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Monday, July 28, 1986

OPENING OF SESSION

At 9:42 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. L. Tadeo.

Everybody remained standing for the Prayer.

PRAYER

MR. TADEO: Aming Amang Diyos at Allah, Diyos ni Abraham, Moises, Jacob, Lapu-Lapu, Rizal at Bonifacio, Diyos ng Kasaysayan at ng sambayanang Pilipino:

Kami ay lumalapit sa Iyo sa mga sandaling ito na kung saan kami ay nagtatalakayan tungkol sa aming Saligang Batas. Tinipon Mo kami mula sa iba't ibang kaabalahan; antas ng buhay, pananaw at simulain. Bagamat magkakaiba ang aming katayuan at pananaw, pinapag-isa Mo kami sa iisang adhikain — na makamtang ganap ang aming kalayaan at kasarinlan.

O Diyos, sa mga sandaling ito inilalapit ko sa Iyo ang mga magbubukid, manggagawa at iba pang aping uri at sektor. Patuloy pa rin kaming bihag ng mala-kolonyal at mala-piyudal na sistema na nagbabaon sa amin sa kumunoy ng kahirapan. Kaming magbubukid na lumilikha ng pagkain at yaman ng bansa na siyang mayroong kapangyarihang paningningin sa ginto ang kabukiran ang siyang walang pagkain.

Sa gitna ng katotohanang ito, kaming mga Commissioners ay nagtitipon sa isang lugar na mistulang malayo sa kapaitan ng buhay. Ilayo Mo kami sa tukso ng kasaganaan, ng karangyaan, ng kariwasaan na maaaring maglayo sa aming adhikain at maghiwalay sa amin sa naghihirap na sambayanang Pilipino at sa kanilang kapakanang nais naming tugunan. Patnubayan Mo kami ng Iyong banal na diwa upang sa aming pagtatalakayan ay makalikha kami ng isang makabuluhang Saligang Batas na magbibigay ng pampulitika, pangkabuhayang kapangyarihan sa mga dukha at ganap na kasarinlan sa aming bayan, isang Saligang Batas na magbibigay tiwala sa kakayahan ng sambayanang Pilipinong mangalaga at magpaunlad ng kanyang likas na yaman, umugit sa sariling pag-unlad at ipagtanggol ang sarili laban sa pampulitika at pangkabuhayang kontrol at monopolyo ng mga dayuhan.

Ito ang aming dalangin sa ngalan ng pakikibaka para sa katotohanan, katarungan at kalayaan. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Natividad Present [*]

Alonto Present [*] Nieva Present

Aquino Present [*] Nollado Present

Azcuna Present [*] Ople Present

Bacani Present [*] Padilla Present

Bengzon Present Quesada Present [*]

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present [*]

Brocka Present Rigos Present

Calderon Present [*] Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Absent

Concepcion Present Sarmiento Present[*]

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present [*] Tadeo Present

Gascon Present [*] Tan Present

Guingona Present [*] Tingson Present

Jamir Present Treñas Present

Laurel Present Uka Present

Lerum Present Villacorta Present

Maambong Present Villegas Present

Monsod Present

The President is present.

The roll call shows 34 Members responded to the call.

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

MR. RAMA: Madam President, I move that we dispense with the reading of the Journal of the previous session.

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

PETITION

Petition of the honorable Commissioners Lugum L. Uka, Yusup R. Abubakar, Napoleon G. Rama, Regalado E. Maambong, Jose N. Nollado, Ma. Teresa F. Nieva, Hilario G. Davide, Jr. and Florenz D. Regalado, requesting the Committee on Human Resources to immediately call a meeting of the Committee to consider articles or sections of Proposed Resolution No. 451, entitled:

A RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION PROVISIONS RELATIVE TO THE PROBLEM OF ENGLISH, SPANISH AND FILIPINO, OUR MOTHER TONGUES, NATIVE LANGUAGES AND DIALECTS, AND OTHER RELATED SUBJECTS,

which the Committee may wish to incorporate into the new Constitution.

(Petition No. 1 — Constitutional Commission of 1986)

To the Committee on Human Resources.

COMMUNICATIONS

Communication from Mr. Mariano Z. Familara, Jr. of 5521 Devonshire, Detroit, Michigan, proposing that it be the policy of the State to stamp out graft and corruption and hidden wealth, and suggesting to this end that the burden of proof that said wealth or property was amassed legitimately be shifted to the owner or possessor thereof.

(Communication No. 343 — Constitutional Commission of 1986)

To the Committee on Accountability of Public Officers.

Letter from Mr. David D. Boaz, Cato Institute, 224 Second St. SE, Washington, D.C. 20003, transmitting a copy of Cato Policy Report containing an article by Dr. Paul Craig Roberts, entitled: "The Constitutional Protection of Economic Freedom."

(Communication No. 344 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Joaquin J. Pascual of 63-C P. Burgos St., Batangas City, urging the Constitutional Commission to adopt provisions for the welfare of senior citizens and government retirees.

(Communication No. 345 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Potenciano M. Alcala, Sr. of 11 JG Village, Bakyas, Bacolod City, favoring the retention of U.S. military bases and saying that Russian imperialism is worse than American imperialism.

(Communication No. 346 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Mr. Bartolome Banaken and Ms. Lourdes Calde, submitting the following preferences of the people of Bontoc and Bauko, Mountain Province who attended the public consultations conducted by the honorable Commissioner Ponciano L. Bennagen: On education — Cordillera Province be represented in the Textbooks Board to ensure inclusion of culture in the areas, guidance counseling and special education scheme for children with behavioral problems; on suffrage — adoption of measures to ensure that the illiterate voters' choices are truly reflected; on national language — English is preferred; on emergency powers — declaration of martial law and suspension of the writ of habeas corpus be vested in the legislature; abolition of death penalty; retention of U.S. military bases and the presidential form of government with a unicameral legislature.

(Communication No. 347 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Sinub-badan ka mga Bagobo na Mekatanod (Association of Awakened Bagobos), requesting the Commission to give favorable consideration to the rights and privileges of national minorities.

(Communication No. 348 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Ricardo R. Lozano of 58 Gastambide St., Sampaloc, Manila, suggesting provisions for the right of the State to appeal from a decision of a lower court or tribunal, and for extrajudicial confessions freely and voluntarily given even without the assistance of counsel to be admissible in evidence.

(Communication No. 349 — Constitutional Commission of 1986)

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

Letter from Mr. Marlo-Rodrigo R. de Jesus of Parañaque Political Science Society, Sto. Niño Executive Village, Barangay Sun Valley, Parañaque, Metro Manila, proposing provisions reiterating the prohibition against servants in the civil service, including military and barangay officials, from engaging in partisan politics and condemning violation thereof by ouster or dismissal from office.

(Communication No. 350 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Resolution No. 355 of the Sangguniang Panlalawigan of Cebu, proposing a nuclear-free Philippines, banning the establishment of foreign military bases, depots and/or facilities intended for the storage of nuclear weapons or materials, setting up of nuclear power plants and the transit or overflight of any vehicle or airplane carrying nuclear weapons or materials.

(Communication No. 351 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Mario P. Arenas of 3064 Brandywine Drive, San Jose, California, proposing a tenure of two consecutive terms with the right to run for the same office after a reasonable time for elective officials from councilor level to senatorial level.

(Communication No. 352 — Constitutional Commission of 1986)

To the Committee on the Legislative.

Letter from Bro. Peter de Groot, FSC of La Salle Green Hills, Metro Manila, proposing the inclusion of the following provision: "Parents should have the opportunity to send their children to the school of their choice."

(Communication No. 353 — Constitutional Commission of 1986)

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

Communication from Mr. Leopoldo C. Segovia of Atlag, Malolos, Bulacan, requesting a provision protecting consumers from the common practice of short-weighting and similar forms of deceit.

(Communication No. 354 — Constitutional Commission of 1986)

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

Position paper submitted by the Seventh Day Adventist Church in the Philippines on religious liberty and separation of Church and State.

(Communication No. 355 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Vicente K. Cal, Sr. of Philippine Veterans Legion, Legion Home Bldg., PVAO Compound, Arroceros St., Manila, expressing apprehension on the ratification of the new Constitution if a provision on the prohibition of foreign military bases in the Philippines is incorporated therein.

(Communication No. 356 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Ricardo M. Talusan, no address, opposing the abolition of the death penalty and proposing the taxing of religious organizations' property and income, and provisions for free education from elementary school to college levels, among others.

(Communication No. 357 — Constitutional Commission of 1986)

To the Steering Committee.

MR. RAMA.: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 17

(Article on Accountability of Public Officers)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA.: I move that we continue the consideration of Committee Report No. 17 on the Article on Accountability of Public Officers. We are now in the period of amendments. I ask that the Chairman of the

Committee as well as the members come forward and take his seat in front.

THE PRESIDENT: Before we proceed to the period of amendments, the Chair wishes to acknowledge the presence of the second year high school students of the Philippine Science High School.

Is there any objection that we continue the consideration of Committee Report No. 17 on the Article on Accountability of Public Officers? (Silence) The Chair hears none; the motion is approved.

May we call on the honorable Chairman and members of the Committee.

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

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you very much, Madam President.

I propose an amendment on Section 2, page 1, line 17 of the draft Article to insert the phrase MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL between "corruption" and "or," so that the entire Section 2 will now read: "The President, the Vice- President, Members of the Supreme Court, the Members of the Constitutional Commissions and the Ombudsman may be removed from office on impeachment for and conviction of, culpable violation of the Constitution, treason, bribery, other high crimes, graft and corruption, MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL or betrayal of public trust."

May I briefly explain, Madam President, the reason for this amendment.

THE PRESIDENT: The Commissioner may please proceed.

MR. OPLE: It is true that the perpetual disqualification of the President from seeking a reelection, which is already decided by this Commission, removes him from direct contention, but not as the titular leader of his political party. In the nature of this system, the President will be vulnerable to pressures, to use the powers of government in behalf of the candidates of his party for the legislature, for the local governments and for President and Vice-President. An explicit provision of this Constitution, which makes massive election frauds herein designated as "MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL" an impeachable offense will give the President an armor against such pressures. He will have to be seen as putting his prestige and authority for clean and free elections by constitutional mandate. and he may rig the elections at his own peril. The existence of such provision by itself sends a powerful signal to the entire nation that the new Constitution shall not brook massive electoral cheating, which is against the popular will, and which certainly deserves to be ranked as an impeachable offense together with culpable violation of the Constitution, treason, bribery, other high crimes, graft and corruption and betrayal of the public trust.

I seek the Committee's response to this proposal, Madam President.

THE PRESIDENT: What does the Committee say?

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I ask the honorable Commissioner a few questions?

MR OPLE: Very gladly, Madam President.

MR SARMIENTO: For the information of Commissioner Ople, last Friday, Commissioner Romulo explained that the phrase "culpable violation of the Constitution, treason, bribery, other high crimes, graft and corruption or

betrayal of public trust" is a catch-all provision to cover all offenses against the Constitution. Does not the honorable Commissioner think the phrase "MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL" would be embraced by this catch-all provision?

MR. OPLE: There is a sense in that we can really stop after the phrase "culpable violation of the Constitution" which, in a sense, spares this provision the obligation to define other offenses already embraced by "culpable violation of the Constitution." With the 1935 and the 1973 Constitutions, however, the phrases "graft and corruption" and "betrayal of public trust" have been allowed to complement the more general phrase "culpable violation of the Constitution" to include treason, bribery, other high crimes, graft and corruption or betrayal of public trust. But may I submit, Madam President, that if there is anything contemporary history teaches us, it is the massive prostitution of the popular will through electoral cheating that can destroy democracy. If it is such an imminent threat to democracy, even more imminent and more direct, aimed at the heart of the existence of a democracy than betrayal of public trust, and graft and corruption, I see no reason why in recognition of this central threat to the life of a democracy and of the preeminent place of upholding the Constitution and popular sovereignty in the oath of the President, this proposal inserted in this draft Article, Madam President, should not be considered as an impeachable offense.

MR. SARMIENTO: Madam President and members of the Committee. if we include the phrase "MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL" as one of the impeachable offenses, no one will be prevented from including crimes against public order or national security and nepotism as impeachable offenses. My humble submission, with due respect to Commissioner Ople, is that the words "MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL" are included in the catch-all provisions "betrayal of public trust" and "violation of the Constitution."

Thank you very much.

MR. OPLE.: I can grant that, but if I seek to define it here by amendment, it is because of a major perception of our own people that the prostitution of the electoral process is a real dagger aimed at the very heart of the existence of a democracy. Therefore, no less than the other offenses listed here, it deserves to be made explicit, given the sharp formulation in Section 2 as an additional ground for the impeachment of the President.

MR. GUINGONA.: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA.: Last Friday, this Member made a manifestation that I had submitted Proposed Resolution No. 354 which added as a ground for impeachment of the President the national failure of justice evidenced by gross violation of human rights. Actually, my original proposal included "or of election laws"; however, after the manifestation, I asked the honorable members of the Committee if they thought the first part of my additional ground which was "national failure of justice evidenced by gross violation of human rights" would already be included in the concept of "betrayal of public trust." The answer was in the affirmative, so I did not insist on the inclusion of this additional ground. May I, however, explain, Madam President, that I had specifically eliminated my original suggestion making the President subject to impeachment for national failure of justice evidenced by gross violation of election laws, because of the fact that we have already instituted an independent Commission on Elections. And it is my humble opinion that to make the President liable for an obligation or a duty of an independent Commission on Elections that we have created would not be in consonance with the rationale behind the creation of that independent Commission on Elections.

MR. OPLE: Madam President.

THE PRESIDENT: The Chair would just like to be clarified. Is Commissioner Guingona propounding a question to Commissioner Ople?

MR. GUINGONA.: Yes, Madam President. I would like to ask the honorable proponent, with due respect to his opinion, whether or not in conformity with the response of the Committee that the national failure of justice evidenced by gross violation of human rights which I had suggested would already be included in the concept of betrayal of trust, and national failure of justice evidenced by gross violation of election laws would also be conveyed or embraced in that same concept of betrayal of public trust.

MR. OPLE: Madam President, we are speaking of proportional ways given to certain offenses in terms of the degree of their lethal effects on the fragile life of a democracy. May I also point out that when I introduced this amendment, I was not thinking of the more recent past which is very instructive for all of us. I was not thinking of the immediate future because I have complete trust in the ability of President Aquino to keep the elections clean and free and probably to advance the purity of the electoral process to a higher level. I was thinking beyond that point. I was thinking of future Presidents whose own vulnerability to temptations would be difficult to measure at this time. We are writing a constitution not only for this time but for the future generations. So, I think there is no redundant effect if the Constitutional Commission takes cognizance of a central fact in our own contemporary history; namely, that the prostitution of the popular will can directly threaten the heart of democracy; it can kill democracy perhaps to a degree not inferior to the ability of the other offenses. And, therefore, I think it is right that the Constitutional Commission signal in the future that we are not indifferent to the serious symptoms of the failure of democracy that we have just experienced and which, in terms of the lethal values in this provision, can outrank the others for stifling and killing outright a democracy in the Philippines.

MR. TREÑAS: I shall be brief in my opposition to the proposed amendment. First, I believe, as manifested by Commissioner Sarmiento, the phrase "MANIFEST AND GROSS DISREGARD OF THE PUBLIC WILL" is included in "violation of the Constitution" and "betrayal of public trust." Furthermore, the President, under our new Constitution, cannot run for reelection anymore. So he cannot take advantage of his office to seek or act in gross disregard of public trust or popular will. There is no more need, therefore, for the proposed amendment.

Thank you.

MR. OPLE. Yes, I said earlier that the President may not be in direct contention but he remains the titular leader of his political party according to tradition.

MR. RAMA.: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA.: Commissioner Concepcion has registered to speak against the amendment. I ask that he be recognized.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Thank you, Madam President.

We have been discussing the grounds for impeachment in the apparent belief that the actual provisions on impeachment are not sufficiently embracing. There is this all-embracing phrase in the Constitution which says: "other high crimes." As Commissioner Romulo stated, this is a political matter more than a legal one. And jurisprudence has settled that "other high crimes" does not even have to be a crime, but it is any act, omission or conduct that renders an official unworthy to remain in office. My apprehension is that the more we particularize the grounds for impeachment, the more we reduce its ambit because we would be subject to the rule: *expressio*

unzius est exclusio alterius I would prefer if the enumeration ended with the phrase "other high crimes" because this phrase includes anything that in the opinion of the impeaching body renders the subject of impeachment unworthy to remain in office.

Thank you, Madam President.

MR. RAMA.: Madam President, Commissioner Bernas will speak against the amendment for two minutes.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: While I agree with the lofty objectives of the amendment proposed, I am afraid that the effect of the proposed amendment is, in fact, to weaken the provisions on impeachment. The amendment speaks of massive election frauds. We have a very general principle in the Constitution which says that sovereignty resides in the people and all government authority emanates from them. And the sovereignty of the people is principally expressed in the election process and in the referendum and plebiscite processes.

This provision on sovereignty of the people can be violated culpably even if not massively. By requiring that the violation of the election law be massive, in effect, we are saying that the impairment of the sovereignty of the people must be massive in order to be a ground for impeachment. So it weakens rather than strengthens the impeachment provisions.

MR OPLE. Madam President, I just wanted to give Commissioner Bernas an update. The massive election frauds which are covered by the phrase originally intended to be proposed had been replaced by MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL, which is really intended to mean the same thing.

FR. BERNAS: Even with that phrase, I am afraid that it may be more strict than culpable violation of the Constitution on sovereignty and thereby, instead of strengthening the provision, I am afraid it may weaken the provision.

MR. OPLE: Thank you for that explanation.

THE PRESIDENT: May we now hear first the reaction of the Committee.

MR OPLE: Yes, I would like to ask the Committee just one question. Will the Committee oblige?

MR. MONSOD: Yes, gladly.

MR OPLE: Thank you, Madam President.

Does the Committee support the remarks of Commissioner Bernas concerning the possibility that the offense "MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL" is already embraced in the underlying meaning of the other impeachable offenses, and also the remarks of Chief Justice Concepcion that it is already embraced under the category of other high crimes?

Is it also the intention of the Commission to make this offense part of "betrayal of public trust," which is the latest ground for impeachment adduced in this provision?

MR. MONSOD: Madam President, the Committee agrees with the opinions of Commissioners Concepcion and Bernas in that the phrase "MANIFEST AND GROSS DISREGARD OF THE POPULAR WILL" is more limiting and, secondly, this offense could be considered embraced in the other grounds for impeachment enumerated in Section 2.

MR OPLE: Thank you, Madam President. It will not be necessary for me to press this amendment then.

May I proceed to the next proposal, Madam President.

THE PRESIDENT: So for the record, the first proposed amendment is withdrawn.

MR OPLE: Yes, on that understanding, which I hope the record of this debate will very clearly register. May I propose a new sentence on Section 11, line 21, page 4 of the draft Article.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: May I make a comment in relation to this proposed amendment of Commissioner Ople on Section 11.

On page 3, Section 7 has reference to the Ombudsman. Madam President, copies of a letter sent by Tanodbayan Raul Gonzalez were distributed to us only five minutes ago. It is a three-page letter which states the position of the Tanodbayan regarding the creation of a separate office called the Ombudsman. As it is a prejudicial question, I think the Commissioners should be given a little time to read this letter before we deal with particular amendments on the Ombudsman, because this can result in the elimination of the Ombudsman or in a merger of the Ombudsman and the Tanodbayan.

MR OPLE: Madam President.

THE PRESIDENT: Just for the record, may we hear the proposed amendment of Commissioner Ople first; afterwards Commissioner Rodrigo may proceed.

MR. OPLE: Yes. May I submit that no prejudicial question arises from this proposed amendment just because a letter has been received from a source, no matter how important it is, which is external to the Constitutional Commission.

THE PRESIDENT: Is the proposed amendment on Section 11, line 21?

MR OPLE: Yes, Madam President. And, in any case, the proposed amendment will not likely collide with any outside proposal that may have been received in the Commission. I have not seen a copy of the said letter.

THE PRESIDENT: Commissioner Ople may please proceed.

MR. OPLE: With the indulgence of Commissioner Rodrigo and of the Committee, may I proceed to read the amendment which is to add a last sentence to Section 11, line 21: THE OMBUDSMAN MAY DESIGNATE A SEPARATE DEPUTY FOR THE MILITARY ESTABLISHMENT, so that the entire Section 11 will now read as follows: "The Ombudsman and his Deputies, as champions of the people, shall act promptly on the complaints filed, in any form or manner, against public officials or employees of the government, including government-owned corporations, agencies or instrumentalities, and shall notify the complainants of the action taken and the results thereof. THE OMBUDSMAN MAY DESIGNATE A SEPARATE DEPUTY FOR THE MILITARY ESTABLISHMENT."

May I state a brief reason for this amendment, Madam President.

THE PRESIDENT: The Commissioner has five minutes to explain his proposed amendment.

MR OPLE: Thank you.

The original Ombudsman was created in Sweden in 1810 and has survived practically unchanged for over 170 years. The military Ombudsman appeared for the first time in history in Norway in 1952 and in West Germany in

1956. In Norway, the military Ombudsman, known as ombudsmannen for forsvarret, was superimposed on an existing structure of enlisted spokesmen chosen by each unit of the Norwegian Armed Forces.

In our own Philippine Armed Forces, there has arisen in recent years a type of fraternal association outside the chain of command proposing reformist objectives. They constitute, in fact, an informal grievance machinery against injustices to the rank and file soldiery and perceive graft in higher rank and neglect of the needs of troops in combat zones. The Reform the Armed Forces Movement or RAM has kept precincts for pushing logistics to the field, the implied accusation being that most of the resources are used up in Manila instead of sent to soldiers in the field. The Guardians, the El Diablo and other organizations dominated by enlisted men function, more or less, as grievance collectors and as mutual aid societies.

This proposed amendment merely seeks to extend the office of the Ombudsman to the military establishment, just as it champions the common people against bureaucratic indifference. The Ombudsman can designate a deputy to help the ordinary foot soldier get through with his grievance to higher authorities. This deputy will, of course, work in close cooperation with the Minister of National Defense and the Armed Forces of the Philippines' Chief of Staff because of the necessity to maintain the integrity of the chain of command. Ordinary soldiers, when they know they can turn to a military Ombudsman for their complaints, may not have to fall back on their own informal devices to obtain redress for their grievances. The Ombudsman will help raise troop morale in accordance with a major professed goal of the President and the military authorities themselves. I seek the Committee's kind concurrence to this proposal.

MR. SARMIENTO: Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: This is the second time that I will be objecting to the proposal of the honorable Commissioner Ople. I supported all his proposals in the past, but this is the second time that I will be objecting to his proposal.

Madam President, if we ingraft this proposal to our Constitution, what will prevent other sectors to suggest the creation of a cultural minority Ombudsman, a health Ombudsman, a justice Ombudsman, a worker's Ombudsman? I think we should not favor an establishment or an entity by suggesting the creation of an Ombudsman particularly for that entity. The Ombudsman should be for all sectors. Secondly, we have filed a resolution with the Constitutional Commission, as agreed in principle by the Committee on Constitutional Commissions and Agencies, for the creation of a Commission on Human Rights to handle precisely these problems. And, thirdly, we have other offices now existing that could handle these problems of the foot soldiers or any civilian against the military, for instance, the Judge Advocate General's Office and the Office of the Inspector General. Also, we have the Complaints Division of Malacañang which receives complaints against officials of the government. I think what we need is not the creation of another entity to answer or respond to the problems of employees of a particular establishment but the selection of good people to occupy existing offices. So, I humbly submit, Madam President, that this proposal is not necessary. This will merely create or expand more mechanisms; this would mean duplication of efforts of existing offices.

Thank you.

MR. DE CASTRO: Madam President.

MR. OPLE: Madam President, may I reply briefly to Commissioner Sarmiento?

THE PRESIDENT: May we just hear first from Commissioner de Castro so that there will be only one reply.

MR OPLE: Thank you.

MR DE CASTRO: Thank you, Madam President.

If the proposal of the Honorable Ople is to create a system by which the lowly soldier in the military may have the means to file his complaints with anybody, the military has already a system for this purpose. Starting from the commanding officer of the company, to the battalion, to the regiment, to the division, and to the office of the Chief of Staff, there is the Inspector General who conducts inspection every now and then and asks every soldier, without the presence of his officer, whether he has any complaint against his officer/s, against his noncommissioned officers or against the government. So there is already a system in the Armed Forces to get the complaint of the lowly soldier, and I believe it will not be necessary to create another system in the government for this purpose.

Thank you, Madam President.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: May I reply briefly to both Commissioners de Castro and Sarmiento.

There may be a glut of complaints and action services in the civilian government, but I assure the Commissioners that the area where the Ombudsman can be felt as a truly innovative beneficent friend of the lowly rank and file will be in the Armed Forces of the Philippines.

I am not at liberty, I suppose, to disclose some of the more horrifying complaints in a long list of particulars submitted by the Reform the Armed Forces Movement to former President Marcos, but there is one that I ought to share with this Commission. The widows of some of the soldiers killed in action in Mindanao had to follow up their gratuity papers, their death compensation claims, in one of the headquarters. According to one of those complaints that was very clear, some of the processors in that headquarters took advantage of the widows of soldiers slain in battle to the extent of subjecting them to unconscionable molestations.

I am not saying that this is endemic, but since we have created the office of the Ombudsman, what is wrong if we vest it with the power to extend itself as a champion of the common man — in this context, the ordinary foot soldier — so that he will have a friend? And I say here very categorically that the Ombudsman will have to work in close cooperation with the Minister of National Defense and the Chief of Staff of the Armed Forces of the Philippines. There will be no attempt to disrupt the integrity of the chain of command. The Ombudsman, in this case, will be a friend also of the highest authorities in the Ministry of National Defense. I submit, Madam President, because I have only five minutes and I hope Commissioner de Castro's time is not charged to mine.

MR. DE CASTRO: Madam President.

THE PRESIDENT: It is not at all charged to Commissioner Ople's time.

MR DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

When we talk of the Ombudsman in the military to take care particularly of the complaints of the widows and orphans of soldiers as stated by the Honorable Ople, we have two organizations which look after these. These

organizations are: the Last Watering Hole which meets today and every 28th day of the month to check on the complaints of soldiers, of officers, of widows and orphans; and the Association of Generals and Flag Officers which also looks after the welfare of the veterans, their widows and their orphans. And I have a resolution to also look after the welfare of these war veterans, their orphans and their widows. So, I believe that to create an Ombudsman for the military in the Constitution is no longer necessary.

This time is not charged to the Honorable Ople's.

Thank you, Madam President.

MR. OPLE: I submit, Madam President. I seek the honorable Committee's benediction for this amendment.

THE PRESIDENT: May we hear the position of the Committee on this particular amendment of Commissioner Ople?

MR. MONSOD: Madam President, may we just ask one question of the proponent. The Ombudsman for the military will deal with relationships between the soldier and the hierarchy. Is that correct?

MR. OPLE: It can be lateral or it can be vertical. With higher authority, yes, but also with fellow soldiers occupying positions of trust.

MR MONSOD: In other words, within the military?

MR OPLE: Yes.

MR. MONSOD: It would not include human rights violations by soldiers against civilians?

MR. OPLE: No, that belongs to another jurisdiction, Madam President.

MR MONSOD: So, in effect, it could not be inconsistent with a Commission on Human Rights?

MR. OPLE: No, there is absolutely no overlap or inconsistency.

MR MONSOD: Madam President, the Committee accepts the amendment of the proponent.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would have no objection to the proposed amendment, but it should not be on Section 11. It should be placed on Section 6 because if we put it here, the appointing authority will no longer be the President but the Ombudsman, and that is not, I think, the philosophy of the provision.

So it should also be covered by the manner by which an appointment may be extended to it. So I would propose that it be transferred principally to Section 6.

MR. OPLE: The Committee has no jurisdiction; personally, I have no objection, Madam President.

