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Friday, September 26, 1986

CALL TO ORDER

At 9:57 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Ahmad Domocao Alonto, to wit:

AL FATIHAH —

Bismillaahir — Rahmaanir — Rahfim. — In the name of Allah, Most Benevolent, Ever-Merciful.

'Al-Hamdu Li'llaahi Rabbi'l — 'Aalamiin; — All Praise be to Allah, Lord of all the Worlds;

'Ar-Rahmaanir — Rahiim; — Most Beneficent Ever-Merciful;

Maaliki Yawmid-Diin! — King of the Day of Judgment,

'Iyyaaka na'-budu wa 'iyyaaka nasta'iin. — You alone we worship; and to You alone we turn for help.

'Ihdinas-Siraatal-Mustaqiim — Guide us to the straight path,

Siraatal-laziina 'an- 'amta 'alay-him — The path of those whom Thou hast favoured.

Gayril-magzuubi 'alay-him wa laz-zaaalliin. — Not (the path) of those who earn Thine anger nor of those who go astray. (Q. 1: 1-7).

On this homestretch of framing the Fundamental Law of this country, we ask of Thee, O God, to guide us as Thou have been guiding us from the start, and grant that we be able to complete the task before the date that we have voluntarily imposed upon ourselves to finish drafting this Constitution.

We ask of Thee, O God, to continue strengthening us along the course of this task and grant that this Constitution could effect a change in attitude and dynamism to the people of this country, for we are aware, O God, of the verity — "INNA 'LAAHA LAA YU GHAIRU MABI QAUMIN HATTA YUGHAIRU MABI ANFUSIHIM." "Verily, God do not change the condition of a people unless the same people has changed what is in themselves."

We ask of Thee, O God, that this Constitution that we are drafting can, by it, establish in this, country, "UMMATTUN YADU'UNA ILA'L KHAYR WA YA'MURUUNA BIL MA'RUUF WA YANHA'UNA ANI'L MUNKAR" . . . "A nation that invites to goodness, enjoins what is right and forbids what is evil." (Q. 3: 104).

Finally, we thank Thee, O God Almighty, for giving us a leader whom Thou has blessed with genuine sincerity of

faith, complete dedication to the well-being of the people and true love for freedom, justice and democracy.

AMIIN, YA RABBUL ALAMIIN.

(At this juncture, the President relinquished the Chair to the Honorable Francisco A. Rodrigo.)

ROLL CALL

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

Alonto, A. D. Padilla, A. B.
Azcuna, A. S Muñoz Palma, C
Bacani, T. C. Quesada, M. L. M.
Benzon, J. F. S Rama, N. G.
Bernas, J. G Regalado, F. D
Rosario Braid, F De los Reyes, R. F.
Calderon, J. D. Rigos, C. A.
De Castro, C. M Rodrigo, F. A
Colayco, J. C. Romulo, R. J.
Concepcion, R. R. Suarez, J. E.
Foz, V. B. Sumulong, L. M
Guingona, S. V.C. .Tan, C.
Jamir, A. M. K. Tingson, G. J
Maambong, R. E Treñas, E. B
Natividad, T. C Uka, L. L
Nolledo, J. N. Villacorta, W. V.
Ople , B. F.

With 33 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar Y. R.

Davide, H. G.

Aquino,

Garcia, E. G.

Bennagen, P. L

Gascon, J. L. M. C

Lerum, E. R. Samiento, R. V

Monsod, C. S. Tadeo, J. S. L

Nieva, M. T. F.

Mr. Rosales was sick.

Mr. Villegas notified the Constitutional Commission, through the Secretariat, of his absence.

Mr. Laurel was absent.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Calderon, there being no objection, the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body with the amendment at the instance of Mr. Padilla, to insert on page 1453, after the alternative formulation of Mr. Suarez, his proposed amendment, to wit:

THE STATE ENCOURAGES MARRIAGE AS A BASIC SOCIAL INSTITUTION AND THE FOUNDATION OF THE FILIPINO FAMILY. THE LAW SHALL CONTINUE TO PROTECT THE FAMILY RIGHTS OF THE SPOUSES AND THEIR CHILDREN.

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 1012 — Constitutional Commission of 1986

Letter from Mrs. Rosario A. Magnaye of Looc, Romblon, submitting, for consideration by the Constitutional Commission, the following suggestions: 1) give vacant lands owned by the government to deserving tenants; 2) encourage the landowners to donate some parcels of land to citizens worthy of their trust; and 3) give every citizen the incentive and the freedom to buy or sell land by mutual agreement between vendor and vendee, among others

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 1013 — Constitutional Commission of 1986

Communication from Mr. Bayani Molina of 161 Scout Limbaga Ext., Kamuning, Quezon City, giving, among others the advantages of a constitutional right to bear arms and submitting his suggestions on how this constitutional right may be implemented

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No. 1014 — Constitutional Commission of 1986

Letter from Mr. Florencio D. Montalbo of 39 Notre Dame, Cubao, Quezon City, expressing apprehension over the approval of a constitutional proposal which in effect shall perpetuate the post-audit procedure of auditing government accounts

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 1015 — Constitutional Commission of 1986

Position paper submitted by the Small Land-owners Association of Antique, San Jose, Antique, signed by two hundred three members, seeking the repeal of Presidential Decree No. 27, known as the Agrarian Reform Law, so that all lands covered by certificates of land transfer containing an area of more than seven but not exceeding one hundred hectares be returned to the original owners

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 1016 — Constitutional Commission of 1986

Letter from Mr. Ernesto B. Martiñez of 55 Panorama St., Rimview Park Village, Concepcion, Marikina, Metro Manila, seeking inclusion in the Constitution of a provision providing only one color, one design, etc. for paper monies or currencies from two-peso to one-hundred peso bills

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 1017 — Constitutional Commission of 1986

Communication from Mr. Delfin Manlapaz of 1707 E. Rodriguez, Sr. Blvd., Cubao, Quezon City, reiterating his suggestion for the creation of a citizen-owned Reservoir of National Credit wherein everyone, natural-born or naturalized, regardless of sex, age, or social standing, is credited with a prorated initial bank deposit

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

DESIGNATION OF MR. RODRIGO AS PRESIDING OFFICER

Pursuant to Section 2(a), Rule I of the Rules, on motion of Mr. Rama, duly seconded and there being no objection, the Body designated the Honorable Francisco A. Rodrigo to perform the duties of the Chair.

Thereafter, upon request of Mr. Rama, the Chair recognized Mr. Calderon for a question of privilege.

QUESTION OF PRIVILEGE OF MR. CALDERON

Thereupon, Mr. Calderon took the floor on a question of privilege relative to the nine-day visit of President Corazon C. Aquino to the United States which, he said, was highly successful.

Mr. Calderon disclosed that the President had delivered an average of two speeches a day, not counting her informal talks with hundreds of businessmen like the group of top level officials of banking institutions and business conglomerates whom she met for breakfast in her hotel at New York City enroute to San Francisco on her way home. He stated that in more than half of her eighteen formal speeches, she mentioned the Constitutional

Commission and, specifically, in a speech before the women leaders of America in Washington, D.C., on the same day, she delivered her classic address before the U.S. Congress. President Aquino mentioned that "a Constitutional Commission, headed by a distinguished woman jurist, Cecilia Muñoz Palma, will soon finish the draft of a new Constitution which will be submitted to the Filipino for approval."

It is plain, Mr. Calderon said, that not only the eyes of the Filipino people, but also of the world, are upon the Constitutional Commission, for the Filipinos do not live in an island entirely alone by themselves but in a world where, while fashioning a life of their own, they must learn to live with others.

On the basic theme of President Aquino's eighteen speeches, he stated that she dwelt on recurrent issues like her government's policy to encourage private initiative, bringing to the fore her belief that the private sector is the stimulus of growth.

He quoted from her speeches delivered on September 23, 1986 before the Stanford Research Institute and the Pacific Basin Economic Council and before the Philippine-American Chamber of Commerce and the New York Economics Club stating that she battled for an open economy and repeatedly appealed to American businessmen to invest in the Philippines to assist in its economic growth.

Quoting from her speech before the Advisory Committee of the creditor banks in New York City, he stated that President Aquino believes and relies on a balanced agricultural and industrial growth.

In her speech during a luncheon tendered in her honor jointly by Harvard University President, Dr. Derek Bok and Radcliffe College President, Martina Horner, he stated that she adverted to the funeral of Ninoy Aquino, expressing abhorrence of the use of violence.

Quoting from her speech before the Joint Session of the U.S. Congress, he underscored President Aquino's commitment to God and to the Filipino people.

He stated that in her speeches and during interviews, President Aquino never mentioned the U.S. Military Bases issue, making it clear that she is keeping her options on the Agreement open until 1991.

Finally, Mr. Calderon stressed the congruence in the hopes and aspirations of President Aquino and that of the Constitutional Commission.

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

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 31 ON PROPOSED RESOLUTION NO. 531 ON THE GENERAL PROVISIONS

On motion of Mr. Maambong, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 531 (Committee Report No. 31) submitted by the Committee on General Provisions, entitled:

Resolution proposing to incorporate in the Constitution an Article on General Provisions and a Section in the Transitory Provisions.

Mr. Maambong stated that the parliamentary status would be the continuation of the period of interpellations.

Thereupon, Mr. Tadeo was recognized for his interpellation.

INTERPELLATION OF MR. TADEO

In reply to Mr. Tadeo's query on the feasibility of accommodating the war veterans and government retirees in the acquisition of public lands and the development of natural resources in relation to Sections 4 and 6 of the Article on Social Justice which provides for the grant of lands to landless farmers and farm workers considering the scarcity of land, Mr. de Castro stated that the war veterans fought for the country, some were maimed and many died, and it is their simple wish that they own a share of the public lands which the government distributes as part of its program of social justice.

Adverting to Republic Act No. 1363 approved by Congress on June 18, 1955, he stated that it granted war veterans, their widows and orphans, the preference to acquire public lands but that the said law was repealed twenty-five years later. He stressed that the thousands of war veterans should not be denied such right and that the State should be mandated to protect them.

Mr. Nollado clarified that the provision which states "preference shall be given these war veterans and government retirees and their dependents in the acquisition or utilization of public

lands and the development of natural resources" does not contemplate that all of them would apply for such preference and that there is no basis to fear the diminution of the rights of small farmers, which rights, with respect to landholdings they cultivate and landholdings privately owned, shall be protected. He stressed that all Filipinos could apply for lands under the same conditions although veterans should be given preference. The farmers, he added, as contemplated in Mr. Tadeo's statement, are those tilling privately-owned lands.

Mr. Tadeo warned of the possible problems that may arise inasmuch as there are three or four million landless agricultural workers as well as some 650,000 kaingineros who would need land. He observed that retirees receive retirement pays, in any case. He underscored that the farmers are also heroes inasmuch as they feed the nation.

While not denying this observation, Mr. Nollado pointed out that the provision carries the balancing of interest doctrine which the Supreme Court expounded on in many cases. He noted that preference would not be given to war veterans by abandoning the rights of farmers. The state, he maintained, is duty bound to observe this doctrine. He observed that following Mr. Tadeo's theory would lead to some sort of discrimination and underscored that there will always be lands available to the farmers whose rights will be duly respected.

Mr. Tadeo stressed the great contribution of the farmers whose products generate foreign currency earnings used to purchase raw materials and machineries needed by the country. Nevertheless, he pointed out that farmers do not have benefits such as retirement pay although they are as much heroes as the war veterans.

Section 4, Mr. Tadeo opined, should not be included in the Article inasmuch as the natural resources which can be cultivated are too limited. He noted that Section 10 mentions urban land reform and queried as to where these people would be brought.

REMARKS OF MR. NATIVIDAD

Mr. Natividad assured Mr. Tadeo that the farmers' rights shall be respected but maintained that the war veterans' rights cannot be overlooked. He stressed that the country owes the war veterans a debt of gratitude as they fought in defense of the country and that without them the Constitutional Commission would not be existing and the country would not be free today. He informed that war veterans receive very little in terms of benefits and that many, just like the farmers, suffer from tuberculosis because of their exposure to the elements in the mountains and lack of food during the war.

He noted that even the United States has forgotten them and that the United States Recession Act of 1946 maintained that the war in the Philippines was fought for the Philippines by the Filipinos for which reason the Philippines, not the United States, should take care of the Filipino war veterans. The United States, he said, promised P50 a month in pay of which only P18 was paid and that the war veterans were not given hospitalization benefits, death and burial benefits, educational benefits, service connected hospitalization benefits and old-age pension.

The Constitution, he underscored, is for all Filipinos — the farmers, the war veterans, the employees, the students, the teachers. He called for equal treatment and care for all just like a parent would equally care for all his children.

In reply, Mr. Tadeo manifested his support for the aspirations of the war veterans and government retirees although he maintained that the provision should be viewed in the proper perspective. He stated that the government should do something about the low pensions of the veterans and that the problem should be met head on.

