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Wednesday, August 13, 1986

OPENING OF SESSION

At 9:43 a.m., the Vice-President, the Honorable Ambrosio B. Padilla, opened the session.

THE VICE-PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE VICE-PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Vicente B. Foz.

Everybody remained standing for the Prayer.

PRAYER

MR. FOZ: Almighty God, give us the light to write a Constitution the people will know and like, neither too long nor too short but good for them. Give us the strength to carry on with humility though often we get carried away when we push our ideas too hard, and say words we do not really mean but hurt our fellow workers. Give us the time to reflect even as we rush our work to meet some crazy deadline, mindful that more than stringing together words and phrases, we write history and bind our people; that is, if they accept it. But Lord, please make them do. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present[*] Nieva Absent

Aquino Present Nollado Present[*]

Azcuna Present Ople Present

Bacani Present Padilla Present

Bengzon Present Quesada Present

Bennagen Present[*] Rama Present

Bernas Present Regalado Absent

Rosario Braid Present Reyes de los Present[*]

Brocka Present Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion Present Sarmiento Present[*]

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present[*] Tadeo Present

Gascon Present Tan Present[*]

Guingona Absent Tingson Present

Jamir Present Treñas Present

Laurel Present Uka Present

Lerum Present[*] Villacorta Present

Maambong Present[*] Villegas Present

Monsod Present

The President is absent.

The roll call shows 33 Members responded to the call.

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

Before calling on the Assistant Floor Leader, we wish to acknowledge the presence of a group of students from St. Scholastica's College, Manila and St. Bridget's College, Batangas.

The Assistant Floor Leader is recognized.

MR. CALDERON: Mr. Vice-President, I move that we dispense with the reading of the Journal of yesterday's session.

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

APPROVAL OF JOURNAL

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

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

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

THE VICE-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 and Committee Report, the Vice-President making the corresponding references:

COMMUNICATIONS

Communication from Mr. Jose C. Laureta of 105 Paseo de Roxas, Makati, Metro Manila, recommending that Section (7) 2 of Proposed Resolution No. 531 be deleted, and that the question whether the advertising industry should be nationalized be deferred and be left for determination by the legislative body.

(Communication No. 528 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Emilio Y. Hilado, Jr. of P.O. Box 199, Bacolod City, suggesting among others the following: (1) that each provision as finally passed by the Committee be published in full in the major daily newspapers; (2) that provincial governors and municipal mayors be encouraged to conduct public hearings on each provision as approved by the Committee; and (3) publish each provision as it is finally passed by the Constitutional Commission.

(Communication No. 529 — Constitutional Commission of 1986)

To the Steering Committee.

One hundred forty-one letters from students in Silang, Cavite, all seeking to include in the Constitution the following proposals: (1) a No-U.S. Military Bases Agreement; (2) an anti-nuclear power plant; (3) the promotion of Philippine sovereignty over our natural resources; and (4) a No-U.S. or any foreign intervention on Philippine affairs.

(Communication No. 530 — Constitutional Commission of 1986)

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

Communication from the Philippine Social Science Council, Inc., Don M. Marcos Avenue, U.P., Diliman, Quezon City, signed by its Chairman, Carolina G. Hernandez, and thirteen other officers and members, endorsing favorably the proposal to grant regional autonomy to areas and populations with common historical, geographical, cultural, linguistic and ethnic characteristics.

(Communication No. 531 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Ricardo Cardinal Vidal, Archbishop of Cebu, expressing his deep esteem and appreciation for the sacred task of writing a Constitution for the country, enclosing therewith a copy of the 1979 Pastoral Letter of the Philippine Hierarchy on the Life of the Unborn Child, which may be of help in the deliberations of the Constitutional Commission.

(Communication No. 532 — Constitutional Commission of 1986)

To the Steering Committee.

Position Paper of Siguion Reyna, Montecillo and Ongsiako containing the following: (1) Advertising agencies are not mass media; (2) No public policy is offended by the non-nationalization of advertising agencies; (3) Foreign owners have nothing to do with the content of advertisement and, hence, do not impose their own culture on us; (4) The existing constitutional provision on mass media is adequate to promote the purpose envisioned by the proposal; and (5) The nationalization of advertising agencies is best left to the wisdom of a legislature, which positions have been adequately discussed therein.

(Communication No. 533 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication signed by Mr. Jorge Pelayo Albayda of 15 Moreño Street, Kabankalan, Negros Occidental, and one hundred ninety other signatories seeking the retention of the U.S. military bases in the Philippines even after the expiry date, saying that the presence of these bases is a boon to our economy, aside from providing security for the Philippines and Southeast Asia.

(Communication No. 534 — Constitutional Commission of 1986)

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

Communication from the Cordillera People's Alliance transmitting a resolution signed by three thousand eight hundred thirty-six (3,836) people, seeking a constitutional provision that would grant a regional autonomous government in the Cordillera.

(Communication No. 535 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Ramon R. Leuterio of 105 P. Cruz Street, Mandaluyong, Metro Manila, urging the Constitutional Commission not to include in the Constitution controversial issues such as the U.S. military bases, abortion, nuclear-free Philippines, and expressing apprehension that the Constitution might be rejected if these are included.

(Communication No. 536 — Constitutional Commission of 1986)

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

Letter from Mr. Catalino P. Arafles, President, Philippine Meteorological Society, 1424 Quezon Avenue, Quezon City, conveying full support to the resolution incorporating in the Constitution an Article on Education, Science, Technology, Sports, Arts and Culture.

(Communication No. 537 — Constitutional Commission of 1986)

To the Committee on Human Resources.

COMMITTEE REPORT

Committee Report No. 37 on Proposed Resolution No. 539, prepared by the Committee on Constitutional Commissions and Agencies, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE
COMMISSION ON HUMAN RIGHTS,

recommending its approval in substitution of Proposed Resolution No. 365.

Sponsored by Hon. Foz, Rigos, Abubakar, Concepcion, de Castro, Jamir, Monsod, Nieva, Regalado, de los Reyes, Jr., Rodrigo, Villegas, Garcia and Sarmiento.

To the Steering Committee.

THE VICE-PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 534

(Article on Social Justice)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: Mr. Vice-President, I move that we continue the consideration on Second Reading of the Article on Social Justice. This is Proposed Resolution No. 534. There would be some reservations for the sake of clarification which will be stated by Commissioner Monsod.

THE VICE-PRESIDENT: Is there any objection to the motion of the Floor Leader? (Silence) The Chair hears none; the motion is approved.

MR. MONSOD: Mr. Vice-President.

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

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Mr. Vice-President, there are two clarificatory refinements or modifications in the Social Justice's report to convey the intent of the Committee and the body. The first one is on page 2 of Proposed Resolution No. 534, as amended. I think this was distributed yesterday. The second paragraph of page 2 states: "The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes including conciliation." The modification is on the following words: instead of the words "and the enforcement of," it should read AND SHALL ENFORCE. So, the refinement is a substitution of the phrase "and the enforcement of" by the words AND SHALL ENFORCE.

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

MR. MONSOD: The second one is on page 4, on urban land reform and housing, second to the last sentence of Section 9, where it says "It shall provide (promote)." I have discussed this with the proponent of the amendment, Commissioner Davide, and the word should be PROMOTE and not "provide" because the State shall not provide the employment opportunities but shall promote employment opportunities.

THE VICE-PRESIDENT: Is there any objection to the proposed substitution of the word "provide" for PROMOTE?

MR. MONSOD: PROMOTE instead of "provide," Mr. Vice-President.

THE VICE-PRESIDENT: Yes, PROMOTE instead of "provide."

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

MR. MONSOD: Thank you, Mr. Vice-President.

MR. RAMA: Mr. Vice-President, there will be some clarifications also to be stated by Commissioner Tadeo

regarding the same Article.

THE VICE-PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Mr. Vice-President, meron lang po akong ilang paglilinaw tungkol sa mga magbubukid dahil mayroong ilang tanong ang mga peryodista na hindi ko kayang sagutin at may kalabuan. Naging mabilis ang pagpasok ng mga amendments noong tinatalakay natin ang agrarian and natural resources reform. Ang tanong ko ay para kay Commissioner Bernas at ito ay tungkol sa "just compensation." In the case of the NHA vs. Reyes, GR 4914, June 29, 1983, sinasabi na ang "just compensation" ay batay sa assessed value or tax declaration, whichever is lower. Sinasabi kasi na nagkaroon ng pagkalito sa iba't-ibang interpretation subalit ang ibig sabihin nito ay "fair market value." Ang paglilinaw po ng magbubukid ay ganito: kung papasok ang pamahalaan sa sinasabi nating "affordable," iyon po bang isa-subsidize ng government ay babayaran pa ng magsasaka sa government o iyon ay grant na sa kanila?

FR. BERNAS: Hindi na, grant na iyan sa kanila.

THE VICE-PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: My understanding is that whatever is subsidized by the State is precisely a subsidy to the farmers; and because it is a subsidy, my understanding is that the farmers will not have to repay. In other words, this is a concrete implementation of the meaning we give to social justice: that those who have less in life should have more in law.

MR. TADEO: Salamat po, Commissioner Bernas. Ito po iyong susunod kong paglilinaw.

BISHOP BACANI: Mr. Vice-President.

THE VICE-PRESIDENT: We will recognize Commissioner Bacani after or does he want to speak now?

BISHOP BACANI: Yes. I just want to ask a question because Commissioner Tadeo asked Commissioner Bernas for an explanation of the word. What is the binding force of that for the future interpretation of this Constitution, because Commissioner Bernas is not a member of the Social Justice Committee? I am just inquiring what would be the nature or the binding force of that clarificatory remark on the future interpretation of the Constitution?

THE VICE-PRESIDENT: Commissioner Bernas may reply if he so desires.

FR. BERNAS: My interpretation and my answer were precisely based not so much on the fact that I am a member of the Social Justice Committee but rather as a participant in the deliberations in the Constitutional Commission or on what was very clear in the discussions on the floor. And I think that is what is binding. It was very clear to me that that is the intent. The intent is to give justice to the owner even if it will be at the expense of the government in order to make things affordable for the poor. That to my mind is the clear intent in the deliberations on the floor which I think is what is binding and not the committee report.

MR. MONSOD: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Mr. Vice-President, I am a member of the Committee and I was the one who answered that question, and I think the record will bear out that the interpretation of the Committee is the same as the interpretation of Commissioner Bernas.

THE VICE-PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Tinanong ko po iyon kay Commissioner Bernas. Kaya ko po pinadaloy ang tanong ko sa kanya ay

dahil siya po ang nagpaliwanag noong pinag-uusapan ang bagay na ito. Ang pangalawa kong katanungan ay tungkol dito sa pagpasok ng ecological, developmental or equity considerations. Puwede po bang maipaliwanag kung ano ang kahulugan ng ecological, developmental or equity considerations?

FR. BERNAS: I think that has to be answered by the Committee; hindi ako ang nagpasok niyan.

MR. BENNAGEN: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Hindi po ako ang nagpasok niyan pero nagbigay ako ng paliwanag na ang ibig sabihin ay isaalang-alang natin iyong pangangailangan ng kapaligiran, isaalang-alang din iyong pangangailangan ng pag-unlad at saka iyong pagkapantay-pantay. Pagsama-samahin iyong tatlong iyon.

MR. TADEO: Mga kagalanggalang kong mga kasama, hindi kaya makabubuting pagkatapos ng salitang "ecological" ay lagyan natin ng pro-people development?

MR. BENNAGEN: Ano ang magiging kahulugan ng pro-people development doon sa pagsasama-sama noong tatlong kaurian?

MR. TADEO: Kasi mayroong mga developmental projects na nangangahulugang pag-eject ng tenant.

MR. BENNAGEN: Kaya nga ayon doon sa pagpapaliwanag kailangang isaalang-alang nang sabay-sabay iyong tatlo para sa ganoon iyung consideration ng equity, ng pag-unlad at ng kapaligiran ay nandoon din at hindi hiwa-hiwalay kundi magkaugnay.

MR. TADEO: Salamat po. Ito ay isang paglilinaw lamang.

MR. BENNAGEN: Marami pong salamat.

MR. TADEO: Pangalawang paglilinaw, Mr. Vice-President; ito po kasi ang napakaselan: "The State shall respect the rights of small landowners in determining retention limits." Ito ay tinanong ko rin sa ilang mga kasama ko; nagkaroon din ng medyo ilang kaguluhan sa Commission. Under Republic Act 3844 at sinusugan ng Republic Acts 6389 at 6390 at under P.D. No. 27 pinaglililaw ang ganito: kung mayroong retention limits na seven hectares, halimbawa, ang tenant sa loob noong seven hectares ay hindi puwedeng i-eject kung hindi mananatiling under leasehold, pero hindi siya puwedeng magmay-ari. Iyon lang ang gusto kong linawin. Ang problema ko kasi dito ay wala si Commissioner Rustico de los Reyes na siyang nagpasok ng susog na ito. Ang tanong ay ganito: Ang ibig sabihin ba nitong "The State shall respect the rights of small landowners in determining retention limits" ay kung ma-determine ang limits na seven hectares at mayroon ditong magsasaka ay puwede silang i-eject o ang ibig sabihin nito ay under Republic Acts 3844, 6389, 6390 and P.D. No. 27, 'yung mga magbubukid ay mananatiling leasehold pero hindi sila puwedeng magmay-ari ng lupa; Ganoon po ba ang ibig sabihin nito?

MS. AQUINO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: The Committee's interpretation proceeds from the basic premise that when one respects the retention limits of small landowners, he need not necessarily be an owner-cultivator, in which case he is allowed under the circumstances to maintain the leasehold arrangement with a tenant. It does not necessarily mean, therefore, that it does not follow that the tenant can be immediately ejected or evicted by the small landowner.

MR. TADEO: Salamat po. Kasi ito 'yung isang mahalagang tanong sa akin na hindi ko masyadong masagot din kaya nilinaw ko lamang kung anong ibig sabihin nito. Ang ibig sabihin ay sinusunod nito 'yung Republic Act

3844 na sinusugan ng Republic Acts 6389, 6390 at P.D. No. 27.

MR. BENNAGEN: Dagdag lang doon, Mr. Vice-President.

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

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I think in the deliberations of the Committee, that should also be qualified in terms of just share of the fruits of the land. That is an additional qualification.

MR. TADEO: Ito na lang, isang paglililaw na pinakahuling tanong. Itong "The State shall further provide incentives for voluntary land sharing," ano ang ibig sabihin nitong "incentives"? Tinatanong din kasi ako at hindi ko gaanong maipaliwanag. Pero mayroon pang isang paglililaw. Bukod doon sa "incentives," anong ibig sabihin ng "voluntary land sharing"? Ang pagkakaunawa namin sa "voluntary land sharing" ay ganito: kung halimbawa ay mayroon kang sampung ektarya, puwede mong sabihin sa mga magsasaka na akin na itong lima at maghati-hati na kayo roon sa lima. Ang ibig naming sabihin ay nilalabag nito ang principles of agrarian reform. Ang ibig bang sabihin nito ay hindi lalabagin ang principles of agrarian reform at iyung kanyang karapatan sa kanyang lupang binubungkal? Kasi ayaw naming makita na maging loophole ito sa karapatan ng nagbubungkal sa lupa kung sasabihin ng panginoong maylupa, "Sige, kung mayroon kang three hectares na sinasaka sa akin, ibibigay ko na sa iyo 'yung one hectare, bibigyan ko ng title, pero ibabalik mo sa akin 'yung two hectares." Kaya gusto naming liwanagin ito para sa ganoon kung magtatanong sila ay maipaliwanag kong maigi ito. Noong Linggo, binaha ako ng mga magbubukid upang ipaliwanag ko mismo itong mga naipasa ng Con-Com tungkol sa agrarian reform.

MR. RAMA: Mr. Vice-President, I ask that Commissioner Monsod be recognized to make the explanation.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Mr. Vice-President, during the deliberations, the intent was explained that this would be incentives to facilitate, accelerate and include areas that might not be considered included in the agrarian reform program. Therefore, this sentence cannot impair or obstruct or diminish the agrarian reform program, but this is a matter between the government and certain landowners for the government to give them incentives in order to give full expression in the agrarian reform program.

MR. TADEO: Salamat po, Mr. Vice-President.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Bengzon be recognized on the same subject.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Mr. Vice-President, I would just like to clarify also the meaning of "fair market value" because Commissioner Tadeo cited a case which interpreted the presidential decree of the deposed President Marcos with respect to the meaning of "just compensation." It was the intention of the Committee, and which was adopted by this body, that "just compensation" is defined as the fair market value of the property which is determined by the various market forces. In other words, it is the definition of "just compensation" as articulated by the Supreme Court before that decree of President Marcos was made. The meaning of "just compensation," as articulated by the Committee and adopted by the Commission, is not the same as that given by the decree of President Marcos.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: Please proceed.

MR. RAMA: I now reiterate my motion to vote on Second Reading on Proposed Resolution No. 534 on the Article on Social Justice.

THE VICE-PRESIDENT: Is there any objection?

FR. BERNAS: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Before we vote, back to "just compensation," after the remarks of Commissioner Bengzon, although I would say that although in the deliberations on the floor we adopted the principle of fair market value in general, in our deliberations on P.D. No. 27, which was the subject of the decision cited by Commissioner Tadeo, it was also stated here that unless that is challenged, at least in that case, it was accepted that the fair market value could be as specified in P.D. No. 27. And in that particular case, the meaning of fair market value there of just compensation was not challenged at all. And apparently, in this particular case, it was seen that this was a fair market value.

MS. ROSARIO BRAID: Mr. Vice-President.

MR. RAMA: Commissioner Rosario Braid would like to be recognized.

THE VICE-PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: On the matter of voluntary land sharing, since I introduced that concept, it is a privilege given to landowners in terms of tax exemptions. And also, it is open to both tenants as well as non-tenants. And I am sure that the legislature could make provisions so that the loopholes that Commissioner Tadeo fears would not happen. I think this is working rather successfully in some places in the South, particularly in Negros, so I do not think we have to fear. It is a complementary scheme that could work successfully for the benefit of the tillers.

THE VICE-PRESIDENT: Pursuant to the motion of the Floor Leader, will the Secretary-General read the title of the resolution.

THE SECRETARY-GENERAL: Proposed Resolution No. 534, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON SOCIAL JUSTICE.

MR. MONSOD: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We are sorry but can we just go back to one interpretation that was given earlier on "ecological, developmental or equity considerations."

I believe that the intent of the Committee here is that these three factors need not always be cumulative, and the reason for this is, we want to cover situations where a family with 10 children, for example, has only, say, 50 hectares; and even if the limit is 25, there may be equity considerations for allowing that family to transfer to the 10 children five hectares each rather than subject it to agrarian reform.

These are situations that we cannot foresee, but Congress can certainly look into these things.

MR. TADEO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Ang ibig ko lang sabihin ay puwedeng magawa iyon kung walang tenant involved o regular pa ang workers involved.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: The body is now ready to vote.

MR. JAMIR: Parliamentary inquiry, Mr. Vice-President.

MR. RAMA: Commissioner Jamir would like to be recognized.

THE VICE-PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: May we know which of the two opinions — the one given by Commissioner Bengzon and the other given by Commissioner Bernas — should be accepted by the Commission?

MR. BENGZON: Mr. Vice-President, I have just conferred with Commissioner Bernas and we have decided to submit the matter to the floor. When we discussed this in the Committee and on the floor, we were always laboring under the impression that "just compensation" meant the definition as articulated by the Supreme Court prior to P.D. No. 76. But Commissioner Bernas mentioned that there was this interpretation of fair market value as articulated in P.D. No. 76. And it seems that according to the records, this definition was not challenged, so we have to have this thing clarified.

I maintain that the intention of the Committee in defining "just compensation" is the definition articulated by the Supreme Court in its various decisions in the past prior to P.D. No. 76, which is the fair market value of the property as determined by the market forces. And even if the interpretation of P.D. No. 76 still subsists, my position is that this Commission can determine and should determine what is the meaning of "just compensation."

So we would like to submit this to the floor.

MR. RAMA: Before we submit it to the floor, may I ask that Commissioner Bernas be recognized.

THE VICE-PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: In trying to determine just compensation for purposes of agrarian reform, we must remember that we have to look at this in the context of the Article where it is. It is in the Article on Social Justice, and the thrust of this Article is precisely to make it easier for the disadvantaged to be able to obtain land. Now, we have P.D. No. 76 which, in previous remarks I made, I said that its definition of "just compensation" is a prima facie determination made by the legislative authority that that is just compensation; namely, the assessed value or the tax declaration of the owner, whichever is lower. It is a prima facie declaration. It is still within the authority of the Supreme Court to take a look at this in every instance, whether this, in fact, is the just compensation. But if it comes to agrarian reform, the Supreme Court must look at this in the context precisely of the Article which is for the benefit of the disadvantaged. Thus, even if, let us say, the Supreme Court were to say that this assessed value or tax declaration, whichever is lower, is not in this particular instance equivalent to the market value dictated by the market forces, what we are saying here is that the farmer or farm worker who is obtaining it will not be forced to pay more than that; but if more has to be paid to the owner, then the State will carry the burden. This is an effort to reconcile whatever differences there may be.

MR. BENGZON: May I just say a word on what Commissioner Bernas said because I do not think there is a real conflict as to the intention.

THE VICE-PRESIDENT: Commissioner Bengzon may proceed.

MR. BENGZON: There is no doubt that we have to read this term "just compensation" within the context of the Article on Social Justice which would make it easier for the disadvantaged to acquire the land. Precisely, if the farmer is only able to afford so much, that is when the State comes to the aid and subsidizes it. In this manner the situation will not be to the disadvantage of the landowner. So, there should be equity on both sides. We are not forcing the farmer to pay the landowner the value of that property even beyond his means. Whatever the farmer can afford, so be it, but at the same time, whatever is the difference between what the farmer can afford and what is just compensation, which is equitable to the landowner, the State must come around and provide that. So, there is no conflict insofar as the concept is concerned. What gives confusion is the definition of "just compensation" and the intention of the Committee is not to adopt the definition of President Marcos under P.D. No. 76 as interpreted by the latest Supreme Court decision.

MR. RAMA: Mr. Vice-President, may I ask that Commissioner Aquino be recognized.

THE VICE-PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Mr. Vice-President, the manifestations of Commissioner Bengzon on the matter of the interpretation of "just compensation" is correct insofar as it pertains to the settled usage of "just compensation" referring to the power of eminent domain for public use. The matter obtaining now is that which has reference to the agrarian reform mandate of the Constitution which has clearly delineated its objectives in favor of the bias for the landless farmers. This clearly involves a third party, primarily to the interest of the landowner and the State, in which case, if there is any perceived conflict between the jurisprudence that is being cited by Commissioner Bengzon, this is best resolved in the context of the understanding that the settled jurisprudence that he is referring to pertains to the public use on the powers of eminent domain of the State. If there is any conflict at all between what he cited and what is being settled now in this debate, it should be resolved in favor of the clear mandate of the Social Justice provisions.

MR. RAMA: Mr. Vice-President, I ask that Commissioner Bernas be recognized.

THE VICE-PRESIDENT: The Chair recalls the statement of Commissioner Concepcion that if we use a term in the Constitution, it should have a uniform or the same meaning, because it is dangerous to use the same term and have one meaning in one Article and another meaning in another.

So, this is just compensation to the landowner. It seems that the issue is: Is just compensation the fair market value or is it just compensation under the presidential decree of President Marcos, based on the tax declaration, whichever is lower?

It seems that we have discussed this before and that "just compensation" means just compensation as decided by many decisions of the Supreme Court. And it cannot make reference to the presidential decree of the former regime which is not just compensation because it refers to whichever declaration is lower.

MR. RAMA: May I ask that Commissioner Bernas be recognized, Mr. Vice-President?

THE VICE-PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: It is true that when one phrase appears in a constitution, we should try to give it the same meaning as much as possible. But I think what we are entering into here is really something new — just compensation for purposes of land reform.

I would like to discuss this in the context of the three inherent powers of the government; namely, the police power, the power of taxation and the power of eminent domain. When the State exercises any one of these three powers, it involves always some loss on the part of the citizen. When it exercises police power, it can involve the destruction of property without compensation. When it exercises the power of taxation, again, the citizen, the taxpayer, incurs some loss because he has to pay a tax. When the State exercises the power of eminent domain, no matter how much we say that it will be just compensation — the market value — in effect and in reality, the owner never really gets the value of what the market forces dictate. It is a necessary contribution which a citizen must give to society precisely because society is valuable.