MR DAVIDE: But I would propose that the wording would be: A SEPARATE DEPUTY FOR THE MILITARY ESTABLISHMENT MAY BE APPOINTED, after "Mindanao" on Section 6, line 16, page 3.

MR OPLE: I accept the amendment, Madam President.

THE PRESIDENT: Commissioner Ople has accepted the amendment. How about the Committee?

MR MONSOD: We accept, Madam President.

MR. DE CASTRO: Madam President, I object to the proposed amendment on two grounds: First, as already stated, there is already a system within the military to entertain all the complaints of the lowly soldiers up to the highest level. Second, there is a provision which we already approved that no military men shall occupy any civilian office at any one time.

Thank you, Madam President.

MS QUESADA.: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA.: I would like to propose an amendment to the amendment of Commissioner Ople, and that is to install the Ombudsman not only for the military establishment but also for the health establishment.

I feel that the problems of the health situation in the country are more far-reaching and more demanding of this kind of Ombudsman who will speak for and in behalf of the powerless, the voiceless people of our country who are deprived of the right to life and the right to health because they are unable to seek or to have access to much-needed health services.

MR. OPLE: Madam President.

MR FOZ: Madam President.

THE PRESIDENT: May we hear Commissioner Ople first. Does Commissioner Ople accept the proposed amendment of Commissioner Quesada?

MR OPLE: No, the Committee has no jurisdiction, Madam President. I am sorry I have to decline the kind offer.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I would like to amend the amendment to the amendment.

THE PRESIDENT: Let us dispose first of the proposed amendment to the amendment; afterwards, we will entertain amendments to this proposed amendment that has to be accepted by the Committee.

MR. MONSOD: Madam President, the Committee regrets that it cannot accept that amendment for the following reason: We realize that there are many sectors who would want the concept of Ombudsman installed to protect them or to look after their welfare, but this is not the place for it. We are creating an office of the Ombudsman with an Ombudsman at the head; and we realize that over time, the concept has been successful, and found by the people to be very effective in correcting or redressing their grievances. There is no impediment to many Ombudsmen being appointed as assistants in many sectors as, in fact, has happened in many countries. We have to allow the system to evolve and to be refined and to perfect itself in the process. If we open it up now, there will be 10 or 12 or 15 sectors who will want to be identified specifically in the Constitution, and we feel that this is something that could be a matter of legislation.

In the case of the military, it is a very big, strategic and important sector at this time, and we feel that there is a justification for making a special mention of the military now.

MS. QUESADA: Madam President.

THE PRESIDENT: The body will first proceed to vote on the amendment of Commissioner Ople as amended by Commissioner Davide and as has been accepted by the Committee. Afterwards, the body will accept other

amendments.

MR. RODRIGO: Madam President, may I make a comment on the amendment, as amended?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I think the amendment to the amendment reads: "A SEPARATE DEPUTY FOR THE MILITARY ESTABLISHMENT MAY BE APPOINTED." So it is discretionary; the President may or may not appoint him.

THE PRESIDENT: Is Commissioner Rodrigo objecting to the amendment, as amended?

MR. RODRIGO: No, I just want to be clarified. Secondly, the President is the Commander-in-Chief of the Armed Forces of the Philippines. I notice that we seem to be emasculating too much the powers of the President. We seem to be losing faith in the presidency. I think this is an overreaction to what happened during the term of the dictator Marcos. I think there is only one Marcos in a hundred years. This Constitution which we are framing is for the present President and for future Presidents who will be elected by the people. I repeat, the President is the Commander-in-Chief of the Armed Forces of the Philippines who is in charge of the discipline of its members. In this provision we are creating again another office seemingly independent of the President to perform functions which constitutionally should be performed by the President and, therefore, will be in derogation of the powers of the President as Commander-in-Chief of the Armed Forces.

THE PRESIDENT: May we hear from the Committee first.

MR. MONSOD: Madam President, may we reply. Yesterday afternoon, we went over this same ground. In fact, the argument that was posed yesterday was that a good President would welcome an Ombudsman. We are putting in this provision that a separate deputy may be appointed. It is the President who would appoint, Madam President.

We submit it to the body.

THE PRESIDENT: May we have the amendment now as phrased by the Committee.

MR. MONSOD: May we ask Commissioner Davide to restate the amendment, as amended.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, on line 16, page 3, add a new sentence after the period (.) following "Mindanao" to read as follows: A SEPARATE DEPUTY FOR THE MILITARY ESTABLISHMENT MAY LIKEWISE BE APPOINTED.

VOTING

THE PRESIDENT: Those in favor of this particular amendment, as amended, please raise their hand. (Several Members raised their hand.)

Those against, please raise their hand. (Few Members raised their hand.)

The results show 22 votes in favor and 11 against; the proposed amendment, jointly submitted by Commissioners Ople and Davide and accepted by the Committee, is approved.

MR. MONSOD: Madam President.

THE PRESIDENT: Is there any other amendment?

MR. OPLE: Madam President, I am still on the floor.

THE PRESIDENT: May we know from the Floor Leader who will have the floor.

MR. RAMA: Commissioner Ople still has the floor. He has other amendments to propose.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you.

On previous clearance with the Floor Leader and the Committee, Madam President, I would like to submit just two more amendments to the Article on Accountability of Public Officers. I propose to add a new section to be denominated as Section 15 which reads: A PUBLIC OFFICER SHALL, UPON ASSUMPTION OF OFFICE, DECLARE HIS ASSETS AND LIABILITIES. THE PRESIDENT, THE VICE-PRESIDENT, MEMBERS OF THE CABINET, MEMBERS OF CONGRESS, THE HEADS AND DIRECTORS OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND FLAG OFFICERS OF THE ARMED FORCES SHALL DISCLOSE TO THE PUBLIC THEIR NET WORTH AT THE BEGINNING OF THEIR TERMS AND EVERY TWO (2) YEARS THEREAFTER.

May I explain briefly, Madam President.

THE PRESIDENT: The Commissioner may please proceed under the five-minute rule.

MR. OPLE: It will take me only one minute to explain this amendment. We had previously met this principle in the Article on the Legislative but this was made applicable only to the Members of the Congress. It was especially Commissioner Serafin Guingona and Chairman Hilario Davide, Jr. of the Committee on the Legislative who called my attention to the fact that if this is made to apply to the Members of the Congress, it should be made a universal principle elsewhere in the Constitution to apply to public officers of the government, and this is what this additional new section seeks to do, Madam President.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized

MR. GUINGONA: Thank you, Madam President.

As the distinguished proponent said, I had called his attention to the need for this particular amendment that he is now proposing. May I just mention that in the Journal of Saturday's session, July 26, on page 28, paragraph 7, the following appears, and I quote:

Referring to Mr. Tadeo's concern on modest living, Mr. Guingona suggested that impeachable officers submit their statements of assets and liabilities upon assumption of office.

I, therefore, would like to assure the distinguished proponent that I fully support his amendment. However, I wish to offer two amendments to his amendment, which are to remove the period (.) after "LIABILITIES" and add UNDER OATH and to add AND AT THE END OF THEIR TERMS after "YEARS THEREAFTER."

In the case, for example, of a member of the Cabinet who leaves his office one-and-a-half years after his last disclosure, under this provision he would not be required to submit a statement of his assets and liabilities. I am, therefore, proposing these two amendments for the consideration of the distinguished proponent.

MR. OPLE: Madam President, I accept the amendment on my behalf and on behalf of Commissioner Bennagen who had another resolution to this effect but who kindly agreed to combine it with the one I had put forward.

MR. DAVIDE. Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Would the proponents accept an amendment by substitution? The amendment will read as follows: EVERY PUBLIC OFFICER OR EMPLOYEE SHALL, UPON ASSUMPTION OF OFFICE AND EVERY TWO (2) YEARS THEREAFTER AND WITHIN THIRTY (30) DAYS FOLLOWING HIS CESSATION FROM OFFICE, DECLARE UNDER OATH HIS ASSETS AND LIABILITIES AND DISCLOSE TO THE PUBLIC HIS NET WORTH.

MR. OPLE: Madam President.

THE PRESIDENT: Is the amendment by substitution acceptable?

MR. OPLE: I am sorry that we have to decline the proposed amendment to the amendment on this ground: That Commissioner Davide is, in fact, talking about a provision already in the Anti-Graft Law that pertains to all employees of the government. In this proposed amendment, Commissioner Bennagen and I are not requiring every employee of the government to disclose his net worth to the public. There is no multiplier effect when a common employee of the government is required to disclose his net worth, and maybe other than himself and his immediate neighbors in the office, no one will really care. But in our proposed amendment, we would like to introduce a new form of accountability. In a society, it is understood that we have to lead by example and those who have this burden more than the others are the holders of the greatest power. Therefore, this provision is specific with respect to the President, the Vice-President, members of the Cabinet, Members of the Congress, the heads and directors of government-owned or controlled corporations, and flag officers of the Armed Forces of the Philippines. The obligations of the rest can be left to the law and, in fact, there are already laws to that effect. But there is no law so far and no explicit constitutional mandate that requires the highest officials of the land to disclose their net worth to the public. In the case of the United States, comparable officers are required by law to so disclose their assets and liabilities to the public. Here in the Philippines, it is a matter of voluntary act, and when we put that on a voluntary basis, the results are uneven because some disclose and the others do not. I think throughout this Constitution, we are trying to build a policy of candor and full disclosure and accountability, and this provision supports that goal for the entire Constitution, although at present it has to be located in the Article on Accountability of Public Officers.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: If the idea really is to impress upon the public officer or employee the particular duty of disclosing his assets and liabilities upon the assumption to office, then that should apply to all, not just to the public officer but to all employees because graft and corruption can be committed not only by those in the upper bracket in public service but even by those in the lower bracket. As a matter of fact, Madam President, insofar as graft and corruption is concerned, we cannot distinguish a separate hierarchy for those in the upper bracket and for those in the lower bracket. Both of them are equally liable to disclose their assets and liabilities. And besides, when a public officer discloses his assets and liabilities, we know already what his net worth is. So there is no need for a disclosure of net worth because it can easily be determined from the statement of assets and liabilities.

MR. OPLE: Madam President, I prefer to leave the case of the generality of employees of the government to law, while we treat the highest public officers in terms of a constitutional accountability to disclose to the public not merely to submit to the civil service or to the head of the ministry; in practice this really means archiving all of these statements of assets and liabilities. In the case of the higher echelons of the government, just like in the United States and in other countries, the obligation to disclose to the public means that there is no choice; they do

not send these to the archives.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: The amendment has been sufficiently debated on.

THE PRESIDENT: May we have the reaction first of the Committee.

MR. MONSOD: Madam President, the Committee accepts this in principle, but we just want to make some editorial suggestions so that it would read: "A PUBLIC OFFICER SHALL, UPON ASSUMPTION TO OFFICE AND EVERY YEAR THEREAFTER, MAKE A DECLARATION OF HIS ASSETS, LIABILITIES AND NET WORTH, WHICH IN THE CASE OF THE PRESIDENT, VICE-PRESIDENT, MEMBERS OF THE CABINET, MEMBERS OF CONGRESS, HEADS AND DIRECTORS OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, AND OFFICERS OF THE ARMED FORCES, SHALL BE DISCLOSED TO THE PUBLIC."

MR. OPLE: I accept the amendment, Madam President, on behalf of Commissioner Bennagen and the other author.

MR. DAVIDE: Just for clarification, Madam President.

THE PRESIDENT: The Commissioner may please proceed.

MR. DAVIDE: Is it "ONE YEAR THEREAFTER"?

THE PRESIDENT: It is "EVERY YEAR THEREAFTER."

MR. DAVIDE: I would propose an amendment to read: AND EVERY TWO YEARS THEREAFTER, because disclosing one's net worth to the public might involve the publication of his assets and liabilities, and that would be very expensive for the public official.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:56 a.m.

RESUMPTION OF SESSION

At 11:05 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. BENGZON: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. BENGZON: May I request that the Chairman of the Committee be recognized.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May we have thirty seconds more? We are just writing the amendment out, Madam President.

THE PRESIDENT: It is granted.

MR. MONSOD: Madam President, we are ready to suggest a proposed rewording, as consulted with the proponents.

THE PRESIDENT: The Chairman may please proceed.

MR. MONSOD: The amendment as reworded will now read: "A PUBLIC OFFICER SHALL UPON ASSUMPTION TO OFFICE AND AS OFTEN THEREAFTER AS MAY BE REQUIRED BY LAW MAKE A DECLARATION UNDER OATH OF HIS ASSETS, LIABILITIES AND NET WORTH WHICH IN THE CASE OF THE PRESIDENT, VICE-PRESIDENT, MEMBERS OF THE SUPREME COURT, MEMBERS OF THE CONSTITUTIONAL COMMISSIONS, MEMBERS OF THE CABINET AND OF CONGRESS AND FLAG OFFICERS OF THE ARMED FORCES SHALL BE DISCLOSED TO THE PUBLIC IN THE MANNER PROVIDED BY LAW."

I am sorry, we forgot to mention the Ombudsman, Madam President.

THE PRESIDENT: How about the heads and directors of the government, are they omitted also?

MR. MONSOD: Madam President, we forgot to mention also the generals and flag officers of the Armed Forces.

MR. OPLE: The flag rank officers include the commodores of the Navy.

MR. MONSOD: Yes. May we restate the amendment, as amended: "A PUBLIC OFFICER OR EMPLOYEE SHALL UPON ASSUMPTION TO OFFICE AND AS OFTEN THEREAFTER AS MAY BE REQUIRED BY LAW MAKE A DECLARATION UNDER OATH OF HIS ASSETS, LIABILITIES AND NET WORTH WHICH IN THE CASE OF THE PRESIDENT, VICE-PRESIDENT, MEMBERS OF THE SUPREME COURT, MEMBERS OF THE CONSTITUTIONAL COMMISSIONS, OMBUDSMAN, MEMBERS OF THE CABINET, MEMBERS OF CONGRESS, GENERALS AND OFFICERS OF GENERAL OR FLAG RANK OF THE ARMED FORCES SHALL BE DISCLOSED TO THE PUBLIC IN THE MANNER PROVIDED BY LAW."

THE PRESIDENT: This amendment is jointly proposed by Commissioners Ople, Bennagen, Guingona and Davide. Is that correct?

MR. OPLE: Yes, and also Commissioners Padilla and Sarmiento and Chief Justice Concepcion.

THE PRESIDENT: Is there any objection?

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: For just a matter of form, may we suggest that the members of the Cabinet, of the Congress, of the Supreme Court and of the constitutional commissions be in that order, instead of putting the members of the Cabinet and of Congress at the end of the enumeration.

MR. MONSOD: Yes, maybe we can refer that to the Committee on Style.

MR. OPLE: I support the proposal.

MR. PADILLA: And instead of specifying the Ombudsman alone, can we add, let us say AND OTHER CONSTITUTIONAL OFFICES, so that the provision will be all-embracing?

MR. MONSOD: We are amenable to that amendment.

MR. OPLE: I support the change.

MR. PADILLA: Thank you.

MR. FOZ: Parliamentary inquiry, Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: In connection with the enumeration of the public officials who shall be covered by such requirement of disclosure, is the enumeration inclusive, meaning to say, that all those not so named or mentioned shall not come within the coverage of the requirement, so that the ordinary employees will not be required to make such disclosure?

MR. OPLE: No, Madam President. The disclosure is mandatory for the President, the Vice-President, members of the Cabinet and so forth. But ordinary government employees, as a rule, are already required to file their statements of assets and liabilities not for public disclosure but for purposes of examination by their superiors, since public interest in their assets and liabilities would, in any case, be very limited.

MR. FOZ: But the statements of assets and liabilities filed by the rest of the government personnel constitute public records, and they are available at any time upon request of anybody, like the members of media, etc. I fear that the enumeration of the officials covered by such requirement of disclosure would, in effect, prohibit any law from requiring any other officials not so named in the listing from making such disclosure. So I suggest we make such changes in the phraseology so that the legislature would be free to add other officials to be within the ambit of the requirement of disclosure.

MR. NOLLEDO: Madam President.

THE PRESIDENT: What is the interpretation of the Committee? Commissioner Nollado is recognized.

MR. NOLLEDO: Madam President, in reply to the inquiry of Commissioner Foz, the enumeration of public officials, from the President down, for purposes of public disclosure should not prohibit the legislature from requiring public disclosure of the statements of assets and liabilities, including net worth of other inferior officials. That is the sense of consensus of the members of the Committee.

MR. FOZ: If that is the meaning being attached to it, I accept.

Thank you.

VOTING

THE PRESIDENT: We now proceed to the voting.

Those in favor of this proposed amendment which has been read by the Chairman of the Committee, please raise their hand. (Several Members raised their hand.)

Those against, please raise their hand. (No Member raised his hand.)

The results show 31 votes in favor and none against; the proposed amendment is approved.

Commissioner Ople is recognized.

MR. OPLE: Madam President, may I state my very last proposed amendment which consists in the addition of a new section to the Article on Accountability of Public Officers, which is already cleared with the Committee headed by Chairman Christian Monsod. This is actually a combined draft in which the Committee's reservations were fully overcome. Again, may I say that Commissioner Bennagen is my co-author of this amendment, together with the rest of the members of the Committee on Accountability of Public Officers. It will read as follows: PUBLIC OFFICERS OWE THE STATE AND ITS CONSTITUTION UNCONDITIONAL ALLEGIANCE AT ALL TIMES. ANY PUBLIC OFFICER WHO SEEKS TO CHANGE HIS CITIZENSHIP OR ACQUIRE THE STATUS OF AN IMMIGRANT OF ANOTHER COUNTRY DURING HIS TENURE SHALL BE DEALT WITH BY LAW. May I explain briefly, Madam President?

THE PRESIDENT: Please proceed.

MR. OPLE: Public officers are expected to set the example on standard single-minded allegiance to the nation and to the public interest. Where they are seen as already preparing refuge or safety outside their own country because of lack of faith in the stability of their government and of their own society, the effect on citizens is demoralizing and unsettling. It is also divisive because it flaunts a class privilege since only a few can afford at any time to buy security on foreign shores. For most Filipinos, it is still true what Manuel Quezon said in his time: "Love your country for it is the only one God has given you." In the face of danger, the human reflex calls for flight or fight. Public officers must not be seen as running away or preferring not to fight. They must, together with the rest of their countrymen, in the face of danger and insecurity, not be seen as wavering in their dedication to the national interest while they stay on as public officers. They are, however, at perfect liberty to choose. What this draft provision offers is a clarity of choice. Those who want to change their citizenship or to live in a foreign country are free to do so. But when they do it, it is clear that they forfeit their office as public officers of the Philippines. However, this is not stated categorically. The draft provision leaves to the future legislature ample discretion to address the specific implications of this policy based not only on the national interest but also on equity and fairness for those concerned.

I seek the Committee's approval, Madam President.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May I propose an amendment to the proposed amendment to make it a little more embracing as to also include employees? In the case of a public officer, his acts are generally publicly visible; whereas in the case of lower officials or lower employees, sometimes they may actually be the ones performing these acts but they are not generally known. And to add a little more teeth to this last portion, it should read: NO PUBLIC OFFICER OR EMPLOYEE MAY DURING HIS TENURE SEEK A CHANGE IN HIS CITIZENSHIP OR ACQUIRE THE STATUS OF AN IMMIGRANT IN ANOTHER COUNTRY WITHOUT AUTOMATICALLY FORFEITING HIS OFFICE OR POSITION.

MR. ROMULO: We do not like the word "AUTOMATICALLY"; we prefer the words "SHOULD BE DEALT WITH BY LAW" because there are so many different situations.

MR. REGALADO: But the cause of the forfeiture is the same; that is, by applying for naturalization or seeking a change in citizenship or status. Would there be any other situation of positive basis?

MR. OPLE: We want to leave maximum flexibility to future legislatures. We merely stated a general principle here. We know that there will be numerous consequences that are now unforeseen for hundreds of thousands of our countrymen both here and abroad; and so, we want to take the safe side by asking Congress to deal with those implications at the proper time. However, with respect to Commissioner Regalado's observation about employees of the government, I see no reason why we cannot expand this to include them if the Committee, which has previously approved this, is willing to accept it.

MR. ROMULO: We accept the inclusion of other employees.

MR. REGALADO: And by way of substitution of the last phrase which says: "WITHOUT FORFEITING HIS POST," I propose an amendment to read: WITH- OUT FORFEITING HIS OFFICE OR POSITION.

MR. MONSOD: Madam President, I believe that the proponent has reworded his proposal and we are not talking anymore about forfeiture of post or office which shall be dealt with by law.

MR. REGALADO: I withdraw then, because I got the original copy, not the amended one.

MR. OPLE: Thank you very much, Madam President.

THE PRESIDENT: Is there any objection? Will Commissioner Ople please read again his proposed amendment?

MR. OPLE: The proposed amendment reads: PUBLIC OFFICERS AND EMPLOYEES OWE THE STATE AND ITS CONSTITUTION UNCONDITIONAL ALLEGIANCE AT ALL TIMES. ANY PUBLIC OFFICER OR EMPLOYEE WHO SEEKS TO CHANGE HIS CITIZENSHIP OR ACQUIRE THE STATUS OF AN IMMIGRANT OF ANOTHER COUNTRY DURING HIS TENURE SHALL BE DEALT WITH BY LAW.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I just propose an amendment, if the Commissioner is willing?

I think one does not pledge allegiance to the State but to the Constitution, the State being a group of persons, more or less numerous, occupying a definite portion of a territory as defined traditionally. But I think one owes allegiance to the Constitution, not to this group of persons.

MR. OPLE: May I state in reply, Madam President, that the State so denominated in this paragraph refers to the generic State which is really the term that pertains both to the nation and to its government; it is a State that is in many ways immutable and fixed because the leadership can change tomorrow and the government can be transformed by a 360-degree turn, but that Philippine State will still be there. It is in that contemplation that the word "STATE" in its generic sense is used in this paragraph. It does not refer to any set of people.

MR. SARMIENTO: I then withdraw my proposed amendment, Madam President.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: I would like to propose some amendments by deletion. We should not include the words "UNCONDITIONAL ALLEGIANCE" precisely because the State, whether it be the people or the government, can at one time or another commit a mistake, and I do not think we should give any unconditional allegiance to any creature or human being. That is tantamount really to an act of faith.

MR. OPLE: That is a good point and I want to know if Commissioner Bacani will be satisfied either with the word UNAMBIGUOUS or UNEQUIVOCAL.

BISHOP BACANI: Is there "ALLEGIANCE?"

MR. OPLE: Yes. We can eliminate the adjective if the Commissioner likes.

BISHOP BACANI: Thank you.

MR. OPLE: It is the Committee's adjective, incidentally.

MR. ROMULO: The Committee is willing to let go of its adjective.

MR. OPLE: Thank you.

MR. PADILLA: Madam President.

THE, PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I have no objection to inserting the word "EMPLOYEE" after "PUBLIC OFFICER," but I would like to state that under Article 203 of the Revised Penal Code, the words "PUBLIC OFFICER" include employees even of the lowest rank. The distinction being made in the Code is only between or among persons in authority, agents of persons in authority and public officers.

MR. REGALADO: Madam President, may I make a reply to that.

What Commissioner Padilla stated is applicable only to criminal law, but for purposes of political or administrative law, there is a distinction between a public officer and a public employee since the public officer is one vested with discretion whereas a public employee is one with purely ministerial functions. I agree that that is the concept in the Revised Penal Code; that the phrase "or employee" in the epigraphs of hearing in the provisions of the Penal Code, specifically in Title VII, is even a surplusage inasmuch as it has been decided that anybody who takes part in governmental functions, whatever his rank is in the plantilla, is a public officer. But this one is for political or administrative purposes and there is a substantial distinction.

MR. OPLE: I think the Committee's text stands with that clarification on both sides.

THE PRESIDENT: Are we ready now to vote?

MR. ROMULO: Yes, Madam President. we are ready.

THE PRESIDENT: Is there any objection to this proposed amendment? They are asking that it be read, Commissioner Ople.

MR. OPLE: It shall read: PUBLIC OFFICERS AND EMPLOYEES OWE THE STATE AND ITS CONSTITUTION ALLEGIANCE AT ALL TIMES, AND A PUBLIC OFFICER WHO SEEKS TO CHANGE HIS CITIZENSHIP OR ACQUIRE STATUS OF AN IMMIGRANT OF ANOTHER COUNTRY DURING HIS TENURE SHALL BE DEALT WITH BY LAW.

MR. REGALADO: On the second sentence read by Commissioner Ople, the words "OR EMPLOYEE" were not included by him.

MR. ROMULO: No, they were not.

MR. OPLE: Yes, it should include the words OR EMPLOYEE. Thank you for the correction.

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

MR. OPLE: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, my proposed amendment is on the method of appointing the Ombudsman and his deputies. According to Section 7, page 3, the Ombudsman and his deputies shall be appointed. Following the manner of the recommendations by the Judicial and Bar Council, I was going to propose that they be appointed by the President with the confirmation of the Commission on Appointments. However, Madam President, I was informed that Commissioner Bacani would like to file a motion which will raise a prejudicial question to my proposed amendment. And so, I would like to give way to Commissioner Bacani. I yield to Commissioner Bacani.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, when Commissioner Rodrigo moved for the deletion of the provisions

regarding the Ombudsman in our session last Saturday I voted against his proposition which was turned down. Therefore, I move that we reconsider that amendment in view of the information that we have received from the letter of the Tanodbayan. And I do think that there were not enough of us present on that day to give a real sounding of the thought of the body on the matter because we were gradually dwindling in number. I think there was barely a quorum when the matter was decided.

THE PRESIDENT: But we had a quorum, excuse me; just for the record.

BISHOP BACANI: Yes, we had a quorum.

THE PRESIDENT: We had a quorum and the proceedings that were held last Saturday afternoon were perfectly in order.

BISHOP BACANI: Yes, I do not question that but I mean we were barely beyond the required number and it might be that the persons who were not present at that time may actually have voted in favor of the amendment of Commissioner Rodrigo, especially in view of the arguments advanced by Raul Gonzalez. May I just read a portion of that argument.

THE PRESIDENT: Please proceed.

BISHOP BACANI: I am going to read from page 2, paragraphs 1 and 2. It says:

In other words, the solution is not to divide the present Tanodbayan into two separate agencies but to keep its present powers, functions and responsibilities and to make it work effectively, give it the needed funding support.

And here I think is the more relevant part:

I cannot properly envision a situation that will ensue as now proposed in the Constitutional Commission. If the Tanodbayan now will be retained as the prosecution arm of the Sandiganbayan, what will happen to the cases investigated by the Ombudsman? Will these have to be sent to the Tanodbayan for prosecution? If so, will the Tanodbayan again conduct the preliminary investigation mandated by law, as part of due process, as condition sine qua non for filing of the information with the Sandiganbayan or anti-graft court? Is this not duplication of work and, therefore, more expensive? If we create the Office of Ombudsman, giving it lofty powers but without teeth to enforce its findings, if any, against public officers it investigates, how will this new Ombudsman be effective? Furthermore, to retain the present Tanodbayan as mere prosecutor may even duplicate the powers of the fiscals and state prosecutors under the Ministry of Justice. It should be remembered that the present Tanodbayan (Ombudsman) under P.D. No. 1630 does not only investigate and prosecute charges under the Anti-Graft and Corrupt Practices Law, but also violations of the Penal Code provisions under Title VII, from Articles 203 to 245.

So, for these reasons, Madam President, I move for a reconsideration of the vote last Saturday.

SUSPENSION OF SESSION

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

It was 11:31 a.m.

RESUMPTION OF SESSION

At 11:48 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Madam President, I ask that Commissioner Bacani be recognized for his motion for reconsideration.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Before Commissioner Bacani restates his motion for reconsideration, may I just be allowed to make a comment on the letter?