INTERPELLATION OF MR. TADEO

(Continuation)

In reply to Mr. Tadeo's inquiry on the 20-year lifespan provided in Section 7, Mr. Nollado informed that the Section has been amended to wit: "Congress shall by law and within a specified period, provide for review of the performance and management of government ministries, bureaus, agencies or corporations for the purpose of determining their retention, reorganization or dissolution." He explained that this means Congress shall provide for the period of review of their performance to determine whether they shall be retained, reorganized or dissolved. He informed that the 1935 and 1973 Constitutions and the Freedom Constitution do not contain such a provision.

Mr. Tadeo lauded the revision of the original provision stating that the existence of such ministries, bureaus, agencies and corporations should be based on the needs of the times instead of a definite lifespan.

Replying thereto, Mrs. Rosario Braid stated that the spirit of the provision is to encourage ministries, bureaus, agencies and corporations to relate their programs to changes. She noted that the Reorganization Committee Report showed that several ministries and about 30 corporations or bureaus were found no longer relevant to the needs of the times and were requested to be reexamined by the appropriate agencies.

On Section 8, Mr. Tadeo inquired whether the provision would mean making the Philippines attractive to foreigners so that they can take advantage of natural spots, to which Mrs. Rosario Braid answered that the intent is to encourage the preservation of indigenous communities without indulging in extravagance in developing them to meet the needs of foreign tourists.

On the possibility that constitutionalizing tourism may lead to legitimizing vice and prostitution, Mrs. Rosario Braid underscored that tourism is an important industry which should not be left out.

In answer to Mr. Tadeo's request for an explanation of Section 15 which states "The State may not be sued without its consent", Mr. Maambong stated that the nonsuability of the State is a universal doctrine adopted by all countries of the world. He noted that it is against public policy to allow suit against the State without its consent, otherwise, the government would not be able to do anything except to defend itself in litigations. However, he mentioned the exceptions, namely, when a law allows the State to be sued and when the State voluntarily enters into a contract in which case there is implied consent to be sued.

Mr. Nollado stated that this principle is based on the U.S. Supreme Court ruling in the case of *Kawananakoa vs.*

Polybank decided by a Federal Supreme Court, in which ruling Justice Holmes opined: "A sovereign is exempt from suit, not because of any formal conception or absolute theory but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends". He noted that the exceptions to this principle may be given expressly by law — whether general or special or implied — as when the State enters into a contract with an individual, the State then goes to the level of the individual or when the State sues the individual, in which case the latter may file a counterclaim against the State. Mr. Nollado informed further that when government takes a private property of an individual for public use without the legal process of expropriation or negotiated sale, the Supreme Court opined: "The aggrieved party may properly maintain a suit against the government without thereby vitiating the doctrine of governmental immunity from suit without its consent". The Supreme Court, Mr. Nollado Stated, also said that the doctrine of governmental immunity from suit cannot serve as an instrument for perpetrating an injustice on a citizen"

In relation to Sections 17, 19 and 21, to wit:

SECTION 17. The Armed Forces of the Philippines, the main force for the defense and security of the State, belong to the Filipino people.

Its tasks are to preserve the sovereignty and territorial integrity of the nation, to participate in national development and reconstruction, to insure public security, and to serve the interest of the people;

SECTION 19. It shall be the duty of the Armed Forces of the Philippines to remain loyal at all times and in all places to the people;

SECTION 21. The military as impartial guardian . . .

Mr. Tadeo recounted some experiences with the military. He informed that in Piat, Solana, Cagayan, 34 farmers in the Massey-Ferguson project, involved in the cultivation of corn and sorghum, were driven away by the military who were supporting the political warlord. He stated that these farmers told him that they were forced to sign away their land because of military pressure. He noted that the farmers, through toil and taxes, have fed the soldiers and paid for their salaries.

In Mindanao, Mr. Tadeo observed that when the National Development Corporation was set up, the farmers were driven away by the military and that in Samar, the farmers' livestock were confiscated also by the military. He opined that the Armed Forces of the Philippines which was expected to serve the interest of the Filipino people had failed to do so and instead had served foreign interest.

As to how this situation can be rectified, Mr. de Castro stated that the Body had created a Commission on Human Rights which shall investigate abuses such as those recounted by Mr. Tadeo. He acknowledged that there are abuses committed by the military owing to the present situation in which the P12 daily subsistence allowance is barely enough to purchase a soldier's food requirements. He noted that the soldiers have not been given the proper care. Mr. de Castro pointed out that the Constitution should set the right direction for the Armed Forces of the Philippines and thereby prevent the recurrence of abuses.

Mr. Tadeo, in reply, noted that agrarian land reform can be properly implemented with the help of the AFP whose services to the Filipino people could wipe out the insurgency and achieve progress for the country.

Mr. de Castro pointed out that not all members of the AFP are bad and that they have helped the farmers construct barrio roads and artesian wells. He stated that the Commission on Human Rights should rid the AFP of scoundrels. He then sought Mr. Tadeo's help to make the AFP, through the Constitution, truly serve the Filipino people's interest.

REMARKS OF MR. NOLLEDO

Mr. Nollado remarked that the government must show its gratitude to the war veterans and government retirees who had served the government with dignity and honor and whose toils had been pitifully remunerated by measly pensions and gratuities.

He expressed the hope that the members of the AFP and the farmers, under this new dispensation, would cooperate with each other in the realization of more meaningful and authentic agrarian land reform program.

Thereafter, he recited a poem which he wrote in his birthplace, Barrio Inawagan, Puerto Princesa City when he was 12 years old, at a time when the soldiers enjoyed a wide reservoir of goodwill and love among the people. He stated that he was dedicating the poem entitled Ako'y Isang Kawal to all war veterans especially those who are in the Commission, namely, Messrs. Padilla, de Castro, Regalado, Ople, Jamir and Natividad.

INTERPELLATION OF MR. MONSOD

On Section 4, in reply to Mr. Monsod's query whether "war veterans" would refer only to the veterans of the Revolution of 1896, World War I, World War II, the Korean War and the Vietnam War, or whether it would include those who are fighting insurgency, Mr. de Castro expressed willingness to clarify the intent during the period of amendments.

On the observation that Section 7 could lead to the proliferation rather than the reduction of agencies in the government, Mrs. Rosario Braid stated that the intention is not to duplicate the function of the Commission on Audit of appraising performance but to encourage bureaus and organizations to constantly reexamine their goals and programs against the criteria which are considered relevant to the changing needs of the time, the emphasis being that organizations have to constantly renew themselves since they tend to become obsolete after a period of time.

Mr. Monsod observed that the provision would seem to constitutionalize the Presidential Commission on Government Reorganization, the danger being that it could be used by Congress to exercise political leverage on certain ministries in violation of the principle of separation of powers. He opined that the provision would also open the door to amendments or modifications which would impair the civil service, in view of which, he urged the Committee to take a second look at the provision.

Reacting thereto, Mr. Nollado opined that there would not be any violation because although it is the Constitution which sets forth the principle of separation of powers, it may qualify such principle considering that Congress, being the repository of governmental authority, should be given the power to determine whether or not government offices faithfully discharge their assigned duties under the Constitution and the laws. Considering that the power to reorganize governmental entities is executive in nature, Mr. Nollado stated that Congress should merely lay down the guidelines and delegate the power to reorganize also to executive officers. He stated that this provision would qualify the provisions on civil service considering that, while appointment to public office is a privilege, such privilege may be limited by law.

Mr. Monsod underscored that one of the more important features of a stable government is continuity and that election is the remedy if the people are dissatisfied with the way the Executive is running the government. He stated that he would want to avoid a situation where Congress would interfere with the Executive Department by using this provision to diminish the balance of powers, to which Mr. Nollado replied that continuity would not be impaired by the provision. He agreed that after each periodic election, the victors who come into power continuously discharge their duties but government offices remain as they are with no reviewing authority over

them, in view of which, there should be some higher power that should determine whether or not these government offices should be maintained because reliance on mere political outpourings during the elections would not solve the problem of government offices that have become obsolete after a lapse of time.

As to how he voted on the section which set up a Metro Manila Commission for common services, Mr. Nollado stated that Mr. Ople's amendment which he had accepted merely establishes a coordinating agency substantially different from the Metro Manila Commission, to which Mr. Monsod replied that Mr. Nollado's argument about election promises not being followed is wrong because what is sought to be set up is different from the Metro Manila Commission which would be effectively abolished.

On Section 8, on the contention that it is not necessary to constitutionalize tourism and that adoption of the provision would be a violation of the Declaration of Principles which provides that the State shall protect and advance the right of the people and their posterity to a balanced and healthful ecology, Mrs. Rosario Braid stated that the provision was formulated before the Body approved the related section on the Declaration of Principles. She expressed willingness to consider amendments at the proper time, pointing out, however, that the Committee would like to keep the provision subject to amendments. Mr. Monsod replied that if the Commission were to operationalize everything in the Declaration of Principles, it would have a pretty long Constitution.

On Section 9, in reply to Mr. Monsod's apprehension that, as formulated, it is possible that the government may set up a central censorship body, Mrs. Rosario Braid denied that such is the intent of the provision. She, however, expressed willingness to consider amendments at the proper time.

On Section 10(2), as to how the State would protect the public from misleading, harmful, deceptive and colonial advertising, labelling and other forms of misrepresentation, Mrs. Rosario Braid stated that Mr. Gascon would be defending his favor its provision when he comes. However, to the query as to who would be the judge of the nature of advertising, Mr. Nollado stated that there is an existing body which lays down the standards on advertisements and which provides for sanctions on violations. He advanced the view that the purpose of Mr. Gascon's proposal is to provide authority for Congress to create a similar body but with more powers.

On whether this would not amount to censorship, Mrs. Rosario Braid stated that there are at least two major bodies, the Philippine Association of National Advertisers' and the Philippine Board of Advertising, which are self-regulatory and which have set the criterion of common good, although there is need to further operationalize them in accordance with the concepts contained in this provision.

Additionally, Mr. Nollado stressed that there would be no such censorship, the only purpose being to inform the public that the police power of the State can protect them from misleading, harmful and deceptive information and other forms of misrepresentation. He further stated that the instances given by Mr. Monsod could be well covered by the prohibition against colonial advertising, the purpose of Mr. Gascon being that the Filipinos should develop their own identity.

On whether the provision would prohibit jingles and commercials in English and commercials which show white faces who talk of the virtues of products in their part of the world, Mr. Nollado stated that it would be taken care of by the appropriate body that Congress may establish to determine whether or not said advertisements constitute colonial advertising.

Additionally, Mr. Foz stated that a frontal response to colonial advertising may be effected by requiring that advertising materials sponsored by multinationals use local talents and materials in order to avoid the propagation of American or alien cultures and values. Mr. Monsod noted that a constitutional provision in this regard may open a broad range of censorship that would even be counterproductive to Filipino culture.

Moreover, Mr. Foz stated that the Bureau of Domestic Trade, one of the bureaus in the Ministry Of Trade and Industry, is empowered by law to handle cases of misleading, harmful or deceptive advertising, labelling and other forms of misrepresentation for the protection of the public. Mr. Monsod maintained that such contention could be dealt with at the proper time, however, his question was on the definition of colonial advertising.

Mrs. Rosario Braid invited attention to the fact that the Philippine Board of Advertising has no legal sanction against erring members and, therefore, this provision would make it more socially responsible. She then cited for the record a study which showed that 76 percent of products advertised are of foreign brands but may be locally manufactured and that 6 of the top 10 advertisers in radio and 9 out of the top 10 advertisers in television are multinational subsidiaries, thus most of them use multinational advertising agencies.

On Section 11(2), Mr. Foz stated that the provision contemplates majority ownership and control by Filipinos. He expressed willingness to consider amendments at the proper time.

On the meaning of the phrase "one form of commercial mass media in a single market", Mr. Foz explained that two possible models could be adopted in this regard, namely, 1) limiting the ownership of one person or one family or one corporation to only one category or type of media; and 2) allowing the individual corporation or family to own other forms of mass media in the other categories but outside the market area.

In reply to Mr. Monsod's specific example, Mr. Foz stated that the provision would divide mass media into only two, namely, print and broadcast which includes radio and television.

In this connection, Mr. Foz stated that a corporation could not own a newspaper and a TV station at the same time in one market area, in reply to which Mr. Monsod observed that the Committee is going a little bit too far in terms of trying to curtail Filipino enterprises.

Mr. Monsod pointed out that there is competition not only within the domestic market but also in the international market. He stated that he could not understand the Committee position that one can only be in newspapers and not in radio.

