution better than the 1973 Constitution.

MR. MAAMBONG: Does this not really limit the right and duty of parents only to the development of moral character?

MR. TINGSON: No.

MR. MAAMBONG: Thank you.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May we request Commissioner Tingson to read again the second sentence of this section. It seems to be a little different from that in the copies we have.

MR. TINGSON: There was a little mistake there a while ago. The second sentence reads: "It shall equally protect the life of the mother and the life of the unborn from conception."

MR. REGALADO: Thank you.

THE PRESIDENT: Are we ready now?

SR. TAN: Madam President.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: May I just ask the committee how the State will give the family aid for moral character?

MR. TINGSON: We already deleted that upon the amendment suggested by Commissioner Gascon. The word "aid" is eliminated; it will now be "shall receive the support of the government."

SR. TAN: May I know how the government shall support the moral character of a family in Tondo?

MR. TINGSON: I will ask Commissioner Aquino to say something on that.

MS. AQUINO: The forms and modalities of state support are varied. It may take the form of welfare services and social services in the fields of education. It may take the form of scholarships and other incentives to enforce the spiritual and moral formation of the citizens.

SR. TAN: In other words, this is an emphasis on the support for moral development, but it does not mean that it would not help physically or materially because nothing is said about material help. One cannot preach about God to a hungry stomach. That is what I mean.

MS. AQUINO: Madam President, over and above the other provisions of the article on state support, material support is already included. The committee is of the sense that a complete development of moral character also partakes of the need and requisite for material support from the State. It is not excluded.

SR. TAN: Thank you for that explanation.

MR. RAMA: The body is ready to vote, Madam President.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: This may not be very, very important but I just want to ask Commissioner Villegas or our committee. I am, of course, disturbed by the fact that in the United States and other places, there is sympathy towards defining a family as including an effeminate man living with another man. We just want to make sure that when we speak of "family," we are speaking of the normal conservative definition of family, and that is, a man and a woman married together. I know we understand that, but I, personally, would like to say that for the record.

MR. VILLEGAS: Madam President, both the natural law, the age-old traditions in the Philippines and religious values affirm that normal family life relationship, not conservative, is between a man and a woman.

MR. RAMA: We are ready to vote, Madam President.

VOTING

THE PRESIDENT: Section 9 has been read by the chairman.

As many as are in favor of Section 9, as amended, please raise their hand. (Several Members raised their hand.)

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

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

The results show 34 votes in favor, none against and 4 abstentions; Section 9, as amended, is approved.

MR. RAMA: Madam President, we approved Section 3 piecemeal last night. We have not voted on it as a whole section, so I move that we vote on Section 3 as a whole section, as amended.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: The formulation that the committee remembered last night was: "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY. WHEN ENTERING INTO A TREATY, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY, NATIONAL INTEREST AND THE RIGHT TO SELF-DETERMINATION."

THE PRESIDENT: Is there the word "and" between "SOVEREIGNTY" and "TERRITORIAL INTEGRITY"?

MR. TINGSON: There is no "and," Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Before we vote on the proposed amendment, may I ask Commissioner Bacani who fathered this amendment one clarificatory question.

THE PRESIDENT: Which one? We are on Section 3.

MR. SARMIENTO: This section to be voted upon by the body, Madam President. I understand it was fathered by Commissioners Romulo and Bacani.

THE PRESIDENT: Please proceed.

MR. ROMULO: Yes, I will share the paternity.

MR. SARMIENTO: Last night, Madam President, Commissioner Romulo stated that a military bases agreement or any treaty concerning military bases would be excluded from the concept of treaty. But after that was clarified, Commissioner Bacani informed this Representation that it was his intent that the concept of treaty covers agreements or treaties governing military bases.

So, may I be clarified on this point.

MR. ROMULO: Commissioner Bacani talked to me this morning and he now agrees that it is a general provision. He was confused yesterday.

BISHOP BACANI: Madam President, when I introduced this formulation, together with Commissioner Romulo, what I intended was that it should be as general as possible. The sentence says: "WHEN ENTERING INTO EXECUTIVE AGREEMENTS, TREATIES AND OTHER INTERNATIONAL AGREEMENTS, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, THE NATIONAL INTEREST AND THE RIGHT OF SELF-DETERMINATION." That should be a general statement and nothing should be excluded from it, I believe.

MR. SARMIENTO: We are now confused, Madam President, because the position of Commissioner Romulo is that treaties governing military bases could be excluded from the concept of treaty under that section. But here

comes Commissioner Bacani saying that it should be understood to mean a general provision, a concept governing all treaties, without exceptions.

THE PRESIDENT: Does Commissioner Romulo see any contradiction between his statement and that of Commissioner Bacani's, as stated, so that this can be explained or clarified?

MR. ROMULO: My intention was to exclude foreign bases from treaties; I should say treaties regarding foreign bases. As I explained yesterday, the Transitory Provisions formulated by us excludes the concept of foreign bases other than the RP-US Military Bases Agreement.

BISHOP BACANI: Madam President, all I am trying to say is that when we do enter into treaties and other international agreements, the paramount consideration shall be what is mentioned here. On the other hand, whether or not the body intends to exclude the foreign bases from this treaty is another question. Whether they are included or excluded, if treaties are made with any other nation, then these conditions should be of paramount interest. I think that is the sense of it.

THE PRESIDENT: Is there any other question?

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: This is not on behalf of the committee. This is just a personal observation.

May I inquire from Commissioner Romulo the intent of the provision as interpreted by him? Am I correct in understanding that the interpretation of his provision, dovetailed with the provision that has been approved for the Transitory Provisions, is that any and all treaty arrangements on foreign bases will not be allowed anymore?

MR. ROMULO: Yes, except for. . .

MS. AQUINO: Except that which pertains to the RP-US Military Bases Agreement in the Transitory Provisions. In effect, does it not mean that we are reserving only for the Americans the use of the national territory for any kind of foreign bases?

MR. ROMULO: Only if the Chief Executive decides to enter into a new treaty. That is up to the Chief Executive and the Congress.

MS. AQUINO: Assuming that the Chief Executive decides, we cannot allow anymore any other kind of foreign bases, for example, as cited by Commissioner Azcuna, the possibility of a joint ASEAN foreign base in the Philippines or in Indonesia or in Malaysia. Would that be the effect?

MR. ROMULO: That is our thought because we hope to dismantle the U.S. bases as soon as possible and thereafter we do not want any other bases here.

MS. AQUINO: Thank you, Madam President.

MR. RAMA: We are ready to vote, Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: In the contemplation of the committee, how are the criteria for paramountcy of national sovereignty, integrity, national interest and right to self-determination determined? May I ask the proponents.

THE PRESIDENT: I beg the Commissioner's pardon?

MR. BENNAGEN: I would like to ask the proponents how the paramountcy of national sovereignty, territorial integrity, national interest and right to self-determination be determined in deciding on an international treaty.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: We believe that the Chief Executive and Congress in entering into these agreements shall try as realistically as possible always to uphold our interests, our rights on a truly mutual, beneficial and reciprocal basis; and that with regard to territorial integrity, of course, no part of our territory will be compromised. And above all, our national interest, which should be perceived by the Executive and Congress, shall prevail.

MR. BENNAGEN: Would this include also consultation with a broad sector of the Philippine population?

MR. ROMULO: I suppose so, because Congress will have to be involved, and so is the Executive as in relation to our section on social justice regarding consultation with the people.

MR. BENNAGEN: Will it include referenda and plebiscites?

MR. ROMULO: I think I will leave that to the proper authorities — that would either be Congress or the President.

MR. BENNAGEN: Thank you, Madam President.

MR. RAMA: We are ready to vote, Madam President.

MS. QUESADA: Madam President, just a clarification before we vote.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Yesterday I do recall that when we talked about the Transitory Provisions, the treaty is transient, which means that it will end. Whatever principle we put there will actually not be operational until after it shall have been implemented. Therefore, when we talk about a principle placed in the Declaration of Principles, it should be something that shall guide us in our future decisions. Therefore, when we say we exclude the matter of foreign bases in this particular executive agreement or treaty that the State will get into, then we will not be governed by any principle in such future transactions, because we are, in effect, saying that there will be no change in the present situation. So, the interpretation was just given by Commissioner Romulo. He clarified that we are giving a special place for the foreign bases when, in fact, international agreements would consider a vital issue as allowing bases in the future.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I am also one of those who helped draft that and perhaps we can settle it by saying that the subject of the US military bases is covered by the Transitory Provisions, not only because it is transient, but because it can also be a contingent event.

With respect to the principle, the principle of foreign policy in Section 3 says that all treaties shall be governed by the principles of national sovereignty. But Commissioner Romulo also read into the record that in the first place, treaties on any foreign base other than those in the Transitory Provisions are not contemplated as within the area that can be entered into. Therefore, that is the reconciliation between the opinion of Commissioner Bacani and Commissioner Romulo. In the first place, we will not enter into any treaty on foreign bases except in the contingent and transitory possibility after 1991 which is covered by the Transitory Provisions. In all other treaties which are allowed, then those principles of sovereignty, territorial integrity, national interest and self-determination will apply.

MR. AZCUNA: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: I would like to propose an amendment that will reconcile all the views. Instead of "WHEN ENTERING INTO A TREATY," we just say: "IN OUR RELATIONS WITH OTHER STATES, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY . . ." It ties up also with foreign policy. It is the broad field of international relations.

MR. ROMULO: We accept, Madam President.

MR. GASCON: Madam President, I will just ask one question.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: When we say "IN OUR RELATIONS WITH OTHER STATES" as a basic principle, considering all of these bases, will this also relate to our attitude as we enter into the period 1991 which is stipulated in the Transitory Provisions?

MR. AZCUNA: Yes, Madam President. It will include all our relations with other States.

MR. GASCON: Including that which is already stipulated in the Transitory Provisions?

MR. AZCUNA: Yes.

MR. GASCON: Thank you.

MR. RAMA: Madam President, the body is ready to vote on the provision, as amended.

MR. TINGSON: Madam President, I will ask our committee member, Commissioner Azcuna, to please read the amended section.

MR. AZCUNA: Section 3 will now read as follows: "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY. IN OUR RELATIONS WITH OTHER STATES, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY, NATIONAL INTEREST, AND THE RIGHT TO SELF-DETERMINATION."

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: With respect to the second paragraph, instead of saying "IN OUR RELATIONS," since we are using the third person, it should be "IN ITS RELATIONS."

MR. AZCUNA: We accept, Madam President.

VOTING

THE PRESIDENT: As many as are in favor of Section 3, as read, please raise their hand. (Several Members raised their hand.)

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

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

The results show 33 votes in favor, 1 against and 3 abstentions; Section 3 is approved.

MR. RAMA: Madam President, I ask that Commissioner Monsod be recognized to present an amendment to Section 4.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I would like to present an amendment to Section 4.

At this juncture, the President relinquished the Chair to the Honorable Regalado E. Maambong.

MR. MONSOD: Mr. Presiding Officer, we just approved the section protecting the unborn. A few weeks ago, we approved the section protecting life by abolishing the death penalty, subject only to certain exceptions. Our amendment to Section 4 is a continuation of our affirmation and commitment to life for all our people from the scourge of nuclear weapons. Yesterday, we also voted to give some options on the questions of the bases. It is even more important now to affirm the sense and commitment of this Commission with respect to nuclear weapons. We are happy to say that this is probably one of those proposals of the committee and the body where we have, I believe, unanimity, where we can all get together because we all share that same concern.

I would like to propose that the section be reformulated to read as follows: "THE PHILIPPINES SHALL, CONSISTENT WITH CONSIDERATIONS SOLELY OF NATIONAL INTEREST, PURSUE A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

This was codrafted by Commissioner Azcuna, who is the prime author and may I read the names of the coauthors: Commissioners Rigos, Romulo, Colayco, Rama, Regalado, Tingson, Davide, Villegas, Gascon, Bernas, Concepcion, Sumulong, Bacani, Sarmiento, Calderon, Muñoz Palma, Tadeo, Ople, Natividad, Nieva, Rosales, Maambong, Tan, Quesada, Bengzon, Treñas, Foz, Uka, de los Reyes, Guingona, Rodrigo, Jamir, Suarez, Rosario Braid, Nollado, Aquino, de Castro and myself.

MR. TINGSON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The chairman of the committee is recognized.

MR. TINGSON: Inasmuch as our committee is involved in the formulation of this amendment and that practically everyone is a coauthor of this amendment, our committee joyfully accepts the amendment.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Aquino is recognized.

MS. AQUINO: This is not on behalf of the committee but may I request a clarification on how the committee would operationalize the term "SOLELY" on the basis of national interest?

MR. MONSOD: The formulation as it is merely asserts that the national interest is paramount. Therefore, the principle or the policy that Commissioner Azcuna defined in his sponsorship and the nonabsolutist character are adopted by this proposal. "National interest" is defined by the executive and the legislative and this means that we are making a declaration that this is a policy of the State and that it must be consistent with the national interest. If there are by-products or other interests that may be served, then those are incidental and secondary. Unless the national interest is served first, then there shall not be any modifications or exceptions.

MS. AQUINO: I appreciate some kind of an inconsistency between cognition and the formulation of that provision because when one says "SOLELY" in the national interest, it is as if to say that it is the exclusive ground upon which we will adopt this kind of a policy; whereas, the Commissioner is also articulating that it seems to approximate the idea that it is the primary concern. I would suggest that we delete "SOLELY." I would say there is a cognitive dissonance.

MR. MONSOD: Let me ask the committee because it has accepted the proposal. The intent is that unless the national interest is served and when deciding it, one should not think of other considerations other than the national interest. If, however, there are other benefits that may arise — for example, it is an ASEAN agreement — then that is something that comes as a by-product. As far as we are concerned, what is important is that the decision is based solely on our national interest.

THE PRESIDING OFFICER (Mr. Maambong): Before we proceed with the details of this formulation, the Chair would like to know from the committee if it has in fact accepted the proposal.

MR. TINGSON: I am speaking for the majority members of the committee. We are accepting the amendment.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Guingona is recognized.

MR. GUINGONA: I am one of the cosponsors of this proposed amendment and this amendment is in consonance with a statement that I made that we are all in favor of this anti-nuclear stand, but it should be declared as a policy rather than one that would be immediately implementable.

With respect to the question of the honorable Commissioner Aquino, as pointed out by Commissioner Monsod, the national interest could still be the sole consideration even if other interests are observed because the other interests are secondary. In other words, they are incidental. For example, if the interest of the ASEAN or some other country is affected because of our agreement with these entities or countries, still the primary, fundamental and exclusive consideration will be the national interest which includes the national security and the consideration of the very existence of the State.

MR. GARCIA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Garcia is recognized.

MR. GARCIA: As a member of the committee, we would like to welcome the overwhelming support which the Members of the Commission have given to the nuclear weapons provision in Section 4. At the same time, I understand that this definitely means that we are against the presence of nuclear weapons in our country, and also the entry and transit of nuclear-armed and nuclear-capable vessels and aircrafts in the country and the dumping of nuclear wastes, all of which present very clear and present danger to the survival of our people.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Monsod is recognized.