Madam President, this issue was comprehensively debated upon and discussed by the body and the Committee for more than two hours last Friday. We devoted our time, our efforts just to be clarified on this vital issue. This morning, we again suspended the session for about 15 to 20 minutes just to accommodate one letter.

Madam President, I was looking at the Order of Business and I notice that there are also several letters. For us to accommodate this letter after substantially discussing this point is to me interference in our work. This is an infringement on our independence as a constitutional body. So, may I ask, Madam President, that we set aside or disregard this letter.

I recall that one letter was also addressed to the body, a letter from BAYAN, but upon motion of one of our colleagues, the body decided not to consider nor discuss that letter. And here comes another letter. Madam President, this will open the floodgates for more letters to come asking for the reconsideration of actions that were already acted upon by this constitutional body.

Thank you, Madam President.

MR. RODRIGO: Madam President, may I reply?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: We receive hundreds of letters, but this is a different kind of letter because this is the letter of the Tanodbayan, also the Ombudsman, whose office will be directly affected by the proposed amendment. And I do not know, I would like to ask first the Committee: Was Tanodbayan Raul Gonzalez invited to any meetings of the Committee regarding the creation of a separate office called the "Ombudsman"?

MR. MONSOD: Madam President, may we reply to the query of the honorable Commissioner?

THE PRESIDENT: Yes, please.

MR. MONSOD: As a matter of fact, Justice Raul Gonzalez was invited, and we had a very long session with him. The arguments that he presented to the Committee were given full consideration in the Committee's deliberation of the concept that is now being presented to this body.

Secondly, the arguments that he has in the letter were the same issues that were posed last Saturday by the Honorable Rodrigo and which was the subject of discussion for two hours.

MR. RODRIGO: My only point is its propriety. It seems the idea is: Why are we giving importance to this particular letter? Why not to a letter from BAYAN? A letter from BAYAN is different; a letter from UNIDO will be different from this letter because this is a letter from the head of the office which will be directly affected and whose functions will be duplicated by the creation of the Ombudsman.

So, that is the only point I would like to raise, but it is not improper for us to give importance to this letter. And this is not interference; I think this is helping us. This is the right of any citizen to write a letter to us, especially the head of an office that will be affected by a proposed amendment to the Constitution.

THE PRESIDENT: We have the motion of Commissioner Bacani to reconsider the decision. So, we will put that to a vote or would the Commissioner want to explain?

BISHOP BACANI: Yes, Madam President, I find it difficult to do this, but in the interval, some explanations were given to me.

The first purpose of my motion is to give a chance to the people who are not here to hear the reasons for and against and to vote on it. But the Gentleman pointed out that if we were to do this for every item, we may not be able to finish the work of the Commission.

Second, some other matter was explained to me regarding the function of the Ombudsman which I did not understand before and did not get as clearly before; and that is, it can admonish even in non-criminal charges and that, therefore, its function would not simply be prosecutory. It will serve a useful purpose even if it need not duplicate the prosecution function of the present Tanodbayan.

And so, even though I find it difficult to do this — it is a bit humiliating — I withdraw my motion.

THE PRESIDENT: The motion to reconsider has been withdrawn. So, we will proceed now to another business.

MR. RAMA: Madam President, I ask that Commissioner de Castro be recognized for a new amendment.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. RODRIGO: Madam President, I have a proposed amendment but I only gave way to the motion of Commissioner Bacani because I thought he was going to pursue his motion. His motion involved a prejudicial question to my amendment. But since the motion is withdrawn, then there is no more prejudicial question to the amendment that I want to present.

THE PRESIDENT: So, Commissioner Rodrigo has an amendment.

MR. RODRIGO: Yes, Madam President.

MR. DE CASTRO: I will give way to the Honorable Rodrigo.

THE PRESIDENT: We will call on Commissioner de Castro later.

Commissioner Rodrigo is recognized.

MR. RODRIGO: This is an amendment without prejudice to my stand regarding the creation of the Ombudsman which, I believe, is a toothless duplication of the work of the Tanodbayan.

On page 3, Section 7, line 18, after the word "President," add WITH THE CONFIRMATION OF THE COMMISSION ON APPOINTMENTS, then put a period (.) and delete the rest of the section, so that the section would read: "Section 7. The Ombudsman and his Deputies shall be appointed by the President WITH THE CONFIRMATION OF THE COMMISSION ON APPOINTMENTS."

THE PRESIDENT: Does Commissioner Rodrigo desire to explain?

MR. RODRIGO: Yes. Under Section 7, the Ombudsman and his deputies would be appointed through the method of the Judicial and Bar Council which is the method followed in the case of appointments of justices and other members of the judiciary. It is stated in this very proposed amendment that the Ombudsman and his deputies would have the same rank as the members of the constitutional commissions, like the Commission on Elections, the Commission on Audit and the Civil Service Commission. All the commissioners in these constitutional commissions are appointed by the President with the confirmation of the Commission on Appointments. So, if the Ombudsman and his deputies are ranked with these, why should they be an exception? Why should they not be appointed by the President with the confirmation of the Commission on Appointments? Why should they be ranked with the members of the judiciary?

That is my explanation, Madam President.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: Madam President, last Saturday, Commissioner Rodrigo raised this point and we told him that the Committee believes that there is a difference between the Ombudsman and the constitutional commissions.

We have an amendment because there was an error on Section 8. It was the intention of the Committee to put the phrase "AND A MEMBER OF THE PHILIPPINE BAR." In other words, the Ombudsman must be a member of the Philippine Bar.

The reason we feel that there is a difference is that in the case of the COA, the members of the COA would be either lawyers or CPAs with auditing experience; in the case of the Civil Service Commission, they could be lawyers or others who have demonstrated a capability in public administration; and in the case of the COMELEC, under the constitutional provision, only a majority out of the seven should be lawyers, so there can be three non-lawyers.

So, we felt that the prescreening by the Judicial and Bar Council would not be applicable to the other constitutional commissions but would be applicable in the case of the Ombudsman.

I also would like to ask Justice Colayco for some additional remarks on this point.

MR. COLAYCO: I would like to state here a very important function of the Ombudsman as proposed by the Committee. I agree with Commissioner Rodrigo that the likes of the Marcoses will not appear every year nor even every 10 years. But notwithstanding, Presidents are human beings, and as human beings, they can be corrupted by the power that they have.

I understand from the objection of Commissioner Rodrigo that we already have the Tanodbayan and, therefore, he can continue functioning or performing the functions that are proposed to be performed by the Ombudsman. The present Tanodbayan is appointed by the President. Let us see the performance of the former Tanodbayans that we had. Let us start with Justice Ericta. What did Justice Ericta say upon taking his oath — this is in the papers — "I will brook no interference unless the President orders me." That was a logical statement because he was a creature of the President. What happened with the next Ombudsman? I hate to name names, but up to the last Ombudsman that we had, with the exception, of course, of Justice Gonzalez now, they were all total failures. They were supposed to be fiscalizers of the government. How can they fiscalize the Office of the President when they were appointed by the President?

Our proposal is for the President to appoint him, but his choice is limited to the persons who will be chosen by a known political body. So, although chosen by this known political body, he will not owe any debt of gratitude to the Judicial and Bar Council.

Let us take the example of what happened to Mr. Marcos. The President's office was supposed to be under the supervision of the COA. But what happened was that the Commissioners then were told, "Don't touch us," and that is what they did, and that is why we have the effect of the known performance of a constitutional officer no less. He could do that because the Commissioners of COA were appointed by him. That cannot be repeated if we appoint the Ombudsman from a list selected by a known political body.

We have been talking about the practice in the United States. Let me read something about that. In connection with the appointment of the Ombudsman in some states in the United States, some persons favored direct legislative selection without participation by the executive. This is an American author talking, not a European author. Thus, a Florida bill proposes simply that the Ombudsman be appointed by agreement of the President of

the Senate and the Speaker of the House, subject to confirmation by the majority of the members of each chamber of the legislature. And then there is the summary that says that all the plans emphasized the desirability of depoliticalizing the selection process. How can we have a fiscalizer who is appointed by the President whose office is supposed to be under the jurisdiction of such an appointee? It does not make sense.

Thank you.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Just a few remarks in reply. In the case of *Ericta* that was mentioned and the other cases whose names were not mentioned, these people were working under martial law, and we should not use as a norm what happened during the martial law.

May I add that in this very proposal in Section 4, the Sandiganbayan is retained. This is a very important judicial body, and the members and the chairman of the Sandiganbayan are appointed by the President with the concurrence of the Commission on Appointments. In Section 5, the Tanodbayan is mentioned, and the Tanodbayan is to be appointed by the President with the concurrence of the Commission on Appointments.

In the case mentioned about the practice in the United States, I do not know why we should follow individual states in the United States, but even then, it is stated there that the governor of the state has nothing to do with the appointment. But here, the President anyway is the one going to appoint, so there is no similarity. The only difference is that, in case we follow the method of having a Judicial and Bar Council, the choice of the President will be limited to six in the beginning, and after that, from a list of three. But when I opposed the creation of this Judicial and Bar Council, even for the judiciary, I pointed out the fact that anyway almost all the members of the Judicial and Bar Council are appointees of the President, and the President, while limited to the three recommendees, may refuse to appoint any of those three and ask the Council to submit another three. He may refuse again to appoint from those three and ask the Council to submit another three. And so, Madam President, I do not see why all the other high officials of the government, aside from the members of the judiciary, are appointed by the President with the confirmation of the Commission on Appointments. And we make an exception of this Ombudsman who, after all, is toothless; he has no coercive power; he cannot even prosecute. He can only advise or direct, but has no power whatsoever.

I know that we are pressed for time, I think we are ready. I ask that we vote on this amendment.

THE PRESIDENT: Did the Committee accept?

MR. MONSOD: The Committee regrets that it cannot accept the proposed amendment for the reasons already discussed at length. May we submit it to a vote?

THE PRESIDENT: Will Commissioner Rodrigo kindly repeat the amendment?

MR. RODRIGO: With the amendment, Section 7 on page 3, line 17, will read: "The Ombudsman and his Deputies shall be appointed by the President WITH THE CONFIRMATION OF THE COMMISSION ON APPOINTMENTS."

MR. DE LOS REYES: Madam President, before we vote, a parliamentary inquiry.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Will the Committee please inform us again who are the members of the Judicial and Bar Council?

MR. ROMULO: The Judicial and Bar Council consists of the Chief Justice, the Minister of Justice, and a representative of the Congress as ex officio members. The regular members are a representative of the Integrated Bar, a law professor, a retired Justice of the Supreme Court and a representative of the private sector.

MR. DE LOS REYES: So, it is practically a Commission on Appointments, with the difference that it is a balanced composition of nonpolitical and political personages.

MR. ROMULO: Yes, Madam President.

MR. DE LOS REYES: Thank you.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized,

MR. OPLE: May I explain my predicament for a minute? Last Saturday, I found myself in a very small minority of this Commission supporting Commissioner Rodrigo. And this morning, the Committee and the Commission were kind enough to approve a proposed amendment which would extend the jurisdiction of the Ombudsman to the military establishment. I think I find myself now torn between two loyalties and two obligations. But may I say that although I would much rather have this office of the Ombudsman directly accountable to the President of the Philippines, I find the proposal now, as amended, quite bearable in that the office of the Ombudsman, if possible, ought to help the future Congress monitor the effects of its laws, especially on the efficiency and integrity of the government.

Thank you very much, Madam President.

VOTING

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

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

The results show 8 votes in favor and 28 against; the amendment is lost.

MR. RAMA: Madam President, I ask that Commissioner de Castro be recognized for an amendment.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President. It is already ten minutes after twelve; I shall be very, very brief.

During the period of sponsorship and debate, Commissioner Nollado, with his prowess in convincing people, talked about graft and corruption in our government. I cannot add nor subtract. The only thing I can say is: even as a joke, it is common now to answer "Ang lagay ba'y ano?" It is a joke, but it seeps through the dignity of a person.

I remember when I was young and was in the military academy for four years, only three things were taught to us: duty, honor, country. Yet, the Armed Forces was not spared from graft and corruption so much so that we now have a board composed mostly of retired military men. I am saying this because, while we recognize that graft and corruption is the cancerous malady that seeps into our society, we do not have a state policy on what to do about graft and corruption. The Article on Accountability of Public Officers mentioned graft and corruption only in two sections: in Section 2 and another one in Section 4. In so stating, graft and corruption on line 17, page 1 was mentioned as one of the causes for impeachment only; and on page 3 the Anti-Graft Court only describes

what a Sandiganbayan should be. The State has no policy regarding graft and corruption.

Madam President, I have a resolution about graft and corruption as a matter of state policy. It was referred to the Committee on Accountability of Public Officers, and yet there is nothing in the report about it. Apparently, we want to continue graft and corruption in our society, the very malady that seeps into our country. I was informed that this resolution was sent to the Committee on Preamble, National Territory, and Declaration of Principles. I am a member of this Committee but I do not find it there. May I know from the Committee whether or not they want a state policy on graft and corruption?

MR. MONSOD: Madam President, the resolution was referred by this Committee to the Committee on Preamble, National Territory, and Declaration of Principles. And if such was not done procedurally, we would like to state today for the record that it properly belongs to the Article on Declaration of Principles and should be considered by that Committee. But we do agree with the Commissioner on the policy against graft and corruption.

MR. DE CASTRO: Thank you. I will wait for it in our Committee.

MS. ROSARIO BRAID: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: I consulted with the Committee last Saturday on my proposal to have a declaration and they referred me to the Committee on Preamble, National Territory, and Declaration of Principles. And it reads: IT IS THE DUTY OF GOVERNMENT TO ERADICATE NEPOTISM, FAVORITISM, CORRUPTION AND WASTE IN PUBLIC LIFE. And so, this will be referred to said Committee. I think this supports Commissioner de Castro's proposal.

MR. DE CASTRO: Thank you. But considering the import of graft and corruption in our government and in our society, I would still insist that a particular section on graft and corruption be made a matter of state policy. I will wait for it in our Committee.

Madam President, my next and last amendment is on page 5, Section 14, lines 26 to 28. It was accepted by the Committee during our interpellation that the cronies are the ones most responsible in debauching our banks and our treasury, not the President, the Vice-President, the Congressmen nor the members of the Cabinet. I would request, therefore, on suggestion of somebody, that the words DIRECTLY OR INDIRECTLY be inserted between the words "granted" and "by" on line 28, page 5. So, the section now will read: "No loan, guaranty or other form of financial accommodation for any business purpose may be granted, DIRECTLY OR INDIRECTLY, by any government-owned or controlled bank . . ."

THE PRESIDENT: What does the Committee say?

MR. MONSOD: The Committee accepts the amendment.

MR. DE CASTRO: Thank you.

THE PRESIDENT: Are we ready to vote?

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

SUSPENSION OF SESSION

MR. RAMA: Madam President, I move that we suspend the session until one-thirty this afternoon.

THE PRESIDENT: The session is suspended for lunch until one-thirty in the afternoon.

It was 12:19 p.m.

RESUMPTION OF SESSION

At 1:46 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Before we start our agenda for this afternoon, may we acknowledge the presence of our guests from Indonesia led by Dr. Abdul Ghani, adviser to the President of Indonesia. He is very much interested in the proceedings of the Constitutional Commission of 1986.

We welcome you, Dr. Abdul Ghani, and your party.

The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Madam President, may I submit three proposals which, in principle, have already been accepted by the Committee.

The first amendment is on page 3, line 27. After the a words "Philippine Bar," insert the following: THEY MUST BE OF RECOGNIZED PROBITY AND INDEPENDENCE.

THE PRESIDENT: So, how will the section read now?

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We are accepting that phrase. May we await the amendment of Commissioner Regalado for purposes of locating it within the paragraph, if that is all right with Commissioner Bennagen.

MR. BENNAGEN: Yes.

MR. MONSOD: But the phrase "OF RECOGNIZED PROBITY AND INDEPENDENCE" is accepted by the Committee.

THE PRESIDENT: What is the amendment of Commissioner Regalado?

MR. REGALADO: On Section 1.

MR. MONSOD: Shall we go to Section 8 so that we can complete Section 8?

MR. REGALADO: Yes, Madam President.

This is one of my proposed amendments, to read: "The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, at least forty years old, AND OF RECOGNIZED PROBITY AND INDEPENDENCE."

MR. MONSOD: "AND MEMBERS of the Philippine Bar," Madam President.

MR. REGALADO: Let me have it again, Madam President, because my writing here is already confusing. "The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, at least forty years old, OF RECOGNIZED PROBITY AND INDEPENDENCE AND MEMBERS of the Philippine Bar."

THE PRESIDENT: How about "AND MEMBERS of the Philippine Bar"?

MR. BENNAGEN: I thought we are in the phrase "OF RECOGNIZED PROBITY AND INDEPENDENCE"?

MR. MONSOD: It was added already, Madam President.

MR. BENNAGEN: That is going to be the final form.

MR. MONSOD: Madam President, may I restate the paragraph as it will now read?

THE PRESIDENT: Yes, please.

MR. MONSOD: "The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, at least forty years old, WITH RECOGNIZED PROBITY AND INDEPENDENCE, AND MEMBERS of the Philippine Bar. The Ombudsman must have been engaged in the practice of law for at least ten years."

MR. ABUBAKAR: May I interpellate the sponsor on the phrase "RECOGNIZED PROBITY AND INDEPENDENCE"? Who shall determine the disqualifications? These two words have different meanings. So, how would the sponsor determine probity and independence? Will he leave it to the appointing power or must he attain a certain standard to meet the quality of probity and independence?

MR. ROMULO: Madam President, may the Committee answer that?

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: The Committee's plan, as the Commissioner knows, is that the nominees will come from the Judicial and Bar Council. So, initially, the Judicial and Bar Council will determine whether they possess the qualification of probity and independence.

As to the second part of the question, I would assume that a candidate must have reached a certain degree of accomplishment and public reputation.

MR. ABUBAKAR: Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Since this involves Section 8 already, I wonder if the Committee will accept further amendments to the proposal of Commissioner Bennagen. The proposed amendment would be on lines 25 and 27. On line 25, after the comma (,) following "Philippines," add the following: AND AT THE TIME OF THEIR APPOINTMENT, then put a comma (,); on line 27, after the word "Bar," add AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE OFFICE IN THE IMMEDIATELY PRECEDING ELECTION; and, finally, on line 28, delete the word "been," and substitute it with the following: FOR TEN YEARS OR MORE BEEN A JUDGE OR; then delete the word "for" on line 28 and all the words on line 29, and substitute the same with the words IN THE PHILIPPINES. So that the entire section will now read as follows: "The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, AND AT THE TIME OF THEIR APPOINTMENT, at least forty years old, WITH RECOGNIZED PROBITY AND INDEPENDENCE, AND MEMBERS of the Philippine Bar, AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE OFFICE IN THE IMMEDIATELY PRECEDING ELECTION. The Ombudsman must have FOR TEN YEARS OR MORE BEEN A JUDGE OR engaged in the practice of law IN THE PHILIPPINES."

THE PRESIDENT: Is that accepted by Commissioner Bennagen and the Committee?

MR. BENNAGEN: I do not think that is an amendment to my amendment. I think the Committee should answer it.

MR. REGALADO: That was an amendment to my proposed amendment.

THE PRESIDENT: I see. What does the Committee say?

MR. MONSOD: We accept the amendment, Madam President.

THE PRESIDENT: So then, can we state that this will be a joint amendment of Commissioners Bennagen, Davide and Regalado?

MR. MONSOD: Yes, Madam President.

THE PRESIDENT: May we have this read again, Mr. Chairman?

MR. MONSOD: "The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, AND AT THE TIME OF THEIR APPOINTMENTS, at least forty years old, WITH RECOGNIZED PROBITY AND INDEPENDENCE, AND MEMBERS of the Philippine Bar, AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE OFFICE IN THE IMMEDIATELY PRECEDING ELECTION. The Ombudsman must have FOR TEN YEARS OR MORE BEEN A JUDGE OR engaged in the practice of law IN THE PHILIPPINES."

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

MR. BENNAGEN: Madam President, may I proceed with the second amendment?

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: This is on page 4: after line 24, I propose to restore to the section the first function that was in Committee Report No. 16 which was not included in Committee Report No. 17.

THE PRESIDENT: So, what line?

MR. BENNAGEN: It should be included after the word "duties" on line 24.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: This will be a paragraph insertion, I believe.

MR. BENNAGEN: Yes, it is a whole paragraph. So, it is an amendment by insertion.

THE PRESIDENT: Before subparagraph (1).

MR. BENNAGEN: Yes. It used to be Section 6-A of Committee Report No. 16, and it reads: TO INVESTIGATE ON ITS OWN OR ON COMPLAINT BY ANY PERSON ANY ACT OR OMISSION OF ANY PUBLIC OFFICIAL, EMPLOYEE, OFFICE OR AGENCY WHEN SUCH ACT OR OMISSION IS ILLEGAL, UNJUST, IMPROPER OR INEFFICIENT.

I think the reason for restoring this is that it is a direct function of the Ombudsman without having to delegate it to others.

THE PRESIDENT: Is this accepted?

MR. ROMULO: Madam President, before we accept, could we ask Commissioner Bennagen to get together with Commissioner Natividad because he has the same idea. The principle being enunciated is acceptable to us but so as not to duplicate efforts, I suggest that the proponent confer with Commissioner Natividad.

THE PRESIDENT: Commissioners Bennagen and Natividad are requested to confer.

In the meantime, may we proceed to another amendment and we will call this amendment later on?

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

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Madam President, my amendment is on page 3, line 9 of Section 5. After the word "shall" add **HEREAFTER BE KNOWN AS SPECIAL PROSECUTOR**. The rest of the sentence will read: "It shall continue to function and exercise its powers as **NOW OR HEREAFTER MAY BE** provided by law, except those conferred on the office of the Ombudsman created under this Constitution."

The reason for this, Madam President, is that we have already changed the name of the Sandiganbayan to Anti-Graft Court under Section 4 of the draft. So, to harmonize the changes and to remove confusion arising from the use of the word "Tanodbayan" with respect to the prosecutorial function of the office, it is believed that the term "SPECIAL PROSECUTOR" will be a happier choice.

I request the Committee to accept the amendment if it is all right.

THE PRESIDENT: What is the reaction of the Committee?

MR. MONSOD: Madam President, the amendment reflects the Committee's thinking. It is time for us to restate here for the record that it has been brought to our attention by Commissioners Concepcion and Bacani that the Tanodbayan is already identified with Ombudsman and, therefore, we should retain Ombudsman or Tanodbayan and rename the prosecutorial office as Special Prosecutor. In view of this, Madam President, the Committee is accepting the amendment.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Just a point of inquiry about the change of nomenclature from Tanodbayan to Special Prosecutor. In effect, we are now reducing the status of the Tanodbayan to a mere special prosecutor.

MR. MONSOD: Madam President, may I answer that because I believe this is an important point.

What the present proposal of the Committee does is to separate two functions presently in the office of the Tanodbayan, which is the prosecutory and other functions related to it and separating it from the pure Ombudsman functions which are enumerated now in the Constitution. What we are saying is, the office of the Ombudsman as presently contemplated in the Constitution will continue to be named Tanodbayan and the prosecutory function will be put in another office which, as proposed now, will be called Special Prosecutor. The present Tanodbayan may end up as the Ombudsman of the Tanodbayan.

MR. FOZ: But under this provision now, he will just be a mere special prosecutor.

MR. MONSOD: No, Madam President, I think the statement is not accurate.

MR. FOZ: But that is the phrase used; that is the nomenclature used.

MR. MONSOD: Yes, because the function has been divided. So, it is not the same person and the same office anymore.

MR. FOZ: We know for a fact that at present the Tanodbayan enjoys the rank of a justice of the Intermediate Appellate Court, so if we reduce the office to that of a special prosecutor, attached to the Anti-Graft Court under

this provision, then the effect would be to reduce his rank from that of a justice of the Intermediate Appellate Court to a mere member or officer of the Prosecution Division of the Ministry of Justice.

MR. MONSOD: That does not follow, Madam President. The constitutional provision is silent as to the rank; that may be provided by law. It does not automatically follow that if he is a special prosecutor, he is at a certain level as one in the Ministry of Justice.

MR. FOZ: This is really the question, Madam President: In the case of the Sandiganbayan which, under the 1973 Constitution was authorized to be established by the legislature, there is no provision here for the establishment of such a court previously called Sandiganbayan but now to be renamed as Anti-Graft Court. Do I take it that it will be something that will be left to the discretion of the legislature, whether to establish or not, there being no longer any constitutional mandate for the establishment of such a court?

MR. COLAYCO: Madam President, may I answer the question?

The office of the Sandiganbayan under the provisions we have approved will be like this: We are not deducting any jurisdictional powers from the Sandiganbayan presently existing; we are just changing the name, just that.

MR. FOZ: It is just a change of name?

MR. COLAYCO: Yes.

MR. FOZ: So, the constitutional mandate for the creation of collegiate courts still remains?

MR. COLAYCO: Yes, Madam President.

MR. FOZ: And in the case of the Tanodbayan whose name has been changed also, the office for such an officer or official is also mandated by this Constitution?

MR. COLAYCO: That is correct.

I would like to point out though that actually we are not depriving the present position of Tanodbayan, or which the Commissioner is now proposing to be called Special Prosecutor, of any powers that it has not been exercising. We are only taking away those which he has not been able to perform under the present setup.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: My question is related to the question of Commissioner Foz. In the case of the Sandiganbayan, according to Section 4 of the proposal, its name is changed but its jurisdiction is not changed. So, the last sentence of Section 4 reads: "It shall continue to function and exercise its jurisdiction as provided by law." But in Section 5, not only is the name of Tanodbayan changed but its functions are reduced because according to Section 6 of the 1973 Constitution, which is reproduced in Section 5:

The Batasang Pambansa shall create an office of the Ombudsman, to be known as Tanodbayan, which shall receive and investigate complaints relative to public office, including those in government-owned or controlled corporations, make appropriate recommendations, and in case of failure of justice as defined by law, file and prosecute the corresponding criminal, civil, or administrative case before the proper court or body.

According to the proposed amendment, the function of the Tanodbayan as renamed will only be prosecutory. So, that is a diminution of the powers of the Tanodbayan.

MR. MONSOD: Yes, it is, Madam President.

MR. RODRIGO: So, we are reducing the powers of the Tanodbayan here?

MR. MONSOD: As defined in the 1973 Constitution, they are being reduced in this new Constitution.

MR. RODRIGO: Was the attention of Tanodbayan Raul Gonzalez called to the fact that the functions will be reduced, or was it that when he appeared he was under the impression that there will only be created an Ombudsman?

MR. MONSOD: I suppose that is the reason he wrote the letter.

MR. RODRIGO: But in his letter that I read, my impression is not that he did not have the impression that the powers of the Tanodbayan, of his office now, will be reduced. From the tenor of the letter, his impression was that there would be duplication of the functions of that office, and he said there is no need to create another office. All that the Tanodbayan needs, he says, is added appropriation.

MR. MONSOD: I suppose the answer to that is, the premise of his letter is wrong but it is clear that he recognizes the two functions, and this constitutional provision now will make that explicit.

MR. RODRIGO: But then, another problem arises. We make the Tanodbayan, as renamed, a prosecuting arm. So, this will just be a duplication of the work of the fiscals under the Ministry of Justice.

MR. MONSOD: I believe we discussed that issue earlier. That is another issue unrelated to what is being discussed but, in any case, we believe that a special prosecutor for anti-graft cases is still needed because that is a specialization and there are many cases now falling under the Anti-Graft and Corrupt Practices Act. During the hearings of the Committee, which were attended by Tanodbayan Justice Gonzalez and also Sandiganbayan Justice Garchitorena, it was highlighted that there is a need for specialization in anti-graft cases.

MR. RODRIGO: So, do I take it that the functions of the Tanodbayan will not only be reduced to purely prosecutory functions but they will further be limited to prosecution of anti-graft cases? Is that it?