In this particular case, what we are trying to do is work out a formula for determining just compensation in the context of agrarian reform, which is for the benefit of the underprivileged. And the starting point we have is the formula given under President Marcos. If the assessment or the tax declaration, whichever is lower, is not challenged by the owner, then that is the just compensation. But supposing it is challenged by the owner and then the Supreme Court says, "In fact, it is not just compensation," then what happens? The state makes up for the difference. But I think what we are saying is, in a situation where the state cannot make the difference because the state does not have the money, then we are authorizing the state to impose on the owner the duty to make the sacrifice of accepting less than what is normally known as the market value.

MR. BENGZON: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: I can see now the problem of Commissioner Bernas. In the event that the state is unable to make the difference between what a farmer can afford and what is just for the landowner, then I am not saying that the state cannot proceed to implement the land reform.

FR. BERNAS: All right.

MR. BENGZON: What I am saying is that the state must look for ways and means in order to compensate the farmer. If it cannot pay cash, it can pay in bonds.

FR. BERNAS: We are not in disagreement then, if that is the understanding.

MR. BENGZON: In other words, I am not saying that because the state cannot afford to make up the difference, then land reform cannot be implemented. No, I am not saying that. What I am saying is that there should be established just compensation. And just compensation should be defined as it would be equitable to the landowner. As to the manner of payment, that is another question, because if the state cannot afford to pay cash for the difference, then it can certainly look for other ways and means by which it can compensate the landowner.

SUSPENSION OF SESSION

MR. RAMA: Mr. Vice-President, may I ask for a suspension of the session for two minutes?

THE VICE-PRESIDENT: Pursuant to the motion of the Floor Leader, the session is suspended for a few minutes.

It was 10:31 a.m.

RESUMPTION OF SESSION

At 10:42 a.m., the session was resumed.

THE VICE-PRESIDENT: The session is resumed.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: The interpreters of the word "just compensation" have come to a meeting of the minds and Commissioner Bernas will state the interpretation as agreed upon.

May I ask that Commissioner Bernas be recognized.

THE VICE-PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Mr. Vice-President, I think we have come to some solutions to this. The main principle is we do not want the traditional definition of "market value" to be an obstacle to the implementation of land reform. So, let us say that the actual market value of a piece of land is P1 million, but its assessed value or its tax declaration is P800,000 and that is all that the farmer can afford, then, as far as the farmer is concerned, he will be bound only to pay less, but we leave it to the state to try to make up for the difference in any way it can.

MR. BENGZON: Yes, Mr. Vice-President, that is our agreement.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Yes, Mr. Vice-President, that is the interpretation that we have arrived at.

MR. RAMA: Mr. Vice-President, with those explanations, I reiterate my motion that we vote on Second Reading on the Article on Social Justice.

THE VICE-PRESIDENT: The Secretary-General has already read the title of the resolution.

MR. BENNAGEN: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Just one brief note on my comment on the interrelationship of the words in the phrase "ecological, developmental and equity considerations."

THE VICE-PRESIDENT: All right. Commissioner Bennagen is recognized.

MR. BENNAGEN: I am sorry for the interruption. I just want to clarify that earlier discussion on the interrelationship of the words in the phrase "ecological, developmental, and equity considerations." It is the understanding of the Committee that while we say that in a number of cases, all the three terms should be considered together, in our cases, "equity consideration" should take priority.

Thank you, Mr. Vice-President.

MR. RAMA: Mr. Vice-President, the body is now ready to vote.

APPROVAL OF PROPOSED RESOLUTION NO. 534 ON SECOND READING
(Article on Social Justice)

THE VICE-PRESIDENT: As many as are in favor of Proposed Resolution No. 534, please raise their hand.
(Several Members raised their hand.)

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

MR. JAMIR: Mr. Vice-President, I abstain.

THE VICE-PRESIDENT: As many as are abstaining, please raise their hand. (Two Members raised their hand.)

The results show 32 votes in favor, none against and two abstentions.

Proposed Resolution No. 534, as amended, is approved on Second Reading.

The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NOS. 496 AND 533

(Article on the National Economy and Patrimony and Provision on Ancestral Lands)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Mr. Vice-President, I move that we consider Committee Report Nos. 24 and 32 on Proposed Resolution Nos. 496 and 533, respectively, as reported out by the Committee on the National Economy and Patrimony.

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

MR. RAMA: Mr. Vice-President, may I ask that Commissioner Quesada be recognized to explain the deferment of the report on autonomy because many of those interested are still around and they have been here since last night.

MS. QUESADA: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would like to express this request in behalf of the Cordillera people who are still here and whom we saw last night sleeping on just the floor of a school. It will be important for them to know just what happened in our caucus so that they would know why the issue for which they came down was delayed and what the decision of the body was.

Gusto nilang malaman kung ano ang nangyari at bakit hindi pala tuloy-tuloy ang pag-uusap sa isyu ng autonomous region. Ang pakiusap nila sa Committee ay kung puwede silang bigyan ng impormasyon kaugnay dito para hindi na sila maghintay pa nang matagal dahil ang pag-uusapan natin ay ibang topic na. Iyon lang po.

MR. RAMA: Mr. Vice-President, may I ask that the Chairman of the Committee on National Economy and Patrimony and its members take their seats in front for the sponsorship of said resolutions.

THE VICE-PRESIDENT: The members of the Committee and its Chairman will please take their seats for the period of interpellations.

MR. RAMA: Before that, Mr. Vice-President, may I ask that Chairman Nollado be recognized.

THE VICE-PRESIDENT: Commissioner Nollado, the Chairman of the Committee on Local Governments, is recognized.

MR. NOLLEDO: Thank you, Mr. Vice-President. In reaction to the manifestation of Commissioner Quesada, I would like to state here that the Constitutional Commission in caucus yesterday afternoon decided to grant autonomy to the Cordillera and Muslim Mindanao. (Applause)

THE VICE-PRESIDENT: The people in the gallery and our guests are requested not to applaud.

MR. NOLLEDO: Mr. Vice-President, the members of the Committee also met this morning and adopted certain amendments to comply with the guidelines set forth in the caucus, and that autonomous regions of Muslim Mindanao and the Cordillera are recognized by the Committee and expected to be affirmed by the Constitutional

Commission when it meets at the appropriate time.

Thank you, Mr. Vice-President.

MR. DE CASTRO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: I am a member of the Committee, but I was not informed that there is a meeting this morning. I was informed that the meeting will be at one o'clock this afternoon.

MR. NOLLEDO: Mr. Vice-President, there was an amendment made in that caucus yesterday afternoon. Commissioner Rodrigo called our attention to the meeting of the Committee on Style, so we changed the time to eight o'clock; and I emphatically stated that I changed the schedule. Commissioner de Castro must have left ahead, and so he was not able to hear the notice.

MR. DE CASTRO: Mr. Vice-President, I left the caucus room much later than the Chairman of the Committee on Local Governments. I was the last man to leave the caucus room, and I did not hear him say that it was amended.

Nevertheless, I will be constrained to manifest my opposition, whatever it may be, on the floor to whatever the Committee did in my absence.

Thank you, Mr. Vice-President.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Villegas, Chairman of the Committee on National Economy and Patrimony, be recognized.

THE VICE-PRESIDENT: Commissioner Villegas is recognized. The other members of the Committee will please remain seated at the front.

MR. VILLEGAS: May we call on Vice-Chairman Tadeo, Commissioners Bacani, Bengzon, Jr., Bennagen, Foz, Gascon, Monsod, Natividad, Ople, Romulo, Sarmiento, Suarez, Uka and Villacorta.

THE VICE-PRESIDENT: Consideration of Proposed Resolution Nos. 496 and 533 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolutions without prejudice to inserting in the Record the whole texts thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 496, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL ECONOMY AND PATRIMONY

and Proposed Resolution No. 533, entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY A PROVISION ON ANCESTRAL LANDS.

(The following are the whole texts of the proposed resolutions per C.R. Nos. 24 and 32.)

COMMITTEE REPORT NO. 24

The Committee on National Economy and Patrimony to which was referred Proposed Resolution No. 10, introduced by Honorable Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION RESERVING TO FILIPINO CITIZENS OR TO CORPORATIONS OR ASSOCIATIONS WHOSE CAPITAL IS WHOLLY OWNED BY FILIPINO CITIZENS ALONE THE PRIVILEGE AND RIGHT TO DISPOSE, EXPLORE, DEVELOP, EXPLOIT OR UTILIZE THE NATURAL RESOURCES OF THE COUNTRY,

Proposed Resolution No. 12, introduced by Honorable de los Reyes, Jr., entitled:

RESOLUTION DECLARING THAT RIVERS, LAKES, BAYS AND LAGOONS AND OTHER BODIES OF WATER BELONG TO ALL THE PEOPLE AND SHALL BE MAINTAINED AS COMMUNAL FISHING GROUNDS AND FOR OTHER PURPOSES,

Proposed Resolution No. 16, introduced by Honorable Azcuna, entitled:

RESOLUTION TO PROVIDE FOR A NEW ARTICLE ON CONSERVATION,

Proposed Resolution No. 22, introduced by Honorable Nollado, entitled:

RESOLUTION WITHDRAWING THE RIGHT OF BALIK-BAYANS WHO HAVE EMBRACED FOREIGN CITIZENSHIP TO ACQUIRE LANDS IN THE PHILIPPINES,

Proposed Resolution No. 46, introduced by Honorable Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION PROVISIONS AFFECTING THE NATIONAL ECONOMY AND CREATING A SOCIO-ECONOMIC PLANNING AND DEVELOPMENT COMMISSION,

Proposed Resolution No. 47, introduced by Honorable Davide, Jr., entitled:

RESOLUTION PROVIDING THE POLICIES ON THE CONSERVATION AND DEVELOPMENT OF THE NATIONAL PATRIMONY AND SEEKING TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON THE NATIONAL PATRIMONY,

Proposed Resolution No. 63, introduced by Honorable Nollado, entitled:

RESOLUTION TO PROHIBIT SALE OR TRANSFER OF OWNERSHIP OF PUBLIC LANDS TO ANY PERSON WHETHER NATURAL OR JURIDICAL AND TO PROVIDE THAT SAID LANDS SHALL BE AVAILABLE ONLY FOR LEASE OR CONCESSION,

Proposed Resolution No. 89, introduced by Honorable Guingona, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL ECONOMY AND PATRIMONY,

Proposed Resolution No. 122, introduced by Honorable Villegas, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION STATING THE FORM OF THE NATIONAL ECONOMY MOST CONDUCIVE TO THE ATTAINMENT OF A JUST AND HUMANE SOCIETY,

Proposed Resolution No. 211, introduced by Honorable Bacani, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION TO INSURE THAT

OUR NATURAL RESOURCES ARE USED, AND THE EXERCISE OF THE RIGHT TO PRIVATE PROPERTY IS REGULATED, FOR THE COMMON GOOD,

Proposed Resolution No. 213, introduced by Honorable Tadeo, Suarez, Aquino, Brocka, Villacorta, Gascon and Tan, entitled:

RESOLUTION TO DEFINE PATRIMONY AS THE TOTALITY OF THE NATURAL RESOURCES, OF THE HISTORICAL AND CULTURAL TRADITIONS, AND OF THE COLLECTIVE TECHNICAL AND FINANCIAL CAPABILITIES OF THE FILIPINO NATION,

Proposed Resolution No. 219, introduced by Honorable Sarmiento and Tadeo, entitled:

RESOLUTION DECLARING THAT THE EXPLOITATION, DEVELOPMENT AND UTILIZATION OF FISHING GROUNDS AND MARINE PRODUCTS BE RESERVED TO FILIPINO CITIZENS,

Proposed Resolution No. 288, introduced by Honorable Bacani, entitled:

RESOLUTION PROVIDING IN THE NEW CONSTITUTION THAT THE STATE SHALL RECOGNIZE THE PRIMACY OF LABOR OVER CAPITAL IN THE REGULATION OF THE ECONOMY,

Proposed Resolution No. 309, introduced by Honorable Gascon, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL PATRIMONY AND THE ECONOMY,

Proposed Resolution No. 317, introduced by Honorable Tingson, entitled:

RESOLUTION PROPOSING TO INCLUDE IN THE TRANSITORY PROVISIONS THE IMPOSITION OF A TWENTY-YEAR LOGGING BAN ON ENDANGERED FOREST LANDS ALL OVER THE COUNTRY,

Proposed Resolution No. 368, introduced by Honorable Suarez, Jamir and Tadeo, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION THAT THE STATE SHALL ADOPT A TRADE POLICY THAT WILL GIVE PRIORITY TO THE REQUIREMENTS OF THE DOMESTIC OVER THE EXPORT SECTOR,

Proposed Resolution No. 369, introduced by Honorable Tingson, entitled:

RESOLUTION PROPOSING TO GRANT SPECIAL CORPORATIONS THE RIGHT TO ACQUIRE IN OWNERSHIP LANDS OF PUBLIC DOMAIN,

Proposed Resolution No. 374, introduced by Honorable Calderon, Alonto, Tingson, Maambong, Nollado and Rama, entitled:

RESOLUTION PROPOSING TO INCREASE FROM SIXTY TO SEVENTY-FIVE PER CENTUM CAPITAL OWNERSHIP OF FILIPINO CITIZENS IN CORPORATIONS AND OTHER ENTITIES FOR THESE CORPORATIONS TO QUALIFY AS GRANTEES OF FRANCHISES OR CERTIFICATES TO OPERATE PUBLIC UTILITIES AND TO DISALLOW FOREIGNERS FROM SITTING IN THE GOVERNING BODY OR BOARD OF ANY PUBLIC UTILITY,

Proposed Resolution No. 375, introduced by Honorable Tingson, entitled:

RESOLUTION PROPOSING TO SET ASIDE LANDS OF PUBLIC DOMAIN AS PERMANENT SETTLEMENT AREAS FOR CULTURAL MINORITIES,

Proposed Resolution No. 378, introduced by Honorable Treñas, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION A PROVISION ON ANCESTRAL LANDS AND THE DISPOSITION AND UTILIZATION OF NATURAL RESOURCES FOUND THEREIN,

Proposed Resolution No. 388, introduced by Honorable Rosario Braid and Bacani, entitled:

RESOLUTION TO INCLUDE IN THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY OF THE NATION A PROVISION TO INCLUDE AIRWAVES AS PART OF THE NATIONAL PATRIMONY,

Proposed Resolution No. 389, introduced by Honorable Padilla, entitled:

RESOLUTION PROPOSING A PROVISION ALLOWING FOREIGN INVESTORS TO ACQUIRE, HOLD OR OWN LOTS WITH LIMITED AREA, REQUIRED FOR THE OPERATION OF EXPORT-ORIENTED INDUSTRIAL ENTERPRISES,

Proposed Resolution No. 401, introduced by Honorable Tadeo, Suarez, Quesada, Brocka, Jamir, Bennagen, Sarmiento, Villacorta, Gascon, Garcia and Aquino, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ESTABLISHING THE FRAMEWORK FOR A NATIONALIST, SELF-RELIANT, AND PROGRESSIVE ECONOMY FOUNDED ON GENUINE INDUSTRIALIZATION GUIDED BY THE PRINCIPLES OF NATIONAL SELF-DETERMINATION AND EQUITABLE SHARING,

Proposed Resolution No. 412, introduced by Honorable Rosario Braid, entitled:

RESOLUTION LIMITING THE PRACTICE IN THE PHILIPPINES OF THE VARIOUS PROFESSIONS TO FILIPINO PROFESSIONALS,

Proposed Resolution No. 432, introduced by Honorable Maambong, Ople, Natividad and de los Reyes, Jr., entitled:

RESOLUTION LIMITING THE PRACTICE OF ANY PROFESSION TO FILIPINO CITIZENS SAVE IN CASES OF RECIPROCITY TO ALIENS OF ANOTHER COUNTRY UNDER CONDITIONS PRESCRIBED BY LAW,

Proposed Resolution No. 453, introduced by Honorable Gascon, entitled:

RESOLUTION FOR THE PROTECTION OF OUR ENVIRONMENT AND THE PRESERVATION OF OUR NATURAL RESOURCES,

Proposed Resolution No. 528, introduced by Honorable Guingona, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE TO RESTRICT INSTANCES WHEN THE STATE MAY ENGAGE IN BUSINESS ENDEAVORS,

has considered the same and has the honor to report them back to the Constitutional Commission of 1986 with the recommendation that attached Proposed Resolution No. 496, prepared by the Committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL ECONOMY AND PATRIMONY,

be approved in substitution of Proposed Resolution Nos. 10, 12, 16, 22, 46, 47, 63, 89, 122, 211, 213, 219, 288, 309, 317, 368, 369, 374, 375, 378, 388, 389, 401, 412, 432, 453, and 528 with the Honorable Villegas, Tadeo, Bacani, Bengzon, Jr., Bennagen, Foz, Gascon, Monsod, Natividad, Ople, Romulo, Sarmiento, Suarez, Uka, Villacorta, Davide, Jr., de los Reyes, Jr., Azcuna, Nollado, Guingona, Aquino, Brocka, Tan, Tingson, Jamir, Calderon, Alonto, Maambong, Rama, Treñas, Rosario Braid, Padilla, Quesada, and Garcia as authors thereof.

Respectfully submitted:

(Sgd.) Bernardo M. Villegas

Chairman

Committee on National Economy and Patrimony

PROPOSED RESOLUTION NO. 496

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL ECONOMY AND PATRIMONY

Be it resolved as it is hereby resolved by the Constitutional Commission in session assembled, To incorporate the National Economy and Patrimony of the new Constitution, the following provisions:

ARTICLE ____

NATIONAL ECONOMY AND PATRIMONY

SECTION 1. The State shall develop a self-reliant and independent national economy. The goals of the national economy are a more equitable distribution of income and wealth, full employment of human, physical and technological resources, and a sustained increase in the amount of goods and services produced by the nation for the benefit of the Filipino people, with priority to the welfare of the poor. In the attainment of these goals, all economic sectors shall be given optimum opportunity to develop and a broader-based ownership of private enterprises shall be encouraged.

SECTION 2. Since the use of property bears a social function, all economic agents in the private sector shall contribute to the common good. Individuals and private groups shall be given freedom to establish and operate economic enterprises; subject always, however, to the duty of the State to promote distributive justice and to intervene when the common good so demands.

SECTION 3. All lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. Such activities may be directly undertaken by the State, or it may enter into co-production, joint venture, production-sharing agreements with Filipino citizens or corporations or associations at least sixty per cent of whose voting stock or controlling interest is owned by such citizens. Such agreements shall be for a period of twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant. The Congress may by law allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming in rivers, lakes, bays, and lagoons.

The President with the concurrence of Congress, by special law, shall provide the terms and conditions under which a foreign-owned corporation may enter into agreements with the government involving either technical or financial assistance for large-scale exploration, development, and utilization of natural resources.

SECTION 4. Lands of the public domain are classified into agricultural, forest, or mineral lands, and national parks. Only agricultural lands of the public domain, which may be further classified by law according to the uses to which they may be devoted may be alienated to citizens of the Philippines. No private corporation or association may hold alienable lands of the public domain except by lease, not to exceed one thousand hectares in area; nor may any citizen hold such lands by lease in excess of five hundred hectares or acquire by purchase or homestead in excess of twenty-four hectares. The Congress, taking into account conservation, ecological, and developmental requirements of the natural resources, shall determine by law the size of lands of the public domain which may be developed, held or acquired by, or leased to, any qualified individual, corporation, or association, and the conditions therefor. The foregoing shall be subject to the requirements of agrarian reform.

SECTION 5. Upon recommendation of the President, Congress shall determine by law the specific limits of forest lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and not be diminished.

SECTION 6. Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain.

SECTION 7. Notwithstanding the provisions of Section 6 of this Article, a natural-born citizen of the Philippines who has lost his Philippine citizenship may be a transferee of private lands solely for residential purposes, not to exceed an area of one thousand square meters.

SECTION 8. The President, after consultations with the appropriate public agencies and the private sector, including labor and peasant organizations, shall recommend to Congress and implement an integrated and coordinated approach to national development.

Until Congress provides otherwise, the National Economic Development Authority shall function as the independent planning agency of the government.

SECTION 9. The Congress shall reserve to citizens of the Philippines or to corporations or associations at least sixty per cent of whose voting stock or controlling interest is owned by such citizens or such higher percentage as Congress may prescribe, certain areas of investments when the national interest so dictates.

SECTION 10. The Congress shall establish an independent central monetary authority, the majority of whose governing board shall come from the private sector, which shall provide policy direction in the areas of money, banking, and credit. It shall have supervisory authority over the operations of banks and exercise such regulatory authority as may be provided by law over the operations of finance companies and other institutions performing similar functions. Until Congress otherwise provides, the Central Bank of the Philippines, operating under existing laws, shall function as the central monetary authority.

SECTION 11. The Congress may, by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or controlled corporations may be created or established only in the interest of the common good.

SECTION 12. The State may, in the interest of the common good and the people's security against external aggression, establish and operate vital industries, and upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the government.

SECTION 13. In times of national emergency, when the common good so requires, the State may temporarily take over or direct the operation of any privately owned public utility or business affected with public interest. Such takeover or direction of operation shall be only for the duration of the state of emergency.

SECTION 14. The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.

SECTION 15. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least two-thirds of whose voting stock or controlling interest is owned by such citizens. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public.

COMMITTEE REPORT NO. 32

The Committee on National Economy and Patrimony to which was referred Proposed Resolution No. 375, introduced by Honorable Tingson, entitled:

RESOLUTION PROPOSING TO SET ASIDE LANDS OF PUBLIC DOMAIN AS PERMANENT SETTLEMENT AREAS FOR CULTURAL MINORITIES,

Proposed Resolution No. 378, introduced by Honorable Treñas, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION A PROVISION ON ANCESTRAL LANDS AND THE DISPOSITION AND UTILIZATION OF NATURAL RESOURCES FOUND THEREIN,

has considered the same and has the honor to report them back to the Constitutional Commission of 1986 with the recommendation that attached Proposed Resolution No. 533, prepared by the Committee, entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY A PROVISION ON ANCESTRAL LANDS,

be approved in substitution of Proposed Resolution Nos. 375 and 378 with the Honorable Villegas, Tadeo, Bacani, Bengzon, Jr., Bennagen, Foz, Gascon, Monsod, Natividad, Ople, Romulo, Sarmiento, Suarez, Uka, Villacorta, Tingson and Treñas as authors thereof.

Respectfully submitted:

(Sgd.) Bernardo M. Villegas

Chairman

Committee on National Economy and Patrimony

PROPOSED RESOLUTION NO. 533**RESOLUTION TO INCORPORATE IN THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY
A PROVISION ON ANCESTRAL LANDS**

Be it resolved as it is hereby resolved by the Constitutional Commission in session assembled, To incorporate in the Article on the National Economy and Patrimony of the new Constitution the following provision:

ARTICLE ____**NATIONAL ECONOMY AND PATRIMONY**

SECTION 1. The State, consistent with the provisions of this Constitution, shall guarantee the rights of indigenous communities to their ancestral lands to ensure their economic and social well-being and shall consider indigenous customary law governing proprietary rights in determining the ownership and extent of the ancestral domain. The ancestral lands shall be held in trust by the indigenous community for the benefit of their future generations.

MR. RAMA: Mr. Vice-President, I move that Commissioner Villegas be recognized for his sponsorship speech.

THE VICE-PRESIDENT: Commissioner Villegas is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER VILLEGAS

MR. VILLEGAS: Mr. Vice-President, I would like to call the attention of the body to a modified version of Committee Report No. 24. It is a corrected copy; it was modified for the bicameral legislature. This was distributed this morning. This is what we are going to use for purposes of the interpellation and amendments. The other committee report which was not changed is Committee Report No. 32 on ancestral lands.

The first two sections of the proposed Article on the National Economy and Patrimony of the nation are packed with principles that shall serve as constitutional guidelines for the various branches of the government for the promotion of the common good in the economic sphere.

Section 1 opens with a statement that "The State shall develop a self-reliant and independent national economy." Economic self-reliance is a primary objective of a developing country that is keenly aware of over-dependence on external assistance for even its most basic needs. It does not mean autarky or economic reclusion; rather, it means avoiding mendicancy in the international economic community. Independence refers to the freedom from undue foreign control of the national economy, especially in such strategic industries as in the development of natural resources and public utilities.