In reply thereto, Mr. Foz stressed that a combination of a newspaper, a television and a radio is a powerful weapon combination for some form of economic or political control. He explained that the idea is to pave the way for diversification of ownership in the countryside rather than have a concentration of mass media establishments in Metro Manila

On whether this provision would be an incentive for people to go out and establish newspapers and reach out television and radio in the rural areas, Mr. Foz stated that the Committee does not call it an incentive but a push that would make people who are interested in putting up media establishments go out of Metro Manila so that the people out there would get the benefit of free dissemination of information and ideas.

Mr. Monsod pointed out that if people are not given the benefit of skills, they would be discouraged from going out to the rural areas but they may be able to do it if media can avail of the best talents and expertise if they are feeding into an integrated approach. He stated that there are 5 television stations, over a hundred radio stations and 22 newspapers.

Reacting thereto, Mr. Foz stressed that there is a link between print and broadcast media although the facilities are quite different. He pointed out that in the dissemination of news, for instance, it is a standard practice for television and radio stations to maintain their own separate news staff.

On the third paragraph which was said to be mandatory, Mr. Monsod inquired if this is not already amply covered by the provision in the Article on National Economy and Patrimony on the encouragement of broader

participation by the people in all enterprises, in reply to which Mr. Foz explained that although there is such general provision in the Article on National Economy and Patrimony, the Committee felt that there should be a related provision on mass media as a special kind of business or enterprise.

Mr. Monsod maintained that although the use of public domain is important, it was precisely the reason why there is an omnibus provision in the Article on National Economy and Patrimony that would apply not only to mass media but also to all kinds of enterprises that would have public interest in them.

INQUIRY OF MR. COLAYCO

On Mr. Colayco's inquiry on the interpretation of the second paragraph of Section 11, Mr. Foz affirmed that television and radio are classified as one and newspapers and magazines as another form.

Mr. Foz disagreed with Mr. Colayco's observation that the wording of one of the prohibitions against owning more than one form could be literally interpreted to mean that one can own more than one newspaper.

Mrs. Rosario Braid, however, added that it can be allowed as long as it will not be in a single market.

Mr. Foz agreed with Mr. Colayco's interpretation that if television and radio are classified into one form and newspapers and magazines into another form, the prohibition is against owning more than one form such that a person cannot own a TV station and a newspaper.

On whether a person could own more than one of the same form in the same market, Mr. Foz stated that it would be covered by the prohibition.

Mr. Colayco argued that the formulation of the provision which reads "No one individual can own more than one form of commercial mass media in a single market" would allow a person to own more than one of the same form, in reply to which Mr. Foz adverted to the original idea behind the provision which is to prevent monopoly.

On whether he would consider owning two newspapers in Metro Manila a monopoly considering the more than twenty newspapers therein, Mr. Foz believed that in a strict sense it would not be a monopoly although ownership or control of two newspapers packs a wallop in influencing public opinion. He stated that while there are more than twenty newspapers in Metro Manila, they do not enjoy the same rating. However, he opined that ownership of two small newspapers would fall under the prohibition if they are circulated in the same market.

Additionally, Mrs. Rosario Braid stated that the provision would encourage cooperative ownership and would discourage replays on highly centralized relay stations, thus, it would encourage focal programming which are more relevant to the needs of other parts of the country. She disclosed that the Kapisanan ng mga Brodkaster sa Pilipinas is in favor of this provision.

INTERPELLATION OF MR. MONSOD

(Continuation)

Commenting on Mrs. Rosario Braid's reply that the provision would prohibit relay station 6, Mr. Monsod pointed out that under the provision, it is not prohibited because relay stations in the rural areas are part of the enlargement of a single market.

Mrs. Rosario Braid clarified that the intent is to encourage local broadcasting to cater to local based market, to which Mr. Monsod disagreed by stating that relay stations would still come within the single market. He opined that this may be a good idea if the intent is to encourage national integration which, he noted, is implied to be against the intent of the provision.

On the definition of monopoly, in the light of the understanding that ownership of two newspapers out of twenty-two could not be considered a monopoly, Mr. Foz stated that the basic idea is to diversify ownership and that it would be alright to have even fifty newspapers in Metro Manila provided they are owned separately. He pointed out that a newspaper does not only carry news but also opinions.

Mr. Monsod agreed that there should not be ownership of two newspapers but in the case of radio stations, unlike a newspaper, it does not cater to an identical market because the coverage is wider in scope than newspapers. He then inquired as to how a single market is defined in this respect.

Replying thereto, Mr. Foz stated that it is not prohibited to have a newspaper and a radio station provided that both operate in different areas, to which Mr. Monsod replied that from the technical point of view, that would not be possible considering that radio travels by airwaves.

Mr. Foz pointed out that radio depends on its strength so that if it is given only so much power, it could not operate nationwide.

Mr. Monsod pointed out that in answer to his earlier query, it was said that the provision would not preclude a company from owning two radio stations that cater to two different areas, which Mr. Foz confirmed by stating that the consideration should be the market area.

Mrs. Rosario Braid stated that only a few radio stations operate nationwide and most are operating on a power of only ten kilowatts, the area of which is limited.

In the case of Malaya which publishes three dailies, namely, Malaya, Midday and Masa, Mr. Monsod inquired whether this would be prohibited, to which Mrs. Rosario Braid replied that it would depend on the reader market.

Mr. Monsod stated that he is more confused with the reply that if the same publishing company publishes one newspaper in English and another in Tagalog, they would be serving different markets. He inquired whether this is the Committee's definition of single market.

In reply, Mr. Foz stated that although Malaya has three publications, Ang Pahayagang Malaya is the main publication and the other two are just sister publications. He stated that this is considered an exception because one is published in Tagalog while the other is published for the afternoon news.

Mr. Monsod pointed out that the constitutional provision does not reflect the possibility of an exception, to which Mr. Foz stated that this provision is not a self-executing provision so that it would still need an implementing law which should contain the details including the exceptions.

On the observation that this would be less in contravention of the intent of the Committee prohibiting a company from owning one radio station and one newspaper, Mr. Foz stated that that is a general rule whereas the case of Malaya may be an exception.

On whether the publication of a regular copy and an evening edition would be covered by the prohibition, Mr. Foz stated that it would likewise be an exception.

INQUIRY OF MR. COLAYCO

At this juncture, in reply Mr. Colayco's inquiry on the Committee's concept of the word "market", Mr. Foz stated that "market" refers to a geographic unit so that a person who owns a newspaper in Davao could not own another newspaper anywhere in Mindanao.

INTERPELLATION OF MR. MONSOD

(Continuation)

Mr. Monsod manifested that he would present some amendments to the provision in the light of the answers of the Committee which seem to allow exceptions in one situation but not in another. He pointed out that on the basis of the definition of single market in terms of geographical area, the case of Malaya should come within the prohibition. He stated that he could not understand the justification for the exception in relation to the absolute prohibition on a radio and a newspaper combination, to which Mr. Foz replied that in such case the combination is one of different media.

Mr. Monsod observed that the answer to Mr. Colayco's query was to the effect that owning a newspaper and a radio station is prohibited in the same manner that owning more than two newspapers is prohibited, yet it was stated that a sister publication serving the same geographic area would be considered an exception.

In reply, Mr. Foz clarified that the exception depends on many factors. He stated, however, that it would be foolhardy for a proprietor to publish a number of newspapers in the same area.

INQUIRY OF MR. COLAYCO

In reply to Mr. Colayco's inquiry on the definition of market, Mr. Foz stated that market is defined in the geographical sense and not on the basis of extent of newspaper circulation. He affirmed that Luzon may be considered a single market.

Mr. Colayco observed that the Committee does not seem to have a definite concept or idea of the word "market" to guide amendments.

INTERPELLATION OF MR. MONSOD

(Continuation)

Mr. Monsod noted that the Committee seems to define geographic area as an area that could be reached by a particular form of media so that in the case of radio, it involves station power and signals. He stated that since the entire country is accessible to newspapers, following the definition, it could be considered a single market.

In reply, Mrs. Rosario Braid stated that provincial newspapers would be excepted because they are limited to particular provinces.

On whether the Manila Bulletin would be prohibited from setting up a newspaper in Mindanao, Mrs. Rosario Braid stated that they would not be prohibited.

Mr. Monsod pointed out that the Manila Bulletin, which reaches the entire country, if it is allowed to set up a newspaper in Mindanao, would have two newspapers in a single market, to which Mr. Foz replied that the Manila Bulletin is based in Metro Manila with nationwide circulation.

Mrs. Rosario Braid opined that the term "market" should be redefined to include potential readership.

Mr. Monsod noted that the Committee seems to imply that this is again an exception because if the Manila Bulletin could reach Camiguin and is not prevented from setting up a newspaper in Mindanao which could also reach Camiguin, in effect, it would have two newspapers reaching Camiguin. He inquired if this would come under the prohibition.

In reply, Mrs. Rosario Braid stated that the Manila Bulletin is allowed to publish a national newspaper and to set

up a newspaper that could reach only a particular region or different market.

Mr. Monsod observed that the Committee's definition of "market" is not based purely on geographic area since it also stratifies the market in terms of language or dialect and in terms of whether it involves a morning or afternoon edition.

Mr. Monsod stated that the Committee's original objective was to prevent monopoly of the news but if this kind of stratification is allowed in the definition of a single market, then it is possible for a national newspaper to have morning and afternoon edition in different dialects.

Replying thereto, Mr. Foz stated that it would be improbable because it runs against common economic sense, to which Mr. Monsod replied that what is being drafted is not a provision on economics but a provision on communications, hence, the economic argument would not be relevant.

INQUIRY OF MRS. NIEVA

At this juncture, Mrs. Nieva sought clarification on the exceptions, stating that the Committee would have no objection to Mr. Monsod's proposed stratification.

Mr. Monsod explained that he was merely pointing out that the classification and stratification of the Committee are not justified, otherwise, it could be argued that the radio listeners should also be stratified. He stated that he only wanted to be informed of the criteria used by the Committee to interpret "single market", because while he is against monopolies, he wants to make sure that the provisions of the Constitution are not discriminatory on the basis of artificial or nonsubstantial criteria.

Additionally, he pointed out that Section 14 of the proposal is already covered by the Article on National Economy and Patrimony and, therefore, it is not necessary to restate it, in reply to which Mrs. Rosario Braid stated that the Committee would welcome amendments at the proper time.

MANIFESTATION OF MR. DAVIDE

At this juncture, Mr. Davide, who was designated Acting Floor Leader, announced that Mrs. Quesada, Messrs. Uka, Colayco, Rigos and Ople have registered turns to interpellate the Sponsors.

INTERPELLATION OF MRS. QUESADA

On Section 3, in reply to Mrs. Quesada's query on whether appointment or assignment in any foreign State includes a United Nations assignment, Mr. Maambong opined that any person who serves in the United Nations, as long as he does not take an oath of allegiance to any other country, is not covered by the prohibition in Section 3. He opined that the oath of allegiance seems to be the operative act under Section 1(3) of Commonwealth Act No. 63 which provides that a Filipino who takes an oath of allegiance to support the Constitution and laws of a foreign country loses his Philippine citizenship.

On whether the provisions would prevent "moonlighting", Mr. Maambong stated that the term "moonlighting" has no clear legal significance under the law but the rule against it was somewhat relaxed by the Office of the President in view of the financial condition of government employees. He added that there is no Constitutional violation if a government employee works in a private establishment after his working hours; what is prohibited is the holding of two government positions at the same time. He further explained that the phrase "unless otherwise provided by law" has been added by the Committee in anticipation of the constitution of the Supreme Court as a Presidential Electoral Tribunal or the designation of some Members of Congress as members of the Senate

Electoral Tribunal or the House Electoral Tribunal.

On whether Section 9 contemplates a privately initiated or established body that would come up with a comprehensive communication policy or whether it would be a State-initiated communication policy, Mrs. Rosario Braid explained that it would be State-initiated in the sense that the government may bring together representatives from various sectors to formulate communication policies in accordance with guidelines which need not be mandated by the State, although the State may provide the climate for these policies. She added that the State could also provide the climate conducive to the development of professional media communicators such as by granting incentives in the form of tariffs and tax incentives to fledgling newspaper publications or by providing scholarships for those who work in non-commercial media.

On whether the Committee has envisioned the creation of a multi-sectoral body to implement the provisions of Section 10, Mrs. Rosario Braid replied in the affirmative. She added that this may be similar to the Philippine Press Institute, Press Foundation for Asia or the Kapisanan ng mga Brodkaster sa Pilipinas (KBP) which are self-regulatory agencies that police their own ranks in accordance with their own code of ethics.

Reacting thereto, Mrs. Quesada agreed that it is a laudable concept considering that Filipinos are being exposed to deceptive and misleading advertising.

Mrs. Rosario Braid pointed out that the provision is likewise related to consumers whom the State should encourage to be more vigilant in demanding for better programs, products and advertising. She agreed that Section 10 is also related to Section 16 which seeks to protect consumers, but the latter section pertains to commodities, products and services other than advertising.