MR. MONSOD: That is the intent, Madam President, of renaming the Sandiganbayan as the Anti-Graft Court and the prosecutory arm as the Special Prosecutor in anti-graft cases.

REV. RIGOS: Madam President.

MR. RODRIGO: So, may I just make a resume? Do I get it right that the powers of the Tanodbayan under the 1973 Constitution — to receive and investigate complaints relative to public officials and make recommendations — are taken away and these will be limited not only to prosecution of special cases but anti-graft cases?

MR. MONSOD: That is what the Tanodbayan is limited to prosecute now. In fact, if one were to read through the letter of Justice Gonzalez, he himself conceives the prosecution to be limited within the confines of the Anti-Graft and Corrupt Practices Act.

MR. RODRIGO: And other cases then will be filed with the Sandiganbayan. Is that correct?

MR. MONSOD: Yes, Madam President.

MR. FOZ: In connection with that, Madam President, there is another point.

MR. RODRIGO: No, not yet; I just want to clarify.

THE PRESIDENT: Will Commissioner Foz please allow Commissioner Rodrigo to finish first?

MR. FOZ: There is one point in connection with the matter being raised by Commissioner Rodrigo.

MR. RODRIGO: Just a minute. I am not yet through, but I am willing to wait.

MR. FOZ: Yes, the question was whether the Special Prosecutor, the former Tanodbayan, will be limited to prosecution of anti-graft cases; in other words, cases arising from violations of our present law, the Anti-Graft and Corrupt Practices Act. But actually even our Constitution on the Tanodbayan provides that it shall have jurisdiction on offenses involving public officials and employees committed in relation to the performance of their office. So, it is not just mere anti-graft cases, but offenses involving performance of the functions of office by public officers and employees.

MR. MONSOD: Madam President, perhaps we should restate our answer. We stand corrected on that. What we are saying here in the provisions is that the functions exercised by the present Tanodbayan will continue, except those that have been separated from it by reason of the establishment of the Ombudsman under this concept. And that would include violations under Article VII of the Revised Penal Code, referring to the performance by public officials of their duties.

REV. RIGOS: Madam President.

THE PRESIDENT: Let us allow Commissioner Rodrigo to finish and then maybe we can have the other speakers. Please proceed, Commissioner Rodrigo.

MR. RODRIGO: What is the proposed name for the Tanodbayan?

MR. MONSOD: Special Prosecutor.

MR. RODRIGO: The very name itself implies that its functions will then be limited to prosecution of special cases only.

I wonder if the Committee will accept an amendment to abolish the Tanodbayan completely. That is the result of this, because prosecution can be done by the fiscals.

MR. MONSOD: If the Commissioner wishes to put that in the form of an amendment, we will ask the body to decide on it on the floor.

MR. RODRIGO: No, I just wanted to emphasize a point.

REV. RIGOS: That is my amendment, Madam President.

THE PRESIDENT: Excuse me. Was there any amendment by Commissioner Rodrigo? What was the amendment of Commissioner Rodrigo?

REV. RIGOS: No, I will propose the amendment.

MR. BENNAGEN: What is the parliamentary situation?

MR. JAMIR: He is not pursuing his amendment?

MR. RODRIGO: I am not pursuing. I just used that to emphasize the point that we have emasculated completely the Tanodbayan

THE PRESIDENT: May the Chair inquire from the Chairman of the Committee what office would have administrative supervision now over the Tanodbayan? Is there any office that would have administrative supervision over the Tanodbayan, as described in Section 5?

MR. ROMULO: Madam President, as the decree now reads, no one has jurisdiction over the Tanodbayan. He may be removed by the President for a cause.

THE PRESIDENT: So he is directly under the Office of the President?

MR. ROMULO: Yes, because it is the President who may remove him for a cause. In effect, he comes under the Office of the President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, the difficulty in Section 5, page 3 is that the Tanodbayan is understood to be the same as the Ombudsman under the 1973 Constitution, and this reference to Section 6 of Article XIII of the 1973 Constitution contributes to the confusion. I would like to find out whether the Committee would consider the possibility of just not mentioning the Tanodbayan at all and instead, in Section 5, we will simply say: THERE IS HEREBY CREATED THE OFFICE OF SPECIAL PROSECUTOR, which will be the prosecution arm of the Ombudsman, without reference to Article XIII of the 1973 Constitution.

MR. MONSOD: Madam President, that is the intent of Section 5. However, the new Constitution cannot be completely silent on this because the reality is, there is an office existing; so, somehow, it has to be dealt with, which the Committee had decided would be a better way to do it, either in the main body or in the Transitory Provisions of the Constitution. Those were the options we had. And the Committee decided that it is better to put it here, so that in the sequence of the paragraphs, the concepts will stand out on what the intent of the Committee was.

REV. RIGOS: The Committee's decision, as recommended in Section 5, constitutionalizes Section 6 of Article XIII of the 1973 Constitution which will precisely avoid confusion.

MR. MONSOD: Madam President, we wanted to constitutionalize the Ombudsman, but in the discussions yesterday, it was the preference of the body that the 1973 Constitution not be mentioned here, and that is the reason we accepted an amendment from Commissioners Treñas and Regalado.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Floor Leader is recognized.

MR. RAMA: Commissioner Jamir still has three amendments.

THE PRESIDENT: Has the Committee accepted the first proposed amendment?

MR. MONSOD: We have accepted it, Madam President.

THE PRESIDENT: Yes, then we submit it to a vote first before we proceed to the next amendment.

Will Commissioner Jamir please read the proposed amendment?

MR. JAMIR: The proposed amendment, Madam President, reads: "The Tanodbayan, created pursuant to the mandate of Section 6 of Article XIII."

MR. MONSOD: Madam President, that has been changed. May I read it?

MR. JAMIR: Yes, please.

MR. MONSOD: "The Tanodbayan, PRESENTLY EXISTING, SHALL HEREAFTER BE KNOWN AS SPECIAL PROSECUTOR. IT shall continue to function and exercise its powers as NOW OR MAY HERE AFTER BE provided by law, except those conferred on the office of the Ombudsman created under this Constitution."

VOTING

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

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

The results show 24 votes in favor and 4 votes against; the amendment is approved.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May I be recognized for a clarification regarding the creation of the Office of Special Prosecutor. Is my understanding clear to the effect that the functions of this office is different from the Office of the State Prosecutor? This is for purposes of the record because the Office of the State Prosecutor is under the Ministry of Justice and the Office of Special Prosecutor that we are creating under Section 5 is a constitutional body.

MR. ROMULO: Yes, they are separate and, in effect, the Special Prosecutor is a mandated office by the Constitution.

MR. SUAREZ: In other words, the Office of Special Prosecutor will handle exclusively graft and corruption cases, unlike the case of the State Prosecutor which could handle any and all kinds of criminal cases to avoid overlapping of functions.

MR. ROMULO: Yes, that is correct. He will handle all of the prosecution that comes to the Sandiganbayan by virtue of the jurisdiction of the Sandiganbayan.

MR. SUAREZ: So, that will exclude or preclude the state prosecutors from acting as prosecutors in the Office of the Special Prosecutor.

MR. ROMULO: Yes, Madam President.

MR. SUAREZ: That is clear.

MR. ROMULO: Yes.

MR. SUAREZ: But will that also preclude the state prosecutors from acting as special prosecutors?

MR. ROMULO: I think the Special Prosecutor may appoint such deputies as he may choose. So, in that way, the so-called State Prosecutor could be utilized by the Special Prosecutor, if he likes.

MR. SUAREZ: It might be a little confusing. May I suggest that this matter be further clarified, because there could be a duplication of functions between the Office of the Special Prosecutor which is constitutional in character and the Office of the State Prosecutor which is only under the Ministry of Justice.

MR. REGALADO: Madam President.

MR. ROMULO: Let us put it this way. They are separate offices; we do not intend to get them mixed up. The Special Prosecutor's Office is really the Tanodbayan's office now.

MR. SUAREZ: So, let us go to a specific case, Madam President, because this is important for the record. Let us say an anti-graft case is filed against a public official, Juan de la Cruz, so that will be handled by the Special Prosecutor's Office.

MR. ROMULO: Yes, as is the present practice.

MR. SUAREZ: And when the formal complaint is filed with the Anti-Graft Court, the one who will appear to

prosecute that will be the Special Prosecutor and not the State Prosecutor?

MR. ROMULO: Yes, Madam President.

MR. SUAREZ: Thank you, Madam President.

MR. REGALADO: May I add a point of information on that based on Commissioner Suarez' observation?

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: The present practice of the Tanodbayan, which will now be known as the Special Prosecutor, is to deputize Or designate provincial fiscals in remote areas of the Philippines to handle the preliminary investigation. But the actual prosecution in the Sandiganbayan is handled by the Tanodbayan — now this is supposed to be called the Special Prosecutor — to prevent the need for people in the provinces to come to Manila just for preliminary investigation. That is the present practice now.

MR. GUINGONA: Madam President.

MR. RAMA: Madam President, Commissioner Jamir has the floor. May we finish his amendments?

MR. GUINGONA: This is just in reaction to the remarks of Commissioner Regalado where he spoke about deputation. Since there are two separate bodies under different jurisdictions — one under the Ministry of Justice and the other apparently under the Office of the President — I was wondering whether the Special Prosecutor now could deputize even without the approval of the Minister of Justice.

MR. ROMULO: That is the present practice now.

MR. REGALADO: May I add to that? The practice is based on the rules of the Tanodbayan. But, of course, before they can deputize a particular provincial or city fiscal in any of the provinces outside Manila, they usually get the concurrence of the Minister of Justice to determine the availability and the number of the fiscals in that particular region.

THE PRESIDENT: What is the next amendment of Commissioner Jamir?

MR. JAMIR: My next amendment is with respect to the name "Ombudsman." I propose that the word TANODBAYAN be placed before the word "Ombudsman" and that the word "Ombudsman" be enclosed in parentheses. My reason is that the 1971 Constitutional Convention used the name "Tanodbayan" as the most appropriate translation in Pilipino for the word "Ombudsman."

THE PRESIDENT: Which section then — Section 5?

MR. JAMIR: It should apply to all sections of the proposal, beginning with Section 2, line 14.

THE PRESIDENT: All references to "Ombudsman" should be preceded by the word "TANODBAYAN"?

MR. JAMIR: And the word "Ombudsman" should be enclosed in parentheses.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: Would the proponent be willing to say "TANODBAYAN OR Ombudsman"? We are suggesting that because in over 50 countries, the word "Ombudsman" has acquired a certain international meaning and practice.

MR. JAMIR: I welcome the Committee's suggestion.

MR. RODRIGO: Madam President, may I be recognized for a question?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: There is already an existing Office of the Tanodbayan which is called Ombudsman in the 1973 Constitution. I think this office will continue to exist. Under what section will it exist: Section 5 or Section 6?

MR. MONSOD: It will continue to exist under Section -5. It will now be called Special Prosecutor and the new Office of the Ombudsman or Tanodbayan is the one that is mandated as a creation of this Constitution.

MR. RODRIGO: So, this emasculated office will continue to exist under Section 5.

Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like to introduce an amendment to the accepted amendment, the idea being that it would not look elegant to indicate "Office of the Ombudsman or Tanodbayan." Why do we not just say OFFICE OF THE OMBUDSMAN TO BE KNOWN AS THE TANODBAYAN so we do not have to use the word "or" in the stationery of the Ombudsman?

MR. MONSOD: We accept the amendment.

MR. ROMULO: If Commissioner Jamir accepts it, we will accept.

MR. JAMIR: I have already expressed my agreement with the Committee.

MR. SARMIENTO: Madam President, this is just an amendment to the amendment of Commissioner Jamir who speaks of the Tanodbayan as the Ombudsman. However, Section 11 defines the Ombudsman as the champion of the people. When he speaks of Tanodbayan, he is referring to a protector or guardian. "Tanod" means guardian or watchman, not champion. Is Commissioner Jamir willing to accept the word LINGKOD-BAYAN which would embrace all concepts — tanod, guardian, watchman or anything?

MR. MONSOD: We regret that the Committee cannot accept that. It will just lead to confusion.

MR. SARMIENTO: For clarity and simplicity, I withdraw the amendment.

MR. ROMULO: Thank you.

THE PRESIDENT: May the Chair hear the amendment of Commissioner Davide.

MR. MONSOD: The amendment states: On line 11, it will say ". . . conferred on the office of the Ombudsman TO BE KNOWN AS TANODBAYAN." Then the subsequent adjustments will be made wherever the word "Ombudsman" appears.

THE PRESIDENT: Just for clarification, what happens now to the word "Tanodbayan" in Section 5?

MR. MONSOD: The "Tanodbayan" under Section 5 shall hereafter be known as Special Prosecutor.

THE PRESIDENT: Instead of "Tanodbayan"?

MR. MONSOD: Yes.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Will Commissioner Jamir accept as an amendment to his amendment the word TANGGOL-BAYAN instead of Tanodbayan" to avoid any confusion among the Members?

MR. JAMIR: Madam President.

THE PRESIDENT: Commissioner Jamir is recognized:

MR. JAMIR: I will be happy to accept the proposed amendment, but my amendment has been accepted by the Committee and it is now for the Committee to accept or reject the proposal of Commissioner Bacani.

THE PRESIDENT: Does the Committee accept the amendment of Commissioner Bacani?

MR. ROMULO: Will the Commissioner explicate what that word means?

BISHOP BACANI: When I consulted the Committee yesterday to know the literal meaning of the word "Ombudsman," I was told by two members of the Committee that its literal translation is protector of the people. So, if we wish to convey the idea of a protector of the people, the word TANGGOL-BAYAN should be used. It would be more expressive than "Tanodbayan." Besides the word TANGGOL-BAYAN connotes more the idea of championing the cause of the people. That is why I propose TANGGOL-BAYAN.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 2:31 p.m.

RESUMPTION OF SESSION

At 2:37 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Madam President, I ask that the Chairman of the Committee, Commissioner Monsod, be recognized.

THE PRESIDENT: Commissioner Monsod is recognized.

QUESTION OF PRIVILEGE OF COMMISSIONER GUINGONA

MR. GUINGONA: Madam President, I would like to stand on a question of privilege. Last Saturday I stood up to suggest the appropriate term for Ombudsman, and I was informed by the Chairman of the Committee that they could not accept it because they would like to defer and refer the matter to the Committee on Style. I did not press my amendment, but today they are considering and even accepting a name. I do not see why there should be any discrimination against me. The name that I proposed was sent to the Committee on Style but when another Commissioner proposed a name, the Committee is now considering whether or not they would accept it. I suggest that every name that is presented should be referred to the Committee on Style.

THE PRESIDENT: The Chair was about to call the attention of the body regarding this proposed amendment of Commissioner Guingona that was presented yesterday and the Chair was going to suggest that this be a joint amendment of Commissioner Guingona and other Commissioners who have also proposed names.

MR. MONSOD: Madam President, may we now be given a chance to speak?

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We had the floor before and we were interrupted. Before we were interrupted we were about to

say that we were proposing to retain temporarily or provisionally the phrase "Ombudsman, TO BE KNOWN AS TANODBAYAN" and then to refer it to the Committee on Style as we had earlier suggested and agreed upon last Saturday. We have one month to think over the possible options including "TANGGOL-BAYAN" in order for us to really reflect on what would be a good name for this Ombudsman. That was the proposition we were going to say before we were interrupted.

MR. GUINGONA: Madam President, in the first place, I did not interrupt, because the honorable Chairman has not started speaking yet.

MR. MONSOD: Madam President, we were the ones recognized.

MR. GUINGONA: This is a matter of privilege, and I think this should precede the comments of the honorable Chairman.

THE PRESIDENT: The Chairman has already explained and the Chair believes that there is no intention to discriminate against anyone. In fact, we suspended the session so that the Commissioners may be able to confer on this issue about the names.

MR. GUINGONA: Madam President, may I respectfully submit Bishop Bacani's view to which I concurred. This matter of changing the name cannot be referred to the Committee on Style. I do not think that the Chairman of the Committee or even this Commission can share its responsibility of deciding a name or pass it on to the Committee on Style. That is not the function of the Committee on Style.

THE PRESIDENT: We now go to the pending amendment. Who proposed the amendment? Was it Commissioner Jamir?

MR. JAMIR: I proposed the amendment.

MR. MONSOD: May we speak, Madam President?

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I thought the honorable Commissioner complained on a matter of privilege because he wanted us to follow the original agreement last Saturday of referring his proposal to the Committee on Style. Is he now taking the position that that referral is out of order?

THE PRESIDENT: To clarify the situation once and for all, the Chair believes that there was a proposed amendment of Commissioner Guingona about the name "Bantaybayan" and the resolution or action taken by the Committee was that the same would be referred to the Committee on Style.

This afternoon there is a proposed amendment with respect to the name, which resurrects the whole idea again. The Chair believes that there is merit to what Commissioner Guingona said that this name, referring to the office of the Ombudsman, is one that cannot just be referred to the Committee on Style and that the matter should be decided by the body now.

Would the body decide to change the name "Ombudsman" or retain it, as explained by the Chairman considering that it has acquired an international connotation or meaning? So, what is the amendment of Commissioner Jamir, with respect to the name?

MR. JAMIR: My proposed amendment is to add the word TANODBAYAN before the word "Ombudsman" and to enclose the word "Ombudsman" with parentheses. However, I accepted the suggestion of the Committee that the word "OR" be placed between TANODBAYAN and "Ombudsman." Then, it was subsequently reamended by Commissioner Davide.

THE PRESIDENT: What was the amendment of Commissioner Davide?

MR. DAVIDE: It should read: "Ombudsman TO BE KNOWN AS TANODBAYAN."

THE PRESIDENT: So, those two names are being kept.

MR. JAMIR: I think the Committee accepted that amendment of Commissioner Davide.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: It was at that point that I suggested TANGGOL-BAYAN as an amendment to the amendment of Commissioner Jamir, and I thought he accepted the amendment.

THE PRESIDENT: So, that was the time when we called a suspension of the session. May the Chair know the result of the conference, if there was any, on this name to be given to the Ombudsman?

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: The consensus reached was to give it to the Committee on Style. But since we are now deciding on that, we would rather that the body vote on the name.

VOTING

THE PRESIDENT: Those in favor of this particular proposed amendment, "Ombudsman TO BE KNOWN AS TANODBAYAN," please raise their hand. (Several Members raised their hand.)

Those against, please raise their hand. (Few Members raised their hand.)

MR. RODRIGO: I register my abstention.

THE PRESIDENT: The results show 28 votes in favor, 6 against and 1 abstention.

Just for the record: those in favor of "TANGGOL-BAYAN," please raise their hand. (Few Members raised their hand.)

Those against, please raise their hand. (Several Members raised their hand.)

The results show 28 votes in favor of the term "TANODBAYAN" for Ombudsman and 9 votes in favor of "TANGGOL-BAYAN."

The amendment which reads "Ombudsman TO BE KNOWN AS TANODBAYAN" is approved.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Just a minor point of parliamentary inquiry.

Since we have already approved that the word "Ombudsman" should be known as Tanodbayan, what happens now to the original Tanodbayan?

THE PRESIDENT: Is the Commissioner asking about the existing Tanodbayan?

MR. MAAMBONG: We will have two Tanodbayans now.

MR. MONSOD: May we answer the question, Madam President?

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: This is the third time we have answered that question. Section 5 is the relevant article. The original Tanodbayan would be known as the Special Prosecutor.

THE PRESIDENT: Is there any other amendment by Commissioner Jamir?

MR. JAMIR: Madam President, my next amendment is an insertion of a new subparagraph after subparagraph 5 of Section 12 on page 5, and it reads: TO FIND WAYS AND MEANS OF REDUCING RED TAPE IN GOVERNMENT OPERATION AND IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Is Commissioner Jamir willing to accept an amendment to his amendment?

MR. JAMIR: I would be glad to hear it first.

MR. SARMIENTO: This amendment is sponsored by this Member and cosponsored by Chief Justice Roberto Concepcion.

The additional provision will read: TO EXAMINE AND STUDY THE ACTUAL OPERATIONS OF THE GOVERNMENT, AND TO MAKE RECOMMENDATIONS TO ENSURE EFFICIENCY, COORDINATION OF VARIOUS OFFICES, AND CORRECT IRREGULARITIES AND PRACTICES.

Madam President and Chairman of the Committee, the purpose of this amendment is that the Ombudsman has three functions; namely, as mobilizer, watchdog and official critic. The first two functions, mobilizer and watchdog, are reflected in the enumeration of functions, but the function as official critic, meaning, making recommendations to cut red tape and to improve efficiency, is not.

So, is Commissioner Jamir willing to accept the amendment to his amendment?

MR. JAMIR: I deeply regret that I cannot accept the proposed amendment because it will, in effect, overload the Tanodbayan or the Sandiganbayan or the Ombudsman with duties far beyond the comprehension of the Committee as stated in this proposal.

SUSPENSION OF SESSION

MR. SARMIENTO: Madam President, to consolidate our proposals, may I ask for a suspension of the session?

THE PRESIDENT: The session is suspended.

It was 2:50 p.m.

RESUMPTION OF SESSION

At 2:57 p.m. the session was resumed.

THE PRESIDENT: The session is resumed.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: This is just a matter of information, Madam President.

THE PRESIDENT: The Commissioner may proceed.

MR. DE CASTRO: Thank you.

This morning, we approved Commissioner Ople's amendment on Section 6, lines 13 to 16, that a separate deputy for the military be created. On Section 8, we said that the Ombudsman and his deputies shall be members of the Bar with at least 10 years of law practice. I doubt whether we could have in the military somebody who is a member of the Philippine Bar and has engaged in law practice for at least 10 years. I know that there are several members of the Bar in active duty now but they do not have 10 years of law practice. I know of several retired officers who are members of the Bar but they do not practice their profession. So the choice here will be very limited.

Thank you, Madam President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I think that in Section 8, the requirement of at least 10 years as judge or a 10-year experience in the practice of law is only for the Ombudsman but not for his deputies. The only requirement for the deputies is that they be members of the Philippine Bar.

THE PRESIDENT: Does he have to be a military man?

MR. MONSOD: No, he does not have to be a military man and need not have practiced law for 10 years or need not have been a judge for 10 years.

Section 8 has been corrected, amended and accepted.

MR. DE CASTRO: Will the Commissioner please read the correction?

MR. MONSOD: Section 8, as amended, now reads: "The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, and at the time of their appointments, at least forty years old, with recognized probity and independence, and members of the Philippine Bar, and must not have been candidates for any elective office in the immediately preceding election."

The Ombudsman refers to just one person.

MR. DE CASTRO: Thank you, Madam President.

MR. MONSOD: Thank you.

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

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: With reference to Section 3, regarding the procedure and the substantive provisions on impeachment, I understand there have been many proposals and, I think, these would need some time for Committee action.

However, I would just like to indicate that I submitted to the Committee a resolution on impeachment proceedings, copies of which have been furnished the Members of this body. This is borne out of my experience as a member of the Committee on Justice, Human Rights and Good Government which took charge of the last impeachment resolution filed before the First Batasang Pambansa. For the information of the Committee, the resolution covers several steps in the impeachment proceedings starting with initiation, action of the Speaker, committee action, calendaring of report, voting on the report, transmitting referral to the Senate, trial and

judgment by the Senate.

I feel very strongly that the proposal I submitted will more or less solve the problem which was also the problem of the First Batasang Pambansa. In the formulation of these proposed provisions, I consulted the Rules of the House of Representatives and the Rules of the Senate of the United States.

There are features which seem to be objectionable to the Committee.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: May I suggest that in the interest of a more coherent debate, we go back to the procedure of anterior amendments. Right now what we are doing is by random amendments. I still have two pending amendments and now we are already discussing the proposal of Commissioner Maambong. I think we are sacrificing the quality of the debate.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: We have not followed the old procedure because those who came here to register did not indicate which section they are going to amend.

In the case of Commissioner Bennagen, he is supposed to coordinate with Commissioner Natividad for a certain amendment. I do not know whether or not he has already done that. He has two more amendments. I am under the impression that he has not yet consulted with Commissioner Natividad.

THE PRESIDENT: What does Commissioner Bennagen say?

MR. BENNAGEN: I did, as a matter of fact, I have already informed the Floor Leader that I already made consultations with Commissioner Natividad, but this is for another amendment. It does not refer to the subject matter that we discussed earlier, which was for the insertion of a subsection present in Committee Report No. 16 but not included in Committee Report No. 17. We have not acted on that. I gave in to the amendments of Commissioner Jamir because those had to do with the decision on the name of the office.

THE PRESIDENT: What is the pleasure of the Floor Leader?

MR. RAMA: I think the Commissioner has still two more amendments. So I ask that he be recognized.

MR. REGALADO: Madam President, what is now the procedure? Shall we defer this after Commissioner Bennagen has spoken, or shall we revert now to the process of anterior amendments?

THE PRESIDENT: The Floor Leader is calling the Commissioners in accordance with their having signified their intention to propose amendments. So the Chair believes that we will just continue the procedure that has been employed and followed by the Floor Leader, at least, for this afternoon. But inasmuch as Commissioner Bennagen is already on the floor, we will continue considering his amendments.

MR. REGALADO: Thank you, Madam President.

MR. BENNAGEN: May I be clarified as to the method of proposing amendments, because my belief is that there is a certain logical sequence in the articles?

THE PRESIDENT: What is the Commissioner's proposed amendment that he wants the body to consider now? The Commissioner has several amendments.

MR. BENNAGEN: Before we go to the amendments, I want to be clarified first as to the method of proposing amendments to be followed. Should we go back to the process of anterior amendments or the random amendments that we have been following for a number of days?

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: The list of Commissioners who registered was made last Saturday. So, I suggest that we just follow the sequence as they are listed.

MR. BENNAGEN: For now.

MR. RAMA: Yes, for now.

THE PRESIDENT: In fact, this morning, we gave Commissioner Ople all the time to finish his amendments. So, that is the procedure we will try to follow this afternoon. The Chair has already recognized Commissioner Bennagen, so he may submit his amendments now.

MR. BENNAGEN: Is it my understanding also that after this, we will go back to the process of anterior amendments?

THE PRESIDENT: Whether it is anterior or posterior, we are just calling the Commissioners as listed.

MR. JAMIR: Excuse me, Madam President.

THE PRESIDENT: Is Commissioner Jamir through already?

MR. JAMIR: Not yet, Madam President. When the session was suspended, I had the floor, and we went into a huddle with the other proponents of other matters similar to mine. We have agreed now, and I would like to proceed with it.

THE PRESIDENT: On what particular section?

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I am making a formal motion that after the deliberations on the Article on Accountability of Public Officers we will go back to the procedure of anterior amendments, section by section. I think that is more orderly and that respects the logical sequence of the articles.

THE PRESIDENT: Is there any objection to the motion of Commissioner Bennagen that after this particular Article on Accountability of Public Officers, we shall follow the procedure — although we have not followed that procedure — of proceeding section by section? Is that how I understand the Commissioner's motion?

MR. BENNAGEN: Yes, Madam President.

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

MR. BENNAGEN: Thank you, Madam President. May I now go back to my amendment.

Somehow I lost my way after that semantic confusion about the Tanodbayan.

My amendment is on page 4, Section 12. After line 24, insert Section 6(a) of the earlier Committee Report No. 16, which reads as follows: TO INVESTIGATE ON ITS OWN OR ON COMPLAINT BY ANY PERSON, ANY

ACT OR OMISSION OF ANY PUBLIC OFFICIAL, EMPLOYEE, OFFICE OR AGENCY WHEN SUCH ACT OR OMISSION IS ILLEGAL, UNJUST, IMPROPER OR INEFFICIENT; and this was previously accepted by the Committee.

THE PRESIDENT: Has it been accepted?

MR. BENNAGEN: Yes, Madam President.

MR. MONSOD: Madam President, that is a restatement of the first draft of the Committee and the proposal of Commissioner Bennagen is to restate it. The Committee accepts the proposal.