MR. MONSOD: I just wanted to respond to that, because in the formulation of this amendment which represents a reconciliation of wide and divergent views, we precisely focused ourselves only on nuclear weapons, and we adopted the Azcuna explanations with respect, for example, to ships docking. We did not include the uses of nuclear medicine or nuclear plants for that matter. This is purely nuclear weapons.

MR. GARCIA: Yes.

MR. MONSOD: I would just like to clarify that we will not be agreeable to reading into the minutes of these proceedings an amplification beyond the intent and the letter of the amendment.

MR. GARCIA: Precisely, Mr. Presiding Officer, if we do not allow nuclear weapons in the country, we must have a mechanism of verification so that we can be sure that within the national territory, as defined in our Article on National Territory, no nuclear weapons are present.

MR. MONSOD: I agree, Mr. Presiding Officer.

MR. GARCIA: I think it is up to the government, therefore, to determine a system of verification that no nuclear-armed vessels or aircraft with nuclear weapons in their possession be allowed in Philippine territory. I think that is clear.

MR. MONSOD: Yes, I think I agree to the verification, but I would like Commissioner Azcuna to explain the various circumstances that do not come within the strict definition and intent of this article, as he explained in his sponsorship speech. Since this adopts his sponsorship speech, I think that should be the ruling interpretation of this amendment.

THE PRESIDING OFFICER (Mr. Maambong): The Chair would like to address a query to Commissioner Garcia. Is Commissioner Garcia objecting to the wordings?

MR. GARCIA: No, Mr. Presiding Officer. In fact, I welcome the overwhelming support which has been manifested by the Members of the Commission as to the importance of the nuclear weapons issue, and I am simply clarifying it. It is rather important that in the future there should be methods of verification to be determined by the government to make sure that these weapons truly are not present, because it is the policy of some of the superpowers neither to confirm nor to deny the existence of these nuclear weapons.

In fact it is interesting to note — if the Members want to listen to some highlights regarding this point — how some of our former leaders have answered this question. For example, when President Marcos himself was asked about this issue of nuclear weapons, he said: "As far as we are concerned, we have not been consulted and, therefore, as far as we are concerned there are no nuclear weapons." The answer of General Ver to this question is more interesting. He said: "We have an agreement with the U.S. that they will report to us any entry of nuclear weapons into Clark or Subic, but sometimes, they do not do it."

In other words, it is up to our Philippine government to exercise that authority to make sure that no nuclear weapons are, in fact, present.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The Chair is clarified. There is no disagreement between Commissioner Garcia and the formulation of Commissioner Monsod.

Commissioner Monsod is recognized.

MR. DE CASTRO: Mr. Presiding Officer.

MR. MONSOD: Let me defer to Commissioner de Castro first and then I shall speak later.

THE PRESIDING OFFICER (Mr. Maambong): Just a moment. Before the Chair recognizes Commissioner de Castro or Commissioner Azcuna, Commissioner Gascon has been standing there for quite some time.

Commissioner Gascon is recognized.

MR. GASCON: I will defer until this interpellation, Mr. Presiding Officer. I would like to seek some clarification in view of the points raised by Commissioner Aquino.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you. Just one question to the honorable proponent.

Does "NATIONAL INTEREST" include national defense and security?

MR. MONSOD: Yes, Mr. Presiding Officer.

MR. DE CASTRO: Thank you.

MR. GASCON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Is Commissioner Gascon now prepared to say his piece?

MR. GASCON: Yes.

THE PRESIDING OFFICER (Mr. Maambong): Please proceed.

MR. GASCON: In view of the statements made by Commissioner Aquino that the word "SOLELY" seems to imply that it shall be the only consideration when we refer to the issue of nuclear weapons, I would like to add further — as I expressed when I signed that resolution — that in fact, we are against nuclear weapons, not simply for national interest but because of our commitment to world peace.

I would like to support Commissioner Aquino's request, if the major proponent does not mind, to delete the word "SOLELY" and instead just use the words "CONSIDERATIONS OF NATIONAL INTEREST" which would be a little more open.

MR. MONSOD: Mr. Presiding Officer, I am amenable to that amendment, but the amendment is now under the jurisdiction of the committee, so I would like to ask the committee if they are also amenable.

MR. TINGSON: The committee similarly accepts the amendment.

THE PRESIDING OFFICER (Mr. Maambong): Could Commissioner Gascon hold on to his amendment? The Chair wishes to recognize Commissioner Tan first.

SR. TAN: Mr. Presiding Officer, I welcome this resolution, and as far as I can hear, there is no big contradiction between Commissioner Garcia and Commissioner Monsod. But I think we should not be naive about just placing such a resolution without making it clear, at least, on the record that this includes freighters, boats or whatever that carry nuclear weapons, and it would also include using our seas as a dumping ground for nuclear waste.

MR. MONSOD: Mr. Presiding Officer, I wanted to defer to Commissioner Azcuna on the various interpretations here because he has covered it very exhaustively in his sponsorship speech.

THE PRESIDING OFFICER (Mr. Maambong): Could we take care of the Gentleman on the floor first?

Does Commissioner Ople seek to be recognized?

MR. OPLE: Yes, Mr. Presiding Officer, I was awaiting for my turn. Thank you very much.

Since the committee has now acquired jurisdiction over the Azcuna-Monsod amendment, will the committee yield to a question or two? Does this amendment also contemplate a mandate to the Philippine government to insist that the pursuit of a policy on nuclear weapons be a controlling guideline if there is a new negotiation with the United States concerning the military bases? Is it a mandate to the Philippine government and a limitation as well so that if it is deemed in the national interest by the government to enter into new negotiations, that the section will be a controlling guideline to our own negotiators on behalf of the Philippine government?

MR. AZCUNA: Yes, Mr. Presiding Officer.

MR. OPLE: Does it also mean that if there are such negotiations, a process of verification can be established as part of the treaty?

MR. AZCUNA: Yes, Mr. Presiding Officer.

MR. OPLE: Mention has been made of the ASEAN and the possibility that in the future, the Philippines can host bases of a regional character. Is that interpretation correct, Mr. Presiding Officer?

MR. AZCUNA: That was a possibility in the light of the previous wording where we mentioned "treaty." We were precisely clarifying that. But the interpretation that has been distilled from the amendment yesterday is not to allow even ASEAN military bases in our territory within the context of the present wording of what we have approved. The idea really is that there will be no further foreign military bases allowed, except those that have been allowed. In other words, something like — to use Commissioner Bacani's words — a "necessary evil." We do not want anymore necessary evils around. That is why we put it in the Transitory Provisions; we hope that it will not last forever. And we do not intend to have any other foreign military bases in our country.

MR. OPLE: If there is a Zone of Peace, Freedom and Neutrality — of course, this is contingent on a reconciliation of the Indo-Chinese states and the countries that compose the ASEAN — and since the neutrality that is contemplated here is a neutrality guaranteed by the combined military forces of the countries that have signed a protocol on this zone, will this interpretation now foreclose the possibility of the Philippines as a signatory to a future neutrality treaty from, let us say, enforcing a covenant among these nations that may call for stationing joint facilities in any part of the region?

MR. DE CASTRO: May I answer that?

MR. AZCUNA: Yes, please.

MR. DE CASTRO: I have not seen any concept of neutrality in any of the provisions we have approved so far, as well as the proposition on Section 4. The concept of neutrality is never intended nor can one see it in this Section 3 and the proposed Section 4.

MR. OPLE: Yes, Mr. Presiding Officer, it is very obvious that there is no neutrality provision in any of these sections under discussion.

MS. AQUINO: Mr. Presiding Officer.

MR. OPLE: I am merely raising some hypothetical questions in the light of the declaration of the countries composing the ASEAN. Someday they may want to achieve a Zone of Peace, Freedom and Neutrality in this part of the world.

So, this is not related, Mr. Presiding Officer, to Section 3 or even directly to Section 4. I just wanted to put that on record so that future researchers shall not fault us for this oversight, that the ASEAN is not a military pact. All the governments making up the ASEAN, individually and collectively, have stated that ASEAN is not a military pact and will not be. In the words of Mochtar Kusumaatmadja, the foreign minister of Indonesia, ASEAN will never rise to the level of a military pact in the future. I am not saying that we should believe these words of our government in the ASEAN but although bilateral security ties do obtain within the ASEAN, all the governments making up the ASEAN have said time and again that they do not want to have a military pact and they do not anticipate the ASEAN rising someday to the level of a military organization. That is all I wanted to put on record, Mr. Presiding Officer.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Aquino is recognized.

MS. AQUINO: I will attempt to clarify this on behalf of the committee. Consistent with the intent of Section 3,

the possibility of the Philippines being a signatory to any kind of a collective security arrangement in the ASEAN region is not prohibited. However, conformably with the interpretation of Commissioner Romulo of the approved provision, we cannot allow foreign military facilities or any foreign enclave within the national territory.

MR. OPLE: Thank you for that clarification.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro is recognized.

MR. DE CASTRO: As I see it, in the provision that we intend to put in the Transitory Provisions, we are allowing under the terms of a treaty the renegotiation of the RP-US agreement on foreign military bases. In the event that our President, who is given the option to renegotiate the US military bases, will not accept or will not take that option of renewing the military bases treaty with the United States, it will appear in our Constitution that there will be no more foreign military bases to be accepted in the Philippines. That is my interpretation of our provision to be placed in the Transitory Provisions, and the interpretation of Commissioner Aquino on our future relations with other states, where we may sign a treaty concerning collective security, is correct and is based on national sovereignty, territorial integrity, national interest and the right to self-determination.

Thank you, Mr. Presiding Officer.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Padilla is recognized.

MR. PADILLA: The proposal, as substitute for Section 4, has the phrase "CONSISTENT WITH CONSIDERATIONS SOLELY OF NATIONAL INTEREST."

MR. GASCON: Mr. Presiding Officer, the word "SOLELY" has been deleted.

MR. PADILLA: Can we not just simplify this by saying "CONSISTENT WITH THE NATIONAL INTEREST"?

MR. DE CASTRO: Correct, we accept.

MR. TINGSON: We accept that.

THE PRESIDING OFFICER (Mr. Maambong): Before Commissioner Padilla proceeds, Commissioner Monsod has a pending suggestion — that for the benefit of the whole body, Commissioner Azcuna should be made to explain the concept here. But before Commissioner Azcuna does so, the Chair would like to be cleared now on the formulation. Is Commissioner Monsod listening?

MR. MONSOD: Yes.

THE PRESIDING OFFICER (Mr. Maambong): The Chair has this formulation: "THE PHILIPPINES SHALL, CONSISTENT WITH NATIONAL INTEREST, PURSUE A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY." Is that the correct formulation?

MR. MONSOD: Mr. Presiding Officer, I believe the amendment of Commissioner Padilla is: "CONSISTENT WITH THE NATIONAL INTEREST."

THE PRESIDING OFFICER (Mr. Maambong): All right. So, it will read: "THE PHILIPPINES SHALL, CONSISTENT WITH THE NATIONAL INTEREST, PURSUE A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

With the indulgence of Commissioner Padilla, may the Chair now call on Commissioner Azcuna to add

something to what we already said, probably in a form of a definitive statement, before the other Members can comment so that we can proceed with this section.

MR. AZCUNA: Yes, Mr. Presiding Officer.

In my sponsorship speech, I pointed out that this is a policy, albeit a basic policy because it is stated in the Declaration of Principles and State Policies in the Constitution. Consequently, what we are seeking here is primarily a statement of an orientation, a basic direction in the Constitution, that as a matter of policy, we are against nuclear weapons in our territory. As practiced by other states, that means prohibition not only of possessing, controlling and manufacturing nuclear weapons, but also of nuclear tests in our territory, as well as the use of our territory as a dumping ground for radioactive wastes. This is embraced in the policy against nuclear weapons in one's territory. As practiced both in Latin America, under the Treaty of Tlatelolco, as well as by the South Pacific countries that endorsed the Treaty of Rarotonga, passage of ships, whether nuclear-powered or nuclear-arms-bearing, is left to the determination of every state on a case-to-case basis. It is not per se a violation of a nuclear weapons free zone to allow a ship that is nuclear-powered or bearing nuclear weapons to pass or enter one's territory. However, it has to be done in the light of a policy.

There is a policy against the presence of nuclear weapons and, therefore, the exceptions to that policy would have to be strictly construed or justified. What we are saying with the formulation now is that it can be justified only on the basis or on the crucible of the national interest. If it is consistent with the national interest, then really there is the possibility of deviating from that policy but the policy is there. The basic direction is there. There can be deviations now and then because we said that this is not a 100 percent rule; this is not absolute. But deviations must be justified on the basis and the crucible or test of national interest.

THE PRESIDING OFFICER (Mr. Maambong): Thank you.

MR. VILLACORTA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Before the Chair recognizes anybody else, the Chair would like to state the parliamentary situation.

We are now in the consideration of the amendment by substitution to Section 4. I would suppose that the concept has been discussed thoroughly, and if the proponent will allow, could we now go to the consideration of the amendment by substitution? Is that right?

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Davide is recognized.

MR. DAVIDE: May I propose a very simple amendment.

THE PRESIDING OFFICER (Mr. Maambong): Please proceed.

MR. DAVIDE: The first is to delete the word "SHALL" after "PHILIPPINES" and to substitute "PURSUE" with "PURSUES," and before that, add the words "ADOPTS AND." So, the entire proposal will read: "THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say?

MR. TINGSON: We feel it is an improvement, so we accept it.

MR. AZCUNA: We accept.

MR. VILLACORTA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The proposed amendment of Commissioner Davide which has been accepted will now read: "THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY.

Commissioner Villacorta is recognized.

MR. VILLACORTA: Mr. Presiding Officer, I just would like more clarification from Commissioner Azcuna, if he will yield to further questions.

MR. AZCUNA: Gladly, Mr. Presiding Officer.

MR. VILLACORTA: When Commissioner Azcuna was speaking about the policy of banning nuclear-capable and nuclear-bearing ships, it was not very clear to many of us here just exactly what the provision, if approved, would entail. Would the general policy be against or in favor of the passage of these ships?

MR. AZCUNA: The policy would be against.

MR. VILLACORTA: Against the passage?

MR. AZCUNA: Yes.

MR. VILLACORTA: And entry into the Philippine territory, not only of nuclear-weapons bearing ships but also ships that have nuclear capability or are nuclear-capable. They may not possess nuclear weapons but they are capable of possessing and using nuclear weapons. Is that right, Mr. Presiding Officer?