On the rationale of Section 11 which also deals with telecommunications which is already covered by a provision in the Article on National Economy and Patrimony, Mr. Nollado replied that the Committee feels that since telecommunications involves national security, it should as much as possible be in the hands of Filipinos. He added that the Committee had actually adopted the original proposal of the Committee on the National Economy and Patrimony to give two-thirds of the ownership of the capital of public utilities to Filipinos. However, he recalled that the Body adopted the 60:40 ratio which the Committee feels should be increased. He then appealed to the Members to support the proposal.

Mrs. Quesada pointed out that one of the arguments against more Filipino equity in the ownership of public utilities like telecommunications is that Filipinos do not have the manpower, resources and materials to control and operate such utilities. She then inquired whether Filipinos in the telecommunications sector agree to such view, to which Mr. Nollado replied that according to Mr. Morales, who is the head of the association of telecommunications companies controlled by Filipinos, they have the capacity and expertise to operate such utilities, besides, they have tie-ups with foreign companies without adversely affecting the equity recommended by the Committee.

On whether with the adoption of Section 13, there would be a change in population policy, Mr. Bacani explained that it would still be the responsibility of the State to formulate population policies most conducive to general welfare with the parents retaining the natural right to determine the number of their children.

On whether this means that the previous policy adopting sterilization methods which had been popularized would have to be reviewed, Mr. Bacani replied in the affirmative adding that it could even be rejected if found to be contrary to the general welfare.

On the meaning of "general welfare", Mr. Bacani stated that it is the common good.

As to what would happen to the assistance programs on population control approved by international bodies such as the USAID, Mr. Bacani opined that the agreements pertinent thereto would have to be reviewed.

On whether there would be any liability on the part of the providers of health or family planning services, Mr. Bacani answered in the affirmative, stating that their activities shall be monitored to prevent violations of the consciences of the people and their right to health. He cited the policy of the Population Commission which, he confirmed, implies a possible shift of the constitutional mandate towards said policy.

Reacting thereto, Mrs. Rosario Braid stated that a recommendation to link the Population Board with the U.P. Population Institute and other institutes to review all kinds of assistance given to the Philippine Government had been made.

Additionally, Mr. Bacani stated that the thrust of the 1973 Constitution was on population control but this thrust no longer exists in the draft Constitution. He affirmed that there should be a policy directed towards the upliftment of the welfare of the people instead of merely controlling population growth.

Mrs. Rosario Braid added that the various factors beyond family planning must be studied to ensure the country's stable population growth.

Adverting to Singapore Prime Minister Lee Kuan Yew's remark that the higher education of Singaporean women contributed to fewer children, Mrs. Quesada opined that the natural consequence of improved women education is their desire to have less children in which case a strong population program may not be required to achieve the goal of population control.

Mr. Bacani stated that the constitutional mandate shall no longer focus on population control but on population welfare policies.

SUSPENSION OF SESSION

On motion of Mr. Davide, the Chair suspended the session until 2:30 p.m.

It was 12:32 p.m.

RESUMPTION OF SESSION

At 3:02 p.m., the session was resumed with the Honorable Francisco A. Rodrigo presiding.

REMARKS OF MR. UKA

Upon resumption of session, Mr. Uka manifested his objection to the proposal to delete Section 2 of the General Provisions on the ground that the present name of the country does not truly reflect the ideals, history, traditions and aspirations of the people.

He pointed out that the name "Philippines" was given by Ferdinand Magellan, the first land-grabber of the country, a Portuguese adventurer who served under King Philip II of Spain. He added that in order to perpetuate the memory of King Philip II, Magellan claimed the country in Philip's name, hence, the country's name was imposed by a foreigner and not the Filipinos' choice.

Mr. Uka stressed that although some have argued that the name "Philippines" has already acquired popularity among other nations and is already a historical fact, something that is originally immoral cannot be corrected by the passage of time. He posed the query why the country should be named after colonizers; or the country's streets, barrios; towns and cities named after Spanish conquerors. He stressed that the nation should not honor its

conquerors because it has enough heroes to be proud of.

Additionally, he pointed out that during the Spanish occupation, the term "Filipino" only applied to full-blooded Spaniards born in the country while the natives were called "Indios" or "Indians", the Muslims were called "Moros" because of their affinity or similarity to the Moors who occupied Spain for 800 years. He added that the people only adopted the name "Filipinos" after the Spaniards left the country because of their defeat during the Spanish-American War. He opined that if the country would retain its present name, it would only perpetuate colonial mentality among the people, since they would forever carry the stigma of a conquered or colonized people.

INQUIRY OF MR. RAMA

In reply to Mr. Rama's query as to what name could be substituted for "Philippines", Mr. Uka stated that it could be changed to the REPUBLIC OF BAYANIHAN or after the country's many heroes like Rizal.

INQUIRY OF MR. ABUBAKAR

On Mr. Abubakar's query as to the reason why he would like to change the country's name, Mr. Uka explained that he wanted it to have a name that is truly reflective of the country's history, ideals and aspirations as a people.

On whether the Constitution could contain a provision mandating Congress to look for a substitute for "Philippines", Mr. Uka stated that although it could be done, the people must also be consulted.

Mr. Abubakar stated that those who may vote against the proposal are not necessarily colonialists but lack courage to assert that Filipinos do not owe their independence to anyone.

Mr. Uka then suggested that the Members think of a good name for the country.

INQUIRY OF MR. CALDERON

On Mr. Calderon's query whether he would be agreeable to change the name "Philippines" to MAHARLIKA, Mr. Uka stated that it would be better to call the country "Republic of Bayanihan" so that all the citizens thereof would be called "bayani".

INQUIRY OF MR. JAMIR

On Mr. Jamir's query whether Mr. Uka would also like to change the country's national anthem, the latter replied in the negative. He added that the country could also retain the present seal but the name should be changed.

INTERPELLATION OF MR. COLAYCO

On Section 13, in reply to Mr. Colayco's query as to what are the other policies which the Committee envisions aside from population control, Mrs. Rosario Braid stated that a board could be formed to think of programs which would encourage indirect forms of population control. She pointed out that studies conducted all over the world have shown that more educated women or families with higher standards of living opt for smaller families and less children.

On whether the present population program does not reach the poor people who produce the bigger families, Mrs. Rosario Braid pointed out that the present population program is mostly on applied family planning.

At this juncture, Mr. Bacani stated that the phrase "it shall be the responsibility of the State to adopt population policies most conducive to the national welfare" does not automatically include or mandate a population control

policy but the government can review such a policy to determine whether it is most conducive to the general welfare.

Mr. Colayco stated that he asked the questions to find out whether the present population control program is effective, to which Mrs. Rosario Braid replied that the population of the country has increased, indicating that the program has failed.

On the rationale for the program's failure, Mrs. Rosario Braid opined that one of the reasons is the Filipinos' resistance and the tradition to have big families.

On whether there are statistics to show which particular social strata of society have shown marked increase in population, Mrs. Rosario Braid stated that while the Committee does not have accurate statistics on the country, those from other countries show that family planning programs are more successful in the upper and middle classes but not among the poor.

As to how much did the government spend for population control, Mrs. Rosario Braid stated that the Population Control Commission, which implements population control programs, spent P236 million for 1986 while the Ministry of Social Services and Development spent P187 million. She added that in 1985, P201 million was spent; in 1984, P194 million; and in 1983, P233 million. She stated that the data do not include the amounts spent for previous years when there were greater activities in population control.

Mr. Colayco opined that there could have been better beneficial programs for the poor if the government had not insisted on following the theory that a country could improve its economic condition by cutting down on population, to which Mrs. Rosario Braid agreed. However, she explained that the thrust of a population control program is usually determined by the implementing agency which gives the money.

Mrs. Rosario Braid then agreed with Mr. Colayco's observation that perhaps the population control program failed mainly because of the people's resistance on account of their strong adherence to tradition.

At this juncture, Mr. Abubakar stated that he believes in the practicality of population control, although he opined that there must be a reformulation of the population control programs and strategies. He stated that it is the parents' right to decide whether to raise a big family but that the whole Filipino society should be enlightened by bombarding it with literatures and campaigns as if it were a war objective to imprint in the mind of every Filipino to build a family which does not burden the woman with rearing four or five children.

COMMENTS OF MS. TAN

Ms. Tan opined that propaganda and communication would not be sufficient in helping control population, stating that the problem should be attacked on its very roots, which is abject poverty. She pointed out that the absence of electricity and recreations the outlook that a child is a potential wage earner and the traditional love for large families have contributed to the failure of the population control program.

REACTION OF MR. COLAYCO

Reacting to Mr. Abubakar's statements, Mr. Colayco commented that the government's approach towards improving the economy in relation to population control as theorized by the economist, Thomas Robert Malthus, was proven wrong and that it is high time that the government approached the problem of economy from a different perspective which is the equitable distribution of the country's resources and wealth.

INTERPELLATION OF MR. RIGOS

Mr. Rigos stated that the population rate was 2.8 which has gone down to 2.4 and increased to 2.6. He then posed the query whether the program was a failure.

Replying thereto, Mr. Bacani stated that comparing the amount of expenditure and the effort directed towards such goal, the program could be regarded as a failure because the expenses and efforts could have been used to improve not only the quality of life of the people but also reduce the birth rate itself.

On whether the reformulated provision is better worded than that of the 1973 Constitution, Mr. Bacani stated that the reformulation is better because it sets a definite policy for the achievement and, maintenance of population level.

On whether it is the duty of the State to adopt a population policy most conducive to the national welfare, Mr. Bacani stated that the constitutional mandate should first be eliminated, leaving open the possibility for future policies. He confirmed that the government may continue with its policy should it later find that it is a good one.

On whether there would be a violation of the provision against monopoly contained in Section 11 should a newspaper business be set up in a town where no one else would like to venture in the same business endeavor, Mrs. Rosario Braid replied that there would be no such monopoly since the situation contemplates a single market. She observed that the concept seems confusing, for which reason, she stated that the section should be reformulated to provide that media monopolies shall not be allowed, leaving it to Congress to define what constitutes a monopoly.

She stated that there is monopoly when an individual owns a majority of the enterprises engaged in the same business in a single market.

Adverting to the example cited where a radio station is added to the newspaper plant, with no one else desiring to put up the same, Mrs. Rosario Braid stated that the provision seeks to

broaden ownership to avoid too much concentration of power in only one person since media could be used to realize a political end.

On whether a single person would be allowed to put up a business where the people are not yet receptive to the idea of cooperative enterprises, Mrs. Rosario Braid stated that the situation shall be defined under the concept of public interest.

Mr. Monsod stated that he intends to introduce an amendment that reads: CONGRESS SHALL PROHIBIT OR REGULATE MONOPOLIES AND COMBINATIONS IN RESTRAINT OF TRADE IN MASS MEDIA, to give room for regulation but not necessarily prohibition.

INTERPELLATION OF MR. OPLE

Mr. Ople observed that eighty percent of the General Provisions and the Transitory Provisions, taken together, deals with defense and communications and that it might be mislabelled as an article on the military and communications.

Mrs. Rosario Braid stated that the proponents of the provisions on national defense would formally propose its segregation as a separate article after the entire General Provisions shall have been approved.

Mr. Ople stated that there is nothing wrong with the way the provisions are fashioned but that future readers of the Constitution might have adverse reaction because of the disproportionate emphasis on the two subjects.

Mr. Nollado commented, however, that the provisions on communications and the military do not constitute eighty percent of the General Provisions.

Mr. Ople agreed that Sections 1 to 8 speak of different subjects but that the rest of the provisions are devoted almost entirely to communications and the military. He stated that he just wanted to invite the Committee's attention to the matter so that it may redistribute its concerns by making the provisions truly an Article on General Provisions.

As to what prompted the Committee to place government retirees at par with war veterans insofar as the rights accorded by Section 4 are concerned, Mr. Nollado stated that the veterans are war heroes, the retired civil servants are the heroes during peace time.

He stated that he and Mr. de Castro had received letters from government retirees and war veterans expressing their sentiments, because of which, they decided to combine their efforts in formulating a provision for the benefit of both sectors.

Mr. Ople stated that the war veterans used to be treated as separate class to give due recognition to their valorous contribution to the country and adverted to the Japanese Government program of putting up beautiful gardens to honor their dead soldiers in Southeast Asia and the Pacific. He questioned the elevation of government retirees to the level of war veterans stating that there is no moral exaltation in retiring from the government service, in reply to which Mr. Nollado stated that distinction between the two could still be determined, and that such determination shall be left to Congress which will provide for the details of implementation of the compensation contemplated in the provision.

Mr. Ople stated that each group has its own set of claims on the nation and that there is a need to isolate one from the other to respect the integrity of each group, for which reason, he stated that he would propose an amendment to this effect.