MR. BENNAGEN: Thank you, Madam President.

THE PRESIDENT: Will the body vote on this?

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: The phrase "WHEN SUCH ACT OR OMISSION IS ILLEGAL" seems the only investigatory phrase that seems to already prejudge the outcome. Can we use a better phrase such as SUSPECTED TO BE ILLEGAL or APPEARS TO BE ILLEGAL?

THE PRESIDENT: What does the Committee say?

MR. BENNAGEN: The Committee takes jurisdiction over that since it has accepted the amendment.

THE PRESIDENT: Will the Commissioner read the proposed amendment again?

MR. BENNAGEN: My proposed amendment by insertion reads: TO INVESTIGATE ON ITS OWN OR ON COMPLAINT BY ANY PERSON, ANY ACT OR OMISSION OF ANY PUBLIC OFFICIAL, EMPLOYEE, OFFICE OR AGENCY WHEN SUCH ACT OR OMISSION IS ILLEGAL, UNJUST, IMPROPER OR INEFFICIENT.

BISHOP BACANI: May I suggest that this be amended by using the phrase ALLEGED TO BE.

THE PRESIDENT: What does the Committee say?

MR. COLAYCO: Or we might add APPEARS TO BE.

MR. BENNAGEN: I accept.

THE PRESIDENT: It is accepted.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

Commissioner Bennagen is recognized.

MR. BENNAGEN: The next amendment is already incorporated in a group amendment to be presented by Commissioner Jamir. So, I request that Commissioner Jamir be recognized.

THE PRESIDENT: The Commissioner has no other amendment?

MR. BENNAGEN: I will read into the record some of the reasons after Commissioner Jamir shall have presented the amendment.

Thank you, Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Madam President, my amendment will be an amendment by insertion. On page 5, after Section 12 (5), insert the following: TO DETERMINE AND MAKE RECOMMENDATIONS FOR THE OBSERVANCE OF HIGH STANDARDS OF ETHICS AND EFFICIENCY AND TO ELIMINATE THE ROOT CAUSES OF INEFFICIENCY, RED TAPE, MISMANAGEMENT, FRAUDS AND CORRUPTION IN THE GOVERNMENT.

This is a consolidation of the proposals of Commissioners Natividad, Sarmiento, Bennagen, Concepcion and myself.

THE PRESIDENT: What does the Committee say?

MR. ROMULO: The Committee accepts.

THE PRESIDENT: The Committee has accepted the amendment.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. JAMIR: My last amendment is to be inserted after the last portion of the proposal and it reads: THE TANODBAYAN OFFICIALS AND EMPLOYEES, OTHER THAN THE DEPUTIES, SHALL BE APPOINTED BY THE TANODBAYAN ACCORDING TO THE CIVIL SERVICE LAW.

MR. ROMULO: Is the Commissioner subjecting the Tanodbayan Deputies to the Civil Service?

MR. JAMIR: No, precisely, it says: THE TANODBAYAN OFFICIALS AND EMPLOYEES, OTHER THAN THE DEPUTIES, SHALL BE APPOINTED BY THE TANODBAYAN ACCORDING TO THE CIVIL SERVICE LAW.

MR. ROMULO: We accept.

MR. JAMIR: Thank you.

THE PRESIDENT: The Committee has accepted the amendment.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

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

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, before I was interrupted I was saying that the proposed provision on impeachment which I have submitted to the Committee might have some objectionable points because some of the members say it is unduly long. However, I would just like to indicate for the record that I am doing this precisely to correct the deficiencies which happened in the last Regular Batasang Pambansa.

THE PRESIDENT: Are there copies of this proposed amendment?

MR. MAAMBONG: Yes, Madam President.

THE PRESIDENT: We do not have copies.

MR. MAAMBONG: Right now we have three proposals: the proposal of Commissioner Regalado, that of Commissioner Davide and my own proposal. In order to save time for the Committee I am now formally asking that this six-paragraph provision which has exactly the same number of paragraphs that is now being indicated in the committee report except for paragraph 7 which is on rule-making be inserted in the Record. Then I ask that we

defer the consideration of this until the three proposals have been worked out by the Committee.

I will not proceed to another amendment, Madam President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, the Committee has sat down with Commissioners Davide and Regalado regarding the draft. The only difference between that formulation and that of Commissioner Maambong is on the question of the need for an investigation before it goes into the Order of Business and it is a little bit shorter.

So, if Commissioner Maambong is willing to accept that insertion in the version of Commissioners Davide and Regalado, we may already have the proposal subject only to whatever refinements of style may be done by the Committee on Style.

MR. MAAMBONG: Now that the Commissioner has mentioned it, I might as well inform the Chair that the reason I am insisting that before a complaint is formally received by the legislature, it has to be accompanied by a resolution of a number of Members of the House is that it is the standard procedure under the Rules of the House of Representatives of the United States of which I have a copy here. If we do not follow this procedure by a resolution, the resultant effect would be that impeachable officers will be subject to harassment because of baseless charges. We can just imagine if any Tom, Dick and Harry will just pay P5 to a notary public to verify a complaint, and when the complaint reaches the legislature it will go immediately into the Order of Business. What will happen to all our impeachable officers? That is why we indicated that we need something like one-fifth of the membership or even a lower number to sign a resolution with which the verified complaint of the citizen or a member will be attached. That is the normal procedure all throughout the parliaments of the world.

MR. MONSOD: Madam President, we believe we are close to a formulation here. May we request Commissioner Davide to inform us of the status of the reconciliation?

MR. DAVIDE: The reconciliation could be easily accomplished by merely inserting a comma (,) after "Members" in the Committee modification, and the words UPON A RESOLUTION OF INDORSEMENT BY ANY MEMBER OF THE HOUSE after the word "citizen." That would take care of everything.

MR. MAAMBONG: I do not want to debate on this point right now. I would rather ask the Committee members to go over the three proposals maybe a few minutes from now so they can put in the exact wording so that we will not waste so much time, Madam President. The proposal of Commissioner Davide is more or less acceptable but I am also concerned of the presentation of the totality of the Rules on Impeachment because I am sorry to use the word-it seems to be a very confusing proposal. The proposal I have put forward took me several hours, in fact the whole day yesterday, to formulate based on my experience as a member of the Committee on Justice, Human Rights and Good Government, so I ask the Committee to look at it closely.

I will now proceed to another amendment which is very simple.

THE PRESIDENT: All right, so we will defer this particular amendment.

MR. MONSOD: We will abide by the request of the Commissioner.

MR. MAAMBONG: Thank you.

THE PRESIDENT: We now go to the next amendment.

MR. MAAMBONG: Thank you, Madam President.

I would like to propose an amendment on page 4, Section 11, line 15, which is to delete the first clause "as champions of the people" and in lieu thereof to insert the following phrase: SHALL GIVE EFFECT TO THE RIGHT OF THE PEOPLE TO PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCES AND TO PROMOTE HIGHER STANDARDS OF INTEGRITY AND EFFICIENCY IN THE GOVERNMENT SERVICE. The reason for this is that this statement is a constitutional provision. In fact, I called the attention of the Committee by way of interpellations of other Commissioners that this is specifically the function and duty of the Ombudsman as constitutionally mandated elsewhere in the Constitution.

May I know the response of the Committee?

THE PRESIDENT: What does the Committee say?

MR. MONSOD: We regret we cannot accept it because if one goes through the functions of the Ombudsman, including the proposed amendments that have been discussed with the Committee, that function in that respect will really come out. Thus it is not necessary to insert that phrase.

The other point is that last Saturday, Commissioner Quesada raised the point of whether or not the Ombudsman will preempt people power. We said that it would be complementary to and supportive of people power. So, we do not want to identify the Ombudsman as a vehicle for the people to express their sentiments.

MR. MAAMBONG: Madam President, so that I would not press this amendment, may I just know from the Committee if one of the functions of the Ombudsman is to give effect to the right of the people to petition the government for redress of grievances and to promote higher standards of integrity and efficiency in the government service?

MR. MONSOD: Yes.

MR. MAAMBONG: Then I will not press anymore that amendment. I ask that I be allowed to withdraw the same.

I will go now to page 5, Section 13, line 23.

I would like to indicate before the Committee that this specific provision in Section 13 is found in Section 11 of RA 1379 which is an act declaring forfeiture in favor of the State of any property to have been unlawfully acquired by any public officer or employee and providing for the procedure therefor.

Section 11 of RA 1379 says:

Laws on Prescription. — The laws concerning acquisitive prescription and limitation of actions cannot be invoked by, nor shall they benefit the respondent in respect of any property unlawfully acquired by him.

Considering the existence of this provision in RA 1379, I wonder if the Committee would allow that this Section 13 be deleted.

MR. NOLLEDO: I think the Commissioner knows the basic distinction between a statutory provision and a constitutional provision.

MR. MAAMBONG: Very well.

MR. NOLLEDO: I say so because at any time this section can be repealed by the legislature. Due to the importance of Section 11 of RA 1379, which the Commissioner correctly quoted, we reproduced the same provision but in different words in Section 13, page 5 of our committee report so as to constitutionalize it.

MR. MAAMBONG: I succumb to the answer of Commissioner Nolleto.

MR. NOLLEDO: Thank you.

MR. MAAMBONG: Considering that the Committee does not feel that this Section 13 should be eliminated then I would propose its rewording.

So that we do not have to go to the usual procedure of deleting and putting forward certain words, Section 13, as reworded, would read as follows: THE LAWS CONCERNING ACQUISITIVE PRESCRIPTION AND LIMITATION OF ACTIONS CANNOT BE INVOKED BY, NOR SHALL THEY BENEFIT PUBLIC OFFICIALS OR EMPLOYEES, IN RESPECT TO ANY PROPERTY UNLAWFULLY ACQUIRED.

I think this would be more encompassing than the present formulation of Section 13. As we envision it it will cover acquisitive prescription and limitation of actions. This means that the prescription actually covers two things either a criminal action or a civil action. The way I look at the present formulation of Section 13, it covers only civil prescription and not criminal prescription. That is why I am proposing an article on prescription or nonprescription which will cover both civil and criminal actions.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Would the proponent accept some amendments?

MR. MAAMBONG: Gladly.

MR. DAVIDE: The amendment of Section 13 will consist of the following: On line 25, after the word "employees," add the following: OR THEIR CO-PRINCIPALS, ACCOMPLICES OR ACCESSORIES OR TO PROSECUTE OFFENSES IN CONNECTION THEREWITH; then on line 25, after the word "prescription," add a comma (,) and the words LACHES OR ESTOPPEL. So the entire Section 13 will read as follows: "The right of the State to recover properties unlawfully acquired by public officials or employees OR THEIR CO-PRINCIPALS, ACCOMPLICES OR ACCESSORIES OR TO PROSECUTE OFFENSES IN CONNECTION THEREWITH shall not be barred by prescription, LACHES OR ESTOPPEL."

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleddo is recognized.

MR. NOLLEDO: May I inform my distinguished colleagues in the Commission that all these words were taken into account when we discussed the provision in the Committee. I do not know whether it will satisfy them if I say that the intention of the Committee is to embrace all the consequences, meanings and intentions gleaned from the words which they recommended.

They are all contemplated in this provision. I think we should not clutter the Constitution with words, no matter how beautiful they may be.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I think my amendment was cluttered a little bit because of the proposed amendment to my amendment. (Laughter)

THE PRESIDENT: Is the Commissioner accepting the proposed amendment of Commissioner Davide?

MR. MAAMBONG: Considering that the Commissioner is from Cebu, I would like to accept it. However, the

problem is that he is trying to introduce an amendment not to my amendment, but to the original provision of Section 13. How in heaven's name could I accept that? So, I would rather stick to the present formulation which I have proposed. Considering that the Committee did not get a copy of my proposal, I am willing to have this deferred in the meantime for them to go over my proposal because I still maintain that the proposal I am putting forward is more encompassing since I practically copied it from an existing law and this covers civil and criminal prescriptions.

MR. NOLLEDO: Madam President, I have a copy of Section 11 of RA 1379, known as "An Act for Forfeiture of Unlawfully Acquired Property," so the Gentleman need not furnish me a copy. The provision of Section 13 which the Commissioner proposes to amend covers both the civil and the criminal aspects. In relation to the proposed amendment to the amendment of Commissioner Davide, we also feel that the property unlawfully acquired by public officials is considered *res criminis* and whoever is in possession of that property, whether he is an accessory, a principal, an accomplice or otherwise, should return the property to the State, and the right of the State to forfeit the same does not prescribe.

MR. MAAMBONG: Madam President, if the purpose of the Committee is to really encompass civil and criminal actions in relation to the nonprescriptibility, I suggest that the Committee take seriously the proposal. Anyway, what is wrong with improving the provision at this time?

THE PRESIDENT: The Chair believes that the point of the Committee is that it prefers a simple presentation of the whole issue. The Committee believes that what are included in the Commissioner's proposed statement are already included in the simple sentence of Section 13.

MR. MAAMBONG: With that assurance and unless Commissioner Davide will not press his amendment to my amendment, I am willing to withdraw, with the understanding that this provision of Section 13 covers nonprescriptibility of civil and criminal actions.

MR. NOLLEDO: I thank the Commissioner for his magnanimity.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like to insist on my proposal for the plain and simple reason that the republic act on forfeiture of ill-gotten wealth would cover only the civil aspect. As a matter of fact, any prosecution for the criminal aspect of that will have to be taken under the Anti-Graft and Corrupt Practices Act. That is why it is necessary to include here, specifically, the criminal action and the imprescriptibility of the criminal action. Besides, what is stated in the law on ill-gotten wealth and recovery thereof would refer to prescription or statute of limitations. We know for a fact that there are two other concepts in Civil Law. We have laches and estoppel. Laches, for instance, is a concept entirely different from prescription. While an action may not prescribe, it may be barred by laches and while an action may not prescribe or may not be barred by laches, it may also be a limitation because of estoppel. So, if we really want to strengthen this particular concept, we should be very specific in having it related to both criminal and civil actions. In addition to prescription, we should also include laches and estoppel.

MR. REGALADO: Madam President.

MR. RAMA: Madam President, the issue has been sufficiently debated.

THE PRESIDENT: Will Commissioner Davide state his proposed amendment to Section 13?

MR. DAVIDE: The proposed amendment will be on line 25 alone. After the word "employees," add the

following: OR THEIR CO-PRINCIPALS ACCOMPLICES OR ACCESSORIES OR TO PROSECUTE OFFENSES IN CONNECTION THEREWITH. Then after the word "prescription," add a comma (,) and the words LACHES OR ESTOPPEL. So, the entire section will read: "The right of the State to recover properties unlawfully acquired by public officials or employees, THEIR CO-PRINCIPALS, ACCOMPLICES OR ACCESSORIES OR TO PROSECUTE OFFENSES IN CONNECTION THEREWITH shall not be barred by prescription, LACHES OR ESTOPPEL."

THE PRESIDENT: Is it accepted by the Committee?

MR. NOLLEDO: After consultations, the Committee is happy to announce that we are accepting the amendments.

MR. DAVIDE: Thank you, Madam President; I also thank the members of the Committee.

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

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

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, I wish to propose an amendment to Section 6 on page 3, line 15. Between the words "and" and "one," insert the words AT LEAST.

In the period of sponsorship and debate last Saturday, Commissioner Rodrigo spoke very forcefully pointing out that the office of the Ombudsman will be quite powerless because it will have only one deputy for each of these big subdivisions of the Philippine Archipelago. To remedy that infirmity, may I suggest that the words AT LEAST be added so that in the future, should the need arise then, we can easily add more deputies.

So, Section 6 should go this way: "There is hereby created the independent office of the Ombudsman composed of the Ombudsman, one over-all Deputy and AT LEAST one Deputy each for Luzon, Visayas and Mindanao.

MR. COLAYCO: We accept.

BISHOP BACANI: Thank you.

THE PRESIDENT: What does the Committee say?

MR. NOLLEDO: The Committee accepts the amendment.

THE PRESIDENT: The Committee has accepted the amendment.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

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

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Thank you, Madam President.

I am a member of the Committee but I am suggesting a few minor corrections.

On Section 1, the 1973 Constitution uses the terms "responsibility, integrity, loyalty and efficiency." Our proposed Constitution uses the words "fidelity, integrity and efficiency." Should we not reinsert the omitted words RESPONSIBILITY and LOYALTY?

MR. ROMULO: We have accepted Commissioner Sarmiento's amendment of "PATRIOTISM"; so perhaps the concept of "loyalty" as well as "fidelity" would be included, but we have no objection to "RESPONSIBILITY."

THE PRESIDENT: Is Commissioner Padilla satisfied?

MR. PADILLA: Of course, "patriotism" is a much stronger word than all of these words combined, but I think "loyalty" has a meaning separate from the all-embracing word "patriotism." In other words, the public officer must serve with responsibility, fidelity, integrity, efficiency and loyalty.

MR. SARMIENTO: Madam President, with due respect to the honorable Vice-President and for the information of the members of the Committee, I checked last week the meaning and synonym of "fidelity," and it is "loyalty."

MR. ROMULO: We would be willing to substitute "LOYALTY" for "fidelity."

MR. PADILLA: Thank you.

THE PRESIDENT: So, how will that section read now? What are the words that have been changed?

MR. PADILLA: Lines 8 and 9 should read ". . . utmost RESPONSIBILITY, integrity, LOYALTY and efficiency."

THE PRESIDENT: Is that accepted?

MR. MONSOD: We accept the amendment.

THE PRESIDENT: The Committee has accepted the amendment.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. PADILLA: On page 2, paragraph 6 of Section 3, from line 23 was copied from the previous Constitution but I wonder whether the word "not" on line 24 is misplaced or is erroneous because this Section 6 speaks of removal from office and also prosecution. But as it is worded, it says.

Judgment in cases of impeachment shall not extend further than the removal from office . . . the party convicted shall nevertheless be liable and subject to prosecution, trial and punishment according to law.

It seems to me that the word "not" should be deleted to read: "shall extend further than the removal." Then on line 27, change the word-"but" to AND. So, it will read: "AND the party convicted shall nevertheless be liable . . ."

MR. ROMULO: The sense in using the word "not" is to convey that the Senate should not go further than removing the impeachable officer and that the reserved clause belongs then to his prosecution outside the Senate. That is why we believe that the original wording of the 1935 Constitution is appropriate.

THE PRESIDENT: Will Commissioner Padilla insist?

MR. PADILLA: With that explanation I will not insist on my amendment.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Would the proponent yield to an amendment?

THE PRESIDENT: I believe Commissioner Padilla is not insisting on his proposed amendment.

MR. DAVIDE: I am sorry.

MR. PADILLA: On page 4, lines 14 and 15 state: "The Ombudsman and his Deputies, as champions of the people . . ." Can we not find a substitute for the word "champions"? Can we not use DEFENDERS or PROTECTORS? I ask so because the word "champions" gives the idea of an athletic competition. Of course, I like the word

"champion" because in my youth, I had been in athletic competitions for many years.

MR. TINGSON: Madam President.

MR. MONSOD: Does the Vice-President have a suggestion? We are open to any suggestion.

MR. PADILLA: I suggest to change the word "champions" to PROTECTORS.

MR. ROMULO: We accept.

MR. PADILLA: Thank you.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized. Is it on the same amendment?

MR. TINGSON: I do not know whether or not I am already late, but that is one of the amendments I was going to make. It is an amendment by deletion because by describing the Ombudsman as the champion or as the protector, the insinuation would probably be that the other officials just as important are not champions of the people. So it seems to me that we should just delete that and say: "The Ombudsman and his Deputies shall act promptly on the complaints filed."

MR. ROMULO: We cannot accept that because we are not saying that the other officials are less capable of being champions of the people, but we want to emphasize that the special character of the Ombudsman or Tanodbayan is that he should be the protector of the people. It is meant to be instructive as well.

MR. TINGSON: At least the Committee has said so. I will tell the people that when I campaign for ratification of our Constitution.

While I am on my feet, Madam President, may I proceed? I have just two simple amendments.

THE PRESIDENT: Has the Committee accepted the change of the word "champion" to "PROTECTOR"?

MR. MONSOD: We have accepted, Madam President.

THE PRESIDENT: The Committee has accepted the amendment.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. TINGSON: May I have the floor now?

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, sometimes there are so many amendments and we get lost. We do not know whether the line is still there or not. May I ask the Committee if lines 9 and 10 of page I are still there?

MR. MONSOD: Madam President, lines 9 and 10, as amended, now read: ". . . with utmost responsibility, integrity, loyalty and efficiency. act with patriotism and justice and lead modest lives."

MR. TINGSON: My amendment would be to change the word "modest" to FRUITFUL, so that it would read: ". . . act with justice and lead FRUITFUL lives." May I just explain my amendment briefly?

THE PRESIDENT: Commissioner Tingson may proceed.

MR. TINGSON: The word "modest" carries with it a colonial mentality which, in a sense, is a negative virtue. It is a weak suggestion for good citizenship whereas, the word FRUITFUL would be a suggestion of a mandate to be not a spectator but a participant in a truly free and progressive Philippines.

I am just wondering if the Committee would accept my amendment — changing the word "modest" to FRUITFUL.

At this juncture, the President relinquished the Chair to the Honorable Efrain B. Treñas.

MR. ROMULO: We regret we cannot accept because there was a specific resolution filed on this matter by Commissioner Tadeo and the purpose is really for the public official to set an example and to avoid conspicuous display of wealth and power. So, when we say "FRUITFUL," it may, in fact, be misunderstood that he should aggrandize himself while he is in office because that would be fruitful indeed, but in the wrong sense.

MR. TINGSON: Madam President, if we put some malicious intention to the word, we can always do that. But I was trying to say that the word "FRUITFUL" carries a mandate not just to be a spectator but a participant to make the Philippines fruitful. The original proponent of that resolution, Commissioner Tadeo, may perhaps agree with me.

MR. NOLLEDO: If the Gentleman will permit it, the word "FRUITFUL" is really subject to malicious implications; it may mean enrichment. That is what we intend to avoid, Madam President.

MR. TINGSON: There is another one here, Madam President. It has been a truly inspiring experience to listen to the functions of the Ombudsman and his deputies.

Commissioner Sarmiento said he is a mobilizer; he is a watchdog; he is a critic. Others say he is a reformist; he is a crusader; he is an arbiter. He is, in other words, a moral superman. He should, therefore, be a man with the vim, the verve and the vigor of youth. I was going to propose amendments that instead of requiring him to be at least 40 years, we require him to be 35 years old; instead of 10 years in practice, we reduce it to 7, if only to satisfy Commissioners Gascon, Sarmiento, Brocka and Ople that I did not have any malicious intent when I tried to suggest before that the Senators be 40 years old instead of 35.

However, upon consulting the committee members, they say that for purposes of legal symmetry in the language of Commissioner Nollado, it has to be 40 years old because I understand the office of the Ombudsman is being elevated to that of a Commissioner. All of them wanted 40 years old. Have they changed their minds since I talked to them this morning? Could we change it to 35 years old, and instead of 10 years of practice, make it 7?

MR. MONSOD: We considered different ages and in a way, it was a judgment call. But we felt that 40 years might be the appropriate minimum age because we are requiring a lot of moral persuasion to be exercised by this person.

Hopefully, he would need some experience and, probably, the age of 40 would be the appropriate age.

MR. TINGSON: Could not the same argument hold when I tried to change the age requirement for Senator from 35 to 40 years old?

MR. MONSOD: I believe the Gentleman did make the argument but the judgment of the body was otherwise.

MR. ROMULO: If I may add, we have nothing against youth. In fact, we did vote with the Gentleman but in this case, they have different functions. The Senator has no administrative function. The Ombudsman has separate functions and extensive ones and he needs administrative experience. So, that is the reason for the age requirement of 40 years.

Thank you.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Natividad be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Natividad is recognized.

MR. NATIVIDAD: Madam President.

THE PRESIDING OFFICER (Mr. Treñas): Just a minute. It is not comfortable to be addressed as Madam President. (Laughter) May I suggest that the Gentleman address the Chair Mr. Presiding Officer. (Laughter)

MR. NATIVIDAD: I am sorry, Mr. Presiding Officer. I was not looking at the Chair; I was reading my notes. (Laughter) So, if I have inadvertently or accidentally changed his gender, I am sorry; I did not mean to change his sex. I was merely looking at my notes when I took the microphone.

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. NATIVIDAD: I am a little bit bored because all my amendments had already been presented and I am not even sure if my amendments are still proper. I do not mean to change his sex, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): It is all right.

MR. NATIVIDAD: May I present an amendment on page 3, Section 5. I am not really sure how Section 5 looks now because at the start of this discussion, I intended to propose an amendment. I intended to improve the situation by proposing that the Tanodbayan, now the Special Prosecutor, shall — and this is the phrase I will insert after the word "shall"—FUNCTION AS AN INVESTIGATIVE AND PROSECUTION ARM OF THE OMBUDSMAN. I am not sure how the whole section looks right now or if my amendment is still proper. What I intend to say is that the Special Prosecutor shall function as an investigation and prosecution arm of the Ombudsman.

MR. ROMULO: Can we not make it a separate sentence and simply say HE BE THE SPECIAL PROSECUTOR?

MR. NATIVIDAD: The Special Prosecutor?

MR. ROMULO: Something like that, as the prosecuting arm of the Ombudsman.

MR. NATIVIDAD: I will use the word "an" so the Ombudsman can also assign investigative functions to any other unit or agency of the government it might see fit.

MR. ROMULO: As "a prosecutor," meaning, not exclusive.

MR. NATIVIDAD: I am using the phrase "AS AN INVESTIGATION AND PROSECUTION ARM OF THE OMBUDSMAN." So, it is not exclusive, Mr. Presiding Officer.

MR. ROMULO: May we add the phrase IN APPROPRIATE CASES, so we have some discretion on the part of the Ombudsman?

MR. NATIVIDAD: So, the amendment as a separate sentence shall read: THE SPECIAL PROSECUTOR SHALL FUNCTION AS AN INVESTIGATION AND PROSECUTION ARM OF THE OMBUDSMAN IN APPROPRIATE CASES.

MR. ROMULO: Would the Gentleman consider leaving him just as a prosecutor rather than an investigator because we have made quite a point in saying that the Ombudsman is the investigator, and the Special Prosecutor is the prosecutor?

MR. NATIVIDAD: So, as a prosecution arm.

MR. ROMULO: Yes.

MR. NATIVIDAD: So, the amendment will read: THE SPECIAL PROSECUTOR SHALL FUNCTION AS A PROSECUTION ARM OF THE OMBUDSMAN IN APPROPRIATE CASES.

MR. ROMULO: We accept the amendment, and I think that gives him false teeth at least.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: This morning I was already complaining that we are emasculating too much the functions of the Tanodbayan. Here we are again demoting the poor Tanodbayan as a mere arm of the Ombudsman in special cases. So, if this is the case, if I were Raul Gonzalez, I would resign my position; I would become so useless. I think Commissioner Guingona has a proposed amendment which might remedy the situation

MR. NOLLEDO: Mr. Presiding Officer, the Constitutional Commission is recommending proposals regardless of the wishes of Mr. Gonzalez.

MR. GUINGONA: May I just ask the proponent some questions?

THE PRESIDING OFFICER (Mr. Treñas): Yes, Commissioner Guingona is recognized.

MR. GUINGONA: Does this proposal mean that the Special Prosecutor will now fall under the jurisdiction of the Ombudsman?

MR. NATIVIDAD: No.

MR. GUINGONA: Would it still be under the Office of the President as previously envisioned?

MR. NATIVIDAD: What I understand from my prior conversation with the Committee is that it does not fall under the Ombudsman.

MR. GUINGONA: So, it will still be under the Office of the President but may be deputized by the Ombudsman or may also be assigned work by the Ministry of Justice.

MR. NATIVIDAD: As to the exact location of the proposed Special Prosecutor, I think the Committee should respond to this.

