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Monday, August 4, 1986

OPENING OF SESSION

At 9:52 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Adolfo S. Azcuna.

Everybody remained standing for the Prayer.

PRAYER

MR. AZCUNA: Remember You are Mother Mary, that You won't say You won't because You are our Mother and You can't say You can't because You are God's mother, so You will, won't You? Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Foz Present

Alonto Present [*] Garcia Present

Aquino Present [*] Gascon Present

Azcuna Present Guingona Present

Bacani Present Jamir Present

Bengzon Present [*] Laurel Present [*]

Bennagen Present Lerum Present [*]

Bernas Present Maambong Present [*]

Rosario Braid Present Monsod Present [*]

Brocka Present Natividad Present [*]

Calderon Present Nieva Present

Castro de Present Nollado Present

Colayco Present [*] Ople Present [*]

Concepcion Present Padilla Present

Davide Present Quesada Present

Rama Present Sumulong Present

Regalado Present Tadeo Present

Reyes de los Present Tan Present [*]

Rigos Present Tingson Present

Rodrigo Present Treñas Present

Romulo Present Uka Present

Rosales Present [*] Villacorta Present

Sarmiento Present [*] Villegas Present [*]

Suarez Present

The President is present.

The roll call shows 33 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we dispense with the reading of the Journal of the previous session.

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from Atty. Paz E. Vicada, Chairman, Socio-Cultural Task Force, PCCC, Misamis Oriental, and fifty-six teachers with their corresponding schools, requesting inclusion in the Constitution of the following proposals: (1)

that the educational system shall be free from political intervention; (2) that public school teachers shall have the right to unionize as well as the right to strike; (3) that city and barangay schools have their budget nationalized; (4) that teachers shall have representation in the legislature and in academic policy-making bodies; and (5) that there shall be a national commission to investigate offenses committed by administrative officials against classroom teachers.

(Communication No. 431 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Ambrosio Rilloraza of 383 Bo. Cruz, La Trinidad, Benguet, submitting for consideration of the Constitutional Commission his version of a new Constitution.

(Communication No. 432 — Constitutional Commission of 1986).

To the Steering Committee.

Letter from Mr. Daniel M. Mercado, Jr., President, Filipino Life Insurance Companies Association, Inc., suggesting that life insurance be included among those to be considered for limitation of ownership of 100%, if not at least 75%, Filipino.

(Communication No. 433 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Mr. Hermogenes Martin, Jr. of Dal-Al Amarah, P.O. Box 1727, Jeddah, Kingdom of Saudi Arabia, suggesting, among others, (1) that the term of the President be six years with one reelection, (2) that the term of the Members of the legislature be six years with two reelections, (3) that there should be no constitutional convention during martial law, and (4) that the voting age should be twenty-one.

(Communication No. 434 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Rafael A. Pabillore of Sagay, Camiguin, submitting for consideration by the Constitutional Commission, his views and suggestions on such issues as schedule of elections, bloc voting, political parties, term of office, and presidential immunity.

(Communication No. 435 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Ciriaco S. Nietes of Binoligan, Kidapawan, Cotabato, submitting an outline of a new Constitution for study and deliberation by the Constitutional Commission.

(Communication No. 436 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Ms. Nila Fragante of 9 Victoria Avenue, New Manila, Quezon City, and one hundred seven others with their corresponding addresses, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn child from the moment of conception.

(Communication No. 437 — Constitutional Commission of 1986)

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

Letter from Fr. Mario Cruz, 319 Elm Avenue, Apt. 3 Long Beach, California 90802, U.S.A., urging the Constitutional Commission to include in the Constitution a provision allowing Filipinos to have dual citizenship.

(Communication No. 438 — Constitutional Commission of 1986)

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

Letter from Ms. Ma. Luisa D. Palillo of the Planning Service, Ministry of Education, Culture and Sports, Manila, submitting through the honorable Commissioner Joaquin G. Bernas, S.J., her position papers, which are self-explanatory, on religion in the Philippine schools, colleges, and universities.

(Communication No. 439 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Dr. Jesus V. Tamesis of 42 Quezon Avenue, Quezon City, submitting for consideration by the Constitutional Commission, his position paper on the protection of the patrimony of the nation.

(Communication No. 440 — Constitutional Commission of 1986)

To the Committee on the National Economy Patrimony.

Communication from Ms. Teresita Quintos Deles of 61 Molave Street, Monte Vista, Marikina, Metro Manila and one hundred five others, entitled: "Statement of Common Position and Concern re: Proposed constitutional provision on the 'Right to Life from the Moment of Conception'."

(Communication No. 441 — Constitutional Commission of 1986)

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF
PROPOSED RESOLUTION NO. 534
(Article on Social Justice)
Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: I move that we continue the consideration of Committee Report No. 34 on Proposed Resolution No. 534, known as the Article on Social Justice.

We are now in the period of interpellations.

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

The honorable Chairman and members of the Committee on Social Justice will please come forward and occupy the front table.

MR. RAMA: Next on the list of interpellators, Madam President, is Commissioner Rigos. I ask that he be recognized.

THE PRESIDENT: We will just first await the Chairman and the members of the Committee.

Is the Committee ready?

MS. NIEVA: Yes, Madam President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, my short comment has something to do with Section 4, page 2, line 8, on the words "and participation in policy and decision-making." This must refer to the desire of the labor unions to have participation in the management of the company. I just wonder whether the Committee would consider adding a line or two on management participation in the policy- and decision-making of the unions.

And then on line 13, it says: "recognize the primacy of the right of labor to its just share." It was intimated here last Saturday that probably this phrase refers to profit-sharing which, we are happy to note, is being done right now in many companies. My inquiry here is: Would the Committee also consider adding a line or two on loss-sharing in case the company does not make money or in case of loss? What about the share of labor in the loss of the company?

Thank you.

MS. NIEVA: With regard to the suggestion that management should also participate in the policy-making of the unions . . .

REV. RIGOS: To make it balanced, not just one way.

MS. NIEVA: Yes. Is the Commissioner going to say something there? I think it will be a very difficult situation.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: With the recognition of the Committee Chairman, may I be clarified on that point where management will have a share in the policies of the union.

REV. RIGOS: No, I am just asking, Madam President. In this section, I think the Committee is asking that the labor unions or the laborers be represented or at least be allowed to participate in policy- and decision-making; and I understand this to be referring to management.

MS. AQUINO: Yes, of course.

REV. RIGOS: How about the other way around? That is the question.

MS. AQUINO: That might be out of the question because the essence of unionism is to preserve the sanctity and independence of workers when they organize as a collective bargaining agent. And it would not sit well with the concept of unionism for management to be part of their policies. In other words, management intrusion into the union activities of the workers is anathema to the concept of trade unionism.

REV. RIGOS: That may be correct but I thought we are talking of social justice here; at least, from a layman's point of view, we also have to allow the other side to know what is going on in the other side.

MS. AQUINO: We understand the sentiment of the Gentleman, but then, on the matter of unionism, we cannot allow an anachronistic situation wherein management would sit or be part of the union policies or union management. There may be a system of offsetting in the other aspects of labor-management relation, but it would go against the grain and the tide of trade unionism if we accommodate that particular aspect that he is suggesting now.

REV. RIGOS: At any rate, I will think more about that answer.

MR. RAMA: Madam President, I ask that Commissioner Bengzon be recognized to interpellate.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. RAMA: Commissioner Bengzon will be ready later, so I ask that Commissioner de los Reyes be recognized.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, may I propound some questions to Commissioner Tadeo?

On the recommendation of Commissioner Tadeo regarding agrarian and natural resources reforms, Section 5 states that the State shall undertake a genuine agrarian reform program founded on the primacy of the rights of farmers and farm workers. The 1973 Constitution emancipated the farmers from the bondage of the land which they were tilling. P.D. No. 27 of the deposed President has been hailed as the most revolutionary and most advanced land reform decree, although said decree was confined to rice and corn lands. Aside from P.D. No. 27, several letters of instructions and presidential decrees were issued such as the letter of instructions which is a listing of all landholdings; Letter of Instructions No. 46 on pilot projects and surveys; Letter of Instructions No. 143 providing implementing policies and guidelines; P.D. No. 316 which prohibited the filing of cases of ejectment against tenants, etc. What is it that the Committee wants aside from all these guarantees already provided in P.D. No. 27 and other related letters of instructions and presidential decrees, to make the agrarian reform program more genuine than it is now?

MR. TADEO: Makabubuting suriin muna natin ang programa para masagot natin ito nang mahusay. Sa ilalim ng P.D. No. 27, ang nasakop lamang nito ay rice and corn. Ang kabuuang sukat ng palayan ay 3.5 million hectares at ang maisan ay 3.3 million hectares. Sa kabuuan, ito ay 6.8 million hectares. Pero ang nasakop lamang ng program ay 1,462,570 hectares, representing 13.7 percent ng cultivated area. Ang number of farmers sangayon sa Philippine Peasant Institute ay 7,445,500; ang nasakop lamang nito ay 1,005,124, representing only 13 percent ng kabuuang bilang ng magbubukid. Kaya kung titingnan natin sa panig ng land monopoly, hindi pa nabasag nito ang land monopoly dahil totoo ng napakaliit lamang ng coverage. Ngayon, ang nasakop lang ay rice and corn, kaya sa coverage lang ay maliit na; at sa konsepto nito, bagamat ang naging kabayaran ay iyong compensation sa panginoong may lupa, masasabi nating maliit pa rin pero hindi ito inabot noong kakayahan ng magbubukid na makabayad. Sang-ayon na rin sa record ng Ministry of Agrarian Reform, ang nakabayad lamang na amortizing owners sa kabuuan ng programa ay 9 percent. Ang 91 percent ay hindi nakabayad ng amortization. Batay sa pagsusuri, ito ay bunga ng napakaliit na ani, napakahinang kita at pagkabaon sa kumunoy ng kahirapan ng magbubukid.

Kapanabay ng programang P.D. No. 27 ang isang malaking pagkakamali nito. Ang malalawak na lupain kapanabay namang ibinigay sa mga cronies at mga multinationals. Nilabag nito ang sinabi ng ating Saligang Batas na puwedeng mag-angkin ng 24 hectares ang isang individual at puwedeng mag-develop ng hindi lalagpas sa 500 hectares, at ang puwedeng angkinin ng isang korporasyon ay 1,024. Pero, ang batas na ito na nakalagay ating Saligang Batas ay nawalang kabuluhan dahil Amendment No. 6. Dahil dito, nagawa ng Dole Pineapple, Philippines na mag-angkin ng 30,000 hectares, mismong paglabag na sa ating Saligang Batas; ang Del Monte ay nagkamit ng 24,000 hectares; ang Goodrich Sime Darby, 8,000 hectares; ang Aguinaldo Development Corporation, 27,000 hectares; ang Manila Paper Mills, 35,000 hectares at iba pa. Kaya makikita na bagamat mayroon itong nagawang tulong sa rice and corn, kapanabay naman kasi nito ay umiral din ang G.O. No. 47, iyong corporate farming program nila, kung saan ito ay sumakop ng 104 corporations at mayroong 81,000 hectares ang nakuha nito. Kaya kung titingnan natin ang kabuuan ng programa ay mayroong maliit namang tagumpay pero ang naging napakalaking kabiguan nito ay kapanabay namang ibinigay ang malawak na lupain, lalo na sa Visayas at Mindanao, sa malalaking korporasyon at mga cronies at ang coverage nga ay totoo

napakaliit kaya hindi nabasag ang monopoly.

MR. DE LOS REYES: Ako ay sumasang-ayon sa prinsipyo ng land reform, subalit katulad doon sa amin sa lalawigan ng Laguna, ang tinatamaan ng land reform ay hindi iyong malalaking hacienda na nakakaiwas sa land reform sapagkat ito ay pinalalabas na nahaluan ng agro-industrial entity, na ang mga nagtatrabaho rito ay suwelduhan, kundi ang kalimitan pong tinatamaan ay iyong mga "middle-class families." Hindi naman lingid sa inyong kaalaman na sang-ayon sa Public Land Act noong araw ay hanggang sa ngayon, ang mga taong masipag ay maaaring magkaroon ng 24 hectares of alienable and disposable land, at ito ay naging kanila sapagkat sila mismo ay magsasaka rin. Dahilan sa kanilang pagpupunyagi, nakapagpaaral sila ng mga anak; ang iba ay naging professionals — doktor, abogado, titser. Kung aagawin natin sa kanila ang kanilang lupang sinasaka na naging kanila sa pamamagitan ng pagtatrabaho, sa pamamagitan ng homestead — at alam naman ninyong bago naging kanila ang lupang iyan ay gubatan iyan, pinagtatabasan nila ng katakut-takot na mga damo, mga malalaking kahoy, at halos ang kanilang buhay ay ipinain sa mga elemento, at ang iba riyan ay natutuka pa ng ahas — iyan ang idinadaing ng mga tao sa amin sa Laguna. Baka raw naman dito sa ating pagsusumikap na magkaroon ng land reform ay silang middle-class ang siyang maapektuhan at mawalan.

Hindi bale na raw na ipamigay iyong malalaki hacienda sapagkat iyan naman ay kalimitang minana lamang nitong mga kasalukuyang nagmamay-ari. Pero iyong naging lupa nila sa pamamagitan ng pagtatrabaho, po ba iyan?

MR. TADEO: Kasi ganito iyan. Dapat muna nating makita ang prinsipyo ng agrarian reform, iyong maging may-ari siya ng lupa na kaniyang binubungkal. Iyon ang kauna-unahang prinsipyo nito. Hindi dapat mangyari na pagkaraang ipairal ang reporma sa lupa ay mawalan siya ng saka, ma-eject siya. Sa ilalim kasi ng RA 3844 ay nagkaroon ng personal cultivation. Ang nangyari, ginamit itong paraan ng mga panginoong may lupa para i-eject ang tenant, kaya iyon mismong prinsipyo, layunin o objective ng programa ay nasira. Sa halip na maging may-ari ay napalayas pa.

Kaya ang ginawa rito noon ng Federation of Free Farmers, sa 85 araw at 25 bagyo na pinagdaanan, nagkaroon ito ng susog; inalis ang loopholes gaya ng personal cultivation.

Ngayon, sa ilalim ng P.D No. 27, ang sinakop lamang kasi nito ay rice and corn, at ang isang paraan para maiwasan ang P.D. No. 27 ay ang huwag magtanim ng rice and corn. Hindi sakop iyan ng agrarian reform program ni Ginoong Marcos. Sa ilalim kasi ng agrarian reform program, may dalawang phases ito — iyong tinatawag na Operation Land Transfer, seven hectares and above ang coverage nito at bibigyan ng Certificate of Land Transfer ang magbubukid na huhulugan niya bilang amortizing owner sa loob ng 15 taon papunta roon sa tinatawag na pagkakamit niya ng emancipation patent or title of land.

Pero itong mga maliliit na panginoong may lupa, iyong may seven hectares below, covered naman sila ng operation leasehold; magkakaroon sila ng fixed rental. Tama naman ang mungkahi na ang pagpapatupad ng reporma sa lupa ay dapat simulan sa malalawak na lupain. Kaya dapat mapasama rito ang lahat ng pananim, hindi rice and corn lamang. Dapat simulan ito.

Sa maliliit na mga panginoong may lupa, maaapektuhan sila ng leasehold. Magkakaroon ito ng rental sa kanila. At gaya nga ng sinasabi ko noong Sabado, maaapektuhan ang maliliit na panginoong may lupa sa isang yugto ng pag-unlad ng industriya, kasi kapanabay ng pagtutulak sa tunay na reporma sa lupa, itutulak din ang pambansang industriyalisasyon. Sa isang yugto ng pag-unlad ng industriya, makikita ng maliliit na panginoong may lupa na hindi na produktibo pa na manatili sila sa rental na ibinibigay ng tenant. Mas magaling na pumunta sila sa industriya dahil sa sila ang unang bibigyan ng pagkakataong makapag-invest o makabili ng share of stock. Sila rin ang unang bibigyan ng pagkakataon na mapasok sa industriya. Ganito kasi ang paraan noon.

MR. DE LOS REYES: Nais ko lang ipaabot sa kaalaman ng Committee na doon sa amin sa Laguna ay iisa lang naman ang malaking lupain, ang Hacienda Canlubang na pag-aari ng mga Yulo, at ang kalimitan diyan, katamtaman lang ang lupang binubungkal nila kaya nagkaroon ng niyugan. Tungkol sa mga kasama sa niyog, idinadaing ng mga maliliit na may-ari ng niyugan na wala naman daw masyadong ginagawa ang mga magsasaka riyang at inaabangan na lamang nila na magkaroon ng bunga ang niyog; Pagkatapos, sa panahon ng pamumuti ay pumaparte sila; kaunti lamang ang pagtatabas diyan. At kung nagkakaroon ng tinatawag na "intercropping," iyong pagtatanim sa ilalim ng niyugan ng mga halamang katulad ng pinya, kape, at kung anu-ano pang gulay, sang-ayon sa custom sa Laguna, walang kaparte riyang ang may-ari ng lupa at ang lahat ng nakikinabang diyan ay ang mga manggagawa.

Kaya ko ito sinasabi sa inyo ay hindi dahil sa ako ay kontra sa land reform, kung hindi gusto rin nating magkaroon ng katarungan itong mga middle-class people, sapagkat sa tingin ko naman, ang social concept of justice does not mean grabbing the lands of the middle-class families in order to give them to the poor.

MR. TADEO: Kaya nga kami naglagay dito sa line 23 ng retention limits sa owner-cultivator. Sinasabi natin dito: Ano ba itong retention limits? Siyempre, kagaya ng sinasabi ko, gaano ba ang sukat nitong retention limits?

Sa mga pag-aaral na isinagawa sa mga public hearings, nakitang pitong ektarya pababa ang puwedeng maging retention limits sa owner-cultivator. Ang pangunahing batayan nito ay iyong nakalagay sa Bible para makita ninyo ang pagkamaka-Diyos ng agrarian reform na ito; duon sa Chapter 2, verses 44-45 ng Acts of the Apostles: "Ibibigay ko ito batay sa pangangailangan ng bawat isa." Ano ba ang sukat ng lupa na dapat maiwan sa panginoong may lupang binubungkal o owner-cultivator na makasasapat sa bilang ng kanyang pamilya? Kaya ang retention limits ay batay pa rin sa kanyang needs at capacity.

MR. DE LOS REYES: I would like to congratulate the Committee for the provision of Section 8 especially that which concerns the rights of fishermen and local communities to the direct or communal use of marine and fishing resources. Even Commissioner Padilla agrees that the Laguna Lake should be a communal fishing ground.

At ang issue po riyang ay ganito: 10,000 pamilyang nakatira riyang sa paligid ng Laguna de Bay ang nawalan ng pagkakataon na makapangisda sa tinatawag nilang ancestral fishing grounds dahil sa malalaking korporasyon. Korporasyon na naman ang problema, katulad ng nasabi ninyo sa lupa. Ito ay korporasyon namang nagtatayo ng mga tinatawag na fish pen at halos iisa lamang ang may-ari ng mga korporasyong iyan. Dahilan diyan ay nawalan ng pagkakataon ang mga maliliit na mangisingda.

Ang kinakatuwiran diyan lagi nitong mga fish operators ay magiging mahal daw ang isda sa Kalakhang Maynila kapag inalis iyan sapagkat sila raw ang supplier ng maraming murang isda. Pero sa Laguna, ang nararamdaman ko, itong mga 10,000 pamilyang nakatira dito sa paligid ng Laguna de Bay ang madaling naaakit ng mga kapatid natin sa labas na nagsasabing ang pamahalaan at ang batas ay para lamang sa mga mayayaman at hindi sa mahihirap. That is why I would like to congratulate the Committee for this very revolutionary and progressive provision.

When one of the Commissioners interpellated a member of the Committee, he pointed out the use of the word "shall." For example, "The State shall undertake a genuine land reform"; "The State shall recognize the right of farmers." And his question was: Can the citizen, for example, sue the State if it fails or refuses to do what is mandated in these provisions? Then, a comparison was made between the Bill of Rights and the proposal on social justice. And the answer was that the Bill of Rights contains civil and political rights while the latter contains provisions to enhance the social and economic rights of the citizens.

In other words, the civil and political rights which are contained in the Bill of Rights are for the protection of the

citizens against the encroachment and violation by the State of the right to due process and equal protection of the law. In short, the individuals exercise these rights as inalienable and being recognized as such by the State. The State cannot prevent the individuals from exercising said rights without violating the guarantees in the Bill of Rights.

The purpose of the Bill of Rights, therefore, is to protect and free the citizens from interference by the government. But the provisions in the Article on Social Justice strengthen social justice rights and the State is being mandated through its instrumentalities, like Congress passing the necessary laws to give real meaning and substance to the concept of social justice, not just a mere philosophical or rhetorical concept. Is my understanding of the provisions of the Article on Social Justice correct?

MS. NIEVA: Yes. Basically, I would say it is correct.

MR. DE LOS REYES: And contrary to the fears of some of our colleagues, the proposals are not communistic or socialistic, for in the constitution of socialist countries, there is a separate article on social and economic rights. For example, in the constitution of Russia, Chapter X, Article 180 thereof states that the citizens of the U.S.S.R. have the right to work; that is, the right to guarantee employment and payment for their work in accordance with its quantity and quality; Article 119 states that the citizens of the U.S.S.R. have the right to rest. Article 120 states that the citizens of the U.S.S.R. have the right to material security; and Article 121 states that the citizens of the U. S. S. R. have the right to education. Women in the U.S.S.R. are accorded equal rights with men. These are not found in the proposals of the Committee. The proposals of the Committee merely enjoin Congress to enact the necessary laws in order to enable citizens to enjoy social and economic rights. Is that correct?

MS. NIEVA: Yes, we agree with the Gentleman.

MR. DE LOS REYES: Thank you, Madam President.

BISHOP BACANI: May I add, however, that even if we have those rights in the Article on Social Justice, that would not necessarily mean that the Article is communistic because those are very human rights also.

MR. TADEO: Siguro'y magandang linawin na itong usaping ito tungkol sa salitang "communistic." Gusto kong makita ng lahat na mismong si Pope John Paul II ay nanawagan ukol sa just distribution of income. Noong pumunta siya sa Bogota, Colombia, ito ang kanyang sinabi. Ito ay para lang makita ninyo ang pagkamaka-Diyos ng Article on Social Justice na aming ginawa.

In an Indian mountain village and in a poor Bogotan neighborhood, Pope John Paul II made strong calls in support of peasant property rights and more just distribution of income, thus, championing the cause of the peasants who comprise about 40 percent of Colombia's 28,000,000 people. The Pope said that those who work on the land deserve safeguards on their legitimate right and guarantees for legal forms of landownership. He said that unjust situations have to be changed, especially in the case of agricultural workers who are obliged to cultivate the land of others and who are exploited by big landowners, without the hope of ever having possession of even a tiny piece of land. About two-thirds of Colombia's arable land is in the hands of four percent of the population.