Mr. de Castro, expressing admiration for Mr. Ople's concern for war veterans, opined that most war veterans are government retirees. He informed that he and most of the men who served under him in Bukidnon are also government retirees. He stated that he and Mr. Nollado would be willing to make a distinction between war veterans and government retirees should Mr. Ople wish.

For his part, Mr. Ople informed that he is the incumbent elected Commander, Bulacan Chapter of the Veterans Federation of the Philippines. He stated that during the Second World War, Mr. Natividad was a captain in the Republic Regiment of the BMA while he, as a lieutenant in the Del Pilar Regiment of the BMA, had the good fortune to fight with the Buenavista Regiment up to the surrender of Gen. Yamashita in Kiangnan. He observed, however, that according to the data on the Bulacan Chapter of the VFP of which there are 20,000 members, not more than one percent of this number are government retirees and that the majority are simple farmers, fishermen and workers. On the 600,000 veterans of World War II, he speculated that the government officials, retired or retirable, compose a very small fraction. He expressed appreciation for Messrs. de Castro and Nollado's willingness to accept his amendment at the proper time.

He then inquired whether Mr. de Castro would agree that the government has not been remiss in its obligations to the veterans as gleaned from the establishment of the Philippine Veterans Bank (PVB) which was funded by Japanese reparations. He noted that all veterans, who are recognized, have stock certificates to prove that they are co-owners of the PVB.

Upon his inquiry, Mr. de Castro affirmed that he owns PVB stock certificates.

POINT OF INFORMATION OF MR. DE CASTRO

On PVB, Mr. de Castro informed that when the bank was closed and placed under liquidation, the Association of General and Flag Officers passed a resolution requesting the Central Bank to conduct an immediate investigation into the whereabouts of the \$20 million capitalization of the bank and that it also recommended measures to revive the bank. He stated that he expected Mr. Natividad to investigate the matter but that he was no longer connected with the bank. The government, he pointed out, has not done anything up to this time and has in fact started liquidation proceedings.

INTERPELLATION OF MR. OPLE

(Continuation)

Mr. Ople stressed that what is being asked for are more benefits although a lot of benefits granted to veterans in the past were squandered as evidenced by what has happened to the PVB stock certificates which have become worthless. He noted that the Members, should such benefits be granted through the Constitution, would ask whether the same could be subject to the same risk and tragic fate which befell the supposed benefits given to the war veterans.

At this juncture, Mr. Nollado interposed that he was only 7 years old when the war broke out and although he could not be considered a war veteran, he had acted as a courier for the guerrillas.

In reply thereto, Mr. Ople stated that the controlling standard to determine whether one is a veteran or not is the record of the Philippine and U.S. Governments. He noted that if Mr. Nollado, at 7, served as a courier, he is entitled to be listed in the honor roll of Filipinos who fought for their country regardless of age, to which Mr. Nollado stated that he was never listed.

For his part, Mr. Ople informed that he was 17 years old when he became an officer of the resistance movement and although it was a marvelous decision, it was more remarkable for one who at age 7 had such a commitment.

Section 7, Mr. Ople observed, has been reformulated and the 20 year life-span limit of government ministries and other offices has been lifted and that there would be a need to provide for such a statement related to periodical review. He observed the propensity to create a new office for every perceived need and expressed satisfaction that the Reorganization Committee had recommended the abolition of 180 useless government corporations. He stated that the history of every government agency would lead one to discover that it has developed and grown to such an extent that its activities may no longer be recognizable in terms of the original purposes for which it was established and that it can expand its power to such a degree that it comes to possess plenary powers over the lives of the people which transact business with them.

Mr. Nollado affirmed Mr. Ople's contention. He noted, moreover, that there were two instances after the war when reorganization was attempted: 1) after the declaration of martial law; and 2) upon the setting up of a revolutionary form of government. He asked why it should take such extraordinary Circumstances before government can be reorganized.

On security of tenure which the Constitution guarantees, Mr. Ople inquired whether ministry Officials and employees would be subjected to the spectre of possible dissolution and mass displacement Congress or the appropriate government instrumentality in charge of the review should conclude that a ministry shall be abolished.

Mr. Nollado replied that between the national interest and the interest of some civil servants, it is the national interest that should prevail. He stated that for the government to maintain an office which has become obsolete

would be maintaining a white elephant at the expense of the national treasury. He added that it can be recommended to Congress to adequately compensate government employees whose services are to be terminated. In this connection, he adverted to the fact that the Supreme Court has consistently adhered to the ruling that there is no security of tenure involved when a public office is abolished.

On the Office of the President which is one of the offices contemplated in Section 7, Mr. Ople inquired whether the Office could even become obsolescent and therefore fit to be dissolved. He also asked about such offices as the Central Bank and the Ministry of Finance.

Mr. Nollado averred that the Office of the President is a constitutional office which cannot be abolished except by constitutional amendment. The Central Bank, he informed, has been raised to the level of a constitutional authority and cannot be abolished without a constitutional amendment.

He affirmed, upon inquiry of Mr. Ople, that such offices can defend themselves during the periodic review. On the less powerful bureaus and local governments, Mr. Nollado clarified that what are primarily referred to are offices in the Executive Department which can perhaps affect some minor offices in local governments. He noted that it would not destroy the local government structure as envisioned by the Constitution.

Mr. Ople opined that the Section is too sweeping in character and perhaps could be amended at the proper time.

On the paragraph "No one individual, family or corporation can own more than one form of commercial mass media in a single market" in Section 11, Mr. Ople remarked that it might cause deep concern as it is an act of allocating markets by means of the Constitution. The objective, he stated, is laudable but that the power to allocate markets especially by authority of the constitutional provision should not be arrogated unto a government. He stated that there seems to be an obsession with fears which may not correspond to the real situation considering the new climate which has released new energies in the field of media. He stated that rather than open the avenue to the reimposition of the constraints, emphasis must be given to freedom of initiative and freedom of choice.

He opined that the less the Body dictates to media entrepreneurs and media practitioners what they should do, the better it will be for press freedom and the whole climate of liberty.

He expressed the hope that the Committee would accept an amendment to do away with a constitutional dictum governing the conduct of media entrepreneurs and practitioners.

INTERPELLATION OF MR. SARMIENTO

Section 17, Mr. Sarmiento observed, has 5 sections, several paragraphs and subsections devoted to the AFP and the military which are longer than the Article on Family Rights. The 1973 Constitution, he stated, allotted only 2 sections. He inquired on the reason for allotting so many sections to the AFP and the military.

In answer, Mr. de Castro admitted that the sections can be reduced provided they contain the concepts which the Committee wants to be included therein. He informed that he and Mr. Monsod are working on the reduction of the number of sections. He stressed that the concepts upon which to reorganize and professionalize the AFP should be provided therein.

On Section 17(3) which speaks of the obligation of the State to strengthen the military sense of patriotism and nationalist consciousness in the performance of their sacred duty to the nation and the people, Mr. Sarmiento inquired how this can be implemented.

Responding thereto, Ms. Aquino stated that the proposal was based on the very recent experience of abuses by the

military, and it took off specifically from the suggestion of General Ramos for some kind of an internal value formation program within the military. She pointed out, however, that being used to the blighted notion that the military is an adjunct that would serve the interest and security of the President, the thrust of the proposed amendment is to precisely impose upon the State the responsibility of undertaking an offensive campaign to reorient the values towards a pluralist commitment to the people as if the relationship between the armed forces and the people is that of master and slave.

On the operationalization of such thrust, Ms. Aquino stated that it would mean a total overhauling of value formation in terms of commitment to service to the people. She likewise agreed that it would also mean working closely with the Commission on Human Rights through an education on human rights to be conducted by the military.

Additionally, Mr. de Castro informed that the Philippine Military Academy impresses upon the cadets the values of courage, integrity, loyalty, duty, honor and love of country; for the enlisted men, they are given at least three months "recruit training" during which the values of duty, honor and country are inculcated; and for those undergoing the two-year Reserved Officers Training Corps (ROTC) training, they are taught the values of duty, honor, country, courage, integrity, loyalty and patriotism.

He noted that, unfortunately, the people have come to equate the Armed Forces today with the Armed Forces under Mr. Marcos, which was the reason why he had proposed in the Constitution certain provisions to professionalize the military so that their loyalty would be to country and not to one man.

Thereafter, Ms. Aquino read into the record a portion of the speech of General Ramos showing that the new Armed Forces marches towards a new direction, to wit:

The armed forces is already embarking on a value formation program for all military personnel, a new effort at forming values, internalization and enrichment of spiritual, moral as well as nationalistic values in the soldier in order to make him conscious of his social and moral responsibilities as the people's protector; in short, to transform him into a God-centered, people-oriented and nation-focused Filipino soldier.

Ms. Aquino, likewise, stated that it is understandable that some Members of the Commission fear that the Filipinos are overreacting to the spectre of militarization and conclude that there are others who are inclined to think that the thrust may be the product of a natural fear borne out of the experience of martial misrule.

She opined that while it may be true that the Committee intends to decimate the remnants of the two decades of martial misrule, it is not at all iconoclast to provide for such a provision stating that other countries have in fact adopted in their constitutions provisions on people-oriented armed forces to give constitutional imprimatur to what the definition of the armed forces should be.

As to how the Committee intends to implement the noble intention of Section 21, Mr. de Castro stated that it is a two-bladed provision which mandates: 1) that political parties shall not influence the armed forces, and 2) that the armed forces shall not participate in any political activity, directly or indirectly, except to register and vote.

Additionally, Mr. Nollado stated that the phrase "shall be insulated from the influence of partisan politics" is directed to higher public officials who could possibly influence the military. For example, he stated that the President, as Commander-in-Chief, may use the Armed Forces to extend assistance to the President's political party even if he himself could not run for reelection, in which case, he would be guilty of culpable violation of the Constitution which is a ground for impeachment.

Mr. de Castro stated that, although Mr. Nollado was correct, with the ban on his reelection, it is possible that

henceforth the President would no longer involve the Armed Forces in political activities.

SUGGESTION OF MR. ABUBAKAR

Mr. Abubakar suggested that to insulate the Armed Forces from partisan politics, the constitutional provision should not only be mandatory but should explicitly provide that any member of the Armed Forces found violating the injunction against engaging in partisan politics shall be tried and punished by a court martial.

SUGGESTION OF MR. NATIVIDAD

Mr. Natividad likewise suggested that, in order to shield the Armed Forces from partisan politics, the policy banning the assignment of military officers to civilian offices, unless absolutely necessary, should be followed.

INTERPELLATION OF MR. SARMIENTO

(Continuation)

On whether Section 22 would be an admission that the integration of the police with the Philippine Constabulary (PC) was a failure, Mr. Natividad stated that the integration of the police within the PC was not a total failure, a though there were many defects which the provision proposes to remedy. He stated that before the integration, there was a highly fragmented police system because some cities and towns have not had budgetary capacity to support an effective and efficient modern police department. He stated that both Congress and the civil servants including foreign consultants assessed the situation, their unanimous conclusion being that the police situation in the country was deplorable in that an ordinary policeman earns about P20 a month, a Chief of Police earns about P60 a month, they go about the performance of their duties in slippers, they share a pistol, their training is desultory, there was no respect for territorial jurisdiction and there were no fire trucks to speak of.

Mr. Natividad opined that while it may be true that the integration spawned a lot of problems, it also gave a little relief in that it standardized the pay for rural and urban policemen, it standardized equipment and weapons, it instilled more discipline and it cut off a lot of political influence. However, he stated that the main problem was that it brought about the creation of not one but two national police forces, the PC and the Integrated National Police (INP) of which the PC is the nucleus although it is not part of the INP which is a civilian component. He pointed out that the integration of the PC and the INP was a play of words in the law because while the National Police Commission has jurisdiction over the INP, it has absolutely no jurisdiction over the PC which, although under the law, is part of the INP, is also a part of the military organizations giving rise to a situation where the INP plays a poor second class cousin of the PC men who enjoy foggy pay to which policemen are not entitled. Moreover, he stated that the stigma of organizational and operational control by the military over a civilian police is not desirable for many reasons which he would not be able to explain in detail because of time constraints. He agreed that the disadvantages of integrating the police with the PC far outweigh the advantages.

On whether the last section would cover the Civilian Home Defense Forces (CHDF), warlords, private armies and other groups created by local politicians, Mr. de Castro affirmed that they are covered but the Committee tried to reformulate it in such a way that no mention of the CHDF is made in the Constitution.

INTERPELLATION OF MR. AZCUNA

In reply to Mr. Azcuna's suggestion to change the wordings of the provision on the colors of the Philippine Flag from "red, white and blue" to "blue, white and red", Mr. Rigos stated that the Committee may even consider starting the phrase with "white" which stands for purity.

Mr. Nollado stated that he would support the amendment at the proper time.

On whether Congress could change the name of the country, the national anthem or the national seal by ordinary law, Mr. Nollado stated that an ordinary law may be questionable with respect to change in the name of the country but not with respect to the national anthem and the national seal.