The three traditional goals of every national economy are then enumerated. The usual order, however, is reversed; economic growth is mentioned last, with equity being given prominence as the first objective of national economic development. The goal of reducing economic inequality is reiterated in an explicit statement of the emerging concept in social philosophy: the preferential option or love for the poor. The priority afforded to the welfare of the poor in the production of goods and services is further fully developed in a separate Article on Social Justice, which we have just approved on Second Reading — a major innovation of the new Constitution. The reference to the national product being for the benefit of the Filipino people tries to guarantee that national development efforts shall give priority to the needs of the local population rather than foreign consumers. Without unduly tying the hands of the policy-makers on the appropriate balance between production for the domestic

market and for export, this constitutional mandate takes cognizance of the fact that the Philippines is a resource-rich and populous nation in which export does not have to play as vital a role as it did in Japan, Korea or Singapore, in which production for export was given the highest priority because of the paucity of natural resources and/or the small size of the population.

Equal opportunities for all economic sectors to develop are guaranteed by the Constitution. The use of the word "optimum" suggests sufficient flexibility for policy-makers — whether in the executive or the legislative — to decide on the appropriate balance, say, between agriculture and industry at any stage of our development process.

Section 1 ends with an elucidation of the objective of equity in the distribution of wealth by articulating the ideal of a broader-based ownership of private enterprises.

MR. BENNAGEN: Mr. Vice-President.

THE VICE-PRESIDENT: Let the Chairman finish first.

MR. BENNAGEN: I think because he wants to proceed to the second section, he is through with the first section. My question has to do with the first section.

THE VICE-PRESIDENT: Is the Gentleman through with the first section?

MR. BENGZON: This is the period of sponsorship.

MR. BENNAGEN: I am sorry.

MR. VILLEGAS: Section 2 presents the twin principles on which a humane economic society is to be based: the principles of subsidiarity and solidarity. The first principle is the philosophical route of people power: what can be performed efficiently and competently by individuals and private groups should not be absorbed by higher bodies, least of all, by the State. The role that must be played by the state is a subsidiary one. It only intervenes when private initiative is helpless because of the complexity or magnitude of the problem. The principle of solidarity — more honored in the breach in the Philippines — requires individuals and private groups to deliberately contribute to the common good in the performance of their daily tasks. This principle clashes with the assumption of laissez-faire economics which overly glorifies free enterprise as the road to economic prosperity for all. Experience has shown that there is no invisible hand which automatically promotes the common good in an environment where everyone is encouraged to pursue his selfish economic interest. Although it is not necessary to constitutionalize any specific economic philosophy, the phrase "private enterprise" comes closest to the type of economy described in Section 2. The term "private" includes not only the private business sector but all private voluntary organizations such as cause-oriented groups, cooperatives, foundations and other nonprofit organizations.

Section 2 first mentions the principle of solidarity. All economic agents in the private sector shall contribute to the common good. It opens with the very timely reminder that private property as a social function cannot be considered absolute. The limitations to private property and private enterprise are reiterated in the proviso that freedom of initiative in the economic sphere shall always be subject to the duty of the state to promote distributive justice and to intervene when the common good so demands.

The Article then proceeds to restate the regalian doctrine that all natural resources belong to the state. The exploration, development and utilization of natural resources are limited to corporations at least 60 percent of the voting stock of which is owned by Filipinos. Agreements with the development of natural resources can be for as long as 50 years, a period considered long enough to attract both local and foreign capital.

An innovation of this Constitution is the special mention of small-scale utilization of natural resources; for

example, small-scale coal or gold mining as well as cooperative fish farming. Again, this focus on small-scale natural resource utilization jibes with what can be considered a distinct flavor of the 1986 Constitution — the preferential concern for the poor or the underprivileged.

In the classification of lands of the public domain, there is a return to the 1935 Constitution which limited the categories to three — agriculture, forest or timber and mineral lands. A fourth category is suggested; national parks which should be segregated from existing timber lands and preserved permanently as forests for ecological and recreational purposes. The size of agricultural lands that can be leased by private corporations is limited to a maximum of 1,000 hectares. Individual citizens can lease a maximum of 500 hectares or acquire by purchase or homestead not more than 24 hectares. These are the outer limits beyond which Congress cannot go in determining the size of lands of the public domain which may be developed, held or acquired by or leased to any qualified individual, corporation or association. All these are subject to the requirements of land reform, as contained in the provisions of the new Article on Social Justice.

The committee report continues to limit land ownership to Filipino citizens with the exception of a natural-born citizen who has lost his Philippine citizenship and who is allowed to own residential land not to exceed an area of 1,000 square meters. There were some in the Committee who disagreed with such a restrictive policy and reserved their right to introduce amendments in the plenary session. Another issue in which the Committee was divided was the question of foreign participation in the ownership of public utilities. The majority decided on increasing the minimum Filipino ownership required to 66 2/3 from the existing 60 percent.

The National Economic and Development Authority has been removed as a constitutional body and may be abolished by Congress if the need for it no longer exists. There was a consensus in the Committee that an economic planning agency should not be constitutionalized since formal economic planning is not an indispensable part of managing the national economy. However, until the legislative body provides otherwise, the existing NEDA shall function as the planning agency under the executive.

On the other hand, a central monetary authority has been retained as a constitutional body. The majority of its governing board shall not be occupying positions in the executive branch. Either they shall be representatives from the private sector or full-time members of the Monetary Board appointed by the President for a fixed term. Until the legislature provides otherwise, the Central Bank of the Philippines shall function as the central monetary authority.

Lastly, it should be mentioned that provisions on social justice and land reform have been transposed to the new Article on Social Justice. Although there is a separate Article on Social Justice, it must be stressed that the whole Article on the National Economy and Patrimony of the nation is permeated through and through by the spirit of social justice. The preferential concern for the poor is an underlying theme. This concern, however, is neither exclusive nor excluding. It is not exclusive because the poor were considered not in the narrow economic sense. Anyone who suffers privation economically, politically, culturally or spiritually is considered poor. It is neither excluding because the preferential treatment for the poor does not in any way lead to a condemnation of those who are better off in life. The common good precisely covers every single member of society and is inherently incompatible with any ideology based on class conflict or struggle. The only effective binding force of a pluralistic society is a spirit of solidarity based on both justice and love.

And finally, let me just call your attention to Committee Report No. 32 which is on the issue of ancestral lands which Commissioner Bennagen can explain in greater detail.

Thank you, Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Yes, very briefly. Thank you, Mr. Vice-President.

May I ask the Committee Chairman one clarificatory question?

MR. VILLEGAS: Yes, Mr. Vice-President.

MR. BENNAGEN: Did I hear right that the Chairman's interpretation of an independent national economy is freedom from undue foreign control? What is the meaning of undue foreign control?

MR. VILLEGAS: Undue foreign control is foreign control which sacrifices national sovereignty and the welfare of the Filipino people in the economic sphere.

MR. BENNAGEN: Why does it have to be qualified still with the word "undue"? Why not simply freedom from foreign control? I think that is the meaning of independence, because as phrased, it still allows for foreign control.

MR. VILLEGAS: It will now depend on the interpretation because if, for example, we retain the 60/40 possibility in the cultivation of natural resources, 40 percent involves some control; not total control, but some control.

MR. BENNAGEN: In any case, I think in due time we will propose some amendments.

MR. VILLEGAS: Yes. But we will be open to an improvement of the phraseology.

MR. BENNAGEN: Yes.

Thank you, Mr. Vice-President.

THE VICE-PRESIDENT: Is there any other interpellator?

MR. RAMA: Mr. Vice-President, it is the general sentiment of the body that the period of interpellations should be limited to two sessions — morning and afternoon. This is also the sentiment of the Chairman of the Committee on Rules, so I move that this sentiment be approved by the body, that the interpellation should be limited to two sessions.

THE VICE-PRESIDENT: Is there any objection to the motion that the interpellations on this Article be limited to two sessions?

MR. BENGZON: Mr. Vice-President.

MR. RAMA: Commissioner Bengzon would like to be recognized.

THE VICE-PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: It would not really be fair both to the Committee and to the Commissioners if we apply this motion this morning because we already lost two hours. I mean, the Committee has already lost two hours. So, I suggest that perhaps we start this rule, if ever, beginning this afternoon.

MR. RAMA: I accept the amendment.

THE VICE-PRESIDENT: Anyway, we proceed with the interpellations. There might not be as many interpellators as sometimes we expect. We might be able to terminate the period of interpellations within or early tomorrow morning. Why do we not just continue the interpellations now and then consider the motion this afternoon, in case we find that there are too many interpellators?

MR. RAMA: That is fine, Mr. Vice-President. I ask that Commissioner Nollado be recognized to interpellate.

THE VICE-PRESIDENT: Commissioner Nolleddo is recognized.

MR. NOLLEDO: Thank you, Mr. Vice-President. Will the Committee Chairman please yield to some questions?

MR. VILLEGAS: Very gladly.

MR. NOLLEDO: Thank you.

On page 2, line 10, I would like to know the meaning of the term "full control." In political law, when we talk of control, an authority can supersede the decision of a lower authority. Does it apply to this situation?

MR. VILLEGAS: That proceeds from the statement that all natural resources are owned by the State. And so, that full control is deducted from the fact that these resources belong to the State. But then the State can, of course, delegate some part of that control through lease of those that can be alienated.

MR. NOLLEDO: Suppose a juridical entity is given the power to exploit natural resources and, of course, there are decisions made by the governing board of that juridical entity, can the State change the decisions of the governing board of that entity based on the words "full control"?

MR. VILLEGAS: If it is within the context of the contract, I think the State cannot violate the laws of the land.

MR. NOLLEDO: In relation to line 23, with reference to the words "Filipino citizens," disregarding the word "cooperative" since that is self-explanatory, do I understand it right that when we say that Congress may by law allow small-scale utilization of natural resources, the same must be done only by individual Filipino citizens or by entities controlled by Filipino citizens?

MR. VILLEGAS: I think the spirit of the Committee is that since this is small-scale, it should refer to single proprietorships and, therefore, to individuals. Examples are what they call "camote mining" in the coal mines of Cebu.

MR. NOLLEDO: With respect to line 29, I spoke about this before the Rotarians of Makati, and they asked me if I can convey to the Commission their query which is: "What do you mean by the term 'large-scale exploration, development,' etc.?" Is the term "large-scale" within a particular area or particular region, or in the light of the entire country?

MR. VILLEGAS: The term "large-scale" usually refers to very capital-intensive activities like, for example, petroleum mining, copper mining, et cetera. It refers to the requirement for capital.

MR. NOLLEDO: Is capital the only factor that should be considered or is it the economic importance? If an entity, for example, will export products that will contribute to the national economy, will the Commissioner consider that large-scale also?

MR. VILLEGAS: Definitely, yes.

MR. NOLLEDO: In Sections 3, 9 and 15, the Committee stated local or Filipino equity and foreign equity; namely, 60-40 in Section 3, 60-40 in Section 9, and 2/3-1/3 in Section 15.

MR. VILLEGAS: That is right.

MR. NOLLEDO: In teaching law, we are always faced with this question: "Where do we base the equity requirement, is it on the authorized capital stock, on the subscribed capital stock, or on the paid-up capital stock of a corporation"? Will the Committee please enlighten me on this?

MR. VILLEGAS: We have just had a long discussion with the members of the team from the UP Law Center who

provided us a draft. The phrase that is contained here which we adopted from the UP draft is "60 percent of voting stock."

MR. NOLLEDO: That must be based on the subscribed capital stock, because unless declared delinquent, unpaid capital stock shall be entitled to vote.

MR. VILLEGAS: That is right.

MR. NOLLEDO: Thank you.

With respect to an investment by one corporation in another corporation, say, a corporation with 60-40 percent equity invests in another corporation which is permitted by the Corporation Code, does the Committee adopt the grandfather rule?

MR. VILLEGAS: Yes, that is the understanding of the Committee.

MR. NOLLEDO: Therefore, we need additional Filipino capital?

MR. VILLEGAS: Yes.

MR. NOLLEDO: This is with respect to Section 7 on page 3. We know that all Members of the Commission received telegrams from Filipino doctors of medicine, who have embraced American citizenship and are now residing in the United States, asking us to reconsider this report. What is the reaction of the Committee? They wanted to delete "1,000 sq.m." and possibly leave the determination of the area to Congress. So they would like the provision to read: "Notwithstanding the provisions of Section 6 of this Article, a natural-born citizen of the Philippines who has lost his Philippine citizenship may be a transferee of private lands solely for residential purposes, AS DETERMINED BY LAW."

Is the Committee amenable to that amendment?

MR. VILLEGAS: As I said in the sponsorship speech, the Committee was divided on this issue so we are open to amendments on this specific question.

MR. NOLLEDO: I filed a resolution on idle lands. We will remember that the honorable Chairman of this Committee and I went to Butuan City and there the people told us that there are vast tracts of idle or abandoned lands in Mindanao. Has the Committee adopted any provision on how to deal with such idle lands?

MR. VILLEGAS: We considered that as implied by the statement that all these provisions are subject to the requirements of land reform as suggested in the Article on Social Justice. So we would leave that to Congress to decide on the basis of all the principles articulated in the Article on Social Justice.

MR. NOLLEDO: Thank you, Mr. Vice-President; and I also thank the Chairman of the Committee.

MR. VILLEGAS: Thank you.

MR. RAMA: Mr. Vice-President, I ask that Commissioner Azcuna be recognized.

THE VICE-PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Mr. Vice-President.

Will the Committee yield to a few clarificatory questions?

MR. VILLEGAS: Yes.

MR. AZCUNA: Page 4, Section 8, lines 7 and 8 thereof, states that the NEDA shall function as the independent

planning agency of the government. Would it not be better if the NEDA is not independent, but rather should follow the socioeconomic thinking of the executive branch?

MR. VILLEGAS: Yes. That is really the meaning so we are open to a rephrasing. The NEDA is independent of Congress but it is under the executive branch. It is under the Office of the President, but probably that can be clarified.

MR. AZCUNA: With respect to Section 14 on page 5, regarding combinations in restraint of trade, would it not be better to limit this to domestic trade so as not to prevent the State when it deems it necessary to form cartels for its export products as retaliatory measures against predatory trade practices of foreign countries?

MR. VILLEGAS: Actually the reason the first sentence talks about monopolies in general is that in the 1973 Constitution, the reference was only to private monopolies. So the State shall regulate or prohibit monopolies when the public interest so requires. The implication is that State monopolies may be actually organized but they should be regulated for the common good. So, the possibility of State monopolies being organized is considered here.

MR. AZCUNA: With respect to the phrase "The State may . . . operate vital industries" found on Section 12, is there no need to define these "vital industries" to forewarn the private sector that if they go into these fields they may be taken over?

MR. VILLEGAS: We think that determination should be left to Congress because there is so much dynamism in technology that, for example, notwithstanding a whole discussion centered on how vital telecommunications and related industries are, still, it was difficult for the body to decide on which are vital industries. So that is better left to legislation.

MR. AZCUNA: That is all.

MR. VILLEGAS: Commissioner Bengzon would like to say something.

MR. BENGZON: Besides, that is preceded by the phrase "people's security against external aggression."

MR. AZCUNA: That is all; I thank the Committee.

Thank you, Mr. Vice-President.

MR. RAMA: Mr. Vice-President, I ask that Commissioner de los Reyes be recognized.

THE VICE-PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Mr. Vice-President, will the Committee yield to a few questions?

MR. VILLEGAS: Yes.

MR. DE LOS REYES: On lines 18 to 24, Section 3 of Committee Report No. 24, mention is made of fisheries and granting fishery rights stating that the "beneficial use may be the measure and limit of the grant." And then, it also says:

Congress may by law allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming in rivers, lakes, bays, and lagoons.

Are we to understand that this should be interpreted also in relation to Section 7 of the Article on Social Justice, meaning, that no fisheries right shall be granted to anyone within the communal marine and fishing resources?

MR. VILLEGAS: Definitely, that should be taken in that context.

MR. DE LOS REYES: Does the phrase "small-scale utilization of natural resources" also refer to small-scale cooperative fish farming?

MR. VILLEGAS: Yes.

MR. DE LOS REYES: Are preferential rights always given to subsistence fishermen? Is that the correct interpretation?

MR. VILLEGAS: Yes.

MR. DE LOS REYES: The committee report enumerated Resolution No. 432, authored by this Member and Commissioners Maambong, Ople, and Natividad; and Resolution No. 412, authored by Commissioner Rosario Braid, limiting the practice in the Philippines of the various professions to Filipino professionals. I do not see any proposal on the matter in this committee report. May we know why? Were these rejected by the Committee or were these referred to another committee?

MR. VILLEGAS: They were referred to the Committee on General Provisions.

MR. DE LOS REYES: So, they were not totally rejected but referred to another committee?

MR. VILLEGAS: Yes.

MR. DE LOS REYES: Was the referral with a favorable endorsement as to whether to adopt them or to be completely silent about them?

MR. VILLEGAS: Commissioner Rosario Braid will answer the question.

THE VICE-PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: To set the records straight, I am afraid those proposals were never sent nor referred to our Committee. So they must have been lost on the way.

MR. DE LOS REYES: Thank you.

MR. VILLEGAS: We will be willing to entertain amendments on the specific issue.

MR. DE LOS REYES: I thank the Chairman of the Committee, the Floor Leader and the Vice-President.

THE VICE-PRESIDENT: May we know the next interpellator?

MR. RAMA: Commissioner Rodrigo would like to be recognized.

THE VICE-PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Mr. Vice-President, just a question or two to Commissioner Bennagen regarding Committee Report No. 32.

The last sentence of this report reads:

The ancestral lands shall be held in trust by the indigenous community for the benefit of their future generations.

The phrase "in trust" means ownership cannot be given to anybody. Is that right?

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Yes, not to individuals outside the community.

MR. RODRIGO: Not to individuals outside the community but how about individuals within the community? Can they own?

MR. BENNAGEN: Yes. It accepts a wider range of ownership from individuals to groups of families and then to the community.

MR. RODRIGO: So, it is possible that in time, all these ancestral lands might be owned individually by members of the community?

MR. BENNAGEN: Historically that has not taken place and we do not see it as taking place, unless there is some radical change in the social system.

MR. RODRIGO: But is there a constitutional prohibition in this proposed Article or section to safeguard these ancestral lands so that they will remain "in trust" for the whole community, instead of being owned individually?

MR. BENNAGEN: The spirit of the provision is towards that effect — that the ancestral lands should never evolve to every individual member but should be kept in perpetuity for the community while recognizing the minor variations in ownership because certain types of lands could be owned individually while other types could be owned by families or by groups of families or clans.

MR. RODRIGO: I ask this because there seems to be an inconsistency — if not contradiction — between the previous sentence and this last sentence.

The last sentence reads: "The ancestral lands shall be held in trust by the indigenous community . . ." while the preceding sentence states that the indigenous customary laws governing proprietary rights determine the ownership and extent of the ancestral domain. Which will prevail, the last sentence which states that these ancestral lands should be held merely "in trust," or the preceding sentence which says that there can be "proprietary rights" and "ownership" over these lands?

MR. BENNAGEN: This seems inconsistent because when the previous part speaks of proprietary rights, it includes those whole range of rights which I mentioned earlier but still within the framework of that particular community.

MR. RODRIGO: Thank you very much.

MR. RAMA: Mr. Vice-President, I would like to ask the Committee a few questions.

MR. VILLEGAS: Yes.

THE VICE-PRESIDENT: Commissioner Rama is recognized.

MR. RAMA: Section 14 states: "The State shall regulate or prohibit monopolies when the public interest so requires." I have heard the Chairman say that this would not prohibit the State to set up monopolies for the common good.

MR. VILLEGAS: That is right.

MR. RAMA: I was thinking, for instance, of the procedure or the system in Japan where tobacco is the monopoly of the State and serves substantially the common good and its revenues form a substantial part of the budget of the Japanese government.

Therefore, the monopoly on tobacco is a desirable monopoly; first, it is hazardous to health; and second, the State converts this kind of industry into something that benefits the country. On the other hand, although the statement has been made by the Chairman that this would not prohibit the State from setting up monopolies, the second

sentence in Section 14 seems to contradict that statement because it states: "No combinations in restraint of trade or unfair competition shall be allowed." It is addressed to both the State and the private sector. So, does the Commissioner think that there should be some kind of a phrase here that would allow the government or the State to set up monopolies that would serve the common good?

MR. VILLEGAS: The second sentence is interpreted in the context of the antitrust legislation or the jurisprudence on antitrust legislation, for example, in the United States, to the extent that combinations in restraint of trade or unfair competition actually prejudice the consumers and the people. Then that is where the law comes in. But precisely, there are certain monopolies which actually favor the consumers because of the economies of scale since we do not have unnecessary duplication of resources. However, these types of monopolies have to be regulated.

MR. RAMA: But this will not prohibit the State from setting up monopolies for the common good?

MR. VILLEGAS: It will not.

MR. RAMA: Thank you, Mr. Chairman.

Mr. Vice-President, may I ask that Commissioner Tingson be recognized.

THE VICE-PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: May I ask the Chairman of the Committee some questions?

MR. VILLEGAS: Gladly.

MR. TINGSON: Mr. Chairman and members of the Committee, we Filipinos are very much concerned about our denuded forests so much so when experts say that within the next 10 years or less, we might become a Sahara Desert here in the Philippines. Has the Committee at all considered the possibility of, say, a ten-year or twenty-year logging ban on endangered forest lands, except probably for building materials that we might need for domestic purposes in our country? Has the Committee considered that?

MR. VILLEGAS: Definitely. In fact, the provision on Section 5 is all about the forest limits being determined by law and not being diminished. Actually, there is an additional category of national parks which would not even permit any logging whatsoever in perpetuity. So that is definitely the spirit of Section 5.

MR. TINGSON: Our sad experience is that when something like this is left for the implementation by Congress or by the lawmaking body, then a good number of politicians with self-aggrandizing purposes would work against the welfare of our country and this has actually happened. I am just wondering if it would not be better for us to state a certain period here, upon ratification of this Constitution, that there will be a complete logging ban on endangered forest lands, say, 10 years or so. Would the Committee consider an amendment along that line?

MR. VILLEGAS: We will definitely consider an amendment, but let me just give the Commissioner the results of the public hearings we had. According to the people from the forestry sector, there are so many technical issues involved here. An example is to determine what areas should be considered as forests in perpetuity; what types of trees should be planted; or whether or not ecological considerations can also be complied with for some fast-growing trees like Albiccia Falcata, Acacia Mangium and others. There are just so many technical questions involved in reforestation that we do not think the Commission has the time nor the resources to actually make very explicit statements about forest policies.

MR. TINGSON: I agree with the Commissioner, except that probably, it would be feasible to state some kind of a time limit there. I have filed a resolution along that line, and I am now asking for technical data from our Minister

of Natural Resources, Minister Maceda, for my amendment later on.

My second question is this: The Filipino nationals abroad who are able and willing to help develop our country have lost their Philippine citizenship. We are aware of the fact that many of our countrymen in the United States cannot work there as practicing physicians or doctors unless they become citizens of the country, and yet their hearts really are still with us. They do not want to forget the Philippines altogether. As a matter of fact, they do send quite a goodly amount of their dollar earnings from America to help develop our country. Would the Committee earnestly look into the possibility of giving these countrymen of ours, many of whom still count themselves really as Filipinos by heart, a greater participation in the development of our national economy? Section 1 states that we should be self-reliant and independent in the development of our national economy. I suppose the Commissioner would like to say that as much as possible we will not borrow from abroad. Let us see what we can do with our own indigenous ability here as Filipinos to develop our country. Am I right in looking at it that way?

MR. VILLEGAS: We would welcome an amendment along that line. If the Commissioner wants to go beyond that 1,000 square meters, that can be considered.

MR. TINGSON: I appreciate that very much. My last question is in relation to Section 4 which states:

The Congress, taking into account conservation, ecological, and developmental requirements of the natural resources, shall determine by law the size of lands of the public domain which may be developed, held or acquired by, or leased to, any qualified individual, corporation, or association, and the conditions therefor. The foregoing shall be subject to the requirements of agrarian reform.

After having itinerated in this country of ours for a good number of years in my capacity as an evangelist and a Filipino who loves to see his country develop to the maximum, and with a feeling of gratitude to people like those of the various churches, nonprofit corporations such as schools and colleges, say, in Mindanao, I found out that they have somehow acquired the privilege of occupying certain pieces of land which happen to be public domain. They have been there for the last 20 years or so, yet they have not been allowed to purchase even just 2,000 square meters of land so that they could continue operating there. In due time, would it be possible for the Committee to probably consider an amendment along that line?