MR. AZCUNA: If they are merely nuclear-capable but they are not carrying nuclear weapons, they are not barred, as in Japan where the Japanese require U.S. ships to leave first their nuclear weapons elsewhere before entering Japanese waters. That is allowed in the practice, so we would not ban that. What we are saying is, we are banning the ships carrying weapons from entering our territory and, therefore, what they have to do is deposit the weapons elsewhere before entering our territory. Every ship is capable of carrying a nuclear weapon, even a tugboat.

MR. VILLACORTA: Mr. Presiding Officer, I beg to disagree. Not every ship is capable of bearing nuclear weapons. And it is not just a matter of bearing it; it is a matter of having the necessary safeguards and technology to bear these weapons because, for example, the passenger ships would not have that capability of . . .

MR. AZCUNA: Yes. Even a tugboat can really carry a nuclear weapon, if one will read some literature on this. And so, if we ban the ship simply because it is capable of carrying nuclear weapons, no ship will probably be able to enter our territory.

MR. VILLACORTA: This is one of the controversies in Japan with respect to American ships entering the territory of Japan. The Japanese government is in a fix in terms of handling the situation because it was not anticipated by the Japanese government. The Japanese government has a standing policy — although it is not constitutional but it is an executive policy — which follows the three nonnuclear principles: no possession, no entry, and no use of nuclear weapons. But many military analysts fear that a lot of nuclear-capable American ships enter Japanese territory and somehow, if I may use or coin another phrase, through the use of military necromancy or maneuvers, the ships are able to transfer nuclear weapons from one ship to another and the Japanese government is unable to do anything about it. The government of New Zealand is more categorical in banning nuclear-capable ships.

So why cannot the committee in accepting the Monsod amendment put that in the interpretation and contemplation of that amendment? Nuclear-capable ships and nuclear-capable planes should certainly be banned

from entry.

MR. AZCUNA: Yes. As we explained, the matter of passage of ships carrying weapons is enforced on a case-to-case basis although the policy is there — that is, we are against it. If nuclear-capable ships, respecting our policy, leave their weapons in Guam and come to Philippine waters, asking our permission to enter, we believe that such ships having respected our policy should not be barred under that policy. Precisely, it shows recognition of our policy that they have left their weapons elsewhere. If they use subterfuge or they enter under the guise of not carrying weapons but in fact are carrying them, then that is something else. That would be covered by the ban. But if there is a sincere compliance with the policy of not bringing nuclear weapons into our territory and, although it is capable of doing so, but respecting our policy, it did not do so, then we should appreciate that consideration.

MR. VILLACORTA: Just two more questions, Mr. Presiding Officer.

Why would nuclear-capable ships enter Philippine territory in the first place?

MR. AZCUNA: Without carrying nuclear weapons? There are many reasons: they could be in distress; they could be coming in for repairs. There are many reasons why a ship enters a port.

MR. VILLACORTA: Has the committee looked into the technology of this? Would nuclear-capable ships be able to dump nuclear wastes into Philippine waters?

The Commissioner might want me to repeat my question.

MR. AZCUNA: Yes, please.

MR. VILLACORTA: Would nuclear-capable vessels be capable of dumping nuclear wastes into Philippine waters?

MR. AZCUNA: Yes, they are capable of dumping nuclear wastes. Again, I imagine even an ordinary ship capable of dumping nuclear wastes. These nuclear wastes are put in barrels marked with radioactive markers and dumped into the sea; sometimes, freight ships are used to do this.

MR. VILLACORTA: In other words, allowing nuclear-capable ships to enter Philippine territory increases the chances of nuclear-waste dumping into our territory. Am I right, Mr. Presiding Officer?

MR. AZCUNA: We do not want to fall into the policy of *ab posse ad esse*, Mr. Presiding Officer, that simply because something is possible, therefore, it will happen. Although everything is possible, we are not prohibiting the possibility; we are prohibiting the actuality.

MR. VILLACORTA: Anything is possible but certain circumstances increase the possibility. Am I right, Mr. Presiding Officer?

MR. AZCUNA: Yes. However, what are prohibited are not the possibilities, even the degrees thereof, but the actual occurrences or the actual dumpings. The policy is against these, not the entry of ships capable of dumping, but do not do so.

MR. VILLACORTA: Last question. Does the Commissioner think that we have the necessary technology to detect the possession of nuclear weapons by entering ships and planes?

MR. AZCUNA: Yes, Mr. Presiding Officer. It is our feeling that the precise technology, if we do not possess it now, is something we can develop within the next few years. And also, there are other institutions that can help us; there are international institutions that are engaged in this and are willing to help developing countries. For

instance, in the South Pacific, as well as in the Latin American treaties, they mentioned the International Atomic Energy Commission which provides technical help and verification. So, there are available means.

MR. VILLACORTA: Assuming that we have the technology or we can borrow technology for detecting nuclear weapons from other countries or international agencies, will the military bases agreement that the majority here would want to continue allow surveillance or ocular inspection to be able to detect the presence of nuclear weapons within the bases, as well as within the ships that are entering the territory of the Philippines?

MR. AZCUNA: Yes, Mr. Presiding Officer, if they agree to a provision that there will be no nuclear weapons in the bases concomitant with such a provision in the verification clause. In fact, this is not new. The Philippine panel in the 1976 negotiations already demanded the absence of nuclear weapons in the US bases, so this is not a new posture. We have already asserted such a demand way back in 1976, and in those negotiations, part of that demand was for a verification procedure.

MR. VILLACORTA: The Commissioner raised two points. First of all, such a demand was made. However, he has not informed us whether or not the demand was accepted.

MR. AZCUNA: It was not, but it can be renewed.

MR. VILLACORTA: So it was not accepted.

MR. AZCUNA: It was not.

MR. VILLACORTA: Secondly, the Commissioner has said that it will depend on whether or not the American authorities will agree to a nonnuclear provision in the military bases agreement. But since there is no such provision and the military bases agreement is valid until 1991, then the Commissioner is saying that the constitutional provision against nuclear weapons, if this is approved, will not be implementable until after 1991, assuming that after 1991 a nonnuclear provision will be accepted.

MR. AZCUNA: What would happen is, if we approve this Constitution carrying the proposed Section 4, stating a policy against nuclear weapons, and then we have also a provision in the Transitory Provision saying that after 1991 there has to be a new treaty, then we have an interregnum between the approval of the Constitution in 1991. The Gentleman asks, "What happens then? Will the nuclear weapons, if there are any, in these US bases be tolerated or not?"

I would say that we have to take into account the fact that there is a provision for review of the terms of the agreement even before 1991. What the Philippine government can then do is ask for a review of the existing terms in the light of a constitutional policy against nuclear weapons, and ask that even before 1991, the demand made in 1976 should be pressed again. That same demand that no nuclear weapons be stationed in these bases can be made this time with the additional reinforcement of the constitutional policy as mandated.

MR. VILLACORTA: What happens if the Americans do not agree, whether we are talking of 1988 or 1991?

MR. AZCUNA: Yes, prior to 1991.

MR. VILLACORTA: Prior to 1991 or in 1991.

MR. AZCUNA: I believe a review is due in 1988.

MR. VILLACORTA: But the assumption is that the Americans will agree. Suppose they will refuse to accept that demand, what will happen? Will this constitutional provision be an empty provision?

MR. AZCUNA: No. The policy will still be there. It admits of exceptions, as we said; then it will just be an

exception because in that particular case, we have treaty commitments.

MR. VILLACORTA: In other words, the implementation of this constitutional provision is subject really to its acceptance by the American authorities and its incorporation in the present military bases agreement, or the future military bases agreement, assuming that its extension is part of the renegotiation.

MR. AZCUNA: No, Mr. Presiding Officer. What we are saying is, we have existing agreements and we are not violating these existing agreements, whether we like them or not. We want to honor them. So, we have a new policy. This is something like what the Gentleman said: *rebus sic stantibus* — change of circumstances.

When these treaties were entered into, there was yet no policy against nuclear weapons; however, within the lifetime of the treaty, a policy against nuclear weapons emerges. We can therefore go to them and say, "Look, there is a basic change in the situation; we have a constitutionally mandated policy against nuclear weapons and, therefore, we want to align these treaty provisions now with this new policy." What happens if they do not agree? We have many options. One, we can go to the World Court and sue them by saying that the *rebus sic stantibus* doctrine applies, or we can say, "We treat this as an exception to the policy." The policy is there but it cannot be 100 percent. We have to be pragmatic. So, there are many choices left, but we cannot presume that they will not agree.

MR. VILLACORTA: Is the United States one of those nations that signed this agreement recognizing the compulsory jurisdiction of the International Court of Justice?

MR. AZCUNA: Yes, and the United States also signed the protocol to the Treaty of Tlatelolco, together with the Soviet Union.

MR. VILLACORTA: Knowing the composition of the International Court of Justice and the precedence of cases decided by it, what are the chances of a Third World country that is weak and small like the Philippines, vis-a-vis the United States?

MR. AZCUNA: Nicaragua has just won a case against the United States, Mr. Presiding Officer.

MR. VILLACORTA: Which case is this?

MR. AZCUNA: The case against the placing of mines in the Nicaraguan harbor, and the United States lost.

MR. VILLACORTA: That was a case of mines. This particular case is a clear incidence of blatant violation of international law. We are talking about a case in which the Philippines would want to unilaterally abrogate or withdraw from an international treaty because of a constitutional provision that was approved. I do not think the Honorable Azcuna is listening to my question, Mr. Presiding Officer, and, therefore, would be unable to answer.

THE PRESIDING OFFICER (Mr. Maambong): I think Commissioner Azcuna is listening to the question.

MR. AZCUNA: I am sorry; I was listening.

MR. VILLACORTA: My question is: If a case would be brought to the ICJ by the Philippines involving an issue in which the United States would not want to incorporate a nonnuclear provision in a renegotiated military bases agreement, what are the chances of the ICJ judging in favor of the Philippines, because precedence in the ICJ shows that the International Court always gives precedence to the principle of *pasta sunt servanda* over the principle of *rebus sic stantibus*?

MR. AZCUNA: In international law, the doctrine of precedence does not apply.

MR. VILLACORTA: I know, but we are talking about the actual cases decided and the actual record of the ICJ.

The point that I am driving at, Mr. Presiding Officer, is that, as far as the trend of decisions in the ICJ is concerned, we shall be at the losing end and the fact that we still have to elevate to the International Court of Justice a question of whether a constitutional provision, our own Constitution, has to be implemented in our own territory does not speak very well of the kind of sovereignty that we have.

MR. NOLLEDO: Point of information, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Nolledo is recognized on a point of information.

MR. NOLLEDO: I think that question could be more intelligently answered if — correct me if I am wrong — Commissioner Azcuna were a professor of public international law. Under the charter of the International Court of Justice, before a case is taken cognizance by the International Court of Justice, both parties must agree to submit to its jurisdiction. Moreover, both parties must also agree that anyone who loses must abide by the decision of the International Court of Justice. So, if the United States government, in the question of Commissioner Villacorta, will not agree to submit the question to the International Court of Justice, it would be very difficult to bring the case before this international court. And even if the United States government agrees to submit to the jurisdiction of the International Court of Justice but does not agree to abide by its decision, then it would be meaningless to present the case to the International Court of Justice.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Thank you very much, Commissioner Nolledo.

Is Commissioner Villacorta through?

MR. VILLACORTA: I would just like to hear the full answer of Commissioner Azcuna.

THE PRESIDING OFFICER (Mr. Maambong): Yes, go ahead, Commissioner Azcuna.

MR. AZCUNA: What we are saying is that, let us not presume that the United States will not agree. As I pointed out in my sponsorship speech, Spain has agreed to a provision that no nuclear weapon shall be stationed in Spanish soil. Secondly, if they do not agree, we have peaceful, legal means of pressing our point — one of this is through the International Court of Justice. I believe we are both signatories to the optional jurisdiction clause of the World Court and, therefore, there is no need to bother whether or not the World Court has jurisdiction over both parties. They are both signatories to the jurisdiction of the World Court.

The only question left is, what are the chances that the World Court will sustain us, considering that we are a developing country? I just mentioned the fact that a developing country recently won against the United States in the World Court. Secondly, the Gentleman said that the track record of the World Court is that they decide in favor of *pacta sunt servanda* as against *rebus sic stantibus*. It is because *rebus sic stantibus* is the exception to the rule; *pacta sunt servanda* is the rule. The rule is that treaties should be honored. As an exception, if there is sudden basic change in the situation, then we can ask that the treaty obligation be lifted because of that. There have been cases where the World Court sustained *rebus sic stantibus*. So our chances should be judged in the light of the fact that we are asking for an exception from the rule. The rule in international law and international relations is *pacta sunt servanda* and, therefore, we have to justify the exception. That does not mean we do not have a good chance.

There is the need to invoke our Constitution in the World Court because in the international forum, just because a provision in one's constitution is against a treaty obligation, he cannot use that necessarily as a defense against fulfilling a treaty obligation. In an international court, the local laws, including one's own constitution, are not sufficient reasons for reneging on an international obligation. That is different if we do it in our own courts. If the litigation is in the Supreme Court of the Philippines, then the Supreme Court of the Philippines has to put the

Philippine Constitution on top of everything else. But the International Court of Justice is not bound by the Philippine Constitution. It will take that into account.

MR. VILLACORTA: Precisely. The Constitution is part of our municipal law. Am I right?

MR. AZCUNA: Yes.

MR. VILLACORTA: And the Gentleman has just said that the International Court usually gives secondary importance to the municipal law, and more importance to our treaty obligations.

MR. AZCUNA: I did not say secondary importance. What are to be applied in international law are treaties and international customs. That is the rule applicable in international relations.

MR. VILLACORTA: In other words, Commissioner Azcuna agrees with me that we do not have a good chance should such a litigation . . .

MR. AZCUNA: I do not necessarily mean that because, first, I think we have a good chance of convincing the United States not to station nuclear weapons here. If they agreed in Spain, why will they not agree here? Besides, they have many other bases in this region; these are not their only bases. They have bases in Japan and in Guam. So, they may agree. Let us not presume that they will not agree. Secondly, if they do not, I am sure there are possibilities of negotiations, as well as possibilities of World Court action.

MR. VILLACORTA: Just to briefly reply to that, the United States is fighting and will always be fighting tooth and nail to keep its bases here.

MR. AZCUNA: But we are talking of nuclear weapons in the bases.

MR. VILLACORTA: Of what use are these bases which are the biggest outside U.S. territory if they do not have nuclear weapons? But I do not want to prolong this interpellation. Just for purposes of record, am I correct in summarizing the intention of the committee that if this constitutional provision banning nuclear weapons were to be approved, first, the Philippine government would demand from the United States the right to have or to undertake ocular inspection of the military and naval bases, as well as of all ships and other vessels that come into Philippine territory; second, aside from demanding or insisting on this right, the Philippine government would also demand that the non-nuclear provision, as well as the monitoring of nuclear weapons within the bases and of American planes and vessels entering Philippine territory, will be incorporated in the renegotiated military bases agreement, assuming that it is, if any?

MR. AZCUNA: These are details we can leave to the President and to the foreign relations-conducting bodies of our country.