The Pope went on to say that the people have spent their hard life in the field without sufficient salaries, without hope of obtaining a minimal piece of land of their own and without receiving the benefits of a duly planned and sweeping and effective agrarian reform. And for those who are small landowners, they had met many difficulties just to obtain adequate credits. He also said that nobody should forget that the gifts which God has conferred on man have universal destiny and, therefore, these cannot be the exclusive property of the few, be they individuals, groups or nations.

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

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Thank you, Madam President.

I have a few questions on Section 1 for the record. I would like it confirmed that Congress, in the name of social justice, cannot redistribute the powers set forth in the Constitution. Will the Committee confirm that?

MR. GARCIA: What this part tries to provide is that there must be an effort to redistribute economic wealth, therefore, political power must be accessible to the majority of our people. For example, on our sectoral representation, the party list system in a sense tries to provide this availability of political power to those who normally are excluded from political decisions.

MR. ROMULO: Thank you.

As to Section 2, is the power of the State to regulate the acquisition, ownership, use and disposition of property total and absolute?

MR. GARCIA: No; in fact, during our previous discussions, we were mentioning that under certain conditions, properties should be used for the common good. Under this provision, when the property is excessive and when its use is unlimited, the State can come in to make sure that it is used properly for the common good.

And finally, due process of law, I think, is very important. It does not violate any other rights of an individual as found in the Constitution.

MR. ROMULO: And Section 2 would apply to all types of property because it says property without qualification. What does the Committee mean by "property"? Is it real property, intangible property or any kind of property?

MS. NIEVA: I think that would apply to land resources and wealth but, as one says, how do we regulate bank accounts and so forth?

MR. ROMULO: Yes, because "property" is an all-encompassing term. It can include money, jewelry and cars. So, what does the Committee really mean?

MS. NIEVA: The State regulates this through taxation.

MR. ROMULO: Yes, in a negative way. But the term "property" in Section 2 refers to what type of property?

MS. NIEVA: I would say then that it would refer to practically all properties that may be taxable or that may relate to the social good of the people; that is, for the common good.

MR. ROMULO: In its broadest meaning, that applies to everything including the clothes I have on. Is that correct?

MS. NIEVA: I suppose, if we extend it to that limit. But I do not know if the State will take the trouble to regulate that kind of property.

MR. ROMULO: I only ask because of future interpretations.

MS. NIEVA: This was lifted from the 1973 Constitution.

MR. ROMULO: Yes, but nevertheless, this is a new Constitution. So, we would like to determine the limits or the nonlimits of the terms proposed in Section 2. As I am beginning to understand the Committee, it can apply to

everything and all types of property.

MS. NIEVA: And at the same time, it respects the right of ownership, according to the declaration.

MR. ROMULO: It respects that, but on the other hand, we give the State the right to regulate the acquisition, the ownership and the disposition of property. I am not against this Article; I just want the parameters.

MS. NIEVA: I think our parameters would be whatever the common good demands.

MR. ROMULO: The common good can be interpreted in many ways; that is of no help.

MR. TADEO: Palagay ko, nakalagay ito sa 1973 Constitution. Ngunit halimbawa, mayroon kang punong-kahoy at pag-aari mo ang punongkahoy na ito, subalit kung ang punongkahoy mo ay hahadlang sa kabutihan ng nakararami, ang karapatan mo sa punongkahoy ay mawawala.

MR. ROMULO: In any case, this is always limited by the Bill of Rights and due process and subject to legislative acts.

MS. NIEVA: Yes, I would say so, like just compensation and all the rest.

MR. ROMULO: In Section 4, when we speak of participation in policy- and decision-making affecting the rights and benefits of labor, I take it that a collective bargaining agreement would be one of the modes whereby they would participate. Is that correct?

MS. NIEVA: Yes.

MR. ROMULO: If a company does not have a collective bargaining agreement, in what form should this participation be?

MS. NIEVA: I think we provided for voluntary modes of settling disputes between workers and employers, as well as collective negotiations which would cover the unorganized working force who do not enjoy the benefits of CBAs.

MR. ROMULO: Therefore, is the sponsor saying that the latter part of this section spells out the ways and means whereby participation in policy- and decision-making can take place? Is that its intention?

MS. NIEVA: In a very general way, but I think this can be worked out depending on the situation of the companies, and maybe depending on what the legislature would provide for. It just provides in general for the right.

MR. ROMULO: I ask this because the opening line here says: "It shall also guarantee." They are very strong words, but the thrust of the sponsor's answers seems to indicate that she is leaving this to voluntary methods. Is that correct?

MS. NIEVA: Maybe, that is as far as disputes between workers and employers are concerned, but maybe the Gentleman is referring to just and humane conditions of work and job security.

MR. ROMULO: I am referring to the participative rights being granted to employees and the manner by which those participative rights will be carried out. It is very important for us to know that. The sponsor has agreed that one method is the collective bargaining agreement, and I think that is probably one of the best methods. But what are the other methods being envisioned?

MS. NIEVA: As we said, we provided for voluntary negotiations and voluntary modes for the settling of disputes between workers and employers which can take various forms of labor-management cooperation as in other

countries. Because as we pointed out, five percent or so of our workers are covered by CBAs, so the vast majority do not enjoy these rights. That is why we are trying to provide for some means by which they can seek redress.

MR. ROMULO: That is precisely my question. Where there is no CBA, because labor is only 10 percent organized, what form does this participative device take?

MS. NIEVA: Here we are being very general because we said it is up to the legislature to provide for this later on, as well as for the different companies to work out different ways of using voluntary methods of negotiations.

Maybe our Chairperson for labor can add something.

MS. AQUINO: One may notice that on line 4, page 2, there is a provision for collective bargaining and negotiations. The concern here is to provide for unorganized workers. So, this is the forum within which we can contemplate statutory implementation of measures that would accommodate the need of ununionized workers in their collective negotiation with management.

MR. ROMULO: Thank you.

MR. GARCIA: If I may add, the reason why guaranteeing the rights of workers to self-organization is important is, one of its consequences is that once workers get organized, the possibility of participation becomes more real and effective. And I think that recognition is rather crucial in this entire arrangement.

MR. ROMULO: Fine. So, the base is really the first part of the sentence; that is, self-organization.

MR. GARCIA: Exactly.

MR. ROMULO: On lines 15 and 16, where reasonable return on investment is mentioned, for the record, I assume that the Committee will take into consideration the risks involved.

MS. NIEVA: Certainly, that is definitely an important element.

MR. ROMULO: Thank you.

On agrarian reform, I have very few questions. Generally, did the Committee calculate the potential costs of agrarian reform?

MS. NIEVA: There have been different figures set up by the Ministry of Agrarian Reform itself; so, I think, Commissioner Tadeo here may have more to say.

MR. TADEO: Noong binabalangkas pa lamang ang RA 3844, nakita nilang kakailanganin ang malaking pondo para sa pagpapatupad nito. At ang isang nakita nilang paraan ay ang ibenta ang mga military camps, katulad ng Camp Aguinaldo. Kasi nakita nilang bakit kailangang mas marami ang militar kung nagugutom naman ang sambayanan? Mula rito sa mga kampong ito, nakita nilang matutugunan ang pagpapatupad ng tunay na reporma sa lupa kayat hindi na kailangan ng militar ang mga kampong napakalalawak. Ito ay noon pang panahon ni Ginoong Macapagal noong 1963. Isang maaaring pagmulan ng pondo ay ang pagbebentahan sa mga kampong ito. Isa sa mga sinasabi ni Ginoong Montemayor ay kung hindi natin mapapaalis ang foreign military bases, dapat lakihan ang rentals dito para maging pondo ng agrarian reform. Isa lang iyan sa mga pagtanaw nila. Ngayon, nakikita naming kung iyong mahigit na dalawang bilyong piso na ginasta sa power plant ay iniukol lamang dito, baka ngayon ay walang insurgency at hindi na nagugutom ang mamamayan.

MS. NIEVA: And Commissioner Monsod may have something to add to that.

MR. ROMULO: So, what is the calculated cost of land reform? The methods whereby it may be financed were indicated but I am just curious as to what the cost may be. It is never certain, but what would be the total cost if

this program is carried out?

MR. ROMULO: In other words, we are not certain.

MS. NIEVA: No.

MR. TADEO: Isa lang ang sagot ko roon, kakailanganin nga rito ang malaking pondo, pero ang itutugon naman kasi ng magbubukid sa sambayanang Pilipino ay ang kaunlaran, ang pagkalutas ng problema sa bumabagsak na ekonomiya dahil magkakaroon ng purchasing power ang mga magbubukid na mayroong mga 35 to 40 million. Uunlad ang mga industriya, magkakaroon ng job opportunities. Kaya bagamat malaki ang kakailanganin, ang magiging tugon naman dito ay ang kaunlaran ng sambayanang Pilipino.

MS. NIEVA: I think the land reform record of Taiwan would give us a lot of insights into how the Chinese have managed to improve their economy and everything.

MR. ROMULO: Yes, but Taiwan, in area and population, is very different from us. For the record, I take it from Commissioner Tadeo's previous answers to other interpellations that "fair and progressive system of compensation" is now the norm when it comes to land reform, rather than the old formula of "just compensation." Is that correct?

MR. TADEO: Opo, dahil ang just compensation ay hindi naman ginamit sa ilalim ng RA 3844 bagamat nasa jurisprudence ito kasama ang fair market value. Ang ginagamit natin sa ilalim ng RA 3844, sa ilalim ng right of preemption and right of redemption ay ang reasonable capacity of the farmer to pay.

MR. ROMULO: Section 6 says:

The State shall recognize the right of farmers and farmworkers . . . to participate in planning, organizing and management of the program . . .

which I take would be the program of land reform.

MR. TADEO: Yes.

MR. ROMULO: Again, this is correct and just but it leaves out the landowner. That cannot be the intention of the Committee. Should he not equally participate?

MS. NIEVA: I would say he is essential to the whole program.

MR. ROMULO: Yes. But the way this is written, it would seem to be determined by the government and the farm workers to the exclusion of the landowners.

MS. NIEVA: I do not think that was the intention at all. It was here just to highlight the right of the farmers and farm workers to the organization of cooperatives and to participate in farmers' organizations. It does not say to exclude but just to be consulted.

MR. ROMULO: So, in no way does the Committee exclude the landowners?

MS. NIEVA: In no way because I do not see how it could possibly even begin to work without the landowners being an important element.

MR. ROMULO: How does the Committee envision the farm workers participating in the management of the program?

MR. TADEO: Mayroong isang interview na ginawa sa ating Secretary-General Florida Ruth Romero tungkol sa agrarian reform. Ang title nito ay "The Government Should Pay Attention to the Needs of the Small Farmers." Ito

iyong tanong sa ating Secretary-General: "What should the government consider in formulating land reform policies?" Ang sagot ng ating Secretary-General ay: "The first thing which government planners should do is to consult the farmers and the real farmers' organizations, kung kaya nilagyan namin ng 'independent,' not the so-called Samahang Nasyon which was run by the government. They must involve the farmers from the beginning of the policy-making stage to goal-setting, implementing and problem solving." Iyon ho ang sagot ng ating Secretary-General.

MR. ROMULO: So, that is the general concept of the Committee?

MR. TADEO: Sa pagpapatupad po kasi ng tunay na reporma sa lupa, kakailanganin natin dito mismo ang mga magbubukid mula sa pagpapalano pa lamang at sa pagpapatupad nito hanggang sa mga nayon. Mula sa lahat ng opisina ng agrarian reform ang lahat ng farmers' organizations ay kabalikat nila sa pagpapatupad nito.

MR. ROMULO: Before I forget, I want to join in the comments of Commissioner de los Reyes with regard to the middle-class farmers and so on, because these are the same sentiments I heard in Quezon and Batangas.

Section 7 says:

The State shall apply the principles of agrarian reform in the disposition of other natural resources, including lands of the public domain under lease or concession, subject to prior rights of original inhabitants . . .

Again we have the same basic questions; but I do not think the Committee is excluding the lessees and the concessionaires in the disposition and application of agrarian reform because apart from the original inhabitants and homesteaders, there are obviously the lessees and the concessionaires. Their rights, I take it, will be respected.

MS. NIEVA: Under the due process of law, I think so.

MR. TADEO: Narito po iyong paliwanag tungkol dito sa statement na "The State shall apply the principles of agrarian reform in the disposition of other natural resources" it means full natural resource coverage in principle. The term "land" should include all forms of natural resources, including mineral and forest re-sources. Inuulit ko, ang mga mina, under the regalian doctrine, ay pag-aari ng State. Ang ibig sabihin, iyong puwedeng sakahin ay suited for agriculture; pero iba pa rin ang tinatawag na ecological balance upang mapangalagaan ang ating kagubatan, at hindi kasali rito iyon. Ang sinasabi lamang dito ay iyong suited for agriculture na hindi sisira sa ecological balance:

. . . and water resources, whether public or private whether titled or untitled, whether presently controlled by Filipinos or non-Filipinos over which there is social conflict induced by an unjust distribution.

MR. ROMULO: Since the problem of mining rights is raised, the Commissioner realizes that the government in giving concessions grants the concessionaires certain rights and so on. This Section 7 does not mean to interfere with those rights assuming, of course, they were lawfully acquired.

MS. NIEVA: I do not think that with this present formulation, the rights of the existing lessors or lessees or concessionaires should be ignored or not taken into consideration.

MR. ROMULO: With regard to urban land reform and housing, particularly, did the Committee calculate the potential cost of giving them affordable housing?

MS. NIEVA: I think the word "housing" here would now embrace the newer concepts of sites and services. We will just provide for the development of the sites and services and encourage the urban poor themselves to build their own houses. There are different methods now that are being considered.

MR. ROMULO: Yes.

MS. NIEVA: And I think it is beginning to be evident that there will never be enough funds to give everybody a home fully built and all that. Since the government cannot do that, the private sector has to come in very strongly. And, therefore, we wanted to include here that the government should encourage home financing to assist the poor to acquire their homes.

MR. ROMULO: In providing the infrastructure and neighborhood services, et cetera . . .

MS. NIEVA: That would be the role of the government, specifically.

MR. ROMULO: Yes. But did the Committee consult the housing authority as to the potential cost of this program?

MS. NIEVA: We did not get the exact figures, but certainly that is the trend now of the program of the housing authority itself; that is, to provide for sites and services and the Zonal Improvement Program that is called ZIP.

MR. ROMULO: So, we have not determined the cost of this either.

With regard to Section 11 which says:

Urban poor dwellers shall not be evicted nor their dwellings demolished without due process of law . . .

did the Committee take into account the fact that squatting has been declared as a nuisance per se and it is punishable under the Revised Penal Code?

MS. NIEVA: Yes.

MR. ROMULO: Because what else does "due process of law" mean assuming "urban poor dwellers" refers to squatters?

MS. NIEVA: Yes. That is a problem that we have to iron out.

Does Commissioner Aquino have something to say in this regard?

MS. AQUINO: Madam President, the provision on squatters and the urban poor would address the problem of squatting as a social problem, such that when the committee report carries the provision that it should be in compliance with the due process, I think the focus was essentially on procedural due process. However, at the proper time, we would be willing to yield to the amendments of the body on this matter.

MR. ROMULO: Yes. I have no quarrel with the approach. I just want to make sure that if we wish to change the law, that should be made clear in this provision.

MS. AQUINO: Yes. But it is seen better in the context of that premise that squatting is a social problem. That may avoid any misleading, any misinterpretation of the provision.

MR. ROMULO: Thank you.

MR. GARCIA: I would just like to address a general question regarding what Commissioner Romulo has presented several times already on the affordability of the programs on agrarian reform, natural resources reform and also urban land reform. As one will notice, the Committee on Social Justice presents provisions that have very general directions. In fact, in the sections, we enjoin Congress to draw up a program that will effectively make real the general directions that we have provided. And we, in fact, hope that it will be Congress that will create the structure and provide the necessary funds that will make possible these objectives.

MR. ROMULO: Yes, I understand that. My concern is that we may be raising the expectations of our people too much and if these remain unfulfilled, there will be further frustrations. So, I am just wondering whether a

cost-benefit analysis was undertaken in all of these programs that we are commanding — to use Commissioner Bernas' favorite phrase — the legislature to undertake. We have to balance this with the expectations of the people once they read this Constitution. It is by way of caution really that I raised the point.

MR. GARCIA: Yes, I think that is understood. In other words, for us, these are desired objectives. If we were to create social justice in our land, these are the desired objectives for the people. Regarding the creation of an economy that will give priority not just to the growth of the economy, to the profits of the companies and so on, but precisely to the basic needs of our people regarding land, regarding housing and so forth, we feel these should be the priority tasks that the legislature should consider in enacting laws. In a way, that is how one gives flesh or gives concrete reality to giving more in law to those who have very little in life.

MR. ROMULO: Thank you.

THE PRESIDENT: Commissioner Tan desires to make some comments.

SR. TAN: I just want to comment on the subject of squatters. To the layman, when we say "squatter," we usually think of those people who live by the esteros or those who just come one night and take over a piece of land. But to us the word "squatter" really means "landowner" who has been there for 10 years, 20 years, 50 years, 60 years and has been paying for the land but he just does not get it because of the bureaucracy and graft and corruption. So, the squatters are just asking for such services as our Chairman said and, when possible, shelter and land. When we say "anti-squatting," it refers to the overnight squatters in that sense.

MR. ROMULO: I am happy to hear that distinction.

Just for information, I gather that comprehensive agrarian reform, as found in Section 12, is synonymous to genuine land reform and that there are no differences in meaning. Is that correct?

MS NIEVA: I think that is what we mean.

MR. ROMULO: Thank you. I must again ask the basic question of health. Do we know how much this will cost? It is a very extensive program which, of course, is desirable even from the point of view of the MEDICARE. Did the Committee calculate the cost of an integrated and comprehensive health program? And who will bear that cost?

MS. QUESADA: I am glad the Gentleman has finally asked questions on health because I have been waiting to explain what we mean by integrated and comprehensive health care program services. Actually, when we talk of integrated health care services, we are thinking in terms of unifying all the instrumentalities of government as well as the private sector in providing the much-needed health care to our people. And this does not really fall just within the purview or the responsibility of one government entity like the Ministry of Health, but that is the responsibility as well of the Ministry of Education and Culture which provides school health services to the school population. It covers also the occupational health and safety services provided by the Ministry of Labor and Employment. It also includes the services provided by the Ministry of National Defense and the health services provided by nongovernmental organizations. We are also talking in terms of how all these entities, private and government, will be able to unify themselves in providing the necessary protection and promotion of health of the people.

This concept actually extends beyond just structures or organizations. Integration includes unifying these instrumentalities in terms of primary health care as an approach that has been adopted by the Philippines together with the 134 member-states of WHO and UNICEF in meeting the health care needs of the people by the year 2000. So, while we would like that unification in terms of policy in meeting these health care needs of the people,

we have not come up with a computation of costs because, as I said, there has been no unified approach. So, we cannot expect, for example, all the ministries to adopt this approach. Right now, it is only the Ministry of Health which has responded to the call of Health for All in the year 2000, but we would like the Ministry of Labor and Employment to also adopt this approach. The approach aims to make essential health services affordable and available to the population in a manner that is both within the means of the government as well as of the people.

When we talk of comprehensive health care, we mean the coverage of all the services that should be provided to the people. This includes services in relation to health promotion; disease prevention or specific protection through programs like immunization, establishment of protective measures and use of protective wear to prevent injury or illness; and early detection and treatment. The latter refers to the provision of treatment to the people so that they do not die and be denied their right to life because we do not have the necessary treatment or medicines.

And then the fourth area is rehabilitation which addresses itself to the problem of the disabled. The people who become disabled as a result of a complication of injury, trauma or disease, and even the people who are mentally retarded need to be provided with necessary services.

So, at this point in time we have not computed the cost of this integrated and comprehensive approach. As I said, we would like the State to respond to this kind of integration and comprehensiveness of health services to meet people's basic right to health.

MR. ROMULO: So, the thrust of this Article is to rationalize and integrate all the health services being offered by various governmental agencies as the first phrase of the program.

So, I take it at that point that it will involve mainly administrative costs?

MS. QUESADA: Yes.

MR. ROMULO: I take it, however, that in the second phase, the program aims to improve the services being given by these various programs.

MS. QUESADA: Definitely.

MR. ROMULO: Of course, that is where additional funding will be required.

MS. QUESADA: That will necessarily involve additional funding if we want to address ourselves to the right of people to health.

MR. ROMULO: From what the sponsor is saying, this refers mainly to government services. The private sector has its own rather extensive MEDICARE Program. Does the Committee envision to integrate that as well or are these separate concepts?

MS. QUESADA: I think when we talk of integration, it is a merger, a collaboration between private and public sectors. Right now, I think our government is looking into this collaborative effort with the private sector.

MR. ROMULO: Yes, for example, we have medical benefits from the SSS and we have MEDICARE benefits which we find inadequate. So, in the private sector we supplement these with private health benefit programs. And the problem arises when one tries to integrate the two. It is not an easy job to do and, more often than not, we prefer to just do it on a private basis because each program has different benefits and to try to supplement those benefits is not easy for the private insurances or whatever other programs are available. This is because they work on a different basis. So, one has to really think how he can integrate the two. It might be better just to have parallel services rather than a totally public-private integrated System.

MS. QUESADA: I think the nitty-gritty of this kind of collaboration will be left to legislation but the important

thing now is the conservation, utilization or maximization of the very limited resources. We know that the government alone cannot provide health services. That is why we believe it is the State's responsibility to encourage more intersectoral efforts in the delivery of health services to our people. The Ministry of Health right now has done so by looking into how the private sector can provide the health services which the State facilities alone could not provide.

MR. ROMULO: The other problem is that, by and large, government services are inefficient. So, this is a problem all by itself. On Section 19, where the report says that people's organizations as a principal means of empowering the people to pursue and protect through peaceful means . . . , I do not suppose that the Committee would like to either preempt or exclude the legislature, because the concept of a representative and democratic system really is that the legislature is normally the principal means.

MR. GARCIA: That is correct. In fact, people cannot even dream of influencing the composition or the membership of the legislature, if they do not get organized. It is, in fact, a recognition of the principle that unless a citizenry is organized and mobilized to pursue its ends peacefully, then it cannot really participate effectively.

MR. ROMULO: And it is meant to say "influence the legislature" or "supplant the legislature."

MR. GARCIA: No, not to supplant the legislature. But there are periods, for example, when a legislature can be remiss in its obligations and, therefore, the proper atmosphere is created so that the legislature can take note that there is a clamor for a particular issue or direction. During martial law, this was evident. When the legislature was no longer responsive to the needs of the people, organizations of ordinary citizens — a very concrete example is the NAMFREL and other citizens' groups — took on the task of ensuring that the objectives of the people are defended.

MS. NIEVA: Yes, even in our Constitution now we have even provided for initiative and referendum, and I think for these to really work, the people have to organize themselves.

MR. ROMULO: Yes, I wanted that clarified.

How does the Committee envision Section 20 to operate, especially when it says: "participation at all levels of social, political and economic decision-making"?

