

R.C.C. NO. 85

VOL. IV, September 17, 1986

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Wednesday, September 17, 1986

OPENING OF SESSION

At 10:01 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Wilfrido V. Villacorta.

Everybody remained standing for the Prayer.

PRAYER

MR. VILLACORTA: Almighty God, our only Master and Savior, early this year we implored You to give us Your help in overthrowing the dictatorship. In return, You gave us a miracle. This time we are once more asking Your help in realizing a pro-God, pro-people and pro-Filipino Constitution. We beg You to give us another miracle. In this supplication, we shall recite the same prayer that we sang throughout the campaign and the revolution.

Mga kasama ko sa Constitutional Commission, ating awitin ang Ama Namin.

Everybody sang the Ama Namin.

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Concepcion Present

Alonto Present[*] Davide Present

Aquino Present[*] Foz Present[*]

Azcuna Present[*] Garcia Present[*]

Bacani Present Gascon Present

Bengzon Present[*] Guingona Present

Bennagen present Jamir Present

Bernas Present[*] Laurel Present

Rosario Braid Present Lerum Present[*]

Calderon Present[*] Maambong Present[*]

Castro de Present Monsod Present

Colayco Present Natividad Present

Nieva Present Sarmiento Present[*]

Nolledo Present Suarez Present

Ople Present[*] Sumulong Present

Padilla Present Tadeo Present[*]

Quesada Present Tan Present

Rama Present Tingson Present

Rigos Present Uka Present

Rodrigo Present Villacorta Present

Romulo Present Villegas Present

Rosales Absent

The Secretariat is in receipt of official advice of absence of Commissioner de los Reyes.

The President is present.

The roll call shows 31 Members responded to the call.

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I move that we dispense with the reading of the Journal of yesterday's session.

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from Ms. Ma. Persevera Razon, College of Social Sciences and Philosophy, University of the Philippines, Diliman, Quezon City, expressing belief that the U.S. bases issue is a major item that should be included in the deliberations of the Constitutional Commission, at the same time pointing out the disadvantages of retaining the U.S. military bases in the Philippines.

(Communication No. 920 — Constitutional Commission of 1986)

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

Letter from Mr. Vicente Sumbillo, Sr., President, Small Landowner's Association, Dumingag, Zamboanga del Sur, submitting a petition signed by fourteen officers of said association, seeking exemption from the application of "Operation Land Transfer" of small landowners having only one to twenty-four hectares and that the Certificate of Land Transfer issued to tenant-farmers working on landholdings of not more than twenty-four hectares be cancelled and returned to the landowner.

(Communication No. 921 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. David E. Phillippe, President of the Management Trend Company, 18321 Ventura Blvd., Suite 740 Tarzana, California, submitting a statement — "The Essence of the Constitution, The Rule of Law and Code of Conduct Between Human Beings" — which contains the universal law of acceptable human conduct and behavior in the exercise of the right to life, liberty and the pursuit of happiness.

(Communication No. 992 — Constitutional Commission of 1986)

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

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on Declaration of Principles)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Madam President, I move that we continue the consideration on Second Reading of the Article on Declaration of Principles.

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

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

The Chair understands that we are still in the period of sponsorship and debate.

MR. RAMA: Yes, Madam President.

Madam President, I ask that Commissioner Natividad be recognized to interpellate.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Thank you, Madam President.

I have only a few questions which I would like to clear up inasmuch as most of these sections had already been the subject of extended interpellations. Section 9 on page 3 states that:

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

The State, therefore, is committed to protect the life of a fetus from the beginning of conception. Is that right?

MR. VILLEGAS: Yes.

MR. NATIVIDAD: There is no quibbling about how many months old the fetus is, but for as long as conception has started, is the fetus entitled to protection?

MR. VILLEGAS: That is precisely the reason we have to say "from the moment of conception" because if we do not protect life at its beginning, there is no reason why we have to protect it at any other period.

MR. NATIVIDAD: Madam President, I rose to ask these questions because I had the impression that this provision of the Constitution would prevent future Congresses from enacting laws legalizing abortion. Is my perception correct, Madam President?

MR. VILLEGAS: Exactly. Congress cannot legalize abortion. It would be unconstitutional.

MR. NATIVIDAD: In what way will it collide with this provision?

MR. VILLEGAS: Any direct killing of the unborn from the moment of conception would be going against the Constitution and, therefore, that law would be, if Congress attempts to make it legal, unconstitutional.

MR. NATIVIDAD: As written here in the draft, the right of the mother is written in the same sentence as the right of the unborn. What is the legal significance of this?

MR. VILLEGAS: Madam President, as I said in response to the question yesterday of Commissioner Suarez, 99 percent of the cases related to protection of the mother's health, making sure that she is in the right working conditions and that she is not subjected to stress, show that there are so many things that can endanger the life of the unborn because the health of the mother is not sufficiently cared for. This is really a prolife provision which emphasizes the fact that in most instances, protecting the life of the mother is also protecting the life of the unborn.

MR. NATIVIDAD: I am not really certain if these questions had already been asked, but I promised the groups in the public hearings and those who came here to see us that I would do so.

The lawyers who came here say that husbands also have the right to participate in the discussion of this provision. They cited the case of a mother who started to bleed and was brought to the hospital. The hospital tried to stop the bleeding but this could not be stopped; the doctor said that the only way to save the life of the mother was to terminate the pregnancy. The husbands told me that in such a case and considering the provision of this draft Constitution, the doctors would hesitate to terminate the pregnancy for fear of colliding with or violating this provision, and of being criminally charged according to our Penal Code.

Is this a correct view of those who fear this probable happening?

MR. VILLEGAS: That is not exactly correct, as we reiterated in the sponsorship speech yesterday.

In a situation where the mother needs medical operation to treat a certain illness but where indirectly the life of the unborn is sacrificed, that is not in any way considered part of this provision because there is no direct intention

to kill the unborn. This is covered by the moral principle called the principle of double effect. The intention here is to save the mother and therefore a medical operation has to be performed; and if indirectly, the baby's life is sacrificed, that is not abortion. What is abortion would be a direct intent on the life of the unborn because it is unwanted — either it is the result of rape, in very, very few cases, or the result of incest, or because the baby might come out malformed. In all of these instances, there is absolutely no moral justification for killing the child.

MR. NATIVIDAD: I am trying to draw from my own experiences in the CIS when, during my time, we investigated cases of criminal abortions. Invariably in many of these cases, the records of the clinics dealing with abortion showed that the mothers were brought there already bleeding. The doctors claimed that they only performed a "D & C" — dilatation and curettage — on the patient which in effect terminated the pregnancy. The treatment had to be given because the mother was already bleeding, or the father was not available, because in many instances, she is an unwed mother. But if we investigate the case and look at the records of the clinic, it is exactly as the Commissioner has said: The woman was brought to the clinic bleeding; there was no way to stop the bleeding, so the doctor terminated the pregnancy to save the life of the woman. This in effect was made an excuse for criminal abortion.

We cannot file any case because there are no witnesses. The subject of the case, the woman herself, would be the last person to testify because she would be a coprincipal in the crime of criminal abortion. Another instance in the records of the doctors state that they removed a growth — I do not remember the exact medical term — but invariably it says removal of the growth inside, which could not be removed except by terminating the pregnancy.

So, in fine, would not the Gentleman's statement as to the exceptions to this protection of the life of the unborn from the moment of conception open the floodgates to the insidious practice of criminal abortion in this country? I am basing my question on the response of Commissioner Villegas that the exception to the rule is when the mother's life is endangered and therefore the Pregnancy can be terminated.

MR. VILLEGAS: Yes, if there is no direct killing of the baby or if the intention is to operate. The cases enumerated by the Gentleman are instances where either the law has to be perfected, and these are very good examples of how imperfect laws are, and therefore should not be the bases for our writing the Constitution, or that the implementation of the law has to be perfected. I think all of these are precisely instances which we have to work on in perfecting the law and perfecting its implementation.

MR. NATIVIDAD: I subscribe to Commissioner Villegas' view and I was merely testing the validity of his statement. My question, I believe, becomes a question of evidence because it is really hard to convict in a case of abortion when the woman herself would not testify, neither would the boyfriend nor the husband, because they are all coprincipals to the crime just committed. So, based on my own experiences in the actual criminal investigation of these offenses, the fact that the woman would not testify is a loophole in the campaign against criminal abortion. In fact, under the law, even accidental abortion is a punishable offense, especially on the part of the doctor.

For the record again, what is the perception of the committee in cases where, for example, a couple comes to know that the child is deformed? By scientific examination, the unborn child is determined to be facing a life of difficulties because it is deformed or is lacking in organs. What is the perception of the honorable Commissioner on this?

MR. VILLEGAS: Madam President, there is absolutely no moral reason for that baby to be killed because there is no reason why we should assume that only those who can enjoy life or who can find pleasure in life should be allowed to live. The moment we start playing God and start saying that those who cannot enjoy life should be killed, then we know what can happen — we can have all sorts of cripples, handicapped, mongoloids and idiots

killed a la Hitler. Precisely, that argument could be a very dangerous argument the moment we say that a baby should be killed because he is deformed and would not be able to enjoy life like every normal person. That is one of the most dangerous, hard-cased exceptions that could open the floodgates not only to abortion but to euthanasia.

MR. NATIVIDAD: I suppose the Commissioner would have the same view when it comes to multiple rape. This is when the woman cannot stomach the prospect of having a child whose father cannot be identified.