MR. VILLACORTA: I do not think such a fundamental question should be left to the President and the government. We would like to know if these two points are the contemplations of the committee, because we have to decide intelligently whether we should vote or . . .

MR. AZCUNA: We will leave it open. It is within their powers to do so, but we do not want to dictate to them the precise way of conducting foreign relations and implementing the policy.

MR. VILLACORTA: This is not just the style of foreign relations that we are talking about. We are talking about two basic issues: first, the demand that the Philippine government should have the right to inspect military bases.

MR. AZCUNA: That is implementation of the policy.

MR. VILLACORTA: And in spite of the contemplation of the committee, as well as the proponents, this will be

the way it will be implemented. Is that right?

MR. AZCUNA: This is one of the ways by which it will be implemented. We do not want to tell the President, "You have to do this way, rather than that," because we are not implementors of the policies.

MR. VILLACORTA: But what is the use of a constitutional provision banning nuclear weapons if we shall not insist in effect?

MR. AZCUNA: Definitely, it is within their powers to take that as a way of implementing the policy. What we are saying is, we are not mandating them to one particular way of implementing this policy.

MR. VILLACORTA: But it is one of the ways that we are mandating.

MR. AZCUNA: Definitely.

MR. VILLACORTA: Thank you.

MR. BENNAGEN: Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Bennagen be recognized?

THE PRESIDING OFFICER (Mr. Maambong): There are several Gentlemen on the floor, but I saw that Commissioner Bennagen has been standing there for almost 45 minutes already.

Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Mr. Presiding Officer.

I would like to propose an amendment to the accepted amendment of Commissioner Davide by adding after the word "interest" the phrase "GOAL OF GLOBAL PEACE AND HUMAN SURVIVAL" so that the formulation will read: "The Philippines, consistent with the national interest, THE GOALS OF GLOBAL PEACE AND HUMAN SURVIVAL, adopts and pursues a policy of freedom from nuclear weapons in its territory."

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say?

MR. TINGSON: Mr. Presiding Officer, inasmuch as it is almost lunch time, we would like to have this amendment and perhaps we can think it over, then at two-thirty this afternoon, we shall resume.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Monsod is recognized.

MR. MONSOD: I believe that as a proponent of this, together with about 36 or 38 others, we should also be consulted on this one, even if it has been accepted by the committee. It was our interpretation that the national interest would include our pursuit of world peace because that is in our national interest and the question of human survival is also in our national interest.

I was just wondering whether it is still necessary to do that, because then we would be tempted to make a complete enumeration of what are in the national interest. So, maybe we can discuss this but I just wanted to say that this formulation was very difficult to get at because there were many people with different ideas. And so, I would appeal to the committee not to play around with it too much.

THE PRESIDING OFFICER (Mr. Maambong): The Chair finds the suggestion of Commissioner Monsod well taken, but that would be entirely an internal arrangement between the committee and the proponents.

Before the Floor Leader asks for suspension, the Chair would like to ask the members to please submit their committee amendments to this formulation so that we can go faster this afternoon. We just like to clear the deck by calling back Commissioner Bennagen.

Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Mr. Presiding Officer.

I make a plea for the inclusion of the proposed amendment because the way I sense it, the discussion has so far limited the significance of nuclear weapons to simply national and regional considerations.

THE PRESIDING OFFICER (Mr. Maambong): Yes, there was already a statement of the chairman that they will entertain the amendment, but the Chair would like to entertain a motion to suspend right now because it is already 12:35 p.m. Could the Gentleman suspend consideration of the proposed amendment this afternoon so that we will not starve?

MR. BENNAGEN: Yes.

THE PRESIDING OFFICER (Mr. Maambong): Will the Floor Leader please restate the motion?

MR. BENNAGEN: I understand, of course, that I will be given the opportunity to explain the motion.

THE PRESIDING OFFICER (Mr. Maambong): Yes.

MR. BENNAGEN: Thank you, Mr. Presiding Officer.

SUSPENSION OF SESSION

MR. RAMA: I move that we suspend the session until two-thirty this afternoon.

THE PRESIDING OFFICER (Mr. Maambong): The session is suspended.

It was 12:36 p.m.

RESUMPTION OF SESSION

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

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

May we know from the Floor Leader what is the parliamentary situation?

MR. RAMA: Mr. Presiding Officer, we are in the period of amendments. The proponent at the windup of the session this morning was Commissioner Bennagen. So, may I ask that Commissioner Bennagen be recognized again?

THE PRESIDING OFFICER (Mr. Maambong): The Chair understands that we are on Section 4. There is a proposed amendment by Commissioner Monsod. Will the chairman of the committee indicate if the committee is ready?

MR. TINGSON: Yes, Mr. Presiding Officer. We did meet at lunchtime and the general feeling and opinion of the committee was for the Chair to give due course to the amendment of Commissioner Monsod.

THE PRESIDING OFFICER (Mr. Maambong): If the chairman is ready, could he indicate the present formulation of Section 4 so that Commissioner Bennagen can properly present his amendment thereto?

MR. TINGSON: We would appreciate it if the proponent, Commissioner Monsod himself, will state it.

MR. BENNAGEN: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Let us just put the record straight by putting in the formulation as amended by Commissioner Davide, which amendment, I understand, was accepted by the committee. Is that right?

MR. MONSOD: And also by Commissioner Padilla.

THE PRESIDING OFFICER (Mr. Maambong): Will Commissioner Monsod please restate the formulation.

MR. MONSOD: The restated formulation is: "THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

THE PRESIDING OFFICER (Mr. Maambong): Thank you, Commissioner Monsod.

Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Mr. Presiding Officer.

My amendment is to be added after the comma (,) after the word "interest" so that the formulation will read as follows: "THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, THE GOALS OF GLOBAL PEACE AND HUMAN SURVIVAL, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

THE PRESIDING OFFICER (Mr. Maambong): Is the proposed amendment to the amendment of Commissioner Monsod's proposal understood by the committee? The Chair would like to know the reaction of the committee.

MR. TINGSON: Mr. Presiding Officer, we did precisely discuss the matter this noon and we are sorry that we cannot accept the amendment of Commissioner Bennagen.

MR. BENNAGEN: May I know the reason?

MR. AZCUNA: The reason is that it is already embraced in the concept of national interest. It is in the national interest to have global peace; survival, of course, is subsumed under the national interest.

MR. BENNAGEN: May I explain, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The committee does not accept the amendment. Is Commissioner Bennagen insisting on the amendment?

MR. BENNAGEN: Yes, Mr. Presiding Officer. But before I do that, I want to put it to a vote. Before voting, may I explain?

THE PRESIDING OFFICER (Mr. Maambong): Please proceed.

MR. BENNAGEN: My feeling is that the phrase "national interest" does not necessarily mean that we take in its operational terms the concern for global peace and human survival. The issue of nuclear weapons is necessarily a global issue. We all know that there is a growing concern for nuclear disarmament because we are increasingly becoming aware of the impact of this on global peace and human survival. For instance, one of the noted

scientists who have been studying the possible effects of nuclear war in relation to nuclear winter has said, and to put the statement in context, let me read from an article in Discovery, a news magazine for science, dated January 1985:

At an international conference in October 1983 in Washington D.C., (speaking for an American group headed by a certain researcher) it was said that a dark sunblocking cloud might enshroud much of the globe after as little as one percent of the superpower's nuclear armaments were fired. Temperatures could plummet even in summer to below freezing for man. This is called "nuclear winter." The effect of this is called "nuclear winter." And last summer, a subcommittee of the Joint Economic Committee of Congress held hearings on nuclear winter and the National Oceanographic and Atmospheric Administration began planning a major national research effort on nuclear winter. A catastrophe of such proportions has never occurred in the human experience, though it may have a precedent. Some scientists think that 65,000,000 years ago, at the end of the Cretaceous Period, dust thrown up by the impact of a large asteroid cooled the earth, then the dinosaurs became extinct. This time it could be man.

If the prophets of nuclear winter are right, a nation that launched a major nuclear attack would be destroying itself even if not a single missile were fired in return and the other nations of the world, neutrals and belligerents alike, would perish as well.

In nuclear winter, the superpowers would finally have their strange slogan doomsday machine — one that would automatically destroy civilization. No fallout shelter could provide ultimate sanctuary: We are real bastards bestowing that illusion.

In effect, I am saying that while the issue of nuclear weapons is of immediate concern to us, it must necessarily partake of a global concern because as the scenarios of a nuclear winter point out, whatever happens in the northern hemisphere even if it does not happen in the southern hemisphere will necessarily affect us. If we put this amendment into the proposed section, it will mandate us as a nation to take a more active role in the global movement toward the attainment of global peace and ultimately human survival.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Thank you, Commissioner Bennagen.

May the Chair now address the committee. Is there any change in the thinking of the committee after the explanation of the amendment of Commissioner Bennagen?

MR. TINGSON: We would rather submit it to the body for further discussion and vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): May we ask the Floor Leader if we are ready to put this matter to a vote?

MR. RAMA: There are no more speakers unless Commissioner Davide wishes to take the floor.

MR. DAVIDE: Mr. Presiding Officer, I would just like to ask some clarifications from the proponent.

THE PRESIDING OFFICER (Mr. Maambong): Is the question of Commissioner Davide on the same proposed amendment of Commissioner Bennagen?

MR. DAVIDE: The same point, so I could intelligently vote.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bennagen may respond if he so desires.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

Yesterday, we adopted the following as a new principle: "THE PHILIPPINES RENOUNCES WAR AS AN

INSTRUMENT OF NATIONAL POLICY, ADOPTS THE GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AS PART OF THE LAW OF THE LAND AND ADHERES TO THE POLICY OF PEACE, EQUALITY, JUSTICE, FREEDOM, COOPERATION AND AMITY WITH ALL NATIONS."

I would like to find out from Commissioner Bennagen if "global peace" is different from the "peace" mentioned in the principle I have just quoted, or is it already included there.

MR. BENNAGEN: Maybe so, in terms of a general statement on peace, meaning the general principle.

MR. DAVIDE: So, it is included in that principle.

MR. BENNAGEN: Yes, but I feel that it is necessary to underscore the connection of nuclear weapons with global peace.

MR. DAVIDE: My only question is, is that included?

MR. BENNAGEN: Yes.

MR. DAVIDE: There is a proposed Section 5 of this Article on Declaration of Principles. It states: "THE STATE VALUES THE DIGNITY OF THE HUMAN PERSON, et cetera." Is human survival not included in the principle of the State to value the dignity of the human person?

MR. BENNAGEN: During the interpellation on this section, the discussion centered mostly on human rights. I am not sure whether it was the contemplation of the committee that this Section 5 also includes human survival as threatened by nuclear war.

MR. DAVIDE: No, because human rights is covered by the second clause which says "guarantees full respect for human rights." The first is: "values the dignity of the human person." It therefore includes human survival. It is even beyond just human survival because it is the dignity of the human person itself. So I would say that while I agree with the proposal of Commissioner Bennagen, I believe that these are already included in the different other principles enunciated in the Declaration of Principles. We should read the entire article or take the context of the entire article and dovetail one with the other.

Thank you.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bacani is recognized.

BISHOP BACANI: Would Commissioner Bennagen yield to one question?

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bennagen may respond if he so desires.

MR. BENNAGEN: Yes, Mr. Presiding Officer.

BISHOP BACANI: I am also in sympathy with the thought of what the Gentleman is saying. But on the other hand, I find that it might weaken the thrust of what we were trying to say, because we were trying to emphasize the importance of national interest. That is why in a previous section, we even pointed out that it will be the national interest — considerations of territoriality, sovereignty and independence — which shall be paramount in our foreign relations.

And now, of course, even though that is true, if we keep on adding things like these, they might dilute the strength and the force of what we were trying to say here. Originally, it was consistent solely with the national interest to underline the importance of our national interest; and now it has been put down. I am afraid we are weakening it

that way.

MR. BENNAGEN: On the contrary, it strengthens the concern for national interest as part of the global concern for peace and disarmament. As I pointed out and as shown by increasing studies, the impact of nuclear war is indeed of direct global concern; and that it is important always to remember that the concern for national interest in relation to nuclear weapons must necessarily take as its operational context, global peace and human survival.

There is a growing search for a new paradigm, the essence of which is caught in the metaphor "global village" so that we can no longer simply isolate ourselves, particularly within the context of a nuclear war, from the other parts of the globe in search for peace.

BISHOP BACANI: On the other hand, it seems that that is precisely the context within which we assert our national interest.

MR. BENNAGEN: Yes. My view is that it is not clear in the proposed section.

BISHOP BACANI: But as pointed out by Commissioner Davide, the other preceding sections seem to have brought that context in already.

MR. BENNAGEN: I think in everyday life, when an ordinary reader reads this section, he would take that section as internally consistent and will not necessarily look into the other sections for linkages. Since this is of paramount concern, I feel that the concern for global peace and human survival in relation to nuclear weapons should already be self-contained in that section.

BISHOP BACANI: Thank you very much.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The Floor Leader is recognized.

MR. RAMA: The issue has been amply debated. We are ready to vote on that amendment to the amendment.

THE PRESIDING OFFICER (Mr. Maambong): Does Commissioner Monsod have something to say?

MR. MONSOD: I just wanted to concur with the committee's view that it is not necessary to have that amendment, and I would like to request the Chair or the Floor Leader to define the vote.

MR. RAMA: We will first state the amendment to the amendment so we can proceed to vote.

VOTING

THE PRESIDING OFFICER (Mr. Maambong): In order to aid the committee, probably the Chair can help. The amendment to the amendment introduced by Commissioner Monsod is an insertion by Commissioner Bennagen of the phrase "THE GOALS OF GLOBAL PEACE AND HUMAN SURVIVAL" after the word "interest."

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

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

Before the Chair announces the results of the votes, in accordance with parliamentary practice, the Presiding Officer reserves his right to vote after the announcement of the results, and he may so vote if it is necessary to resolve the issue, otherwise the Presiding Officer will not vote.

The results show 9 votes in favor and 18 against; the amendment is lost.

MR. RAMA: Mr. Presiding Officer, I move that we vote on Section 4 as a whole section, as amended.

THE PRESIDING OFFICER (Mr. Maambong): Is there any objection to the motion?

MR. GARCIA: Mr. Presiding Officer, clarificatory question.

MR. NOLLEDO: Before we vote on the proposed amendment, I would like to propound important questions to Commissioner Azcuna, the main proponent of the amendment.

THE PRESIDING OFFICER (Mr. Maambong): Is it on the same Section 4?

MR. NOLLEDO: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): But I thought we have already decided the issue.

MR. NOLLEDO: Earlier I reserved with Commissioner Rama my right to interpellate. It seems that that reservation was not recorded.

THE PRESIDING OFFICER (Mr. Maambong): All right then, but the Chair will have to ask the permission of the committee. Is it all right with the committee?

MR. AZCUNA: Yes, we are willing.