Mr. Azcuna pointed out, however, that Section 2 would authorize Congress to change the name of the country, unlike the 1973 Constitution which provides that "once changed, it can only be changed by a constitutional amendment".

On the rationale for dropping the word "specifically" in the 1973 Constitutional provision which provides "Unless specifically allowed by law", Mr. Maambong stated that even if the wording is changed to "specifically authorized by law" or "allowed by law," the effect would be the same. He further stated that the Committee would consider an amendment to revert to the wordings of the previous Constitution to be more specific.

On the suggestion to change the phrase "unless required by law" to UNLESS OTHERWISE PROVIDED IN THE CONSTITUTION considering that if this is left to the law, Congress may violate the rule on separation of powers in the sense that it may, by law, assign executive functions to the Justices, Mr. Maambong stated that the Committee was guided by the fact that Congress had passed laws making members of government boards or even Ministers members, either in an ex officio or other capacity, of several boards of government-owned or controlled corporations. He stressed that the Committee intends to eliminate this practice of allowing high ranking government officials to hold a number of membership or chairmanship in different boards, as was the case of former Minister Ongpin. He stated that Mr. Azcuna could propose an amendment prohibiting government officials from holding any other office in the different boards of the government.

Mr. Azcuna stated that his concern is not so much on the number of offices held within a department but in holding offices in several departments in view of the decision to shift to the presidential type of government.

Mr. Guingona, on a point of information, stated that the provision referred to may not apply to the members of the Judiciary because of Section 8 of the Article on the Judiciary which says that "The members of the Supreme Court and of other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions."

On the Committee proposal that salaries and other emoluments of government officials shall be exempt from income tax, Mr. Azcuna inquired whether under the provision, the retirement benefits would be subject to income tax despite the provision in the National Internal Revenue Code which exempts the retirement benefits of government officials and employees from income tax.

In reply, Mr. Nollado recalled that this provision is also found in the 1973 Constitution which excludes pensions, gratuities, separation pay, etc. from income tax in the light of the interpretation given in the 1971 Constitutional Convention that "other emoluments" includes salaries and other compensations while in office.

On Section 16 relative to consumer protection, Mr. Azcuna inquired whether this provision mandates what is known as "strict product liability" by virtue of which manufacturers or persons responsible for putting a product in the economic stream are liable for any harm caused by a defect of such product, in reply to which Mr. Nollado adverted to the Civil Code provision on quasi delict based on the logical assumption that it is the manufacturer who is first at fault.

Additionally, Mr. Maambong stated that in the United States, the matter of birth control has become a problem of manufacturers of birth control products in the sense that they are tied up in costly litigations which, even if won,

preclude them from manufacturing the products, to which Mr. Azcuna replied that even in Europe they have the "strict product liability".

INTERPELLATION OF MR. SUAREZ

On Section 3, relative to the definition of the term "indirect compensation", on Mr. Suarez' query whether this would include per diems or allowances from other corporations, as in the case of former Minister Ongpin who used to receive such compensations to the tune of P2 million a month, Mr. Maambong stated that following the legal definition, any money received other than for reimbursement of expenses actually incurred would fall under compensation. He pointed out that in several cases, the ordinary meaning of "compensation", when applied to officers, is "remuneration" in whatever form it may be given. He explained that the term "compensation" covers practically everything a person receives as long as it is not reimbursement for expenses actually incurred.

On whether this would also include free trips abroad, Mr. Maambong admitted that this is a grey area because if one travels, he is given money for a plane ticket such that the money goes to the airline company.

On whether the non inclusion of an exemption provision in the Constitution would make all salaries subject to income tax, Mr. Nollado cited a case where the Supreme Court ruled that taxing the salaries of Justices of the Supreme Court would amount to a diminution of their salaries in violation of the Constitutional provision that the salaries of the justices could not be diminished or increased during their tenure. He stated that for this reason the provision should be provided 04 the effect of such decision.

On whether this would not apply to other government officials considering that the decision referred to applied only to Justices of the Supreme Court, Mr. Nollado stated that necessarily it would not, considering that the provisions specially mention those who are affected, like the Chairmen and Members insofar as non-diminution of salary during one's incumbency is concerned.

On Section 14, Mrs. Rosario Braid affirmed that domestic credit facilities refer not only to private banking institutions but also to government financial institutions. She stated, however, that Section 14 would be deleted in the light of Mr. Monsod's observation that there is a similar provision in the Article on National Economy and Patrimony.

As to what penal sanction could be imposed in the event that the priority contemplated in the provision is not extended, Mr. Nollado stated that Congress may provide for sanctions once it is approved as a constitutional provision.

On whether the provision in Section 16 should still be constitutionalized despite the fact that the Bureau of Domestic Trade already extends protection to the consumers, Mr. Nollado stated that there is need for constitutionalizing the provision because the Philippines has become a dumping ground for substandard products from foreign countries aside from the fact that the consumers have been suffering from substandard products from Filipino-owned industries.

As to what armed groups or paramilitary forces which exist contrary to law are referred to in the Transitory Provisions and which are sought to be dismantled by a constitutional fiat, Mr. Nollado stated that the provision refers to the Civilian Home Defense Forces. He stated that President Aquino had issued an Executive Order making their existence unlawful.

On whether there is a need to constitutionalize the provision if it is only a question of implementation of the Executive Order, Mr. Nollado opined that there is a need to constitutionalize it otherwise, other presidents in the future may set up similar paramilitary or armed groups. He stressed the importance of dismantling them by a

constitutional mandate because the Executive Order may be revoked anytime.

Mr. Maambong disclosed that the members of the Committee were divided on the issue. He opined that this provision should not be placed in the Constitution because these paramilitary units are existing contrary to law. Commenting on the statement that should the provision regarding the flag, adoption by law of a new name for the country, the national anthem and the national seal be approved, Congress might change them every now and then, Mr. Maambong stated that this is a sweeping statement, considering the very stringent procedure being followed in enacting laws.

TERMINATION OF THE PERIOD OF DEBATE

On motion of Mr. Bengzon, there being no objection, the Body closed the period of debate.

PERIOD OF AMENDMENTS

On motion of Mr. Bengzon, there being no objection, the Body proceeded to the period of amendments.

SUSPENSION OF SESSION

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

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:46 p.m., the session was resumed.

Mr. Bengzon stated that some proposed amendments accepted by the Committee would be presented for approval by the Body.

Thereupon, he asked that Mr. Davide be recognized.

AMENDMENT OF MR. DAVIDE

On motion of Mr. Davide, and there being no objection, the Body approved the deletion of the phrase "and recognized by law" on page 1, line 8 of Section 1 on the ground that it is a surplusage.

Mr. Padilla, however, maintained that the phrase should not be deleted as it has already been established in the 1935 and 1973 Constitutions.

Reacting thereto, Mr. Davide stated that the mandate of the law insofar as the Philippine Flag is concerned is already obsolete and that the amendment had already been approved by the Body.

The Chair remarked that no objection had been interposed, in reply to which Mr. Padilla stated that he was about to interpose his objection when the Chair declared its approval.

The Chair stated that the presumption is that all the Members had voted in favor of the amendment and that any Member could ask for a reconsideration.

Reacting thereto, Mrs. Rosario Braid manifested that the Committee had not yet given its reply because Mr. Azcuna, who just arrived, would like to propose an amendment.

MOTION FOR RECONSIDERATION OF MR. DAVIDE

Thereupon, Mr. Davide moved for reconsideration which, there being no objection, was approved by the Body.

PROPOSED AMENDMENT OF MR. AZCUNA

Thereupon, on Section 1, Mr. Azcuna proposed to change the phrase "red, white and blue" to BLUE, WHITE AND RED.

In reply to Mr. Bacani's query whether the proponent's reason is that he is an Atenean, Mr. Azcuna stated that his proposal was based on the fact that blue is the side of the flag being held up during peacetime, the red side during wartime, with white signifying peaceful orientation.

Mr. Bacani and Mrs. Rosario Braid accepted the proposed amendment on behalf of the Committee.

OBSERVATION OF MS. AQUINO

Ms. Aquino observed, however, that considering the values given to the colors of the flag, white should take precedence over blue because it stands for purity, to which Mr. Azcuna acceded.

In reply to Mr. Maambong's query whether giving due course to the proposal would not violate the law which vests recognition to the flag, Mr. Azcuna stated that the colors are not being changed but only the order of presentation.

OBJECTION OF MR. SUAREZ

Speaking against the proposed amendment, Mr. Suarez argued for maintaining the order as presented in the 1935 Constitution on the ground the red color stands for bravery and courage.

Additionally, Mr. de Castro stated that the flag has been traditionally described as "red, white and blue".

Thereupon, Mr. Azcuna withdrew his proposed amendment.

INQUIRY OF MR. OPLE

In reply to Mr. Ople's query whether the eight rays of the sun representing the first eight provinces that rose against the tyranny of Spain would be retained, Mrs. Rosario Braid answered in the affirmative. She, likewise, confirmed that nothing would prejudice existing and future laws on the eight rays of the sun.

She stated that during the deliberations, the Philippine Historical Society submitted an amendment proposing the inclusion of a symbol for the Cordilleras and the Muslim areas and that several letters suggested increasing the rays of the sun to thirteen in representation of the thirteen regions of the Philippines. She confirmed, however, that the eight rays of the sun would not be disturbed.

INQUIRY OF MR. GUINGONA

In reply to Mr. Guingona's query, Mrs. Rosario Braid affirmed that the sun and stars would be in the same yellow color.

VOTING ON MR. DAVIDE'S AMENDMENT

Submitted to a vote, with 10 Members voting in favor and 16 against, Mr. Davide's proposed amendment was lost.

APPROVAL OF SECTION 1

Thereupon, submitted to a vote, and with 26 Members voting in favor and none against, the Body approved Section 1.

CONSIDERATION OF SECTION 2

Mrs. Rosario Braid manifested that the Committee was divided on Section 2.

Mr. Bengzon stated that an anterior amendment was proposed to delete the entire Section 2 which the Committee would like to throw to the Body.

REMARKS OF MR. PADILLA

Mr. Padilla stated that he proposed to delete the entire Section 2 because the name "Filipino" or "Philippines" is already known worldwide especially with the U.S. visit of President Aquino, making the provision unnecessary.

In reply to the Chair's query, Mrs. Rosario Braid stated that the Committee would leave the matter to the Body.

REMARKS OF MR. OPLE

Mr. Ople supported Mr. Padilla's amendment to delete Section 2 stating that very soon the Philippines would celebrate the centennial of its independence reckoned from 1898 when the first Philippine Republic was established in Malolos, which event was the great watershed for the development of national identity, pride and solidarity.

He opined that the questions regarding the country's name, national anthem and flag were conclusively settled in 1898. He observed that Section 2 may be used by a future adventurer to make changes which could prejudice the history of Philippine struggle embodied in the flag, the name of the country, the national anthem and the national seal. He strongly urged closing these issues in the Constitution and clearing the national agenda of these issues in order to avoid the risk that a future tyrant, taking advantage of his powers, may disturb these national symbols. He underscored that the Filipinos have earned their identity through several generations of courageous struggle.

PARLIAMENTARY SITUATION

At this juncture, Mr. Bengzon clarified the parliamentary situation by adverting to Mr. Padilla's motion to delete Section 2 on which, under the Rules, two Members would be allowed to speak in favor and 2 against. He stated that Mr. Ople had spoken in favor, Mr. Suarez would interpellate Mr. Padilla, Mr. Uka would speak against the amendment, after which another Member would be recognized to speak in favor of the amendment.

INQUIRY OF MR. SUAREZ

Mr. Suarez observed that Section 1 refers to the "Philippines" as the name of the country and that Mr. Ople has pointed out that since 1898, all traditional values and national consciousness embodied in national symbols have been sanctioned and made sacred. He then inquired whether Mr. Padilla was aware of the fact that the 1973 Constitution was approved and ratified under dubious circumstances on January 17, 1973 after the declaration of

martial law.

Mr. Padilla affirmed the fact but pointed out that the Constitution was not validly ratified.

As to whether Mr. Padilla was aware that during the Constitutional Convention, there was a strong move to rename the Philippines "Maharlika", Mr. Padilla stated that he was not a member of the Constitutional Convention being an incumbent Senator at that time and that Mr. Suarez would probably be in a better position to answer his own question. He noted, however, that the suggestion of the dictator was completely unfounded, unreasonable and unjustified.

Mr. Suarez informed that there were steps intended to implement the renaming to "Maharlika" so much so that there were prohibitions against the use of the trade name "Maharlika" either in the Bureau of Domestic Trade or in the Securities and Exchange Commission.

To Mr. Padilla's observation that an establishment in Quezon Boulevard named "Maharlika" had to change its name, Mr. Suarez replied that the name was subsequently changed to "Maalikaya".