MR. VILLEGAS: Yes, because it is not the fault of that person that people have done her wrong. But we should not right a wrong by another wrong. This is one time when society has to be very caring. There are many institutions and charitable groups that can make life pleasant for that victim of rape and let her give birth to her unwanted baby. There are so many people looking for children to adopt anyway. Besides, we very well know that babies are now being created in test tubes. There is always a caring concern which society can give to that poor victim, but definitely, murder is not a solution.

MR. NATIVIDAD: The Gentleman has just mentioned test tube babies. Are they also protected by this Constitution?

MR. VILLEGAS: I have not worked out the legal implications. As we know, that is a very new phenomenon and even in industrialized countries, the moral and other legal implications of test tube babies have not yet been worked out.

MR. NATIVIDAD: But they are already conceived.

MR. VILLEGAS: My tentative answer is that definitely, they should also be protected.

MR. NATIVIDAD: There is life already; they are conceived although the parties may be unknown. The fetus is already a subject of protection.

MR. VILLEGAS: Yes.

BISHOP BACANI: Madam President, may I comment on the unwanted babies. I was reading this little book on a study of unwanted pregnancies and the interesting thing is this: In practically all cases, unwanted pregnancies became wanted babies. In fact, there were more unwanted pregnancies that became wanted babies than wanted pregnancies in the beginning which turned sour.

So I would just like to point out that what initially may be an unwanted pregnancy may, in the course of the days and the months before delivery, turn into a desire for the baby.

MR. NATIVIDAD: Will the kind bishop give an example?

BISHOP BACANI: I was trying to look for the data on that particular experiment which I will show Commissioner Natividad in a few minutes.

MR. NATIVIDAD: I just want to ask another question on Section 4 but I will not be very tedious about this.

This Constitution is not just for one season; it will not be just for a decade. In fact, we expect and we hope that it will last much longer than that. But through the corridors of time, developments may come whereby nuclear weapons might be more common than they are now. Suppose the nation is faced by assault from abroad or from whatever source, and the only solution is for us to defend ourselves against hordes of invaders through nuclear weapons which, at that point in time, are already common, would we deny our nation the use of such a weapon to defend ourselves by postulating now that no nuclear weapons shall ever be deposited, stockpiled or used in this country?

This Constitution is not for now only but for decades and decades to come. Are we going to deprive our future generations of a weapon of self-defense in the future? Who among us can foresee this? The way nuclear weapons are being developed now, they will not be as common as the present Magnum .357. At the time Nagasaki was bombed, the atomic bomb was a highly top-secret bomb. Now, even a university engineering student according to what I read when I was in the United States was able to draft on his own the formulation of an atomic bomb.

So, then, even this highly classified, top-secret atomic bomb that ended the greatest war in history was very secret at that time in 1945. How many years ago was that? Now, it is 1986 — that is barely 41 years ago. After 41 years, that bomb is no longer top-secret. Students are able to write down its schematic diagram and given the materials, no doubt, they can build an atomic bomb.

Is there any assurance from our Commission that 30 years from now, this nuclear bomb we speak of and whisper about today will not be the artillery of tomorrow? And in our desire to serve our country, we forbid that any semblance of nuclear weapons shall ever be deposited, used or stockpiled in our country. This will prevent a means of self-defense for our incoming generations. I am just posing the question to the committee.

MR. TINGSON: That is why our Constitution is made flexible through the amendment process. Twenty, thirty years from now, if indeed circumstances will change, our people and our legislature will know what to do and how to partly answer the Gentleman's query. We will, of course, respond through the Constitution and through the amendment process.

MR. NATIVIDAD: I think we should be broadminded enough to admit some amendments here because no one can forecast the future.

May I ask one last question for my own satisfaction. There is a motion to delete Section 3, but please correct me if I am wrong. If we delete Section 3, the effect would be the removal of the provision which says:

Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

This seems unpalatable because it means we are removing the very provision that will forbid military bases. But a summary background of these bases shows that these bases were already part of our nation in 1898 and through the years, from 1898 to 1901, 1907, 1917, 1953, 1959, 1979 and 1983. Our leaders have tackled these problems and all these years the bases were never removed.

Therefore, if this provision is deleted, instead of us having the last say on a problem that has been dealt with by our leaders, then I refuse to admit the postulate that our leaders starting from Quezon, Osmeña, Roxas, Macapagal and Quirino had sold our country down the river. I cannot accept that because they were all honorable men who acted in good faith. All of these efforts will be nothing if we say "No more bases after 1991." But if the purpose of the deletion is to throw this matter back to our people, upang sila ang magpasiya ng kanilang kapalaran sa halip na tayo, ano po ba ang sama doon? Kung iyong paksa ng local autonomy sa Mindanao at saka sa Cordillera, hindi lamang sa pagpapatibay ng Saligang Batas na ito kung hindi pagkatapos ay mayroon pang plebisito sa Mindanao at Cordillera, ay ibibigay natin sa taong-bayan upang sila na ang magpasiya, at kung dapat pang magkaroon ng base militar dito sa ating bansa, ano po ang sama noon? That is my question. Instead of us deciding once and for all if there shall be no military bases in this country that we love, why do we not throw it back to our people after a period of study by our government? I do not belong to the party of the President, but I trust her enough to let her study this problem and then present it to our people.

We are about to disband, my colleagues, in four weeks, and yet we want to decide now the fate of our people and the issue on the military bases. So correct me if I am wrong; tell me if I am unpatriotic, tell me now if I am selling

my country down the river if I say that this problem be studied by President Aquino and thereafter submitted to our people in a plebiscite. Is this wrong, Madam President?

MR. TINGSON: Commissioner de Castro would like to make a comment.

MR. DE CASTRO: Madam President, I was one of the proponents for the deletion of Section 3, and I am one of those who would like to give our people the opportunity to determine what is good for them, regarding military bases and a nuclear-free country. Please take note of my recommendation no. 1 on page 8 of my sponsorship speech where I said: A committee should now be formed, composed of persons knowledgeable on the issues involved. There should be a plan both on the strategic and tactical, the economic and the political stability. The people must be informed and their minds must be prepared for the moment of truth when they will have to make a definite stand on the military bases issue consistent with their security and well-being.

The above paragraph means that we should consult the people after the treaty has been made and confirmed by both countries on what they want because, as I said, we cannot speak for 54 million people after having stayed here for only three months.

Thank you.

MR. GARCIA: Madam President, I would like to answer Commissioner Natividad on two points. Let us take this matter by parts — first, the exposition on nuclear weapons and second, the Constitutional Commission declaring itself definitively on this issue.

Yesterday, I mentioned the fact that the escalation of nuclear weapons has reached a level of madness which I think we should now try to stop. In terms of total nuclear warheads, tactical and strategic, there are at the moment a total of 55,000. I mentioned yesterday that this is equivalent — this is the 1984 figure — to 16 billion tons of TNT which, on the average, means three tons for every man, woman and child living on earth today.

The reason we do not want to be part of this nuclear madness is that we do not believe that the problems of the world should be resolved in this fashion. There are enough nuclear warheads to blow this world, to destroy humanity many times over. And somehow, because we have bases here and because there are nuclear weapons in these bases, we are part of this entire nuclear system.

Even the U.S. Catholic bishops, in their pastoral letter on war and peace which was first drafted in May 1983, condemned the arms race as one of the greatest curses on the human race. The U.S. Catholic bishops, in their pastoral letter, concluded:

The whole world must summon the moral courage and the technical means to say "no" to nuclear conflict; "no" to weapons of destruction; "no" to an arms race which robs the poor and the vulnerable; and "no" to the moral danger of a nuclear age which places before mankind indefensible choices of constant terror or surrender. Peacemaking is not an optional commitment but a requirement of our faith.

I think Commissioner Azcuna has told us earlier in his sponsorship speech that there are many areas in the world today which are declaring themselves nuclear-free zones. For example, the Treaty of Tlatelolco declared Latin America a nuclear-free zone; other places like Africa, the South Pacific where New Zealand and Australia are parts, and also Palau, have declared themselves nuclear-free zones. Palau, the very first country in the world to ratify a nuclear-free constitution in 1979, banned the use, testing, storage and dispersal of nuclear weapons as well as toxic chemicals, gas and biological weapons. Of course, the example of New Zealand is unique. Their Prime Minister, David Lange, when he was here, manifested that his country has taken the lead in nuclear disarmament in a dramatic move to reject US nuclear warships in his territory.

The issue on nuclear-free zone is also embodied in Article XXXIII of the final document of the United Nations First Special Session on Disarmament in June 1979. It says:

The establishment of nuclear weapons-free zones must insure that the zones are genuinely free from nuclear weapons and respect for such zones by nuclear weapons states constitutes an important disarmament measure.

Why do we advocate a nuclear weapons-free Philippines? First of all, I think it is a statement of the Filipino people's rejection of nuclear war and nuclear weapons; it is also a step towards the demilitarization of Southeast Asia and the Pacific.

MR. NATIVIDAD: I am with the Gentleman in that.

MR. GARCIA: It is also a major contribution towards global nuclear disarmament, and, finally, it reduces the threat to security and survival of the people of the Philippines and the world. It is very important for us right now to reject our being part of this nuclear escalation. Just because other nations are going to use the nuclear threat does not mean that we wish to have it as part of our retaliatory efforts. There are other ways. In fact, in Section 1 of the Declaration of Principles, we state that we renounce war as an instrument of national policy, so why, therefore, can we not say also that we renounce nuclear weapons as one of the ways by which man must deal with other nations? That, for me, is a very-valid point.