MR. RAMA: The reservation of Commissioner Nolleto is recorded.

THE PRESIDING OFFICER (Mr. Maambong): Please proceed.

MR. NOLLEDO: Thank you, Mr. Presiding Officer.

I would like to know if this proposal is self-implementing.

MR. AZCUNA: Yes. This is a directive for action and there is no further need of a statute to implement it.

MR. NOLLEDO: But, of course, this does not preclude Congress from providing a law to implement this provision.

MR. AZCUNA: No, it does not. Congress may provide a law to implement it.

MR. NOLLEDO: In the meantime that there is no congressional action on the matter, can the executive department implement this provision by providing a mechanism by which the goal contemplated in the proposal may be attained?

MR. AZCUNA: Yes, it can.

MR. NOLLEDO: I think Commissioner Azcuna stated in his answer to the questions of Commissioner Villacorta that in the event that this provision is approved and the Constitution takes effect, we can ask the United States government to remove any nuclear weapon in the American bases should there be such weapon in said bases. Am I right?

MR. AZCUNA: That is right.

MR. NOLLEDO: I think the Gentleman is aware that even under the so-called RP-US Bases Agreement, we still have territorial jurisdiction over the landholdings covered by the bases.

MR. AZCUNA: Yes, that is recognized.

MR. NOLLEDO: We will recall that a long time ago, the Attorney-General of the United States, Mr. Brownell,

made an opinion that these landholdings belong to the United States, but the reason of Mr. Brownel were demolished by Claro M. Recto. And so, the moment this provision is effective, can the Philippine government demand the right of ocular inspection?

MR. AZCUNA: What I said was that there would be a request through channels and within the context of the agreement for a revision because this was already demanded in 1976 but was rejected.

MR. NOLLEDO: Can this be done through diplomatic channels?

MR. AZCUNA: Yes.

MR. NOLLEDO: And other methods which are peaceful in nature under the UN Charter can be resorted to.

MR. AZCUNA: That is right.

MR. NOLLEDO: Mr. Presiding Officer, I asked those questions preparatory to a very important question.

If a foreign vessel is permitted by our government to come to Philippine waters, and the Philippine government is not aware that there are nuclear weapons in that foreign vessel, am I right if I say that the foreign vessel is considered an extension of the territory of the foreign government that owns the vessel?

MR. AZCUNA: If it is a warship, but not if it is a private vessel.

MR. NOLLEDO: The Gentleman is right. Let us take the case of a warship like the Seventh Fleet, which comes to Philippine waters with the consent of the Philippine government. Then later it was discovered that there are nuclear weapons therein. The Philippine government insists that the Seventh Fleet leave for having violated the Philippine Constitution. Can the Seventh Fleet now invoke international law by saying that it is not bound by our constitutional prohibition because the Fleet is an extension of the territory of the United States?

MR. AZCUNA: Under international law, a warship belonging to another State is considered a floating portion of that State. What the local State can do, if it does not want its presence, is to ask the warship to float elsewhere. But the local State cannot acquire jurisdiction over it.

MR. NOLLEDO: Thank you.

THE PRESIDING OFFICER (Mr. Maambong): Thank you.

MR. GARCIA: Mr. Presiding Officer, may I ask the committee a clarificatory question.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Garcia is recognized.

MR. GARCIA: Thank you very much, Mr. Presiding Officer.

My question is related to Section 2 which states:

The Filipino people commit themselves to peace, equality and freedom. They renounce war as an instrument of national policy . . .

and also in the light of this present section where we maintain our freedom from nuclear weapons. I understand that we therefore also accept the principle of nuclear disarmament as something that we could promote in the region and in the world.

MR. AZCUNA: Yes. As I said in my sponsorship speech, this policy would be a first step towards pursuing a policy of trying to promote disarmament on both sides, not just by one State but by all States possessing nuclear arms. This would enable them to have a way by which they can disarm gradually from region to region, until the

whole world, hopefully, will be nuclear-free.

So, if we adopt such a policy for our territory, it is implicit that we should encourage promoting a similar policy in the region and throughout the whole world.

MR. GARCIA: So, in a sense, it truly encompasses the thought that lay behind the proposal of Commissioner Bennagen, which was to work towards global peace, human survival and nuclear disarmament.

MR. AZCUNA: Yes. That is why I said it is subsumed under that.

MR. GARCIA: Thank you very much, Mr. Presiding Officer.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Aquino is recognized.

MS. AQUINO: Last query. In the context of that last interpellation, would a policy of banning nuclear weapons include a ban on, for example, nuclear communication notes, like C3-I or other derivatives that would direct the warheads to their targets?

MR. AZCUNA: Under the treaties which I have mentioned, the means of delivery of nuclear weapons is not included under the term "nuclear devices" or nuclear weapons or parts or devices thereof. Airplanes, for example, or missiles themselves are not considered parts of these prohibited articles, unless they cannot be separated from the nuclear weapons. Those are the terminologies used in nuclear weapons-free zones.

MS. AQUINO: Would that interpretation hold, notwithstanding the reply of the Gentleman to the query of Commissioner Garcia?

MR. AZCUNA: What I meant by nuclear disarmament is the nuclear weapons themselves. Of course, in order to effectively promote that, this is not to say that we should not also try to eliminate or reduce the delivery system. But the nuclear weapons-free zone concept per se applies only to the nuclear weapons and their devices. As I said, because this is a start, we have to start somewhere. We cannot do everything at once. If we succeed in this start, then maybe the next step will be the delivery system. But we have to start somewhere and we should start modestly in order to succeed.

MR. RAMA: Mr. Presiding Officer, it is time to vote on this provision.

THE PRESIDING OFFICER (Mr. Maambong): Before we do so, the Chair would like to appeal to the Members, and the committee as well, that in future considerations of sections, we should terminate all our conceptual discussions before the voting for purposes of orderly procedure. What is happening now is that we are discussing Section 4 which has already been practically approved by the body.

MS. AQUINO: That was the Bennagen amendment.

THE PRESIDING OFFICER (Mr. Maambong): What is the pleasure now of the Floor Leader?

MR. RAMA: I move that we vote on Section 4, as a whole section, as amended.

THE PRESIDING OFFICER (Mr. Maambong): The committee is requested to state for the record the complete Section 4 as amended by Commissioners Monsod and Davide.

MR. TINGSON: Section 4, as amended, reads: "The Philippines, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

MR. AZCUNA: This is in substitution of the existing wording under Section 4.

VOTING

THE PRESIDING OFFICER (Mr. Maambong): Shall we now put it to a vote?

As many as are in favor of Section 4, as amended and as restated by the committee, please raise their hand. (Several Members raised their hand.)

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

The Chair makes the same reservation of its vote.

The results show 26 votes in favor and none against; Section 4, as amended, is approved.

Commissioner Rama is recognized.

MR. RAMA: Mr. Presiding Officer, I would like to present an amendment on Section 5 to complete the sentence. Section 5 reads: "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." It does not state whose "social, economic and political condition" it seeks to uplift.

So I would like to insert the word "CITIZEN'S" before the phrase "social, economic and political condition" on line 9. The amended Section 5 would then read: "The State values the dignity of the human person, guarantees full respect for human rights and undertakes to uplift the CITIZEN'S social, economic and political condition."

May I ask if the committee accepts that amendment?

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say?

MR. TINGSON: We accept the Rama amendment, Mr. Presiding Officer.

MR. RAMA: Thank you.

THE PRESIDING OFFICER (Mr. Maambong): Will the committee clarify that it accepts the amendment of Commissioner Rama to the extent that there will be an insertion on line 9, after the word "the" of the word "CITIZEN'S."

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bacani is recognized.

BISHOP BACANI: May I give an anterior amendment before we vote on that, if Commissioner Rama will permit.

Instead of saying "The State values the dignity of the human person," I propose to say, "The state values the dignity of EVERY human person." On the second half of the statement, I suggest: "guarantees full respect for human rights AT ANY STAGE OF THIS PERSON'S DEVELOPMENT."

MS. AQUINO: So, how would Section 5 read now?

THE PRESIDING OFFICER (Mr. Maambong): Will the proponent state his amendment one by one.

BISHOP BACANI: "The state values the dignity of EVERY human person, guarantees full respect for human rights AT ANY STAGE OF THIS PERSON'S DEVELOPMENT . . ."

THE PRESIDING OFFICER (Mr. Maambong): I suggest that the committee take this up one by one. Let us take up the word "EVERY" in substitution of the word "the" on line 7 of Section 5. What does the committee say?

BISHOP BACANI: This will not simply be general but will apply to each and every case.

THE PRESIDING OFFICER (Mr. Maambong): Yes. The Chair is now asking the committee.

MS. AQUINO: The committee accepts the insertion of "EVERY" before "human person."

THE PRESIDING OFFICER (Mr. Maambong): Let us go to the second part of the amendment on line 9, after the word "rights."

BISHOP BACANI: Shall we vote on the first amendment that was accepted by the committee?

MR. TINGSON: We already accepted it, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): If the amendment has already been accepted, we can have a voting on this particular line later on, if that is all right with Commissioner Bacani.

BISHOP BACANI: Yes.

THE PRESIDING OFFICER (Mr. Maambong): We shall now proceed with the second part of the proposed amendment. On line 8, after the word "rights," there is the proposal to insert the phrase "AT ANY STAGE OF THIS PERSON'S DEVELOPMENT." What does the committee say?

MS. AQUINO: Query from the committee: How would we operationalize that kind of a concept?

BISHOP BACANI: The law will define a person to make sure that at each stage these rights will be respected. For example, just for something more definite, the question of euthanasia will later be resolved by such a thing as this.

MS. AQUINO: Mr. Presiding Officer, the committee believes that without going into such diversions, that is already fully covered by the draft as presented by the committee, and we therefore regret that we cannot accept the proposal of Commissioner Bacani.

THE PRESIDING OFFICER (Mr. Maambong): The committee does not accept that second amendment?

MS. AQUINO: No, Mr. Presiding Officer, we cannot accept the amendment.

BISHOP BACANI: May I suggest, therefore, Mr. Presiding Officer, that we vote on that first amendment and then may I suggest that we vote on the other.

THE PRESIDING OFFICER (Mr. Maambong): Yes, the suggestion is well-taken, but before that, I would like to know if there are any other proponents for this section aside from Commissioner Davide.

MR. RAMA: Commissioners Monsod and Davide have amendments to Section 5.

MR. MONSOD: No, I will just defer to Commissioner Nieva because I think we have the same question.

THE PRESIDING OFFICER (Mr. Maambong): If it is all right with Commissioner Nieva, Commissioner Bacani and Commissioner Davide, can the Chair now suspend the session for a few minutes so that all of them can converge before the committee and probably iron out these various amendments?

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): The session is suspended.

It was 3:33 p.m.

RESUMPTION OF SESSION

At 3:39 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, the proponents of the amendment to Section 5, as well as the committee, have agreed that Section 5 should be devoted solely to human rights, human dignity and should not be cluttered with other rights in order to stress the value and the need of human rights. I ask that Commissioner Aquino be recognized to state the provision as agreed upon.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bacani is recognized.

BISHOP BACANI: I agreed with the committee to withdraw my amendment on condition that I would get a response to a question which I would like to pose now.

THE PRESIDING OFFICER (Mr. Maambong): Is Commissioner Bacani withdrawing his amendment?

BISHOP BACANI: Yes, the second one, but depending on the answer to this question.

We say that the State guarantees full respect for human rights. Does this mean, for the record, full respect for human rights at any stage of this person's development, from the time he becomes a person to the time he leaves this earth?

MS. AQUINO: Yes.

BISHOP BACANI: Thank you very much and I withdraw my amendment.

THE PRESIDING OFFICER (Mr. Maambong): May I address the committee? This new formulation which we are about to hear has been brought about after conference of the various proponents; namely, Commissioners Davide, Bacani, Monsod and Nieva. Is that the correct understanding of the Chair?

MR. TINGSON: That is correct, Mr. Presiding Officer, and we did propose that among ourselves during our lunchtime deliberation.

THE PRESIDING OFFICER (Mr. Maambong): Will the committee now state the formulation of Section 5?

MR. TINGSON: The formulation is: "The State values the dignity of EVERY human person AND guarantees full respect for human rights."

THE PRESIDING OFFICER (Mr. Maambong): Is that it?

MR. RAMA: Mr. Presiding Officer, I ask that we take a vote on that simple provision.

VOTING

THE PRESIDING OFFICER (Mr. Maambong): We will now put it to a vote.

As many as are in favor of Section 5, as reformulated, please raise their hand. (Several Members raised their hand.)

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

The Chair makes the same reservation of its vote.

The results show 28 votes in favor and none against; Section 5, as amended, is approved.

MR. RAMA: Mr. Presiding Officer, I should like to amend Section 6 which states that the prime duty of the government is to serve and protect the people. I would like to amend this to read: "The prime duty of the government is to serve, protect and FREE the people FROM MASS POVERTY." I should like to believe that this Section 6 was inspired by a resolution which I filed, Resolution No. 302, pointing out and calling attention to the fact that there exists in the 1935 and 1973 Constitutions an anachronism, a very simplistic and mistaken provision which states:

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

I called attention to the fact that this is one of the provisions giving exaggerated importance to the defense of the State and which has a twisted idea of what is the primary duty of the citizen. I made a research on this provision existing in the 1973 and 1935 Constitutions and I found out that it was lifted from the Spanish Republican Government Constitution. There is no other constitution that contains this provision. As a matter of fact, I have studied about 86 constitutions and none of these constitutions — although we have some provisions for military service — considered it the prime duty of the government to defend the State. Some merely stated that there is sometimes a moral duty of the citizen to defend the State and, therefore, to be pressed into military service.

It is a very unique provision because it has remained unexamined for half a century since 1935. I thought it to be obvious that in a democracy, the first duty of the government is to serve the people, and given the nation's oldest problem of mass poverty which is the oldest, most brutalizing, most dehumanizing problem of this country, it should be the prime duty of the government to address this problem.

I was thinking that this should be included in this Section 6. It has made mention of mass poverty because this is the problem that has brutalized and dehumanized the Filipinos for centuries. I say that this provision in the 1973 and 1935 Constitutions fractures the most basic of democratic tenets, which is, the State and the government exist for the people, and not the people for them.

The Spanish Republican Government at least had a reason to insist on its order of priority — that the first responsibility of the government and the people is to shoulder arm and defend the State. At that time, making war was the favorite sport in the western world and, worse for the Spaniards, their colonies all over the world were being coveted and invaded by other world powers. Thus, they had to stress the principle that it was the primary obligation of the government, home and colonial government and the people in them, to defend the State and their colonies through compulsory military or civil service.

In carelessly adopting this theory in our constitutions, we embraced the anachronism that adds insult to injury. The sounder assessment of where lies the primary responsibility of the government should take into account what the government is for, what is the worst problem of the nation that needs priority attention. Since time immemorial, the oldest, most enduring and brutalizing problem of the country has been mass poverty, the

subhuman living conditions of the Filipino people, and except for brief periods, the denial of the people of their basic freedoms. Alongside this abiding mass poverty, all sufferings of the Filipinos, including human rights atrocities, fall into insignificance.