MR. VILLEGAS: I do not see the problem being described by the honorable Commissioner. If the lands are alienable, then there is no reason why private groups cannot purchase lands within this 24-hectare limit.

MR. TINGSON: These lands belong to the public domain.

The committee report says, ". . . the size of lands of the public domain which may be developed, held or acquired by." I am just wondering whether that also refers to churches, schools and nonprofit entities. Would they be within what we call here "qualified individuals, corporations or associations"?

MR. VILLEGAS: If we go to line 5, probably that is the part that is more relevant. Line 5 of Section 4 states:

No private corporation or association may hold alienable lands of the public domain except by lease, not to exceed one thousand hectares in area; nor may any citizen hold such lands by lease in excess of five hundred hectares or acquire by purchase or homestead in excess of twenty-four hectares.

Is that what the Commissioner would like to amend?

MR. TINGSON: I will write out what I have in mind and I will confer with the Committee.

Thank you very much.

MR. VILLEGAS: Thank you.

THE VICE-PRESIDENT: Commissioner Maambong, the Acting Floor Leader, is recognized.

MR. MAAMBONG: I ask that Commissioner Davide be recognized for his interpellations.

THE VICE-PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Vice-President. I would like to seek some clarifications.

MR. VILLEGAS: Yes.

MR. DAVIDE: Under the proposal, I notice that except for the lands of the public domain, all the other natural resources cannot be alienated and in respect to lands of the public domain, private corporations with the required ownership by Filipino citizens can only lease the same. Necessarily, insofar as other natural resources are concerned, it would only be the State which can exploit, develop, explore and utilize the same. However, the State may enter into a joint venture, coproduction or production-sharing. Is that not correct?

MR. VILLEGAS: Yes.

MR. DAVIDE: Consequently, henceforth upon the approval of this Constitution, no timber or forest concessions, permits or authorization can be exclusively granted to any citizen of the Philippines nor to any corporation qualified to acquire lands of the public domain?

MR. VILLEGAS: Would Commissioner Monsod like to comment on that? I think his answer is "yes."

MR. DAVIDE: So, what will happen now to licenses or concessions earlier granted by the Philippine government to private corporations or to Filipino citizens? Would they be deemed repealed?

MR. VILLEGAS: This is not applied retroactively. They will be respected.

MR. DAVIDE: In effect, they will be deemed repealed?

MR. VILLEGAS: No.

MR. DAVIDE: Thank you for that information. I will go to another point. Insofar as fisheries is concerned, it is provided in the proposed Section 3 that the legislature may by law allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming in rivers, lakes, bays and lagoons. Must this be construed to be subject to the preferential rights we had earlier granted to the marginal fishermen?

MR. VILLEGAS: Yes.

MR. DAVIDE: Section 11 touches on the formation, organization, or regulation of private corporations. As worded it will now read: "The Congress may, by general law, provide for the formation organization, or regulation of private corporations." In both the 1935 and 1973 Constitutions, the language used was "shall not, except by general law." May we know the difference?

MR. VILLEGAS: Actually, after discussing this specific section with the UP Law group, we were open to going back to the old statement.

MR. DAVIDE: We have to go back to the old statement, otherwise it would be interpreted to mean that these corporations can be organized by whatever means.

MR. VILLEGAS: That is right. Commissioner Suarez can clarify this.

MR. SUAREZ: Mr. Vice-President, when this matter was discussed with the members of the UP Law Center,

precisely, the point raised by the Commissioner was taken up. It could mean that there will be a proliferation of corporations which may be violative of this particular Section 11.

MR. DAVIDE: Another point is that government-owned or controlled corporations can no longer be organized under that general law. So, government-owned or controlled corporations under this present proposal will have to be organized by means of special charters?

MR. SUAREZ: That is right.

MR. DAVIDE: And also their subsidiaries? Or may subsidiaries of government-owned or controlled corporations be organized under the general corporation law?

MR. SUAREZ: In the matter of subsidiaries, no; under the general corporation law.

MR. DAVIDE: In effect, would these subsidiaries of government-owned or controlled corporations become private corporations if they are to be organized under the law?

MR. SUAREZ: In effect, yes.

MR. DAVIDE: Yet it might collide with certain provisions we approved earlier, especially the matter of prohibition of government officials and employees which would include government-owned or controlled corporations and their subsidiaries.

MR. SUAREZ: That was the meaning of the exercise with the UP Law Center group — to provide for all these safeguards, taking into consideration all the other provisions that had already been approved by the Commission.

MR. DAVIDE: For instance, in the Article on the Constitutional Commissions and Agencies and in some of the prohibitions against public officers and employees, we would include public officers or employees in government-owned or controlled corporations with charters and their subsidiaries. So, shall we not also compel the creation or establishment of subsidiaries of government-owned and controlled corporations under a charter and not under the general corporation law?

MR. SUAREZ: By a special law.

MR. DAVIDE: It must be under a special law, otherwise we will convert a subsidiary into a private corporation.

MR. SUAREZ: There is logic in the Commissioner's presentation of this problem. The Committee will consider that at the proper time.

MR. DAVIDE: Another point is that since it is now to be mandated that government-owned and controlled corporations will have to be organized not under the general law on corporations but by special charters, what will happen to existing government-owned and controlled corporations organized under the corporation law?

MR. VILLEGAS: Commissioner Monsod will answer that.

MR. MONSOD: I believe we have to make a distinction here. Under Section 11, the proposal of the Committee is that government-owned or controlled corporations need not be by original charter. I think that is the intent of the Committee. There are government-owned or controlled corporations that were organized under original charters and there are those that were organized under the general corporation law. It is not the intent of the Committee under Section 11 that from now on all government-owned and controlled corporations should be organized under original charters.

MR. DAVIDE: With that clarification, would government-owned and controlled corporations organized under the corporation law be considered private corporations?

MR. MONSOD: Yes. As a matter of fact, if the Commissioner recalls in the previous provisions we have approved, there were sections in which we made a distinction between government corporations under original charters and government corporations and subsidiaries under the corporation law, particularly in the provision on the civil service.

MR. DAVIDE: Would it not open the floodgates to a circumvention of our doctrine of a public office as a public trust, including therein government-owned and controlled corporations because henceforth the government could circumvent it by merely organizing supposedly a government corporation under the corporation law and the outcome will be a private corporation?

MR. MONSOD: I believe the position of the Committee is that Congress should make a distinction at that time between a corporation performing government functions and a corporation performing proprietary or business functions. And there is a time during which such distinction can be made when corporations are being suggested for establishment.

MR. DAVIDE: So we will leave it to Congress to determine whether the organization of a government-owned and controlled corporation to exercise governmental functions should be by special charter, or whether if it is to exercise proprietary functions, it should be within the general law on corporation.

MR. MONSOD: That is up to the judgment and discretion of Congress.

MR. DAVIDE: I will go to another point.

Under Section 15 on franchise, certificate, or any other form of authorization for the operation of a public utility, we notice that the restriction, provided in the 1973 Constitution that it should not be exclusive in character, is no longer provided. Therefore, a franchise, certificate or any form of authorization for the operation of a public utility may be exclusive in character.

MR. VILLEGAS: I think, yes.

MR. DAVIDE: It may be "yes." But would it not violate precisely the thrust against monopolies?

MR. VILLEGAS: The question is, we do not include the provision about the franchise being exclusive in character.

MR. SUAREZ: This matter was taken up during the Committee meetings. The example of the public utility given was the MERALCO. If there is a proliferation of public utilities engaged in the servicing of the needs of the public for electric current, this may lead to more problems for the nation. That is why the Commissioner is correct in saying that that will constitute an exemption to the general rule that there must be no monopoly of any kind, but it could be operative in the case of public utilities.

MR. DAVIDE: Does not the Commissioner believe that the other side of the coin may also be conducive to more keen competition and better public service?

MR. SUAREZ: The Commissioner may be right.

MR. DAVIDE: Does not the Commissioner believe that we should restore the qualification that it should not be exclusive in character?

MR. SUAREZ: In other words, under the Commissioner's proposal, Metro Manila, for example, could be serviced by two or more public utilities similar to or identical with what MERALCO is giving to the public?

MR. DAVIDE: That is correct.

MR. SUAREZ: The Commissioner feels that that may create or generate improvement in the services?

MR. DAVIDE: Yes, because if we now allow an exclusive grant of a franchise, that might not be conducive to public service.

MR. SUAREZ: We will consider that in the committee level.

MR. MONSOD: With the Commissioner's permission, may I just amplify this.

MR. VILLEGAS: Commissioner Monsod would like to make a clarification.

MR. MONSOD: I believe the Commissioner is addressing himself to a situation where it lends itself to more than one franchise. For example, electric power, it is possible that within a single grid, we may have different distribution companies. So the Commissioner is right in that sense that perhaps in some situations, nonexclusivity may be good for the public. But in the case of power generation, this may be a natural activity that can only be generated by one company, in which case, prohibiting exclusive franchise may not be in the public interest.

MR. DAVIDE: The point is that we should leave it to Congress to determine what would be the extent and scope of a particular franchise. But as worded now, we do not embody into a particular franchise, certificate or authority the inherent nonexclusive character of the same.

Another point I would like to clarify is in the same section. Section 15 does not provide for a maximum period or the lifetime of the franchise, authority or certificate. May we know the reason?

MR. VILLEGAS: Regarding the length, again we would leave that to Congress because there are so many conditions in different public utilities that we cannot determine right now.

MR. SUAREZ: May we point out again the things that were brought up during the Committee meetings. Let us take the case of MERALCO. If MERALCO will be given a franchise for, say, 50 years, what will happen after the expiration of the franchise? There will be a dismantling of the services being furnished by MERALCO and the public may thereby be prejudiced. That is why we in the Committee felt that the duration of the franchise should be left to Congress. We could not simply limit it to, say, 25 years renewable for another 25 years.

MR. DAVIDE: In the other portion of the proposal, when it comes to water rights, the extent of the use would be the governing principle. But here I believe the Constitution itself must fix a certain limit, but allowing Congress to allow a renewal; the phrase "renewable for another 25 years" was the wording of the 1973 Constitution. So, we will not grant perpetual right to a particular entity.

MR. SUAREZ: What we are saying is that under Section 15, we are dealing with public utilities. There may be a point to what the Commissioner is bringing up, but that was the sense that was elevated in the committee level.

MR. DAVIDE: Finally on Section 14. There is no qualification anymore as to the nature of the monopoly, unlike that in the 1935 and 1973 Constitutions where private monopolies are the ones prohibited. But in Section 14, the word "private" no longer appears. May we know the justification of the Committee because I remember that the Committee, in answer to a question of Commissioner Rama, admitted that the government may still have a monopoly.

MR. SUAREZ: That is right.

MR. DAVIDE: But here, with the deletion of the word "private," it would mean that neither private nor public entity can have monopoly.

MR. VILLEGAS: No. The Commissioner should please take a look at the two verbs "regulate or prohibit." When

the word "regulate" was inserted, that means that there can be monopolies as long as they are regulated.

MR. DAVIDE: Yes, they may be allowed but regulated. But when it comes to prohibition, because the State is given an option, it can either be absolute prohibition or partial prohibition in the sense that that is part of regulation?

MR. VILLEGAS: That is right.

MR. DAVIDE: When the Committee deleted the word "private," does it mean that government can be prohibited to engage in a monopoly?

MR. VILLEGAS: Definitely yes, because there were so many cases under the Marcos regime where certain government monopolies were completely against public interest and, therefore, there should have been a prohibition against those kinds of government monopolies.

MR. DAVIDE: If the idea is really to promote the private sector, may we not provide here that the government can, in no case, practice monopoly except in certain areas?

MR. VILLEGAS: No, because in the economic field there are definitely areas where the State can intervene and can actually get involved in monopolies for the public good.

MR. DAVIDE: Yes, we have provisions here allowing such a monopoly in times of national emergency.

MR. VILLEGAS: Not even in emergency; for the continuing welfare of consumers.

MR. MONSOD: May we just make a distinction? As we know, there are natural monopolies or what we call "structural monopolies." Structural monopolies are monopolies not by the nature of their activities, like electric power, for example, but by the nature of the market. There may be instances where the market has not developed to such an extent that it will only allow, say, one steel company. Structural monopoly is not by the nature of the business itself. It is possible under these circumstances that the State may be the appropriate vehicle for such a monopoly.

MR. DAVIDE: Thank you very much, Mr. Vice-President, members and Chairman of the Committee.

MR. VILLEGAS: Thank you.

MR. MAAMBONG: Mr. Vice-President, I ask that Commissioner Colayco be recognized.

THE VICE-PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Mr. Vice-President.

I would like to ask some questions on Section 8, page 4. Under this section, the President shall recommend to Congress an integrated and coordinated approach to national development with prior consultation with public agencies and the private sector. May I know to what particular persons or professions the phrase "private sector" refers?

MR. VILLEGAS: May Commissioner Monsod answer that.

MR. MONSOD: I guess that should be read in the context of the different private sectors that have an interest or relevance to the plan involved. Let us say that it is the industrial plan of the government, then there should be capital, labor, suppliers and so on. I guess this should be read that people without any interest in or relevance to that plan should not be consulted.

MR. COLAYCO: I hope Commissioner Monsod will not consider this question personal. Would the

Commissioner have any idea on whether the decision of Minister Solita Monsod regarding importation was reached after consultation with the private sector, especially with the businessmen?

MR. MONSOD: As far as I know from reading the papers, the appropriate consultations were made with the sectors that are affected by such policies.

MR. COLAYCO: But the Commissioner will notice that Minister Concepcion, whose ministry is directly affected by the policy, is against it. I wonder if he was consulted here.

MR. VILLEGAS: I can assure the Commissioner that he was consulted.

MR. COLAYCO: The Chairman mentioned the National Economic and Development Authority as an independent planning agency of the government. I suppose that decision was formulated by the NEDA, of which Minister Monsod is the head. Am I correct?

MR. MONSOD: I believe that the word "independent" here, as we answered Commissioner Azcuna, was meant to be independent of the legislature because the NEDA under the present law is under the Office of the President.

MR. COLAYCO: Yes. In other words, the members of that agency are appointed by the President?

MR. VILLEGAS: That is right.

MR. MONSOD: Yes.

MR. VILLEGAS: The President heads the NEDA.

MR. MONSOD: The President is the Chairman of the NEDA.

MR. COLAYCO: Yes. Section 10 of the committee report recommends that the majority of the central monetary authority be appointed from the private sector. My question is addressed to both the Chairman and Commissioner Monsod: Would the Committee advise this composition with reference to the NEDA?

MR. VILLEGAS: Yes.

MR. MONSOD: During the Committee hearings, there were proposals to change the composition of the governing body not only of the Monetary Board but also of the NEDA. That is why if we notice in this Article, we did not constitutionalize the NEDA anymore unlike in the 1973 Constitution. We are leaving it up to Congress to determine whether or not the NEDA is needed later on. The idea of the Committee is that if we are going for less government and more private sector initiative, later on it may not be necessary to have a planning agency. Thus, it may not be necessary to constitutionalize a planning agency anymore.

So this provision leaves room for the legislature not only to revise the composition of the governing body, but also to remove the NEDA once it is no longer needed in its judgment.

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

Thank you.

MR. VILLEGAS: Thank you.

MR. MAAMBONG: I ask that Commissioner Rosario Braid be recognized for her interpellations.

THE VICE-PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Mr. Vice-President, I wish to raise some questions on some provisions which did not explicitly express my concern, and it is the need to look at economic development within the international

economic order. My views are premised on the fact that although we have made considerable progress in various areas of national development, this could be negated by the inequitable international trade and other factors linked to the economic order. I would hope that during the period of amendments, I may propose the need for the country to cooperate with other Third World countries in working towards more equitable international trade relationships as a matter of economic policy. This would, therefore, move towards South-South trade and preferential trade schemes among developing countries. The latter could cooperate in the production and consumption of appropriate goods and technology.

This would also relate to the problem of technology transfer and attendant effect such as dependency. This would mean coming up with more equitable provisions in terms of technology transfer agreements. Putting more muscle to the existing boards which govern technology transfer like the Technology Transfer Board and other departments under the Ministry of Trade would be examples in the operationalization of these provisions. This would lead to desirable ends such as the strengthening of indigenous technological capacity and the wider participation of people in economic planning. This supports our concern in local government about decentralized administrative systems and the support for voluntary organizations and participation of mass-based, nongovernment agencies in economic planning.

My other concern is that of including airwaves and radio frequencies in the section on natural resources. We had an agreement that in the case of ownership of telecommunications systems, this was going to be transferred to the Article on General Provisions but our resolution on airwaves, coauthored with Commissioner Bacani, would be included in the Article on National Economy and Patrimony.

In summary, my concerns are the need to cooperate with Third World countries in the transformation of the world system in trade and technology transfer, the wider participation of people in economic planning and the partnership of government with nongovernment and voluntary associations, and the airwaves as part of the Article on National Economy and Patrimony.

Thank You, Mr. Vice-President.

MR. VILLEGAS: We have fully deliberated on the question of airwaves and there are two conclusions: First, air space is already included in the provision on natural resources and that was considered to be sufficient because from all the testimonies that we had, the technological complexities of airwaves were such that they were open to so many disputes as to how the country could control the airwaves.

MR. MAAMBONG: Mr. Vice-President, I ask that Commissioner Bernas be recognized for his interpellation.

THE VICE-PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Mr. Vice-President, my questions have reference to page 3, line 5 which says:

No private corporation or association may hold alienable lands of the public domain except by lease, not to exceed one thousand hectares in area.

If we recall, this provision did not exist under the 1935 Constitution, but this was introduced in the 1973 Constitution. In effect, it prohibits private corporations from acquiring alienable public lands. But it has not been very clear in jurisprudence what the reason for this is. In some of the cases decided in 1982 and 1983, it was indicated that the purpose of this is to prevent large landholdings. Is that the intent of this provision?

MR. VILLEGAS: I think that is the spirit of the provision.

FR. BERNAS: In existing decisions involving the Iglesia ni Cristo, there were instances where the Iglesia ni Cristo was not allowed to acquire a mere 313-square meter land where a chapel stood because the Supreme Court

said it would be in violation of this.

MR. VILLEGAS: That is right.

FR. BERNAS: So, I wonder if something can be done here.

MR. VILLEGAS: Yes, along the lines of the decision.

FR. BERNAS: The other problem with this is that the prohibition applies to lands of the public domain. So, a very important point is: When does the land of the public domain become land of the private domain, or cease to be land of the public domain? It seems that there are conflicting decisions on this. One decision says that the public land ceases to be public land only when the title is issued. Another decision seems to indicate that public land ceases to be public land when all the requirements for the acquisition of the public land have been fulfilled, even prior to the physical issuance of the title. Was there any attempt to determine this?

MR. VILLEGAS: None. That was not brought up in the Committee meetings, but we would be open to any suggestion on how to make further refinements on this specific provision.

FR. BERNAS: Thank you.

MR. COLAYCO: Mr. Vice-President, may I react to that question?

THE VICE-PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: The Land Registration Act provides that the President may, from time to time, declare certain parcels of public land open for private acquisition, if I am not mistaken.

FR. BERNAS: Such a provision would be in violation of this because a declaration of the President would only have, at most, the level of a statutory act. The President, certainly, cannot contravene what our Constitution says.

MR. COLAYCO: I know, but that has been the practice until now.

FR. BERNAS: The problem has not been with that, but the problem was more on determining whether this particular land has, in fact, already become private and, therefore, could be acquired by a corporation. As far as private individuals are concerned, they can acquire alienable public lands, but private corporations cannot. That is why Commissioner Tingson was asking about schools, nonprofit institutions, for instance, which are prohibited from acquiring alienable public land because they are corporations. So, perhaps, the Committee might entertain an amendment that will give exemptions for nonprofit purposes.

MR. VILLEGAS: Yes, and I would like to point out also that probably President Marcos had tremendous leeway for declaring public lands alienable, because Section 10, Article XIV of the 1973 Constitution states that lands of the public domain are classified into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands and that gave him a lot of elbowroom. That is why we are suggesting that we go back to the 1935 definition with the exception of national parks.

MR. MAAMBONG: Mr. Vice-President, I now ask that Commissioner Gascon be recognized for his interpellation.

THE VICE-PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Thank you.

I would like to ask some questions of the Committee with regard to some clarifications.

Section 1 defines very clearly the goals of our economy and the preferences. I would like to highlight line 13

which says:

. . . with priority to the welfare of the poor. In the attainment of these goals, all economic sectors shall be given optimum opportunity to develop and a broader-based ownership of private enterprises shall be encouraged.

Does such provision provide for a democratization of access to natural resources? It is a known fact that if we provide openness to opportunities, those who have more tend to get more, but those who have less tend to accumulate less because of the competition involved where the stronger always gets better off than the weaker. So in that context, do we have any assurances of some form of a democratization of access to natural resources whereby the weaker, let us say, entrepreneurs, small businessmen, etc., will have greater opportunities to avail of the provisions in this section?

MR. VILLEGAS: I think the answer to the question is "yes." First of all, the very title of one of the sections of the Article on Social Justice is "Agrarian and Natural Resources Reform," and so, definitely it is in the spirit of the whole Constitution that we want wider access to the natural resources. In addition, the specific mention of small-scale utilization of natural resources and cooperative fish farming in Section 3 would definitely be in the spirit.

Does Commissioner Suarez, who was responsible for this omnibus provision, have additional comments?

MR. SUAREZ: I think that is the thrust of this particular section.

MR. GASCON: Will the Committee, perhaps, entertain a proposal to include such a term as "democratization" in the proper time?

MR. VILLEGAS: Yes, we will, definitely.

MR. GASCON: My other question is with regard to page 2, Section 3, beginning on line 25 which says:

The President with the concurrence of Congress, by special law, shall provide the terms and conditions under which a foreign-owned corporation may enter into agreements with the government . . .

Does "concurrence" mean simple majority of both Houses?

MR. VILLEGAS: Yes. I think that was already voted upon.

MR. GASCON: Is it a simple majority — 50 percent plus 1?

MR. VILLEGAS: Yes.

MR. GASCON: Is it possible that instead of a simple majority, we allow a two-thirds vote of Congress for such conditions?

MR. VILLEGAS: Since the Committee was divided on that issue, definitely there is a possibility of bringing that to the floor.

MR. GASCON: Could the Commissioner elaborate on the pros and cons of a majority vote and why the Committee decided to maintain 50 percent plus 1?

MR. VILLEGAS: I think the main reason for the majority vote is that there is greater capital scarcity today than there has ever been in our economic history because of all of the abuses of the last 20 years, and that we should make it relatively easier to get this type of financial assistance for large-scale exploration, development, and utilization of natural resources.

MR. GASCON: Thank you.

My next question is with regard to Section 9 on page 4 which says:

The Congress shall reserve to citizens of the Philippines or to corporations or associations at least sixty percent of whose voting stock or controlling interest is owned by such citizens or such higher percentage as Congress may prescribe, certain areas of investments when the national interest so dictates.

Is it possible for us to amend the section in the sense that instead of providing for a provision on reserving certain areas for Filipinos as Congress may prescribe, we allow Congress to prescribe certain areas where foreign investments may enter into.

We should also define very clearly that the National Assembly or Congress may allow persons other than citizens of the Philippines, and corporations or associations less than 60 percent of whose voting stock or controlling interest is owned by citizens of the Philippines, certain areas of investments when the national interest so dictates. It would be the case that all areas of investment are exclusively for Filipinos, and for foreign investors to be allowed to invest in certain areas of business and the economy, it must first be explicitly stated by Congress that such areas are open to investment to nonnationals. So, in a sense we are changing the emphasis. What does the Committee think?

MR. VILLEGAS: That can be considered.

MR. GASCON: Thank you.

MR. MONSOD: Mr. Vice-President, may I just add something. While the sentiment is clear, there may be operational problems. In other words, the Gentleman is saying that the economy is closed except for the following areas, in which case the Congress now will determine each specific case, say, this area is all right for foreign investment. That may be operationally quite difficult. And, secondly, it would be sending the wrong messages as far as the kind of economy we have is concerned, because our economy is not a state-dictated economy. It is a private initiative economy.