In the Philippines right now, there are, in fact, already 10 nuclear-free zones declared by at least ten cities and provinces comprising 3.6 million people. In other words, there is a growing realization or consciousness in this country that never again must nuclear weapons be employed as was done in the past.

MR. NATIVIDAD: I agree. I have no quarrel about that, Madam President. Even as a student, we studied the horrors of nuclear war. All I was trying to do was to explore as an exercise of our freedom of speech here — when we close the door, I was just thinking: Baka naman kailangang mag-iwan tayo ng kaunting puwang. Baka pagdating ng araw, kung saradung-sarado na ang pintuan, tayo, bilang isang bansa, ay haharap sa panganib at wala tayong matatakasang isa man lang maliit na butas para sa ating mga kababayan. Ang mga kaisipan at damdaming ito ay bunga ng sinabi ng Con-Com noong Setyembre 1986, na kailanman ay hindi magkakaroon ng anumang kasangkapang maaaring gamitin sa pagtatanggol ng ating bansa kung ito ay magiging nuclear. Ang akin lang iniisip, baka sakaling iyan ay kailanganing natin sa pagtatanggol sa ating sarili. Subalit hindi ako tumututol sa mga sinabi ni Commissioner Garcia tungkol sa mga kagimbal-gimbal na pangyayari kung gagamit tayo niyan.

Walang taong nasa kanyang sariling isip ang tututol sa sinabi ng Ginoo sa maaaring mangyari kung gagamit tayo ng bombang iyan — dapat iwasan iyan. Dapat kung may magagawa tayo'y huwag na tayong masangkot diyan. Hindi naman tayo maaaring masangkot diyan sapagkat hindi naman tayo nakaiimbento pa hanggang ngayon ng nuclear weapon. Iyon lang pamalengke ng Filipino ay hinahanap pa natin, iyon pang paggawa ng bomba! Hindi pa natin iniintindi iyan. Ang iniintindi lang natin ngayon ay pagkain, kape at saka lugaw. Hindi pa natin naaabot iyang yugtong iyan na tayo'y makikipagpaligsahan sa bomba.

Ang iniintindi ko lamang ay iyong pagtatanggol sa ating sarili, kapatid na Komisionado, na kung dumating ang araw hindi tayo sisihin; hindi tayo susurutin ng ating mga kababayan na kaya tayo hindi makapagtanggol ng dalampasigan ng ating bansa ay sapagkat noong 1986, ginapusan ng Con-Com ang inang bayan at hindi binigyan ng pagkakataong magtanggol sa sarili kung kinakailangan na. Kailangang gamitin din hindi lang ang ating puso, kung hindi ang ating isipan sapagkat wala nang higit na kahambal-hambal sa isang bayan gaya ng masangkot sa digmaan na hindi ka handa at wala kang pananggalang.

Marami ritong beterano ng World War II. Wala nang kahambal-hambal na pangyayari kung magkakaroon ng digmaan at wala ka man lamang pananggalang sa iyong sarili. Sinasabi ko ito sapagkat kami'y nagdaan na sa.

digmaan. Nakita namin kung ano ang maaaring mangyari sa ating kabataan. Noong magsimula ang digmaan, teenager na ako at nakita ko si Presidente Quezon. Nasa tabi ako ni Presidente Quezon nang siya'y nagtatalumpati sa harap ng mga UP Cadet Corps. Tumutulo ang luha niyang sinabi: "Ang iniluluha ko ay hindi nakahanda ang kabataan upang humarap sa dumarating na digmaan."

Salamat po.

MR. GARCIA: May I be allowed to answer that, Madam President.

In this nuclear age, we cannot say that we can prepare for war or a nuclear war because we have nuclear weapons. In a nuclear war, there are no winners, in fact, there are no survivors. I think it is a fallacy to say that we prepare for future wars by having the ability later on or the probability of our having nuclear weapons. In fact, the major contribution of a country like the Philippines is to declare to the world that we do not believe in this nuclear madness. The only way that the world can survive is for us to make our voice loud and clear that nuclear weapons must not be used as a deterrent because, in fact, they are not.

In the theory of the nuclear winter, military bases themselves are obsolete because they cannot defend against a nuclear war. The only way we can defend against a nuclear war in the future is if we can by our moral leadership as a country and by our efforts with other nations begin to say to the superpowers that nuclear weapons must be eliminated; otherwise no nation will survive the next holocaust.

I would like to comment on the second question regarding the fact that we should leave it to our leaders and to the others who are elected to make a definite statement on whether or not we should address the bases issue in this Constitution. We have had the bases for as long as the North Americans have been in this country. Since 1902, nearly 90 years ago, the bases have been here. It is very important that we should not leave to political fortunes the changes in political administrations, but rather we should make, first of all, a statement that the military bases have been imposed on us because of the circumstances of war. Due to the colonial imposition in that period, the military bases agreement is null and void and, therefore, should not be acceptable. Secondly, if there will be new negotiations for a treaty or bases, then that will be the time when our people should declare but, first of all, it is important that what has been negotiated must be declared null and void. We must state categorically and clearly that the bases issue was imposed under duress. It was a colonial imposition for which our sovereignty has been impaired and, therefore, we must redress this historical aberration.

I think it is important that the Constitutional Commission draft a Constitution which is truly sovereign in character. Why have we all of a sudden lost our political will, our constitutional confidence? I think our people are looking up to us to draft a fundamental law truly sovereign in character. As I mentioned yesterday, we can make mistakes regarding parliamentary, presidential, unicameral or bicameral forms of government, but we cannot make a mistake on this question of sovereignty and survival because it may be too late. These for me are very valid and vital points.

MR. NATIVIDAD: I do not intend to talk again because the Floor Leader might have an attack of high blood pressure. But I just want to say that it is too late in the day to declare the military bases agreement null and void. Why? Do we want to return the hundreds of millions of dollars we got from the United States? Are we ready to return them? Why did we get all these benefits from the United States if we will declare the agreement null and void? Can we say that this is null and void and keep quiet about the money we got from the United States in compliance with the agreement?

How about the 42,205 employees that are now employed in the bases, and the 500,000 indirect employees? Are we prepared to tell these people to leave their employment because the bases agreement is null and void? And

how about the money which has been appropriated by Congress over the years for the maintenance of the bases? The bases agreement was made in 1947; it is now 1986. How can this 47-member Commission now declare that agreement null and void, Madam President?

MR. GARCIA: Madam President, may I answer Commissioner Natividad.

Yesterday, we mentioned that the de facto situation is that these bases are occupied; the agreement has been made but is flawed from the very beginning, and that we must correct that flaw, that historical aberration by making a strong declaration. But we cannot change that anymore; it has been there merely by force. The point though is that we have said in our accommodation in the article that we are not asking them to leave; in fact, we are allowing the expiration date until 1991. But the point is, a new treaty cannot be renegotiated. It must be made with the approval of the Filipino people because the last executive agreement was without the plebiscite or without the approval of the Filipino people. That is what we want to correct historically but the point is, de facto it is there. I admit we cannot change that, but de jure we can question it.

MR. NATIVIDAD: But that is precisely the purpose of the deletion — to present it to the people. But if we now declare that it is banned forever, we have no provision to present to the people. It is the reverse of what the Gentleman is saying.

MR. NOLLEDO: Madam President, may I answer.

MR. NATIVIDAD: We want it submitted to the people if we do not delete that; besides, the Transitory Provisions provides that after 1991, there will no more be foreign military bases. So, what is there to submit to the people for ratification? Precisely, we want it submitted to our people.

MR. NOLLEDO: Madam President, we are talking of the existing so-called RP-US Bases Agreement. Commissioner Garcia is talking of possible . . .

MR. NATIVIDAD: Yes, we have amended the agreement 40 times despite its being null and void. Why have we amended it 40 times already? From the Philippine government, there have been 40 amendments already and several ratifications — 1979 and 1983 are the latest. Kung бага sa mag-asawa iyan, labimpito na ang anak ninyo, ayaw pa ninyong aminin na kayo'y magkaisang-puso.

I submit, Madam President.

MR. NOLLEDO: Madam President, I would like to make some comments about the alleged financial significance of the RP-US Bases Agreement.

THE PRESIDENT: Please proceed.

MR. NOLLEDO: We still maintain that the RP-US Bases Agreement is really null and void, and a null and void contract cannot be ratified. The government is not estopped by the illegal acts of its officers. And when we talk of returning the money we received from the United States, we cannot deny that the United States also used the bases even in pursuing the wars in Vietnam and in Korea, and the United States benefitted to a great degree from the use of the bases. There is no obligation to return. The obligation to return does not exist even if we claim that the contract is null and void under all canons of civil law and canons of equity. So, we are not supposed to return. And all arguments against the validity of the RP-US Bases Agreement are concrete and we cannot deny that the United States benefitted because these are for the protection of U.S. interests. We are subservient.

If we follow the arguments of Commissioner Natividad, then any country can come to the Philippines, bring in dollars and control the whole country. It is very easy for any foreign government to come over, bring in dollars, and then we surrender our sovereignty for financial reasons.

MR. NATIVIDAD: I have not said anything like that. It was the Gentleman who made such statements. Why should I say that any country who comes here brings in dollars?

THE PRESIDENT: May I remind the Gentlemen to please maintain order.

MR. NOLLEDO: Sapagkat ang kalayaan ng ating bansa ay hindi nasusukat sa salapi. The financial aspect should be set aside. We should maintain our dignity not through mercenary reasons.