MR. GARCIA: First of all, it is again a recognition of the principle that people must be consulted especially regarding decisions which will affect their lives. Very often, it is the people who are very close to the problem that is why they can tell what the problem is, and, perhaps, the solution lies along the same lines. The proper function of the legislature in this regard would be to try to formulate mechanisms of consultation that would ensure talking with the people and finding out their ideas. This should be done on a regular and direct manner so that the State or the different planning agencies will be able to harness the participation of the people in an institutional manner.

MR. ROMULO: I guess my question is really on the extent to which the Committee would like the decision makers to undertake such consultation.

MR. GARCIA: As much as possible and as much as practicable. In the Ministry of Trade and Industry, I understand they have now created the people's economic councils. I remember a dialogue with Minister Concepcion where he was discussing how multisectoral representations in different regions are now being put together so that they can help identify the resources in the area, the proper use of those resources and the marketing facilities that they could make available. The Ministry of Health, I understand, is also doing this kind of consultation in many regions. So, I think this is a very interesting phenomenon that should be duplicated at all levels of the government.

MR. ROMULO: Thank you.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Would Commissioner Romulo yield to one question?

MR. ROMULO: Yes.

MS. ROSARIO BRAID: When he speaks of cost-benefit analysis, is he referring to economic and financial cost or social cost, such as the enhanced dignity and pride of the farmer?

MR. ROMULO: Yes, I refer to all those elements, particularly the financial and economic cost.

MS. ROSARIO BRAID: These are difficult to quantify.

MR. ROMULO: I do not think so. There must be studies concerning these. My point is, we cannot just hand Congress these and say, "Now, you go on and do it" without considering the cost. All of us will pay for it, by the way, through taxation.

MS. ROSARIO BRAID: Yes, I am supporting the notion, except that I just want to be sure that it is a comprehensive cost-benefit analysis which includes social, cultural and environmental cost.

Thank you.

MR. ROMULO: Yes. I take it that the social aspects of these have been very well considered by the Committee.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: On the question of cost, I wonder if the Committee considered Proposed Resolution No. 253 which is a proposal by Commissioners Guingona and Villegas. Since the question of cost was raised, maybe it is appropriate to look into this. Let me read the proposal:

A citizen, upon acquiring a fortune sufficient to ensure a reasonable security for the members of his/her immediate family, as indicated by the amount of his/her net assets, shall pay an annual tax of not more than one percent thereof. The amount of tax on the level of the taxable net assets shall be determined by law. The proceeds from the above tax shall constitute a Special Provident Fund to provide homes for the homeless poor at subsidized cost.

I suppose that if this were considered, it would have provided some supplements to the cost that is expected to be shouldered by the State. And I suppose that it would not be limited merely to housing, but also to the other social services.

MS. NIEVA: Yes, we have the Pag-I.B.I.G.

MR. BENNAGEN: No.

MS. NIEVA: Pag-I.B.I.G. is in the same vein as a provident fund.

MR. BENNAGEN: No, but this is a special proposal.

MS. NIEVA: Yes, I know.

MR. BENNAGEN: It says that a citizen, upon acquiring a fortune sufficient to insure a reasonable security for the

members of his/her immediate family as indicated by the amount of his/her net assets . . .

MS. NIEVA: I said that will be taken cognizance of by the legislature, I am sure, when they prepare the statutes that would implement this.

MR. BENNAGEN: My interest, of course, is to bring this out, so that maybe it can be considered in the deliberations of Congress as a very concrete way of meeting some of the costs, without necessarily just depending on the State, because, as is, the government is already strained for finances.

Thank you, Madam President.

MR. RAMA: Madam President.

BISHOP BACANI: May I also add that when the programs are implemented, they will be implemented gradually. Hopefully, with the greater development of the country, funds will become more available. And then finally, as was mentioned before, the cooperation of nongovernmental offices (NGOs) and private enterprises will be sought.

MR. RAMA: Madam President, for some prejudicial questions on behalf of the Committee on Sponsorship, Chairman Guingona would like to be recognized.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

As indicated by the distinguished Floor Leader, I would like to raise what I would consider as prejudicial questions on behalf of the members of the Committee on Sponsorship who announced last Saturday that they will start their work this week. As a matter of fact, we are scheduled to meet this coming Wednesday. Madam President, the Committee on Sponsorship and the Committee on Style are tasked under the Rules of this Commission to look into corrections on the draft Constitution to avoid inconsistencies, inaccuracies and repetitions.

During the weekend I reviewed the various articles that have already been approved on Third Reading, particularly the Article on the Bill of Rights. In my opinion, there are at least two provisions thereof which, depending upon the decision of this Commission, might bring about inconsistencies. The first of these is the question of whether government employees would have the right to strike. This Commission approved the final text regarding the right to form associations, as amended by Commissioner Lerum, and further amended by Commissioner de los Reyes, to read as follows:

The right of the people including those employed in the public and private sectors to form associations, unions or societies for purposes not contrary to law shall not be abridged.

I reviewed the Journal of the preceding day when deliberations on this were made prior to amendments, and there was nothing said regarding this particular section on the right to form associations except the comment of Commissioner Bernas that there must be the addition of the word "UNION." That is all.

Of course, there are some who say that it is true that this provision does not include the right to strike, but, at the same time, it does not exclude. As far as I am concerned, this means that we are leaving this matter to judicial construction or interpretation. But now we have in the proposed Article on Social Justice a specific reference regarding the right to strike. Thus, I will respectfully suggest that in deciding this matter of whether government employees, with or without exceptions, would have the right to strike, we should relate this to the approved provision under the Bill of Rights so that our decision would carry with it an authorization for the Committees on Sponsorship and Style to add to the Bill of Rights a provision which includes the right to strike with or without

exceptions Without that authority, I do not believe either Committee could make an addition to the provisions on the Bill of Rights because this would be a matter of substance.

The other point that I would like to respectfully bring to the attention of the honorable Commissioner is the matter of just compensation. We have provided in our Bill of Rights, in the matter of the exercise of the power of eminent domain, the payment of just compensation which Commissioner Bernas has explained to us as enunciated by the courts in many cases, to be the market value plus the consequential damages minus the consequential benefits, provided the benefits do not exceed the damages. Madam President, I see two other forms of compensation mentioned. In Section 5 of the proposed provision on agrarian and natural resource reform, we speak of a fair and progressive system of compensation. In Section 10 of the provision on urban land reform and housing, we speak of compensation which should be affordable to deserving low-income citizens. I would respectfully suggest that we should perhaps decide on whether or not these two types of compensation suggested by the Committee actually mean just compensation because if they really mean so then we should change the wording to "just compensation." But if they do mean different things, then who is going to bear the difference? Nevertheless, under the provisions of the Article on Social Justice, I assume that the difference would be that the proposed compensation would be less than the just compensation as contained in our jurisprudence. Again, the question would be: Who is going to bear the difference? If it is the State, through subsidy or through some other form of State assistance, there will be no problem because the owner in the transaction would still be receiving just compensation. But if it is the owner who will bear the difference between the market value and the so-called progressive system of compensation, then we should make exceptions here. In which case, we in the Committee on Sponsorship — as well as those in the Committee on Style, with the permission of Chairman Rodrigo — would like to seek authority to add the exceptions in the provision on the exercise of the power of eminent domain already approved by us under the Bill of Rights. Without that authority again, we cannot include such exceptions in the Bill of Rights because these will be matter of substance.

Finally, I notice that in our previous deliberations, we have not been very clear on the use of the word "shall." This has prompted some of us to ask whether the word "shall" in certain cases means mandatory while in other cases it means merely directory. I suggest that in the discussion of this particular Article, the Committee should inform us which provisions use the word "shall" to mean "must" and which provisions use the word "shall" to mean "maybe."

Thank you.

THE PRESIDENT: The Chair and the Commission appreciate the remarks of the honorable Chairman of the Committee on Sponsorship: But as to the authority being desired, the Chair suggests that the Committee on Sponsorship take time in its work until after the different provisions shall have been clarified and settled in plenary session so as to avoid any difficulty. We are sure that the Committee will be guided by whatever is decided here on the floor. In fact, caucuses will be held to harmonize, if there is need to harmonize or reconcile, provisions in the different Articles of the proposed Constitution.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I just be allowed to make two remarks about the remarks made by Commissioner Guingona. First of all, also in line with what Madam President has already said, I would oppose any attempt to give the Committee on Sponsorship an advance authority to make any adjustment. If it is going to make any adjustment, this adjustment has to be done by way of presenting it to the body for approval or disapproval.

Second, on the matter of just compensation as mentioned in Section 5 of the present report — and I am glad this came up — my thinking is that there is no incompatibility between what the Bill of Rights says and what this provision says when it defines "compensation" as fair and progressive system. Rather, what we have here, it seems to me, is an attempt to fine-tune the meaning of just compensation, which is a flexible meaning, for the purposes specifically of agrarian reform. The very general meaning of just compensation in the Bill of Rights is that it is the price which the property will command in the free market; that is, considering a seller who is not obliged to sell but is willing to sell and a buyer who is not obliged to buy but is willing to buy. I think that the just compensation in the Bill of Rights takes primary consideration of the cost to the owner, what is just to the owner. But in the attempt here to call just compensation fair and progressive, there is a very clear attempt to determine what is just compensation in the context. not just of what is due the owner but of the capabilities precisely of the underprivileged. It will entail not a diminution of the substance of what the seller or the owner will get but rather, I see "progressive" as meaning, as entailing not a reduction of the price but a programming of the compensation in such a way that it becomes affordable to one who cannot pay immediately. So I really do not see here incompatibility between the two but rather an attempt, as I say, to fine-tune just compensation, precisely to give substance and meaning to the general concept of social justice as an attempt to enable the law to make things more affordable for those who cannot afford.

Those are just the two points I would like to make.,

MR. REGALADO: Madam President, just a point of information.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: With respect to this matter of just compensation, the basic jump-off point is the matter of fair market value because the formula is: fair market value plus consequential damages, minus consequential benefits — provided that consequential benefits will not be more than the consequential damages — equals just compensation.

Commissioner Bernas has given us the jurisprudential meaning of what is fair market value — the amount for which the owner who is not compelled to sell will part with his property to a buyer who is not compelled to buy. But under martial law, that concept was changed by Mr. Marcos in a series of decrees, some of which found their way into the Tax Code, to the effect that fair market value is the amount which the owner of the property declares to be worth vis-a-vis the amount which the assessor declares the property to be worth, whichever is lower. Of course, at that time we could not raise that issue of why the assessor is given the power to countermand the declaration of the owner.

So I think the Committee will also look into that aspect because we all start with the phrase "fair market value." But this has two meanings now — the first, by jurisprudence, because there was no law on that point but it was declared by the Supreme Court as its interpretation; and the second, by presidential decree, which says that it is the amount declared by the owner or the amount declared by the assessor, whichever is lower. The latter is the present rule on that point. I request that the Committee also look into this because we are talking here of just compensation also in relation to the Bill of Rights.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: This is still in relation to just compensation and to the presidential decrees as referred to by Commissioner Regalado. In the course of our discussions of just compensation during our discussions of the Bill of Rights, we always stated that the determination made by presidential decree was a prima facie determination

and, again, I do not see that as contradictory to the jurisprudential meaning of just compensation; but rather, it is an attempt by the legislative authority to create a prima facie case — prima facie meaning of just compensation — always subject to review by judicial bodies because it is a question of fact. I am not aware of any Supreme Court decision which says that that meaning is binding on the courts.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to propound a few questions to Commissioner Bernas. I had a cursory glance at land reform in Taiwan when I was still a member of the Senate. The purpose of land reform in Taiwan is two-pronged: to give the land to the cultivator and, at the same time, to give enough compensation to the previous owner so that he could invest that money in business. And so, land reform is successful in Taiwan.

But then, in order to enable the owner from whom the land was going to be taken to invest the money in business, he had to be given a lump sum. Otherwise, if it were just a yearly pittance, he could not invest that in business. And so, this is where the government comes in. The government finances the land reform by paying the landowner the full amount. And the tenants pay the government.

My question is: Is this Taiwanese practice feasible here?

FR. BERNAS: I am not a member of the Committee; I base my answer completely on what is written in the text. I do not see the committee report as excluding that possibility. I agree completely with the Commissioner that the matter of just compensation should not involve a diminution of what the owner gets. The primary thing here when we speak of progressive compensation is the programming of what is due from the poor. The programming could be in terms of what is given to the government at the same time. That is perfectly possible under this system.

MR. RODRIGO: In other words, there might be a difference between the amount of just compensation and the affordable cost. In all probability, there will be such a difference. The affordable cost will be less than the just compensation.

In that case, under this proposal, will the government come in to finance the difference between the just compensation and the affordable cost?

FR. BERNAS: I do not see the possibility of massive land reform unless the government somehow gets involved in the financing; and I think one of the reasons the past land reform program did not have the success that it gave the impression of having was precisely the fact that there was no effective financing system for it.

So, all of these will have to be necessarily packaged into the land reform program.

MR. RODRIGO: That is why the questions by Commissioner Romulo were very pertinent. Has there been an estimate of its cost to the government? It is not only in the difference in the cost but also in the mode of payment. As I said, in order to enable the former owner of the land who will lose his land and the income from that land to invest in business, the money that he will get as payment for the land must be paid in lump sum, unlike what was done here, where a pittance was given and the rest was in land bonds, payable in many years.

MR. VILLEGAS: Madam President, may I volunteer some information concerning the question of Commissioner Rodrigo.

MR. RODRIGO: I will be very glad to listen to the explanation.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Although all the details will have to be threshed out by legislation, definitely right now, as Commissioner Bernas says, unless the government and the so-called official development agencies get involved with our land reform, it will never take off.

Let me just inform the body that right now there are quite a number of official development agencies, both government as well as nongovernment, that are willing to commit large funds to get small holders to acquire land from existing landowners who will be compensated by these official grants or aid that will be coming in. So for the first time in our land reform history, there is the possibility of our following the Taiwan model where existing landowners do not have to be saddled with land bonds which were very unproductive in the past. Also, there are very friendly outsiders who realize that we will never have economic and social stability unless we have a thorough land reform program going on that will apply not only to rice and corn but also to the other crops.

So, this is what is going on right now, and I am sure the Minister of Agrarian Reform, Minister Alvarez, can, give more information or details of what I am describing. But let me inform the body that definitely, we are looking into the Taiwan model on how to enable land-owners to immediately get a lump sum instead of waiting forever for a land bond.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: I submit to the ruling of the Chair. May I just clarify that both the Committees on Sponsorship and Style have included in our proposed timetable that we would submit or jointly present to the body in plenary session the proposed corrections for approval. But according to the timetable as contained in our Rules, we are supposed to begin our work on August 16, so that would give us only one week.

I particularly mention this because what I perceive to be inconsistent as regards the right to strike can be resolved now. I do not foresee any other Article where this problem of just compensation would come up in the future. If this can be decided now, the body would save us time which is a very important element in our work, since we are under time constraint. But, of course, if the body feels that it is better for us to wait and present the whole thing together, then we submit.

Commissioner Bernas also gave us an additional explanation on the concept of just compensation by citing jurisprudence, that it refers to the price which a seller who is not compelled to sell would get, and which a buyer who is not under compulsion to buy would pay. I fail to see, however, how we could say that a seller, under an expropriation proceeding, is not compelled to sell.

Thank you, Madam President.

THE PRESIDENT: The Chair has one question for Commissioner Guingona. Does he mean that all difficulties should be decided this morning or after the termination of the discussion on the Article on Social Justice?

MR. GUINGONA: The point is that perhaps this could be decided now because there was no decision made when we discussed the Article on the Bill of Rights. The only reference to the right to strike was made by Commissioner Foz just before the approval on the Third Reading of that Article. And he mentioned to me early this morning that he only expressed a personal opinion then and that there was no discussion nor consensus reached on the matter.

THE PRESIDENT: Yes, we will still have time for that particular issue during the period of amendments.

MR. GUINGONA: Thank you, Madam President.

THE PRESIDENT: Is there any other speaker?

MR. ROMULO: Madam President, Commissioner Azcuna is next. But before we call on him, may I just comment on the problem of the Committee on Sponsorship.

THE PRESIDENT: The Commissioner may proceed.

MR. ROMULO: I understand the Committee's problem, but the Rules is rather clear when it says in part:

. . . the committee shall have no authority to change the sense, substance or purpose of any proposal referred to it, and the sponsorship of the final draft of the Constitution.

Whenever a proposal covers subject matters falling within the jurisdiction of more than one committee, said proposal shall be referred to the committee within whose jurisdiction the principal subject matter falls.

The sense of this as we had composed it is that any problem which may arise with regard to interpretation is referred to the proper committee. If it falls within the jurisdiction of several committees, then those committees should meet jointly to settle the problem.

MR. AZCUNA: Madam President.

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

MR. GUINGONA: May I react first to the statement of Commissioner Romulo?

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: The Commissioner envisions a situation where there is no conflict among committees. We are assuming that there would be conflict and we would have to bring the matter to the Commission in plenary session. That is what we are thinking about. Of course, if the committees agree in view of what is contained in the Rules that Commissioner Romulo read, then we would have no problem. However, if they do not agree, then we would have to run to the Commission in plenary session to find out the real intention of the Commission because the committees cannot speak for the Commission.

THE PRESIDENT: Thank you; who is the next speaker?

Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Madam President.

I just would like to ask the Committee some clarificatory questions.

The first opening section of the Article on Social Justice states that social justice is an imperative, and yet it does not state what social justice is. Consequently, the subsequent sentence says: "To this end, Congress shall. . ." and Section 2 says: "Towards these end, the State shall . . ." To what end will all these be done to promote social justice?

These sections do not define the components or elements and the end or objective of social justice. It is stated here that it should be given primary consideration in the pursuit of national development. But what is it?

MS. NIEVA: I think that is contained on lines 10 to 18, which read:

. . . reduction of social, economic and political inequities and the promotion of structures and processes which protect and enhance the inalienable right to human dignity, and the redistribution of wealth and power for the common good.

MR. AZCUNA: Would the Committee have any difficulty in rewording that first sentence to something along this line: THE PROMOTION OF SOCIAL JUSTICE IS A NATIONAL IMPERATIVE TO INSURE THE WELL-BEING AND ECONOMIC SECURITY OF ALL THE PEOPLE BUT PARTICULARLY THE POOR AND THE DISADVANTAGED IN LIFE? So, we would have an objective right away.

MS. NIEVA: Yes, as we said before, the Commissioner may submit his proposal ahead of time so that we can consider it.

MR. AZCUNA: Yes, I will have it typed; I have a reworded Section 1, which I will submit to the Committee at the proper time.

The other point is regarding Sections 1 to 18 which say that the State shall do this; the government shall do that; the Congress shall do this, and yet Sections 19 and 20 say that the people and their organizations should be given preference in determining how social justice is to be achieved. I feel that there might be an inconsistency in saying that it is the task of the State to provide for structures that will allow for social justice and yet in the end it says: "Let the people determine the structures that will achieve it." Is there no inconsistency here?

MR. GARCIA: No; precisely what we are trying to say here is that although it is the obligation of the State to make sure that there are structures which will make possible social justice, still we realize that the enabling mechanism of social justice in its most generic sense is the people. We should protect the aspirations of the people but they should be properly organized because without the people's organizations, many of these structures which the State can provide will be meaningless. The Commissioner will notice that the title of the last part is: "Role and Rights of People's Organizations."

MR. AZCUNA: Yes.

MR. GARCIA: It is a recognition of the importance of these organizations. And the State should recognize also their independence so that the people themselves can pursue their objectives. The State can provide the support and the conditions but eventually it has to be the people, properly organized in their movements, who can pursue these objectives till the end.

MS. NIEVA: Maybe one example is the Samahang Nayan which was imposed by the State with very little consultation with the people. Most of these organizations are now inactive and have not been effective because the people themselves were not consulted from the very beginning.

MR. AZCUNA: That is all right. Finally, regarding this provision on women, I believe that this treats more of rights of working women rather than women's rights in general. Is that right?

MS. NIEVA: Yes, because we have included women's rights in general in the Declaration of Principles.

MR. AZCUNA: Would the Commissioner be amenable to the inclusion of CHILDREN in this particular provision to read: "Women and CHILDREN"?

MS. NIEVA: We are open to that.

MR. AZCUNA: Thank you.

MS. NIEVA: Thank you.

Madam President, Commissioner Bengzon has some remarks with regard to the observations of the previous speakers.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENZON: I just would like to remark on the comments of Commissioner Rodrigo and the thrust of the questions of Commissioner Romulo a few minutes ago.

I am a member of the Committee and I would like to state that the Article on Social Justice is an article that articulates concepts and objectives. This is very clear. We do not want to spell out details in this Article. It is up to the Congress or to the proper agency of the government to pursue these concepts and objectives under circumstances that are available to the government and to the people. This could take a few years; this could be on a long-term basis. But what we are putting here are concepts and objectives which we feel should be attained. As to whether they would be attained or they may remain Utopia is another question. But the fact is that we are providing the direction. So I hope that the Commissioners would take it in that light. If there is any vagueness in these concepts, then we would be happy to hear their remarks and be open to amendments that would be introduced.

Thank you.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Let me add a few comments to those of Commissioner Azcuna regarding that seeming contradiction between some of the provisions, particularly the role of the State and the role of people's organizations.

In the context of this Article, we pinpoint two major actors in the realization of social justice: On the one hand, we have the executive, legislative, and judicial structures of government, and on the other, we have the people's organizations.

The Article mandates the State to provide the formal structures that would allow the achievement of social justice. People's organizations would complement these formal structures by providing certain informal structures within which they can exert pressure on the various structures of government to be more responsive. We do not see these as contradictory; rather we see them as complementary.

Thank you, Madam President.

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

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Madam President.

I would like to address a few questions for "Mr. Agrarian Reform," Commissioner Tadeo.

On page 2, Section 5, line 22 states: "undertake the just distribution of all agricultural lands." I would like to underscore the word "all." When the Commissioner speaks of all agricultural lands, is he referring to the following: (1) all tenanted private agricultural lands regardless of crop; (2) all haciendas and plantations regardless of crop and land tenure arrangement; (3) idle, abandoned and foreclosed lands suited for agriculture; and (4) public lands and/or government and military reservations and ranches suited for agriculture? Is this the intent of the words "all agricultural lands"?

MR. TADEO: Yes.

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

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: On behalf of the Committee, may I briefly reply to Commissioner Sarmiento?

THE PRESIDENT: The Commissioner may proceed.

MS. AQUINO: Section 5, line 22 provides that the State undertakes the just distribution of all agricultural lands, regardless of whether planted with rice or corn. This provision is pertinent to our background discussion in the Committee that as the land reform program stands now, it covers only about 4.1 million hectares, which is only about one-third of the agricultural lands. On the basis of this program, there is only a maximum of 17.1 percent of the landowners who would be affected by "operation land transfer." As for the tenants, it covers only about 393,780 or roughly only five percent of the 7.7 million workers engaged in agriculture, fishing and forestry.

MR. SARMIENTO: May I go to another point, Madam President.