MR. GASCON: I just like to express that Section 9, as it is written now, gives the impression that the State is open to all foreign investments, but which is open exclusively to Filipinos. Since we are writing a Constitution directed primarily for the Filipinos, could we just interchange the emphasis?

MR. MONSOD: Yes, but as I said, there is a problem in that kind of an approach because we have an entire economy to contend with.

MR. GASCON: Yes. What is the Committee's definition of "national emergency" which appears in Section 13, page 5? It reads:

When the common good so requires, the State may temporarily take over or direct the operation of any privately owned public utility or business affected with public interest.

MR. VILLEGAS: What I mean is threat from external aggression, for example, calamities or natural disasters.

MR. GASCON: There is a question by Commissioner de los Reyes. What about strikes and riots?

MR. VILLEGAS: Strikes, no; those would not be covered by the term "national emergency."

MR. BENGZON: Unless they are of such proportions such that they would paralyze government service.

MR. GASCON: How will a takeover by the State operate? Will former owners be compensated for their losses?

MR. VILLEGAS: No, this is only temporary, so there is no need to transfer ownership. Only the operation will be taken over, which precisely is the reason for such a takeover. Directed operation shall be only for the duration of

the state of emergency.

MR. GASCON: During the period of taking over by the State, will there be compensation for the owner who will be deprived?

MR. VILLEGAS: If they are prejudiced, definitely yes. No one can be deprived of private property without just compensation.

MR. GASCON: Section 10 says: "The Congress shall establish an independent central monetary authority." What is the definition of "independent" here? Does this mean that independence should mean free from the dictates of foreign and local interests? And does it also imply that the monetary authority will pursue a nationalist self-reliant cause for the common good?

MR. VILLEGAS: Independence applies to all undue control or influence.

MR. GASCON: Whether it be from local capital interest or foreign interest or even the State or the government?

MR. VILLEGAS: That is right; from the executive.

MR. GASCON: Thank you.

My final question is with regard to Section 15, lines 19 to 20, page 5, which reads: ". . . under the laws of the Philippines at least two-thirds of whose voting stock or controlling interest is owned by such citizens."

This refers to public utility, is that correct?

MR. VILLEGAS: Yes.

MR. GASCON: And we know for a fact that the primary concern of public utility is the interest of the common good. Is it possible to increase ownership from two-thirds to three-fourths thereby assuring the interests of the common good at the proper time?

MR. VILLEGAS: Again, if the Gentleman remembers, we were divided on this. This can be entertained as amendments — yes.

MR. BENGZON: If the Gentleman will propose it, then we will consider it.

MR. GASCON: Thank you.

MR. MAAMBONG: Mr. Vice-President, we have only two interpellators left, but the time is now 12:26 p.m.

MR. BENGZON: Can we finish with the two interpellators?

MR. MAAMBONG: If it is the pleasure of the Committee.

I now call on Commissioner Jamir for his interpellation.

THE VICE-PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Mr. Vice-President, my questions to the Committee refer to this second paragraph of Section 3, more specifically line 26, with reference to the phrase "special law." Does this mean that everytime a contract is entered into with a foreign-owned corporation, Congress has to enact a law for that specific purpose?

MR. VILLEGAS: Commissioner Suarez will answer that — yes.

MR. SUAREZ: Thank you for the question because this particular provision has precisely been the subject of full discussion.

The answer to the Gentleman's question is in the affirmative, but we have been trying to improve the wording and the impact of this particular provision. There is a school which submits the proposition that it should be the Congress that should take the initiative of formulating the terms and conditions, subject to the approval of the President. And so, the Committee is still deliberating hard on this particular provision. But as it is worded now and as the question is addressed to this provision, the answer to the question is "yes."

MR. JAMIR: Thank you.

My other question is with regard to the phrase "foreign-owned corporation" on line 27. Does this mean corporations formed or organized under the laws of a foreign jurisdiction?

MR. SUAREZ: Yes.

MR. JAMIR: So that if a group of Filipinos or Filipino citizens form a corporation, let us say, in the State of California, that will be considered a foreign-owned corporation and will be the subject of a special law, in case they want to engage in any technical or financial assistance to the government?

MR. SUAREZ: That depends, because under the situation pictured and envisioned by the Commissioner, this corporation is owned by Filipinos, although it is foreign established.

The Commissioner will notice that the words used are "foreign-owned corporation," which mean that the owners of the corporation are foreigners.

MR. JAMIR: Foreigners?

MR. SUAREZ: Yes, but in the case just cited, the owners are Filipinos, although it was organized in a foreign country.

MR. JAMIR: So, strictly speaking, the foreign-owned corporations here do not refer exclusively to corporations organized under foreign laws. If they are organized by noncitizens of the Philippines under foreign laws, they are fully covered.

MR. SUAREZ: That is right.

MR. JAMIR: Thank you very much.

THE VICE-PRESIDENT: Let us have the last interpellator.

MR. MAAMBONG: Mr. Vice-President, I ask that Commissioner Natividad be recognized.

THE VICE-PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Thank you.

I refer to Section 10, page 4, which says:

The Congress shall establish an independent central monetary authority, the majority of whose governing board shall come from the private sector, which shall provide policy direction in the areas of money, banking, and credit.

If this is an independent major governmental activity, why do we want that it should have a majority coming from the private sector? If we do this, shall we not lose control of monetary and fiscal policies? The government may lose control of monetary and fiscal policies because we use the word "independent" and then say "majority of the members of the governing board shall come from the private sector." Is this not a formula for losing control of monetary and fiscal policies of the government?

MR. VILLEGAS: No, this is a formula intended to prevent what happened in the last regime when the fiscal authorities sided with the executive branch and were systematically in control of monetary policy. This can lead to disastrous consequences. When the fiscal and the monetary authorities of a specific economy are combined, then there can be a lot of irresponsibility. So, this word "independent" refers to the executive branch.

MR. NATIVIDAD: How about the fact that the majority of the governing body of this monetary authority will be from the private sector? Will this not, in effect, result in the loss of control of the government over monetary and fiscal policies?

MR. VILLEGAS: No.

MR. NATIVIDAD: But a majority of the governing body comes from the private sector.

MR. VILLEGAS: That depends on what Congress would eventually decide. This was the subject of a full discussion with Governor Fernandez and members of the Central Bank, as well as people from the financial community.

MR. NATIVIDAD: Yes, I understand that.

MR. VILLEGAS: The Congress may decide that the so-called representatives of the private sector may actually be appointed full-time governors and may work for the government like the Federal Reserve System of the United States. The important thing is that they are independent of the executive and they are not beholden to him.

MR. NATIVIDAD: I understand that because I was there. However, here we are establishing a very primordial duty of the government — that of a central monetary authority, and yet we are putting it in the hands of a majority of the private sector. I was just asking for an explanation because, to my mind, it seems a little bit incongruous. Usually, the private sector is only represented, but in this case, they are in the majority.

MR. VILLEGAS: Yes, but this is also in the spirit of always taking into account the sectors that are affected by a certain policy, and there will always be the Governor of the Central Bank who will be definitely protecting the government's point of view.

MR. NATIVIDAD: But he is going to be the presiding officer, and the majority can vote him down. I believe that the government should retain control of government function and not abdicate it in favor of the private sector because this is a primordial duty of government.

MR. VILLEGAS: Yes, that is right.

MR. NATIVIDAD: During the hearing, this was at the back of my mind. I am one of the authorities on this provision. But it is a little bit different from what we filed. I am asking this clarificatory question because I can conceive of a situation in the future where a hostile private sector might throw a monkey wrench on our monetary policies.

MR. MONSOD: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: There is a good distinction between fiscal and monetary policies because a monetary policy is more an accommodating rather than initiating function. It is the fiscal policy that does that. I believe the Committee, in putting in this provision, had in mind to reduce the direct control and interference in the Monetary Board, for example, of the Ministry of Finance or people who are directly involved in the executive function of government. As it is now, there are five government ministers out of the seven members and there would be an imbalance because the Monetary Board may be completely subservient to the fiscal or budgetary requirements of

government. That could distort the system. So we felt that there was a need for independence in the monetary function in order to balance the situation, although the monetary function may not be completely able to balance this, if the fiscal function is very active.

MR. NATIVIDAD: Nevertheless, I was wondering why the majority would be the private sector as far as the monetary functions are concerned. In due time, perhaps I can offer an amendment if the Committee is willing. In the case of Section 9, certain areas of investments are reserved to citizens of the Philippines or to corporations or associations at least 60 percent of whose voting stock is owned by such citizens. But I am raising this clarificatory question. I read in the papers that the government has converted our foreign debt into equity. I am referring to the foreign equity that we have.

So what happens to Section 9? If there is a conversion into equity of our foreign debt, this will mean opening the country to foreign investors.

MR. VILLEGAS: In those areas actually specified by law.

MR. NATIVIDAD: Yes, but would this not conflict with Section 9 of this Article?

MR. SUAREZ: I think in a situation like that the conversion of the debt equity should correspond only to the limitations imposed by law — meaning, 40 percent — unless there is a higher percentage imposed by Congress and this is allowed under this particular Section 9. So, as the situation presently stands, I would venture the proposition that such conversion into equity should be limited to the 40-percent participation of foreign corporations.

MR. MONSOD: Mr. Vice-President, may I just mention that to this date, as far as we know, there has been only one instance when that right has been availed of and that is in the case of the conversion into equity in Interbank, in which case, the maximum limitation of foreign ownership of 40 percent for a commercial bank was applied.

MR. BENGZON: We also would like to indicate that perhaps the better term in order to avoid any conflict or misinterpretations would be the use of the phrase "capital stock."

MR. NATIVIDAD: Capital stock?

MR. SUAREZ: We will discuss that on the committee level because precisely, there were three criteria that were submitted. One of them is with reference to the authorized capital stock; the second would be with respect to the voting rights; and the third would be with respect to the management. And so, again, we would like to inform the members that the Committee is still trying to polish this particular provision.

MR. NATIVIDAD: Yes. I am satisfied. From experience, the government has always reserved land for national parks but it has done almost nothing to protect the national parks. Should not this Constitution direct the government to protect the national parks and have more rangers? Section 5 says "marking clearly their boundaries on the grounds," but as soon as these boundaries or markings are placed on the grounds, the people remove them and either plunder the forest or use these areas for private residences. Therefore, what is more equally important is a direct mandate of the Constitution to the legislature to protect the parks. We have no rangers to speak about, unlike the United States and the European countries which have enough personnel to protect their parks and rivers.

Law after law has been promulgated, designating areas for national parks but nothing has been done to protect those areas reserved for parks. So, this will be a dead provision of the Constitution, if we do not direct the legislature to protect these parks in terms of hiring more personnel or rangers and other personnel necessary to protect these.

MR. BENGZON: We will accept amendments along that line.

MR. NATIVIDAD: And my last question is with regard to franchises appearing in Section 15. What does the Committee envision? Which agency of the government shall issue the franchise to operate electricity from town to town? Are we going to continue this under this Article?

MR. VILLEGAS: It is still going to be given by the legislative body.

MR. NATIVIDAD: It is the most inefficient form of issuing franchises, Mr. Vice-President, and that is why our telephone and electric systems are very primitive because there has been very little improvement in this country. It is more difficult to call from Manila to Malolos than to call from Manila to Los Angeles, Washington D.C. or New York because the little tyrants who own these franchises do not give a damn. Having come from Congress, I have authored a number of these franchises myself, and then I was the one who acted as lawyer of the people to revoke or to modify these franchises because they have never given adequate nor satisfactory services to our people. I think that if we continue this practice, the communication system in this country will remain subpar. Besides, there is already a monopoly here of the Philippine Long Distance Telephone Company.

MR. BENGZON: But that is only one of the problems.

MR. NATIVIDAD: Yes, I know.

MR. BENGZON: We also have other problems.

MR. NATIVIDAD: That is why I would like to speak against the giving of franchises.

MR. BENGZON: Then maybe the Gentleman can propose the amendment at the proper time and we will favorably consider those points.

MR. NATIVIDAD: Thank you.

I was just expressing what I witnessed in previous times.

MR. BENGZON: Thank you.

MR. MAAMBONG: Mr. Vice-President, before I move for a suspension, I have been asked to announce that after lunch the representatives of the Cordilleras request our presence at the lobby for a sort of presentation they have prepared for us to articulate their thanks for allowing them to attend our sessions and for whatever assistance they received from us. They cannot stay for long, and will be going home shortly. I think we should also thank them for their presence.

I now move for a suspension of the session up to two-thirty this afternoon.

THE VICE-PRESIDENT: Before we suspend, the Chair wishes to announce that at one-thirty today, two Soviet delegates are paying a courtesy call at the office of Madam President. They are Victor Gochakov, Deputy of the Supreme Soviet Russian Federation, and Alexi Drovok, member of the Soviet Solidarity Committee. The Members who wish to be present are welcome.

SUSPENSION OF SESSION

MR. MAAMBONG: I reiterate my motion, Mr. Vice-President.

THE VICE-PRESIDENT: The session is suspended.

It was 12:44 p.m.

RESUMPTION OF SESSION

At 2:35 p.m., the session was resumed.

THE VICE-PRESIDENT: The session is resumed.

The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, this is the continuation of the interpellation on the Article on National Economy and Patrimony but the Chairman of the Committee and the other members are not yet here. So may I ask for a suspension of a few minutes.

SUSPENSION OF SESSION

THE VICE-PRESIDENT: The session is suspended.

It was 2:36 p.m.

RESUMPTION OF SESSION

At 2:41 p.m., the session was resumed.

THE VICE-PRESIDENT: The session is resumed.

The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, the Committee is now prepared to respond to interpellations. I now call on Commissioner Rosario Braid to be recognized.

THE VICE-PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Mr. Vice-President, I think I will yield to other interpellators because I am now ready with some amendments.

Thank you.

MR. MAAMBONG: In that case, I ask that Commissioner de Castro be recognized.

THE VICE-PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

Mr. Chairman and the members of the Committee, I have read through all the sections proposed in this Article, but I am still looking for something which I believe concerns most of us — that of using our own materials and our own manufactured goods. In short, I am referring to what we called the NEPA — we use our own goods, our own materials, and our own labor.

I understand that even "Marlboro," although produced here and still called "Marlboro," is paid a certain amount for royalty, as is Coca-Cola and Pepsi-Cola. In China, they use Coca-Cola but they use another name for it and, therefore, are free from paying royalties to the Coca-Cola company. The same holds true with Pepsi-Cola. I wonder if at this point we can introduce in this Article the possibility of using our own goods, our own materials, our own labor. In Japan, one hardly sees any goods labelled after the Western countries. All these are named after the Japanese goods.

In short, let us be a little bit nationalistic in this matter, because I feel that our country can produce more and can

make more if we become conscious of using our goods. Take, for example, corn. At this period of the year, we have plenty of corn produced. And yet, we already have certain importations already being planned for some time in the middle of September to October. This is true with the fish meal used in the production of our feeds for livestock, chicken and cows. We have plenty of meat, yet we are prone to import.

I wonder if we can introduce in this Article what we call "NEPA" or the use of local goods, materials locally manufactured and the use of local labor. We may add a section if the Committee will permit us.

Thank You.

MR. SUAREZ: Mr. Vice-President, may we request that Commissioner Monsod be recognized to answer the query of Commissioner de Castro.

MR. MONSOD: Mr. Vice-President, I believe that the first sentence of Section 1 covers the principle that Commissioner de Castro wanted to enunciate — "The State shall develop a self-reliant and independent economy." With respect to the enabling legislation on specific activities, including the legislation on labeling and brand names, those are already details that perhaps should not be covered by the Constitution. But I shall ask Commissioner Romulo to explain that in more detail.

MR. ROMULO: Mr. Vice-President, the suggestion of the Gentleman is meritorious but that is really a legislative matter dealing with labeling and trademarks. There are at present labeling and trademark laws, so that it is difficult to legislate on that matter in the Constitution. There are costs involved in changes in labelling and trademarks. Besides, under our present law, protection is given certain trademarks. We believe that the proper body to pass upon this would be the legislature.

MR. DE CASTRO: Mr. Vice-President, I have read and reread the first sentence of Section 1. The only thing that can be deducted out of what I said is the word "self-reliant," but I believe that the word is not sufficient in order to register in the minds of our people, our Congressmen, in the mind of our President, and of everybody the meaning of "nationality" and "nationalism" in the use of our locally made goods.

So, in the matter of these rights or the payment of royalties for the use of names, we believe that we can formulate something in general to give credit to what I have said before in the form of an amendment by the addition of a section. I wonder if the Committee will welcome the suggestion.

MR. MONSOD: The Committee will be happy to entertain amendments along those lines. We also wanted the Gentleman to note that in Section 1, on line 10, there is a mandate for the full employment of all the resources of the country, which means that opportunities should be afforded so that these resources can be properly utilized. Second, there is a mandate for a sustained increase in the amount of goods produced by the country. Again, this is a mandate for local production. Also mentioned is the phrase "for the Filipino people" which means that the local product should first be made available to Filipinos rather than exported, if that is for the greater good of the Filipinos.

MR. DE CASTRO: I agree with the Commissioner but that is what we call in Tagalog "daplis" because the provision does not expressly provide for giving priority to local products. We need something that the Filipino people and our leaders will understand. We still prefer to use a pair of Florsheim shoes and we feel proud because it is imported. A very few of us want to use the Marikina-made shoes. While it is so stated here, it is not, in fact, being followed by many Filipinos.

I hope that we can formulate something which will be acceptable to the Committee, so that when we say "NEPA" this will register in the minds of our leaders and our people.

Thank You.

MR. MONSOD: We will await the Commissioner's amendment.

MR. DE CASTRO: Thank you.

THE VICE-PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, I ask that Commissioner Garcia be recognized.

THE VICE-PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you, Mr. Vice-President.

I would like to make general remarks with reference to Sections 1, 2, 3, 4, 9 and 10. First of all, may I say that I consider this Article on National Economy and Patrimony crucial and important. In fact, I believe that the Article on Social Justice in a sense cannot be realized unless the Article on National Economy and Patrimony shares the same vision. And, therefore, I am making my remarks in that context, hoping that this Article can provide the thrust, the environment so that the social justice direction can be realized.

At the same time, I want to make an admission. It was only yesterday evening that we were told to tackle this Article on the National Economy and Patrimony. I would have wished that I had sufficient time to do further study and research on this very important Article. Since I did not have sufficient time, I asked the Floor Leader regarding the number of interpellators. I was told there was only just one more or two. I thought it was important that I should at least lay some general questions. Nonetheless, I want to make an admission that I feel there is a need for further research on this matter. Anyway, the two major questions that I have in mind are these. As to the entire Article, I asked myself how we can work towards more economic democratization, so that the Article on National Economy and Patrimony can truly safeguard the provisions that we have worked out very carefully and systematically in the Article on Social Justice.

I find that there are certain areas here where this entire question can be posed. Do they really lead towards the furthering and deepening of economic democratization? For example, if we look at Sections 1, 2, 3, 4, 9 and 10, we will notice that there is a strong stress on the move towards private initiative, the private sector, the private groups. I am wondering whether the preference, as pointed out by the Chairman of the Committee, for the private group or the private sector has contrast with the previous experience of the public; whether it could also admit of a differentiation between private and social. In other words, the distinction should not be only between private and public but also between private and social. Initiative should not just be left to certain individuals or to those who within the free enterprises could be the strong monopoly group, but there must be a greater regard for the social groups or the social sectors in society which normally are excluded from the economic distribution system. In fact, there is a certain definition given in Section 1, but I am wondering whether in the last sentence, when one speaks of a broader-based ownership of private enterprise, that would include a mixed economy with the private enterprise and a social sector composed of cooperative ventures and aggrupation of large communities like, for example, the peasant groups and the labor groups that we spelled out in the Article on Social Justice and finally the state sector. A proper combination of these three sectors and a recognition of the interplay of their working together could bring forth a more just and economic democratization process. However, I feel there is a strong preference given to the private sector in this entire Article.

The other question is: How does one ensure a greater protection of the national interest? The first sentence reads: "The State shall develop a self-reliant and independent national economy," and yet one has still to find provisions for greater protection. How do we intend to realize this? Is there a rational, comprehensive direction or vision of

how one creates a self-reliant independent economy? Is there a priority? Are there economic and national priorities that will safeguard independent development? I seem to miss these in the Article. Such perhaps provides a lot of opening, a lot of flexibility. We have to consider this in the Third World context where there is unequal and uneven relationship between strong nations and weak nations, also especially considering our phase of development when there is a need to put a lot of stress on social justice. This economic prioritizing, I think, is very important to ensure precisely that we can develop, independent of other factors and forces that are sometimes ranged against our national interest.

I would like to look deeper into this and with more detail, and perhaps suggest in what manner those sections that I mentioned can be strengthened. May I refer you to Sections 9 and 10, particularly lines 13 and 14 of Section 9. With regard to reserving certain areas of investment to citizens of the Philippines, I was wondering whether we can specify and say in a determined manner, so as to reserve traditional priority areas to Filipino interest. I think that could perhaps be clarified and, in fact, strengthened, so that we can defend Filipino interest in priority areas.

With regard to Section 10, following the interpellations by Commissioner Natividad on the monetary authority, I think I also mentioned this in relation to some other sections regarding the monetary authority and the private sector's majority participation. It is important to note that the word "private" must likewise connote the idea of "social." Very clearly, the expertise and the technical knowhow that we need to participate in the monetary authority could be found very strongly in those who have the expertise and the experience within the banking circles. And these are the private banking people, I would presume. So, how do we protect the social sectors who are most affected, in fact, by the entire procedure and workings in this banking relationship?

Perhaps, something like sectoral representation can also be insured in this area. Sometimes we are over-reacting to the use of public sector or public efforts because of the martial law experience where the public sector was not used for the public good but only for private crony interest. Therefore, some kind of re-orientation has to be made so that the Article has the social dimension rather than simply the kind of negation of our experience during martial law.

Thank you very much.

MR. VILLEGAS: Thank you very much.

Let me just give some preliminary response to the remarks of Commissioner Garcia, and then the other members of the Committee could give their own. First of all, we would like to assure Commissioner Garcia that we welcome suggestions on how to refine the phraseology, so that the preferential treatment for the poor which we would like to permeate the whole Article will stand out more clearly. This is definitely a welcome source of amendments at the opportune time.

But, first, let me say that we should take the whole Constitution as an organic whole and keep in mind that social justice, which used to be just one provision in the Article on National Economy and Patrimony, has now been expanded into one whole article. We would like to think of the Article on Social Justice as still very much an organic part of the Article on National Economy and Patrimony. We should not look at the various articles piecemeal, but should interrelate them especially these two articles I have referred to.

Then I would like to reiterate what I said this morning, that we want it very clear on record that the word "private" is not limited to profit-making for business groups. Precisely, we have taken into account the importance of relating private to social or common good causes by making sure that the word "private" here is interpreted to include cause-oriented groups, cooperatives, nongovernmental organizations, precisely any grouping that is not part of the government sector. So, there is really no disagreement on this emphasis on the social reorientation for

the private group, and that is exactly why Section 2 opens with the statement that "the use of property bears a social function," and that all economic agents, whether they belong to the profit-making sector or the nonprofit-making sector, should contribute to the common good. If that can be improved, definitely we would welcome some suggestions.

Then that leads to the statement that the so-called private representation in the Monetary Board can very well include nonprofit organizations, whether they represent the labor sector or the farming sector, and that we will leave it to Congress to decide who the so-called private representatives in the Monetary Board should be. We are not thinking only in terms of bankers or members of the profit-making sector when we say that the majority of the members of the Monetary Board come from the private sector. I am very glad Commissioner Garcia gives us an opportunity to reiterate this. We can have members of the Monetary Board representing the labor sector, the farming sector, or other sectors that Congress may decide. That is why we are leaving it open to Congress to decide on this representation.

MR. BENNAGEN: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Mr. Vice-President.

I am a member of the Committee, and for the benefit of Commissioner Garcia, I did remember that I suggested the term "mixed economy" to describe the range of economic subsystems within the overall economy of Philippine society to include those that were already mentioned, including private communal state-owned. But it was the feeling of the other members of the Committee that the concept is embodied in the whole Article in relation to cooperatives, to ancestral land, to the participation of the private sector and also the role of the State. But if it does not seem to give that strong impression, maybe some amendments later will be entertained to fully project that idea of a combination of various economic subsystems within the overall national economy.

Thank you, Mr. Vice-President.