MR. OPLE: May I raise a parliamentary inquiry, Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: When Commissioner Nollado spoke of mercenary reasons, was he referring to any remarks just made by Commissioner Natividad?

MR. NOLLEDO: No, not necessarily. Tinanong ni Commissioner Natividad kung ano raw ang mangyayari sa salaping tinanggap natin sa America kung ating ipagpapatuloy ang aming sinabi na ang RP-US Bases Agreement ay null and void. Palagay ko hindi magandang tingnan iyan.

MR. OPLE: Thank you for the clarification. I was only interested in the civility of these proceedings, Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Commissioner Nollado mentioned, if I am not mistaken, this is in the Civil Code, that in civil law, contracts are valid, unenforceable, voidable or void, and if a contract is rescissible or voidable, assuming a contract is voidable, it is not the right of either party to declare a contract rescissible or voidable, much less void. But assuming there is a degree of nullity, the basic rule is mutual restitution. "Void means inexistent, and a contract is only void or inexistent under the Civil Code under very specific grounds, and definitely either party to a contract or agreement cannot a priori, and much less on its own judgment, declare a contract voidable, much less void.

I have heard the interchange of questions and answers and I was impressed by the fact that those who say it is void assume erroneously that a contract is void. That cannot be done unilaterally by any person, not even by a contracting party.

Thank you, Madam President.

MR. NOLLEDO: Madam President, may I answer that very important statement from the Vice-President.

THE PRESIDENT: Please do so as briefly as possible.

MR. NOLLEDO: Yes, Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: We have what is known as in *pari delicto* no *noritur axio* when both parties are guilty. But in this case, public policy demands that we can unilaterally state, based on existing facts, that the RP-US Bases Agreement is null and void as I already explained yesterday.

Thank you, Madam President.

MR. PADILLA: Madam President, just one statement. Commissioner Nollado mentions in *pari delicto*, but if there is in *pari delicto*, neither party can bring an action.

MR. NOLLEDO: Yes, but because the government officials acted beyond their authority, they are at fault and that is why there is need to return the money allegedly received by the RP from the U.S.

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

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Madam President, before the issue on the right to life is lost in the interdebate on the vexing question of the U.S. bases, I am intervening to settle some matters about the matter of the right to life.

I am very much alarmed by the absolutist claim to morality in the defense of human life, the defense that was raised by Commissioner Villegas. There is presently a raging debate on the philo-ethical considerations of the origin or the beginnings of human life that at this moment, I do not think we are in any position to preempt the debate and come up with a premature conclusion on the matter. There are still pressing questions in my mind, such as: Is the biological existence of a potentiality for life synonymous with human personality? Is viability synonymous with life? There are at least a dozen theories that attempt to address themselves to this kind of question. For example, we are aware of the Thomistic concept of hylomorphism which posits the complementarity of matter and form. The theory demands that before human life is assumed, the material body demands a certain measure of organization and form that makes it capable of receiving the soul. It operates on the premise that individuality is the basic premise and the fundamental criterion for human life and human personality and individuality requires consciousness and self-reflection.

There is another theory which states that human life begins two to three weeks after conception; that is after the possibility on the process of twinning the zygote or the recombination of the zygote is finally ruled out. These are questions that need to be addressed in our Civil Code. For example, in the context of this discussion, Articles 40 and 41 are settled that personality is determined by birth, and that for all purposes favorable to it, a conceived baby is considered born but subject to the conditions of Article 41 which says that personality is determined by live birth. I would think that Articles 40 and 41 are not only settled, but are the most practical approach to the raging debate on the matter of human life. It lays as the criteria for its conclusion the individual biological criteria, with special emphasis on the physical separation of the fetus from the mother and the requirements of viability.

I am alarmed by the way we tend to preempt this kind of discussion by invoking the claims of the righteousness of morality. These questions for me are transcendental that we cannot even attempt to address any conclusion on the matter unless we can address the question without temerity or without bigotry. Besides, the level of human knowledge on this debate is so severely restricted that to preempt the debate is, I guess, to preempt the deliberations and finally the possibility of agreement on the diverse theories on the matter.

MR. VILLEGAS: Madam President, it is precisely because this issue is transcendental that we have to make also a transcendental statement. There is no debate among medical scientists that human life begins at conception, so that is already a settled question. We are talking about life. As I said, we are not talking about human personality, neither are we saying that the human person can be decided precisely by law, nor at what time it will have the right to property and inheritance. The only right that we are protecting is the right to life at its beginning, which medical science genetics has already confirmed as beginning at conception.

The Commissioner's very point of viability is precisely the key to opening the door to all types of abortions that have been made possible in other countries. If we say that the fetus cannot be considered alive because it is not yet viable, then as I said yesterday, we have to continuously protect even the baby that is not yet born. If we start leaving it to its own elements or expose it without protecting it, then for the same reason that specific creature will not be viable.

MR. OPLE: Madam President, will Commissioner Aquino yield to just one question?

MS. AQUINO: Yes, gladly.

MR. OPLE: Thank you.

THE PRESIDENT: Is Commissioner Villegas through with his reply?

MR. VILLEGAS: Yes, Madam President. I yield to Commissioner Ople.

MR. OPLE: Commissioner Aquino expressed her concern about this debate preempting a full discussion on the right to life, implying that there is a curb in the debate. Did I get her right, Madam President?

MS. AQUINO: Yes. In fact there is a collective drift already.

MR. OPLE: What is the basis of the serious accusation that this Commission is curbing the debate on what both sides have called a transcendental issue on the right to life?

MS. AQUINO: The reason for my intervention, Madam President, is that I am extremely bothered by the diversion on the claim of morality in defense of human life. Nobody can argue against morality, but that is precisely the question. The minute we go into the question of morality, it by itself preempts the possibility of a thorough, scholastic and academic discussion on the debates on human life.

MR. OPLE: Is Commissioner Aquino saying, based on what I heard a while ago, that the fetus in the womb of the mother has not risen to the level of a human personality?

MS. AQUINO: There is no conclusion on that yet.

MR. OPLE: That until the baby is delivered from the womb, there is a latency to this human personality which becomes actualized only upon the moment of birth. Is that correct, Madam President?

MS. AQUINO: That takes off from one of the theories on the interpretation of the beginnings of human life. But that is also the very premise of Articles 40 and 41 in the Civil Code.

MR. OPLE: And that, therefore, Commissioner Aquino is saying that the standards of morality, political and human rights cannot apply to this latent personality in the womb until it is delivered to become a member of the human community?

MS. AQUINO: That is a misleading question and I do not want to fall into the trap. That is precisely the debate going on now, and there is no settled answer to that question.

MR. OPLE: Madam President, it is not a trap; I am not laying a trap, but from a layman's point of view, I consider myself one of the more ignorant Members of this Commission on this subject. But that is precisely the jugular issue that has emerged from the debates so far, and I would like to reassure Commissioner Aquino that the day before, I had actually talked to Commissioner Bacani to express my own concern that the other side of this issue may not be heard fully and, as a matter of fact, I volunteered to be a devil's advocate, if he would allow me. Commissioner Bacani said that Commissioner Aquino would suffice as a lone devil's advocate, so that our record would reflect the fullness of this issue on both sides.

MS. AQUINO: I would welcome Commissioner Ople's cooperation and I would like to assure him that the debate on this issue is not a monopoly of the celibates and the bachelors.

MR. OPLE: So, Madam President, I am for lifting any curb on these debates and I support the demand of Commissioner Aquino for a full debate on the right to life.

Thank you.

THE PRESIDENT: That is what we are undertaking now, full debate.

Does Commissioner Bacani desire to enter the debate?

BISHOP BACANI: Yes, Madam President. I am a celibate. But let me first say that I reject very clearly the idea that viability is the test or the proof of human personality, and I think that can be conclusively proven, Madam President. If that were to be the test, then people would have different stages of human personality according to the countries in which they were born.

For example, in the United States way back in 1973, they could make a 20-week old or 5-month old fetus survive. They have these records: Two babies at 25 weeks, two at 24, one at 23, one at 22, two at 21, and one at 20 weeks, and the prognosis is that by the end of this century, they could make them viable at 10 to 12 weeks.

Madam President, if we take viability as the test of human personality, then we Filipinos will indeed be inferior to the Americans. I do not want to admit that. Second, let me just point out that up to now there has not been in the whole world any group as prestigious as that which met together in the First International Conference on Abortion in Washington, D.C. in 1967. I notice this is a scientific group, not a Christian group necessarily. During their workshop and by a vote of 19-1, they asserted:

The majority of our group could find no point in time, between the union of sperm and egg or at least the blastosis stage and the birth of the infant, at which point we could say that this was not a human life.

As Dr. and Mrs. J.C. Willke pointed out:

There has not been before nor since a more important or a more qualified body of natural scientists who, as a group, have thoroughly discussed and come to a conclusion on this subject.

I would like to point out that the doctors in the 1948 Convention in Geneva made this oath which was revised but kept in the 22nd World Medical Assembly in Sydney, Australia:

I will maintain the utmost respect for human life from the time of conception. Even under threat I will not use my medical knowledge contrary to the laws of humanity.

Madam President, the witness of the Father of Fetology points out that from the very beginning, one can already point to very definite signs of life in the fetus. Let me just correct Commissioner Aquino when she says that consciousness is a requirement of human personality. If that were to be the case, then people who are no longer conscious would be deprived of their human personality. And certainly, that was not the position of St. Thomas Aquinas whom she quoted.