The first and most urgent responsibility of the government in the face of this lurid reality is to defend the fundamental rights of the people to a decent level of living and to their basic freedom. To provide the people, so to speak, with both rights and freedom so that they may live in dignity is the most necessary duty of the government worthy of its name. To enunciate that its prime duty is to defend the State and thus compel every citizen to be a soldier is to make the building of a larger armed forces as the government's overriding obligation. In that sense, it gives the military a primordial position in the political hierarchy, a role wider and more important than a democratic constitution would allow it.

The lopsided view of the primary duty of the citizen has its dangers. Mr. Marcos and many dictators, particularly in Spain and Spanish territories, took villainous advantage of such declared constitutional principle. To justify their military regimes, Mr. Marcos and the military juntas in South America invoked the constitutional precept that the first duty of the government is to defend the State and beef up the military. The trouble is, dictators, including Mr. Marcos, confuse themselves with the State. Under martial law, that constitutional declaration was used for the arrogation of absolute powers by Mr. Marcos with communist threat and attendant civil disorder used as a bugaboo to regiment the citizenry.

A refinement of that principle was the bloating of the national defense budget which postponed the economic redemption of our people, and the writing of the National Service Law that made it mandatory for all students and youth to render military service. In effect, this constitutional provision enabled Mr. Marcos to make the Philippines a colony of its own government through the use of his armed forces.

In the contemporary setting, the principle that the government and the people have an obligation to defend the State should be consigned to a lower rating in the order of priorities. In fact, there is no absolute need to define such duty in the Constitution for self-defense is already part of the universal law of self-preservation, understood as inherent in any government or entity. Even animals understand this universal law of self-preservation, although unwritten, and instinctively and automatically exercise such right when the situation calls for it.

So, may I therefore request that the committee accept this amendment which says: "THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE, PROTECT AND FREE THE PEOPLE FROM MASS POVERTY."

MR. TINGSON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Tingson is recognized.

MR. TINGSON: In deference to our hardworking Floor Leader who has also given us a very moving rationale for his amendment, we would like to accept this amendment. However, we would like our Floor Leader to note that his amendment goes better with Section 7 than with Section 6. Mr. Presiding Officer, Section 6 speaks of the collective duty of the people and the government to come to each other's aid in times of war or emergency; whereas, Section 7 speaks of the duty, of the prime concern of the State for promotion and establishment of a sociopolitical and economic system; we speak there of security for the people, benefits of full employment, high standard of living.

We will be very glad to accept the amendment of the Floor Leader. Please put it in Section 7.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Padilla is recognized.

MR. PADILLA: I agree with the proposition that the State exists for the individual and not the individual for the State. But I regret that I cannot agree with our Floor Leader in including as the duty of government or of the State to save our people from mass poverty. That is an ideal. But it will run contrary to our principle of private free enterprise for agricultural productivity, for industrial development, and other progressive methods of producing wealth for our people. In other words, it is an ideal for all our people not to remain poor. But it is not the duty of the State or of the government to save our people from, say, poverty. That must be the free private economic efforts of the people, rather than a duty of the State.

With regard to the second sentence, "The people and the government shall defend the State . . .," I was going to suggest to the committee that the sentence should read as follows: "THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

I am also advocating the deletion of the phrase "with due regard to objections of conscience" on lines 13 and 14. I hope the committee will consider the merits of my observations.

THE PRESIDING OFFICER (Mr. Maambong): Thank you.

May the Chair inquire from the committee how many proponents of amendments are there.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): There is a pending query of the Chair to the committee as to how many more will bring up and present their amendments.

MR. TINGSON: Mr. Presiding Officer, Commissioner Davide has also an amendment here.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): So we have Commissioners Padilla, Davide, Rama and Monsod.

The Chair declares a suspension so that the proponents can approach the committee and resolve their amendments.

It was 3:56 p.m.

RESUMPTION OF SESSION

At 4:05 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

May the Chair know from the committee if there is already an approved formulation, together with the contribution of the others?

MR. RAMA: Mr. Presiding Officer, I withdraw my amendment because it will be inserted in Section 7.

May I ask that Commissioner Padilla be recognized.

THE PRESIDING OFFICER (Mr. Maambong): The amendment of Commissioner Rama is hereby withdrawn.

Commissioner Padilla is recognized.

MR. PADILLA: I suggest that the second sentence should read as follows: "THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS

MAY BE REQUIRED BY LAW TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

I also propose the elimination of the phrase "with due regard to objections of conscience."

THE PRESIDING OFFICER (Mr. Maambong). Before the committee reacts, the Chair would like to ask the committee if that formulation of Vice-President Padilla is already included in the formulation being worked out by them.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Aquino is recognized.

MS. AQUINO: We will admit the first part of the amendment, which will now read, as amended: "THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW TO RENDER PERSONAL MILITARY OR CIVIL SERVICE." But on the deletion of the phrase "with due regard to objections of conscience," we would rather submit it to the body for a vote.

MR. PADILLA: I have no objection to that, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Could the committee please read the formulation from the first sentence up to the last? Then, we will start from there.

MS. AQUINO: Section 6, as amended, would now read: "The prime duty of the government is to serve and protect the people. THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW WITH DUE REGARD TO OBJECTIONS OF CONSCIENCE, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

THE PRESIDING OFFICER (Mr. Maambong): The Chair suggests that we start with that formulation.

Is that all right with Commissioner Padilla?

MR. PADILLA: That is all right, Mr. Presiding officer, with the suggestion that afterwards, we vote on the deletion of the phrase "with due regard to objections of conscience."

THE PRESIDING OFFICER (Mr. Maambong): May the Chair ask the honorable Vice-President if he is agreeable to the second sentence formulation, except the phrase "with due regard to objections of conscience"?

MR. PADILLA: Yes, because that is exactly my proposal.

THE PRESIDING OFFICER (Mr. Maambong): The Chair recognizes Commissioner de Castro.

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

I agree with the new formulation as read by the committee, but I object, like Commissioner Padilla, to the phrase "with due regard to objections of conscience. "

Mr. Presiding Officer, we are here talking of the defense of the State. If the defense of the State shall fail, all others in our Constitution will be of no use. There will be no use for the Preamble, the legislative, the judiciary and everything therein, if we fail in the defense of the State. That is why I would like to have that phrase "with due regard to objections of conscience" deleted so that every citizen shall have that prime duty to defend his State, to defend his dignity, to defend his person, to defend his honor.

If we will allow that, anybody who does not like to go and fight for the State can say, "That is against my conscience." What then will happen to the defense of our country? What then will happen to this whole

Constitution?

Mr. Presiding Officer, I move for the deletion of the phrase "with due regard to objections of conscience." After all, if a man right from his birth really cannot even kill a fly, the processing officer or the armed forces will understand this. He may be assigned to other positions in the armed forces which will not involve combat. But even if he is assigned as a kitchen police or as a supply officer which is noncombatant, still the possibility in war is that he will fight because when his command post or his headquarters are raided by the enemy, whether he is a kitchen police, a supply sergeant or a supply officer, perforce he will have to take up arms and defend at least his position.

So I move that the phrase "with due regard to objections of conscience" be deleted. I join Commissioner Padilla on this.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro has the same problem as Vice-President Padilla.

MR. DE CASTRO: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): In due time, it will be put to a vote. In the meantime, I understand the proponent of this phrase "with due regard to objections of conscience" is Commissioner Garcia. So with the indulgence of Commissioner Rigos who has been standing there for a long time, shall we call on Commissioner Garcia first?

MR. GARCIA: Thank you very much, Mr. Presiding Officer.

Very briefly, I would like to summarize the arguments which our committee has proposed — that it is important to retain the phrase "with due regard to objections of conscience." First of all, there are many ways of defending one's country. It is not only by taking up arms that one can defend one's country. By helping the wounded and the sick and by providing many other services, one can also defend one's country. Secondly, we are precisely formulating the phrase "with due regard." This is not the only factor which must be considered, but it must be regarded. When one refuses to bear arms because of conscientious objection or religious belief, this must be considered with due regard and should not be the only factor. Thirdly, I think this has been explained very well by Commissioner Azcuna when he said that it is precisely direct combat duty and it is not prohibiting one from helping out in state services. Fourthly, and this is my other point, these will be exceptions which have to be verified on a case-to-case basis. This will not be a general rule laid down. And lastly, if we have an army of people who, in their conscience, refuse to serve with arms, we will have a very ineffective army.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The Floor Leader is recognized.

MR. RAMA: Commissioner Regalado will speak on the same subject.

THE PRESIDING OFFICER (Mr. Maambong): We will call on Commissioner Rigos later. Commissioner Regalado is recognized.

MR. REGALADO: Mr. Presiding Officer, it seems that the bone of contention here is with respect to the phrase "with due regard to objections of conscience." In the first place, even from the standpoint of syntax there is a little error here, because it says, "with due regard to objections of conscience, to render personal military or civil service." There may be some conscientious objectors to military service, but I cannot conceive of how "objections

of conscience" can be raised with respect to civil service which would thereby be affected in the present position of this phrase because it appears to be a modifier of both.

I was wondering, in line with what was followed in the 1935 Constitution where the phenomenon of conscientious objectors was not yet in the concept of military service, whether we can draw a happy compromise here by deleting the phrase "with due regard to objections of conscience" and replacing it with the phrase, UNDER CONDITIONS PROVIDED BY LAW. So the second sentence will read "The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens the may be required, UNDER CONDITIONS PROVIDED BY LAW, to render personal military or civil service."

In other words, we do not preempt Congress from providing for various situations like age, nature of the duty and duration of military service. That actually also took place under the 1935 Constitution. Pursuant to the constitutional provision that the defense of the State is the prime duty of the government and in the performance of this duty, all citizens may be required by law to render military or civil service, we passed Commonwealth Act No. 1, the National Defense Act. That was the implementing mechanism for that provision in the 1935 Constitution. I think we can also place this here, with the same purpose, by adding the phrase "UNDER CONDITIONS PROVIDED BY LAW" which may also copy precisely the provisions of the National Defense Act or expand it a little. Or, Congress, in its collective wisdom, may also consider the possibility of considering the issue of conscientious objectors, how to determine the basis of conscientious objections, not only on religious grounds but also on ethical or moral principles — how to weed out the bogus objections from the genuine convictions. In other words, we give Congress that little flexibility as the 1935 Constitution also did resulting in Commonwealth Act No. 1. I am hoping that thereby the objections of the committee and the purposes of Commissioners Padilla and de Castro may be laid to rest to awake the ultimate determination by Congress of this particular situation.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Rigos is recognized.

REV. RIGOS: Mr. Presiding Officer, my question will become academic if the Chair will entertain the Regalado statement as an amendment to the amendment.

THE PRESIDING OFFICER (Mr. Maambong): We have a parliamentary problem here, Commissioner Rigos, because Commissioner Regalado never proposed an amendment, not that I heard.

MR. REGALADO: No, Mr. Presiding Officer. I already made in advance my statement as to what I intend to insert. Of course, in parliamentary practice, a simple motion to delete, as was done by Commissioner Padilla, takes precedence over a motion to insert. But I made up my position already so that in the event the motion to delete is granted, I am hoping that the committee and the Commission will now consider my amendment to insert that phrase.

THE PRESIDING OFFICER (Mr. Maambong): I hope that is clearly understood by the committee.

REV. RIGOS: In that case, Mr. Presiding Officer, may I ask the committee: Just in case the Commissioner decides to delete the phrase "with due regard to objections of conscience," is it not possible that the law itself, in requiring the citizens to defend the State, give due regard to the objections of conscience?

MS. AQUINO: Yes. In fact, jurisprudence is clear on the matter. It is well-established that we give due regard to conscientious objections in military conscription.

REV. RIGOS: So that even if the committee deletes this phrase "with due regard to objections of conscience," the law or Congress can still put that back?

MS. AQUINO: The committee's intention is to make that explicit in this provision, Mr. Presiding Officer.

REV. RIGOS: I thank the Commissioner.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro is recognized on the same point.

MR. DE CASTRO: I consulted Commissioner Padilla and we agree to the insertion of "UNDER CONDITIONS PROVIDED BY LAW" which should be at the end of the second sentence: "The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens may be required, UNDER CONDITIONS PROVIDED BY LAW, to render personal military or civil service." We admit the insertion by Commissioner Regalado of the phrase "UNDER CONDITIONS PROVIDED BY LAW," Mr. Presiding Officer. So the only point of disagreement is on the phrase "with due regard to objections of conscience" which can be put to the floor for voting.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bacani is recognized.

BISHOP BACANI: May I just ask the committee. When it speaks of "PERSONAL MILITARY SERVICE," does it necessarily speak of combatant service?

MR. TINGSON: Those are noncombatant services.

BISHOP BACANI: In other words, there can be noncombatant military service?

MR. TINGSON: Yes.

BISHOP BACANI: Let me just explain, Mr. Presiding Officer, why I support the retention of this phrase.

There can be cases where people really believe that their country is engaged in an unjust war of aggression. In that case, which will perhaps more commonly occur than simple objection based on religious belief, then there should be a provision in our Constitution making allowance for that.

Thank you, Mr. Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer, just one remark to the Honorable Bacani.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro is recognized.

MR. DE CASTRO: We are speaking here of the defense of the State. We are not talking here of an aggressive war or an act of aggression.

BISHOP BACANI: Thank you very much. I did not notice that.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Guingona is recognized.

MR. GUINGONA: This is a very minor amendment but since I mentioned it during my interpellation, I would like to suggest on the last line, line 14, page 2 that the word "civil" be changed to "CIVIC" in order not to confuse this with the civil service as used in the Article on the Civil Service Commission.

THE PRESIDING OFFICER (Mr. Maambong): The Chair asks the committee to comment on this minor amendment — change of "civil" to "CIVIC."

MR. TINGSON: We accept the amendment.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro is recognized.

MR. DE CASTRO: I am a member of the committee. May I ask a question to the proponent of the amendment who wishes to change "civil" to "CIVIC."

THE PRESIDING OFFICER (Mr. Maambong): Yes, that is the proposed amendment as accepted by the committee. Does Commissioner de Castro have any objection?

MR. DE CASTRO: I object because there is a lot of difference between "civil service" and "civic service." The Honorable Guingona mentioned the word "civil" for "civil service" as used in the Article on the Civil Service Commission. The service of the people in the government is not the meaning of this "civil service."

When we talk of "civil service" here, we talk of those people putting out fires. In the course of war, there can be fires caused by bombs. The term refers to those who will pick up the dead and bring them to the rear for care; those who are serving as janitors in the hospitals or in the medical stations of the armed forces; those who are actually not performing the duty of using the gun.

But when we talk of "civic service," I really do not know what he means by that. That is why I would like to ask the proponent what he means by "civic service."