MR. VILLEGAS: Also, it is explicitly stated that the freedom of initiative is limited by the duty of the State to promote distributive justice and to intervene when the common good so demands. I think it is very clear that we are not anti-State in situations where it is very clear that the State has to intervene. Definitely that demand for the civil justice will prevail over freedom of initiative.

MR. GARCIA: Precisely this is my point. It is not simply a dichotomy between the private and the public, between the individual and the State. But what I seek here is the recognition of the social sector, a social area where the economic agents are not simply private enterprises but also cooperative sectors where you may have an association of farmers or a cooperative of workers who may become the agents of development, the engines of development. In this way development is far more distributed towards the recognition and appreciation not only of the role of the private or the role of the State but at the same time the role of the social area which creates more involvement. So it should not simply be a question of nationalization but of socialization.

How do we create a greater social base for ownership? How do we create a greater social base of control and enjoyment of fruits of labor? It should not simply be attention between one pole which is the government and the other pole which is the individual agent for economic development, but also that of the social bond. We speak of solidarity, and I think this could be the example. The statement of principle in Section 1 defines it and yet, it falls short. It does not go into a precise recognition of the sector.

Secondly, we are bound by our own history of understanding the private sector as always limited to what we have

historically seen. In the case of private initiative, very often because of the nature of competition, those who have great resources and great capacity end up controlling. That is the very nature of things, so that we have to define the weak, defend those who are normally marginalized by providing recognition and protection to that social area. This is what I am trying to stress.

MR. BENGZON: That is precisely one of the principal reasons why this Commission opted to create a separate Article on Social Justice — to emphasize not only the need for social justice but the social aspect of the use of property and the development of national economy. Sections 19 and 20 of the Article on Social Justice cap the whole thing by recognizing people's organization. It is precisely these people in their participation with nation building that all of these things we are talking about can be brought up. The Article on National Economy and Patrimony zeroes in principally on the means and manner of generating revenues and on how development is going to be achieved in order that the necessary support can be generated so that the provisions of the Article on Social Justice can be implemented.

MR. MONSOD: Mr. Vice-President, may I just add my own comments.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: The whole economy is concerned principally with two things: efficiency and equity, that is, creation of wealth and distribution of wealth. In both the Articles on National Economy and Social Justice, we are trying to strike a balance — the demands for equity and distribution are primarily in the Article on Social Justice and the requirements for efficiency and productivity and wealth creation are in the Article on National Economy and Patrimony. Even then, we will notice that the Article on National Economy and Patrimony is permeated with the social aspect. So, if we look at both articles, there is a very strong emphasis on the social aspect of production, distribution and the activities within the economy.

MR. GARCIA: Excuse me. I am not simply speaking of the social aspect. I am speaking here of a very vital sector as an engine of economic development. I think this Article is very important because it provides the direction, the economic priorities and the economic structures that can be in place.

MR. MONSOD: Is the Gentleman talking about the lower income groups, the disadvantaged?

MR. GARCIA: When we speak, for example, of engines of development, very often we speak of the private enterprise or the private groups or the private sector. And very often, we would say that in times of emergency or on other occasions, the State or the public sector can come in. What I am trying to say is that there is a third and very important sector which we have to enlarge if we are going to make economic democratization a reality, and that is the social sector — the social sector being the association of a great majority in this country. Basically, these are the associations of workers, peasants, low-income earners who can come together and perhaps be themselves the creators of wealth. This is also a very important area. There can be property with the social sector in command, in control rather than either the State or the individual entrepreneur.

MR. MONSOD: Mr. Vice-President, may I just ask a question?

Can we put this in operational terms?

MR. GARCIA: Yes.

MR. MONSOD: Let us talk about a steel company. Let us say that in case of invasion or in case of war, the steel company is now managed by a group listed in the stock market and which has a broad-based ownership. In times of war, the State says that this is an emergency and we would like to take over this industry because production, not profit, is important. Now, where does the third sector come in?

MR. GARCIA: Since that is a very vital industry with such strategic nature and character, then it should be in the hands of the State. In fact, I am very doubtful whether a steel industry could be given to one family, like the Jacinto family, rather than be in the hands of the State.

Let us take a newspaper, for example. Should a newspaper be in the hands of one family or the State? I would say neither.

MR. MONSOD: Mr. Vice-President, let us take the example we had earlier because it is a company that should be in the hands of the State. In his previous statement, the Gentleman was referring to a third sector other than the State . . .

MR. GARCIA: Yes.

MR. MONSOD: . . . or private enterprise even if it is broad-based in the stock market. In the specific situation we were talking about, how does the third sector enter into the picture as a preferred mode in order to make sure that that company is run for the common good?

MR. GARCIA: The third sector, the social sector as a preferred mode, could only be envisioned within a certain set of circumstances. In other words, it is not for every enterprise. There are some strategic and vital industries that cannot be under its control or under its leadership. But there are areas, for example, the shoe-making industry in Marikina or a newspaper publishing industry. Perhaps, rather than it be under the control of an individual entrepreneur who will own it or a family or the State, why not a social sector like a cooperative of newspapermen or of writers and other people who work in that newspaper or the shoemakers themselves, banding together, be made the cooperative owner to provide room for this sector as another engine for economic development in this area?

MR. MONSOD: Perhaps, if we expand the second sentence of Section 2 in order to accommodate the cooperatives, maybe we can say "individuals and private groups, SUCH AS, OR INCLUDING COOPERATIVES," and so on. Is this what the Commissioner means because the Committee, in its deliberations, took into consideration the different forms or the different types of organizations within private groups? The Chairman mentioned that "private groups or individuals" need not be profit-making. These "private groups or individuals" need not be a corporation nor a big business. If the Commissioner wants some explicit mention of certain types of organizations in order to highlight the social sectors he is talking about, the Committee would be happy to entertain suggestions in that regard, Mr. Vice-President.

MR. GARCIA: Actually, I am not sure whether this is simply a language problem or a matter of phrasing. I feel there should be some effort to include in the vision of this Article a recognition of the social sector as a partner and one of the priority areas in our national development. Really, I am not sure. Does the Commissioner think this is only a language problem? Can we accommodate this sector by a change in phraseology of the section or should this be part of the vision of this Article?

MR. MONSOD: If we can address the questions squarely, when the Committee formulated this Article there was a very distinct preference for private initiative. If the Commissioner is saying that the section should have a different orientation, that it should talk about socialism or socialization of factors of production or assets, then that is a different thing altogether. I think the concept of the Committee was that private groups should include collective organizations and cooperatives. But in fairness to the Commissioner in case there is a difference in interpretation, the Committee does not subscribe to the system where the assets for production are in the hands of the State in the name of the people. Perhaps, we can argue more on that point rather than on the wordings of the section.

MR. GARCIA: I am sorry, but I think there is a misunderstanding here. The reason I precisely tried to introduce the idea of the social sector is to get away from that dichotomy between the individual entrepreneur and the State. There is a third area where, in fact, the whole theme of solidarity moves into, which is the social area or the social sector. Therefore, there must be a proper recognition of that mixed economy which I tried to spell out earlier. Besides relying on the important role of private enterprise, still there must be a recognition and an encouragement of the social sector while respecting the preferred action of the State where it is necessary in vital areas. In other words, this is a mixed area.

MR. MONSOD: May I ask the Commissioner a question: In his concept, who would own enterprises that produce goods and services?

THE VICE-PRESIDENT: I think the Chair will want to recognize Commissioner Bacani because the time of the Gentleman has already elapsed.

BISHOP BACANI: Thank you, Mr. Vice-President. I think Commissioner Garcia is creating a dichotomy between "private" and "social" which we do not want to do. What we mean is that "private" includes social and socialized sectors in contradistinction to the public or governmental sector. I believe that if the Commissioner recognizes this, his difficulties will at least be lessened and he will realize that social and socialized sectors are indeed included in the private groups that are explicitly mentioned in this committee report.

Thank you.

THE VICE-PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, I ask that Commissioner Ople be recognized for his interpellation.

THE VICE-PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I am a member of the Committee and, of course, I am in support of the committee report, but I thought it might be useful to put some questions to the Committee for purposes of determining its intent and of the Commission later with respect to some of the major provisions.

Section 1, lines 7 and 8, states: "The State shall develop a self-reliant and independent national economy." I do not know whether in constitutional literature these terms "self-reliant" and "independent" correspond to certain well-established meanings. The Committee cannot be referring in any case to self-reliance and independence in the context of economic autarky.

MR. VILLEGAS: No. As I said in my sponsorship speech this morning, that is not what the Committee means.

MR. OPLE: Perhaps, the most conspicuous change in economic history in modern times is the great interdependence according to which national economies are now linked together to a vital and often fickle global economy. Is that not correct?

MR. VILLEGAS: Yes.

MR. OPLE: And the most strikingly successful economy is in our own part of the world where those who early on recognize this major discontinuity as, some economists call it, the arrival of an era of global interdependence say that what happens in one part of the world, let us say, when the OPEC meets in Vienna, can actually exert a direct impact within 24 hours on the pocketbooks of workers in the Philippines. Would that be correct?

So there is no intention here to speak of an economy in isolation in the name of self-reliance and independence.

MR. VILLEGAS: No, Mr. Vice-President.

MR. OPLE: I bring this up because certain contrasts in fundamental perspectives might be involved. Earlier in a committee meeting, I put this question to a distinguished economist, who is the Chairman of the Committee on National Economy and Patrimony, on why 20 years ago we had a higher per capita income than Korea, Taiwan and Japan. Our engineers built the runway in Seoul; we were considered an emerging economic Cinderella of Asia and the Pacific, and the potentials of an import-substituting economy got exhausted because we turned inward and, in effect, nourished some companies that enfranchised themselves in a small domestic market with low volumes and high mark-ups so that, in effect, the consumers were penalized ultimately in terms of having to buy shoddy goods at exorbitant prices. And, in the meantime, some of these countries to our north — Japan, Korea and Taiwan — turned outward and competed for their fair share of emerging global markets, with the result that today, Korea and Taiwan earn more than \$30 billion from their export strategy compared to \$5 billion of the Philippines, even if we put all of our exports together, including copper, coconut oil, sugar, handicrafts and all goods. Korea owes the banks about \$40 billion while the Philippines \$26 billion, but the banks still queue at the door of the Korean companies; whereas, we are a basket case in the international economy. Is that not correct?

MR. VILLEGAS: Yes.

MR. OPLE: So I wanted to make sure that there is no hermit-like retreat into our own economy and no act of shutting our eyes to opportunities in the global economy with this term "self-reliant and independent economy."

Earlier, Commissioner Monsod, in replying to Commissioner Garcia, said that productivity is the major concern of this Article, as distinguished from the redistributive justice in the Article on Social Justice. I look in vain for any reference to productivity as a national policy in this Article. Productivity is not mentioned a single time throughout this Article. Will the Committee, therefore, at the proper time consider a section on productivity as a national policy which, of course, will also be established in the context of shared rewards for all those engaged in the effort of production? I would also remind the Chairman of the Committee that in the course of the debate on the Article on Social Justice I explicitly asked whether or not this Committee would consider absorbing the overflow from one of the sections in the Article on Social Justice about the State owing protection to our own citizens in terms of the marine wealth of our territorial waters which should be reserved exclusively to the exploitation by Filipino citizens, especially the small fishermen.

MR. VILLEGAS: We would welcome an amendment to that effect, Mr. Vice-President.

MR. OPLE: Thank you very much, Mr. Vice-President.

THE VICE-PRESIDENT: The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Vice-President, I ask that Commissioner Quesada be recognized.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Mr. Vice-President, I would like to preface my interpellation with a request that we still be allowed to present some questions or interpellations tomorrow, because I agree with Commissioner Garcia and some other Commissioners who felt that we should be given more time to review some of the concepts that have been enunciated in this particular Article since this unscheduled discussion on this particular Article was only received yesterday. So we would like to request a reservation to interpellate tomorrow morning. Would the Committee still entertain interpellations even if amendments may already be presented?

MR. VILLEGAS: Yes, we can still continue the interpellations tomorrow.

MR. BENGZON: The Commissioner can certainly ask questions even if we are already in the period of amendments, especially if the matter brought out is something that is vital to an amendment.

MS. QUESADA: Thank you very much.

For many of us who are not economists, we still have to grapple with a lot of technocratic terms. As the Committee members have accused some of us, so we do the same for the economists who have formulated some of these provisions which to noneconomists would mean certain things. We would like to be clarified on such provisions so that we, in turn, can explain these to the laymen who have to understand what these all mean and how these relate to the Article on Social Justice. We hope the committee members will not mind our being persistent in clarifying some of the terms that may already have been repeatedly expressed by them, one of which is the concept of "common good."

The first time we heard the term "common good" was when we were formulating the Preamble. We would like to find out if the meaning of "common good" in the Preamble of the Constitution would be the same as that used in this Article on National Economy and Patrimony.

MR. VILLEGAS: Yes. In fact, the phrase "common good" is even more applicable when we talk about "marginalized" sectors, people who have been deprived systematically over the years. If we will remember, I insisted on the use of the phrase "common good" as a substitute for the more ambiguous phrase "general welfare" because in the past, "general welfare" had been used by the majority to inflict certain injustices on the minority. "General welfare" means the greatest good for the greatest number. So, often, people who belong to the marginalized sector are systematically left out.

As I said earlier, the term "common good" is a phrase in social philosophy which is defined as a social order which enables every single individual and society to attain fullest development economically, politically, culturally and spiritually. So when we talk about economic privation, "common good" is more appropriate. We have seen in the Article on Social Justice that we have to provide for the marginalized sectors.

MS. QUESADA: I notice that at one point, the Commissioner substituted "common good" for the word "public interest." Is this the general term of reference then?

MR. VILLEGAS: Yes.

MS. QUESADA: Is this a theological concept?

MR. VILLEGAS: It is a philosophical concept.

MS. QUESADA: I understand this has been based on the policy of the Vatican II.

MR. VILLEGAS: Even before the Vatican II.

MS. QUESADA: Even before Vatican II?

MR. VILLEGAS: Yes, that is right.

MS. QUESADA: In this particular Article, what would be the parameter of having arrived at the term "common good"?

MR. VILLEGAS: In every decision we make in the economic sphere, we must consider the welfare of everyone. We cannot be very summary in dismissing the interest of special groups just to promote the good of the majority, although in the field of economics, as in politics, the public interest sometimes may require a decision in favor of the majority. This is the reason "public interest," in certain situations, can actually mean the "common good."

MS. QUESADA: Let us take the case of the people of Cordillera. Would the Commissioner say that the common good of these people was served when the Chico Dam was constructed?

MR. VILLEGAS: In that particular case, not necessarily. Precisely, we have provisions in the Article on Social Justice to make sure that the rights of indigenous tribes are more seriously considered in public works projects.

MS. QUESADA: Also, in the case of the construction of the Pantabangan Dam when a lot of inhabitants of Nueva Ecija were actually displaced and dislocated, would the Commissioner say that the common good was served?

MR. VILLEGAS: Definitely not, if there is evidence that the welfare of these indigenous tribes has been completely neglected without any fair treatment.

MS. QUESADA: So, as a nation, how would we relate to this concept of common good?

MR. VILLEGAS: By precisely always considering the welfare of everyone in a decision. It does not mean that we cannot make decisions for the good of the majority but we must not be completely oblivious to the good of the minority. We must provide some ways and means of resettling individuals who may be displaced because of the power of eminent domain. As we very well know, there is the power of eminent domain, but we cannot just say that we could not care less what happens to those who are dislocated because that would be against the common good.

MS. QUESADA: So the Committee would not be using the parameters of economic growth?

MR. VILLEGAS: Definitely not because economic growth is not the only objective of the Article on the National Economy, as very clearly stated in Section 1.

MS. QUESADA: When we say "development," we ask the question of for whose development.

MR. VILLEGAS: Exactly.

MS. QUESADA: I suggest we again use simple terms because I am thinking of how I could explain this to the laymen like farmers, workers, and the urban poor, so that they would realize that, indeed, this Article on National Economy and Patrimony does not conflict with the other Articles that we have been working out very conscientiously. In simple terms, would the Commissioner then say that the component of this common good can be expressed in parameters, like the equitable distribution of income, etc.?

MR. VILLEGAS: Exactly, it is the first goal.

MS. QUESADA: Would the parameter that there is conservation of this income, that we keep this income so that it does not get away from us, that it remains in our country, also apply in this particular concept of common good?

MR. VILLEGAS: The phrase which says "goods and services produced by the nation for the benefit of the Filipino people" is supposed to capture the concept, Mr. Vice-President.

MS. QUESADA: Would the third parameter that there is full employment of income to create our wealth and produce capital goods be covered in this particular definition?

MR. VILLEGAS: Actually, that is one of the answers to Commissioner Ople's query about self-reliance. To the extent that we have resources and we have domestic savings, we should not rely on outside help. We should only rely on outside help once we have exhausted all our possible resources.

MS. QUESADA: So the Commissioner has expressed in a way the philosophy of Sections 1 and 2 of this particular Article, which does not appear in either the 1935 or 1973 Constitution.

MR. VILLEGAS: That is right, Mr. Vice-President.

MS. QUESADA: The next question I would like to ask is: What was the rationale behind the transposition of the

different sections? I notice that in the Article on National Economy and Patrimony, the section, for example, that refers to NEDA which is denominated as Section 1 in the 1973 Constitution is now Section 8; Section 2 is now Section 14.

MR. VILLEGAS: Yes, that is right. We thought that the order followed in the committee report is more logical. We found the 1973 Constitution with NEDA introducing the whole Article very inappropriate because we do not even know what the goals of the economy are. Introducing immediately an economic planning agency is not even an indispensable part of managing the economy.

MS. QUESADA: So in Section 2, page 1, line 19, which states "all economic agents in the private sector," it appears that we are giving a lot of leeway for the private sector to take the lead in the development sphere. There are some concerns about the private sector being covered in the Article to include not only the local private sector but also the foreign private sector. Is that right?

MR. VILLEGAS: There is no intention to do that in this specific provision. In fact, the intention here is to include cooperatives, cause-oriented groups and non-profit-making organizations as part of private sector, but there was never any intention to explicitly include the foreign sector. But definitely to the extent that there is, for example, the 40-60 provision on exploration of natural resources, the foreign groups can be included.

MS. QUESADA: So it does not exclude big foreign businesses.

MR. VILLEGAS: It does not.

MS. QUESADA: The 1973 Constitution used the words "service contracts." In this particular Section 3, is there a safeguard against the possible control of foreign interests if the Filipinos go into coproduction with them?

MR. VILLEGAS: Yes. In fact, the deletion of the phrase "service contracts" was our first attempt to avoid some of the abuses in the past regime in the use of service contracts to go around the 60-40 arrangement. The safeguard that has been introduced — and this, of course, can be refined — is found in Section 3, lines 25 to 30, where Congress will have to concur with the President on any agreement entered into between a foreign-owned corporation and the government involving technical or financial assistance for large-scale exploration, development and utilization of natural resources.

MS. QUESADA: Thank you. Does the Commissioner not think that Section 9 on page 4 somehow runs in direct contradiction with Section 1 which provides for the development of a self-reliant and independent national economy?

MR. VILLEGAS: May I know in what sense?

MS. QUESADA: Section 9 appears to open the economy to the unhampered participation by foreign investment in almost all areas of economic activity while empowering the legislature to establish certain areas of investment as reserved to citizens of the Philippines or to corporations or associations 60 percent of whose voting stock or controlling interest is owned by Filipinos.

MR. VILLEGAS: It can be stipulated at a higher rate by Congress.

MS. QUESADA: It could be higher?

MR. VILLEGAS: Yes.

MS. QUESADA: I also notice that the traditional areas of investment are mentioned in the 1973 Constitution. What was the rationale behind the removal of the term "traditional"?

MR. VILLEGAS: The Committee precisely believes that in order to protect the welfare of the people, the word "traditional" should be deleted because it is very ambiguous. What is traditional today may no longer be traditional tomorrow. So we give Congress greater leeway to declare as exclusively for Filipinos any area of investment.

MS. QUESADA: Does the Commissioner not think that it will make it more difficult for the national entrepreneurs because then they will be subjected to the vagaries of lobbying? There is always the problem of lobbying when one does not have the means by which he could lobby. And the bigger or the richer one is, the more chances of getting his interest entered into a legislation or something like that. Does that not make it difficult for our own businessmen? Instead of this Constitution giving justice to Filipino businessmen, we are making it harder for them because we will have to enter again into the field of legislative or parliamentary ways of helping them in their interests.

MR. VILLEGAS: Commissioner Romulo would like to answer that question.

MR. ROMULO: I think there is a misapprehension here as to the provision of Section 9. This section does not seek to change what the Constitution and the law already provide as far as national equity is concerned. What has been stipulated by the Constitution as 60-40 will remain 60-40 or 75-25 will remain 75-25. Indeed, what this Article wants is to allow Congress to make those ratios even higher. That is the whole point of this section in the 1973 Constitution as well as in this new Constitution.

MS. QUESADA: But I am concerned about the traditional areas of investment. Does this mean now that if we are silent about the limitations of the areas of investment foreign investors can get into, that means foreign business can compete with the local business?

MR. VILLEGAS: No. I think there is a misunderstanding here, Mr. Vice-President. The meaning of this section is that all areas that were considered traditional in the 1973 Constitution are included in this section, plus more.

MS. QUESADA: At this point, this is all I can understand; but tomorrow we will study this Article again, and see how we could fully understand it.

I thank the sponsors.

MR. VILLEGAS: Thank you.

At this juncture, the Vice-President relinquished the Chair to the Honorable Cirilo A. Rigos.

THE PRESIDING OFFICER (Rev. Rigos): The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Presiding Officer, I ask that Commissioner Tan be recognized for her interpellation.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Tan is recognized.

SR. TAN: I am also a layman, so I would like to ask the Committee's patience about my questions, the first one of which is on Section 8.

This section sounds very nice because it assures that the production sectors will be consulted in relation to the framing and implementation of national development programs; however, the absence again of definite guidelines or principles to this integrated approach may reduce this exercise, as in a couple of our public hearings, to parochial problems which will give rise to a system of lobbying. But this section would be clearer to us, the laymen, if it enunciates the principles enumerated by Lichauco which are decolonization industrialization and economic democratization. So are these completely off?

MR. VILLEGAS: No. Commissioner Ople would like to answer the question.

MR. OPLE: I want to answer that smaller part about the mandatory consultations in Section 8 which states:

The President, after consultations with the appropriate public agencies and the private sector, including labor and peasant organizations, shall recommend to Congress and implement an integrated and coordinated approach to national development.

I do remember that in one of the committee meetings, I proposed the inclusion of labor and peasant organizations under the private sector to make sure that the private sector here refers not only to men in business and industry but also to representatives of labor and peasant organizations. I think this is a very important innovation in implementing integrated and coordinated development programs. The President is obliged to consult not only with government agencies but also with the private sector, which in this new context includes labor and peasant organizations. In this respect, we build even into the NEDA planning process consultations with sectoral organizations.

With respect to the bigger "isms" mentioned by Commissioner Tan, I would like to refer these to the economic philosopher who is the Chairman of the Committee.

MR. VILLEGAS: Yes. Although anyone is entitled to his own views on how to run the economy, whether to decolonize, industrialize or do something about it, I think it is more subject to the discussion that should lead to legislation because there are many issues involved, like the extent of foreign control and of the industries we would like to develop. Should we put up 11 major projects as against small and medium-scale industries? Should we accent agriculture? Those are all very debatable issues that are better left to Congress to legislate. The Committee was of the opinion that going into those policy issues would clutter the Constitution.

SR. TAN: But if it is important, it would not clutter.

MR. VILLEGAS: Yes, it is an important empirical question which is very difficult for us to settle right now because of our limited time and resources.

SR. TAN: My only feeling is that we have been following this during the past years and now we have more paupers than we have ever had before. What is written here is really good, but if we do not put something definite like what we did in the Article on Social Justice which took us so many days, we will have the same banana. But I appreciate all the efforts of the Committee.

Also in Section 9, I feel the same apprehension as a layman — that what is not said is more apprehensive than what is said.

MR. VILLEGAS: We would welcome any suggestion to rephrase it so that it can be less apprehensive.

SR. TAN: Yes, we will consult.

Thank you.

MR. OPLE: I speak only for myself, but I think Commissioner Tan might be right. She misses in this Article on National Economy and Patrimony a policy statement on industrialization. And I think if that is lacking maybe we should provide for that later.

Thank you.

MR. VILLEGAS: I remember Commissioner Ople's own concern about marine resources. Probably, he could also incorporate a phrase about industrialization.