MS. AQUINO: Madam President, for some clarification.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Madam President, I did not make the conclusion that individuality is a requirement of human personality. It is one of the many theories. In fact, the exposition of Commissioner Bacani admits of the divergence of interpretations out of this question. Precisely, we have the physico-biological determinism. We have the matter of viability which he himself ruled out by saying that scientific knowledge can, in fact, intervene in the matter of viability. Then we have the possible criterion of individuality. This and many others are not settled in answering the questions of when human life begins. But what bothers me — and that was my position when I intervened — is that when we constitutionalize that kind of provision of protection to human life from the moment of conception, it will be a tragic injustice to law and settled jurisprudence. The law cannot deal in

speculation. The law deals in reality; it does not deal with obscurity. It deals with the known rather than the unknown.

BISHOP BACANI: Madam President, may I again intervene. First of all, my personal belief is that this provision does not even depend on whether or not we recognize a strict right to life, that is why I proposed the family rights provision which, I believe, is a stronger one. And, secondly, Commissioner Aquino said that we cannot deal in speculation. Let me put it this way. On the other hand, when there is a doubt regarding questions of life and respect for human life, one must try to be on the safe side. For example, if one doubts whether a person is really still alive or is already dead, he is not going to bury that person. He is going to make sure first that that person is really dead because if he buries that person and says: "Well, I cannot rely on speculation. I cannot be completely certain," then he is hurting life or risks hurting life. Suppose there is an object moving in the thickets; I see it and as a hunter I say, "Well, I am not sure whether it is a human being or an animal; but nevertheless I am hunting now, I will shoot." I do not think that that is a very prudent thing to do.

REV. RIGOS: Madam President.

THE PRESIDENT: Is Commissioner Bacani through? May we hear Commissioner Rigos in this interesting debate?

BISHOP BACANI: Yes, Madam President, but I shall ask to intervene later. I just answered Commissioner Aquino.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: I just want to ask the committee and Commissioner Bacani whether it is safe to say that in order to prevent Congress from making any law legalizing abortion, we better constitutionalize this first moment of conception. Is it safe to say that?

BISHOP BACANI: That can help Congress later on; besides, the provision is a very positive one — to protect the life of the mother and the life of the unborn from the moment of conception. It is very important that we have this provision.

REV. RIGOS: Can we not just say that the State shall protect the life of the unborn child, without saying "from the moment of conception"?

MR. VILLEGAS: May I answer that, Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: As I have said, we must prevent any possibility of legalized abortion, because there is enough jurisprudence that may be used by Congress or by our Supreme Court.

Let me just read what happened after the Roe v. Wade decision in the U.S. Supreme Court. After that 1973 decision, during the first three months of pregnancy, the court ruled: "States cannot prohibit voluntary abortions, making abortions on demand possible." The court further said that the decision should be left completely to the woman and her doctor. Then during the remaining six months of pregnancy, "States may regulate abortion procedures in ways reasonably related to maternal health." And during the final ten weeks of pregnancy, there is still a door open — "States may," not shall, "prohibit abortion, except where doctors find that the pregnancy endangers the mother's life."

So, these are the floodgates that are open.

REV. RIGOS: Which are?

MR. VILLEGAS: As I said, American jurisprudence looms large on Philippine practice and because it is a transcendental issue, we have to completely remove the possibility of our Congress and our Supreme Court following this tragic trail.

REV. RIGOS: Which means that if we, for instance, do not like Congress to legalize the Communist Party in the Philippines, we better say so in the Constitution. If we do not like Congress to legalize gambling, we better state this in the Constitution. If we do not like Congress to legalize divorce, we better put it in the Constitution. Is that the idea, Madam President?

MR. VILLEGAS: As I said, life is the beginning to every other right — whether it be rights violated by Marxism, rights violated by the wrong marriage laws. We are just talking about the beginning of all rights. So, I do not think the argument is correct.

MS. AQUINO: Madam President, may I make some corrections.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I would like to correct the misinterpretation of Commissioner Bacani in his dissertation of St. Thomas' study of the right to life. The Thomistic concept ofhylomorphism precisely operationalized the question of complementarity of matter and form, saying that there is a decent requirement for a decent standard of form and organization before a soul can be effectively infused into life.

This brings forth the discussion of organic life as against human life. Every organism has life. There is no debate on that. But is this the organic life that is deserving of value, safeguard and protection that is due a human person? Is there enough contingency of state interest to precisely get into the act of debating on whether the baby of a victim of a multiple rape is entitled to state protection by prohibiting abortion? What I am saying is there is no proof and jurisprudence is not settled even with the decision in *Roe v. Wade* that the state has sufficient contingent interest in the life of the unborn. By what right has the State then to meddle in bodily integrity which is basic in dignity and self-determination? I am not advocating abortion, but these are questions which are bound to be raised on matters of testing the jurisprudential cogency of a law on abortion.

BISHOP BACANI: Madam President.

THE PRESIDENT: Excuse me, but Commissioner Quesada has been standing there and she would like to contribute to this.

MS. QUESADA: Thank you, Madam President.

I would like to be involved in this debate, although I am one of those who earlier proposed one provision on the right to life. I am speaking in behalf of women who will not be here to represent some of their positions, their views on the matter of the right to life. I am not a celibate; I am a mother of six, so, I know how it is to be pregnant, to go through nine months of pregnancy. I have worked as a nurse in urban poor communities and in rural areas. I can feel what it is to go through the period of conception, particularly, in a situation where one has to grapple with life and death — the struggle for survival for many women carrying their young or their unborn.

I would really like to clarify some of the drift I was able to pick up from the discussion of the proponent, and that is, this particular provision seems to have focused mainly on the protection of the right to life, that it is only a token provision to guarantee the equal rights of women, a protection from the State. It appears that when there is this conflict between the life of the mother and of the unborn, it is the right of the unborn that is given the predominance only when there is the threat to life. I am bothered by the thought that when we talk about life of the mother, we are talking only of physical life — we are not talking about the emotional and the mental life of the

mother. They are part of her life and are affected by a case, let us say, of multiple rape. It is very easy for men who are not raped or who will never be raped to talk about a caring society who will take care of a child who is the product of multiple rape. I mean it is very easy for us to say this, but what right have we to make a choice for women who are the victims of multiple rape and what it does to them for the rest of their lives, that if she becomes mentally insane because of this, then we can pass moral judgment and say: "You have no right to your body and the choice you make about the product of multiple rape and even of incest"?

I think there is some kind of split-level morality here. We talk about a kind of morality for the unborn, but we have no consideration for the right of the mother who has a soul that will have to suffer in hell when she has to live through the agony, the suffering of having gone through a multiple rape, because it appears from the discussion that only in case of ectopic pregnancy when the life of the mother is at stake that we will now morally sanction as being right for her to undergo abortion or a therapeutic abortion, as we call it in medical language. So, I feel that there are some issues here that seem to have bemuddled my concern because as a nurse I think about the totality of the care of the mother and child, not only from the time of conception. That is why I have compromised in this particular provision that it should equally protect the mother and child, not just at the time of the conception, but throughout because what is the good of having a child born and not to have the equal protection up to the time a child is able to survive? We know for a fact that in the Philippines, there is a high infant mortality rate; 58 per 1,000 live births. That means that before reaching the age of one, these unborn children that we care for are born, but then they end up dying, because these children get connected with the kind of society which we want to be caring but is very unjust and inhuman. They die from communicable diseases, from malnutrition, from gastro-enteritis, from the poverty that is so predominant in many of our communities, not only here in Manila, but throughout the Philippines.

We have this kind of health situation that I, as a health worker, care about because women are making decisions. With this kind of provision, it will be a moral decision versus a practical decision which many women will have to make. They will make the decision and so they end up going to Quiapo, buying all the herbal plants that will cause them to have abortion. They will seek whatever means because they feel that it is more morally wrong to bring up children whom they will not be able to care for, to nurse and to feed in order to become truly developed human beings. We have many cases in hospitals of incomplete abortions. According to the records of Philippine General Hospital, Ospital ng Maynila, Jose Reyes Memorial Hospital, Manila Doctors Hospital, and many of these hospitals, these are not women who are of the middle class and the educated type; they are women who really suffer and these are the practical issues they have to deal with.

MR. OPLE: Madam President, will Commissioner Quesada, and maybe Commissioner Villegas, eventually yield to just one or two questions?

MS. QUESADA: Gladly, Madam President.

MR. OPLE: I am glad that Commissioner Quesada has raised from concrete experience some profound observations on this issue of the right of the unborn child.

I have a very imperfect recollection of the American Supreme Court decision that Commissioner Villegas has put forward time and again. But I think in the case of *Roe v. Wade*, we had a shopgirl who was the victim of gang rape. Is that correct?

MR. VILLEGAS: I am not very sure about the circumstances, Madam President.

MR. OPLE: Yes. And in the case of the U.S. Supreme Court which discriminates very strongly on cases, it would accept for jurisdiction that the luck of this girl who was a victim of gang rape actually was remarkable. In a docket

already heavy with so many cases, and out of thousands of cases brought before the Supreme Court for adjudication, this was chosen by the Supreme Court. And in this case, I think Commissioner Quesada is right. I read a portion of this decision. It described the anguish of the mother who was a gang rape victim. It happened in a small town where the culture is very censorious about this sort of thing so that the girl was actually at the point of becoming a social outcast. That was what impelled her in the first place — to avoid the fate of being a social outcast in a small community — to seek the help of the Supreme Court.