THE PRESIDING OFFICER (Mr. Maambong): With the indulgence of the Gentlemen on the floor, I think the Constitutional Commission Members understand very well the Commissioner's point. So the Chair would like to say that we will put this later to a vote.

MR. GUINGONA: Mr. Presiding Officer, in view of the expression of the sense of the committee by Commissioner de Castro who is a member of the committee, I am withdrawing my proposed amendment.

THE PRESIDING OFFICER (Mr. Maambong): The amendment to change "civil" to "CIVIC" is withdrawn.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Davide is recognized.

MR. DAVIDE: May I propose a compromise to meet all objections and to include all suggestions, which consists merely of two brief sentences: "THE GOVERNMENT EXISTS TO SERVE AND PROTECT THE PEOPLE. IT IS ITS DUTY TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

THE PRESIDING OFFICER (Mr. Maambong): Did the committee get that?

From the standpoint of the Chair, all the issues have been joined. There have been suggestions, so the Chair suggests a suspension for one or two minutes so that we can reformulate this. In the meantime, will the committee please indicate all those proponents who contributed to the formulation which is now acceptable to the committee?

MS. AQUINO: We have accepted the amendment of Commissioner Padilla on the recasting of the second sentence. But we will have to vote on the deletion of the phrase "with due regard to objections of conscience" as suggested by Commissioners de Castro, Padilla and Regalado.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): The Chair suspends the session.

It was 4:27 p.m.

RESUMPTION OF SESSION

At 4.32 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Aquino be recognized to restate the new formulation

THE PRESIDING OFFICER (Mr. Maambong): Before that, the Chair would like to indicate that there is only one problem here in Section 6 — the amendment of Vice-President Padilla and Commissioner de Castro to delete "with due regard to objections of conscience." With the indulgence of the Floor Leader, perhaps we can resolve this issue first by putting this to a vote, after which other amendments may come in and we can reformulate the whole section, if necessary.

The Chair would like to ask first the chairman of the committee or any member to restate the reformulated Section 6, together with the portion which is sought to be deleted.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Aquino is recognized.

MS. AQUINO: The reformulated Section 6 according to the adoption of the amendment of Commissioner Padilla, without the amendment yet of Commissioner Davide, will read as follows: "The prime duty of the government is to serve and protect the people. The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens may be required by law, with due regard to objections of conscience, to render personal military or civil service. "

VOTING

THE PRESIDING OFFICER (Mr. Maambong): That is the reformulated section which is acceptable to the committee.

The Chair should now put to a vote the amendment of Vice-President Padilla, together with that of Commissioner de Castro, to delete the phrase "with due regard to objections of conscience" found on lines 13 to 14, page 2, Section 6.

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

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

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

The results show 22 votes in favor, 5 against and 1 abstention; the amendment to delete is approved.

MR. TINGSON: Mr. Presiding Officer, the committee requests that Commissioner Regalado be recognized.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Regalado is recognized.

MR. REGALADO: Mr. Presiding Officer, may I now propose my amendment to insert a comma (,) and the phrase "UNDER CONDITIONS PROVIDED BY LAW" between "required" and "by" so that the second sentence will read: "The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens may be required, UNDER CONDITIONS PROVIDED BY LAW, to render personal military or civil service."

MR. TINGSON: Mr. Presiding Officer, we accept the amendment.

MS. AQUINO: Mr. Presiding Officer, may we request that Commissioner Davide be recognized for his recasting of the whole section with the approved deletions and insertions.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Davide is recognized.

Before Commissioner Davide proceeds, may the Chair inquire from Commissioner Davide whether or not his formulation will drastically affect the whole structure of Section 6?

MR. DAVIDE: It will not necessarily affect the whole structure but it will harmonize. It is a harmonization within.

THE PRESIDING OFFICER (Mr. Maambong): Anyway, this is the request of the committee. So will Commissioner Davide please state his reformulation.

MR. TINGSON: Mr. Presiding Officer, the reformulated Section 6, with the amendments of Commissioners Davide, Padilla and Regalado, now reads as follows: "THE GOVERNMENTS EXIST TO PROTECT AND SERVE THE PEOPLE. IT IS ITS PRIME DUTY TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

THE PRESIDING OFFICER (Mr. Maambong): Is that reformulation acceptable to the committee?

MR. TINGSON: Yes, Mr. Presiding Officer. This is a happy compromise and reformulation.

THE PRESIDING OFFICER (Mr. Maambong): From the standpoint of the Chair, I really do not know whether or not the Members got the formulation correctly since it is already a variance of the wordings of Section 6. Mr. Floor Leader, may we now put this to a vote?

MR. RAMA: Mr. Presiding Officer, there are no objections, so I think the body is ready to vote.

MR. TINGSON: Mr. Presiding Officer, does the Chair want us to read it again?

THE PRESIDING OFFICER (Mr. Maambong): That would be fine.

MR. TINGSON: "THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE. IT IS ITS PRIME DUTY . . ."

MR. RAMA: No, please take out the word "prime" because that is precisely what I have been objecting to.

MR. TINGSON: Let me continue: "IT IS ITS DUTY TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro is recognized.

MR. DE CASTRO: The proponent of this reformulation is Commissioner Davide and he accepted my suggestion of putting the defense of the State as the prime duty of government.

MR. DAVIDE: I will offer a compromise — "IT IS A PRIME DUTY" not "THE PRIME DUTY."

MR. DE CASTRO: I say that the prime duty of government is the defense of the State, otherwise the whole gamut of the Constitution will be lost. All these matters — the duty to protect the people, to make the people economically viable, to lift their standard of living — will be out if the prime duty to defend the State will not be there. That is my reason for putting the word "prime, " Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer, we also had several provisions, like "highest priority, " which is also a duty of the State. So I am proposing a very beautiful and happy compromise. Instead of saying "THE PRIME DUTY," we only say, "IT IS A PRIME DUTY OF THE STATE."

MR. DE CASTRO: The same with me. I do not like to forget the fact that the prime duty of government is the defense of the State.

Thank you, Mr. Presiding Officer.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The honorable Vice-President is recognized.

MR. PADILLA: I believe that the first sentence of Section 6, which stresses the duty of government to serve and protect the people, should stay because that is the primary purpose of government — to serve the people. So I prefer to keep Section 6 as already accepted by the committee and in a way approved by the body with the deletion of the phrase "with due regard to objections of conscience." In my opinion, Mr. Presiding Officer, the idea of service to and protection of the people is important as was originally drafted by the committee. In return, the government may call upon the people to defend the State and require citizens to render personal military or civil service; We have no objection in saying "UNDER CONDITIONS PROVIDED BY LAW."

THE PRESIDING OFFICER (Mr. Maambong): Mr. Vice-President, in the reformulation, the first sentence states: "THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE." Is the Commissioner agreeable to that?

MR. PADILLA: I was precisely stressing the prior importance of service to the people.

MS. AQUINO: So the Commissioner is agreeable to that reformulation.

THE PRESIDING OFFICER (Mr. Maambong): What the Chair is indicating is that the Vice-President's concern is reflected in the reformulation: "THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE."

MR. PADILLA: I may have no objection if it says: "TO SERVE AND PROTECT THE PEOPLE," not "TO PROTECT AND SERVE THE PEOPLE."

MR. DE CASTRO: So it is the reverse: "TO SERVE AND PROTECT."

MR. AZCUNA: So service first.

THE PRESIDING OFFICER (Mr. Maambong): All right. On the floor now is the reformulation accepted by the committee. There is an amendment by Vice-President Padilla. What does the committee say?

MR. TINGSON: We accept, Mr. Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro is recognized.

MR. DE CASTRO: Will the Honorable Padilla accept a very small insertion to "THE GOVERNMENT EXISTS"?

MR. PADILLA: That is not my suggestion. That is the suggestion of Commissioner Davide. I prefer the retention of the first sentence as originally formulated in the committee report.

MR. DE CASTRO: Can we say: "THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT ITS PEOPLE"?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. DE CASTRO: I thank Commissioner Davide.

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say?

MR. RAMA: May I suggest, Mr. Presiding Officer, that we vote first on the first sentence.

THE PRESIDING OFFICER (Mr. Maambong): Yes, that is exactly what we are trying to do, Mr. Floor Leader.

The suggestion of the honorable Vice-President is to return to the original committee formulation of the first sentence of Section 6 which reads: "The prime duty of the government is to serve and protect the people." What does the committee say?

MR. TINGSON: Let us vote on that, Mr. Presiding Officer.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Aquino is recognized.

MS. AQUINO: May I suggest that the voting be on whether one adopts alternative 1 or alternative 2. Alternative 1 is the original committee formula which reads: "The prime duty of the government is to serve and protect the people." Alternative 2 is the Davide amendment: "THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE."

THE PRESIDING OFFICER (Mr. Maambong): With due respect to the committee, that would be very difficult for the Chair. The Chair has to present one formulation. It cannot present two alternative formulations.

MR. TINGSON: But, Mr. Presiding Officer, Commissioner Davide may want to accept that amendment.

MR. DAVIDE: Mr. Presiding Officer, for the sake of unity, I will withdraw my proposal.

THE PRESIDING OFFICER (Mr. Maambong): Just a moment. That needs clarification. When Commissioner Davide says "withdraw my proposal," is he withdrawing the first sentence and the second sentence as well?

MR. DAVIDE: Only the first sentence, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): What would that be as far as the committee is concerned? Are we reverting to the first sentence?

MR. TINGSON: Yes, Mr. Presiding Officer.

So the whole thing, Mr. Presiding Officer, will now read as follows: "THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT THE PEOPLE. IT IS ITS DUTY TO DEFEND THE STATE AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS

PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

THE PRESIDING OFFICER (Mr. Maambong): All right. Just a very minor query to the committee. Regarding the word "MAY BE," is it two words or one word? The committee's formulation is one word. The Chair thinks it should be two words.

MR. TINGSON: Two words, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): So two words.

Mr. Floor Leader, are we ready to put this to a vote?

MR. RAMA: Yes, Mr. Presiding Officer.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The honorable Vice-President is recognized.

MR. PADILLA: If we retain the first sentence of the committee report, the second sentence as proposed by Commissioner Davide does not seem to be correct. There is no more harmonization. I believe the second sentence, as amended and approved, has a better harmony.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): The Chair declares a suspension of the session.

It was 4:48 p.m.

RESUMPTION OF SESSION

At 4:53 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, we now have a formulation agreed upon by everybody.

May I ask that Commissioner Aquino read the formulation.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Aquino of the committee is recognized.

MS. AQUINO: Mr. Presiding Officer, Section 6, in view of the Padilla amendment, now reads: "THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT THE PEOPLE. THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

MR. DE CASTRO: Mr. Presiding Officer, may I introduce a very minor amendment to the phrase "MAY CALL UPON THE PEOPLE." Add the word "ALL" between the words "the" and "people," so it will now read: "THE GOVERNMENT MAY CALL UPON ALL THE PEOPLE." This is already the defense of the State. All the people — young or old, men or women — may be called to the defense of the State.

MR. RAMA: What about the lame, the deformed, the blind and the minors? If we call all the people, it will include everybody — the lame, the blind, the disabled.

MR. DE CASTRO: Yes, anybody.

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say?

MS. AQUINO: The committee believes that the sense of Commissioner de Castro is already covered by line 12, when the word "CITIZENS" is qualified by the phrase "ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW."

MR. DE CASTRO: All right. I did not get that. I am sorry. So it refers to all the people, whether they are as old as the honorable Chief Justice or myself.

MR. RAMA: We are now ready to vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Will the committee read again the second sentence so that the body can properly appraise it before it will be submitted to a vote?

MS. AQUINO: It reads: "THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

MR. GUINGONA: Mr. Presiding Officer, just a question.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Guingona is recognized.

MR. GUINGONA: In the phrase "CALL UPON THE PEOPLE," does "people" refer to citizens only or to citizens and even resident aliens?

MS. AQUINO: To citizens only.

MR. GUINGONA: I thank the Commissioner.

THE PRESIDING OFFICER (Mr. Maambong): The Chair is now awaiting the Floor Leader to restate his motion.

MR. RAMA: I move that we vote on the provision as read by Commissioner Aquino.

THE PRESIDING OFFICER (Mr. Maambong): Is there any objection?

Commissioner Bacani is recognized.

BISHOP BACANI: I have no objection, but I am sure there has to be a stylistic change in that sentence and we may bring this to the attention of the Style Committee.

THE PRESIDING OFFICER (Mr. Maambong): The manifestation is noted. The chairman of the Style Committee will please take note. Will Commissioner Rama please restate his motion?

MR. RAMA: I reiterate my motion that we take a vote on this provision, Section 6.

THE PRESIDING OFFICER (Mr. Maambong): Is there any objection? (Silence) The Chair hears none; Section 6, as amended, is approved.

MR. GARCIA: Mr. Presiding Officer, I would like to register my abstention for the reason that "DUE REGARD OF CONSCIENCE" was deleted.

THE PRESIDING OFFICER (Mr. Maambong): The Secretary-General will please take note of the abstention of Commissioner Garcia.

MR. NOLLEDO: I also abstain, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Air Floor Leader, there are two abstentions, Commissioners Garcia and Nolleto.

MR. RAMA: Mr. Presiding Officer, I have a formulation for Section 7 which has been accepted by the committee. Section 7 reads: "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 . . ."

The amendment is on line 15 which is to change "prime" to "PRIMARY" because "prime" has already been used in the previous section. On line 17, between "the" and "independence," insert "PROSPERITY AND." I believe that a nation cannot be independent if it is not prosperous. On the same line, delete "aims" and in lieu thereof insert the phrase "TO THIS END, IT SHALL ENDEAVOR TO FREE THE PEOPLE FROM MASS POVERTY" and a comma (.). The reason for the insertion of the words "FREE THE PEOPLE FROM MASS POVERTY" is that mass poverty is the oldest, most enduring and most painful problem of the country for centuries. We must address this problem of mass poverty so that we will not be framing a constitution in a vacuum.

THE PRESIDING OFFICER (Mr. Maambong): For this purpose, is the Commissioner deleting the word "aims" after "and" and the word "to" before "secure"?

MR. RAMA: I am deleting those words.

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say?

MS. AQUINO: Mr. Presiding Officer, in view of the earlier commitment of the committee, we are accepting the Rama amendment with minor committee amendments, such that the first sentence would read: "IT SHALL BE THE prime concern of the State TO ESTABLISH, PROMOTE, AND MAINTAIN a socio-political and economic system that will ensure the independence AND PROSPERITY of the nation."

The second sentence would now read: "TO THIS END, IT SHALL ENDEAVOR TO FREE THE PEOPLE FROM MASS POVERTY, secure for the people the benefits of full employment, a RISING standard of living, equality in economic opportunities, security in old age, and other basic human rights."

THE PRESIDING OFFICER (Mr. Maambong): What does the proponent say?