MR. MONSOD: The sentence was accepted because it is a recognition that for the cases that will go to the Sandiganbayan, the prosecution arm is the Special Prosecutor. Some people may consider that a redundancy — not to say anymore something that is understood — but it was a matter of form for us to accept because it did confirm or affirm the role of the Special Prosecutor in appropriate cases.

MR. RODRIGO: Mr. Presiding Officer, may I say something on this.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: Up to now, it has been emphasized that the role of the Ombudsman is not to prosecute. It is only a "sumbungan ng bayan" to help the people and make the government officials act; but prosecution is not its function. And now, we are giving it an arm to Prosecute. I do not understand now what the principal role of the Ombudsman is.

MR. MONSOD: There is a difference between the Ombudsman exercising a prosecutory function, and saying that in appropriate cases, the Ombudsman refers to the Special Prosecutor.

MR. RODRIGO: No, that is different. But to call it the prosecution arm of the Ombudsman makes a lot of difference.

MR. NATIVIDAD: Maybe we can remove the word "ARM."

MR. ROMULO: If we will accept that amendment, it seems the Gentleman would not want our Ombudsman to have any teeth nor any arm, nor any unmentionables.

MR. RODRIGO: That is what the Gentleman said. I just want to be consistent with the definition by the Committee of the functions of the Ombudsman.

MR; MONSOD: We will accept that amendment in order to clarify that position.

MR. RODRIGO: So, how will the amendment now read?

MR. NATIVIDAD: Maybe ". . . the Special Prosecutor shall PROSECUTE CASES REFERRED TO IT BY THE OMBUDSMAN."

MR. ROMULO: In appropriate cases.

MR. DAVIDE: Mr. Presiding Officer, I object to the proposed amendment because that is already covered by Section 12 (2) on page 5 which reads:

To direct the officer concerned to take appropriate action against a public official or employee at fault, and to recommend his removal, suspensions demotion, fine, censure or prosecution, and to see to the compliance of the directive.

In short, the Ombudsman can direct even the Special Prosecutor to prosecute the particular complaint concerning which the Ombudsman may have determined that an action is proper to be filed.

MR. NATIVIDAD: That is clear, Mr. Presiding Officer. If that is encompassed within the meaning of that power, maybe I should withdraw the amendment.

MR. MONSOD: Yes. maybe the proper thing to do is to withdraw it in view of that manifestation.

MR. NATIVIDAD: Yes, anyway it is in the record already.

Thank you.

THE PRESIDING OFFICER (Mr. Treñas): For the record, the proposed amendment of Commissioner Natividad has been withdrawn.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Aquino be recognized.

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

MS. AQUINO: My questions would pertain to Section 3 on impeachment procedures.

I have a lot of doubts about the effectivity and validity of the impeachment procedure as it is now provided for in the Constitution when it adopted verbatim the procedures in the 1935 and 1973 Constitutions.

Impeachment originated in England but it had been in disuse for one century and a half ago. In fact, the last time it was used was sometime in the first years of the 19th century. It had been partly discredited and proven to be practically obsolete when the English countries adopted the principle of ministerial responsibility, such that in the trend of legal history, there was a growing tendency to vest the powers of impeachment, not in the legislature but in the judiciary. This procedure of vesting impeachment powers in the legislature found its way in the constitutions of the American colonies and eventually in the Constitution of the United States.

But let me call the Gentleman's attention to the Philippine experience. In the Philippines, all of the efforts to impeach the President have been effectively frustrated by the simple reason of partisanship and political loyalties. In fact, when there was a serious attempt to impeach President Quirino on the grounds of willful breach and deliberate violations of the Constitution, it was overwhelmingly voted down by the House of Representatives for the simple reason that the political party in control of the House of Representatives was the same political party as that of President Quirino.

That experience was very instructive; in fact, it led us to the same conclusion that impeachment proceedings vested in a legislature are practically futile and inutile.

The same experience was borne out in the attempt of the Batasan, the defunct Batasan, to impeach President Marcos. All of these would be instructive and indicative, and leading to a conclusion that the very brief experiment of the Philippines with impeachment proceedings shows ample proof that decisions on impeachment proceedings are rendered on purely partisan and political reasons, totally disregarding the merits of the allegations or the accusations against the President. This is a defect that is inherent in impeachment powers vested in the legislature. Experience shows that impeachment power, which is essentially a judicial function, once vested in the legislature, is almost always unsatisfactory in realizing its vested objective which is protecting the State. Therefore the process as it goes is impracticable. It is also cumbersome and complicated and, to say the least, grossly inadequate in terms of exacting responsibility from the public officers to the Constitution and to the State.

I might be trailblazing here, but I am seriously considering the idea of transferring the powers of impeachment trial. after it has been initiated by the joint action of the legislative chamber to the judicial courts, the way it is being adopted now in the countries of the United States and in Europe.

Is the Committee's benediction on this matter forthcoming, or am I a lonely voice on this matter?

MR. MONSOD: Mr. Presiding Officer, when we were reviewing the provisions on impeachment, those same questions were asked in our discussions. The Committee decided that the presence of the impeachment provision by itself, even if it has not been successful, would act even as a deterrent if liberalized. We accepted the fact that the impeachment proceeding is primarily a political act, and we are not sure that it did not serve its purpose, for example, the last time it was used, even if it appeared that it failed. The events and the sequence of decisions after that seem to indicate that the President at the time really exerted all his efforts to defeat the impeachment proceeding. This, by itself, showed that it had impact. Second. this subsequent calling of snap elections may have been influenced to some extent by the fact that there was an attempt at impeachment.

So, in terms of achieving its purpose, it being a political act, and calling the attention of the people to certain actions that would make the incumbent seek a fresh mandate from the people, keeping it in the Constitution would still serve a purpose.

As far as judicial action is concerned, the resort to judicial action for certain crimes, as the provision itself says, is still there. It does not preclude the judicial process.

MS. AQUINO: Mr. Presiding Officer.

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

MS. AQUINO: I appreciate the explanation of the Committee Chairman. But for purposes of conceptual clarity, we might as well underscore the fact that impeachment. although it is an exercise of a political act. is essentially a judicial function. The political component here would be necessary in recognizing that an impeachment procedure, which is a judicial function, covers not only political matters but even legal matters.

MR. MONSOD: We realize that there is a judicial function involved in the impeachment process. But I think the questions we want to address ourselves are: Is the provision on impeachment still necessary? Does it serve a useful purpose as far as the political processes are concerned?

MS. AQUINO: I may be launching a lonely crusade here. Even as I would concede that the powers of impeachment might have to be vested in the legislature, I would conduct a massive overhaul of the procedures to make impeachment procedure a viable option.

MR. MONSOD: We would be very happy to take a look at any suggestion that would improve our Constitution.

MS. AQUINO: Do I take it to mean that I am effectively foreclosed in terms of a conceptual redefinition of impeachment procedures when I would attempt to vest it in the judicial courts insofar as the presidency is concerned?

MR. MONSOD: Yes, Mr. Presiding Officer, I believe the Committee at this point believes that an overhaul in that direction might not be appropriate. But we would be amenable to other suggestions in order to make it a more effective deterrent.

MS. AQUINO: My only concern is that experience has shown that impeachment procedures as they are now stated in the draft would be nothing more — pardon the Freudian slip but there is no better term for this — than a glorified act of political masturbation. There should be a conscious and deliberate attempt to make this a feasible and viable option in the exercise of a concern to protect the State against erring officers for malfeasance or misfeasance.

MR. MONSOD: Yes, Mr. Presiding Officer. We understand the Commissioner's appreciation of the problem. What we are saying is that perhaps our perception of its deterrent effect even in cases where it seems to have failed may be different.

MR. NOLLEDO: May I propound an inquiry to Commissioner Aquino?

MS. AQUINO: Yes, gladly.

MR. NOLLEDO: The Commissioner need not overhaul the procedure. But it seems to me that she is suggesting some sort of judicial review; am I right?

MS. AQUINO: No, what I am suggesting is to transfer the impeachment power after the impeachment articles have been initiated and formulated by the joint action of the legislative chambers to the judicial courts.

MR. NOLLEDO: Thank you.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Aquino yield to a question, too?

MS. AQUINO: Gladly.

MR. OPLE: Commissioner Aquino must be aware that the main provision on impeachment in the draft article under discussion was lifted virtually from the two previous Constitutions, actually almost a verbatim copy of Article VII of the United States Constitution that was framed and ratified in 1787. May I briefly read Article VII:

Judgment in case of impeachment shall not extend further than the removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the United States, but the party convicted shall

nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

It is almost unchanged since the American constitutional framers established this impeachment rule in the Constitution of 1787.

But the reason I brought this up was to induce Commissioner Aquino to recall a more recent event related to impeachment in the United States Congress of an American President, Richard Nixon, who was facing impeachment. As a matter of fact, the charges had already been formulated in a committee of the House of Representatives and he was to be tried by the Senate in the full glare of world television. Instead of submitting to impeachment proceedings, he resigned, and later on was granted amnesty by President Ford. The point is that impeachment is a sword in the scabbard. It is as good as a sword drawn; it certainly caused the resignation of an American President because, in the words of President Ford before he gave the amnesty to President Nixon, the presidency of the United States probably could not withstand the rigor and injury arising from a public trial in the Senate by impeachment of the President of the United States.

Since this section is indubitably of American origin, I think we are justified in recalling some American-examples in the contemporary period. I do not want to share Commissioner Aquino's despair that this impeachment or trial by the Senate, through the origination of charges in the House of Representatives is equivalent to a constitutional decoration or tinsel. It is actually a powerful check on the presidency. It may be a sword in the scabbard but there are circumstances when a sword in the scabbard is as good as a sword drawn.

Thank you, Mr. Presiding Officer.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): What is the pleasure of Commissioner Aquino?

MS. AQUINO: I appreciate Commissioner Ople's setting the stimulus of the discussion on this line. But there may be a variance of conceptual appreciation here.

Impeachment is not intended to punish the offender. Impeachment is a method of national inquest to protect the State. It does not intend to prosecute; it is not intended for its retributory or restitutory effects. Rather, it is in the nature of an exemplary act by which the State infuses the highest sense of responsibility to public service.

In other words, when the Constitution provides that the intent of an impeachment proceeding is not only to remove from office, it follows as a necessary concurrent effect the disqualification of that erring public officer from positions of trust or responsibility. It may be true that it is a sword in the scabbard but the sword in the scabbard can rust unless it is drawn.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Chair would like to understand the present parliamentary situation. Is Commissioner Aquino proposing a specific amendment?

MS. AQUINO: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): On what section and what is the nature of the amendment?

MS. AQUINO: It will overhaul massively Section 3 in the sense that I am contemplating the possibility of amending Section 3 to vest in the judicial courts the power of impeachment trials after the impeachment articles have been formulated and initiated by the joint action of the legislative chambers. But the Committee has expressed reluctance to this position.

THE PRESIDING OFFICER (Mr. Treñas): Precisely, the Chair would like to know the reaction of the Committee on the proposed amendment.

MR. MONSOD: Mr. Presiding Officer, the Committee explained its position that we believe the present provision serves a very useful purpose, and we want to see it retained. Furthermore, if I get the drift of the arguments of Commissioner Aquino, the overhaul would involve the introduction of the judicial branch of the government into the process in the case of the President.

Our position is that the President has been directly elected by the people. Since this is a political act, the more appropriate judge of the President in this matter should probably be the direct representatives of the people as well, which are the Senate and the House.

MS. AQUINO: Mr. Presiding Officer, I am presently inclined to respect the position of the Committee. However, without foreclosing the possibility of introducing pertinent amendments on the basis of their position, may I make two inquiries?

THE PRESIDING OFFICER (Mr. Treñas): The Commissioner may proceed.

MS. AQUINO: Am I in agreement with the Committee that impeachment proceedings are essentially judicial in nature?

MR. ROMULO: No, we believe that they are political. Judicial aspects may come in the procedures such as the forming of the articles, the actual trial being presided over by the Chief Justice, and so on. But we still believe that they are essentially a political act rather than a judicial act.

MS. AQUINO: Precisely, I was very careful on my formulation of terms when I said impeachment proceedings, not impeachment power. So, we are agreed on the premise that impeachment proceedings are essentially judicial in nature. Does it follow, therefore, that when the legislative chamber sits to undertake impeachment proceedings, it sits not as a legislative body but as a judicial body; rather, it sits as a court of justice?

MR. ROMULO: In a way, they probably sit more like jurists, as finders of fact and the law, I suppose. They combine those functions. We could say that there is an exercise of judicial power involved.

MS. AQUINO: On the basis of these shared premises, would the legislature then, sitting to undertake impeachment proceedings, still be bound by the rules of legislative sessions? Specifically, if the legislature adjourns, are the Members duty-bound to terminate or preterminate — as the case may be — the impeachment proceedings if the supervening circumstance of adjournment of the sessions come in?

MR. ROMULO: I think that would depend on the rules they would adopt. Certainly, the Constitution does not settle that.

MS. AQUINO: Because I would proceed from settled jurisprudence that impeachment proceedings are essentially judicial in nature, such that it follows that when the legislative chamber undertakes these proceedings it sits as a court of justice and, therefore, it is not bound by the rules of legislative sessions. It cannot adjourn. Assuming that the session is adjourned, impeachment proceedings should not, in any way, be affected by the adjournment of the session.

MR. ROMULO: That is not precluded from our proposal. If the Commissioner wants to make it explicit and to suggest amendments to that effect, I suppose we would not object. Our thinking is that if the Commissioner's premise is that it is like a court of justice, maybe an adjournment of the hearing will certainly not preclude it from continuing the proceedings on some other day. In other words, it could not lose jurisdiction just because of adjournment.

THE PRESIDING OFFICER (Mr. Treñas): The Chair, therefore, understands from Commissioner Aquino that her proposed massive amendment is considered withdrawn.

MS. AQUINO: Not yet, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Commissioner may proceed.

MS. AQUINO: On another point, if an impeachment proceeding has been filed against the President, for example, and the President resigns before judgment of conviction has been rendered by the impeachment court or by the body, how does it affect the impeachment proceeding? Will it be necessarily dropped?

MR. ROMULO: If we decide the purpose of impeachment to remove one from office, then his resignation would render the case moot and academic. However, as the provision says, the criminal and civil aspects of it may continue in the ordinary courts.

MS. AQUINO: I am not so much concerned about the civil and criminal aspects as I am concerned with the necessary effect of a judgment of conviction in an impeachment proceeding. A judgment of conviction also means disqualification from office; it does not only mean removal from office.

MR. ROMULO: Yes, I see that point. It is my personal opinion that if he resigns, that in itself would end the impeachment proceeding.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Chair recognizes the Floor Leader.

MR. RAMA: There are several other Commissioners who would like to amend the Article. May I ask that Commissioner Regalado be recognized?

THE PRESIDING OFFICER (Mr. Treñas): Just a minute. May we consider Commissioner Aquino's proposed amendment withdrawn?

MS. AQUINO: No, Mr. Presiding Officer. I have to consult Commissioner Guingona about it.

MR. GUINGONA: Precisely, Mr. Presiding Officer, I was going to ask Commissioner Aquino a couple of questions, if I may, in connection with her proposal.

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

MR. GUINGONA: Is the Commissioner's perception of an impeachment proceeding an exclusively political device or proceeding or an essentially political proceeding? If it is an essentially political proceeding, then there would be no objection to exceptions where courts may be allowed to be given the power to adjudicate on this particular proceeding. On the other hand, if it is exclusive because the President is elected by the people, the judgment about the President's tenure or term of office should be judged by the representatives of the people, if the courts are not empowered to decide cases or questions relating to elections, and terms and qualifications of the President.

MS. AQUINO: Mr. Presiding Officer, may I briefly reply? It is my humble submission that an impeachment proceeding and an impeachment power are essentially political acts. But because of the nature of the judgment of conviction in an impeachment proceeding, it requires the process of adjudication. If we divorce ourselves from the conceptual definition of impeachment and focus on the practicality of impeachment proceedings, then it becomes necessary for us to reassess the procedure. I am not so much concerned in the conceptual purity of impeachment as I am concerned in it being a feasible and viable alternative in the exercise of protection of the State.

MR. GUINGONA.: Last question. Mr. Presiding Officer.

Mention was made here about the impeachment proceeding we are adopting as being copied from the United States. Is the honorable Commissioner aware that in other countries the legislature is given the power to initiate and the courts are vested with the power to adjudicate an impeachment proceeding? I would like to cite, among others, the following countries: United Arab Republic, Zambia, the Republic of France, Burundi, Cameroon, the Republic of Congo, Ethiopia, Cyprus, Gabon, Somalia, Iran, Iraq, Laos, and others.

MS. AQUINO: I am not aware of that, Mr. Presiding Officer. But I am thankful for that citation because it reinforces my position.

MR. RAMA.: Mr. Presiding Officer.

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

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

THE PRESIDING OFFICER (Mr. Treñas): Still on the same proposed amendment?

MR. RAMA: On impeachment.

THE PRESIDING OFFICER (Mr. Treñas): We have to dispose of the proposed amendment of Commissioner Aquino which was not accepted by the Committee.

Does Commissioner Aquino insist on a vote if she will not withdraw it?

MR. RAMA: There was no amendment, Mr. Presiding Officer.

MS. AQUINO: There are no specific amendments yet and on the prompting of the kibitzers around me I have been pressured not to withdraw it. A possibility is that we can intermarry this proposal with the procedural amendments of Commissioner Davide and Commissioner Maambong.

THE PRESIDING OFFICER (Mr. Treñas): The Chair recognizes the Floor Leader.

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

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

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

Before we leave that matter of Section 3 on impeachment. I suppose Commissioner Aquino could submit her proposed amendment which, together with my amendment and that of Commissioners Maambong and Davide, had been deferred for consideration.

My proposed amendments would, therefore, leave only Sections 2, 9 and 12. Without prejudice to my talking, let us go to the consideration of the amendment on Section 3.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Regalado is given five minutes.

MR. REGALADO: I propose to add in Section 2 as a last sentence thereof as already amended the following: ALL OTHER PUBLIC OFFICERS AND EMPLOYEES MAY BE REMOVED FROM OFFICE AS PROVIDED BY LAW BUT NOT BY IMPEACHMENT. The reason for the amendment is this: While Section 2 enumerates the impeachable officers, there is nothing that will prevent the legislature as it stands now from providing also that other officers not enumerated therein shall also be removable only by impeachment, and that has already happened.

Under Section 1 of P.D. No. 1606, the Sandiganbayan Decree, justices of the Sandiganbayan may be removed only by impeachment, unlike their counterparts in the then Court of Appeals. They are, therefore, a privileged class on the level of the Supreme Court. In the Committee on Constitutional Commissions and Agencies, there are many commissions which are sought to be constitutionalized — if I may use the phrase — and the end result would be that if they are constitutional commissions, the commissioners there could also be removed only by impeachment. What is there to prevent the Congress later — because of the lack of this sentence that I am seeking to add — from providing that officials of certain offices, although nonconstitutional, cannot also be removed except by impeachment?

THE PRESIDING OFFICER (Mr. Treñas) : What does the Committee say on the proposed amendment of Commissioner Regalado?

MR. MONSOD: May we ask Commissioner Regalado a few questions?

Does this mean that with this provision, the other officers in the case of the Sandiganbayan would not be removable by impeachment?

MR. REGALADO: For the present and during the interim and until the new Congress amends P.D. No. 1606, that provision still stands. But the proposed amendment will not prevent the legislature from subsequently repealing or amending that portion of the law. Also, it will prevent the legislature from providing for favored public officials as not removable except by impeachment.

That is the purpose of this proposal.

MR. MONSOD: Mr. Presiding Officer, the Committee is willing to accept the amendment of Commissioner Regalado.

THE PRESIDING OFFICER (Mr. Treñas). The proposed amendment of Commissioner Regalado has been accepted by the Committee.

MR. REGALADO: After the last sentence in Section 2, the amendment will read: ALL OTHER PUBLIC OFFICERS AND EMPLOYEES MAY BE REMOVED FROM OFFICE AS PROVIDED BY LAW BUT NOT BY IMPEACHMENT.

THE PRESIDING OFFICER (Mr. Treñas) : Precisely, that has been accepted by the Committee.

MR. REGALADO: They wanted me to read before we vote.

THE PRESIDING OFFICER (Mr. Treñas) : All right.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. REGALADO: On Section 9, Mr. Presiding Officer, regarding the Ombudsman and his deputies serving for a term of seven years without reappointment. I propose to add a sentence to read as follows: THEY SHALL NOT BE QUALIFIED TO RUN FOR ANY OFFICE IN THE ELECTION IMMEDIATELY SUCCEEDING THE END OF THEIR TERM OR RESIGNATION FROM OFFICE.

May I explain the reason, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. REGALADO: The reason is that the Ombudsman as now visualized by us will be a person who will have some powers, although as they say he is "toothless." Nevertheless, he is publicly visible and highly capable of projecting himself into the public limelight; whether he likes it or not, he will have to do so. We would like to

avoid the possibility that an Ombudsman may use his position as a springboard for the coming elections. Or if he is caught in midstream in his term and the elections are coming up, he may resign and having already the aura of public acceptance, he may immediately go into politics. In other words, he should not use his position as a springboard for political purposes but we are not going to deprive the electorate completely of such a man if he is really capable and competent. All I am trying to introduce here is that there be an interval before he can run in the next election.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: Will the proponent accept some amendments?

MR. REGALADO: May I hear the proposed amendment?

MR. DAVIDE: The amendment would be on the election immediately following their cessation from office. It may be by removal; it may be by a declaration of incapacity; it may be by resignation. So, the amendment reads THEIR CESSATION FROM OFFICE.

MR. REGALADO: Under that concept, the proposed amendment to my amendment is willingly accepted.

THE PRESIDING OFFICER (Mr. Treñas): For clarification, will Commissioner Regalado read his proposed amendment taking into account the amendment suggested by Commissioner Davide?

MR. REGALADO: The amendment, as amended, will now read: "THEY SHALL NOT BE QUALIFIED TO RUN FOR ANY OFFICE IN THE ELECTION IMMEDIATELY SUCCEEDING THEIR CESSATION FROM OFFICE." In other words, the amendment makes the provision all-embracing.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: Just one clarificatory question. Does the Gentleman realize that if that is three years, that was the consensus of this Assembly, of this Commission?

MR. REGALADO: Three years.

MR. MONSOD: With that clarification, the Committee is willing to accept the proposed amendment.

MR. REGALADO: As amended further by Commissioner Davide.

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Foz is recognized.

MR. FOZ: May I amend the amendment? Will the proponent accept an amendment to his amendment?

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Regalado say?

MR. REGALADO: The Committee has already accepted the amendment. Is the Committee willing to defer acceptance in the meantime to give Commissioner Foz an opportunity to introduce a proposed amendment to the amendment, as amended?

MR. MONSOD: May we hear the proposed amendment to the amendment?

MR. FOZ: The amendment is to the effect that instead of disqualifying them in just the immediately succeeding election, I would amend it to provide IN THE NEXT TWO SUCCEEDING ELECTIONS AFTER THE EXPIRATION OF HIS TERM. May I explain my amendment, if the Chair will permit me?

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. FOZ: The office of the Ombudsman is a very visual office. Precisely, the functions, powers and duties of the Ombudsman make it a natural subject of a lot of publicity. As a matter of fact, one of its functions is to publicize, when circumstances so warrant, matters covered by its investigation. We expect, therefore, a very active Ombudsman who will most probably be in the glare of publicity almost everyday. If he does his job well, he will be popular. In other words, he may use his office as a launching pad for his political ambitions.

In order to preclude a politicking Ombudsman, we should so provide that aside from prohibiting him from resigning his office and then running for public office within the term for which he was appointed and for the succeeding election, we should lengthen the period during which he should be prohibited from running for public office precisely to dissuade him from harboring political ambitions during the time he will be discharging the functions of his office.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: Mr. Presiding Officer, we regret we cannot accept the amendment. The reasons given by Commissioner Foz were the same reasons given by Commissioner Regalado.

If we extend it to two elections, the prohibition could reach nine years. We feel that probably that is not really the intention of the original proponent. We just want to deter politicking; on the other hand, nine years may be a little too long for a really good man who might be able to serve the people.

MR. FOZ: May we respond to the statement?

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Foz has two minutes.

MR. FOZ: Under the provisions we have approved regarding the term of office of Members of the Congress, we have provided for a term of office of only three years for Members of the Lower House. So, we have provided that every three years there shall be an election. Therefore, after six years, it is possible for a former Ombudsman to run for public office. It is not really nine years straight.

MR. MONSOD: No, Mr. Presiding Officer, if the Ombudsman ceases from office shortly after one election, then he has to wait almost nine years before he can run.

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Foz insist on a vote?

MR. REGALADO: My position, Mr. Presiding Officer, is that providing for the next succeeding election is a happy compromise because the country may also need the services of such an Ombudsman who has proved true to his worth. If we provide for two successive elections — in the case of animals, they hibernate; in the case of fish, they estivate — the Ombudsman might politically vegetate. That is why if the prohibition is only for the immediately succeeding election, this offers a happy compromise.

THE PRESIDING OFFICER (Mr. Treñas): The matter has been sufficiently discussed.

Will Commissioner Foz insist on a vote?

MR. FOZ: I withdraw my amendment.

THE PRESIDING OFFICER (Mr. Treñas): The proposed amendment of Commissioner Foz has been withdrawn.

MR. REGALADO: Having been accepted by the Committee, was the amendment submitted to a vote or was there an objection?

THE PRESIDING OFFICER (Mr. Treñas) : Will Commissioner Regalado restate his proposed amendment?

MR. REGALADO: The additional sentence on Section 9 will be: THEY SHALL NOT BE QUALIFIED TO RUN FOR ANY OFFICE IN THE ELECTION IMMEDIATELY SUCCEEDING THEIR CESSATION FROM OFFICE.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. REGALADO: One more proposed amendment, Mr. Presiding Officer.

Section 12 (1) on page 5, lines 1 to 3, reads: "any act or duty required of him by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties." I propose to add a comma (,) and the phrase ESPECIALLY ANY VIOLATION OF CIVIL, POLITICAL, NATURAL OR HUMAN RIGHTS. May I explain, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. REGALADO: In the subcommittee on additional Constitutional Commissions and Agencies, there is a pending resolution to create a Constitutional Commission on Human Rights. We do not know what will be the fate of that resolution but we are nevertheless concerned about human rights. Therefore, this addition I am proposing would be a sort of a backup measure in the event that that proposed Constitutional Commission on Human Rights is not approved. At least there is an expression of concern for the protection of civil, political, natural or human rights this time through the graces of the Ombudsman. That is the only purpose for the amendment.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I interpose my objection to the proposed amendment? If we expand the powers of the Ombudsman, then we will be giving the body too much powers. We will be expanding it and making it a superbody. I think the Commission on Human Rights should be the appropriate body to conduct investigations on human rights violations. These are serious matters, matters like salvaging, tortures, hamletting. This cannot be the duty of the Ombudsman considering its multifarious duties. I think we should limit the Ombudsman to investigation of cases involving graft and corruption, how to make the government efficient, to avoid waste, graft and corruption, and mismanagement.

MR. FOZ: Mr. Presiding Officer, just a point of information on the matter.

THE PRESIDING OFFICER (Mr. Treñas): Is the Gentleman's question addressed to Commissioner Regalado?

MR. FOZ: Yes, and to the body.

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Regalado answer the point of clarification?

MR. REGALADO: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. FOZ: Actually, we would like to inform the body that in the Committee on Constitutional Commissions and Agencies, there is a consensus on the establishment of a Commission on Human Rights which would have jurisdiction over the matters which are now being proposed by the proponent of the amendment regarding the function of the Ombudsman. So, I think we should not include such a function under the office of the

Ombudsman because that is precisely the main function of the proposed Commission on Human Rights, which the Committee on Constitutional Commissions and Agencies is about to take up in a meeting.

MR. REGALADO: Mr. Presiding Officer, may I respond to that?

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman is given two minutes.