Since Commissioner Quesada has spoken from experience of many cases of such women wronged by society in terms of having been exploited and abused as victims of gang rape, will the committee now respond frontally to this argument and tell us whether they still believe that the mother, in this case, should not be autonomous and should be subject to a constitutional restraint on her right to live her own life according to her best likes? Should the Constitution interpose itself between this mother — and there might be thousands of them — so that she is denied the right to a life of peace and serenity and her own pursuit of happiness because there is a constitutional provision that prevents her from correcting or rectifying a socially imposed wrong that had been committed against her?

Thank you, Madam President.

MR. VILLEGAS: I can just repeat the transcendental reasons that a wrong cannot be righted by another wrong; a very good end never, never justifies an immoral means. I am very glad that the Gentleman brought up the circumstances of the *Roe v. Wade* case. It was precisely because of this argument about compassion to the woman, a hard-cased situation, that this specific decision of the U.S. Supreme Court opened two million abortions every year in the U.S. That is exactly the trap that we want to avoid — using all sorts of feelings, compassion, emotions. There are many other ways of taking care of a multiple rape victim other than taking the life of an innocent child and not going through the due process of law. As I said, that poor child had absolutely nothing to do with the people who were responsible for victimizing the lady. Why blame the child? His only fault is that he is unwanted by the poor victim, the woman.

So let us look for many other ways of giving guidance and counselling, of taking that woman out of that parochial setting, of using orders like the Order of the Good Shepherds. There are so many possible ways. Let us exhaust all the possible humane ways of helping that agonizing woman, and I am not in any way belittling the agony of the woman. But as I said, we cannot right a wrong by another wrong. That is the most transcendental statement that we can quote from St. Thomas Aquinas.

MS. QUESADA: But does not the Gentleman think that he is also denying the woman the equal protection of the law, the due process of law? The Gentleman is giving the due process to the unborn but not to the woman; that is, that she makes a choice.

MR. VILLEGAS: No, Madam President, there is no right to murder. There is absolutely no right to murder and, therefore, that woman has absolutely no right to murder the child.

MS. QUESADA: Madam President, I am not for abortion, but I am just thinking of this possibility where a woman's life, not physical life, is being threatened — I mean her mental and social dimension because we think of life in its totality, not just the physical threat to her survival.

MR. VILLEGAS: But as I said, as a health worker, the Commissioner knows there are so many psychological solutions that can be taken. It is just a matter of looking for alternative solutions.

MR. ABUBAKAR: Madam President, may I take the floor for a few minutes?

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: The proponent of the measure is very eloquent in his expression of defending both the right of the mother, as well as that of the child. In this Constitutional Commission, we perhaps have people who are very well acquainted with the advanced scientific knowledge regarding the very topic we are discussing now.

My only concern is, as science moves forward, as the economy of the nation changes, and as the thinking in religion plays its component part in the setting of all societies, would it not be in the interest of wisdom to coincide the discussion with the progress of the times and science; that we should not insert this in the Constitution and instead let the judgment of our legislature, in accordance with the latest advancements in science, technology, population and economy, decide by legislative act on this particular provision of the right of the mother and the child? Why should we constitutionalize it? To constitutionalize it is to make it difficult for us to reach for any amendment or for any modification that is safe, not only by society but by the economic situation of the country, by the educated and by so many other factors that make a society not only vibrant but even to push forward. Who knows, such a civilization, and history can attest, may even disappear from our society and this earth?

So, instead of constitutionalizing this provision in just simple terms, can we not just leave this to the wisdom of our people when they elect their representatives who will then enact a particular provision affecting this very issue that we are discussing now? I think wisdom dictates that the Members of the Constitutional Commission should not appropriate to themselves the wisdom of settling this issue.

The future is far; we cannot read it. Even the scientists do not know how society would be in 20 or 30 years. Maybe man would live, or even woman would live, for 150 years, depending on how science will progress. But I think we owe it to ourselves not to let this evolve as the nation moves forward. The matter of protecting the life of the unborn should be left to legislation instead of constitutionalizing it in the Constitution. Religion belongs to different sects and economies. We have different classes of society, the rich and the poor. In geography, we have Luzon, Visayas and Mindanao.

We are a people united by our sense of patriotism and history. Would the matter not be in the interest of our future generation? I do not know whether or not we in this Commission will live for 20 years, but the children of tomorrow will live for 100 years. Why impose this in the Constitution? Why not just say in simple words that the unborn are entitled to life and protection and let the future decide 10, 20 or 100 years from now? What is Philippine society? What is the regard of the future concerning the unborn child in the mother's womb?

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

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Regalado be recognized on the same subject.

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

MR. REGALADO: Thank you, Mr. Presiding Officer. Actually, I registered for a more thorough interpellation, but since we are precisely on this particular point, I would like to interject at this posture.

Mr. Presiding Officer, I would like to direct this question to Commissioner Villegas because of a number of telephone calls and letters I received from lawyers, law students and medical practitioners with respect to his position reported in the Manila Journal, September 15, 1986 issue. The report says, and I quote:

Pushing the controversial section is Constitutional Commission Member Bernardo Villegas, a lay Catholic leader. He said that under the present Revised Penal Code, killing the fetus after seven months is penalized as a crime, which is called abortion, but killing of life before seven months is not considered the same as killing

human life after seven months.

That sets me back thinking whether or not we are on the right legal or jurisprudential track, because there is nothing under the Revised Penal Code, Articles 256 to 259, which provides that abortion is possible only if the fetus has had an intrauterine life of more than seven months. The only mention about seven months in our laws is in the Civil Code, but that is only for civil law purposes, for civil personality — whether or not such a fetus could be the subject of legal relations. The new Civil Code provision — I think it is obvious to all lawyers here, although there may be some nonlawyers — may also help to point out by combining Articles 40 and 41; it merely says that birth determines personality, and we are talking only of personality.

But a conceived child shall be considered born for all purposes favorable to it, provided it be born completely alive from the time of its complete delivery from the maternal womb. However, if the child had an intrauterine life of less than seven months — and this is the only time we speak of seven months — then it is not considered born if it dies within 24 hours after its separation from the maternal womb. But this is only for purposes of civil personality — whether or not the child or the fetus can be the subject of legal relations, *lapacidad juridica*. It has nothing to do whatsoever with the protection of the fetus because a fetus, regardless of the intrauterine life, if expelled illegally by the act of the mother, maternal grandparents, a third person or even by a doctor, a midwife or a pharmacist, will always be considered abortion under Articles 256 and 259 of the Revised Penal Code.

I also received a series of calls and a few letters regarding what appeared also in that same publication which says, and I quote:

Finally, abortifacient means of contraception will automatically be rendered illegal and their use criminal. The IUD, the morning-after pill and hormonal injections are some examples of abortifacient contraceptives. They are not, strictly speaking, contraceptives since they act after fertilization will have occurred.

My readings of medical jurisprudence, as well as medical books on obstetrics, specifically state that these intrauterine contraceptive devices are actually contraceptives and not abortifacient. Since we are on this topic, I suppose Commissioner Villegas can give us some clarifications on the legal aspects which bother legal practitioners and law students, and the medical aspects which bother some medical practitioners and medical students, considering the number of calls I have been receiving for a clarification of this publication.

MR. VILLEGAS: I thank Commissioner Regalado very much.

As regards the provisions of the Revised Penal Code, we have already heard, and I completely defer to him, the opinions rendered by Commissioner Padilla. I think that journalists extrapolated wrongly some of the statements. Definitely, I did not pretend to be an expert on the legal aspects. That is why we had Commissioner Padilla clarify what are the actual provisions right now in the Revised Penal Code about abortion.

As regards the issue of what types of contraceptive devices are abortifacient, I think it is a question of fact and this can be best left to Congress and the courts to decide on. There have been articles by medical experts which expressed the opinion that some types of IUDs and hormonal injections are actually abortifacient. But I think this is a question best left to the law-implementing agencies and the courts actually deciding on the facts presented whether or not this opinion should be followed.

So I am not, in any way, making a categorical statement that all these contraceptive devices mentioned in that question-and-answer series are abortifacient. I think it is a matter of fact that has to be established.

MR. REGALADO: So for the record and to allay the fears or apprehensions of these medical practitioners, we agree that these different types of intrauterine devices will be determined by Congress on a case-to-case basis whether they are completely contraceptive and, therefore, there is nothing wrong if administered in the womb of

the mother or they are abortifacient and, therefore, will be prohibited.

MR. VILLEGAS: Yes, the Commissioner is correct.

MR. REGALADO: I thank the Commissioner very much, Mr. Presiding Officer.

MR. GASCON: Mr. Presiding Officer, I would like to ask a question on that point. Actually that is one of the questions I was going to raise during the period of interpellations but it has been expressed already. The provision, as it is proposed right now, states:

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

When it speaks of "from the moment of conception," does this mean when the egg meets the sperm?

MR. VILLEGAS: Yes, the ovum is fertilized by the sperm.

MR. GASCON: Therefore, that does not leave to Congress the right to determine whether certain contraceptives that we know of today are abortifacient or not because it is a fact that some of these so-called contraceptives deter the rooting of the fertilized ovum in the uterus. If fertilization has already occurred, the next process is for the fertilized ovum to travel towards the uterus and to take root. What happens with some contraceptives is that they stop the opportunity for the fertilized ovum to reach the uterus. Therefore, if we take the provision as it is proposed, these so-called contraceptives should be banned.