MR. OPLE: Yes.

MR. MAAMBONG: Mr. Presiding Officer, I ask that Commissioner Foz be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Foz is recognized.

MR. FOZ: First of all, I would like to also support the proposal to include some provisions regarding industrialization, if only to stress the importance of industrialization in national development. Also, I am concerned about Section 8, the same provision over which some questions were previously asked.

There seems to be some vagueness which I suppose the Committee believed should be amplified with the passage of a legislation regarding the National Economic and Development Authority. I think the provision of the 1973 Constitution regarding the National Economic and Development Authority was better in one sense in that it places that body in Section 1 to give importance to the role of a central planning body for national development. Now I notice that in the draft Article on National Economy and Patrimony, the role of the NEDA is somewhat downgraded. Is there a reason for this?

MR. VILLEGAS: I think Commissioner Monsod can address that issue.

MR. MONSOD. Mr. Presiding Officer, this morning, I think the same question was asked, and the sense of the Committee was that central planning may be necessary at this time, but it may not be necessary later on. Since we are framing a Constitution that is going to be valid for a long time, the Committee felt that the reference to planning as the central theme of the Article on National Economy and Patrimony may not be appropriate. It may be needed now but it may not be needed later, particularly in the context of our directions that there should be less government, that there should be more reliance on private initiative, including not only individuals and business enterprises, but also nongovernmental, cooperatively collectivist organizations and the like. That is the reason the provision on NEDA was not put in Section 1 but in later sections, Mr. Presiding Officer. So it is not the intention of the Committee to downgrade planning, especially at this time when it may be needed.

MR. FOZ: But just the same, even if the economy has progressed, and in whatever stage the national economy finds itself in, there has to be some kind of central planning by the State or the government.

MR. MONSOD: Mr. Presiding Officer, there are many kinds of planning, like total planning and indicative planning. In fact, the Committee considered the possibility that later on, as the economy is more developed, what we may only need is a council of economic advisers which may not include a centralized planning function.

So we are leaving the Constitution more flexible so it can attune itself to the needs of circumstances.

MR. FOZ: Is that the reason the draft Article provides that the President, after consultations with the appropriate public agencies and the private sector, shall recommend to Congress and implement an integrated and coordinated approach to national government? Will the burden of drawing up and carrying out the approach, the social and economic plans for the nation, now fall on the shoulder of the President?

MR. MONSOD: Mr. Presiding Officer, the planning agency is under the Office of the President, and the introduction and recommendation of the economic program is primarily an executive function. This is merely a recognition of the executive function.

We also came to other situations in the Article where it would be a matter of, say, forest and aquatic resources, and we asked ourselves: "Why is it that in these other sections the Ministry of Natural Resources is not mentioned? Why is it that in the section on taxes and tariff, the Ministry of Finance is not mentioned?" So we arrived at the conclusion that these are all executive functions and, therefore, to put things in the proper perspective, the Ministers are really subsumed in the term "President" who are his alter egos.

MR. FOZ: In the Committee's view, what exactly should be the relationship between the National Economic and Development Authority and the Office of the President? Will the President be the chairman in the conception of the Committee?

MR. MONSOD: Right now, the President is the Chairman of the National Economic and Development Authority.

MR. FOZ: I still have some other questions to ask of the Chairman of the Committee, but I am just not ready at the moment. If I will be given a chance to pose them tomorrow I would like to make that reservation.

MR. VILLEGAS: Yes.

MR. FOZ: Thank you.

MR. MAAMBONG: Mr. Presiding Officer, I ask that Commissioner Sarmiento be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Sarmiento is recognized.

MR. SARMIENTO: I am a member of the Committee, but I would like to make a few comments and clarifications.

I share the concern of many of our colleagues that the Article on Social Justice and even the Bill of Rights, without economic justice, economic Filipinization, economic democratization and even industrialization and protectionism, will be useless provisions in our Constitution.

Somebody said, and I quote:

The security and defense of the State, as well as social justice, are illusory objectives as long as the economy is without a strong industrial base. Even a Bill of Rights is meaningless to a people in hunger. Man's survival depends on his opportunity to work. A free industrial society cannot possibly generate opportunities for work in any meaningful scale.

I have been reading this Article on National Economy and Patrimony and I notice that we give undue emphasis on the role of the private sector. For instance, the word "private" has been mentioned two times in Section 2, lines 18 and 19. In Sections 8 and 10, the private sector was again mentioned.

Mr. Presiding Officer, I have my fear in giving emphasis on the private sector. Allow me to briefly explain the reason for this. My understanding of "private sector," of course, is subject to clarification. Private sector, to me, has reference to private capital. My fear concerning undue emphasis on private sector is that today's Filipino capitalists, by and large, do not believe in industrialization much less in full industrialization. One only has to review the policy and public statements of the nations giving figures of capital and their acknowledged ideologies to be convinced of this point. One reason for this is that the capitalist class is composed and dominated largely by merchants, bankers, miners and plantation owners whose interests stand either to be inconvenienced or prejudiced by an industrialization program.

Even Pope Paul VI expressed his concern in giving role to private capital. In his "Populorum Progreso," he said "private capital carries no corresponding social obligation."

The other reason for my fear in giving undue emphasis on the role of the private sector is that we are giving the State a decreased role in the economy. We are not transforming the State into an activist in the economy. We must all remember that State activism in the economy is the general, if not the universal, practice in all Asian countries, which include Japan, Taiwan, Korea, Singapore, India and China.

Animated by different ideologies, these six non-Christian nations in Asia have been moved by different

development strategies which, however, share one common element and that is the direct and active role of the State in the economy, particularly as an industrial pioneer and entrepreneur. So these are my fears, Mr. Presiding Officer.

Even the late Claro M. Recto expressed these fears in a speech entitled "A Realistic Economic Policy for the Philippines," which he delivered on September 26, 1956, and I quote:

. . . government initiative and intervention should be given encouragement; should have a place in the Constitution . . . only a bold leadership and decisive action by the government can produce the breakthrough that will set us moving away from present poverty and nationwide unemployment.

Will the Committee accept an amendment at the proper time that instead of using "majority" we use MINORITY so as to give the State more participation in the development of our country?

MR. VILLEGAS: Let me address some of the questions that the Commissioner posed and ask the other members of the Committee to also comment. First of all, I would like to reiterate what we said earlier that the word "private" includes cooperatives, labor organizations, private monetary organizations and all types of social groupings that are not part of the government. And relevant to the Commissioner's suggestion about the Monetary Board, it is up to Congress to decide whether some of these members who represent the private sector could come from the labor or farmer sector. So the difficulty of the Commissioners who have been apprehensive about the word "private" comes from the semantic connotation. For example, we would have no hesitation to say "individuals and social groups or sectoral groups" instead of "private groups." We use "private groups" just to highlight the fact that we do not mean profit-making or capitalistic enterprises. We mean all the possible ranges, the whole spectrum of social groupings, as Commissioner Garcia was saying, that can work for the common good which do not have to be capitalistic enterprises. I think it was the sense of the Committee that the Monetary Board should not be predominantly in the hands of the executive because of the dangers of the fiscal and monetary authorities being, to put it very bluntly, in incestuous relationship, which actually happened during the Marcos regime. The fiscal managers could do anything they wanted to the money supply because they were completely monopolizing the decision-making of the Monetary Board. So we are very open to suggesting to Congress — and we can put it on record — that the Monetary Board be composed of predominantly the private sector to include representatives from labor and farmer sectors and so on and so forth. But it is still the common thinking of the Committee that we cannot go back to the old practice where the President's men or women are completely in control of the Monetary Board, which is very unhealthy.

I believe some of my colleagues in the Committee have some other remarks.

MR. MONSOD: I think some of the objectives of industrialization mentioned by the Commissioner are really quite valid objectives. I just want to ask the Commissioner whether or not the government is the proper vehicle for this. And, perhaps, if the Commissioner can show the record of the government with respect to the management of business enterprises and even to functions that are inherent in government, the government is unable to deliver services and goods that are properly within its functions efficiently. How can we now additionally impose on the government the task of having a direct hand in industrialization by owning and managing state enterprises in industry? Mr. Presiding Officer, I am willing to be corrected if we can show the good performance of the government.

MR. VILLEGAS: I will just supplement the remark about "State intervention." Actually, in one of our committee meetings — and I am sure Commissioner Villacorta can attest to this — the Committee even moved to delete some references we made to our neighboring countries that succeeded in industrialization because it was Commissioner Villacorta's judgment, which we accepted, that a lot of these countries — Korea, Taiwan and the other countries —

achieved high levels of growth at a tremendous human cost — dictatorship, authoritarian leadership — which is actually the tradeoff that we are now trying to address very squarely. We cannot use our neighboring countries 100 percent as a model precisely because we are now trying to balance human and economic rights.

MR. OPLE: Mr. Presiding Officer, I do not think that any moral proprium attaches to the name "private sector" or "private capital," especially when this is understood in the context of the ambitions of our own people to become successful entrepreneurs. There is some historical context to this. I still recall the philosopher Karl Marx when the Industrial Revolution was emerging in Europe, which moved him to say: "This is the greatest liberative force that mankind has ever known." And that was the first of the stages of national capitalism based on certain values, like self-denial and frugality. We will remember that the book by R. H. Toni connects the emergence of mercantilism and capitalism to the Calvinist values, which means hard work is great in the sight of God, and the rewards of hard work are also great in the sight of God. But I think the most prosperous societies on earth are those that have successfully combined "State activism" or "State intervention" with the unmatched dynamism of private initiative, which is a fact that cannot be controverted. We might say something about the defects of such societies, but if we look at the scale of assessments in the United Nations based on the per capita incomes of nations, about 70 percent of all the contributions to the United Nations and to the multilateral aid program come from these societies. I am not an apologist for the sins of capitalism, but I think Filipino capital, as I understand it and this is the context in which we are describing the private sector, ought to be given the recognition and the encouragement that it deserves. After all, there is no question that private initiative is the engine on which we shall depend, until the form of government changes, for the development of our country and the generation of wealth that can be equitably shared among Filipinos.

At present, there are nonperforming assets worth P200 billion in the government portfolios, and that is the reason we resort to debt and equity swap which are a kind of desperate strategy for us to get rid of these nonperforming assets of government corporations — a monument to the waste and, perhaps, to the corruption of a certain form of State intervention in the economy. That is the reason I do not feel the Committee should apologize for the accent that is being placed on the role of Filipino entrepreneurs in the development of their own country under this Article on National Economy and Patrimony.

Thank you, Mr. Presiding Officer.

MR. VILLEGAS: Let me react to Commissioner Ople's statement. We would welcome any amendment probably to restore references to indigenous small and medium-scale entrepreneurs in the Philippines. I think in this way we can definitely make the meaning of "private sector" even clearer.

MR. MONSOD: Mr. Presiding Officer, may I just add that if one were to look at the economic crisis of the past three years, I think he will note that the corporations that went down the drain faster were government corporations. In fact, what sustained the economy during these three years were the small and medium-scale enterprises both in the formal and informal sectors of this country. This is the base upon which we can build on.

MR. MAAMBONG: Mr. Presiding Officer, I ask that Commissioner Bennagen be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Bennagen is recognized.

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

Before I ask the question, I would like to supplement the comment of Commissioner Monsod on the phenomenon of corporations properly belonging to that discussion we have on cronyism. One important consideration in the understanding of cronyism is its being a derivative function of feudalism as we interpreted it in the committee hearings. Because it was a derivative function of feudalism, it relied on nonmarket forces, on extraeconomic

forces. Therefore, there was no management expertise that went into this and no surplus capital was ever plowed back to investment. Rather, there were expenses for ostentatious infrastructure projects. In other words, what would have been part of increasing capital accumulation was drained into these nonmarket expressions of feudalism or cronyism, such as those projects associated with the Cultural Center of the Philippines, with tourism and all forms of nonmarket investments. This was the drift of the discussion at that committee hearing.

Going back to the questions that I would like to raise, on Section 1, line 15, reference is made to "a broader-based ownership of private enterprises." What would be included in these private enterprises, and why should private enterprises be broader-based?

MR. VILLEGAS: We have more and more of the people who participate in the ownership, either through cooperatives or public corporations that are open to thousands of stockholders, so in a way we broaden the base.

MR. BENNAGEN: Would this be limited to Filipino citizens?

MR. VILLEGAS: Basically, yes, but subject, of course, to the 60-40 arrangement, if we approve it.

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

Going back to Section 2, the first sentence reads:

Since the use of property bears a social function, all economic agents in the private sector shall contribute to the common good.

As formulated, it appears more as a statement of aspiration, something that is devoutly to be wished. How is this expected to operate in the new context, particularly in relation to all those provisions in the Article on Social Justice? Since I already asked that question, maybe we can proceed to the second sentence which says:

Individuals and private groups shall be given freedom to establish and operate economic enterprises.

And then it says:

. . . subject always, however, to the duty of the State to promote distributive justice and to intervene when the common good so demands.

In the first sentence, the reference is general; it is to "the use of property" and that this property must have a social function; that is, the contribution to the common good. My view is that property has a certain historical specificity and at certain stages, it does perform to serve the common good. But at other stages of its historical development, property does not necessarily contribute to the common good. I suppose that is where some kind of State intervention has to take place.

MR. VILLEGAS: I think it is well-established.

MR. BENNAGEN: Yes. To go back to that possibility of State intervention particularly in reference to distributive justice, what is envisioned to be the mode of intervention?

MR. VILLEGAS: It is either the government actually takes over business as there is nothing wrong with some State enterprises or the government regulates a specific industry.

MR. BENNAGEN: By law?

MR. VILLEGAS: Yes, by law.

MR. BENNAGEN: It shall not set up charity organizations?

MR. VILLEGAS: There are some charity organizations supported by the State like the Red Cross and the Philippine Charity Sweepstakes Office. The State can also do it.

MR. BENNAGEN: Would there be other modes of State intervention that would truly respond to the provisions of the Article on Social Justice without violating the complementarity of private initiative and the State?

MR. VILLEGAS: I think we have a perfect example earlier this morning when we talked about the State subsidizing just compensation when farmers cannot afford to pay the whole price. That is clearly State intervention in order to promote agrarian reform.

MR. BENNAGEN: Yes, but that is a kind of a one-shot deal. I am thinking in terms of a long-term program because subsidy has a distorting effect on the economy.

MR. VILLEGAS: The whole area of taxation has definitely a State intervention angle.

MR. BENNAGEN: Meaning, taxes could be increased?

MR. VILLEGAS: Exactly, to redistribute income.

MR. BENNAGEN: Or efficiency of tax collection maybe.

MR. VILLEGAS: Exactly.

MR. BENNAGEN: That is one way of looking at it. I do have other questions but for now I will limit them. I would like to follow this up eventually when we go into the proportions of control and ownership that the Gentleman mentioned earlier.

Thank you, Mr. Presiding Officer.

MR. VILLEGAS: Thank you.

MR. MAAMBONG: Mr. Presiding Officer, I ask that Commissioner Tadeo be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Tadeo is recognized.

MR. TADEO: Kasama ako sa Committee on the National Economy and Patrimony. Noong pinag-uusapan natin ang tungkol sa social justice, inalis natin ang Section 9 na nagsasaad:

The State shall promote the integrated development of agricultural, fishing and marine resources to meet the basic needs of the people and the industrialization objective of the country.

Kaisa ako sa panawagan nina Commissioners Tan, Foz at Sarmiento na kailangang ilagay sa Article on National Economy and Patrimony ang tungkol sa industrialization. Tanggapin natin ang katotohanan na kapag mahina ang national economy at patrimony, ang takeoff stage ng Cory government o ang susunod na pamahalaan ay mahihirapan. Kailangang malakas ang Article on National Economy and Patrimony sapagkat dito kukuha ng lakas ang national recovery. Sa ganitong kalagayan, ang pagpapatupad ng tunay na reporma sa lupa ng Article on Social Justice ay kaugnay ng Article on National Economy and Patrimony. Kapag ipinatupad ang tunay na reporma sa lupa, magkakaroon ng purchasing power ang 35 to 40 million people. Ngunit kapag walang national industrialization at patuloy ang import liberalization, ang pagtangkilik sa produkto ng mga dayuhan, bale wala rin ang genuine agrarian reform. Kaya lagi naming sinasabi na kasabay ng isang tunay na reporma sa lupa ang pambansang industriyalisasyon.

Kung mananatiling import liberalization ang ating patakaran, mananatili tayong agricultural country. Darating ang panahon na hindi na makakayang tugunan ng ating lupa ang lumalaki nating populasyon. Ang sobrang lakas sa

mga kanayunan ay kailangang i-absorb ng national industrialization.

Ang kalagayan ng bansa sa kasalukuyan ay malungkot. Sa panig na lamang ng pagsasaka, 85 porsiyento ng ating itlog ay imported; 53 porsiyento ng ating pork ay imported; 63 porsiyento ng ating chicken ay imported; 49 hanggang 73 porsiyento ng ating mga gulay ay imported; 85 porsiyento ng ating fertilizer ay imported; 90 porsiyento ng dairy ay imported. Isang bilyong dolyar ang lumalabas sa kabangbayan ng Pilipinas bunga ng pag-asa natin sa mga dayuhan. Halimbawa, 75 hanggang 85 porsiyento ng ating textile ay inaangkat natin sa labas ng bansa; ganoon din sa appliances. Samantalang napakaraming Pilipino ang walang ginagawa kayat dapat tayong lumikha ng tinatawag na backward at forward integration. Kaya kailangan natin ang malakas na Article on National Economy and Patrimony hindi lamang para sa Cory government kundi pati na sa mga susunod pang pamahalaan. Hindi ako naniniwalang kailangan nating iasa sa legislature ang pagpapalakas ng Article on National Economy and Patrimony. Nakita natin ang naging problema sa Article on Social Justice tungkol sa agrarian reform. Ano ang tinatawag nitong loopholes? Kapag inalis ang "by law" sa pariralang "The State shall by law," ito ay magiging "The State shall undertake." Inuutusan na ng pamahalaan ang Kongreso at maaaring magsagawa na agad ng expansion ang Ministry of Agrarian Reform. Subalit hindi maaaring magsagawa ang Ministry of Agrarian Reform ng ano mang programa tungkol sa agrarian reform; hihintayin pa nito ang Kongreso. Ang pariralang "shall by law" ay mayroong positive at negative aspect. Kung ang bumubuo ng Kongreso ay landlord at comprador class, magkakaroon ito ng negative aspect. Magiging mabuti lamang ang "shall by law" kung ang bumubuo ng Kongreso ay pro-people. Kaya hindi ako sang-ayon na iasa natin ito sa legislature. Dapat, bilang supreme law, ang Saligang Batas ang mag-uutos sa Kongreso; hindi ang Saligang Batas ang aasa sa Kongreso.

Napakahalaga ng Article on National Economy and Patrimony sapagkat ito ang take-off stage ng national recovery. Kailangan dito ang isang malakas na seksiyon tungkol sa national industrialization. Sa palagay ko naman, ang Committee on the National Economy and Patrimony ay bukas sa isang malakas na seksiyon sa national industrialization.

MR. VILLEGAS: Yes, as we told Commissioner Ople, we, in fact, encourage an amendment introducing that provision which refers to industrialization. So, I hope the Gentleman can coauthor the amendment.

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

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Aquino is recognized.

MS. AQUINO: I fully appreciate the Committee's efforts to define in the broad stroke some kind of a thrust for the Article on National Economy and Patrimony but maybe I was expecting more. I had hoped that instead of just motherhood concepts of self-reliance in economic development, there is an urgent need for us to address the imperatives of setting up a definitive mandate, cutting through the bull, and addressing and defining precisely a specific industrial policy.

I had hoped that we could have seen a formulation in Section 1 stating, in effect, the need for an industrial policy that is dynamic and active, and would stir up a domestic cycle of surplus accumulation and investments.

In other words, the thrust should be to encourage the creation of industries that will produce capital and intermediate producer goods. It should be going towards the drift of encouraging small entrepreneurship and encouraging competition, at the same time, active and direct State support for investments in large-scale industries, even as there is a deliberate posture to regulate monopolistic tendencies of all industries that are now already operating on this line of businesses. Why the reluctance? Why the "yes" on vague, umbrella principles but "no" on definitive policies?

MR. VILLEGAS: We said we would definitely welcome an amendment that would make this statement specific.

Given optimum opportunity to develop to all economic sectors, we thought that would be sufficient. But if the body thinks that we should explicate that expression that all economic sectors should be given optimum opportunity to develop, we would highly welcome some amendments to that effect.

MS. AQUINO: I went through the minutes of the Committee meeting and, apparently, these ideas have been surfacing quite perceptibly and significantly. But I could not seem to understand why we moved into another direction with a great deal of diffidence.

MR. VILLEGAS: Because at that time, there was the thinking, which also permeated many other committees, that it was bordering on legislation. But if the body thinks otherwise, we can definitely fine tune that specific phraseology.

MS. AQUINO: Thank you, Mr. Presiding Officer.

MR. MONSOD: May I just ask a question? More than the question of whether there should be enough provisions citing the need for industrialization, I think an issue here is economic strategy. If I get the drift of the suggestions of the Commissioner when she talks about government going into or supporting large-scale enterprises and government being involved directly in industrialization, the question that was faced by the Committee was: Should the government go into these activities? In the past two or three weeks, we have been talking about the great demands on the government to deliver social services. We have been listening to remarks that one of the problems is that a great amount of the resources of government has been used to finance corporations, equity contributions, and so on with respect to business activities. The remark of Commissioner Bennagen about crony companies is that those can really be called government enterprises because perhaps 90 percent of the resources of those companies were really government resources. So, in that context, I think the dilemma of the Committee was: What kind of thrust do we have in terms of the role of the private sector and the public sector in economic development? Maybe this is a bigger question than just adding a sentence or a paragraph or several sections on industrialization. As a matter of fact, I think the comments of Commissioners Garcia and Sarmiento also touched on the same issue. This may be a bigger issue than just mentioning industrialization as part and parcel of national economy.

MS. AQUINO: I agree with the Gentleman, but on the question of strategy, strategic flexibility could only go so far. As far as the Philippine economy is concerned, we have to grapple with certain givens which would assume certain definitive answers and solutions. For a fact, we are a country that wallows in a neocolonial history. For another fact, whether we like it or not, we are a country that is economically based on agriculture. In fact, it is generally perceived that the Philippines is like the vegetable garden of the whole of Asia. That makes us a basket case for the whole of Asia. We rank 15th among the countries rich in natural resources; but we are dormant; we are underdeveloped and mismanaged. These are certain givens which do not yield to strategy or tactical planning in terms of economy.

MR. MONSOD: Yes, Mr. Presiding Officer. But we do have the question of priority. If we have only a limited amount of resources which is investible at this point, how do we use it? Do we put it in capital-intensive undertakings where the labor, the employment generated is one unit of labor for every P400,000 of capital? Or do we invest it in other activities where one unit of employment generated is for P20,000 to P25,000 capital? These are very important questions on industrialization. As a matter of fact, there was even a suggestion that the strategy to be enunciated is that we should first have a complete program for agricultural development and forget about industrialization for a while. We did not want to put that because this is a Constitution that is going to last for a long time, and 25 years from now we may have a fully developed agriculture that is subsidized by the State, similar to the United States where they are stuck with overproduction in agriculture. So, we felt there should be

some flexibility as far as that is concerned.

MS. AQUINO: Mr. Presiding Officer, if only I would be allowed to reply briefly.

I will have no quarrel with Commissioner Monsod on that matter. In fact, I am not willing to go to that extent of specifics; I am only saying that we might as well clearly define the framework of industrial growth here, and that is possible in terms of defining what we perceive to be a historical solution to a historical problem. We do not have to go into the mechanics that would require specific data management or programming.

MR. MONSOD: We would be willing to accept some amendments or suggestions in that regard. Essentially the issue is really the mix of the private and public sector participation in the economy.

MS. AQUINO: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Bennagen is recognized.

MR. BENNAGEN: Let me try to get into the discussion in relation to the way we are reacting to the nature of the State or even its modes of intervention.

It would seem to me that we have not gone beyond the character of the State during the Marcos years and that we have failed to make a shift in paradigm even after the political revolution of February. In the Marcos years we did have a dictatorship which was an alliance of a fraction of the political elite and a fraction of the economic elite. I would like to think that that alliance was dismantled during the February uprising and that we are moving on into a new alliance where a broader range of private sector organizations or groups, individuals, cause-oriented groups, civic organizations are involved; meaning, we already have a wider range of participants in both the political and economic exercises to warrant the explosion of some kind of creativity in the economic sphere that was absent during the Marcos years.