MR. REGALADO: I specifically prefaced my statement by saying that this proposed additional phrase is only a backup measure in the event that the proposed Constitutional Commission on Human Rights is not approved. Commissioner Foz says there is a consensus. I am not aware how many voted for or against the same. Secondly, I said that I do not know what would be the fate of that proposed Constitutional Commission on Human Rights. I think there are only a few members in the Committee that we cannot even reach a unanimous decision. If Commissioner Foz can assure me with certainty that that proposed Constitutional Commission on Human Rights will be approved by the entire membership of the plenum, I will withdraw my amendment. Can he assure me now that that is assured of approval?

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Foz respond?

MR. FOZ: First of all, I would like to report that 7 out of 13 members have voted to establish such a commission, of course, with a lot of reservations as to functions and powers. With that as basis, I think we can more or less be assured of the possibility of having the same body be reported out in a committee report, unless the members change their minds, particularly those who voted for its establishment.

If we can be assured that the approval of such an amendment now being proposed by Commissioner Regalado will not be a stumbling block to the Committee acting and reporting out in a committee report a proposal to establish a Commission on Human Rights, then we will have no objection to such a proposal.

THE PRESIDING OFFICER (Mr. Treñas): The Chair believes the matter has been sufficiently discussed. What is the reaction of the Committee to the proposed amendment?

MR. MONSOD: Mr. Presiding Officer, we believe that the intent of the proponent in making the amendment is very clear. He would like to insert this phrase so that if, for any reason, a Commission on Human Rights is not approved, then there is a corresponding phrase here that the Ombudsman can act on. However, if the proponent is willing, we are prepared to accept the proposed amendment with the understanding that should the Commission on Human Rights be established under this Constitution, the phrase that would be redundant be removed.

MR. REGALADO: That is wholeheartedly agreed upon, not by reason of literal redundancy but substantially because it would be academic.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I would like to propose some amendments.

Instead of "ESPECIALLY," we use only the word INCLUDING and we should delete the word "NATURAL."

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Regalado say?

MR. REGALADO: I have no objection to the use of the word "INCLUDING" but the *jus naturale* has not always been translated into statutory rights or political rights or civil rights. That is also a catch-all phrase for the natural rights of a person.

MR. MONSOD: Mr. Presiding Officer, the Committee has accepted the proposal. May we respond to the

proposed modification of Commissioner Davide?

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. MONSOD: We would like to reconsider with respect to that point. We agree that the word "NATURAL" should be removed.

MR. REGALADO: If it is understood and there is such an assurance that all the rights considered under the jus naturale are covered by statutory provisions on civil or political rights or the Universal Declaration of Human Rights, I will agree.

MR. MONSOD: We will accept that interpretation.

THE PRESIDING OFFICER (Mr. Treñas) : Is there any objection? (Silence) The Chair hears none; the amendment is approved, subject to the reservation.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: I ask that Commissioner Foz be recognized to present an amendment.

THE PRESIDING OFFICER (Mr. Treñas: Commissioner Foz is recognized.

MR. FOZ: Mr. Presiding Officer, this is a very simple amendment and this has been cleared with the Committee last week.

On page 6, line 2, the amendment is to substitute the word CONTROLLING for "substantial." Last week, we asked the Committee for the meaning of the word "substantial" and Commissioner Nollado answered that under the National Internal Revenue Code, "substantial interest" means at least 20 percent. So, I took up with him the matter of having this amended or changed to the word CONTROLLING. As a matter of fact, it was he who suggested the word CONTROLLING.

MR. MONSOD: The Committee has already accepted that amendment and we are reiterating it.

MR. FOZ: Thank you.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: Mr. Presiding Officer.

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

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

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

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

I have some proposed amendments on Section 3 (5).

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. DAVIDE: This is without prejudice to whatever amendments may be accepted by the Committee when the Aquino amendments shall be taken up. It would consist in adding a new sentence on line 20. Before the phrase "No person shall be convicted," insert the following: IN ALL OTHER CASES, THE PRESIDENT OF THE

SENATE SHALL PRESIDE.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: Is it not understood that when the President of the Philippines is on trial, it is the only time when the Chief Justice of the Supreme Court will preside? Is it necessary to say that the Senate President shall preside during all other times?

MR. DAVIDE: Mr. Presiding Officer, I precisely presented that because we had a distinction when it comes to the Chief Justice of the Supreme Court. But with that clarification, that in all other cases it would be the President of the Senate who will preside, I withdraw the amendment.

THE PRESIDING OFFICER (Mr. Treñas): The amendment has been withdrawn.

MR. DAVIDE: May I propose another amendment. On page 3, line 21, after "thereafter," delete "without any confirmation" and insert a period (.) then add a new sentence to read: SUCH APPOINTMENTS SHALL REQUIRE NO CONFIRMATION.

This is just to have a symmetry with the same provision in the Article on the Judiciary.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: We accept the amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: On line 1, page 4, after "not," insert the following: HOLD ANY OTHER OFFICE OR EMPLOYMENT, OR. On line 2, after "profession," add the following: OR IN THE MANAGEMENT OF ANY BUSINESS WHICH IN ANY WAY MAY BE AFFECTED BY THE FUNCTIONS OF THEIR OFFICE, OR BE FINANCIALLY INTERESTED, DIRECTLY OR INDIRECTLY, IN ANY CONTRACT WITH, OR IN ANY FRANCHISE OR PRIVILEGE GRANTED BY THE GOVERNMENT, OR ANY OF ITS SUBDIVISIONS, AGENCIES OR INSTRUMENTALITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS OR THEIR SUBSIDIARIES.

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Will Commissioner Davide accept an amendment to his amendment to his which will embody the same concept?

MR. DAVIDE: May we hear the proposed amendment?

MR. DE LOS REYES: It is obvious that Commissioner Davide restated the disabilities against members of a constitutional commission as provided for in Article XII, Section 3 of the Constitution.

MR. DAVIDE: That is correct, Mr. Presiding Officer, because we have raised the position of the Ombudsman to that of a member of a constitutional commission. Therefore, all the disqualifications and prohibitions attaching to a member of the commission must also similarly attach to the Ombudsman.

MR. DE LOS REYES: That is why to make the sentence shorter, my proposed amendment would be to simply state that they shall be subject to the same disabilities as provided for in Article XII, Section 3 of this Constitution. Then delete the words on lines 1 and 2, page 4.

MR. DAVIDE: I would have no objection to that; it would embody the full idea. But I wonder if we must use "disabilities."

MR. DE LOS REYES: I think that is the term which we used.

MR. DAVIDE: "Disqualifications," I guess, would be a much better word. "BE SUBJECT TO THE SAME DISQUALIFICATIONS AND PROHIBITIONS."

MR. DE LOS REYES: "They shall BE SUBJECT TO THE SAME DISQUALIFICATIONS AND PROHIBITIONS AS PROVIDED FOR IN ARTICLE XII, SECTION 3 OF THIS CONSTITUTION." Then delete lines 1 and 2 of page 4. Is that all right with the Commissioner?

THE PRESIDING OFFICER (Treñas): What does the Committee say?

MR. MONSOD: We accept the proposed amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: I have a proposal on Section 9 but I would like to get first the position of the Committee. Does not the Committee also contemplate a staggered term for those first appointed?

MR. MONSOD: We did not contemplate that because unlike in the other constitutional commissions, the Ombudsman is the only one who is a constitutional officer; the others are not.

MR. DAVIDE: In that particular case then, I will not insist on an amendment to Section 9. But on Section 11, page 4, line 15, I would like to propose an amendment. It is just an insertion between the words "shall" and "act" of the following: AT NO EXPENSE TO AN AGGRIEVED PARTY. Then add a comma (,).

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: We regret that we prefer not to accept the amendment because we believe that those are properly within the rules and regulations of the office of the Ombudsman and we do not want to make a constitutional provision out of fees. Perhaps we can leave that to the Ombudsman's office.

MR. DAVIDE: With that assurance. I withdraw my amendment.

On lines 17 to 19, I would like to propose the following amendments at the same time because they are interlinked with one another. On line 17, after the comma (,) following "government," add OR ANY SUBDIVISION, AGENCY OR INSTRUMENTALITY THEREOF. On line 18, before "corporations," insert OR CONTROLLED, and then delete the word "agencies" at the end. On line 19, delete the words "or instrumentalities."

So, the entire three lines will now read as follows: "public officials or employees of the government, OR ANY SUBDIVISION, AGENCY OR INSTRUMENTALITY THEREOF, including government-owned OR CONTROLLED corporations, and shall notify . . ."

MR. MONSOD: Mr. Presiding Officer, we accept the amendments. This is merely a realignment with other provisions in the other articles.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendments are approved.

MR. DAVIDE: On Section 12, line 27, after the comma (,) following "government," insert the following: OR ANY SUBDIVISION, AGENCY, OR INSTRUMENTALITY THEREOF. On line 28, insert the words OR

CONTROLLED before "corporation," then delete "institution" and substitute it with THEIR SUBSIDIARIES. So, lines 27 and 28 will read: "government OR ANY SUBDIVISION, AGENCY, OR INSTRUMENTALITY THEREOF as well as of government-owned OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES, . . ."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. ROMULO: Per the reservation we made before, subsidiaries of government corporations with original charters are not covered.

MR. DAVIDE: So, it should be "government-owned OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS AND THEIR SUBSIDIARIES."

MR. ROMULO: We had agreed before that subsidiaries will not be covered.

MR. DAVIDE: So, I am willing to strike out "AND THEIR SUBSIDIARIES."

MR. ROMULO: We accept the amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: On page 5, line 9, change the capital letter "T" of the word "To" to a small letter t. Before the word "To," insert the following: IN ANY APPROPRIATE CASE AND SUBJECT TO SUCH LIMITATIONS AS MAY BE PROVIDED BY LAW. On line 12, between "disbursement" and "of," insert OR USE; and after "funds," add OR PROPERTIES. So, subparagraph (3) will now read as follows: "IN ANY APPROPRIATE CASE AND SUBJECT TO SUCH LIMITATIONS AS MAY BE PROVIDED BY LAW to direct the officer concerned to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement OR USE of public funds OR PROPERTIES . . ."

MR. MONSOD: The Committee accepts the amendments.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendments are approved.

MR. DAVIDE: On the same page, between lines 20 and 21, I seek to insert two new phrases. The first is: TO PROMULGATE ITS RULES OF PROCEDURE. The second had already been adopted by a previous amendment.

MR. ROMULO: Can it not be combined with Subsection 6?

MR. DAVIDE: I would have no objection to combining it with subparagraph (6) but I really want this particular power to be vested. So, it can be placed in subparagraph (6). But in subparagraph (6), I propose to insert OTHER between "such" and "powers" on line 21.

As recommended by the Committee, the proposed powers should be dovetailed with subparagraph (6) on line 21. So, subparagraph (6), as amended, will read as follows: "TO PROMULGATE ITS RULES OF PROCEDURE AND to exercise such OTHER powers or perform such functions or duties as may be provided by law."

MR. MONSOD: The Committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. DAVIDE: Finally, on page 6 — this is the last — after the amendment of Commissioner Treñas yesterday, I would like to add a comma (,) after the word "Congress" that was adopted and the following phrase: ANY MEMBER OF THE CONSTITUTIONAL COMMISSIONS, THE JUDICIARY OR THE OMBUDSMAN.

THE PRESIDING OFFICER (Mr. Treñas): How shall the whole section read?

MR. DAVIDE: The whole section, together with the Treñas and de Castro amendments, will now read as follows: "No loan, guaranty or other form of financial accommodation for any business purpose may be granted, DIRECTLY OR INDIRECTLY by any government-owned or controlled bank or financial institution to THE PRESIDENT, VICE-PRESIDENT, MEMBER OF THE CABINET, MEMBER OF CONGRESS, ANY MEMBER OF THE CONSTITUTIONAL COMMISSIONS, THE JUDICIARY OR THE OMBUDSMAN."

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Foz is recognized.

MR. FOZ: In connection with that proposed amendment which would include the members of the constitutional commissions, I think we should not place the members of the constitutional commissions — which include the Ombudsman or the Tanodbayan — on the same level as members of the Cabinet or Members of Congress. In the last two categories, we can safely say that they belong to political offices.

In the case of members of constitutional commissions, precisely we have included provisions in the Article on the three commissions to make or transform them into independent nonpartisan, nonpolitical officials. There is no reason, therefore, for lumping them together with the politicians on the same level as to extend a prohibition on the grant of loans from government financial institutions to members of constitutional commissions.

MR. DAVIDE: Mr. Presiding Officer, may I be allowed to react?

THE PRESIDING OFFICER (Mr. Treñas): The Gentleman may proceed.

MR. DAVIDE: Precisely, we have to do this because we have enshrined the commissions as independent bodies, and the Ombudsman as another body similar in rank to the different constitutional commissions. The loans or accommodations or credits to be obtained here are for a business purpose. They can use their pressure because they are beyond politics. More pressure can even be exerted by them especially by the Ombudsman because the Ombudsman is the superbody. So, the danger of a political pressure is even worse because it is not just a political but a real clout of an enshrined superbody. Insofar as a politician is concerned, he would be concerned with the public because he is elected by the people. But members of the constitutional commissions and the Ombudsman are not elected by the people; they have no responsibility to the people in effect. There is more reason, therefore, that they be prevented to use undue influence in the matter of obtaining loans for business purposes. I hope Commissioner Foz would realize the significance of the distinction because the distinction on the contrary would necessitate the imposition of the prohibition.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Thank you.

I would oppose the inclusion of judicial officials unless we categorize them into those of the Supreme Court, intermediate appellate courts, et cetera. The poor municipal trial court judge receives a very low salary and he, in fact, borrows money from banks in order to do some business, say, poultry, piggery or some other projects. If the whole judiciary is included in toto, we should consider the municipal trial court judge who received a very low

salary.

MR. DAVIDE: Mr. Presiding Officer, we are trying to prevent an evil. If a judge is allowed to borrow money for business purposes, and that particular bank or financial institution may have a case in his sala, therefore, his judgment in a given case will be affected. Besides, the members of the judiciary will be adequately compensated and this is related only to loans for business purposes.

MR. DE CASTRO: That will be quite remote in the case of a municipal trial judge because his jurisdiction is very limited.

MR. DAVIDE: But the bank will be located in the municipality where he is sitting.

MR. DE CASTRO: I have registered my objection, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): It is all right. What is the action of the Committee with regard to the proposed amendment of Commissioner Davide?

MR. MONSOD: Mr. Presiding Officer, yesterday this issue of who is going to be included or excluded from the enumeration was discussed. I believe Commissioners de los Reyes and Rodrigo participated in this discussion, and it seems to us that the sense of the body last Saturday was to limit the enumeration to those included in the amendments of Commissioners Treñas and Foz. We would like, therefore, to ask the body to vote on whether or not the prohibition should extend to the constitutional commissions, the judiciary, or the Ombudsman.

THE PRESIDING OFFICER (Mr. Treñas): Will Commissioner Davide read his proposed amendments so that we can put these to a vote?

MR. MONSOD: Mr. Presiding Officer, would the proponent wish to break down the amendments?

MR. DAVIDE: I would like to break them down.

First, members of the Constitutional Commissions, as I said, would be in a better position to exert undue influence.

THE PRESIDING OFFICER (Mr. Treñas): Will the proponent please read the amendment because the Members may not be able to follow?

MR. DAVIDE: I propose to add the following phrase after the Treñas amendment on the constitutional commissions: MEMBER OF THE CONSTITUTIONAL COMMISSIONS.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): 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.)

The results show 17 votes in favor and 5 votes against; the proposed amendment is approved.

MR. DAVIDE: The next would be the members of the judiciary.

MR. FOZ: Mr. Presiding Officer, just a point of clarification. Is the Ombudsman covered by the phrase "MEMBER OF THE CONSTITUTIONAL COMMISSIONS"?

MR. DAVIDE: No, that would be the third matter to be voted upon.

MR. MONSOD: That is right. We are taking this one at a time and the Ombudsman is last. We are talking about the judiciary which, I understand, would include all members down to the municipal trial court.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): We shall now vote on the second amendment of Commissioner Davide.

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

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

The results show 18 votes in favor and 16 votes against; the proposed amendment is approved.

MR. DAVIDE: And finally, I propose to add the phrase: "OR THE OMBUDSMAN."

VOTING

THE PRESIDING OFFICER (Mr. Treñas): As many as are in favor of the proposed amendment, please raise their hand. (Several Members raised their hand.)

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

The results show 35 votes in favor and no vote against; the proposed amendment is approved.

MR. FOZ: Point of clarification. Does the prohibition cover members of the family of those mentioned in the provisions?

THE PRESIDING OFFICER (Mr. Treñas): Will the Committee please answer the inquiry?

MR. MONSOD: The immediate family would be included because of the words "directly or indirectly," Mr. Presiding Officer.

MR. FOZ: What about relatives within the third degree of affinity or consanguinity?

MR. MONSOD: No, Mr. Presiding Officer, they are not included. I think we are looking at beneficial interest given directly or indirectly. So they would not be included, unless it can be proven that they are dummies.

MR. FOZ: Thank you.

MR. GUINGONA: Mr. Presiding Officer, just for clarification.

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

MR. GUINGONA: When we voted with regard to the constitutional commissions, we, of course, referred to the Chairman and the members. What about in the case of the Ombudsman, do we refer to the Ombudsman, or the Ombudsman and his deputy?

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: Mr. Presiding Officer, we refer only to the Ombudsman because only he is a constitutional officer, unlike in the case of the constitutional commissions.

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

MR. BENGZON: May I request that Commissioner Sarmiento be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Mr. Presiding Officer, my first amendment is an amendment by addition. After Section 14 on page 6, I propose to add a new section that will give fiscal autonomy to the Ombudsman.

Mr. Presiding Officer, we gave fiscal autonomy to the constitutional commissions and to the judiciary in order to give independence to these bodies and, secondly, to free them from political pressures. I believe that the Ombudsman, being the champion and protector of the people's cause, should also be given this fiscal autonomy. Therefore, this proposed section will read: THE TANODBAYAN OR THE OMBUDSMAN SHALL ENJOY FISCAL AUTONOMY. THE APPROVED ANNUAL APPROPRIATIONS FOR THE OMBUDSMAN SHALL BE AUTOMATICALLY AND REGULARLY RELEASED.

This proposal, Mr. Presiding Officer, has the fatherly support of Commissioner Nollado.

THE PRESIDING OFFICER (Mr. Treñas): The new section would therefore be Section 15?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: We accept it, Mr. Presiding Officer, but can we align it with the similar provision on the constitutional commissions?

MR. SARMIENTO: Yes, I copied verbatim the provisions on the constitutional commissions.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. SARMIENTO: Mr. Presiding Officer, may I proceed with my next amendment?

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

MR. SARMIENTO: My amendment is with respect to Section 10, lines 9 to 11 which reads: "A Deputy of the Ombudsman shall have the rank of a Commissioner of a Constitutional Commission." The term "Constitutional Commission" is quite vague as it may refer to the Constitutional Commission of 1986, this Constitutional Commission.

Mr. Presiding Officer, instead of capitalizing the letters "C" and "C" in the words Constitutional Commission, I propose to change the capital "C" to a small c so that the amended phrase will read: "Commissioner of a constitutional commission."

Will the Committee, with its fatherly support, accommodate my amendment?

MR. MONSOD: Mr. Presiding Officer, I believe this provision was amended yesterday by Commissioner de los Reyes but the intent of the proponent now is to clarify.

MR. SARMIENTO: Just to clarify.

MR. MONSOD: We accept it, Mr. Presiding Officer, if that is the purpose.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. SARMIENTO: My third amendment is with respect to Section 12 (5) which reads: "To publicize, when circumstances so warrant . . ." To me, the word "circumstances" is vague so may I suggest that instead of "circumstances," we say when PUBLIC INTEREST so warrant."

Will the Committee accommodate my proposed amendment?

MR. ROMULO: Mr. Presiding Officer, we used "when circumstances so warrant" rather than "PUBLIC INTEREST" because we did not want to find the Ombudsman too strict, thus opening up the possibility of libel. Commissioner Ople also has, I believe, a suggested amendment for this section.

MR. SARMIENTO: So with that explanation, I withdraw my amendment.

MR. ROMULO: Thank you.

THE PRESIDING OFFICER (Mr. Treñas): The proposed amendment is considered withdrawn.

MR. SARMIENTO: This is my last proposed amendment. We have approved the system of initiative and referendum as the reserve powers of the sovereign people. There is still one reserve power which we have not approved. I am referring to the system of recall. These three systems go hand in hand as a tribute to people's power. I humbly submit that the system of recall makes our public officials accountable to the people. It is a mode of terminating the positions of our elective officials, in other countries, even appointive officials.

May I humbly propose to include in this same section a provision that would read: THE LAW SHALL PROVIDE FOR A SYSTEM OF RECALL OF PUBLIC OFFICERS. I understand that there is a similar provision appearing in the Article on Local Governments. But I humbly submit that it should have a place; it should be transferred to this Article on Accountability of Public Officers, not in the Article on Local Governments because recall is a system of making our public officers accountable to the people.

MR. MONSOD: Is it the intention of the Gentleman to subject the constitutional officers mentioned in this section to recall?

MR. SARMIENTO: Only the public officers, excluding the President, the Vice-President and the members of the constitutional commissions.

MR. MONSOD: Would be excluded?

MR. SARMIENTO: They would be excluded. So, only the public officials, the local officials are the ones covered by this system of recall.

MR. MONSOD: Would the provision apply only to elective officials other than those?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. MONSOD: Excluding Congressmen?

MR. SARMIENTO: Excluding Congressmen

MR. MONSOD: Then only the local government officials are left, so perhaps, the appropriate place for that should really be the Article on Local Governments.

MR. SARMIENTO: What if we include the Congressmen?

MR. MONSOD: We believe that the elective officials — Congressmen and Senators — are really subject to accountability to the people. But if the Gentleman will recall, the Congressmen, for example, have only three-year terms, and they do not hold executive positions, unlike local government officials. They are legislators. When the Committee met on this, we thought that the Senators and the Congressmen should not really be subjected to recall. Since the other officers holding executive positions like the President are already subject to impeachment, then the Local Government Code or the Article on Local Governments should be the more appropriate place for a

system of recall.

We regret that we cannot accept the amendment, Mr. Presiding Officer.

MR. SARMIENTO: May I hear a brief explanation from the Chairman of the Committee on Local Governments?

MR. NOLLEDO: I can assure the Gentleman that I will accept any amendment to that effect when we report our provisions on local government later.

MR. SARMIENTO: Thank you for the explanation and assurance.

Then I am withdrawing my amendment.

THE PRESIDING OFFICER (Mr. Treñas): The proposed amendment is considered withdrawn.

MR. BENGZON: Mr. Presiding Officer, may I request that Commissioner Rigos be recognized.

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

REV. RIGOS: Mr. Presiding Officer, my proposed amendments have already been presented by the previous speakers; so, I will just proceed with two very minor suggestions.

On page 2, Section 3 (5), line 16, I propose to insert the words CASES OF between the words "try all" and "impeachment," so that the sentence will read: "The Senate shall have the sole power to try all CASES OF impeachment."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

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

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

REV. RIGOS: On page 4, line 2 of Section 8, I propose to insert the word OTHER between "any" and "profession."

Thank you.

MR. MONSOD: The amendment is accepted, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. BENGZON: Mr. Presiding Officer, may I request Commissioner Guingona to be recognized.

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

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

At the outset, may I say that my proposed amendment would, in my opinion, have meaning only if two other proposed amendments could go with the same.

My first proposed amendment is to delete the entire Section 5 on the office of the Special Prosecutor. The supplementary amendments I shall propose later would either be in this Article on Accountability of Public Officers or in the Article on Transitory Provisions, provided that the incumbent Tanodbayan would serve as the Ombudsman or the Tanodbayan.

And thirdly, I propose that as a last resort in extraordinary cases, the Ombudsman be given prosecutory power.

With respect to the first amendment, Mr. Presiding Officer, may I say that I question the need to provide for an office of a Special Prosecutor under the Office of the President, but which could serve as a prosecutory arm of other offices of the government when, in fact, all of the other prosecutors are supposed to be under the Ministry of Justice. This situation could bring about either conflicts or duplication of work.

I question the need of providing for a special prosecutor whose functions and powers, as mentioned by Commissioner Rodrigo, have been emasculated to the point of almost relative impotence.

I question the allegation that there are many cases of graft and corruption, First, because this statement has been made as a general statement without any fact, without any statistics or figures. Granting *arguendo* that there are a lot of cases of graft and corruption, I respectfully submit, Mr. Presiding Officer, that considering our administration now under President Aquino — the officials serving in this administration — and the provisions which have been carefully drafted by the Committee on Accountability of Public Officers which are intended to make public officials serve the people with utmost responsibility, integrity, loyalty and efficiency and act with justice and lead modest lives, I predict that within a generation, the so-called many cases of graft and corruption would be considerably reduced.

I do not see the point of putting in a constitution an office which, after a generation or after a century, would be a useless appendage. If we really have a lot of graft and corruption cases, and this is perceived by the people, I am sure that the legislature will provide for the necessary legislation to address this problem. But in justice to the present Tanodbayan, the Tanodbayan should not be deprived of an office, and should now therefore be considered as the Ombudsman. I see the point mentioned yesterday at the public hearing by the Honorable Colayco that the main function of the Ombudsman is public relations, matter of persuasion. I think that should still be his principal function. He should still try to persuade; he should still try to make the directions enumerated here. But there are cases when he will meet officials who will simply refuse to cooperate. In those very rare cases, I think he should be given some powers, some prosecutory powers, some teeth, but teeth enough to be able to make his presence felt. I would suggest later on, Mr. Presiding Officer, that we add another function for the Ombudsman, that in case of failure of justice as defined by law, and as a last resort in extraordinary cases, the Ombudsman can file and prosecute the corresponding criminal, civil or administrative case before the proper court or body.

THE PRESIDING OFFICER (Mr. Treñas): May we take the proposed amendments of Commissioner Guingona one by one?

MR. GUINGONA: Yes, Mr. Presiding Officer.

MR. MONSOD: Mr. Presiding Officer, may I raise a parliamentary question?

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

MR. MONSOD: If we will take a look at the records since Saturday and today, we will note that the points raised by Commissioner Guingona have all been raised, voted on, and discussed. If his proposal now is a motion for reconsideration, then perhaps we should take that up first.

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Guingona say?

MR. GUINGONA: I am not aware that there was a motion acted upon to delete this particular section. But if there was and if I would be allowed, I would like to move for reconsideration, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. MONSOD: Mr. Presiding Officer, the first motion made last Saturday afternoon was precisely to delete the office of the Ombudsman because it did not have prosecutory functions, the same reasons now being used by Commissioner Guingona. Therefore, would the Commissioner like to move for reconsideration of all of these points that have been discussed several times and debated in this Commission?

MR. GUINGONA: May I reply by saying, as I said at the outset, that, this particular proposal of mine is linked with other proposals. And even if this proposal was made yesterday, I do not think that the same has been considered in the light of what I have said — that we would be giving the Ombudsman prosecutory power and the Tanodbayan would now serve as the Ombudsman, as provided in this Constitution.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: May we take up the matter one by one? Since there was already a resolution of the point raised last Saturday regarding the deletion of Section 5, and since the first desire of Commissioner Guingona is for the same, I guess the first thing that we should decide is whether or not we shall allow this motion for reconsideration. If this body decides in favor of the motion for reconsideration, then we will vote on whether or not Section 5 will be deleted.

MR. GUINGONA: Yes, I agree, Mr. Presiding Officer, but may I add that I am making this proposal with the intention of transferring the prosecutory power of the former Tanodbayan to the present Ombudsman. It is a matter which was not considered in the previous deliberation, if my memory serves me right.

THE PRESIDING OFFICER (Mr. Treñas): The Chair will make a ruling. Whatever is the purpose of the present motion of the Gentleman partakes the nature of a reconsideration.