INTERPELLATION OF MR. GUINGONA

Mr. Guingona stated that he has no objection to the motion to delete and that during the recess someone stated that even without a provision authorizing Congress to effect the change, Congress would not be prohibited from changing the name. If this were so, he opined that perhaps it would be better to place in the Constitution a provision to the effect that the country's name can only be changed through a Constitutional Convention or by putting certain requirements such as holding a referendum after the act of Congress.

Mr. Padilla maintained that the national symbols cannot be changed by Congress inasmuch as these are provided in the Constitution. He informed that this was the reason why the 1973 Constitution inserted in Section 2 the second sentence, to wit: "Thereafter, the national name, anthem and seal so adopted shall not be subject to change except by constitutional amendment." The 1973 Constitution, he stressed, which allowed the possible change of name did not consider it within the power of Congress but by Constitutional amendment.

Mr. Guingona stated that as far as the name of the country is concerned, because of the use of the word "Philippines", Congress then did not have the power to change.

Thereafter, in reply to his inquiry with respect to the national anthem and seal, Messrs. Nollado and Padilla opined that these can be changed by law.

Mr. Bengzon stated, at this juncture, that the next speaker will speak against the Section, to be followed by a Member who will speak in favor, after which Mr. Davide will speak en contra.

SPEECH EN CONTRA OF MR. UKA

Mr. Uka stated that he would be a lonely voice in a big forest yet he would like to put on record the sentiment of one, who comes from a progeny of people who were never conquered, in favor of renaming this country not after a foreigner, adventurer or conqueror but after its own people. He noted that the country is not lacking in heroes and that the People are not lacking in names. He advised that it is unchristian to keep on blaming the previous administration for every mistake.

He recalled that he had earlier voiced his sentiments on the matter when he remarked that the name "Philippines" was imposed upon the country by a Portuguese adventurer after King Philip II who was not even his king. He stated that he is not against the Spaniards who are his brothers in humanity in accordance with the teachings of the

Qur'an which says "All men are but one single nation." He that above all, Filipinos should love their own people, be proud of their race and should not try to gain glory by using the name of a foreigner. He pointed out that Filipinos are fond of honoring foreigners as can be seen from the streets, sitios and barrios named after them after they had devastated the country for 400 years.

He stressed that the colonial mentality which Don Claro Recto assailed cannot be erased if the Filipinos continue to glorify and honor the names of foreigners. He noted the discrepancy in the treatment between Filipinos and foreigners, stating that the 100 peso bill once bore the face of Magellan while the one centavo piece bore the face of Lapu-lapu, and that to add insult to injury, a fish was named after this Filipino hero.

The Muslims, he stated, have fought for this country but Philippine history contains words coined by Spanish historians referring to them as "pirates" or "huramentados" and "moro-moro". He stated that he is proud to be a Moro and that his race is a fighting race which fought powerful nations of the world.

On the origin of the name "Maharlika", he informed that as technical assistant to a Delegate to the 1971 Constitutional Convention, he had made suggestions on the name of the country. He noted that even the Spaniards did not use "Filipino" to refer to the Filipinos but insisted on "Indios" and used the word "mestizos" to refer to those with half-Spanish blood. He questioned why the Constitution has to enshrine the name of people who despised the Filipinos by trying to make fools of them in their own country.

He reiterated that the Muslims fought for 400 years in defense of the country for which the Spaniards is called them pirates. He stated that if the Moro was a pirate for fighting to defend his homeland, the Spaniards who travelled 10,000 miles to grab the Filipinos' land, are better pirates. He dismissed the contention that the Spaniards came to spread Christianity and insisted that they came simply to take this country.

To the saying that "The only good Moro is a dead Moro", Mr. Uka maintained that this is believable because it is hard to conquer a Moro alive.

Mr. Uka stated that there are 87 major tribes speaking 87 different dialects, which comprise the Filipino people and their effort to establish a national language would not succeed unless the stigma of colonization is erased from the people's mind.

He stated that according to Don Claro Recto, the worst form of slavery is slavery of the mind or colonial mentality. He recalled that it was Governor General Claveria who was instrumental for the adoption of Spanish names when he ordered punishment for all Indios who would not change their names, thus, the change of Filipino to Spanish names although some Filipinos have retained their original Filipino names. He noted that one can adopt any kind of name in this world but that it would be wrong to name a country after its conqueror.

SPEECH EN CONTRA OF MR. DAVIDE

Mr. Davide stated that it is a known fact that history is not static but growing and dynamic. He noted that history does not stop today and that between now and 20 years hence, the country may undergo another historical development.

He noted that the name of the country, its seal and national anthem must be symbolic and reflective of the traditions, history and ideals of the nation although these were not truly reflective and symbolic until today. The 1986 Revolution, he observed, contributed much to the history of the nation. He inquired whether the future generations, who will be governed by the 1986 Constitution, shall be foreclosed from relating their situation to the history as developed up to their own generation. He stressed that the Body should and must not.

He maintained that the future generations, through their chosen representatives, should be allowed to change the

national seal and eliminate therefrom any trace of colonialism represented by the eagle, the symbol of the United States, or the lion, the symbol of Spanish rule. On the national anthem, he opined that the "Land of the Morning" may not be truly reflective of the Filipino traditions, ideals and history. He stated that after the country underwent a peaceful revolution fought with prayers and roses, the anthem which moved the hearts and minds of the people was the song "Bayan Ko".

The 1973 Constitution, he observed, sought to be incorporated in the new Constitution is not without purpose. He asked that the Body retain the wording as recommended and that if there is any fear that a tyrant may later on change the name, an amendment can be introduced to the effect that any law changing the name, the anthem and the seal must only be effective upon ratification by the people in a plebiscite or a referendum called for the purpose. He stressed that this is the better recourse and that the Body should not foreclose future participation in the making and writing of history into the national symbols of this country.

VOTING ON MR. PADILLA'S AMENDMENT TO DELETE SECTION 2

Submitted to a vote, and with 14 Members voting in favor and 16 against, the motion to delete was lost.

PROPOSED AMENDMENT OF MR. DAVIDE COAUTHORED BY MR. MONSOD

On line 12, Mr. Davide, with Mr. Monsod as coauthor, proposed to add the following: SUCH LAW SHALL TAKE EFFECT ONLY UPON RATIFICATION BY THE PEOPLE IN A REFERENDUM.

The Committee accepted the amendment.

Mr. Davide explained that "by law" refers to the law adopting a name for the country, a new national anthem or a new national seal.

AMENDMENT TO THE AMENDMENT OF MR. GUINGONA

Mr. Guingona proposed to add the 1973 provision, to wit: THEREAFTER, THE NATIONAL NAME, ANTHEM AND SEAL SO ADOPTED SHALL NOT BE SUBJECT TO CHANGE EXCEPT BY CONSTITUTIONAL AMENDMENT.

Mr. Davide noted that the amendment can be treated separately as it is another sentence although he would reject it. He pointed out that the Committee already accepted the requirement of a plebiscite or a referendum and that a constitutional amendment may not be resorted to for any change.

Mr. Guingona insisted on his amendment on the ground that there is no prohibition that future Congresses might again change the name of the country. He opined that it would be best to provide that future changes would have to be done through a constitutional amendment.

REMARKS OF THE CHAIR

The Chair noted that Mr. Guingona's proposal was not an amendment to the amendment but a separate sentence after Mr. Davide's amendment. The Chair called for a vote on Mr. Davide's amendment, stating that thereafter the Body would vote on Mr. Guingona's amendment.

APPROVAL OF MR. DAVIDE'S AMENDMENT

Mr. Davide restated his amendment to add a new sentence on page 1, line 12, after the period (.) following "people", to wit:

SUCH LAW SHALL TAKE EFFECT ONLY UPON ITS RATIFICATION BY THE PEOPLE IN A NATIONAL REFERENDUM CALLED FOR THE PURPOSE.

Submitted to a vote, and with 25 Members voting in favor, none against and 2 abstentions, the amendment was approved by the Body.

PROPOSED AMENDMENT OF MR. GUINGONA

Mr. Guingona proposed to add the following sentence at the end of the Section just approved, to wit:

THEREAFTER, THE NATIONAL NAME, ANTHEM AND SEAL SO ADOPTED SHALL NOT BE SUBJECT TO CHANGE EXCEPT BY CONSTITUTIONAL AMENDMENT.

Mr. Ople inquired whether Mr. Davide would consider the proposal a necessary precaution or a superfluity, to which the latter replied that the proposal may no longer be necessary in view of the approval of his amendment which would have the same effect.

Thereupon, Mr. Ople stated that the Commission should not establish an overkill of precautions on this matter and suggested that Mr. Guingona withdraw his proposal.

Thereupon, Mr. Guingona withdrew his amendment.

RESTATEMENT OF SECTION 2

Mr. Bengzon restated Section 2, as amended, to wit:

SECTION 1. THE CONGRESS MAY BY LAW ADOPT A NEW NAME FOR THE COUNTRY, A NATIONAL ANTHEM, AND A NATIONAL SEAL, WHICH SHALL ALL BE TRULY REFLECTIVE AND SYMBOLIC OF THE IDEALS, HISTORY, AND TRADITIONS OF THE PEOPLE. SUCH LAW SHALL TAKE EFFECT ONLY UPON ITS RATIFICATION BY THE PEOPLE IN A NATIONAL REFERENDUM.

INQUIRY OF MR. DE CASTRO

In reply to Mr. de Castro's query, Mr. Davide affirmed that Section 2 provides that Congress may by law adopt a new name to be submitted to the people for ratification, and that a subsequent Congress could pass another law again changing the name and sending it back to the people for ratification, in view of which Mr. de Castro opined that Mr. Guingona's amendment was better and that he was surprised why it was withdrawn when said amendment would guarantee that not every Congress could change the law unless the Constitution is amended. Mr. Davide believed otherwise, because even if it would be by Constitutional amendment, Congress every year could also propose an amendment to the Constitution which would also require ratification by the people. He maintained that the operation of both proposals introduced by him and Mr. Guingona would be subject to ratification.

Mr. de Castro insisted that Mr. Guingona's amendment would provide that Congress could change the name, anthem and seal and submit the same for ratification and, once ratified, they could no longer be changed unless the Constitution is amended.

In reply, Mr. Davide pointed out the difficulty of securing an approval because it would be the people who would approve it if it were an ordinary law or even a constitutional amendment.

PARLIAMENTARY INQUIRY OF MR. JAMIR

At this juncture, Mr. Jamir inquired whether Mr. de Castro was asking for reconsideration of Mr. Davide's amendment which had been approved, to which Mr. de Castro replied that Mr. Davide's amendment was not yet approved.

POINT OF ORDER

Thereupon, Mr. Bengzon raised a point of order on the ground that the Body was ready to vote on the entire Section 2 since there was no objection to the motion of the Floor Leader.

Thereupon, Messrs. Guingona and de Castro objected to the motion.

Mr. Bengzon stated that any Member who wants to change the parliamentary situation should file a motion to reopen the matter for further floor amendments.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 6:44 p.m.

RESUMPTION OF SESSION

At 6:47 p.m., the session was resumed.

Upon resumption of session, Mr. Bengzon withdrew his motion to vote on the entire Section 2 in order to allow Mr. Guingona to present his amendment.

REMARKS OF MR. GUINGONA

Mr. Guingona explained that he was willing to withdraw his amendment because of Mr. Davide's manifestation that Congress could amend the Constitution by constituting itself into a constituent assembly. He pointed out, however, that he failed to take into account one factor pointed out by Mr. de Castro that there is a difference between "Congress acting as Congress" and "Congress sitting as a constituent assembly" in that the former would only require a majority vote whereas the latter would require a three-fourths vote. He agreed with Mr. de Castro that the law should be more strict the second time around.

PROPOSED AMENDMENT OF MR. GUINGONA

Thereafter, Mr. Guingona reintroduced his proposed amendment to add the following sentence after Mr. Davide's amendment:

THEREAFTER, THE NATIONAL NAME, ANTHEM AND SEAL SO ADOPTED SHALL NOT BE SUBJECT TO CHANGE EXCEPT BY CONSTITUTIONAL AMENDMENT.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query, Mr. Guingona confirmed that the proposed amendment was lifted from Section 2 of the 1973 Constitution.

VOTING ON MR. GUINGONA'S AMENDMENT

Thereafter, submitted to a vote, and with 6 Members voting in favor, 18 against and 1 abstention, the amendment was lost.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query whether under his proposal, Congress could adopt a new name for the country without adopting a new national anthem or a new national seal, Mr. Davide stated that anyone or all three may be taken up in one law.

Mr. Maambong then invited Mr. Davide's attention to lines 9 and 10 which provide that "The Congress may by law adopt a new name for the country, a national anthem, and a national seal", to which Mr. Davide replied that the word "and" could be changed to OR, which change could be left to the Style Committee.

Mr. Maambong, however, maintained that "and" and "or" are two different words that could not be left to the Style Committee.