Section 5, line 8 reads: "The State shall undertake a genuine agrarian reform program . . ." When the Commissioner says "genuine agrarian reform program," is he referring to several phases of genuine agrarian reform? For instance, phase 1, confiscation and distribution of lands owned by the deposed President and his cronies; phase 2, the expansion of free distribution to all crop lands; and phase 3, the nationalization of transnational agri-business plantations and the total abolition of feudalism.

May I be clarified on this point by Commissioner Tadeo?

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Ang binabasa ni Commissioner Sarmiento ay ang programa sa lupa ng Kilusang Magbubukid ng Pilipinas.

MR. SARMIENTO: When he speaks of genuine agrarian reform program, is the Commissioner referring to all these phases I mentioned?

MR. TADEO: Those phases are still subject for legislation. The phases of that genuine agrarian reform are those being envisioned by the farmers' organization known as the Kilusang Magbubukid ng Pilipinas. Ngunit dahil ito ay Saligang Batas, iyon lamang mahahalagang bagay ang mapapalagay dito.

MR. SARMIENTO: But is this the intent of the Committee on Social Justice or of the Kilusang Magbubukid ng Pilipinas which is the largest peasant organization in the Philippines?

MR. TADEO: Sa panig ng Kilusang Magbubukid ng Pilipinas, may dalawang yugto lamang ang reporma sa lupa. Ngunit magdadaan pa naman ito sa lehislatura. Ang mahalagang ilagay sa Saligang Batas ay iyong maaaring maging gabay sa paglikha ng mga detalye ng lehislatura.

MS. AQUINO: Madam President.

THE PRESIDENT: The Commissioner may proceed.

MS. AQUINO: On behalf of the Committee, it is very clear from the tenor of Sections 5 to 9 that the genuine land reform program is not confiscatory. Social justice in land reform intends to equalize bounty. It does not intend to equalize oppression. We do not advocate confiscation of property.

BISHOP BACANI: Besides, even though that is the sense of the proposal of a particular group, I do not think that that is precisely the sense of the Committee.

MR. SARMIENTO: That is why I want to be clarified.

Anyway, thank you for the clarification.

Section 10 on lines 8 to 19 speaks of a continuing urban land reform and housing program. When the Committee speaks of urban land reform, does it refer to the urban land reform which was initiated by the deposed President?

MS. NIEVA: Yes, we are referring to that land reform program initiated by the deposed President.

MR. SARMIENTO: All right.

During the time of President Marcos, he issued many decrees, like P.D. Nos. 1517 and 1640; Proclamation Nos. 1767, 1893, 1967, and many others. As a matter of fact, one proclamation was issued declaring Metro Manila as an urban land reform area but before one could avail of the benefits under that proclamation, there were so many requirements; for instance, he should have stayed in that place for 10 years, he should be a genuine tenant, and he should have the right of first refusal. And not only that President Marcos issued several limitations for urban land reform to prosper. He limited it to only 244 sites, not the entire Metro Manila area.

Is that the intent of this Committee, to refer only to these 244 sites and to the limitations provided in several proclamations on urban land reform?

MS. NIEVA: No. I think that Article XIV, Section 12, which explicates the urban land reform proviso, is maintained. However, for the present Constitution that we are formulating, we are asking the State to carry out the implementing legislation not necessarily according to the rules or regulations and PDs that former President Marcos had mandated; we are asking the State to implement and flesh out this directive.

MR. SARMIENTO: So we are not just adopting the proclamations and decrees issued.

MS. NIEVA: No, we are not adopting them in toto. The concept is very, very sound. But, again, the way it was carried out left many loopholes.

MR. SARMIENTO. I thank the Commissioner for that clarification because such decrees to me were restrictive and oppressive because they limited urban land reform to certain sites but not to all sites with urban poor dwellers and squatters.

Section 11, line 25 on page 3, states: "their dwellings demolished without due process of law." I have to commend the Committee for the inclusion of the words "without due process of law" because during the past administration, we handled several cases of the urban poor. After their houses had been dismantled, the dwellers were ejected on the basis of mere clearances issued by the National Housing Authority and the City Engineer's Office. As a matter of fact, another decree was issued during the past regime, P.D. No. 691, dated May 16, 1978, which, according to the then administrator of the NHA, General Tobias, was the strongest anti-squatting issuance from the President. It was the strongest because the decree directed all local government officials to immediately apprehend all squatters and demolish the illegal constructions they had built on public and private lands and after the arrest and demolition, it was only then that they were prosecuted before the appropriate court.

I have two more points. My concept of social justice is justice to the common tao — to the little man. Dean Sinco of the UP College of Law defines social justice as looking after the well-being and economic security not only of large groups but also of particular persons or interests who are under real handicaps in the struggle for existence. I notice that the Article on Social Justice — and this was also the observation of Commissioner Azcuna — mentions groups like farmers, fishermen, workers, indigenous cultural communities and women, but it has no provision on youth. In the Article on the Legislative, we provided a system of sectoral representation whereby groups like women, urban poor, peasants, indigenous cultural communities and youth were included. But in this Article on Social Justice, no mention is made of those important sectors, as well as those of children, infants and mothers.

We all know that these sectors are exploited in our society. We have child labor, child prostitutes, et cetera.

MS. NIEVA: We do not want to duplicate, since we were told that the Article on the Declaration of Principles has several sections that deal with the youth, providing for their physical, mental and spiritual welfare and also against their exploitation.

Also, in the Article on Human Resources, there is a section on that; likewise in the Article on Family Rights, we are also adverting to the youth. So we thought that we would not wish to be accused by the Committees on Style and Sponsorship of duplication. But I think the observation was already made that the exploitation of minors at work should certainly be mentioned here. And we will deal with that.

MR. SARMIENTO: Does not the Chairman of the Committee think a provision on youth should be included since we already have a provision on women?

MS. NIEVA: Yes.

MR. SARMIENTO: We can also include provisions on indigenous cultural communities and on labor just for the sake of fairness.

MS. AQUINO: Madam President, the Article on Social Justice assumes a very peculiar bias, and the bias is in favor of the underprivileged, the oppressed and the marginalized sectors. Our focus is that the cause of this marginality is the social structures.

The problem of the youth such as exploitation of minors as workers or as farmhands might be the only problem pertinent to this Article. We also believe that the problem of pedophilia and other problems would be more effectively addressed in the other Articles of the Constitution.

MR. SARMIENTO: But during our discussion on sectoral representation, we made it clear that the youth is one of the marginalized sectors, so much so that we included the urban poor, laborers, peasants, women indigenous cultural communities and the youth.

MS. AQUINO: Yes, we appreciate that.

MR. SARMIENTO: So maybe at some appropriate time, will the Committee be willing to accept an acceptable and palatable provision on youth?

MS. AQUINO: For clarification, if only to settle and put to rest the problems of the youth, I think the reason we incorporated the youth as a sector in the scheme of sectoral representation is that they comprise a basic sector, not essentially because they belong to an underprivileged or marginalized sector. That would give us the conceptual difference of approaches in the Article on Social Justice.

MR. SARMIENTO: But will the Committee be willing to accommodate at the appropriate time provisions on infants or children and mothers?

MS. AQUINO: For the moment, I am very reluctant to incorporate those provisions in this Article on Social Justice, but it is my humble submission that they should be rightfully placed in the Articles on Human Resources, Declaration of Principles and State Policies and Family Rights.

.MR. SARMIENTO: As for my last point, Section 1, line 10, speaks of reduction of social, economic and political inequities. Does not the Commissioner think that since the thrust of social justice, being the centerpiece of the 1986 Constitution, is the enhancement of human rights or the realization of human dignity, should we not use the word ELIMINATION instead of "reduction"?

MS. NIEVA: I think we are just being practical, and so we feel that we can start with reducing. I do not know if we will ever eliminate those inequities entirely. But as the Commissioner says, we will entertain any amendment to that effect.

MR. SARMIENTO: That is all right. Line 11 speaks of promotion of structures and processes. Can we not replace the word "promotion" with CREATION, so that it will read: "CREATION of structures and processes which protect and enhance the inalienable right to human dignity"?

MS. NIEVA: We can consider that as another amendment.

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

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: Commissioner Tingson would like to be recognized.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, I have just two or three short questions directed to Commissioner Tadeo.

I know that a great deal of ideas about the agrarian reform programs of this committee report, if I understand it right, are mainly from Commissioner Tadeo. When we say here "genuine agrarian reform," does this mean that the Commissioner was not satisfied with President Macapagal's agrarian reforms and those of the deposed President Marcos' P.D. No. 27 which attempted to introduce agrarian reforms?

MR. TADEO: Sa kaalaman ni Commissioner Tingson, kagaya po ng ipinaliwanag ko kanina, ang coverage ng land reform program ay mga areas planted with rice and corn lamang. Sa P.D. No. 27, ang nasakop na kabuuang area cultivated by 13.7 percent lamang at ang farmers involved ay 13.1 percent lamang. Kaya makikitang hindi pa nawasak ang land monopoly.

MR. TINGSON: Thank you very much.

MS. AQUINO: Madam President, may I add some more to the answer of Commissioner Tadeo. The inadequacies of the land reform program of President Macapagal and that of President Marcos in P.D. Nos. 2 and 27 would account for four factors:

The first factor is the inadequacy or the very narrow coverage when it provided only for the rice and corn lands which according to statistics would only benefit less than 1/3 of the tenants or about 393,000 as compared to 521,000 more who remain as leaseholders because they work in farms which are less than seven hectares.

The second factor is the very weak governmental machinery in the implementation of the program because the implementors are either inadequate or indecisive.

The third factor is the economic difficulties arising from the mandate of President Marcos' land reform program. P.D. No. 27 speaks of high-yielding varieties which necessitate heavy infusion of expenditures for the purchase of machinery and fertilizers. This is a kind of relationship that breeds all the more the dependence of the farmers on usurious interests. In the long run, what we have are paid or waged farm workers because they are being eased out from the equitable sharing in the land reform program precisely because of the oppressive consequences arising from the implementation of the program. Then, of course, we are aware of the forced contribution to the Samahang Nasyon which also draws further the purchasing power of the farmers.

Finally, the fourth factor is that the land reform program of President Marcos is basically flawed because it lacks

the participation of the farmers in its planning and implementation. This is the comprehensive concern of genuine land reform as it is being envisioned in this Article.

MR. TINGSON: The answers are very well-said and I thank the Commissioner very much.

My next question is: When we speak here of "to own directly or collectively the lands they till," is this land for the tillers rather than land for the landless? Before, we used to hear "land for the landless," but now the slogan is "land for the tillers." Is that right?

MR. TADEO: Ang prinsipyong umiiral dito ay iyong land for the tillers. Ang ibig sabihin ng "directly" ay tulad sa implementasyon sa rice and corn lands kung saan inaari na ng mga magsasaka ang lupang binubungkal nila. Ang ibig namang sabihin ng "collectively" ay sama-samang paggawa sa isang lupain o isang bukid, katulad ng sitwasyon sa Negros.

MR. TINGSON: Thank you very much.

I am from Negros Occidental so I need to know this matter. When we speak of "distribution of all agricultural lands" in relation to this genuine land reform program, does this include sugar lands?

MR. TADEO: Yes.

MR. TINGSON: Thank you very much.

I notice that Commissioner Tadeo is very fond of quoting verses from the Scriptures and I appreciate that because we were all given copies of the Holy Bible by the Philippine Bible Society and the Koran by the Moslem Society.

In the Book of Acts, Chapter IV, may I read just a few verses:

The group of believers was one in mind and heart. No one said that any of his belongings was his own, but they all shared with one another everything they had. With great power the apostles gave witness to the resurrection of the Lord Jesus, and God poured rich blessings on them all. There was no one in the group who was in need. Those who owned fields or houses would sell them, bring the money received from the sale, and turn it over to the apostles; and the money was distributed to each one according to his need.

Since Commissioner Tadeo seems to be very knowledgeable in the Scriptures and I am sure he has read this portion, may I ask whether or not Section 5 is partly based on the philosophy of this portion from the gospel?

MR. TADEO: Ito ay isang paglilinaw lamang. Iyong sinabi ko tungkol sa ating Secretary-General Florida Ruth Romero ay halaw sa isang interview na naganap noong April 20, 1986 noong wala pang Con-Com. Baka masabi ninyong nakikialam ang ating Secretary-General. I just quoted her in that interview.

Ang mahalaga kasi dito sa Acts 4:32-35 ay kung ano bang talaga iyong "just society" o lipunang ninanais ng mga unang Kristiyano noong namatay na si Kristo. Ang isa pang mahalaga dito ay ang konsepto o kaisipan ng Panginoon tungkol sa "property" o pag-aari. Dito ay sinasabi Niyang ang pag-aari ay para sa lahat, at ito ay ipamamahagi batay sa pangangailangan ng bawa't isa. Dito po natin makikita ang ibig sabihin ng isang "just society" na nagsisimula sa "concept of property" na ayon sa Panginoon ay para sa lahat.

MR. TINGSON: Maraming salamat po.

SUSPENSION OF SESSION

MR. ROMULO: Madam President, may I suggest; suspension of the session?

THE PRESIDENT: The session is suspended until two-thirty this afternoon.

It was 12:18 p.m.

RESUMPTION OF SESSION

At 2:48 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: We are still in the period of interpellations on the Article on Social Justice. There are still nine Commissioners registered to interpellate, and we are hoping to close the debate to enable us to move a little faster.

I ask that Commissioner Natividad be recognized, Madam President.

THE PRESIDENT: Commissioner Natividad is recognized.

May we ask the members of the Committee on Social Justice to please join the Chairman.

MR. NATIVIDAD: Thank you, Madam President.

At the outset, I would like to premise my questions with my belief that there can be no social justice unless there is a redistribution of land and more equitable diffusion of wealth.

During the Fifth Congress of the Philippines, that was two terms before martial law, we were then in the opposition and we were sponsoring the Agrarian Reform Code. We were told that the failure of the agrarian reform laws was due to the fact that the government bought large landed estates from landlords and then gave or sold these lands to the farmers. Thereafter, the relationships between the tenants and the landlords were presumed to have been cut and the farmers who became owners of the land were expected to be successful. However, the fact that they did not have the funds to maintain the cultivation of the land was a vital factor. In addition, the farmers did not have the funds for fertilizer, for their day-to-day living, for the education of their children, and for medicine. Consequently, we were told when we were drafting the Agrarian Reform Code at that time that within five years the lands were sold back to the former landowners and the government had to buy the landed estates once again in a vicious circle.

Then came the time of President Marcos. Again, we were told that land reform failed because the Land Bank did not perform well as expected. It was supposed to fill the void left by the landlords by lending money and helping the farmers sustain their day-to-day living. We were also told that land reform failed because not all agricultural lands were included under land reform, and so forth.

My question is: Since we are embarking on this new thrust in land reform, would these pitfalls that once caused the failure of land reform before be avoided in this proposal? May I ask the Committee whether these pitfalls that have been cited are now dealt with effectively and adequately in this new Article on Social Justice?

MS. NIEVA: Yes, with regard to the second part of the Commissioner's observation. A portion of Section 6 says that the State shall provide the necessary support to agriculture through appropriate technology and adequate financial production and marketing assistance because we agree that the lack of such support was the main reason for the failure of land reform.

MR. NATIVIDAD: On what page is that?

MS. NIEVA: This is on page 2, Section 6, lines 28 up to 30.

MR. NATIVIDAD: What role does the Land Bank play in this matter?

MS. NIEVA: I suppose that is one of the instrumentalities that would be called upon to provide adequate financial assistance.

MR. NATIVIDAD: Yes, so this includes the support that the Land Bank will extend even without mentioning that bank. Is that correct?

MS. NIEVA: Yes, but we presume that it would include the various agencies.

MR. NATIVIDAD: Yes. The other observation I would like to mention is that in the implementation of land reform the small landowners like teachers who have served to own two, three or seven hectares of land were the main complainants against the land reform program of the previous administration. Will this be repeated in the same vein in this new program? Will they not be allowed to manage and till their own lands? Remember that these are small land owners. Our teachers have developed the habit of being frugal and saving in order to buy land for themselves. When we were young, the slogan was "land is wealth." This slogan was printed even on school books. And so, consequently, our teachers saved money and bought a few hectares for themselves. However, under land reform they were deprived of their lands and they cried out and complained against this unfair and unjust practice. My question, Madam President, is: Shall we maintain this unfair and unjust feature of our present land reform program in the land reform program being proposed under this Article?

MS. NIEVA: We have said that the distribution will be subject to the retention limits that would be provided for by Congress. Congress would provide specifically for the size of land that may be kept in order to preserve the viability of the operations.

MR. NATIVIDAD: But our command to the legislature is not clear on this matter.

MS. NIEVA: We are not stating here the specific sizes of land because these might vary with the different crops that we are considering.

MR. NATIVIDAD: How about mechanization, is this important to the Committee?

MS. NIEVA: I think that will be referring to appropriate technology as found on line 29.

MR. NATIVIDAD: Is this not prescribed by this Article?

MS. NIEVA: No, we just say it should be appropriate because the mechanization may take forms which may not be appropriate to the situation. So, definitely we are not against technology as such. We think that if it is called for, there should be mechanization of these farms.

MR. NATIVIDAD: Thank you.

Am I correct to presume that the principle established in the case of *Samanillo vs. Cruz* in 1947, that social justice cannot be invoked to trample on other rights which are also protected by the Constitution, is still upheld in this Article on Social Justice?

MS. NIEVA: Yes, I think we have stated that.

MR. NATIVIDAD: I just want to clarify this for the record. Will the provision on the right of workers for self-organization again include public employees?

MS. NIEVA: As stated here, yes.

MR. NATIVIDAD: Will this include military and police?

MS. NIEVA: As we said last Saturday, the Committee is divided on this score. Originally, the subcommittee had excluded the military and the civil defense from exercising the right to strike. However, the other members of the Committee felt very strongly that we would just say that every government worker has the right to strike and we shall leave the decision to the body.

MR. NATIVIDAD: May I clarify this again. If we say that the workers have the right to self-organization, does it follow, in the Commissioner's concept, that that right includes the right to strike?

MS. NIEVA: As we said, we are divided here. For some of us, it does not necessarily follow; and for others, it does. So we are leaving again this decision to the body.

MR. NATIVIDAD: May I, therefore, cite an experience of another country where the police is allowed to strike. During a police strike in New York City, U.S.A., a riot occurred which caused \$1 billion damage in property.

MS. NIEVA: That is why those of us who believe that this right to strike should not be extended to all government employees have taken such examples in other countries into consideration. So I think this is a matter that will be debated upon very strongly in this forum.

MR. NATIVIDAD: In other words, the Committee is willing to consider an amendment so that the matter can be decided by the Commission?

MS. NIEVA: Yes.

MR. NATIVIDAD: For example, a military organization goes on strike and it refuses to obey orders to return to work. Another military unit is sent to enforce the orders. We will have an armed military confrontation in this case.

MS. NIEVA: There is a school of thought among the members of the Committee that the military and the civil defense forces do not strictly fall under the purview of the term "workers." I do not know how the Commissioner views that concept.

MR. NATIVIDAD: The very nature that they are armed is dangerous to the stability of our government. If the government will allow them to strike, then I will have to object.

MS. NIEVA: Personally, I agree with the Commissioner. But, as I said, we are divided in the Committee. There are some of us who feel that perhaps the term "workers" does not cover the military and the civil defense. So that will be really up to the body to decide.

MR. NATIVIDAD: I thank the Chairman, anyway.

So, that will have to be settled by an appropriate and seasonal amendment.

MS. NIEVA: Yes. As we said, we welcome the amendment ahead of time so the Committee can discuss this matter.

MR. NATIVIDAD: Just one more question. I know the Floor Leader would like me to abbreviate matter so I am cooperating.

Section 14 on page 4 states: "The State shall maintain an effective food and drug monitoring system . . ." I am interested in this provision because I am wondering whether or not this drug monitoring system will include a program on the prevention of drug abuse. We all know that drug abuse is a very serious threat not only to the health of the nation, but also to the general well-being of the people, most specifically the youth.

I would address this to Commissioner Quesada, that perhaps we can include in this provision the prevention of

drug addiction. It should be the main concern of the State because when we speak of the health of the nation we have to face reality that we ought to have a program for the prevention of drug addiction.

MS. QUESADA: The problem of drug abuse is definitely addressed in this particular provision. In fact this goes beyond the problem of drug abuse. When we talk about the food and drug monitoring body, it encompasses all other areas that would refer to food and drugs. But definitely we consider the problem of drug addiction as a major health problem which the State should address, and if the Commissioners can come out with a formulation that would address specifically the problem of drug addiction, then I suppose the Committee will be amenable to its consideration, except that I think that would probably fall within the purview of legislation.

In fact, we have already the Dangerous Drugs Act, which I understand the Commissioner himself formulated when he was in the Congress.

MR. NATIVIDAD: Yes, I was the author of that law; but there should be a continuing concern for this problem to be enshrined in the Constitution.

May I ask one more question. What is the percentage of the disabled in our country?

MS. NIEVA: During a public hearing, we were told that they constitute 13 percent of the population but then that is probably a very broad view.

MR. NATIVIDAD: I was the author of the law on mobility of the disabled in the previous Batasan and I wrote that law on the basis of the figure that they constitute 10 percent of the population. This is a universal ratio. Now, it is 13 percent, so it is increasing.

MS. QUESADA: There are an estimated 800,000 disabled.

MR. BENNAGEN: Madam President, the figure that was submitted to us in the public hearing is around 6.75 million disabled.

MR. NATIVIDAD: So, this provision on the disabled, Section 15, goes beyond just giving them more mobility. It also provides a program for their rehabilitation.

MS. NIEVA: That is the main emphasis; so that they may be totally integrated into the mainstream of society. That is the objective.

MR. NATIVIDAD: In the old Batasan, our attention was often called that this was a very neglected area of public service. That law which I authored is the first law on the disabled, but it only gives increased mobility for the disabled. So this provision goes beyond that. Is that right?

MS. NIEVA: Yes, as we said, it is for the rehabilitation, self-development and self-reliance of the disabled towards their total integration into the maintenance of society. In fact, we are providing for a special body that will handle this efficiently.

MR. NATIVIDAD: Will it be private or government?

MS. NIEVA: It is a government body. The State shall establish a special government body with private participation.

MR. NATIVIDAD: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, I just want to clarify certain points from the members of the Committee. I notice that our sections now on social justice total 20 as against the previous social justice section which was only one. However, I would like to ask the Committee whether or not these social justice provisions are all-encompassing, considering that I notice in other portions of the 1973 Constitution carried over to the present formulation that we have several social justice clauses. To give an example, we have the clause on social services, protection to labor, equal protection of the law, due process, non-imprisonment for debt or non-payment of poll tax, the clause against involuntary servitude, the clause on the non-imposition of excessive fines, free access to the courts, emancipation of the tenants, expropriation of private lands and free education. Are these also covered by the social justice provisions or are these considered in their totality as part of the social justice concept?

MS. NIEVA: Most of them are explicitly provided for in this Article. However, some of them are included in the Bill of Rights, Education, Human Resources and some are in the Article on the Judiciary, like free legal services.