Earlier I indicated that during the Marcos years, there was a lot of distortion in the process of capital accumulation. I would like to think that those distortions have been minimized, if not eliminated, and we are now prepared to have an alliance between the government and the wide range of private sectors. There should be no resistance to the exploration of viable relationship between government and this whole range of private participants.

Thank you, Mr. Presiding Officer.

MR. GARCIA: Mr. Presiding Officer, may I make a brief remark.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Garcia is recognized.

MR. GARCIA: During the past few hours we have been zeroing in on three concepts at least where we had misunderstandings, as Commissioner Bennagen already pointed out: public, private, and ultimate objectives. I agree we have been gripped by the political trauma of martial law years where the whole idea of public or State enterprises has evolved to have peculiar meanings to most people. I maintain that we did not have a democracy; I think it is very clear, it was a dictatorship, it was "kleptocratic," it was not responsive, it was not accountable and neither was it independent. And there is definitely a change now to a more popular and majoritarian kind wherein the State could be in the hands of people.

On the concept of "private," I think the Committee is trying to utilize the concept and expand it to be elastic. Let us take the example of Asia Brewery. Is it private if it is owned by Lucio Tan? Yes. Is it private if it is owned by the workers of the company of Lucio Tan? Yes. But there is a very big difference. Do you call both private sector or private groups? In one sense it is private but in the other sense, if it is owned by the workers of the company, it

can be an area of social property. It is not in the hands of the State, neither is it in the hands of Lucio Tan, one individual or one family. It is an area of social property. So, that is the kind of concept I was trying to introduce — social sector, social property, social area.

On the question of Commissioner Aquino regarding ultimate objectives, we are not simply working at a document; that is, looking at it piecemeal. What do we do now strategy-wise? I think it is a statement of ultimate objectives. Eventually, we want to have a national economy that is self-reliant and independent. How do we pursue this? I think central planning, as was mentioned, is crucial. No matter what kind of economy we have, we have to have central planning. Secondly, we must have some form of industrialization which we can manage in our own terms, based on our own resources. Also, we must have the ability to walk on many legs, and not simply be dependent on one or two trading relationships but on many different and diverse dependencies until we are, in a sense, more relatively independent. What we are looking for in this Article is a supplement, a very strong support, for the Article on Social Justice. This is precisely the kind of ultimate objective, the vision of an ultimate objective and framework. That is all.

I was actually going to propose just as we did in the local government, if the Commissioner feels that this could help us to come together, to put our thoughts together and work this thing out thoroughly. After all the interpellations, we could go to a caucus as we did the last time and hammer out the ideas because I am afraid this is not just a matter of semantics. It is really trying to find but if, upon putting all of our different ideas together, we can come up with an Article that would truly serve, for a long time, the upliftment and recovery of our economy and our people. Can we come to a caucus together and discuss these ideas and find out what is the real sentiment? We are not simply debating on the proper wording but on an ultimate vision.

Thank you.

MR. MONSOD: Can the Commissioner give us an idea? Maybe he can write it out or have a presentation to the Commission on the process of development that he has in mind?

MR. GARCIA: I was thinking that perhaps we can come together in a caucus and discuss what kind of economy we really want to have in the future. Let us sit down together, face each other and talk. Maybe after all the interpellations, we can discuss it. I think we will really save time because we will not be just amending the different words.

MR. MONSOD: No, Mr. Presiding Officer, what we need are other options that what the Committee feels are the path or process of development that would be appropriate for the country. What we need is an explanation of the other options available to us.

MR. GARCIA: What I am proposing actually is this: We could come together and perhaps some of us could propose some alternative ideas. Actually, if the Gentleman will look at the minutes of his own committee, he will find that there have been many ideas expressed already. It is just a matter of putting them together in a far more integrated fashion.

MR. BENGZON: We would like to start off with the Gentleman. Maybe he could just write down his ideas and give them to us, and then we can get into a caucus. So, we will have a starting point because if we get into a caucus without any concrete ideas or other options, then we will just be using the committee report as the basis.

MR. GARCIA: All right, I accept the invitation of the Gentleman. I would like to invite every single Commissioner here who may have his own ideas regarding this point. How can we open the economy so that other social sectors could become more active participants and enjoy the benefits of economic recovery? How can this be pushed? I feel we can enrich this by this kind of participation.

MR. BENGZON: In the meantime, we can continue the various interpellations we have.

MR. GARCIA: Yes, precisely. My proposal is that after all the interpellations, we go back to the Article on Local Governments. Is that correct?

MR. BENGZON: No, I was told that under the schedule that we have we are going back to the Article on Local Governments on Friday morning because we still do not have copies of the new report of the Committee.

MR. MONSOD: We are willing to ask the Chair if we can have a caucus tomorrow for this purpose. That might be a good idea.

MR. GARCIA: I would like to suggest this. Let us try to finish all the interpellations, as we did with the Article on Local Governments, and then we can come together and talk.

THE PRESIDING OFFICER (Rev. Rigos): May the Chair suggest that during our merienda recess, Commissioner Garcia and the others talk with the members of the Committee on the possibility of having a caucus either this afternoon or sometime tomorrow.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Ople is recognized.

MR. OPLE: Mr. Presiding Officer, I think this morning, on motion of the Chairman of the Steering Committee, the body approved a proposal that we devote two sessions to the period of interpellations on the Article on National Economy and Patrimony. Is that right?

MR. BENGZON: Yes, to get it over with.

MR. VILLEGAS: Including tomorrow morning.

MR. BENGZON: Yes, because we lost two hours on the discussion on the Article on National Economy and Patrimony.

MR. OPLE: So, unless we are willing to overturn this previous decision, I would like to suggest that we go ahead with the period of interpellations.

THE PRESIDING OFFICER (Rev. Rigos): The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Presiding Officer, earlier the Chair recognized Commissioner Rosario Braid, but at that moment she was not prepared. If she is now ready with her interpellation, I ask that she be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Mr. Presiding Officer, I would like to continue on the same note. I have been working on some amendments because, like the others, I note that the document should perhaps contain short-term, medium-term and long-term strategies and directions. I also suggest emphasis on entrepreneurship and small-scale industries and the need to attend to the informal sector of the economy, like the nonmonetized sector, the need for comprehensive planning to ensure that we give incentives to investors. Therefore, we cannot go by the usual model of allowing just the market forces to provide all the signals. We need, for instance, protection to agriculture and industry by providing these sectors full information that would help identify priority areas, particularly in pricing and profitability. The State must also provide entrepreneurship with incentives, such as subsidies and tax shelters so that they are encouraged to enter these priority areas. I believe that this is one direction that should be pursued and expressed in terms of a short-term goal.

Another thing that bothers me is the lack of a vision for the future in terms of a direction for an independent national economic growth. I would like to quote a critique by different scholars from several parts of the world who evaluated the development strategies in Third World countries.

It states:

If development means obtaining and securing the basis of life for the masses, the world's population, if it is to increase emancipation of oppressed people, classes, and marginalized social groups, if it is to aspire to the creation of a just, nonexploitative and mutually beneficial social order for the free development of each individual condition and for the free development of all, then clearly, developmentalism cannot be the answer. Human and social development for all can only mean the necessary transformation of the world's system into a different social order aimed at a different mode of production and a different form of society.

If we could only support this movement even in an evolutionary way towards South-South cooperation, towards the production of appropriate technology, appropriate consumption and production style so that we would not be overdependent on the North, I think it is this kind of vision that I would like to see expressed in a development philosophy. We should then move forward, unleashing all the creative forces of our society towards this direction of freeing ourselves from the exploitative international order which has produced an environment that favors investment of transnational capital and other inequitable relationships between the North and the South. I would like to see a provision which shows the need for short-term and medium-term as well as long-term strategies which will work towards full sovereignty in the economic sector.

Thank You.

MR. VILLEGAS: We would welcome an amendment to that effect.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): The Acting Floor Leader is recognized.

MR. MAAMBONG: I ask that Vice-President Padilla be recognized.

THE PRESIDING OFFICER (Rev. Rigos): The Vice-President, Commissioner Padilla, is recognized.

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

I am referring to Section 5 of the 1935 Constitution which is repeated in Section 14 of the 1973 Constitution, and is again repeated in Section 6 of Committee Report No. 24. This section provides that:

Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain.

In accordance with the early decision of *Krivenko vs. Register of Deeds*, 1979 Philippines 461, which held that aliens cannot acquire private agricultural lands and, therefore, are also disqualified to hold any residential land, the Committee has included an exception which was found in Section 15 of the 1973 Constitution in favor of natural-born citizens who have lost Philippine citizenship — they may be transferees of private land solely for residential purposes. The 1973 Constitution mentions "as the Batasang Pambansa shall provide." Under the committee report, it is limited not to exceed an area of 1,000 square meters.

Chairman and gentlemen of the Committee, I filed a proposed resolution for another exemption which would permit, under conditions to be prescribed by law, foreign investors engaged in the manufacture of export products as certified by the Board of Investments to acquire, hold or own private lots with limited area required in the operation of their export-oriented industrial enterprises. What motivated me to file this resolution is the policy of

our government to encourage economic growth, to produce national wealth, to help solve the problem of unemployment, underemployment and poverty, and to afford our people a decent life with dignity. One of the potent factors towards economic reconstruction — I prefer to use the word "reconstruction" rather than "recovery" — is foreign investors in industrial enterprises, especially of export-oriented goods produced with local materials and labor. But such foreign investors would need private lots for the establishment and operation of their industrial manufacturing plants. So, the purpose was to permit, as an exception to Section 6, another exception.

MR. SUAREZ: Section 7, Mr. Presiding Officer.

MR. PADILLA: Another exception to Section 6 because Section 7 has only one exception — to allow only a limited area of industrial lots necessary for the operation of this export-oriented industrial enterprise. I even added "under conditions as may be provided by law." But I found that this proposal was not even considered by the Committee whether or not it has any merit.

MR. VILLEGAS: It was considered, Mr. Presiding Officer. In fact, there was full deliberation; we had a number of people from the various sectors — the export-oriented sector, real estate sector — and the Committee decided, although there was no consensus, that it was not an indispensable ingredient in attracting foreign capital. But we would leave it up to the body to decide, if the Gentleman likes to introduce an amendment.

MR. PADILLA: Mr. Presiding Officer, the prohibition is with regard to aliens acquiring public agricultural lands. But the prohibition has been extended to prohibition to acquire private land. If we must encourage foreign investments and attract foreign investors, especially in the manufacture and export of products that are export-oriented which may be not only dollar-saving but dollar-earning — and we always say we want economic development — does not the Gentleman agree with me that this second exception or another exception to the general rule that private lands are to be reserved exclusively to citizens, to which I agree, can be followed to attract foreign investments and foreign industrial enterprises, especially in the manufacture of goods for export and using as much as possible local materials and necessarily local labor?

MR. SUAREZ: Precisely, the points raised by the Gentleman this afternoon were taken up in connection with the public hearings conducted by his Committee. We remember an English gentleman who presented his situation very forcefully in the way the Vice-President is presenting it now. One of the answers given was the fact that all of these enterprises could flourish and prosper under a lease agreement. In other words, there was no necessity for that exporter, who is a foreign investor, to own the land on which the industry will be established or set up. That was one of the proposed solutions to correct the situation, a long-term lease without getting involved in the matter of ownership. The examples were also given in the case of the EPZA or of industrial operators wherein certain portions of the EPZA estate were being leased to companies like Ford Philippines, Mattel and Globe Textile Manufacturing. They did not have to own the land on which their industries were set up, notwithstanding the fact that their industries were, indeed, export-oriented. But at any rate, at the proper time, with all the necessary limitations regarding the area, we in the Committee would be pleased to entertain the proper amendment.

MR. PADILLA: The lease of industrial lots for long term is not a sufficient incentive for foreign investors. Moreover, the owners of industrial lots may not agree on a long-term lease with fixed rentals. However, the fear of acquiring or owning a limited industrial lot where the manufacturing plant is established is not serious, for the lot and its buildings are permanent, immovable real estate which the foreign investor cannot take away, and such land improved by these industrial buildings and plants remain as assets of the country. With regard to "lease under long term," some believe that the prohibition would include not only title or ownership of land but holding land, which may not be the naked ownership but also the right of use, like the usufruct or in lease. If lease is on a long-term basis, maybe 25 years renewable by another 25 or even 99 years, for all practical purposes, that is like

owning the land. It is not exactly correct to say that all foreign investors are happy in a continuing lease when their foreign investments, the dollars they bring in, may not only be used for the plant but also for the acquisition of a specific, limited industrial lot, which will encourage foreign investments and the manufacture of industrial goods especially if they are export-oriented.

We always talk of the State, the private sector and the social aspect. What will develop this country is creating wealth, producing additional goods and services. I have heard our friend Commissioner Tadeo mention so many who are out of work — workers, farmers and others. They look for work but they cannot find work. Many invoke and rely on the State. The State can help by giving incentives to the private sector for the production of additional goods and services. But we cannot really expect social benefits or more distribution of the benefits of wealth unless we first produce wealth, unless we first increase our productivity.

The State or the government has never been successful in the operation of private business. The so-called government-owned and controlled corporations have usually been financial failures. The government may only be justified if it enters into pioneer fields of enterprise which the private sector cannot enter into, but never for the State to engage in business in competition with private business.

We must realize that we cannot remove the profit motive in business, whether it be agriculture, industry or commerce. There must be an incentive for investment and there must be a reasonable expectation of profits. These profits should be shared not only by the owner or capital but also by the workers or labor.

If we do not have additional industrial enterprises, we will continue to have numerous and growing armies of unemployed. Unfortunately, the workers cannot help themselves; they need industrial entrepreneurs, usually called the captains of industries who not only have capital but also experience and vision to enter into business enterprises with some risks of loss. That is, in my opinion, the real approach to a growing national economy.

Mr. Presiding Officer, many think right away of State control or a just share of workers when we refer to the underprivileged to share in the benefits. Well and good. But we cannot share the benefits unless we first produce those benefits. In my opinion, the greatest factors for the production of wealth for increased productivity are the entrepreneurs, the private sector, under the principle of free enterprise and, we must admit, profit motive, subject, of course, to the regulatory power of the State for the common good.

So, instead of speaking about an ideal society, we have to be more pragmatic and realistic such that, as according to the Cory government, the first thrust is agriculture. Very good, because we must satisfy the needs of our people, our growing population, and after agriculture will be a certain amount of industrialization. Maybe Filipino domestic capital cannot undertake big ventures. That is why we should encourage small-and middle-size enterprises. But if we have an opportunity for greater investments by foreign capitalists — I am not an advocate of multinationals but the principle of investments for more production — more economic benefits can be shared by all the elements of society.

Thank you.

MR. VILLEGAS: I thank the honorable Gentleman.

MR. MAAMBONG: Mr. Presiding Officer, I ask that Commissioner Brocka be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Brocka is recognized.

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

I hesitate to speak up because, like Commissioners Quesada and Tan, I am a layman as far as economics is concerned, and I am only trying to listen to all the ideas that have been expressed so far.

I share the fears of Commissioner Sarmiento and the apprehensions expressed by Commissioner Aquino regarding the clarity of some of the particular provisions on an industrial policy that should be adopted by this Constitution.

I will mention two things about my own fears and apprehension. First, it is the words "common good." We saw this term in the Preamble; it was all over the Article on Social Justice; now it is again in the Article on National Economy and Patrimony, and I suppose we shall be hearing more of this in the other forthcoming Articles.

I would like to express my fears because I am a little bit confused about this. In one of the meetings of the Committee on Social Justice, I expressed my feelings that the Article on Social Justice definitely shows a preferential option to the poor, the deprived and the oppressed. Of course, some questions were asked as to the way it could impinge on the right to life, liberty and property. I felt that we were not honest enough — the Committee was not honest enough — in telling some of the Commissioners that were raising questions on the conflict between social justice and private property, right to eminent domain, etc., that, definitely, social justice will be bloody and painful, and that, definitely it will show preferential option for the poor. That clear. Definitely if you have lands, your lands will be taken away from you to be given to the poor.

I guess I was waiting for that, but there was a lot of skimming over and a lot of euphemisms. Everytime there is a question presented as to the fear of infringing on the right to property and eminent domain, the answer was always for the "common good, due process of law, in accordance with law," et cetera.

I bring that up because in the Article on National Economy and Patrimony, I see the same thing. Section 2, for example, states:

Since the use of property bears a social function, all economic agents in the private sector shall contribute to the common good. Individuals and private groups shall be given freedom to establish and operate economic enterprises; subject always, however, to the duty of the State to promote distributive justice and to intervene when the common good so demands.

So, it seems that the phrase "common good" is a good excuse to neutralize whatever fears some sectors of society feel regarding the implementation of these particular Articles.

I am bringing that up because I would like to ask the Committee once and for all to give a definition of "common good." I do not expect that answered now perhaps tomorrow or some other time. But I think it would be good if we are clear insofar as the definition of "common good" is concerned. Probably, we can use the Article on Social Justice as framework, because in the original Article on Social Justice, there were phrases like "social justice is the moral, cultural, political, economic imperative." However, they were taken out completely.

So, for the peace of mind of most people who want some clarity on this, I would ask the Committee to come up with a definition of the "common good."

Secondly, I am in receipt of a correspondence that just arrived today and I went through it when Commissioner Aquino stood up and spoke about the Article on National Economy and Patrimony not being clear or not being brave enough to come up with a definite policy or industrial policy, call it what you want. I was reading this particular correspondence — I do not know if the other Commissioners have it — signed by well-known businessmen, some of whom I know from the parliament of the streets, containing a proposed constitutional provision which makes sense to me. It is a proposed constitutional provision on industrialization, economic protectionism and Filipinization of the economy, and it reads:

The State shall promote the full and rapid industrialization of the economy to generate mass employment. For this purpose, the State shall adopt, among others, a policy of direct and indirect protectionism that will preserve

and ensure the domestic market for local industries, as well as for agricultural and other sectors of the economy. The State shall at all times ensure that the economy is under the control of Filipinos and that industries so vital to national security do not fall under the control of non-Filipinos.

I would like to follow up what Commissioner Tan said earlier. As I said, when I read this, it makes sense, although I am not very clear on what protectionism means in all these things. The reason I read this is for the Committee to enlighten us on this particular proposed constitutional provision being proposed by a group of businessmen.

Whether the Committee wants to adopt this or not, I would like to know why, since some of the members of the Committee on the National Economy and Patrimony are well-known economists — and I suppose this was submitted by economists also probably of a different persuasion, a different outlook and a different perspective.

I would like to request the Committee on the National Economy and Patrimony to discuss this proposal so that laymen like I and others would understand. I realize that I am being very naive and very simplistic about this. But I hear talks from people from the IMF and the World Bank and people from the other side, and being a layman, I am completely confused. They speak of Filipinization. Definitely it sounds good to me, and I think I agree because their reasons make sense.

On the other hand, people from the IMF and the World Bank insist on foreign capital because our economy is in such dire state. So, as a layman, I am completely confused; would it be asking too much if I ask the Committee to discuss the principles or policies being recommended here? I suppose if an explanation is given, it will not only be for me but for many other laymen and people who are confused about the IMF, World Bank and the school of Lichauco or of Constantino. I have read all these and, frankly speaking, I am very confused. As a Filipino, I am for the Filipinization of the economy. Commissioner Garcia suggested that we have a caucus. Probably we can confront the problem and discuss it once and for all. In this way, we do not talk in whispers and say that somebody is a member of the IMF and World Bank, one is a nationalist and has a tendency of being socialistic or communistic, like when we were deliberating on the Article on Social Justice. So, for the enlightenment of laymen and people who are confused about the kind of industrial or economic policies that we will put in the Constitution, may I reiterate that we take these up in a caucus. As I said, I am terribly confused at the moment.

Thank you very much.

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

To answer the first question of the Gentleman, I will reiterate the answer I gave to Commissioner Quesada. The "common good" is defined by the Committee as "a social order which enables every single member of a society to attain his or her full development, economically, politically, culturally and spiritually." So, that is the definition of the "common good" that we have in the record. As I told Commissioner Quesada, we can actually substitute "public interest and general welfare," especially in this specific Article on National Economy and Patrimony because there are situations in the economic sphere when the wishes of the majority can be legitimately followed as long as we do not completely ignore the welfare of the minority. We do not have to use "the common good" repetitively in the specific Article. Some people want to introduce certain amendments.

On the second point that the Gentleman raised, we would not want to speak for the group about their definitions of protectionism and all the other words that they used. They were the ones who made the recommendation and I think it would be presumptuous of the Committee to speak for whoever wrote that specific letter.

MR. BROCKA: I am not asking that the Gentleman define it, but I would like to find out what he thinks about it as a businessman or economist, or whether he is for or against it, and what his reasons are. That is what I am

asking for; I am not asking for his own definition. I do not think I can invite the proponents to come here and explain but the Gentleman, as businessman and economist, knows what they are talking about; I do not. So, I would like to ask how the Gentleman feels and thinks about it and why. Is it good for the economy? What are the implications if this is adopted? I think I am speaking for the enlightenment of the rest of the Commissioners as far as this is concerned.

Thank you.

MR. VILLEGAS: Gladly, we can always give the Gentleman several hours of lecturing on these issues. This is really a very important illustration of what I was trying to communicate to Commissioner Aquino — that the moment one tangles with these issues, he is literally bordering on legislation. Whether or not we should follow the wishes of the IMF and the World Bank, whether or not we should develop agriculturally first or when we develop industrially — all these are very specific questions.

MR. BROCKA: I understand the Gentleman's apprehensions about legislating, but the thing is I become completely confused when I read the Article on National Economy and Patrimony. I do not know what it is trying to say. I get the feeling that it is trying to be very careful and very cautious on something so vital to our country at the moment so that it becomes acceptable to everybody. We have to be very clear about our stand; I am not saying that we are hiding behind words like "common good." This was the same apprehension I mentioned during the discussion on the Article on Social Justice. We wanted to please everybody when, in fact, all I wanted to hear was that social justice will be bloody and painful; it has preference and is biased toward the poor — that if one has 50,000 hectares, all of it will be taken away. I guess that was what I was waiting for. The thing is that the discussion went on and on and the Committee as a group kept saying: "No, the land will not be taken away from you without due process of law, et cetera" which was, of course — pardon the language — a lot of bull . . . (deleted by order of the Chair). As I said, the Committee was not being honest to the Commissioners; it should be honest with them and tell the Commissioners who were voicing their apprehension that "Yes, under the Article on Social Justice, you will lose your land. That land will be taken away from you because we are trying to balance the great imbalance of social injustice — that the majority are propertyless, and that they are poor, underprivileged and disadvantaged." We went on talking about the disadvantaged and the underprivileged but the moment a propertied landowner raises questions, our answer was always "No, there should be due process of law, that is why there is Congress, et cetera." I guess what I wanted was some honesty in the discussions, and I realize that this is the way the Article should be worded. But as it is, right now we are sacrificing clarity.

One Commissioner, for example, came up with a resolution for the removal of the bases "as may be provided by law." Of course, it is a joke but there is a certain honesty.

MR. OPLE: Parliamentary inquiry, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Ople is recognized.

MR. OPLE: I am in full sympathy with the presentation of Commissioner Brocka but in the course of his impassioned statement, I think he mentioned a word. I would not move to delete it but only the last part of the word so that only "bull" is retained. (Laughter) Will the Gentleman agree to drop the last part of the word so that only "bull" is retained?

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Is there any objection? (Silence) The Chair hears none, the motion is approved.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): The Acting Floor Leader is recognized.

SUSPENSION OF CONSIDERATION OF PROPOSED RESOLUTION NO. 496
(Article on National Economy and Patrimony)

MR. MAAMBONG: I have actually two motions to present. The first one is to suspend consideration of the Article on National Economy and Patrimony.

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

ADJOURNMENT OF SESSION

MR. MAAMBONG: The second motion, Mr. Presiding Officer, is that in order to give the Committee and the Members of this Commission time to recharge their energies early, and considering that per a report which I just received, one of us has just been considered indisposed because of fatigue, I move to adjourn the session.

THE PRESIDING OFFICER (Rev. Rigos): Is there any objection? (Silence) The Chair hears none; the session is adjourned until nine-thirty tomorrow morning.

It was 5:28 p.m.

[*] Appeared after the roll call

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