AMENDMENT OF MR. DAVIDE

Thereupon, as proposed by Mr. Davide and accepted by the Sponsor, the Body approved the amendment to change the word "and" before "seal" to OR.

INQUIRY OF MR. DE CASTRO

In reply to Mr. de Castro's further queries, Mr. Davide affirmed that with the change of the word "and" to "or", the law could change the name of the country without changing the national anthem or the national seal and vice versa, and any such change will have to be submitted to a referendum for ratification.

APPROVAL OF SECTION 2, AS AMENDED

Mr. Bengzon restated Section 2, as amended, to wit:

SECTION 2. THE CONGRESS MAY BY LAW ADOPT A NEW NAME FOR THE COUNTRY, A NATIONAL ANTHEM, OR A NATIONAL SEAL, WHICH SHALL ALL BE TRULY REFLECTIVE AND SYMBOLIC OF THE IDEALS, HISTORY, AND TRADITIONS OF THE PEOPLE. SUCH LAW SHALL TAKE EFFECT ONLY UPON ITS RATIFICATION BY THE PEOPLE IN A NATIONAL REFERENDUM.

Submitted to a vote, and with 18 Members voting in favor and 2 against, Section 2, as amended, was approved by the Body.

AMENDMENT OF MR. DAVIDE

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved an amendment on page 1, line 18, to add, after "state", the words OR ANY OF ITS AGENCIES.

AMENDMENT OF MR. MONSOD

As proposed by Mr. Monsod and accepted by the Sponsor, the Body approved an amendment on page 1, line 19, to change the word "required" to ALLOWED.

AMENDMENT OF MR. AZCUNA

As proposed by Mr. Azcuna and accepted by the Sponsor, the Body approved an amendment on page 1, lines 15 and 16, to change the words "unless allowed by law" to **UNLESS SPECIFICALLY AUTHORIZED BY LAW**.

PROPOSED AMENDMENT OF MR. DAVIDE

On page 1, line 19, Mr. Davide proposed to amend the phrase "unless required by law" to read **UNLESS SPECIFICALLY AUTHORIZED IN THIS CONSTITUTION OR BY LAW**.

Mr. Maambong stated that the Committee interpretation is that the word "law" includes the Constitution.

Thereupon, Mr. Davide withdrew his amendment on that understanding.

AMENDMENT OF MR. DAVIDE

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved, an amendment on page 1, line 22, to add **OR THEIR SUBSIDIARIES** after "corporations".

INQUIRY OF MR. FOZ

In reply to Mr. Foz' observation that the second sentence of Section 3 is a duplication of the provision in the Article on the Civil Service Commission, Mr. Maambong recalled that during his interpellation of Mr. Davide on the Article on the Legislative Department, he had suggested that once this provision in Section 3 is approved, it will be transferred to Section 7 of the Article on the Civil Service Commission because Section 3 is more encompassing than the provision now in Section 7 of the Article on the Civil Service Commission, with the thought that once approved, he would submit the same to the Style Committee and the Sponsorship Committee for its transfer.

Reacting thereto, Mr. Foz noted that there is a big difference between this provision and that in the Article on the Civil Service Commission which contains the phrase "Unless otherwise provided" as against the phrase "Unless otherwise required by law" contained in the Article under consideration. In reply, Mr. Maambong stated that this was precisely the reason why he opted for the transfer.

INQUIRY OF MR. SUAREZ

Mr. Suarez inquired whether Mr. Davide's additional words "or their subsidiaries" contemplate an office or employment in the government and not in a private institution, like the San Miguel Corporation, which may be under sequestration to which public officials may be appointed as directors.

Mr. Davide affirmed that government-owned or controlled corporations or their subsidiaries are included under the Civil Service Commission provisions. He stated that this would not include privately-owned corporations even if they are under sequestration considering that sequestration does not transfer the ownership to the government. He further affirmed that in case Executive Secretary Joker Arroyo is appointed as a member of the Board of San Miguel Corporation or of the Philippine Long Distance Telephone Company, he would not be violating this constitutional provision.

INQUIRIES OF MR. OPLE

Mr. Ople recalled that in the definition of the coverage of the Civil Service Law, there was an amendment by Mr. Romulo which restricted this definition to government corporations like the Government Service Insurance System while the Philippine Airlines, the Manila Hotel and the Hyatt Regency are treated as private subsidiaries which are beyond the scope of the Civil Service coverage. He then inquired whether this is precisely a correct definition that would apply to the alternative offices of employment contemplated in the provision.

In reply, Mr. Davide stated that when it comes to the prohibition of any other office, the Body has always applied the prohibition to positions in government-owned or controlled corporations and their subsidiaries. He opined that this is the sense of the Committee in adopting this particular provision.

On whether the Minister of Tourism would be disqualified from sitting as Chairman of the Philippine Airlines which is not a government corporation with an original charter; Mr. Davide opined that the law that would govern would be the Article on the Executive, the reason being that a member of the Cabinet is involved.

MANIFESTATION OF MR. MONSOD

Mr. Monsod manifested that in the Article on Civil Service, the prohibition is on double compensation under Section 7.

INQUIRY OF MR. NATIVIDAD

Mr. Natividad pointed out that in the past, even a board member of a financial institution of the government like the Development Bank of the Philippines and the Philippine National Bank could be appointed to a number of corporations which have loans from these institutions. He then inquired whether this is covered by this provision.

In reply, Mr. Davide stated that it would not be covered because these are private borrowers which are, if they are corporations, individual or partnership privately-owned.

FURTHER INQUIRIES OF MR. OPLE

Mr. Ople stated that in the case of Mr. Feliciano Belmonte, Jr., who is the Chairman of the GSIS, he has the corporate obligation to see to it that the interests of the GSIS members are duly protected in the private subsidiaries like the Manila Hotel, the Hyatt Regency and the Philippine Airlines where the GSIS maintains majority interest. He then inquired whether there is anything in this Section that would prohibit the Chairman of the GSIS from sitting in the board of any of these subsidiaries in order to perform this obligation to his stockholders.

In reply, Mr. Davide opined that technically, there is nothing that would prohibit it because the provision contains the clause "unless expressly authorized by law" so that the possible exception to this prohibition is an express provision of law.

REMARKS OF MR. MONSOD

Mr. Monsod opined that membership in the board is not included within the purview of "office or employment", such that the Chairman of the GSIS is not prohibited to sit on the board.

INQUIRY OF MR. MAAMBONG

On the meaning of the phrase "or any of its agencies" considering that this phrase did not appear in the 1973 Constitution, Mr. Davide cited the fact that the United States of America may employ an elective or appointive Filipino citizen but the latter could not accept the appointment without the consent of Congress. He stated that this could also refer to, if it is a unitary state, any of its political subdivisions like a province or a municipality of that particular state.

Mr. Maambong acknowledged the contribution of Mr. Davide, through his Resolution Nos. 95 and 306, on the formulation of Section 1 regarding indirect compensation, except pensions or gratuities while the formulation of the second paragraph should be credited to Mr. Treñas in his Resolution No. 260. He stated that the clause "unless it is required by law" has been changed to **UNLESS OTHERWISE ALLOWED BY LAW** which is an original subcommittee formulation.

INQUIRY OF MR. AZCUNA

On Mr. Azcuna's query whether President Aquino still needs the consent of Congress to receive a medal from the University of California which is an agency of a foreign state, Mr. Davide stated that he would not know if the institution referred to is an agency of the State of California, to which Mr. Azcuna stated that it is part of the public school system of California.

Mr. Davide stated that his contemplation of the word "agency" is political agency so that the provision would not apply to the case cited by Mr. Azcuna.

Mrs. Rosario Braid added that academic institutions would be exempted from the contemplation of the provision.

INQUIRY OF MR. DE CASTRO

In reply to Mr. de Castro's query, Mr. Davide stated that the Central Intelligence Agency (CIA) of the United States is more than a political agency.

INQUIRY OF MR. RIGOS

On whether a Congressman or a Senator of the Philippines receiving an honorary degree from a state university would be covered by the phrase "office or title of its agency", Mr. Davide explained that the word "State" is used more as a political concept such that the agency must also be performing a political function.

REMARKS OF MR. NOLLEDO

Mr. Nollado disagreed with Mr. Monsod's assertion that office or employment would not include membership in the board of directors, stating that the board manages a corporation and the employer is the corporation itself. He pointed out that the second paragraph of Section 3 was precisely designed to do away with the practice of appointing one government official to several boards of directors of different government-owned or controlled corporations where one board official receives even up to one million pesos a year. He opined that it is very basic that the managing body of the corporation is the board of directors and when one is a member of the board, he is an employee of the corporation because he is already a part of the management of the corporation.

PROPOSED AMENDMENT OF MR. MONSOD

On the basis of interpretation given for Section 3, Mr. Monsod proposed, instead of the word "he", the phrase ANY ELECTIVE OFFICIAL so that it would read "neither should ANY ELECTIVE OFFICIAL hold any other office or employment in the government." He cited as an example the Minister of Trade and Industry who is the chairman of the National Development Company (NDC) which controls or owns the majority shares of several corporations.

Mr. Nollado opined that it is allowed by existing regulations, to which Mr. Monsod replied that there is no law which specifically allows the holding of that chairmanship.

Mr. Nollado opined that the situation could be remedied by legislation or even by executive fiat.

Mr. Monsod suggested that the proposed provision be aligned with the provision on public service which reads "No elective official shall be eligible for appointment or designation in any capacity to any public office or position during his tenure." He agreed with Mr. Maambong's observation that this second paragraph, unless aligned with Section 4, would expand and render the meaning counter-productive.

On Mr. Ople's query whether it would in a way replicate another provision on the prohibition on elective officials from serving in any other office, Mr. Monsod stated that that is actually in Section 4 of the Civil Service Article.

On the rationale of reiterating it in Section 3, Mr. Monsod stated that if it is not reiterated, it might as well be deleted. He stated that he was just responding to the suggestion that it should be transposed to replace Sections 4 and 7 of the Civil Service Article.

Mr. Foz disagreed with the observation that the proposal is a repetition of Section 4 stating that the difference lies in the fact that the clause "unless otherwise expressly allowed by law" does not appear in Section 4 of the Civil Service provisions. He pointed out that approval of the provision would be a reconsideration of the approval of Section 4 of the Civil Service provisions. Mr. Monsod affirmed that the provision makes an exception to Section 4.

Mr. Foz suggested changing the word "he" to AN APPOINTIVE PUBLIC OFFICER OR EMPLOYEE in order to align this with Section 4 of the Civil Service. He stated that Section 4 of the Civil Service refers to elective public officials whereas Section 3 of the General Provisions refers both to elective and appointive public officers receiving double compensation, etc. He pointed out that should the word "he" be understood to refer both to elective and appointive officials, it would conflict with Section 4 of the Civil Service provisions.

On Mr. Monsod's query whether he was referring to the prohibition which should be more strict with respect to elective officials than with appointive officials, Mr. Foz replied in the affirmative, and suggested that a distinction should be made.

Mr. Monsod modified his proposal to change "elective" to APPOINTIVE so that the second paragraph would read: UNLESS OTHERWISE ALLOWED BY LAW, NEITHER SHOULD ANY APPOINTIVE OFFICIAL HOLD ANY OTHER OFFICE OR EMPLOYMENT IN THE GOVERNMENT, OR ANY SUBDIVISION, AGENCY OR INSTRUMENTALITY THEREOF, INCLUDING GOVERNMENT OWNED OR CONTROLLED CORPORATIONS OR THEIR SUBSIDIARIES.

Mr. Ople supported the proposal.

Mrs. Rosario Braid, on behalf of the Committee, accepted Mr. Monsod's proposed amendment.

Mr. Monsod manifested disagreement with Mr. Nollado's assertion, stating that membership in the board is not an

office or employment. He maintained that it is neither an office nor employment because interpreting membership in the board as an office or employment would stretch the meaning of "office" or "employment".

In reply to Mr. Ople's query, Mr. Monsod reiterated that elective officials are covered by Section 4 of the Civil Service provisions.

RESTATEMENT OF THE SECOND PARAGRAPH, AS AMENDED

Mr. Monsod restated the second paragraph, as amended, to wit:

UNLESS OTHERWISE ALLOWED BY LAW, NEITHER SHOULD ANY APPOINTIVE OFFICIAL HOLD ANY OTHER OFFICE OR EMPLOYMENT IN THE GOVERNMENT, OR ANY SUBDIVISION AGENCY OR INSTRUMENTALITY THEREOF, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS OR THEIR SUBDIVISIONS.

QUESTION OF QUORUM

At this juncture, Mr. Gascon raised the question of quorum.

ADJOURNMENT OF SESSION

On motion of Mr. Bengzon, there being no objection, the Chair declared the session adjourned until nine o'clock in the morning of the following day.

It was 7:24 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO
Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on September 27, 1986.

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