MR. MAAMBONG: In other words, when we say "social justice," we also think of other provisions of the Constitution?

MS. NIEVA: Yes, definitely.

MR. MAAMBONG: According to Commissioner Bengzon, we have to proceed in terms of concepts. I would want to be clarified on Section 1. It is my understanding of Section I — unless I am wrong — that the main objective of the social justice provision is the pursuit of national development because it says that the primary consideration of the State is the pursuit of national development. In the pursuit of national development, I notice that there are two things that the State is supposed to do: One is to reduce inequities in social, economic and political life; and the second is the promotion of structures and processes. Is that a correct understanding that the main objective is pursuit of national development?

MS. NIEVA: No, I do not think so. Actually, we should consider all of these while we are pursuing our objectives of national development.

MR. MAAMBONG: Because my understanding of the provision is that to pursue national development, first, we must reduce inequities. I have no difficulty with that. However, I have some difficulty on the promotion of structures and processes. Does this refer to government structures or private structures?

MS. NIEVA: That would encompass both.

MR. MAAMBONG: That is clarified then.

Mention is made about the protection of the rights of the people which are inalienable to human dignity. I have here the provision of the Universal Declaration of Human Rights, Article XXII. I would like to read it for the record. It says:

Everyone, as a member of society, has the right to social security and is entitled to realization through national effort and international cooperation and in accordance with the organization and resources of each state of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Does this have a relation to the proposed provision in some way?

MS. NIEVA: Definitely, I would think that it is a different expression of what we are trying to say here.

MR. MAAMBONG: Yes, Madam President. Again, Section 1 says "redistribute wealth and power for the common good." I asked earlier whether our main objective is the pursuit of national development or the common good because I think there is a slight distinction when we say pursuit of national development or pursuit of the

common good. Which is really the main objective of the social justice provision?

MS. NIEVA: I think in social justice, it is the common good that we are most concerned with and, therefore, in the pursuit of national development objectives, the common good should take primary consideration; social justice should take primary consideration.

MR. MAAMBONG: Thank you for that clarification.

I would like to find out whether all the provisions on labor, agrarian and natural resources reform, urban land reform and housing, health, women and indigenous communities are aimed towards this goal under Section 1.

MS. NIEVA: Yes, that is correct.

MR. MAAMBONG: Thank you for that, Madam President.

The second point I would like to call the Commissioner's attention to are basic concerns of several Commissioners when they interpellated the Committee members earlier. Regarding the concepts on social justice, we have established conceptual determinations of social justice in our jurisprudence regarding the meaning of the same, and I would like to read this for the record because Commissioner Padilla was not able to put this on record at the same time when he was the one interpellating.

In the case of *Calalang vs. Williams*, 70 Phil 726, says:

Social justice is neither communism nor despotism, nor atomism, nor anarchy, but the humanization of laws and the equalization of the social and economic forces by the State so that justice in its rational and objectively circular conception may at least be approximated. Social justice means the promotion of the welfare of all the people, the adoption by the government of measures calculated to insure economic stability of all the component elements of society through the maintenance of proper economic and social equilibrium in the interrelations of the members of the community, constitutionally through the adoption of measures legally justifiable or extraconstitutionally through the exercise of powers underlying the existence of all governments on the time-honored principle of *salus populi est suprema lex*.

I think what is in the mind of many Commissioners is this: Is this principle or meaning of social justice as enunciated in the case I cited, still applicable in the present provision on social justice?

MS. NIEVA: I do not see any contradiction at all. I think this is just a clearer formulation of how we think social justice can be achieved.

MR. MAAMBONG: Thank you for that, Madam President.

I think it solves a lot of problems.

I will also cite another case, *Guido vs. Rural Progress Administration*, 1984 Phil. 847. This refers to the rights guaranteed by social justice and it says:

Social justice does not champion the decision of property or equality of economic status; what it and the Constitution do guarantee are equality of opportunity, equality of political rights, equality before the law, equality between values given and received, equitable sharing of the social and material goods on the basis of efforts exerted in their production as applied to metropolitan centers, especially in relation to housing problems. It is a command to devise ways and means for the elimination of slums, shambles, shacks and houses that are dilapidated, overcrowded, without ventilation, light and sanitation facilities and for the construction in their places of decent dwellings for the poor and the destitute. Condemnation of blighted areas bears direct relation to public safety, health and/or morals and is legal.

My question is: Does this principle enunciated in the case cited apply to the present configuration of the social justice provision?

MS. NIEVA: Definitely, we are grateful for the support of the provisions through the cases the Gentleman has just cited.

MR. MAAMBONG: Thank you.

Finally, I will cite another case, *Samanilla vs. Cruz*, CA-G.R. No. 598, decided in 1947. The decision said in effect that social justice is not a license to trample upon the rights of others. It says:

Charity and social justice cannot be properly resorted to to trample upon the rights of others nor to shield illegal acts prejudicial to the rights of property owners who, under the Constitution, are also entitled to protection.

In another case, *Astudillo vs. Board of Directors of PHHC*, L-28066, September 22, 1976, the Supreme Court said:

The State is committed to promote social justice and to maintain adequate social services in the field of housing, but the State solicitude for the destitute and the have-nots does not mean that it should tolerate usurpations of property, public or private.

Do these enunciations still apply in the present configuration of the social justice provisions?

MS. NIEVA: Yes, we have stated that all of these provisions will be subject to the due process of law; and the provisions of the Bill of Rights will definitely be observed when we discuss the details of the implementation of the various provisions. Congress will definitely take this into consideration, while at the same time recognize the need of providing for the greater good of the greater number.

MR. MAAMBONG: Forgive me for citing these principles enunciated by the Supreme Court but these are basic ones which are clear.

I will go to another portion which speaks of genuine agrarian reform program. This has been taken up by other interpellators, but I would like to call the attention of the Committee that the agrarian reform program, from my notes, appears to have started way back in 1963.

On August 8, 1963, the Agricultural Land Reform Code or Republic Act 3844 was enacted. On September 10, 1971, Republic Acts 6389 and 6390, known as the Code of Agrarian Reforms, were passed. Finally, on October 21, 1972, P.D. No. 2 was passed, emancipating the tenants from the bondage of the soil; then there was an agrarian reform decree, P.D. No. 27, which proclaimed the whole country as a land reform area.

My question is: Are the principles enunciated in all these laws I cited applicable to the present formulation of our social justice provision on agrarian reform?

MR. TADEO: Yes.

MS. NIEVA: I do not see any conflicts; definitely the principles are applicable.

MR. MAAMBONG: In other words, if this provision on agrarian reform is passed, it will not repeal these laws at all because the principles enunciated are the same.

MR. TADEO: Yes.

MS. NIEVA: They would just extend the scope but they will not repeal.

MR. MAAMBONG: Thank you.

Section 10 also says that it regulates the ownership and use of urban land for the common good. This phrase "common good" has been recurring in all the provisions and I would like to call the attention of the Committee to this citation. It says in the book of Tañada and Fernando:

The principle asserts that the well-being and economic security of all the people is the end and justice the means. It is a recognized fact, however, that social justice is not necessary for the well-being and economic security of the higher-income groups because through their own efforts they can stand even without governmental help.

When we say "common good," do we, therefore, refer to those in the low-income groups?

MS. NIEVA: I think we refer to the whole of society.

MR. MAAMBONG: The whole of society.

MS. NIEVA: Yes, to the whole, but we are focusing our attention to those who have less because they have less opportunities and less voice.

MR. MAAMBONG: Regarding the portion on urban land reform, I would like to call the attention of the Committee that we have several laws on urban land reform. For the record, we have P.D. No. 1893, declaring the entire Metropolitan Manila area as an urban land reform zone; P.D. No. 1517 (June 11, 1978) which is the Urban Land Reform Decree; and P.D. No. 1640 (September 21, 1979) freezing the prices of land in Metropolitan Manila at current market value.

My question will be the same as to other decrees on land reform: Could these decrees stand under the present provision? I am referring to the land reform decrees promulgated by President Marcos.

MS. NIEVA: We are upholding the principles, as we said; however, there were implementing decrees that we felt did not do justice to the overall objective of providing the poor with shelter.

MR. MAAMBONG: In other words, they stand until they are repealed or amended?

MS. NIEVA: Yes, it seems so.

MR. MAAMBONG: My last point is: We have here a provision which mentions housing program. Will this provision not amend, in any way, our provision on contracts of lease, the Rent Control Law and the Anti-Squatting Law? Will they not affect these laws because the provisions on lease are found specifically in the new Civil Code, the Rent Control Law is covered by B.P. Blg. 25 (April 10, 1979) which was extended by P.D. No. 1912 and extended further in the last Regular Batasang Pambansa by B.P. Blg. 867. We even have P.D. No. 1642, freezing the rates of rental at P300 a month on residential and commercial buildings, houses, apartments and dwelling units in Metropolitan Manila at current levels.

As the present provision, which the Committee is proposing, stands, I think these laws which are general in nature might be affected because the dwellers will have the right to be consulted before they can be resettled.

MS. NIEVA: I think we are leaving the legislature to decide which of the laws should be repealed or amended and which should stay.

MR. MAAMBONG: I see.

Will the provision on social justice not drastically affect the provisions of the Civil Code alluded to by Commissioner Padilla? Commissioner Padilla was thinking about the Civil Code provisions such as Article 428 —

the right to enjoy, to dispose and to recover; Article 429 — the right to exclude others from the property, the right to enclose or fence property, the right to compensation in case of eminent domain; Article 437 — the right to surface, subsurface or space above the land; Article 428 — the right to hidden treasure; Article 440 — the right to accession; and Articles 476 to 481 — the right to quiet title.

Will these Civil Code provisions not be affected by the social justice provisions?

MR. SUAREZ: I suppose these are specific provisions under the Civil Code that may be affected if there will be full implementation of the constitutional provisions as they now appear. The reconciling factor will be the safety clause "in a manner as may be provided by law."

So, these possible conflicts between the Civil Code provisions governing possession and ownership may have to be subordinated to the constitutional provisions which the Commission is in a position to approve.

Of course, after that, legislation takes over; but any legislative measures that would have to be adopted must be in line with the constitutional provisions. But basically they will be respected.

There may be, like what was pointed out by the Honorable Regalado and the Honorable Padilla regarding *jus abutendi*, *jus ustendi* and *jus disponendi*, which legal terms may not be understandable to many of us who are laymen here . . . For example, in *jus disponendi*, this right to dispose of one's properties may be circumscribed because of the greater interest of the people for the common good.

MR. MAAMBONG: That last reply specifically gives me some worry because when rights granted to owners by some provisions in the Civil Code, particularly Articles 428, 429, 435, 437, et cetera, will be affected by the provisions on social justice — and these rights are not only in the law; they have been enshrined by our jurisprudence — that could give some sort of alarm unless it could be explained in such a manner that the property owners will really be assured that the due process clause of the Constitution will specifically protect these rights which are now in the Civil Code.

But anyway, I leave that for Commissioner Padilla to comment on later. I am not an expert in civil law.

Thank you very much.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: On behalf of the Committee, may I be allowed to speak. There have been questions that relate to concepts regarding many of the provisions and the basic philosophy that underlies the provisions on social justice. We discussed this rather thoroughly in the committee hearings including the one that was quoted extensively when the Committee Chairman, Commissioner Nieva, asked that the title of the Article be transformed from Social Justice and Services to simply Social Justice.

I would like to repeat that because, in my view, it has guided the deliberations of the Committee. This is also for the sake of the other Commissioners who had not participated in the deliberations of the Committee.

This is essentially the position of Atty. Diokno in his paper in *Batas at Katarungan*, Volume I, No. 1, a publication of the UP Law Center, where he dealt with the concept of Filipino social justice. The concept incidentally is drawn from his study of Philippine languages; for example, concepts such as *katarungan*, *batas at karapatan* came from the revolutionary heritage as articulated by Filipino revolutionaries, including Mabini, Jacinto and Bonifacio, as well as the insights of other scholars. Let me read:

Social justice for us Filipinos means a coherent, intelligible system of law made known to us, enacted by a

legitimate government freely chosen by us and enforced fairly and equitably by a courageous, honest, impartial and competent police force, legal profession and judiciary that: First, respect our rights and our freedoms both as individuals and as a people; second, seek to repair the injustices that society has inflicted on the poor by eliminating poverty as our resources and our ingenuity permit; third, develop a self-directed and self-sustaining economy that distributes its benefit to meet firstly, the basic material needs of all, to provide an improving standard of living for all, but particularly for the lower income groups, with enough time and space to allow them to take part in and to enjoy our cultures; fourth, change institutions and structures, our ways of doing things and relating to each other so that whatever inequalities remain are not caused by those institutions or structures, unless inequality is needed temporarily to favor the least favored among us and its cost is borne by the most favored; and, fifth, adopt means and processes that are capable of attaining these objectives.

For those who want to go further into this, I suggest that they go through the article in Batas at Katarungan. It is available at the UP Law Center.

Just a brief background on Section 1 where social justice is mentioned as a social, economic, political, moral imperative in the pursuit of national development:

The concept of national development as expressed in several national development plans of the previous regime was developed around three major objectives: growth, equity and the preservation of our natural resources not only for the present but also for future use.

In practice, however, development has been skewed in favor of "growth," to the extent that in cases where it happened, the gap between the rich and the poor widened. It is our feeling that at this stage, the State, as an agency of change, can so order its resources as to favor the majority or the poor.

This is in violation of existing theories of the State where, one, the State is assumed to be a neutral agency serving all classes. In the other formulation usually identified with classical Marxism, the State is nothing more than an alliance of dominant classes which, through the government, becomes also the executive committee of these dominant classes. What we are trying to say is that the Article on Social Justice will go against these major classical formulations on the nature of the State so that for once, following certain traditions of Filipinos, perhaps we can develop a Filipino style theory of the State that responds to the need of our historical conditions as well as the structures of society today in favor of the poor. It is for this reason that several provisions so mandate the State. But even as we mandate the State, the people themselves should be drawn from their inertia and participate through the people's organizations in providing the necessary stimulus, the necessary impulse for the State to respond to the needs of the greater majority or to the poor. But it does not mean that it should be at the expense of the rich. Essentially, what we are saying is that the State, now acting as an agency of the poor, should not do these against the interest of the rich. We are merely saying that it should pay attention to the basic inequities of society, so that society itself shall maintain and reproduce itself, without necessarily going to those convulsions usually associated with the historical traditions both in the West and in the Philippines. Time will test the validity of this theory.

Having stated that, let me just go back to the concept of agrarian reform as embodied in the Article. There have already been discussions as to the reasons for the failure of agrarian reform. Let me just refer to a survey of the literature done by two American economists covering agrarian reforms both in ancient times and in modern societies in Europe, Latin America, North America and in Asia, particularly, East Asia. In this survey of literature, they claimed that the reasons for failure of agrarian reform are: 1) lack of management capabilities; 2) apathy of government and sometimes even of peasants themselves; 3) inefficient or inadequate organization of complementary resources and services — this would refer to services like credit, irrigation, technical inputs and others; and (4) lack of indigenous research and development, and where research and development exist,

insufficient diffusion of its results. These have to do essentially with making scientific the process of agrarian reform. The studies point out that this is the single element lacking in many of the agrarian reforms but which are present in successful agrarian reforms. It was pointed out that eventually, the success of agrarian reform, particularly the liquidation of feudalism, has taken place alongside with industrialization, the expansion of markets as well as in the increase in disposable income of the marginalized sectors. The study also shows that in cases where feudalism has failed in increasing productivity as well as in enhancing the egalitarian distribution of income, it is because it has taken place within a wider framework of power and privilege. This has been the case in the Philippines for several years. This one should be interesting to us, particularly to Congress which should see to it that indeed the appropriate legislation for successful agrarian reform should be enacted.

Let me quote:

Successful agrarian reforms, both in Europe and East Asia, have been characterized by economic growth, coupled with equitable distribution of income. In these cases, land is open to peasants, decisions over prices and products are vested in the peasants, terms of trade are not manipulated through prices, taxes or monopoly rent and last, peasants are not discriminated against in the provisions of credit and technical inputs.

We are saying, therefore, that there are already extensive and comprehensive studies on agrarian reform and we should profit from these. Mention was made of Taiwan, but I would imagine that there would be other models that could be investigated. More importantly, it is for us to really go into the historical and structural background of agrarian reform in the Philippines, and pay attention to these particular conditions because as the literature itself says, it is difficult to draw generalizations from the comparative studies because it is the particularities of that society's history and structure that define the success of agrarian reform.

Thank you, Madam President.

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

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

I am a member of the Committee and, of course, I support the main thrust of the Article on Social Justice but I did take the prudence to indicate that they would have some reservations, especially in the matter of constitutional language. But I think it is incumbent on the Commission to try to discover, unravel and perhaps determine the significance and implications of a radical proposal for the reorganization of our society in terms of, in particular, a land reform program. I would like to assure that we cannot employ our time more usefully than really to try to determine not only the merits and soundness of these proposals, but also the underlying intent of the Committee and of the Commission, considering that millions of individual and family interests are involved, and considering the great passions that radical approaches to social and economic relations based on land are capable of being generated.

There was in the 1960s a major study, which I think no one has yet mentioned, on the causes of poverty in Asia. It was called *The Asian Drama-An Inquiry into the Poverty of Nations* by Gunnar Myrdal, probably the leading institutional economist of our time. After three volumes of detailed studies, especially of the South Asian economic, social and political settings, he came to two major conclusions: First, the reason Asia remains economically backward is that most of it are soft states. They did not have the political will, for example, to enforce genuine civil equality. Under the Constitutions prevailing, the rich and poor are equal before the law. But the public could not miss many glaring evidences in their own lives of how, in real life, this principle of genuine civil equality is mocked.

The second major conclusion was that these countries are arresting their own growth by lacking the political will to introduce radical social reforms, especially in land. Of course, he traced the long history of land reform effort in Asia, including the Philippines and the other Southeast Asian nations, and his dismal conclusion was that while professing to inaugurate a social revolution through land reform, most of these governments in the region, in actual fact, sought every means and every pretext to thwart genuine land reform. Of course, all it took was for the National Assembly or the Parliament to deny funds to land reform in order to stifle it.

In this regard, we heard Commissioner Romulo raising the favorite bogey of most governments in Southeast Asia against meaningful land reform — there is no money. Yet, this morning, I saw in the business page of the Manila Bulletin that P29 billion is being allocated under the 1986 budget to the so-called GFIs, government financial institutions, primarily the PNB and the DBP. The reason for this equity infusion is to prevent them from total collapse. Of course, P29 billion is about 20 percent of the entire national budget, all of which will disappear without a trace during the year 1986. These banks have to be made viable, of course, but if one were weighing all these budgetary allocations on a scale of justice and priority, I think this would dwarf the entire budget of the Ministry of National Defense and the Ministries of Health and Education combined. But these are fait accompli to which the government must respond.

Government corporations in 1986 will absorb more taxpayers' money than we ever dreamt of spending for land reform or even for new school buildings for our children, especially in the distressed communities.

The point, therefore, is that it is possible the Philippines today has become the economic laggard of its stature because we have not mustered the will to transform social and economic relations based on land through a meaningful land reform program.

That is the reason: It is in terms of our social relations that we can be imprisoned in poverty. It is practically choosy to remain stagnant economically.

Later on, I hope the Committee will consider, from one of its own members, an amendment on Section I which will link social justice to another jugular value and goal; that is, economic growth. It is not only a case of dividing the existing limited pie more equitably. It is through this that we can enlarge the pie for the enjoyment of all our citizens, and I am referring in particular to the land reform program. I think the money will come when there is the political will to commit a whole nation to land reform. It is at this point that I hope to get some elucidation from Commissioner Tadeo concerning Sections 5, 6 and 7. Of course, I hope to address a few minor questions to Commissioner Aquino later on on the labor portion, and a question or two to Commissioner Garcia concerning Sections 19 and 20.

I think there is no question that we need a radical land reform, and by "radical" I mean the original Latin sense of going down to the roots of the problem. That is what I mean by "radical" social justice proposals because, in fact, the land reform provision here goes to the roots of our social and economic situation.

The old socialist condemnation of property was summed up by Pradeau in France as "property step." That was in the 19th century and, of course, later on this was elaborated into a slogan which is "expropriate the expropriators" in the sense that property owners were the original expropriators, so, why should they not be expropriated now? I do not think it is in that sense — to expropriate the expropriators — that the land reform provision here is intended. But when the Constitution directs the Congress to the effect that the State shall encourage and undertake the distribution of all agricultural lands, subject to limitations put by law especially on retention limits, does this contemplate — this question I address to the Committee and particularly to Commissioner Tadeo — a blanket approach to all agricultural lands so that we do not distinguish between, let us say, the owners of Hacienda Luisita, the biggest plantation in Luzon with 6,000 hectares and this ordinary chap in Laguna or Quezon who has

only 10 hectares of coconut plantation? Sa inyo bang masid at wari ay masasagasaan ng land redistribution ang dalawang ito: ang may-ari ng pinakamalaking hasyenda dito sa Luzon at isang hindi naman mayaman ni hindi mariwasa, pangkaraniwang tao lamang na nagmamay-ari ng isang sukat ng lupang tinatamnan ng niyog na hindi hihigit sa sampung ektarya?

MR. TADEO: Pareho.

MR. OPLE: Therefore, we now have to talk about ultimate objectives in order to shed light on the more immediate concerns. Is it the intention of the Committee to dismantle all plantations in the Philippines regardless of crop, differences in size, equity and history of tenurial terms and productivity?

MR. TADEO: Sakop ang mga plantasyon.

MR. OPLE: Buwagin ang lahat ng plantasyon upang maipamahagi sa mga bumubungkal nito. Iyon po ba ang ating pangkalahatang layunin na nakatitik dito sa ating pinag-uusapang Article on Social Justice?

MR. TADEO: Sasakupin nito ang mga hasyenda at ang mga plantasyon kagaya ng sinabi ng Ginoong sampung ektarya, subalit kung ang may-ari ng lupa ay owner-cultivator lamang, wala siyang mga kasama hindi ito masasakop. Kung mayroon siyang mga kasamang farm workers, ang lupa ay masasakop.

Marahil ay dapat iwasan ang salitang "buwag" dahil ang pagpapatupad ng agrarian reform ay dadaan pa sa Kongreso. Ang Kongreso ang magbibigay ng mga detalye.

MR. OPLE: I am not concerned about the big estates. I think we have dismantled a lot of big estates since the time of Roxas, foremost of which were the friar lands. In January 1954, President Magsaysay made me chairman of the first agrarian committee created under that government. I investigated the Dinalupihan Land Estate in Bataan so that it could be redistributed to the tenants there. I am not concerned about these big landed estates including Canlubang, Hacienda Luisita, although probably later on, we should also take them up. I am concerned about literally millions of small plantation owners in the coconut industry and sugar industry as well. Is it the intention that wherever there are tenants, the land should be broken up and distributed to the tenants? Is that a correct assumption?

MR. TADEO: Yes.