MR. VILLEGAS: Yes, if that physical fact is established, then that is what we call abortifacient and, therefore, would be unconstitutional and should be banned under this provision.

MR. GASCON: Yes. So my point is that I do not think it is up to Congress to state whether or not these certain contraceptives are abortifacient. Scientifically and based on the provision as it is now proposed, they are already considered abortifacient.

MR. VILLEGAS: That is right. As I said in answer to Commissioner Regalado, it is a question of fact. If it is established by proper science that it is abortifacient, then it can be ruled as unconstitutional.

But as Commissioner Regalado was saying, he may know of specific IUD devices which actually prevent fertilization.

MR. GASCON: Yes, that is another thing. These are contraceptives. Those which prevent fertilization are contraceptives.

MR. VILLEGAS: That is right, Mr. Presiding Officer.

MR. GASCON: Mr. Presiding Officer, in relation to that, how does the Commissioner relate this proposed provision to that provision in the 1973 Constitution which is also proposed in the General Provisions Article as Section 139 it states:

It shall be the responsibility of the State to adopt population policies most conducive to the national welfare. It shall, however, be the right and duty of parents to determine the number of their children and in the exercise of this right and duty, they shall not be compelled to use means of birth limitation that shall be against their informed conscience and religious convictions.

I believe this provision as found in the 1973 Constitution led to the development of population control programs, the Population Commission and others which promote certain contraceptives which, if this provision is approved, would therefore be determined as abortifacient. What would, therefore, be the position of the honorable Commissioner with regard to this provision as contained in the 1973 Constitution and as it is proposed now?

MR. VILLEGAS: I thank the Commissioner very much for asking that question. At the appropriate time, I personally, together with other Commissioners, will move for the total deletion of that very unwanted provision in the General Provisions Article. We cannot give the State the role of playing God by telling it to determine what is the optimum level of population.

It has been proved by so many researches that all the expenditures on family planning have been disastrous. They have been going down the drain. As the present Minister of Social Services, Mita Pardo de Tavera, has been saying, we should use all of that money for population welfare and for helping the poor people attain a more humane existence, rather than putting it in the questionable programs of population control.

It has also been shown by economists that the best solution to mass poverty is economic development and social justice. Population control is repudiated as a means towards attaining economic development and social justice.

So I think it is very counterproductive to retain the 1973 provision. I think this provision was in the 1973 Constitution because of a very strong lobby in the seventies composed of foreigners who were very much convinced that Third World countries had to limit their population. As we probably already know, that specific opinion has been repudiated by, among others, President Reagan who, in a conference on population in Mexico, announced the Reagan doctrine on population. The best cure to population problem is economic development and social justice. Automatically, the birth rate will decline as we start developing the country. Mr. Presiding Officer, there are so many evidences that population control is at best a questionable approach to economic development and at worst a tremendous waste of very scarce resources.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Is Commissioner Gascon through?

MR. GASCON: Not yet, Mr. Presiding Officer.

MR. BENGZON: But, Mr. Presiding Officer, the Commissioner just interjected because of that point brought up.

MS. QUESADA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): The Chair would like to inquire from the Floor Leader what the parliamentary situation is now.

MR. RAMA: Mr. Presiding Officer, there is an important point of information to be given by the chairman of the Steering Committee. I ask that he be recognized.

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

MR. BENGZON: Mr. Presiding Officer, I would just like to put the record in the proper perspective. Yesterday morning, Proposed Resolution No. 545 was read before the body and was referred to the Steering Committee. In the Record of the Commission, it appears that Proposed Resolution No. 545 is now pending with the Steering Committee. However, as everybody knows, there was a caucus of this Commission and the Steering Committee waived its right and jurisdiction over Proposed Resolution No. 545, unanimously without any objection from its members, and threw this matter to the caucus for deliberations. As everyone knows, there was a vote taken and this proposed resolution was defeated in the caucus assembled. However, Mr. Presiding Officer, everything happened merely in the caucus and nothing has been officially recorded in our Journal. Therefore, in behalf of the Steering Committee just so the record would be complete, I would now like to put on record the fact that this matter has been taken up in caucus, that the Steering Committee with the consent of all its members has waived its jurisdiction in favor of the Commission and that it has taken action on this matter. I would like this to be put on record so that at this point in time, this matter is settled and that the Steering Committee is free from any

obligation on this Proposed Resolution No. 545.

THE PRESIDING OFFICER (Mr. Maambong): Before the Chair acts on the manifestation of the chairman of the Steering Committee, is it not a fact that on motion of Commissioner Villacorta before, all proceedings in our caucus are on record and they are supposed to be part of the proceedings of this Commission?

MR. BENGZON: Mr. Presiding Officer, all proceedings of caucuses are recorded, but I did not take that to mean that those would form part of the official Journal. I thought we would have a record of the proceedings of our caucuses separate from the record of the official plenary sessions. And since that proposed resolution was read in the official plenary session and officially referred to the Steering Committee, our Journal must, therefore, contain what has happened in the caucus. This is the reason for my manifestation just so the Steering Committee is cleared.

THE PRESIDING OFFICER (Mr. Maambong): Will the Chair, therefore, suggest to the chairman of the Steering Committee that instead of a manifestation, the same be introduced as a motion so that the body can act on that motion.

MR. BENGZON: I so move, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Is there any objection to the motion of the chairman of the Steering Committee? (Silence) The Chair hears none; the motion is approved.

MS. QUESADA: Mr. Presiding Officer, just for a point of clarification. In the past, I remember that when we did have some caucuses, it was really meant to cut down the discussions and to come into some kind of agreement or consensus, but it did not preclude further discussions on the floor. There is a lot of difference between discussing very vital issues in caucus and bringing them forward in plenary sessions. So I would oppose such a procedure where all the issues we discussed are just made part of the record during the caucus and not deliberated on at all in plenary sessions.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: I believe that it was agreed upon during the caucus yesterday that after the Steering Committee waived its jurisdiction and threw the whole matter to the Commission, if the decision of the Commission in caucus was to accept the proposed resolution, then it would be thrown to the plenary session for discussion, and if that proposed resolution was defeated, that was going to be the end of it.

That was the agreement in our caucus yesterday. I am just rising to put this matter on record so that the referral to the Steering Committee which was officially recorded in our Journal would not be kept hanging. Of course, in the past we made decisions in caucus and we came to the plenary hall and reenacted, so to speak, our decisions in the caucus.

MS. QUESADA: Are we now, in effect, Mr. Presiding Officer, changing the procedure?

MR. BENGZON: Mr. Presiding Officer, we are not changing the procedure because there was that agreement in the caucus yesterday that if the result of the decision in the caucus were positive, then the resolution would take its normal course, so that this proposed resolution would be calendared. But if the resolution were to be defeated, that was going to be the end of it, unless the body would want to change its mind and rehash the whole thing and discuss it. That is what I understood as the agreement yesterday.

THE PRESIDING OFFICER (Mr. Maambong): The Chair would like to go over the record on whether or not the

agreement mentioned by the chairman of the Steering Committee was, in fact, entered into in that caucus yesterday. The Chair would like to know now from Commissioner Quesada whether or not she is questioning the decision made by the Commission in such caucus in order that we can abbreviate the issue.

MS. QUESADA: Mr. Presiding Officer, I said "inquiry," meaning, I would want to know now whether or not this is going to set the precedent to all future caucuses — that we will have the same procedure of agreeing in caucus and that it will just be mainly resorted here.

THE PRESIDING OFFICER (Mr. Maambong): The Chair would like to clarify that in previous caucuses that we held, when we try to get the consensus of the body, it was always on the agreement that whatever consensus we enter into will be brought forward in the plenary session. In the caucus yesterday, however, the Chair recalls that the agreement was that the decision that will be reached will bind the Commission.

So I will now repeat the question to Commissioner Quesada on whether or not she is questioning the decision which was reached by the Commission in that caucus.

MS. QUESADA: That is not my intention, Mr. Presiding Officer. I just wanted to know whether or not this is going to set the precedent. I am glad that it only refers to yesterday's caucus.

THE PRESIDING OFFICER (Mr. Maambong): Yes, Commissioner Quesada.

MS. QUESADA: Thank you, Mr. Presiding Officer, for the clarification.

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

The Floor Leader is recognized.

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

THE PRESIDING OFFICER (Mr. Maambong): Is the Commissioner still speaking as chairman of the Steering Committee?

MR. BENGZON: No, I am now speaking as an ordinary Member of the Commission, Mr. Presiding Officer. I would like to address some questions to Commissioner Villegas.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bengzon may proceed.

MR. BENGZON: I agree with Commissioner Villegas in his explanation of all the issues that have been discussed here and I share his position. I would just like to clarify certain matters. Firstly, and most of all, if this provision is approved, this will not preclude Congress from passing a law that would allow or legalize in certain instances abortion for medical reasons or for reasons as Congress may deem fit such as, for example, if it should appear from researches and data that it would be for the good of the citizens of this country and for their mental and physical well-being. Am I correct, Mr. Presiding Officer?

MR. VILLEGAS: The only possibilities are those situations which we described in which we can apply the principle of double effect — when we have to save the life of the mother through an operation and sacrifice the life of the child or vice versa. But those are the only situations that may be permitted if this specific provision is included in the Constitution.

MR. BENGZON: Does the Commissioner mean that in a situation, as described by Commissioner Quesada earlier, where the mental well-being of the pregnant woman is at issue, such kind of circumstance would not qualify under the law that would be passed by Congress?

MR. VILLEGAS: No, Mr. Presiding Officer, because that would involve a direct killing of the fetus.