The Chair, therefore, asks the body to vote. Is there any objection?

MR. JAMIR: Mr. Presiding Officer, before we vote, there is a prejudicial question because it has not yet been shown that the Gentleman voted with the majority when we voted with respect to this particular provision.

THE PRESIDING OFFICER (Mr. Treñas): The Chair would like to inquire how Commissioner Guingona voted.

MR. GUINGONA: There were so many votings held that I do not recall, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer, the Floor Leader raises a point of order.

THE PRESIDING OFFICER (Mr. Treñas): Yes, what is the point of order?

MR. BENGZON: The point of order is that, as indicated by Commissioner Jamir, it has to be shown first that the proponent voted with the majority and since he could not indicate whether or not he voted with the majority, then I regret to say that he is out of order.

THE PRESIDING OFFICER (Mr. Treñas): Since Commissioner Guingona cannot tell us definitely how he voted, much to the regret of the Chair, it must rule that Commissioner Guingona is out of order.

MR. RODRIGO: Parliamentary inquiry, Mr. Presiding Officer. I was the one who moved for the deletion of all the provisions creating the Ombudsman, from Section 6 down. But the motion of Commissioner Guingona is not to delete Section 6 but to delete Section 5 — so, it is a different motion altogether. We have not yet voted on the issue whether to delete Section 5 or not; we voted on the deletion of Section 6.

THE PRESIDING OFFICER (Mr. Treñas): May the Chair ask for enlightenment from the Committee.

MR. ROMULO: Section 5 was amended several times by Commissioners Jamir, Treñas, Regalado and others. All those amendments were accepted and voted upon by the body. So, one would presume, therefore, that we have accepted and the Commission has decided that Section 5 should be retained; otherwise, why would we be voting on an amendment on Section 5 and accepting it?

MR. GUINGONA: May I say. Mr. Presiding Officer, that we are following today a procedure whereby we do not consider anterior amendments and have to wait for our turn to be called. Although people might have voted in favor of an amendment, this does not mean that if a proposal to delete is presented they would not prefer the proposal to delete.

MR. NOLLEDO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Nolleto is recognized.

MR. NOLLEDO: In connection with that statement, I think Commissioner Guingona should have raised a prejudicial question, or he should have filed a motion to delete first before allowing the others to amend the same provision several times.

MR. GUINGONA: I could not, Mr. Presiding Officer. As a matter of fact, I approached the Floor Leader two times and he said: "You have to wait for your turn." So, I obediently waited for my turn.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: Maybe we should just give due course to the proposed amendment of Commissioner Guingona in order to resolve the issue.

MR. GUINGONA: Thank you.

THE PRESIDING OFFICER (Mr. Treñas): The Chair recalls its ruling insofar as the proposed motion of Commissioner Guingona is concerned.

We, therefore, ask for a vote.

MR. MONSOD: Mr. Presiding Officer, I believe the vote is not for a reconsideration at this point because there has been no finding that this has been voted on, but on his proposal to delete Section 5.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): The Chair appreciates the correction. The body shall proceed to vote.

All those in favor of the proposed amendment of Commissioner Guingona to delete the whole of Section 5, please raise their hand. (Few Members raised their hand.)

All those against, please raise their hand. (Several Members raised their hand.)

The results show 7 votes in favor and 24 votes against; the proposed amendment is lost.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: May I request that Commissioner Villacorta be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Villacorta is recognized.

MR. VILLACORTA: I am sorry, I registered for another Committee. My name was not erased by Commissioner Rama. I am sorry about that.

THE PRESIDING OFFICER (Mr. Treñas): The apology is accepted.

MR. BENGZON: Mr. Presiding Officer, may I request that Commissioner Suarez be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Suarez is recognized.

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

My amendments are rather simple. May I call the attention of the Committee members to Section 11, particularly line 16. There is mention here about complaints filed without the qualifying word "verified" and the phrase which reads "in any form or manner," which is susceptible to various interpretations and could contemplate even the filing of a telephone complaint. We do not like to constitutionalize harassment under Section 11, but this could be used as a weapon of harassment by unscrupulous individuals against even honest public officials. So to avoid that possibility, Mr. Presiding Officer, may we suggest this amendment:

On line 16, I propose to delete the word "the" and instead insert the word VERIFIED before "complaints," and then after "filed" delete the comma (,) together with the phrase "in any form or manner." Therefore, Section 11, as proposed to be amended, would read: "The Ombudsman and his Deputies, as protectors of the people, shall act promptly on VERIFIED complaints filed against public officials or employees of the government, including government-owned corporations, agencies or instrumentalities, and shall notify the complainants of the action taken and the results thereof."

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. COLAYCO: Mr. Presiding Officer, I wonder if Commissioner Suarez was present during the discussion last Saturday when we explained the main thrust of Section 11. One of the principal functions of the officer contemplated in this section is the capability to attend and act immediately on complaints not leading to prosecution but to correction or implementation of the request, either phoned in, or simply made orally or even in writing. What we wish to cure is the despair of the common people with our government officials. We have entrenched the administration with public officials who are beyond the reach of common people. It is a very common and sad spectacle to see people going from one government office to another, trying to secure redress for their common complaints of inaction, abuse, arbitrariness on the part of public officials. In other places like Nassau County, the United States, Singapore and Japan, people are free to call in, to use the telephone simply. For instance, when going to an office, they are made to return day after day, either because the official concerned did not come to work or simply they are told, "I am very busy. Will you please come back this afternoon?" These are common complaints of our people.

MR. NOLLEDO: In addition to that, most of the complainants are fishermen, peasants, the poor, and to require them to have verified complaints would be foolhardy. They will have to go to a lawyer and perhaps, if they cannot afford one, shall decide not to complain anymore. Besides, Mr. Presiding Officer, the Ombudsman is empowered. to publicize and, therefore, will not readily publicize any complaint. He will take into account all the factors involved in connection with the complaint and so there will be no harassment. I think it is understood that the Ombudsman, in taking into account complaints filed with his office, should see to it that no undue harassment shall result.

Thank you.

MR. SUAREZ: I thank the Gentleman for the expression of the noble sentiment behind the formulation of this

provision but it may not jibe with lines 19 and 20 because if it is an anonymous call or an anonymous letter, how do we expect the Ombudsman or his Deputies to "notify the complainants of the action taken and the results therefor"?

MR. COLAYCO: If it is anonymous, there is nothing that the Ombudsman can act upon.

MR. SUAREZ: But the Committee used the mandatory words "shall notify," Mr. Presiding Officer.

MR. COLAYCO: That is correct, under circumstances which make it possible. I suppose that is clear.

MR. SUAREZ: This may not harmonize with the expression "in any form or manner the complaint can be filed." So, probably with the explanation of the Gentleman, I am willing to concede the validity of the arguments, but let us try to formulate another prescription for this requirement regarding notification. That is my humble suggestion, Mr. Presiding Officer.

MR. MONSOD: Mr. Presiding Officer, would the Gentleman suggest that we say "and shall WHERE APPLICABLE, notify"?

MR. SUAREZ: That is better. I will go for that. So with that proposed amendment from the Committee I will not press my original amendment anymore.

Thank you.

MR. COLAYCO: What would Commissioner Suarez suggest?

MR. SUAREZ: I would suggest "and shall, WHENEVER APPLICABLE, notify the complainants of the action taken and the results thereof."

MR. COLAYCO: Thank you very much.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection to this proposed amendment? (Silence) The Chair hears none; the proposed amendment is approved.

MR. BENGZON: Mr. Presiding Officer, before we proceed further, I have been asked to announce that if possible the body should adjourn at about six-thirty because of Commissioner Calderon's affair.

May I request that Commissioner de los Reyes be recognized.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de los Reyes is recognized.

MR. MONSOD: Mr. Presiding Officer, just a point of inquiry. We have a substantial amendment on the procedure for impeachment that needs to be considered by the body. This might be the appropriate time to take it up and with due indulgence of the others, if theirs are perfecting amendments and not substantial amendments, would it be possible to take up the procedure for impeachment as agreed upon by the three major proponents of this Article?

MR. BENGZON: With the permission of Commissioners de los Reyes and Ople — the last Commissioner actually to propose that amendment was Commissioner Aquino — I would like to request that Commissioner Aquino be called.

MR. MONSOD: I believe that the proposed amendment of Commissioner Ople is quite short. May we ask Commissioner de los Reyes?

MR. DE LOS REYES: It is also short.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: On line 20 of page 2, after the phrase "preside but shall not vote" — because we amended that yesterday — I propose to add the following sentence: IN CASE OF DEATH, DISABILITY, REMOVAL OR RESIGNATION OF THE CHIEF JUSTICE THE MOST SENIOR ASSOCIATE JUSTICE SHALL PRESIDE AND IF FOR THE SAME REASONS HE COULD NOT PRESIDE, THE NEXT SENIOR ASSOCIATE JUSTICE SHALL PRESIDE. THE SAME RULE SHALL APPLY IF THE NEXT SUCCEEDING SENIOR ASSOCIATE JUSTICE COULD NOT PRESIDE FOR THE SAME REASONS.

Mr. Presiding Officer, it is possible that during an impeachment process something happens to the Chief Justice in which case the President can frustrate his impeachment by not appointing a Chief Justice. That is the concept.

MR. ROMULO: May we just suggest? Normally, if the Chief Justice cannot preside, an Acting Chief Justice is appointed. May we not refer to the Acting Chief Justice instead?

MR. DE LOS REYES: Yes, but suppose the President does not appoint any Acting Chief Justice because he is the one under impeachment? So, we must make an automatic rule in the Constitution itself.

MR. ROMULO: May we ask Commissioner Concepcion if the appointment of an Acting Chief Justice is automatic or done by the President?

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Concepcion is recognized.

MR. CONCEPCION: There is no need under the law. Whenever the Chief Justice is absent or the position is vacant, the Senior Associate Justice will perform his duties.

MR. DE LOS REYES: With the explanation of Commissioner Concepcion, I withdraw my amendment.

THE PRESIDING OFFICER (Mr. Treñas): The proposed amendment is considered withdrawn.

MR. DE LOS REYES: On Section 4, page 3, I propose to insert the words PRESENT ANTI-GRAFT COURT KNOWN AS THE between "The" and "Sandiganbayan," and to delete "created" and the whole of lines 2 to 4 up to the word "it." The whole amended sentence will therefore read as follows: "The PRESENT ANTI-GRAFT COURT KNOWN AS THE Sandiganbayan shall continue to function and exercise its jurisdiction as provided by law." My point is that there are some who believe that the word "Sandiganbayan" should not be deleted from the Constitution. So, this is a compromise between those who want to call it an Anti-Graft Court and those who want to retain the name "Sandiganbayan."

MR. MONSOD: We will accept the amendment, Mr. Presiding Officer.

Thank you.

THE PRESIDING OFFICER (Mr. Treñas) : Is there any objection to the proposed amendment? (Silence) The Chair hears none; the proposed amendment is approved.

MR. BENGZON: Mr. Presiding Officer, may we request Commissioner Ople to be recognized.

THE PRESIDING OFFICER (Mr. Treñas) : Commissioner Ople is recognized.

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

I refer to Section 12 (5) on page 5. May I propose an amendment by transposition and the addition of just a phrase which will read as follows: TO PUBLICIZE MATTERS COVERED BY ITS INVESTIGATIONS WHEN CIRCUMSTANCES SO WARRANT AND WITH DUE PRUDENCE. The reason, Mr. Presiding Officer, is that

publicity will be a major tool of the Sandiganbayan in creating the moral pressures it will need in order to perform. At the same time, not all those who will file complaints are well-meaning persons and they can avail of the presence of the Sandiganbayan and its powers to give the color of privilege to complaints that may not be well-founded. Therefore, we simply urge the office of the Ombudsman to exercise due care and prudence in publicizing matters covered by its investigations so that there is no undue injury to the reputation of persons. I seek the Committee's approval of this proposed amendment.

MR. MONSOD: Mr. Presiding Officer, the Committee accepts the proposed amendment also; this has reference to the earlier comments of Commissioners Sarmiento and Suarez.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. OPLE: Thank you.

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

MR. BENGZON: Mr. Presiding Officer, may I ask that Commissioner Aquino be recognized.

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

MS. AQUINO: Mr. Presiding Officer, the proposed amendment on Section 3 (5) would seek to transfer the jurisdiction of the impeachment trial pertaining only to the President from the Senate to the Supreme Court, such that I would seek co-sponsorship with Commissioner Guingona to propose an amendment by substitution on Section 3 (5), page 2, beginning on line 15. The proposed amendment reads: "The Senate shall have the sole power to try impeachment CASES AFFECTING THE VICE-PRESIDENT, MEMBERS OF THE SUPREME COURT AND MEMBERS OF THE CONSTITUTIONAL COMMISSIONS. When the President is on trial, the Supreme Court shall BE CONVENED AS THE COURT OF IMPEACHMENT. No person shall be convicted without the concurrence of two-thirds of all the Members of the Senate IN THE CASE OF THE. VICE-PRESIDENT, MEMBERS OF THE SUPREME COURT AND MEMBERS OF THE CONSTITUTIONAL COMMISSIONS OR OF THE MEMBERS OF THE SUPREME COURT IN THE CASE OF THE PRESIDENT.

MR. ROMULO: For reasons we have already explained, the Committee regrets that we cannot accept that amendment principally because we believe this is a political act. The President's peers who are equally elected are a better judge of the matter; finally, we feel it would politicize the Supreme Court.

THE PRESIDING OFFICER (Mr. Treñas): Does Commissioner Aquino ask for a vote?

MS. AQUINO: Yes, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): As many as are in favor of the proposed amendment of Commissioner Aquino, please raise their hand. (Few Members raised their hand.)

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

The results show 13 votes in favor and 25 votes against; the proposed amendment is lost.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: May I request that Commissioner Regalado be recognized.

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

MR. REGALADO: Mr. Presiding Officer, I propose the following amendments to Section 3 (2), (3), (4) and (5). There have been copies already circulated among the Members although I put in a few minor perfecting phrases on Section 3 (2) to read as follows: "A verified complaint for impeachment may be filed by any of its members or by ANY citizen which shall be INCLUDED IN THE ORDER OF BUSINESS WITHIN TEN SESSION DAYS AND referred to the proper committee WITHIN THREE SESSION DAYS THEREAFTER."

MR. ROMULO: Excuse me, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Romulo is recognized.

MR. ROMULO. Will the Committee seek clarification because the provision on impeachment given to us bears the notation that it is a joint proposal of Commissioners Maambong, Davide and Regalado. And it is on Section 3.

MR. REGALADO: I received it just now; I really have not had the time to scrutinize it carefully.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: To clarify matters, I would like to explain that I culled all these provisions from the proposals of Commissioners Davide, Regalado and myself. If the body will notice, I was the only one who signed it because I really had no time to confer directly with Commissioner Regalado. But all the things included in the various proposals are inside and, as stated by Commissioner Regalado, it is only a matter of probably arranging them. The substance is all there. So, we need not worry that there will be substantial deviation.

Thank you, Mr. Presiding Officer.

MR. REGALADO: Mr. Presiding Officer, I have decided to put in an additional section because, for instance, under Section 3 (2), there is mention of indorsing a verified complaint for impeachment by any citizen alleging ultimate facts constituting a ground or grounds for impeachment. In other words, it is just like a provision in the rules of court. Instead, I propose that this procedural requirement, like indorsement of a complaint by a citizen to avoid harassment or crank complaints, could very well be taken up in a new Section 4 which shall read as follows: THE CONGRESS SHALL PROMULGATE ITS RULES ON IMPEACHMENT TO EFFECTIVELY CARRY OUT THE PURPOSES THEREOF. I think all these other procedural requirements could be taken care of by the Rules of the Congress.

THE PRESIDING OFFICER (Mr. Treñas): Has Commissioner Regalado circulated the proposed amendment to all the Members?

MR. REGALADO: I already did this morning, Mr. Presiding Officer, although after consultation I decided to add something more.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: May I suggest that we suspend the session for two or three minutes so we can approach the Committee. Probably, we can iron this out without clogging so much our records.

SUSPENSION OF SESSION

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

It was 6:10 p.m.

RESUMPTION OF SESSION

At 6:15 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas) The session is resumed.

The Acting Floor Leader is recognized.

MR. BENGZON: May I request that Commissioner Regalado be recognized.

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

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

I am now on Section 3 (2), which I propose to be reworded as follows: "A verified complaint for impeachment may be filed by any of its members, or by ANY citizen UPON A RESOLUTION OF ENDORSEMENT BY ANY MEMBER OF THE HOUSE, WHICH SHALL BE INCLUDED IN THE ORDER OF BUSINESS WITHIN TEN SESSION DAYS AND REFERRED TO THE PROPER COMMITTEE WITHIN THREE SESSION DAYS THEREAFTER. THE COMMITTEE, AFTER HEARING AND BY A MAJORITY VOTE OF ALL ITS MEMBERS, SHALL SUBMIT ITS REPORT TO THE HOUSE WITHIN SIXTY SESSION DAYS FROM SUCH REFERRAL, TOGETHER WITH THE CORRESPONDING RESOLUTION. THE RESOLUTION SHALL BE CALENDARED FOR CONSIDERATION BY THE HOUSE WITHIN TEN SESSION DAYS FROM RECEIPT THEREOF FROM THE COMMITTEE."

Section 3 (3) is proposed to read: A VOTE OF AT LEAST ONE-THIRD OF ALL THE MEMBERS OF THE HOUSE SHALL BE NECESSARY TO INITIATE IMPEACHMENT PROCEEDINGS, EITHER TO AFFIRM A RESOLUTION OF IMPEACHMENT BY THE COMMITTEE OR OVERRIDE ITS CONTRARY RESOLUTION. THE VOTES OF EACH MEMBER SHALL BE RECORDED.

Section 3 (4) shall read: IN CASE THE VERIFIED COMPLAINT OR RESOLUTION OF IMPEACHMENT IS FILED BY AT LEAST ONE-THIRD OF ALL THE MEMBERS OF THE HOUSE, THE SAME SHALL CONSTITUTE THE ARTICLES OF IMPEACHMENT AND THE TRIAL BY THE SENATE SHALL FORTHWITH PROCEED.

Section 3 (5) remains as such:

No impeachment proceedings shall be initiated against the same official more than once within a period of one year

Of course, there will be the additional section, which reads: "THE CONGRESS SHALL PROMULGATE ITS RULES ON IMPEACHMENT TO EFFECTIVELY CARRY OUT THE PURPOSES OF THIS SECTION."

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to ask a few questions if the Gentleman will yield.

Under the 1935 Constitution, the vote needed in the Senate was three-fourths. Now it is being reduced to two-thirds, is that correct?

MR. REGALADO: That is right.

MR. RODRIGO: And under the 1935 Constitution, the vote needed in the House was two-thirds.

MR. REGALADO: That is right.

MR. RODRIGO: Now it is being reduced to one-third.

MR. REGALADO: That is right.

MR. RODRIGO: Why the very big jump in the case of the House? Why not from two-thirds to one-half?

MR. REGALADO: In conjunction with the 1973 Constitution, the vote required to initiate impeachment proceedings was one-fifth; the vote needed to convict was two-thirds. The Committee originally proposed a majority. We considered, however, the fact that, as contemplated in the constitutional framework, there may be 200 to 250 Members of the House of Representatives. Therefore, if we follow the 1973 Constitution which requires one-fifth, with a maximum of 250 Members of the House of Representatives, the votes of only 50 will be required. We feel that it would be very easy to get that vote to initiate impeachment proceedings, especially considering, first, — that impeachment proceedings will necessarily be upon the initiation of the opposition, and that we do not discount the fact that the opposition could easily get or muster the required number of votes if we stick to the 1973 Constitution.

On the other hand, the 1935 Constitution which requires a vote of two-thirds to initiate the impeachment proceedings was a little too demanding because a bigger number of votes is needed just to initiate the proceedings. If we stick to the 1973 Constitution, the President may be the subject of harassment by the initiation of impeachment proceedings every year. On the other hand, if there is really a need for impeachment proceedings to be initiated, and if we stick to the 1935 Constitution which requires a vote of two-thirds, then 167 votes will be required.

So, we thought that a happy compromise could be drawn by putting it at one-third, neither to make it very easy to initiate nor to make it very difficult to initiate. And one-third of 250 will be somewhere in the neighborhood of 83 or 84.

MR. RODRIGO: Mr. Presiding Officer, in order that the body can vote, I propose an amendment to the amendment. Instead of one-third, I propose one-half of all the Members of the House. I will explain in two or three sentences.

Impeachment is a very serious matter, that is why in the 1935 Constitution, a two-thirds vote of the House was required. Now, we are reducing it to one-third, which is too drastic a drop. Let us reduce it to one-half. Secondly, the proponent himself was afraid of harassment but one-third is easy to get. The President as well as the Members of the Senate can be harassed because if one-third of the Members of the House voted in favor of the impeachment, the Members of the Senate will be compelled to sit in judgment. Even the Chief Justice of the Supreme Court will be harassed because he will be compelled constitutionally to preside in the Senate during the impeachment trial.

Thank you.

THE PRESIDING OFFICER (Mr. Treñas): What does Commissioner Regalado say on the proposed amendment of Commissioner Rodrigo?

MR. REGALADO: Mr. Presiding Officer, I think one-third is a happy compromise between the exacting requirements under the 1935 Constitution and the very liberal requirements under the 1973 Constitution, either of which has its dangers.

THE PRESIDING OFFICER (Mr. Treñas): Therefore, will the Gentleman not accept?

MR. RODRIGO: The requirement under the 1973 Constitution was different because we had a unicameral body and the body itself was the one to try. Whereas, here it is a bicameral body.

MR. REGALADO: But whether it was unicameral or bicameral, the fact remains that the initiation proceedings are in the same House of Representatives.

THE PRESIDING OFFICER (Mr. Treñas): Yes, the matter has been sufficiently discussed. What does the Acting Floor Leader desire?

MR. BENGZON: We should vote now, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is the proposed amendment of Commissioner Rodrigo accepted by Commissioner Regalado?

MR. REGALADO: I regret I cannot accept.

THE PRESIDING OFFICER (Mr. Treñas) : What does the Committee say on the proposed amendment of Commissioner Regalado?

MR. ROMULO: We are accepting Commissioner Regalado's amendment, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: Just a matter of parliamentary procedure. We should vote first on the amendment of Commissioner Rodrigo before the Committee accepts the amendment of Commissioner Regalado.

VOTING

THE PRESIDING OFFICER (Mr. Treñas): The body shall proceed to vote.

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

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

The results show 14 votes in favor and 24 votes against; the proposed amendment is lost.

MR. BENGZON: Mr. Presiding Officer may I request that the Chairman of the Committee be recognized.

THE PRESIDING OFFICER (Mr. Treñas): The Chairman of the Committee is recognized.

MR. MONSOD: Mr. Presiding Officer, we are accepting the amendment of Commissioner Regalado.

MR. NATIVIDAD: May we have the amendment stated again, so we can understand it. Will the proponent please state the amendment before we vote?

MR. REGALADO: The amendment is on Section 3 (3) which shall read as follows: A VOTE OF AT LEAST ONE-THIRD OF ALL THE MEMBERS OF THE HOUSE SHALL BE NECESSARY TO INITIATE IMPEACHMENT PROCEEDINGS, EITHER TO AFFIRM A RESOLUTION OF IMPEACHMENT BY THE COMMITTEE OR TO OVERRIDE ITS CONTRARY RESOLUTION. THE VOTES OF EACH MEMBER SHALL BE RECORDED.

MR. NATIVIDAD: How many votes are needed to initiate?

MR. BENGZON: One-third.

MR. NATIVIDAD: To initiate is different from to impeach; to impeach is different from to convict. To impeach means to file the case before the Senate.

MR. REGALADO: When we speak of "initiative," we refer here to the Articles of Impeachment.

MR. NATIVIDAD: So, that is the impeachment itself, because when we impeach, we are charging him with the Articles of Impeachment. That is my understanding.

MR. BENGZON: Shall we vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection to the proposed amendment having been accepted by the Committee? (Silence) The Chair hears none; the proposed amendment is approved.

MR. BENGZON: Mr. Presiding Officer, I do not believe there are any other Commissioners that would want to present amendment; therefore, I move that the period of amendments be closed.

MR. REGALADO: Mr. Presiding Officer, we have already approved Section 3 (3). so may I know whether (2), (4) and (5) are also considered accepted by the Committee?

THE PRESIDING OFFICER (Mr. Treñas): May we hear from the Committee?

MR. MONSOD: Yes, Mr. Presiding Officer, we have accepted those amendments.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: We have already approved the amendment proposed by Commissioner Regalado, but I would just like to enter into the Record a fact . . . I will wait for my turn, Mr. Presiding Officer.

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

MR. BENGZON: Since the Committee has also accepted the amendments in Section 3 (2), (4) and (5), perhaps the Chair should now call for a division of the House or should ask whether or not there would be any objections to wrap up the whole thing.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection to the proposed amendments of Commissioner Regalado on Section 3 (2), (4) and (5)? (Silence) The Chair hears none; the proposed amendments are hereby approved.

MR. REGALADO: There is still one more question with respect to the proposed amendment by addition, reading: "THE CONGRESS SHALL PROMULGATE ITS RULES ON IMPEACHMENT TO EFFECTIVELY CARRY OUT THE PURPOSES OF THIS SECTION." This can either be Section 3 (6) or as a matter of style it may become Section 4. It does not matter where it will be placed, but at least the substance is that the Congress shall promulgate its rules on impeachment to effectively carry out the purposes or the purpose of this section.

THE PRESIDING OFFICER (Mr. Treñas): What does the Committee say?

MR. REGALADO: If it will be in Section 3 (6), it will be for the purpose of carrying out the purpose of this section. If it will be incorporated as a new Section 4, it will merely read: "TO CARRY OUT THE PURPOSE OF THE PRECEDING SECTION."

MR. ROMULO: I suggest that we make it Section 3 (6).

THE PRESIDING OFFICER (Mr. Treñas): Does the Committee accept?

MR. MONSOD: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. BENGZON: Mr. Presiding Officer, may we request that Commissioner Maambong be recognized.

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

MR. MAAMBONG: Mr. Presiding Officer, I am not moving for a reconsideration of the approval of the amendment submitted by Commissioner Regalado, but I will just make of record my thinking that we do not really initiate the filing of the Articles of Impeachment on the floor. The procedure, as I have pointed out earlier, was that the initiation starts with the filing of the complaint. And what is actually done on the floor is that the committee resolution containing the Articles of Impeachment is the one approved by the body.

As the phraseology now runs, which may be corrected by the Committee on Style, it appears that the initiation starts on the floor. If we only have time, I could cite examples in the case of the impeachment proceedings of President Richard Nixon wherein the Committee on the Judiciary submitted the recommendation, the resolution, and the Articles of Impeachment to the body, and it was the body who approved the resolution. It is not the body which initiates it. It only approves or disapproves the resolution. So, on that score, probably the Committee on Style could help in rearranging these words because we have to be very technical about this. I have been bringing with me The Rules of the House of Representatives of the U.S. Congress. The Senate Rules are with me. The proceedings on the case of Richard Nixon are with me. I have submitted my proposal, but the Committee has already decided. Nevertheless, I just want to indicate this on record.

Thank you, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: May I finally move that we terminate the period of amendments on the Article on the Accountability of Public Officers.

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

MR. BENGZON: May I move that the Secretariat furnish us tomorrow morning with a clean copy of the Article on the Accountability of Public Officers before we vote on Second Reading.

THE PRESIDING OFFICER (Mr. Treñas): The Secretariat is so requested to furnish all Members with the Article on the Accountability of Public Officers as requested by the Acting Floor Leader.

ADJOURNMENT OF SESSION

MR. RAMA: Mr. Presiding Officer, I move that we adjourn until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Treñas) : The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:33 p.m.

[*] Appeared after the roll call.

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