MR. OPLE: Alam natin na sa industriya ng asukal, iba ang Luzon sa Bisayas. Dito sa Luzon ang umiiral ay tenancy. Sa Bisayas, lalo na sa Region VI, ang umiiral ay labor-management relations. Baka naman kung ang patakaran ay batay sa kung mayroong tenant o wala, lahat ng plantasyon ng asukal sa Luzon ay masasakop ng land reform; ang Bisayas hanggang Mindanao ay ligtas sa land reform. Gusto ko lamang na pag-aralan natin iyan sa kalaunan, at gusto ko ring itanong kung kasama rito ang mga palaisdaan. Kaming dalawa ni Commissioner Tadeo ay galing sa isang lalawigan ang hanapbuhay ng karamihan ay sa baybay-dagat nagmumula, sa palaisdaan. Alam ni Kasamang Tadeo na ang inyong lingkod ay lumaking isang mangingisda at magsasaka. Maaari bang malaman kung kasama ang palaisdaan?

MS. NIEVA: Yes.

MR. TADEO: Siguro makabubuting i-define natin ang agricultural land batay sa principles of agrarian reform cooperatives and taxation sa pahina 121 ng aklat ni Commissioner Nollado:

Agricultural land means land devoted to any growth including but not limited to crop lands, saltbeds, fishpond, idle land and abandoned land.

MR. OPLE: Tungkol sa mga palaisdaan, alam naman ni Kapatid na Tadeo kung anong uri ang pamamahala sa

palaisdaan — mayroon diyang isa o dalawang bantay. Sa karamihan ng pangyayari ay hindi lamang sila hindi binabayaran, kundi hindi pa kasama sa tinutubo. Ano ngayon ang magiging epekto nitong Saligang Batas lalo na kung ang Sections 5 at 8 ay isasaalang-alang sa kanilang kaugnayan? Ano ang ibig sabihin ng genuine land reform para sa mga nagtatrabaho sa palaisdaan?

MR. TADEO: Sa palagay ko ay bahala na ang Kongreso kung paano ipatutupad ang agrarian reform o aquatic reform.

MR. OPLE: Datapuwat sa akala ng Ginoo, ang mga palaisdaan ay tiyak na sakop o saklaw ng itinatadhana dito sa Sections 5 and 8?

MR. TADEO: Kasama po ito.

MR. OPLE: Salamat po.

Ngayon, gusto kong dumako sa Section 7 na nagsasabing:

The State shall apply the principles of agrarian reform in the disposition of other natural resources, including lands of the public domain under lease or concession, subject to prior rights of original inhabitants and without violating the homestead rights of small settlers and the rights of indigenous communities to their ancestral lands.

This section has no provision concerning existing rights, earned rights, contractual rights and vested rights. We are talking of the public domain here and mainly lease or concession. To what extent will these be stopped, let us say, existing leases on forestry, because we know that timber concessions have just been parceled up all over the country. These are held to be existing rights since there is no provision in Section 7 except for the prior rights of the original inhabitants. Does this mean that the security of tenure of the holders of these leases, which can number by the thousands, operating the timber industry right now, will be disturbed under Section 7? Maaaring bawiin ang lisensiya. Kung sabagay, si Ginoong Maceda lamang ang kayang magbawi ng lisensiya; it is an administrative power; it is an executive authority. But is that what is intended in Section 7?

MR. TADEO: Uulitin ko ang definition na ibinigay ni Mahar Mangahas tungkol sa full natural resource coverage:

In principle, the term "lands" would include all forms of natural resources, including mineral, forests and water resources, whether public or private, whether titled or untitled, whether presently controlled by Filipinos or non-Filipinos, over which there is social conflict induced by an unjust distribution.

MR. OPLE: So, the timber concessions are included.

Speaking of land in general — and we know that the Philippines has been under a Torrens title system for the better part of a century since the start of the American regime, while Taiwan opted for a Torrens title system only after World War II — will this whole infrastructure of land rights represented by the Torrens title system be made insecure by a general mandate of the Congress to redistribute all agricultural lands, except I suppose where residences stand on these lands, and where commercial and industrial improvements have been established thereon? All the rest may be presumed to be subject to redistribution provided there is fair and progressive compensation regardless of crop. Will this be correct?

MR. TADEO: Yes.

MR. OPLE: Thank you.

I think I will put this question again to the Committee at a convenient time so that it may present a more balanced answer because the Torrens title system underpins the entire system of private property in the Philippines based

on land. Many people would be concerned, if the Committee admits that this will be the start on a wholesale basis by this proposed Article on Social Justice.

I think the other question to ask is: Will all these earned rights, contractual rights, vested rights in land, in effect, in the ultimate stage be nullified by our land reform proposal? Or do we merely contemplate a situation where the Torrens title will be transferred to new owners?

MR. TADEO: Yes.

MR. OPLE: Thank you.

With respect to just a few enormous landed estates, I have already given examples: Hacienda Luisita, the biggest in Luzon, with 6,000 hectares of rice and corn land and sugar land and with 6,000 tenants and workers; the Canlubang Sugar Estate, just across the city in Laguna; and in the West Visayas alone with about 30,000 sugar planters or hacenderos — the aggregate for the nation escapes me for the moment. In the ultimate stage of the land reform program as now envisioned, will all of these estates be redistributed to their tenants, and if they have no tenants to whom will they be redistributed?

MR. TADEO: The principle is agrarian land for the tillers and land for the landless. Ngunit inaasahang magkakaroon ng problema sa tatlo hanggang apat na milyong landless agricultural workers sa implementasyon ng tunay na agrarian reform. Gaya ng sinabi ko kahapon, mayroong 605,000 kaingineros. Ayon sa kapatid ni Fr. Bernas na dumalo sa isang committee hearing natin, kung magpapatuloy sila sa pagkakaingin, magiging disyerto tayo; magkakaroon ng baha sa panahon ng tag-ulan at pagkatuyo sa panahon ng tag-araw. Saan natin dadalhin ang 605,000 na kaingineros na ito? Kaya kailangan talagang mapasama dito ang iba pang natural resources upang itong tatlo hanggang apat na milyong, landless agricultural workers ay magkaroon ng lupang sasakihin.

MR. OPLE: Tama po iyan, at kung maaalaala ni Kapatid na Tadeo, ipinagunita ko sa kanya na mayroong 1.2 million hectares of cultivable land considered alienable and disposable na nilagom noong nakaraang pamahalaan upang mauwi sa isang tinatawag na land assembly trust at inilagay sa Makati Stock Exchange to liquify these natural resources. There was no response from the business community. Recently I read that President Aquino, on behalf of the government, had repossessed these alienable and disposable lands of the public domain. One-and-one-fifth million hectares already identified and segregated by the Ministry of Natural Resources all over the country will be a great warehouse of hope if these can be redistributed to the tenants and the kaingineros. I think it could be very reassuring for those who are now negotiating with the National Democratic Front on behalf of the government that they can promise 1.2 million hectares of land already previously assembled and which are now at the disposal of the government. Sa public domain, hindi tayo gaanong mahihirapan sapagkat kung ang gobyerno ang may-ari, mas malaya at walang sakit ng kaloobang maipagkakaloob ang mga lupa sa mga nangangailangan. Ang higit na magdudulot sa atin ng problema, sa aking palagay, ay ang tinatawag na private agricultural lands.

Tungkol sa Section 9 na nagsasabing: "The State shall promote the integrated development of agricultural, fishing and marine resources," hindi po ba ang ibig sabihin ng integrated development of agricultural resources ay katulad ng ginawang integrated development ni Ambassador Eduardo Cojuangco, na mula sa binhi ng niyog hanggang sa ito ay gilingin at maging coconut oil, hanggang sa bangkong pagdaraan? Iyon po ba kaya ang kahulugan na ating ikakapit sa integrated development of agricultural fishing and marine resources, a kind of UNICOM, UCPB, COCOFED approach?

MR. TADEO: Puwede sigurong sagutin natin ng ganito: Ang Cojuangcong ito ay magiging mga magbubukid na magmamay-ari mula sa hilaw na sangkap hanggang sa finished product.

MR. OPLE: Mula sa binhi, sa bugsok hanggang sa organisasyon ng COCOFED, UCPB at doon sa dakong itaas, itong coconut oil mill at saka UNICHEM.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: On behalf of the Committee, may I respond to that very briefly because I was part of the move which formulated that. When we speak of integration, we speak of one integration within each sector, for instance, within agriculture itself. We also speak of integration among the various components of agriculture, marine and other resources, and the way they should be related to the overall industrialization thrust of the country. We are saying that we cannot simply rely on agrarian reform in terms of attaining the overall objectives of gross and equity, and that the agrarian reform program should be integrated, should be linked in appropriate ways with industrialization of the country, the form of which shall, of course, be determined in due time.

MR. OPLE: It is really saying that land reform beneficiaries can, at a certain stage, federate to enjoy economies of scale through integration.

MR. BENNAGEN: Yes.

MR. OPLE: The State now pays for the land that is to be redistributed under a fair and progressive compensation system; will the State ever recover this money of the taxpayers?

Bibigyan ba natin ng pananagutan ang mga magsasaka na siyang magtatamo at magtatamasa ng lupa na magbayad naman sa gobyerno ng ibinayad ng gobyerno para sa lupang ito?

MS. NIEVA: When the Committee was discussing this, we did not mean to say that the beneficiaries would just be receiving these lands as doleouts. But where they are capable, they also have to pay back on amortization for cumulative years.

MR. OPLE: Madam President, mukhang hindi iyan ang nakita kong nakatitik sa programa ng Kilusang Magbubukid ng Pilipinas. Isa sa kanilang mga kahilingan ngayon ay tapusin na ang pagbabayad ng amortization sapagkat hindi na kaya ng magsasaka, lalo na ang presyo ng mga pesticide at pataba. Sa kabila ng pagbagsak ng presyo ng langis ay patuloy pa rin ang pagtaas ng presyo ng mga inputs ng mga maliliit na magsasaka.

So, one of the demands is to stop the payments because after all, this land belongs to them.

Ano kaya ang masasabi ng Kapatid na Tadeo tungkol dito?

MR. TADEO: Magkakaroon ng fair and progressive system of compensation. Priorities should be given to small and medium-size landholdings without adding to the burden of the beneficiaries. The compensation package should be improved at ang mga maliliit na panginoong may lupa should be paid promptly. Kung ang dating pagbabayad natin noon sa ilalim ng P.D. No. 27 or Republic Act 3844 ay 10 percent cash at 90 percent bond, maaaring baliktarin natin ito upang maging 90 percent cash at 10 percent bond para sa mga maliliit na panginoong may lupa.

MR. OPLE: I am calling for a separate policy for the small landowners to be placed under land reform and the bigger landowners.

Sa ngayon ang bayad ng Land Bank sa ilalim ng batas ay 90 percent Land Bank bond at 10 percent cash. Dati ay tinatanggap ng PNB at DBP bilang kolateral o pambayad ng mga existing arrears ang 90 percent bond ng Land Bank; ngayon ay ayaw na nila itong tanggapin. Samakatuwid lumilitaw na sa papel lamang itong 90 percent bond; it has no negotiability now. Kung babayaran ng pamahalaan ang Hacienda Luisita, malaki-laki ito. Remember that

its acquisition cost about 30 years ago was only P9 million so it will now cost hundreds of millions of pesos. Paano ngayon ang pagbabayad sa gobyerno? Hindi na makababawi ang gobyerno sapagkat naipamahagi na ang lupa sa mga magsasaka

MR. TADEO: Ang talagang layunin ng bonds ay upang bumili ng stock o share sa isang korporasyon. Ito ay maaaring i-convert sa cash at magagamit ito kung magtatayo ng mga industriya na kakailanganin ng ating bansa. Ito ang sinasabi namin noon na ang natutulog na kapital sa lupa ay dapat magamit sa pagpapaunlad ng industriya. Kaya kung ito ay susuportahan ng pamahalaan, hindi natin kakailanganin ang foreign loan, foreign aid, and foreign investment. Ang unang kailangang gawin natin ay bigyan ng purchasing power o lagyan ng laman ang bulsa ng 35 hanggang 40 milyong magbubukid. Sa pag-unlad ng domestic sector ay uunlad ang industriya kasabay ng genuine agrarian reform.

MR. OPLE: Totoo po ang sinabi ng Ginoo. In the case of Taiwan, in the early 1950s, two billion nationalist Taiwan dollars was released by land reform so that this capital, otherwise locked in the land, was now liberated to become a fuel for the industrialization of Taiwan. But the vehicles for investments, government corporations' whole shares of stock, are available to the land-owner who has been placed under land reform. All these corporations were making huge revenues and profits. So, we might say that the sequestered land-owners felt very happy about receiving bonds and shares of stock in corporations that were profitable. Many of these landowners became richer through land reform, after supposedly having been impoverished. But in this country, I hope the Gentleman can point to a single government corporation whose stocks will be coveted by the landowners who will lose their lands as a result of land reform.

I do not want to take too much of the time of the Gentleman but before I leave this podium, I have to put a question or two to the Committee concerning the labor provisions. I refer to Section 4 which states:

The State shall guarantee the rights of workers to self-organization, collective bargaining and negotiations, peaceful and concerted activities for their own protection, welfare and mutual aid, including the right to strike. It shall also guarantee job security, just and humane conditions of work and participation in policy and decision-making affecting their rights and benefits.

I see that the option of the State to use compulsory arbitration has been dropped for the first time since 1935. The provision for compulsory arbitration appears in exactly the same form in both the 1935 and the 1973 Constitutions — "The State may provide for compulsory arbitration." Since Section 4 now proposes voluntary modes of dispute settlements and compels attention for having eliminated a familiar provision in both the 1935 and the 1973 Constitutions, what conclusion should arise from this is that, in the opinion of the proponent, all disputes should now be settled through voluntary mode, and the State is deprived of the power of compulsory arbitration. Does this mean the abolition of the National Labor Relations Commission?

At this juncture, the President relinquished the Chair to the Honorable Florenz D. Regalado.

MS. AQUINO: Mr. Presiding Officer.

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

MS. AQUINO: May I be allowed to answer that question in behalf of the Committee. The express proviso on compulsory arbitration is in the General Provisions of the 1935 Constitution. At best, it was adopted in the Industrial Peace Act, Republic Act 875, which provided for compulsory arbitration pertaining to the Court of Industrial Relations on matters which involve unfair labor practices and strikes which are certified by the President to involve national interest. However, the 1973 Constitution provided for an express designation of compulsory arbitration in the Declaration of Principles. When the Committee dropped that express proviso

without intending to exclude the right of the State, by a statutory implementation, to provide for acceptable norms of compulsory arbitration whenever they are warranted by the situation, the Committee is very well aware that the exclusive use of free collective bargaining as a mode of settlement of labor disputes is ideal only in highly industrialized countries. But a developing country such as the Philippines where the framework of labor-management relations is very fragile does not have the systemic stability to withstand prolonged work stoppages. Such that in the context of this recognition, we would yield to the requirement of a developing country to accommodate modalities of compulsory arbitration.

MR. OPLE: I am very glad to hear that, Mr. Presiding Officer. That is very reassuring because there are indeed times in history when, even by implication, the State should not be prevented from taking steps to reestablish peace especially where strategic installations and facilities of a nation are at stake. I imagine that if there is a simultaneous strike of the MERALCO and the PLDT, there must be something in the law that will enable the State to act on behalf of the general welfare. So, that is not precluded at all.

MS. AQUINO: May I just be allowed to underscore the intention behind the dropping of the provision on compulsory arbitration. It is just a reiteration of a genuine and firm commitment of the State to encourage and reinforce free collective bargaining methods and voluntary methods of settlement of labor disputes. However, as a colatilla, for purposes of record, the reservation for compulsory arbitration should lie only as a last resort when the free collective modes and the voluntary modes shall have been exhausted and shall have been proven unavailing in settling labor disputes.

MR. OPLE: I certainly agree with that. Concerning the right to strike, that is made explicit here. The right to strike and the right to lock out generally go together. Is it the Committee's impression that the phrase "including the right to strike" also provides for the right to lock out even if it is not here?

MS. AQUINO: In cases provided for by law, yes.

MR. OPLE: Thank you.

MR. LERUM: Madam President.

MS. NIEVA: Mr. Presiding Officer, I think Commissioner Lerum, a member of the Committee, would also like to comment.

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

MR. LERUM: May I comment on the so-called right to lock out? There is no such right to lock out. There is nothing in our Constitution that gives management the right to lock out. Under the present Constitution, what is recognized is the right of workers to security of tenure but there is no provision recognizing the right of any employer to lock out its employees because this is against the right of the workers to security of tenure.

MR. OPLE: I am speaking of the general practice the world over.

MR. LERUM: But that is not so in the Philippines It may be true in other countries but in the Philippines, there is no such right.

MR. OPLE: Does the Gentleman mean that the right to lock out is denied to the employers but the right to strike may not be abridged for the workers? Is that how Commissioner Lerum stands on this question?

MR. LERUM: The question is whether the right to lock out . . .

MR. OPLE: Employers have no right to lock out even where there is a right to strike by the workers?

MR. LERUM: Yes, that is how the present Constitution reads. I am referring to the present, not to this proposed Constitution that we are discussing today. Because the moment we recognize the right of the workers to security of tenure, that means they cannot be locked out.

MR. OPLE: I do not know what the Supreme Court may have said about that but it is generally true that there is a symmetry of final actions in collective bargaining acknowledged throughout the world and that is the right to strike and the right to lock out because without arbitration we are back to a trial of strength between the parties in the picket line and that is what American collective bargaining is all about — that there is finally a trial of strength. Naked economic coercion will determine the outcome of the contest and that is the reason I feel reassured about the statement of the Committee, through Commissioner Aquino, that with this provision in Section 4, we do not really forego the instrument of compulsory arbitration provided it is a last resort. Strikes and lockouts have to be acts of last resort and perhaps at the proper time, I can propose a minor amendment just to take care of that contingency. May I ask the Committee whether in terms of the voluntary modes of dispute settlement and the primacy given to collective bargaining, the State may not now enact a minimum wage law to fix minimum wages, whether nationally or by industry, because that is State intervention and perhaps State coercion? It is noteworthy in this respect that recently, both the NEDA and the Ministry of Labor and the President have said that they were no longer going to abide by a minimum wage system which is very important especially for the unorganized workers because they prefer labor and management to settle the terms and conditions of work. Is there anything in this provision, Section 4, that precludes Congress in the future from enacting new minimum wage laws?

MR. LERUM: May I answer that. There is nothing in this proposed Constitution that will prohibit the government from fixing wages or from fixing a minimum wage.

MR. OPLE: Thank you very much, Mr. Presiding Officer. I think I have used more than my first share of the time. Thank you very much for giving me the floor.

MR. BENNAGEN: Mr. Presiding Officer.

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

MR. BENNAGEN: I wonder if Commissioner Ople would yield to just a few questions.

THE PRESIDING OFFICER (Mr. Regalado) : Commissioner Ople may reply.

MR. BENNAGEN: Mention was made of political will, of political commitment as a sine qua non of a genuine agrarian reform and all the other reforms that are suggested in the Article on Social Justice. I am constrained to ask this question on the assumption that since he has seceded from the Kilusang Bagong Lipunan, he has acquired some objective distance from the Marcos years to be able to provide us some object or moral lesson in the study of political commitment or political will. As an insider, could the Gentleman share with us some of the limitations of the concentrated power of the Marcos' years that prevented the successful implementation of agrarian reform?

MR. OPLE: I participated in agrarian reform planning during that period and I think P.D. No. 27 did achieve a sort of transformation in the lives of those that benefited from it. We have in this Commission colleagues who lost their lands to their own tenants as a result of P.D. No. 27. Commissioner Bengzon lost the family land in Pangasinan; Commissioner Rodrigo lost the family land in Bulacan. It was a painful and traumatic experience for many Filipino landowners. And I think that program should have been extended beyond rice and corn to other crops.

But at that point, the government really ran into a solid wall of resistance. All the politicians served notice that they would rebel politically if coconut and sugar lands were touched. So, notwithstanding what I thought were the

mighty efforts that Minister Estrella and I, together with Montemayor, Lerum, Taruc and others, exerted to extend P.D. No. 27 to other crops, politically the President at that time thought that the cost was unaffordable. That was the reason why the agrarian reform program got stuck on rice and corn and could not move beyond the metes and bounds of these two crops.

I think one reason we have a more exciting proposal here in the Article on Social Justice is that land reform will become all-encompassing, although the specific approaches and modalities within all kinds of agricultural lands will be left to Congress to determine. But no piece of agricultural land may be considered exempt after we approve the pertinent sections of this Article on Social Justice.

Thank you, Mr. Presiding Officer.

MR. ROMULO: Mr. Presiding Officer, I ask that Commissioner Davide be recognized.

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

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

I seek clarification on certain points from the Committee. On interpellation by Commissioner Maambong, the Committee answered that the doctrine laid down by the Supreme Court in the following cases: Calalang vs. Williams, Guido vs. Rural Progress Administration, Samanilla vs. Cruz, Astudillo vs. Board of Directors of PHHC decided in 1976 had been taken into account and the provisions on social justice would be deemed to have actually taken into account the said doctrine of the Supreme Court in these cases. Is my impression correct?

MS. NIEVA: That is right.

MR. DAVIDE: In other words, in the application and interpretation of this proposed Article on Social Justice, the said doctrines I mentioned in the cases I enumerated would remain valid and subsisting and are not deemed modified, repealed, or superseded in any way?

MS. NIEVA: Yes, we understand that until Congress shall decide otherwise.

MR. DAVIDE: In other words, in the interpretation and application of this proposed Article on Social Justice, the doctrines laid down by the Supreme Courts as such shall prevail.

MS. NIEVA: That is right.

MR. DAVIDE: In the proposed Section 1, I would like to invite the attention of the Committee on the concept of promotion of structures and processes. For the record, we would like to know what these structures and processes are, or what are included in these structures and processes?

MS. NIEVA: May we ask Commissioner Garcia.

MR. GARCIA: When we speak of structures and processes which deliver social justice to the people, we speak of both economic and social, and political structures of a given society which provide equality of opportunity. These structures provide, for example, in the area of housing, decent shelter to the majority of its inhabitants: or work for the great majority of the people in a given society.

MR. DAVIDE: In concrete terms, what are these?

MR. GARCIA: Basically in a given structure, for example, housing, it is the ability of a given society to provide shelter for the majority of its people. In concrete terms, it means the housing services given to community in a determined place.

MR. DAVIDE: On the matter of processes, could we be enlightened on what these processes are and what are excluded from these processes?

MR. GARCIA: Basically the processes which are referred to in a given society are those of participation and consultation, mechanisms whereby popular consultation is afforded so that people become part of decision mechanism, giving them a say in decisions which affect their lives.

MR. DAVIDE: And included, therefore, are initiative and referendum?

MR. GARCIA: Initiative, referendums and even elections.

MR. DAVIDE: This includes their participation, for instance, in the legislative body through the party list system or sectoral representation.

MR. GARCIA: These are different mechanisms within the proper legislative structures, or there can be extra legal processes whereby the people can participate, through their own freedom to organize and demonstrate the consultation and mechanism in the different Ministries, the Office of the President and in the public hearings that the legislature provides so that they can give their ideas. These are the processes envisioned to shape the direction of that society's future.