MR. RAMA: I accept the amendment.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Before we put that to a vote, Commissioner Bacani is recognized.

BISHOP BACANI: I do not know whether or not this is the time to make it. I would like to propose an amendment by substitution which reads as follows: "THE PRIMARY CONCERN OF THE STATE IS THE ESTABLISHMENT AND PROMOTION OF A DYNAMIC SOCIAL ORDER THAT WILL PROMOTE THE DIGNITY OF EACH PERSON AND THE COMMON GOOD OF ALL."

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): Before the committee reacts to that, I understand there are other proponents. Probably, the Chair could again suspend the session for one or two minutes so that we can consolidate all these amendments.

The session is suspended.

It was 5:02 p.m.

RESUMPTION OF SESSION

At 5:38 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, we have already a reformulation agreed upon by everybody. May I ask the chairman to read it.

MR. TINGSON: The new formulation of the Bacani-Rama amendments is as follows: "THE PRIME CONCERN OF THE STATE IS TO BUILD AND SUSTAIN A DYNAMIC SOCIAL ORDER THAT WILL FREE THE PEOPLE FROM POVERTY, PROTECT THE DIGNITY OF EVERY PERSON AND ENHANCE THE QUALITY OF LIFE FOR ALL."

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Monsod is recognized.

MR. MONSOD: Can we just replace the word "WILL" with "CAN"?

MR. TINGSON: "THAT CAN FREE THE PEOPLE" — we accept.

THE PRESIDING OFFICER (Mr. Maambong): The amendment has been accepted by the chairman.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Is there any more intervention?

The honorable Vice-President is recognized.

MR. PADILLA: What were the verbs used? "BUILD AND SUSTAIN"?

THE PRESIDING OFFICER (Mr. Maambong): Yes, "BUILD AND SUSTAIN A DYNAMIC SOCIAL ORDER THAN CAN FREE THE PEOPLE FROM POVERTY . . . "

MR. PADILLA: I am afraid that it is very difficult, if not impossible, to build and even sustain. Why do we not just say: "THE CONCERN OF THE STATE IS FOR A SOCIAL ORDER THAT WILL ENDEAVOR TO MAINTAIN THE DIGNITY OF MAN . . . AND ALLEVIATE POVERTY . . ."

MS. ROSARIO BRAID: Mr. Presiding Officer, this is an aspiration and a declaration. So we would like to have a vision.

MR. PADILLA: Yes, the vision is for the so-called "DYNAMIC SOCIAL ORDER." But before that, there are two verbs used: "TO BUILD" and "TO SUSTAIN." Who is going to build and sustain? Is it the State?

MS. ROSARIO BRAID: The State and the people.

MR. PADILLA: And all these should be the effort of private initiative and free enterprise under an atmosphere of freedom, equality, equal opportunity. But I think we might be imposing when we say that the State or the government has the duty, although it mentions the word "CONCERN" which is of a lighter category. We may be giving the impression that the State or the government is the cure-all for all our evils and problems.

MS. ROSARIO BRAID: Mr. Presiding Officer, I do not think that that is the intent. It would make the government a facilitator, the creator of the climate, which will build and sustain a new social order. And this does

not preclude the people from working together with the State.

MR. MONSOD: Mr. Presiding Officer.

MR. PADILLA: I think the people must primarily build and sustain, with the least restraints, interference and control by the State. That is why we are always stressing free enterprise. The progress and prosperity that I have been always aiming at is not really the duty of the State. It is rather the result of the efforts, initiative and sacrifices of the people under a regime of justice and freedom.

MS. ROSARIO BRAID: I do not think there is disagreement, Mr. Presiding Officer. It is just that we have to give the responsibility of an orchestrator to one, and that is the State. The State will orchestrate, create the climate and build where private enterprise and people can cooperate.

THE PRESIDING OFFICER (Mr. Maambong): With the indulgence of the Vice-President, Commissioner Monsod is recognized.

Mr. MONSOD: I was just wondering whether we could just replace the words "BUILD AND SUSTAIN" with "PROMOTE," so it will read: ". . . STATE SHALL PROMOTE A DYNAMIC SOCIAL ORDER . . ." This suggests that it is not only the State that will do it but that other sectors and elements will be helping along.

MR. TINGSON: In the light of the remarks of the Vice-President, the committee would like to accept that amendment which reads as follows: "THE PRIME CONCERN OF THE STATE IS TO PROMOTE A DYNAMIC ORDER."

Would that be acceptable to the Vice-President?

MR. PADILLA: At least that would be an improvement.

MS. NIEVA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Nieva is recognized.

MS. NIEVA: We were discussing the words "SOCIAL ORDER." I know we are allergic to more words, but aside from "DYNAMIC," would it be possible to add "JUST" — "A JUST SOCIAL ORDER"? "DYNAMIC" is different, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say?

MR. TINGSON: We would like to ask Commissioner Bacani since that was his amendment — "DYNAMIC SOCIAL ORDER."

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bacani is recognized.

BISHOP BACANI: The idea of social order precisely implies justice, balance and harmony.

THE PRESIDING OFFICER (Mr. Maambong): Is the word "JUST" accepted by the committee?

MR. TINGSON: No, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): So it is not accepted by the committee.

MR. TINGSON: Just "DYNAMIC," Mr. Presiding Officer.

MS. NIEVA: Is there no social order that is unjust?

MR. DE LOS REYES: Mr. Presiding Officer, I object to the use of the word "POVERTY."

THE PRESIDING OFFICER (Mr. Maambong): Just a moment, Commissioner de los Reyes, we are still trying to resolve the addition of the word "JUST." Commissioner Bacani is about to respond.

BISHOP BACANI: If it is not just, it is not yet a social order.

THE PRESIDING OFFICER (Mr. Maambong): Is Commissioner Nieva insisting on her amendment?

MS. NIEVA: If it is understood that the "just" aspect is very much emphasized, then I will not insist Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The amendment is considered withdrawn then.

The Floor Leader is recognized.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de Castro is recognized.

MR. DE CASTRO: I have a very minor observation here. On Section 6, we say "THE PRIME DUTY"; on Section 7, we say "THE PRIME CONCERN." I do not know what Section 8 will come up with.

I think there is a little rhythm of the use of "PRIME" in the two sections. How about taking away that word and say "THE CONCERN OF THE STATE," so as not to let the two "primes," the two "premiers," go together?

THE PRESIDING OFFICER (Mr. Maambong): There is a proposed amendment by Commissioner de Castro to delete the word "PRIME." What does the committee say?

MR. TINGSON: We accept, Mr. Presiding Officer.

MR. RAMA: The original formulation was "primary" — it is a little different from "PRIME" in spelling. "The primary concern" was the original formulation.

MR. DE CASTRO: When I asked the honorable Floor Leader what is the difference between "PRIME" and "primary," he told me they are the same. So how about deleting the word "PRIME" and say "THE CONCERN OF THE STATE" for aesthetic purposes?

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): What is the response of the committee?

The Chair declares a suspension of the session.

It was 5:48 p.m.

RESUMPTION OF SESSION

At 5:49 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: There is a new formulation. May I ask that Commissioner Aquino or Commissioner Tingson be recognized.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Tingson is recognized.

MR. TINGSON: Mr. Presiding Officer, we have additional suggestions from Commissioners Nieva and Rigos. So Section 7 will read as follows: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT CAN FREE THE PEOPLE FROM POVERTY, PROTECT THE DIGNITY OF EVERY PERSON AND ENHANCE THE QUALITY OF LIFE FOR ALL."

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Davide is recognized.

MR. DAVIDE: My concern is the repetition of the word "DIGNITY." The preceding section already states: "The State values the dignity of every human person..."

MR. TINGSON: Would the Commissioner like to propose another word?

MR. DAVIDE: It is not a proposal of another word but its deletion because this is included in a preceding section which was a Bacani amendment.

THE PRESIDING OFFICER (Mr. Maambong): What would the Commissioner propose to delete?

MR. DAVIDE: I propose to delete the phrase "protect the dignity of every person" because in the preceding section, we already have the principle that the State shall value the dignity of every human person.

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say to the proposed deletion of the phrase "protect the dignity of every person"?

MR. TINGSON: We accept, Mr. Presiding Officer. We end with the phrase "AND ENHANCE THE QUALITY OF LIFE FOR ALL."

THE PRESIDING OFFICER (Mr. Maambong): Will the committee now read the new formulation?

MR. TINGSON: The new formulation will now read: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT CAN FREE THE PEOPLE FROM POVERTY AND ENHANCE THE QUALITY OF LIFE FOR ALL."

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The honorable Vice-President is recognized.

MR. PADILLA: I regret to express my opposition to a section or every section starting with "The State shall." I think even the original draft or report of the committee about the concern of the State says "a just socio-political and economic system . . ." I prefer the word "just" to "DYNAMIC." I am already getting antagonistic to every proposal where the section starts with: "The State shall." We have many provisions which start with "The State shall establish and maintain"; "The State shall promote"; "The State shall" and so forth.

So we will be making this Constitution as primarily imposing on the State its duties and obligations. I think we should be careful in not reiterating too much the obligations and duties of the State when we start with the phrase "The State shall."

THE PRESIDING OFFICER (Mr. Maambong): Does the honorable Vice-President have any specific suggestion to aid the committee, instead of using the words "The State shall"?

MR. PADILLA: That will require a little more careful study, Mr. Presiding Officer.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): The session is suspended.

It was 5:54 p.m.

RESUMPTION OF SESSION

At 5:55 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

MR. TINGSON: Mr. Presiding Officer, the committee would like to stick to its suggestion that we vote on this proposal now, which has been the formulation arrived at by different Commissioners. May I repeat, Mr. Presiding Officer: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT CAN FREE THE PEOPLE FROM POVERTY AND ENHANCE THE QUALITY OF LIFE FOR ALL."

THE PRESIDING OFFICER (Mr. Maambong): The Floor Leader is recognized.

MR. RAMA: I move for a vote on that provision.

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: I regret that I have to object to the amendment, particularly the use of the phrase "THAT CAN FREE THE PEOPLE FROM POVERTY." It sounds like a demagogue to me. Moreover, it is not inspiring to have in the Article on the Declaration of Principles and State Policies the word "POVERTY." I think the original recommendation of the committee is good enough, with some changes. For example, we can say, "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT AIMS TO SECURE FOR THE PEOPLE THE BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE," without using the word "POVERTY." I think the words "FULL EMPLOYMENT, RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES," are more elegant than the word "POVERTY" in a declaration of principles.

THE PRESIDING OFFICER (Mr. Maambong): Will Commissioner de los Reyes suggest an alternative to help the committee, aside from the word "POVERTY"?

MR. DE LOS REYES: My suggestion, Mr. Presiding Officer, is to retain substantially the original report of the committee, with some changes as already agreed upon. So my amendment would read as follows: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT SECURES FOR THE PEOPLE THE BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE."

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, the word "POVERTY" has to be included because we are in the business of trying to solve the national problems. The number one national problem is poverty. We cannot avoid, if we are to present a solution, to also state the problem. Mr. de los Reyes, of course, does not understand probably this problem because he is quite wealthy. But how can we solve the problem of the nation if we do not define it? The largest, oldest, most enduring and most brutalizing problem of the country is mass poverty. So we have to aim and

state the solution, we must define the problem. So I ask that we take a vote on the amendment of Commissioner de los Reyes.

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: In answer to the claim of Commissioner Rama that I am quite wealthy, that is farthest from the truth. People from my province will attest to the fact that I am not wealthy, although I am not poor either. But the point is this: While I understand that we have poverty problem in our country, I do not see any good reason for its inclusion in the Article on the Declaration of Principles which should be an inspiring article in the Constitution. Imagine starting with the word "POVERTY" in the Declaration of Principles! That is my reason, Mr. Presiding Officer.

So I am amenable to a voting on my amendment.

THE PRESIDING OFFICER (Mr. Maambong): Let us clarify the issue. The point of Commissioner de los Reyes is to retain the words "BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE." Is that the correct statement of the issue, Commissioner de los Reyes?

MR. DE LOS REYES: Substantially, yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): What does the committee say?

MR. TINGSON: Mr. Presiding Officer, to avoid more confusion, we are sorry we cannot accept that. We would like the body to vote on this latest formulation that we presented.

THE PRESIDING OFFICER (Mr. Maambong): Is Commissioner de los Reyes insisting on his amendment?

MR. DE LOS REYES: Yes, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Maambong): We will put it to a vote.

As many as are in favor of restoring the phrase "BENEFITS OF FULL EMPLOYMENT, RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE," please raise their hand. (Several Members raised their hand.)

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

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

The results show 13 votes in favor, 9 against and 1 abstention; the amendment of Commissioner de los Reyes is approved.

The committee is now asked to reformulate the present formulation to insert the words mentioned by Commissioner de los Reyes.

MR. RAMA: At any rate, the words "to free the people from poverty" are still there.

THE PRESIDING OFFICER (Mr. Maambong): There was no mention of the motion to delete "POVERTY." What was presented before the body was the insertion of certain words. So it is now up to the committee to reformulate all these things.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Monsod is recognized.

MR. MONSOD: I am a little confused because if we have a section that says "free from poverty" and in the next breath it says "promote full employment," that does not sound like a good sequence. I was under the impression that the manifestation of Commissioner de los Reyes was to delete the reference to poverty and say it in a positive manner.

MR. DE LOS REYES: That is correct. That was my intention.

THE PRESIDING OFFICER (Mr. Maambong): That is precisely the reason why the Chair, before the voting, clarified the situation — whether or not the intention of Commissioner de los Reyes was to retain the words mentioned by the Chair, and Commissioner de los Reyes agreed.

MR. DE LOS REYES: That is correct. However, even before that, I already mentioned — and I was arguing on the premise — that it is not good for an Article on the Declaration of Principles to start with the word "POVERTY." That is engaging in hairsplitting technicalities.

THE PRESIDING OFFICER (Mr. Maambong): To resolve this issue, shall we throw it back to the committee so that the formulation will not be in conflict with each other?

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): The Chair suspends the session.

It was 6:04 p.m.

RESUMPTION OF SESSION

At 6:08 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, because of the lateness of the hour, I move that we adjourn until tomorrow at nine o'clock in the morning.

THE PRESIDING OFFICER (Mr. Maambong): Before the Chair acts on the motion, is it understood that the committee will sleep on this problem of Section 7 with all the formulations presented? Is the understanding of the Chair correct, Mr. Chairman?

MR. TINGSON: Yes, Mr. Presiding Officer.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Monsod is recognized.

MR. MONSOD: In view of the fact that the dinner of Commissioner Foz is at seven o'clock, maybe after the adjournment, we can sit down with the committee and resolve some of these problems.

ADJOURNMENT OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): Yes. Probably, the committee can take it up.

There is a motion to adjourn. Is there any objection? (Silence) The Chair hears none; the session is adjourned until tomorrow at nine o'clock in the morning.

It was 6:09 p.m.

[*]Appeared after the roll call.

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