MR. DAVIDE: Definitely then, in the interpretation/application of the Article on Social Justice, everything must be within the framework of democratic processes.

MR. GARCIA: Yes, within the framework of democratic exercise and also of a just and humane society. That is the ultimate.

MR. DAVIDE: Is it within the context of the concept of a just and humane society as embodied in the Preamble, and nothing more?

MR. GARCIA: Exactly.

MR. DAVIDE: I would like to invite the attention of the Committee to Section 5 which provides that lands are to be distributed to farmers and farm workers. Are landless farmers and farm workers the beneficiaries under Section 5, meaning, farmers who do not originally have lands of their own, and farm workers who do not have lands of their own?

MS. NIEVA: I think the section refers to the lands which farmers till.

MR. DAVIDE: Yes, but could the particular farmer tilling a land which does not belong to him, and who has a land of his own, still be allowed? For instance, I am a farmer with five hectares of land exclusively belonging to me, but I am working on the farm of another. Would that owner of the land I am working on be under obligation to give in payment of just compensation the very parcel or portion cultivated by me because I am the farmer? Such that if I am working on two hectares of the property of "B," but I have my own six hectares, will I eventually own a total of eight hectares?

MR. TADEO: Kung mayroong five hectares si Commissioner Davide at owner-cultivator pa siya, pagkatapos gumagawa siya sa iba, batay iyan sa "needs and capacity."

MR. DAVIDE: But I can afford to cultivate 10 hectares. I already own six hectares and I still work on the land of another.

MR. TADEO: Dahilan sa "just distribution," ang unang bibigyan ng prioridad ay iyong maliit ang lupang sinasaka at walang sinasaka. Kung ang sinasaka ng Ginoong limang hektarya ay sapat na sa kanyang pangangailangan.

mawawalan na siya ng karapatan doon sa isang lupain at ito'y ipagkakaloob sa maliliit ang mga lupang sinasaka.

MR. DAVIDE: So, it is now very clear that the intention is to give priority to the landless farmers. Would that be the same interpretation insofar as farm workers and seasonal workers are concerned? For instance, I am a farmer with two hectares of land, but off-season in my land, I can work on the land of another. Would I be entitled to that portion of the property of another which I am working on?

MR. TADEO: Kung wala kayong sinasakang dalawang ektarya.

MR. DAVIDE: But I have my own two hectares.

MR. TADEO: Does the Commissioner own the two hectares?

MR. DAVIDE: Yes, but off-season in my farm, I work on the farm of another.

MR. TADEO: Kung ang dalawang ektarya ay hindi makasasapat sa inyong pangangailangan may karapatan kayo doon sa kabila.

MR. DAVIDE: Who shall determine whether what I own is enough or not enough for me?

MR. TADEO: Dapat tayong magkaroon muna ng mga batayan tulad ng RA 3844. Makikita rito na ang tatlong ektaryang irrigated ay kayang magtaguyod ng pamilyang mayroong lima o anim na miyembro. Maaaring maging batayan ang mga batas na ito.

MR. DAVIDE: I will give a very concrete example. I have a one-hectare land. My neighbor has another one hectare. I planted corn on my land and I have to wait for about three months before I could harvest the corn. While awaiting the harvest of my corn, I will work on the land of my neighbor; I work about half a hectare of his one-hectare land. Would I be entitled to that one-half?

MR. TADEO: Gaya ng sinabi ko, kung ang sinasaka ninyo ay hindi makasasapat at gumagawa pa kayo sa iba, maaari kayong magkaroon ng karapatan doon.

MR. DAVIDE: I see. In that particular case, my neighbor would lose one-half and I will have all in all one and a-half. That could be the effect.

MR. TADEO: Ang may-ari ba ng sinasaka ninyong lupa ay magbubukid o nakikigawa lamang?

MR. DAVIDE: My neighbor is also a farmer.

MR. TADEO: Kung magbubukid lamang ay hindi. Akala ko po ay panginoon siya at may lupa.

MR. DAVIDE: He can be the landlord because he allows people to work on his land because he is already infirm — for instance, he is disabled. So, he cannot work on the land.

MR. TADEO: It shall be unlawful for the agricultural lessee to contract or work on additional landholding belonging to a different agricultural lessor. Akala ko kasi kangina ay iyong panginoong may lupa.

MR. DAVIDE: In other words, all laws affecting land reform now or agrarian land reform shall remain valid and in force. Is it also the sense of the Committee that upon the effectivity of this Constitution, the land reform or agrarian reform program will be governed by existing laws?

MR. TADEO: What are proposed in this draft Article will still have to be refined and improved.

MR. BENNAGEN: Mr. Presiding Officer.

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

MR. BENNAGEN: I think the Gentleman is asking whether existing laws shall, upon the ratification of this Constitution, be applied with respect to agrarian reform.

MA. DAVIDE: The Committee said that they will remain in force.

MS. NIEVA: Yes.

MR. BENNAGEN: Of course, we always have that general provision saying that all those not consistent with the new Constitution shall be nullified. But I think there was a proposal submitted to the Committee on Amendments and Transitory Provisions saying that an agrarian reform code shall be formulated in consultation with affected sectors.

MR. DAVIDE: The Commissioner said that existing laws on land reform which are not inconsistent with these shall be considered valid, but those which are inconsistent will necessarily be deemed repealed. May we know what are the existing agrarian laws?

MR. BENNAGEN: I am operating only from that general principle. I have not gone into an inventory of laws.

MR. DAVIDE: At the end of line 26, page 2, we find the qualification "independent farmers' organizations." What exactly does the Committee mean by farmers' organizations? By qualifying the farmers' organizations as independent, it would necessarily follow that there are farmers' organizations which are not independent. So, for the moment may we know what are the independent farmers' organizations and what are the nonindependent farmers' organizations?

MR. BENNAGEN: May I answer that, Mr. Presiding Officer.

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

MR. BENNAGEN: When we formulated that, we had in mind the experiences during the Marcos years where peasant organizations themselves were manipulated by the regime, or that the government itself created its own organizations. We feel, and I think this is also consistent with the ILO Convention 141 to which the Philippine government is a signatory, that farmers' organizations or peasant organizations should be independent of the government so that they can develop their own programs. We are also saying that even as they are independent organizations, they also deserve support from the government. My analogy during the deliberation was something like an autonomous university that can develop its own curricular programs but would accept support from the State.

MR. DAVIDE: I am glad that the Gentleman has enlightened us on that matter. Does the Committee admit that even nonindependent farmers' organizations are entitled to support?

MR. BENNAGEN: Yes.

MR. DAVIDE: If nonindependent organizations of farmers are similarly entitled to support, why did the Committee still qualify the farmers' organizations as only those which are independent?

MR. BENNAGEN: I think there is an important underlying principle here, in a sense that farmers' organizations, like other people's organizations, should establish some distance from any regime, so that they will be able to be more critical of the regime without necessarily . . .

MR. DAVIDE: Does the Commissioner mean the government?

MR. BENNAGEN: Yes.

MR. DAVIDE: But how can they establish distance from the government when they are supposed to receive aid

and support from the government? Should they not work for their mutual benefit?

MR. BENNAGEN: That is really the idea, but what we are saying here in terms of independence is relative independence. The organization is not dictated upon by the government in terms of its developmental thrust and its programs but it could participate in a process of consultation which is mutually beneficial to the independent organization and to the government, as well.

MR. DAVIDE: So, the qualification of "independent" is still necessary insofar as the Committee is concerned?

MR. BENNAGEN: Yes.

MR. DAVIDE: But the Committee just answered a while ago that even those members of nonindependent organizations are entitled to support and assistance. To what degree will the support and assistance to non-independent organizations be then?

MR. BENNAGEN: I really have no idea, but we are saying here that independence is crucial not so much in terms of being deprived of support, but in terms of the organization's capability to develop its own programs of action.

MR. DAVIDE: But this particular section relates precisely to the support and assistance by the government.

MR. BENNAGEN: That is right.

MR. DAVIDE: If we have to qualify and distinguish between members of independent farmers' organizations and members of nonindependent farmers' organizations, we are practically creating a class struggle between two kinds of farmers' organizations, and that is inconsistent with the thrust of social justice.

MR. BENNAGEN: No, not necessarily, because I would imagine that there will be other organizations which are sponsored by the State such as officially sponsored cooperatives which are not formally independent. I think the distinction is crucial in the sense that we should have organizations which are formally independent of the government.

MR. DAVIDE: I see. What is really bugging me is the application of the principle of agrarian reform in the disposition of other natural resources. I wonder if the Committee has defined natural resources in the manner that the term is defined in the present Constitution — I am referring to Section 8, Article XIV of the 1973 Constitution:

All lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, wildlife, and other natural resources of the Philippines belong to the State.

I think this is really the concept of natural resources. Is this the meaning of "other natural resources" outside of agricultural lands as cited in Section 7 of the draft Article?

MS. NIEVA: Yes, we have defined this as forest and pasture concessions, like those especially parceled out to cronies and occupied by cultural minorities. We have lands of the public domain . . .

MR. DAVIDE: What is really the extent of the term "other natural resources"? Under Section 8 of Article XIV of the 1973 Constitution, natural resources refer to:

All lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, wildlife . . .

MR. TADEO: Ang ibig sabihin dito ay ang mga "arable lands" na maaaring sakahin. Ngayon, itong mga coal, petroleum, mineral oils, under the regalian doctrine, ay pag-aari ng Estado. Pero mayroong mga bagay sa natural resources na naaangkop lamang para sa agriculture.

MR. DAVIDE: So, these can be classified as agricultural lands.

MR. TADEO: Yes.

MR. DAVIDE: In other words, the use of the words "and other natural resources" is really meaningless because the phrase actually refers to agricultural lands.

MS. NIEVA: In addition to that, we are referring to such areas as forest and pasture concessions, especially those occupied by cultural communities.

MR. DAVIDE: I understand that the Committee on the National Economy and Patrimony, in its report, allows grants by way of leases or concessions to private corporations or to individuals. In the latter case, the grants are given to Filipino citizens and, in the former, to corporations, sixty percent of whose capital is owned by Filipino citizens.

Now, my question is, under that particular proposal of the Committee, and as provided in the 1973 Constitution, will these grants be in the nature of leases or concessions, and therefore the ownership remains with the government or the State? Under this proposal, once a certain area is leased to a corporation or to an individual and this particular corporation will now hire certain individuals to work in the concession or leased area, they can now acquire ownership over the area which they are tilling or cultivating. Is that the intention of the Committee?

MR. TADEO: In principle, the term "lands" should include all forms of natural resources, such as minerals, forest and water resources, whether public or private, whether titled or untitled, whether presently controlled by Filipinos or non-Filipinos, over which there is social conflict induced by an unjust distribution.

MR. DAVIDE: What exactly does the Gentleman mean by a social conflict in an area covered by a concession or a lease? Necessarily, I would suppose that the conflict is between the workers in this area under concession or under lease, and the concessionaire.

MS. NIEVA: Not necessarily. Like in the case of CELLOPHIL in Abra, it was the minority group of Tingians which was most affected. The group was not necessarily the workers at that area but they were residents there.

MR. DAVIDE: But does not Commissioner Bennagen believe that if there is the necessity of protecting the interests of these cultural communities, the rule should be in the Article on the National Economy, that no leases shall be granted over lands where there is a claim for ancestral homes or ancestral domains by the tribal groups? This is not really the proper subject of agrarian reform; otherwise, if we apply the principle of agrarian reform, this means that workers in the concession will be entitled to obtain that particular portion which they are working on. It may be a lease for grazing purposes, so there are some hired hands.

MR. BENNAGEN: May I answer that. The idea with respect to the situation cited is that the workers could be present in the area, could work on the land, without necessarily acquiring personal, private titles to this land.

MR. DAVIDE: "Without necessarily . . .?"

MR. BENNAGEN: Yes, it could be stewardship.

MR. DAVIDE: So, the mandate under Section 7 which says:

The State shall apply the principles of agrarian reform in the disposition of other natural resources, including lands of the public domain under lease or concession,

simply means that lands covered by concession or lease cannot really be given to those who are working there because it would precisely violate the egalitarian doctrine.

MR. BENNAGEN: Yes, but we are also saying that complementary structures which allow the development of these areas for the benefit of those who are working should be set up. The situation is that, even if these areas are being worked on by those staying in the land, the kaingineros, for example, the objectives of growth and equity are not attained without the complementary structures. That is the reason mention is made of the application of the agrarian principles.

MR. DAVIDE: My question on urban land reform and housing refers to line 20 which provides "decent housing at affordable cost to deserving low-income citizens." What is the perception of the Committee with regard to deserving low-income citizens? Up to what level do we consider the earner as low-income? And once having classified citizens as low-income, how do we now determine whether one is deserving or not? If a low-income earner is deserving, what about those who are less deserving? Will not social justice apply to them? Is it not that social justice is more called for because they are less deserving?

MS. NIEVA: Is the Gentleman saying that we should provide for those who have no income whatsoever?

MR. DAVIDE: My point is, we should not qualify in favor of the low-income citizens entitled to decent housing because we are practically granting relief to those who are deserving since they are of low income; but what about those who are deserving and yet are without any income or have a much lower income? They cannot enjoy social justice.

MR. BENNAGEN: May I answer that with a general principle. That partly answers the query as to the meaning of "structures and processes." I think that in non-market allocation of goods and services largely through the bureaucracy, some things have to be done in terms of setting the rules for classifying beneficiaries or clients, as some agencies call them. Some sets of priorities and the rules for implementing these would have to be established so that not anyone who claims to be poor and deserving should be granted these services. This is because in the history of access to goods and services, the rules and methods have been honored in the breach. We are saying now that given adequate monitoring of statistical information and adequate research into the social and demographic characteristics of Philippine society, we ought to have some clear scientific basis for categorization

MR. DAVIDE: That is exactly the reason why categorizing low-income citizens into deserving or not deserving or less deserving is, in effect, dangerous because I do not think that the concept of social justice should also categorize the people as to whether they are deserving or not, especially in the matter of urban land reform and housing.

Section 11 provides:

Urban poor dwellers shall not be evicted nor their dwellings demolished without due process of law.

We have the Anti-Squatting Law which is P.D. No. 772. According to the law it is a crime to squat, and one's dwelling unit can be demolished even without court order because the act itself of occupying a private land or a public land according to that decree is a crime. I agree that this should be interpreted to mean that P.D. No. 772 would be deemed repealed upon the ratification of this Constitution.

I would like to get the sentiment of the Committee because that is my stand.

MS. NIEVA: We shall welcome some kind of amendment or reformulation of this section because this is a very crucial issue, and different views have been presented on why we should not punish the poor for being what they are, and whether we are referring here to those who have already been paying for their lands but are being evicted unjustly.

MR. DAVIDE: That is why I am really for the immediate repeal of that unjust decree.

Another point, Mr. Presiding Officer, on Section 11 again. Of course, this does not refer to private contracts for occupancy of a house by an urban poor dweller. This has reference to urban poor dwellers on lands where they have built their own barong-barong. In short, this is not intended to negate or to be in derogation of the ordinary contract of lease.

MR. GARCIA: May I answer that. Our historical experience precisely refers to urban poor communities occupying unused idle lands or abandoned lands where they have been living for a long time. In the past, whenever there was an excuse for the government to evict them, it would bring in the military or police to drive the people out by force without any kind of consideration as to the historical circumstances and to the rights of these inhabitants who, after many long years, have been residents of that area and have found jobs nearby.

MR. DAVIDE: So in other words, the answer is no.

MR. GARCIA: No.

MR. DAVIDE: Is this not to be interpreted as a negation or a derogation of the ordinary contract of lease entered into between private individuals, with one as the lessee and the other as the lessor?

MR. GARCIA: No, definitely not. As I said initially when we were discussing the framework for social justice, this deals with age-old social aberrations, situations where sectors of the population are in. In the City of Manila, one-third perhaps of the population is found in this kind of situation, and also in many cities like Cebu and Davao. This is the kind of question being addressed in this provision.

MR. DAVIDE: So for clarification again, the urban land reform and housing programs as contemplated here will not affect contractual rights between lessors and lessees of lands or buildings.

MS. NIEVA: That is correct.

MR. DAVIDE: If that is so, we would not affect the urban housing program presently being undertaken because if a lessee has constructed a house on the land of a lessor and he has been occupying this for more than ten years, he can already benefit under the program.

MS. NIEVA: That is what we think, yes.

MR. DAVIDE: Thank you, Mr. Presiding Officer and members of the Committee.

SUSPENSION OF SESSION

MR. ROMULO: Mr. Presiding Officer, may we ask for a short suspension so that the Committee can have a brief respite?

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

It was 5:08 p.m.

RESUMPTION OF SESSION

At 5:36 p.m., the session was resumed.

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

MR. RAMA: Mr. Presiding Officer, may I remind all Members that at twelve or twelve-thirty tomorrow noon, we will have an important executive caucus at the request of the leadership of the Commission.

THE PRESIDING OFFICER (Mr. Regalado) : Mr. Floor Leader, who is next in line to interpellate?

MR. ROMULO: Mr. Presiding Officer, on behalf of the Committee. Commissioner Villacorta would like to be

recognized.

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

MR. VILLACORTA: Mr. Presiding Officer, this is a reaction to the observations and questions, particularly of our lawyer-colleagues in the Commission. I can understand why they are especially concerned with existing laws and with how these laws harmonize with the sections that we are proposing. However, we should not forget that the Article on Social Justice spells out a vision that will take our society towards a certain desired direction. Our Committee provides the legal framework for such a vision and does not seek to shelve laws or judicial precedence for as long as they are consistent with this vision and unless they are subsequently repealed. I say this because I am bothered by this preoccupation with existing laws, decrees and judicial precedence. I would also like to stress that the vision of our Committee is not new; it was also the spirit underlying the 1971 Constitutional Convention. Even former Chief Justice Fernando, in his book on constitutional law, acknowledged that the spirit of the times is not inclined towards laissez faire but towards social welfare. Commissioner Maambong has referred to the *Calalang vs. Williams* case which affirms that social justice means "the adoption by the government of measures calculated to ensure economic stability of all the competent elements of society through the maintenance of a proper economic and social equilibrium in the interrelations of the members of the community."

Economic and social equilibrium is predicated on the idea of social balance. In the situation of acute imbalance that we are now in, the proposals of our Committee, which seek to achieve balance by raising the poorest quality of life, take on an extreme urgency. Social equilibrium assumes an environment in which peaceful transactions are possible. But we know that given unjust relations and structures, the future of peaceful transactions is imperilled in our country. Widespread insurgency and continuing unrest will bear out the claim that this equilibrium in its very serious form prevails in Philippine society.

The purpose of social justice measures, therefore, as enunciated by our Committee, is to correct this serious imbalance. Should there be a conflict between the common good and the right to private property which I think is enshrined in the Civil Code formulated circa the 1950s, and in Supreme Court decisions which were penned in the 1940s, then we must be reminded that the imperatives of our present social and economic crises dictate that we give priority to the common good. If we accept that the common good has primacy, the concept of *salus populi* or people's welfare assumes a more contemporary meaning-the good of the majority in the Philippine context, the good of the poor, the workers and the peasants.

Before us now, fellow Commissioners, are two choices. Do we effect change, meaningful reforms, in social structures and relations through our Constitution, or can change be achieved only through a total overhaul of society possible only after a revolution, a military solution? I think that the issue boils down to these two choices and I would like to pose these as the challenge to all of us Commissioners.

Thank you, Mr. Presiding Officer.

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

MR. CONCEPCION: I agree with the observations made by Professor Villacorta but I want to call attention to one thing. My colleagues will notice that when lawyers ask them, "Is this decision affected? Is this within the framework of such decision?" that means, they do not know, and many of us do not know what is actually encompassed by the thoughts that we are developing. This is an important thing because we have not only to vote on it, but we have to explain to the public.

When lawyers who are supposed to be intelligent, although many disagree, find it difficult to understand these things, how do we expect the masses to understand the same? And it will be our task, after the adoption of the

Constitution or even before the plebiscite, to explain it to the people. So, the problem is one of communication or understanding.

There seems to be the impression on the part of some that certain ideas are set forth in beautiful phrases, but the substance of the ideas escapes them insofar as they affect status quo. So, please do not misunderstand the position of lawyers. They may be candid when they ask questions which they foresee are those they will have to answer later. It would be embarrassing for Members of this Commission to be unable to explain adequately the contents of the new Constitution in simple language understandable by the masses. And that is our actual problem as we draft the Constitution. Some are apparently under the impression that there is so much verbiage that the substance is lost in elaborating the form. It is something like one of these beauty pageants where the first presentation shows the candidates in elaborate costumes more or less exaggerated, that one would not really know who is pretty and who is not.

(Laughter)

Thank you, Mr. Presiding Officer.

MR. VILLACORTA: Mr. Presiding Officer, may I just address a clarificatory question to the honorable Commissioner Concepcion. I think this is very fundamental since we are speaking of premises in our discussions.

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

MR. VILLACORTA: I fully appreciate the manifestation, but I would like further clarification. Is it correct for us to assume that this Constitution we are framing will necessarily overrule our existing laws and decrees?

MR. CONCEPCION: That depends upon the provisions of the Constitution we are drafting.

MR. VILLACORTA: What about in cases of conflicts?

MR. CONCEPCION: That is precisely the problem of the lawyers. They do not know how the Constitution we are drafting will affect the past jurisprudence.

MR. VILLACORTA: Many of us are getting the impression that there is so much preoccupation with legalese. And in speaking about a basically nonlegal issue such as social justice, the main consideration should not be the legal status quo precisely because the provisions on social justice are aimed at restructuring society for the good of all. So that when we speak of the rights of the poor, we are not particularizing solely for the benefit of the poor, but for the benefit of society as a whole.

MR. CONCEPCION: I agree with the Gentleman entirely. But still we cannot help those of us who have grown up in a climate of legality not to think in terms of legality because these provisions will have to be brought to the courts of justice. So we are supposed to defend them one way or the other or apply them or reconcile them or state that they have been modified. And that is the point; it is communication.

MR. VILLACORTA: Thank you very much, Mr. Presiding Officer. I think the clarification has helped very much to improve communication between us and sharpen future perceptions.

MR. CONCEPCION: Thank you.

SR. TAN: Mr. Presiding Officer.

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

SR. TAN: Commissioner Concepcion's intervention has given me the courage to speak like this, because I have been feeling very uneasy about these lawyers and nonlawyers. We work very hard in our Committee, but it seems

that we are working on two parallel lines.

So we plead to the lawyers to help us because we do not know how to formulate this in legal language. Instead of trying to look for loopholes and our mistakes, we ask that they help us so that what will come out will be legal and will be helpful to the 70-percent majority, instead of trying to catch us every time.

Thank you very much.

MR. ROMULO: Mr. Presiding Officer, Commissioner Rosario Braid would like to be recognized.

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

MS. ROSARIO BRAID: Mr. Presiding Officer, members of the Committee: since we are trying to evolve a genuine agrarian reform program, perhaps we could link it with a little of history in terms of the attempts of past laws, such as P.D. No. 27, in trying to transfer power from the hands of many to a few, and how we tried to rectify the Macapagal Land Reform Code which did not have enough safeguards against the transfer of ownership and tax evasion by landlords. With all its rhetoric, P.D. No. 27 failed to materialize because of programs of government that lessened its effectiveness. For instance, General Order 47 established the Corporate Farm Program to boost food production. It became clear that the Corporate Farm Program proceeded at a much faster pace than the agrarian reform program. For example, from 1977 to 1982, there were a total of 60,424 hectares divided among the 487 participating public and private corporations. P.D. No. 619 permitted the conversion of such lands into reserves for large-scale grazing projects. LOI 46 stated that in the implementation of the agrarian reform program, the requirements of the agro-industrial program should be given equal consideration.

So, what I am saying is that some of these decrees — and I could cite other decrees — placed the government in a situation where it had to reconcile its conflicting goals of social justice and productivity. Also, we have to operate in present-day realities where the issue of survival is paramount, where putting employment and income in the hands of the farmer is a priority goal. The search for alternatives such as making some of these existing corporate farms available to individual farmers with technical assistance from the former provides another alternative. There are alternatives in the form of communal farms and nucleus estates.

When we examine the agrarian reform program in the past in terms of costs, we could see that only one million beneficiaries have benefited. On the other hand, there were 1.4 million agricultural workers who were left out. Only 17 percent of the total agricultural lands is under the land reform program. We also learned from research about the dependency on export markets and imported inputs. We have seen that where there was increased productivity, there were negative consequences such as an estimated loan default of P3.5 billion in 1983 as a result of the land reform program.

With regard to the first section on social justice, may I suggest such concepts as "equitable sharing of fruits and means of production and power," "need rather than merit," and "active participation of people in planning and implementation of development." Another concern is the apparent lack of linkage with nonformal education and information that would insure the needed attitudinal transformation. This would require reaching the middle class, the employer, the landowners, the planters as the linking mechanisms in development. If we could direct existing human resource development programs in terms of reorientation of these sectors so that they would voluntarily share land, voluntarily share profit and power, we could accelerate the process of development.

Lastly, I would like to suggest in the sections on women that we also include the illiterate women who are even more exploited.

In the health section, could we include the need for information on appropriate food habits and appropriate use of

indigenous resources such as herbal medicines?

Thank you, Mr. Presiding Officer.

MR. ROMULO: I ask that Commissioner Sarmiento be recognized for one question.

THE PRESIDING OFFICER (Mr. Regalado) : Commissioner Sarmiento may pose his question.

MR. SARMIENTO: Mr. Presiding Officer, may I seek clarifications from the distinguished Committee members.

On June 11, 1978, President Marcos issued P.D. No. 1517, proclaiming urban land reform in the Philippines and providing for the implementing machinery thereof. Section 6 of P.D. No. 1517 reads:

Land Tenancy in Urban Land Reform Areas. — Within the urban zones, legitimate tenants who have resided on the land for ten years or more, who have built their homes on the land and residents who have legally occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree.

May I know from the members of the Committee whether this Section 6, especially on the right of first refusal by legitimate tenants, is within the intendment of Sections 10 and 11 on urban land reform and housing of the Article on Social Justice? May I address this question either to Commissioner Aquino or Commissioner Suarez.

MR. SUAREZ: Commissioner Sarmiento, is it true that many of the lawyers in the Commission are alarmed by the constitutional impact of some of the provisions proposed by the Committee on Social Justice? One of those problems is with respect to the implications of Sections 10 and 11 on the existing decrees governing the situation. The Gentleman cited the provisions, particularly P.D. No. 1517.

The way the Committee on Social Justice envisions it, we are not so much concerned about the legal implications because we feel that the holding of property has something to do with social equality. Of course, we have a right to assert, especially from the legal standpoint, and this was correctly pointed out by our beloved former Chief Justice Concepcion, that since many of us in the Committee are nonlawyers and the lawyers as usual cannot get out of that mental groove of depending on jurisprudence and precedents, we may have to live with the *Calalang vs. Williams* doctrine. So now, we have to wrestle with this problem of the realities as against the law.

Yes, the correct direct answer to the question of the Gentleman is, it would have to be affected by the provisions of Sections 10 and 11. The only justification is the fact that under the Preamble of the Constitution which we have approved, we must establish a government that is just and humane, and we must be governed by the rule of law. What we are constitutionalizing must be for the common good. These are the only constitutional justifications for what Commissioner Sarmiento is trying to picture before the Commission.

If I may call the attention of the body to the provisions of Section 11, there is the catch-all provision saying "without due process of law," which means that we are governed by the rules until Congress shall provide otherwise. So, I say that even if we enact drastic provisions which would call for a change in the complexion of government-people relationship, we will have to be governed by the existing laws until such time that the legislature shall provide otherwise.

MR. SARMIENTO: In other words, Mr. Presiding Officer, I am made to understand that this right of first refusal by legitimate tenants is still valid.

MR. SUAREZ: It is still valid.

MR. SARMIENTO: Thank you very much for that.

I have one last question. During the past administration, the President issued eight decrees on urban land reform; namely, P.D. Nos. 1517, 1640, 1642; Proclamation Nos. 1767, 1893, 1967; LOI No. 935 and B.P. Blg. 25.

May I know the effect of the ratification of this Constitution on these existing proclamations or laws on urban land reform?

MR. SUAREZ: I think there is a general provision regarding those. All of those presidential decrees, laws, general orders or letters of instructions which may be inconsistent with the provisions of this new Constitution will no longer have valid effect and will no longer be operative. In the Committee on Amendments and Transitory Provisions, we have provided, as a matter of fact, such a section and I suppose the Commissioner has in mind what are known as the blighted areas where the BLISS Housing Programs had been organized, principally in Metro Manila. If those eight or nine decrees enumerated will not be inconsistent with the provisions in the Article on Social Justice which may be approved by the Commission, they would continue to flourish, prosper and perhaps solve ultimately our social problems obtaining in Metro Manila.

MR. SARMIENTO: Thank you.

MR. ROMULO: Mr. Presiding Officer, I ask that Commissioner Bacani be recognized.

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

BISHOP BACANI: I was warned that we are going to adjourn at six o'clock, so I will just ask two very brief questions. I belong to the Committee but I signed with minor reservations and these are the two points that I would like to bring up. After a long discussion on the right to strike, even by government employees, I was wondering whether a distinction that we use in social philosophy could be helpful here and solve the difficulties of the other Members of the Commission. In social philosophy, we admit the existence of a right while, at the same time, we say that that right may, under some circumstances, not be exercised. For example, every man has a right to marry, but when he takes the vow of celibacy, he cannot exercise that right, although the fundamental right remains and is acknowledged by the Church, even in our case. We have the right to marry and that is not denied, and yet we cannot exercise that right. A Carmelite sister has a natural right to travel and to change abodes but when she takes a vow as a Carmelite, then she cannot travel; that is, she therefore renounces the exercise of that right.

And so, would not that be a solution to possible difficulties regarding the statement that even government employees have a right to strike, but under certain circumstances, they will not be able to exercise that right? For example, the doctors and nurses who are about to conduct an operation cannot join a strike, otherwise the patient will die. So, would that be a distinction admissible to the Commission?

MS. QUESADA: Yes, I think that is a very useful explanation of how the exercise of such right could be restraining for certain sectors. And I am one of those who personally believe that the right to strike should not be denied the government workers; that is why we deleted the early formulation of Commissioner Aquino that we include a proviso that the Armed Forces and civil defense and civil servants be excluded in the exercise of the right to strike. I believe that they have such an understanding, and I personally believe that government workers who have been for years conditioned and indoctrinated to subservience, obedience and compliance will not resort to that particular measure. During the previous years, we saw that teachers and some other health workers have tried to exercise concerted action, precisely because of the neglect of the State to correct the conditions that prevent them from exercising their obligation, which is, to render essential services to the people. We have heard of doctors and nurses actually resorting to concerted action because they believed that the conditions they were

exposed to prevented them from exercising primarily their right and their duty to render essential services — to prolong lives or take care of the sick — because of the decision of officials to deny the people of those basic rights. So, there are situations where government workers resort to the ultimate recourse for them to correct the conditions which prevent them from exercising their basic duties as members of government.

BISHOP BACANI: May I ask the lawyer in the Committee whether in law there is admitted that distinction between having a right and actually being able to exercise that right, or will the denial of the ability to exercise a particular right actually mean in law the denial of a right?

MR. SUAREZ: I think the conclusion of Commissioner Bacani is correct in that regard. The right may exist, but the exercise of that right may be restrained; it all depends upon the one exercising the right. But the mere fact that that right exists will pose a number of complex problems. Of course, one can always waive that right, except in certain instances where a right granted by law or by the Constitution is not waivable, but normally that right may not be exercised by the one entitled to the exercise of that right. But it is very difficult to provide for that in the Constitution.

BISHOP BACANI: My second question is this: We had a long discussion on Section 5 but, finally, we could not come to a full agreement regarding the primacy of the rights of farmers and farm workers to own directly or collectively the lands they till. I am mindful that this Constitution is being written not only for the next five years or ten years, and that in twenty-five years' time we might have highly mechanized farming in the Philippines. Suppose a man is employed to farm a certain land owned by another man, and works on it for about three or four hours a day, would Commissioner Tadeo say that the man would have the primacy of right to own the land? Is there no need to change this?

The more important thing does not seem to be the right to own, but the right to use and the right to enjoy the fruits of one's labor or one's crop or one's property. That is why I would like to propose that the Committee, without going into the question of primacy of the rights of farmers and workers to own directly or collectively the land they till, could state as a policy of the government the encouragement and undertaking of the just distribution of all agricultural lands.

MR. TADEO: Ang tunay na reporma sa lupa ay pangunahing nakabatay sa kapakinabangan ng mga biyaya nito sa nagbubungkal ng lupa at lumilikha ng yaman nito at sa nagmamay-ari ng lupa.

BISHOP BACANI: Ngunit katulad noong kasong binanggit ko sa inyo, bakit ba siya ang dapat magmay-ari kung mayroong may-ari ng lupa at ito'y tinatrabaho lang niya, halimbawa sa isang araw lamang dahil sa mechanized farming?

MR. TADEO: May mga katangian para masabi nating siya ay isang magsasaka. Halimbawa, mula sa pagpupunla at sa paghahanda ng lupa, siya ang gumagawa. Siya rin ang nangangasiwa sa lahat, bagama't mayroong mga pagkakataong umuupa siya. Lahat ng operasyon ay ginagawa niya, at ang pagsasaka ay ang kanyang primary occupation.

BISHOP BACANI: Nang ako'y nagbakasyon sa France, doon sa village na tinirhan ko ay mayroong mga nagtatrabaho roon, ngunit hindi nila pag-aari ang lupa. Sila raw ang nagtanim at sila rin ang aani. Sandaling-sandali lang nilang inani ang mayroong limang hektarya. Ang magsasaka ang siyang nagtanim, siyang nag-alaga at siyang nag-ani. Puwede ba niyang sabihin, kung mangyari iyon dito sa Pilipinas, "Dapat ako na ang magmay-ari nito basta't mayroon akong ibabayad. Kailangang ipagbili ninyo sa akin." At iyon ay maaaring hindi na malayo kung tayo'y umunlad sa ating agrikultura.

MR. TADEO: Sa ilalim ng RA 3844, para masabi mong tenant ka, kinakailangang magkaroon ng tenancy relation

— na nagbubuwis ka, para masabing ikaw ang siyang tunay na tenant. Ito'y iiral doon sa mga asyenda, mga plantasyon, regardless of tenurial arrangement. Para bang ipinapakitang ang pangunahing katangian ng isang tunay na reporma sa lupa ay iyong ikaw ang nagbubungkal, regardless of crops, regardless of tenurial arrangement.

BISHOP BACANI: Hindi ba ang dapat ay mapunta sa iyo ang karapatan mo at ikaw ang dapat maunang magtamasa ng bunga ng iyong ginawa?

MR. TADEO: Ganito lang po iyon, Commissioner Bacani, parang inilalabas mo lamang ang tricycle ng may-ari. Iba iyong pag-aalaga mo sa tricycle kung pag-aari mo ito kaysa sa ito'y nililinis mo lamang.

BISHOP BACANI: Ngunit maaaring mangyari ito. Hindi natin masasabi na hindi mangyayaring ang isang tao ay magmana sa kaniyang magulang ng lupa na within a retention limit naman. Pagkatapos, iyong lupang iyong hindi niya mismo matrabaho ay maaaring ipatrabaho niya sa iba. Dahil sa minana lamang sa ninuno ang lupa, sasabihin niya: "Mahal na mahal sa amin ang lupang ito." Maaari bang sabihin noong magsasaka: "Dahil ako ang natatrabaho rito, kahit na minana mo pa iyan sa tatay mo o sa lolo mong nagpakahirap diyan, kailangang ipagbili mo na sa akin."

MR. VILLACORTA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado) : Commissioner Villacorta may reply.

MR. VILLACORTA: Dahil sa si Bishop Bacani ang nagsasalita, naalaala ko iyong Ebanghelyo kahapon buhat kay San Lukas na kung saan sinabi ng isang tao na sumasalubong kay Kristo, "Tulungan Mo naman akong makuha ko sa kapatid ko iyong karapat-dapat kong minana." Ang sabi ni Kristo, "Ano ba ang palagay mo sa Akin, arbiter o huwes?" Pagkatapos ay nagkuwento Siya ng isang parabula tungkol sa isang taong nagtatambak ng kayamanan na pinarusahan ng Diyos. Ang sabi ng Diyos: "Napakagahaman mo naman. Kukunin Ko na lang ang buhay mo ngayon." Ang leksyong ipinahihiwatig diyan ng Bibliya, sa palagay ko, ay hindi natin dapat bigyan ng lubusang halaga ang pamana sapagkat ito'y isang pribilehiyo, hindi isang karapatan. Sa pagmumuni-muni at pagsasaalang-alang ng konsepto ng katarungang panlipunan, sa akin lang pong hamak na palagay, ay higit na mahalaga ang kabutihan ng karamihan kaysa sa kabutihan ng kakaunting nakamana.

Salamat po.

BISHOP BACANI: Ngunit hindi naman siya ang hari, hindi naman siya ang sakim dahil maaaring hindi naman siya mayamang-mayaman. Pero mahal lang iyon sa kanya at hindi naman niya ipagkakait ang bungang nararapat doon sa magsasaka.

MR. BENNAGEN: Maaari kayang magdagdag sa pagpapaliwanag ng "primacy"? Kasi may cultural background ito. Dahil agrarian society pa ang lipunang Pilipino, maigting talaga ang ugnayan ng mga magsasaka sa kanilang lupa. Halimbawa, sinasabi nila na ang lupa ay pinagbuhusan na ng dugo, pawis at luha. So land acquires a symbolic content that is not simply negated by growth, by productivity, etc. The primacy should be seen in relation to an agrarian program that leads to a later stage of social development which at some point in time may already negate this kind of attachment. The assumption is that there are already certain options available to the farmers. Marahil ang primacy ay ang pagkilala sa pangangailangan ng magsasaka — ang pag-aari ng lupa. Ang assumption ay ang pag-aari mismo ng lupa becomes the basis for the farmers to enjoy the benefits, the fruits of labor. But later on, since we are saying in Section 9 that this process of reforming an agrarian society would lead to some kind of industrialized society, mawawala iyong mga ganoong cultural considerations. Marahil ang primacy na sinasabi rito ay magbabago rin ang kahulugan. Kaya lang long-term dapat ang ating pagtingin sa program ng agrarian reform.

BISHOP BACANI: Mainam sana kung ganoon dahil masasabi ko ring may symbolic values sa akin iyong lupang iyon dahil pinaghirapan naman ng lolo at ng tatay ko.

MR. BENNAGEN: But eventually, magkakaroon din ng pagbabago iyong ganoong pananaw. Kaya nga long-term ang dapat na pagtingin sa agrarian reform.

BISHOP BACANI: Maraming salamat po.

MR. ROMULO: Mr. Presiding Officer, Commissioner Padilla wishes to be recognized.

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

MR. PADILLA: Mr. Presiding Officer, I have been hearing many statements which I feel should not remain as truth and should be challenged. In answer to Commissioner Bacani, Commissioner Villacorta made the statement that "Ang mana ay hindi karapatan; it is a privilege." That is a strange doctrine because that will destroy the whole system of succession in the Civil Code. Why will parents sacrifice and work hard to provide financial security for their children? The theory will abolish incentives to hard work and industry. I also heard that there is a right but it may not be exercised. Right and duty are correlative. If one has a right, others affected by that right have an obligation. One may waive his right or the exercise thereof may be limited by law or by some public interest or by the police power of the State. But if a person has a right, he should have the right to exercise it. Commissioner Bacani mentioned the right of a person to marry. Is that a right or is it more a freedom? One may have the right to marry but no one is bound by a reciprocal duty.

There was also that biblical quotation from Commissioner Tingson regarding a small community that works together, maybe owns property together, and shares the benefits together. That is all very good, but that will be some sort of a voluntary association or a partnership or co-ownership sharing the profits proportionately. Let us consider the case of Commissioner Bernas who, by joining the Society of Jesus, waives certain rights because he takes voluntarily the vows of poverty, obedience and chastity. But it is not correct to apply that biblical quotation to the entire nation. That is good from a voluntary standpoint.

We always invoke the common good — there can be no dispute about the common good or common welfare. In fact, it is the inherent power of the State to promote the common welfare by the exercise of police power. Whether we like it or not, if our acts or even our rights are detrimental to the common good, these obstruct the promotion of common welfare. These rights can be restricted, limited or even denied. But when we talk of common good, the members of the Committee assume that all that they have proposed in the Committee report are for the common good even if by so doing, they have imposed so many obligations for the State to provide this, to undertake, to help this and that. We are actually restricting, if not impairing, the rights of others.

I am alarmed by a statement of Commissioner Villacorta when he said that there is now a present far-reaching imbalance which we must correct in this Constitution, otherwise we may have a revolution. I think that is not only an overstatement but a misstatement. Let us not alarm the Members of the Commission to approve all these very far-reaching programs under the so-called social justice because of the fear that our people and our nation cannot proceed gradually and peacefully. I have always been mentioning that one can have progress and prosperity through investments and hard work, but not through rights granted to one sector at the expense of other sectors.

What is wrong with a person having property, private property? According to President Lincoln:

Property is the fruit of labor. Property is desirable. It is a positive good in the world. That some should be rich shows that others may become rich, and hence, it is just encouragement to industry and enterprise. Let not him who is homeless pull down the house of another but let him work diligently and build one for himself, thus, by

example, assuring that his own shall be safe from violence when built.

Some questions like those of Commissioner Sarmiento assume that the urban land reform program by presidential decree of President Marcos during martial law was not only for the common good or was valid or was proper and desirable. My own personal opinion is that many decrees of the past regime during martial law should no longer be honored because they are not good laws. On one occasion, I came across a distinction between a republic act passed by Congress and approved by the President and a presidential decree, a unilateral act of the past regime under dictatorship exercising Amendment No. 6 by issuing proclamations, decrees, orders and instructions. In my opinion, the urban land reform program (P.D. No. 1607) is illegal and unconstitutional because it is directly in violation of the right to private property which is guaranteed by the Constitution.

With regard to social justice, we have mentioned *Calalang vs. Williams*, 70 Phils. 726 which reads:

The promotion of social justice is to be achieved not through a mistaken sympathy towards any given group. Social justice therefore must be founded on the recognition of the necessity of interdependence among diverse units of society and of the protection that should be equally and evenly extended to all groups as a combined force in our social and economic rights . . .

We should be careful that in trying to protect and promote the well-being of what so many call the poor, the underprivileged, the marginal and other similar terms, we do so by fomenting progress and prosperity by increasing our productivity, goods and services, whether it be by domestic investments or foreign investments. But this requires private entrepreneurs who will risk their capital in extending the wheels of industry to be able to absorb a portion of our growing unemployed. Verily, my friends, a worker or a farm worker — I am not discounting his potentialities — by himself cannot promote our economic development. Labor is an essential element of development, but there must not be too much stress like primacy and other preferential words for the workers, forgetting completely the other sectors of our society who can extend the production of our lands—more fish from our waters, more mines from our mountains . . .

I do not want to read further some of the statements by Justices Tuazon and Montemayor in *Guido vs. Rural Progress*, and in *Republic vs. Baylosis*, but let me just cite a few short lines:

The promotion of social justice ordained in the Constitution does not supply a paramount basis for the untrammelled expropriation of private land by the Rural Progress Administration or any other government instrumentality.

Social justice does not champion division of property or equality of economic system. What it and the Constitution do guarantee are equality of opportunity, equality of political rights, equality before the law, equality within values given and received, and equitable sharing of the social and material goods on the basis of efforts exerted in their production.

And from the *Baylosis* case on the Article on the Constitution about landed estates, I quote:

It intended to discourage the concentration of excessive landed wealth in an entity or a few individuals but surely it did not intend or seek to distribute wealth among citizens or take away from the citizen land which he did not actually need and give it to another who needs it. That does not come within the realm of social justice.

I have many more statements but I will not impose upon the indulgence of the Commission.

Thank you.

MR. VILLACORTA: Mr. Presiding Officer, a matter of personal privilege since I was alluded to twice.

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

MR. VILLACORTA: I would just like to mention that I cited the Bible which is a source of moral law, not a source of positive law. When I said that my interpretation of that biblical excerpt is that inheritance is a privilege rather than a right, I was invoking what we believe to be the Word of God, not what human laws say. I think that even in a legalistic body such as this, we cannot be constrained from quoting from the Christian doctrine which we feel is more reliable than human statements. If we are to take literally, for example, the decision penned by Supreme Court Chief Justice Jose Laurel, Sr., I can see no reason why we could not quote from St. Luke and use it as an equally authoritative source for determining principles of morality and law, I will not quote from Abraham Lincoln nor from other Chief Justices. I would like to quote from respected fellow Commissioner Francisco "Soc" Rodrigo:

Ang payo nila sa mga kulang-palad
ay gumising sana't sikaping malaman
Ang kanilang mga laya t karapatan
Sa loob ng isang pambayang lipunan.

Kung ito ay hindi nila malalaman,
Kung di nila ito ipagsasanggalang . . .
Ay wala na silang sukat na asahan
Liban sa kanilang aping katayuan.

Sikapin din nilang maalís, mahawan
Ang mga balakid na kasasabitan
Ng mga mahina't dukhang mamamayan
Sa gubat at sukal ng ating lipunan.

And lastly, Mr. Presiding Officer, I would like to quote from Chapter 18 of Sirach in the Old Testament which says:

When you have all you want, think what it is like to be hungry, what it is to be poor. Things can change in a single day; the Lord can act very quickly.

ADJOURNMENT OF SESSION

MR. ROMULO: Mr. Presiding Officer, may I ask for an adjournment until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Regalado) : The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:39 p.m.

[*] Appeared after the roll call.

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