MR. BENGZON: I see. And the Commissioner's position, therefore, is that in such a case, there are other remedies and government agencies that would take care of preserving the physical and mental well-being of the person involved?

MR. VILLEGAS: Yes, Mr. Presiding Officer.

MR. BENGZON: It is only for certain medical reasons that Congress would be able to pass laws that would allow abortion.

MR. VILLEGAS: Yes, Mr. Presiding Officer.

MR. BENGZON: Also, I would just like to state that there should be no more debate as to when life begins because even our present laws, the Civil Code of the Philippines and Articles 256 and 259 of the Revised Penal Code, recognize that a fetus has life and is protected by our laws.

Thank you, Mr. Presiding Officer.

MR. VILLEGAS: I thank the Commissioner.

MS. QUESADA: Mr. Presiding Officer.

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

MS. QUESADA: Mr. Presiding Officer, before we end, will the committee put on record the scope of state support for the life of the mother and the life of the unborn from the moment of conception so that it is not limited to just a very specific period of life — I refer the range of the maternal and child health consideration — because otherwise it becomes a very limited provision. I would like this to encompass the life of the mother and of the child up to a time that the child will be taken care of by other provisions, like the provisions on the youth, because this is the only provision that would protect the life of the child not only from the moment of conception but up to the time that the other agencies will no longer cover the care for this child. Will the Commissioner enumerate some of these. What are these specific state support for the mother and child?

MR. VILLEGAS: Actually, if it is not going to be a redundancy, since there is already a provision in the Bill of Rights that no one shall be deprived of life without due process of law, I would even expand that statement that life should be protected from the moment of conception up to natural death. Actually, that is the most important principle that the pro-life are supporting — that life has to be protected from the moment of conception up to natural death. What are all these possible stages from the moment of conception up to natural death? Some of them are enumerated in the provisions on health: taking care of the working conditions of the pregnant woman, making sure that she is not subjected to all types of hazards that could injure her health and also that of the child and making sure that the appropriate medicine is available.

MS. QUESADA: Could the Commissioner include centers for victims of rape?

MR. VILLEGAS: Yes, definitely. As I said, there are charitable organizations right now, some of which are run by religious orders that take care precisely of pregnant women with unwanted children. They take very specific measures so that these unwed mothers can be taken care of in a very humane way and can actually go through the psychological anguish with the least harm possible.

MS. QUESADA: Could we also include the strengthening of maternal and child health services in the Philippines?

MR. VILLEGAS: Yes, definitely.

MS. QUESADA: I thank the Commissioner, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer.

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

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

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

MR. REGALADO: I will continue, Mr. Presiding Officer, my interpellation because I have to put the matter of protection of the unborn child in the proper posture and from the maelstrom of the discussion earlier.

I will go back to some of my interpellations, but first let me start on a general interpellation. I notice that the vice-chairman is not here, but I think the members of the committee can answer the questions.

It has been observed yesterday by Commissioner Rigos that a number of these provisions in the Article on the Declaration of Principles are also repeated in the other articles, like on social justice and national economy and patrimony. Of course, we cannot fault the committee for such seeming duplication because we know that at the time they were deliberating on the Article on the Declaration of Principles, the other committees, like the Committees on the National Economy and Social Justice, were working along the same time frame, so there may not have been any opportunity for coordination. Although I remember during the proceedings on the Article on National Economy and Patrimony when the matter of the same topic having been incorporated in the Article on the Declaration of Principles was mentioned, it was stated by the members of the Committee on the National Economy and Patrimony that there will be a realignment later to see to it that there will be no duplication, and that in the Article on the Declaration of Principles, they will just be stated in a broad form, whereas those in the particular articles will be more specific.

So, I would like to find out from the committee whether or not, based on that understanding during the proceedings, they intend to file a reformulation of the many provisions of the Article on the Declaration of Principles now under discussion, so that they will not be repetitious of those appearing in the specific articles, like on social justice and national economy. I ask because if they do so, we will be willing to cooperate. If they do not do so, I understand a number of Commissioners are prepared to file their corresponding proposed amendments.

MS. ROSARIO BRAID: Mr. Presiding Officer.

MR. ABUBAKAR: Mr. Presiding Officer, just one question of Commissioner Villegas.

THE PRESIDING OFFICER (Mr. Maambong): The Chair informs that there is a pending question by Commissioner Regalado. Will Commissioner Abubakar please wait for a while because Commissioner Rosario Braid is about to answer it?

MR. ABUBAKAR: I yield, Mr. Presiding Officer.

MS. ROSARIO BRAID: Mr. Presiding Officer, in response to the Commissioner's question, we do realize the limitations under which we work, so there is some amount of repetition but we would entertain amendments. We do wish to retain this essence of the provisions though, but they could be reworded in a more general manner. During the period of amendments, we will entertain the rephrasing of some of these provisions.

MR. REGALADO: So for the benefit of the Commissioners who intend to file omnibus amendments, the position of the committee is that we take the initiative instead of the committee doing the same as outlined in that configuration submitted by the presiding officer as a guide for reformulation.

MS. ROSARIO BRAID: Yes, we will entertain amendments, Mr. Presiding Officer.

MR. REGALADO: I will go to my other point of interpellation.

I have been listening to the exchanges here the other day, and it also spilled over this morning, regarding the status of the military bases agreement. I am a little intrigued by the terminology and the technical terms used in the provision. It was stated that the military bases agreement was null and void ab initio.

I hope the Commissioner will help me a little in my historical recollection. If I remember correctly, taking aside the Hare-Hawes-Cutting Law because its preceding provision was not acceptable to the Filipino people, it was already agreed between the executive leadership of the Philippines and the United States that thereafter when Philippine independence shall have already been granted or declared — this was intended to be in 1943 were it not for the war — there would be negotiations between the executive readerships with respect to the military bases in the Philippines, which they said originally will be used only as refueling stations, and this was pursuant to that agreement under the 1933 Tydings McDuffie Law. Eventually, there was that negotiation between the President of the United States and, initially, President Osmeña. Is it true they had that negotiation and that the action of President Osmeña was pursuant to a joint resolution of the Philippine Congress?

MR. NOLLEDO: The Commissioner is right, Mr. Presiding Officer.

MR. REGALADO: And because of the change of leadership, the military bases agreement was signed by President Roxas as the signatory for the Philippines.

THE PRESIDING OFFICER (Mr. Maambong): Just a moment, Commissioner Regalado. Will the committee members please indicate their answer verbally because we cannot record the nodding of their heads?

MR. NOLLEDO: The question was not yet complete, Mr. Presiding Officer. The Commissioner should have waited for our answer.

Yes, the Commissioner is correct, Mr. Presiding Officer.

MR. REGALADO: And despite the fact that Congress had already made a prior authority in its joint resolution, that very same military bases agreement was, nevertheless, still submitted to the Senate for ratification, resulting, if I recall correctly, in a vote of 18 in favor and none against because the Senators were absent. So it was so ratified, although it was not actually necessary. Is that correct?

MR. GARCIA: The reason why the treaty or the agreement is null and void ab initio is that it is a violation.

MR. REGALADO: No, my question, Mr. Presiding Officer, is: Is it correct that it was submitted to the Senate and the Senate ratified it by a vote of 18 in favor and none against because three Senators were absent?

MR. GARCIA: Yes, that is correct.

MR. REGALADO: And that was so entered into by the executive and the legislative leadership representing the Filipino people?

MR. GARCIA: It was initially an executive agreement, but only after the executive agreement had been made was it then passed on to the legislature which decided to honor it by virtue of Resolution No. 4 approved on July 28, 1945. The whole process was an initiative, in fact, by the Congress of the United States.

MR. REGALADO: We are informed that the United States never ratified that so-called agreement so much so that insofar as the United States is concerned, it is an executive agreement but insofar as the Philippines is concerned, it is a treaty. Is that a correct statement?

MR. GARCIA: It is correct.

MR. NOLLEDO: That is the anomalous situation, Mr. Presiding Officer.

MR. REGALADO: Having been entered into by the recognized, established and elected executive and legislative leadership, would not such an official action be binding upon the Filipino people?

MR. GARCIA: First of all, let me state why it is null and void ab initio. The Philippine Independence Act, by virtue of Ordinance No. 1, Section 3, specifically states in Section 10 of the Tydings-McDuffie Law, which was appended to the 1935 Constitution that no military bases should be established. It says reservations and refuelling stations only, and that in fact, is a violation. Whatever agreement was reached between the executive leadership and the United States was in violation of that precise section. Furthermore, the privilege was only for two years after the grant of independence. If they had wanted a constitutional amendment, this should have been submitted to the people for ratifications, which was never done. That is the historical aberration, Mr. Presiding Officer.

MR. REGALADO: Is it the position, therefore, of the committee that it should have been submitted to the people for ratification?

MR. GARCIA: Exactly, Mr. Presiding Officer.

MR. REGALADO: Under what specific rule would that have been required?

MR. GARCIA: Under the specific rule that an constitutional amendment must be submitted to the people for their approval, which was never done.

MR. REGALADO: Was that expressed or implied in the 1935 Constitution which was then the one in force?

MR. GARCIA: This was precisely expressed in the 1935 Constitution. In 1939, when there were minor changes in the Constitution, there was, in fact, a plebiscite called for that purpose. Therefore, this was a very important exercise of territorial integrity and sovereignty which should have been submitted to the people for ratification.

MR. REGALADO: With that anomaly or constitutional aberration that the Commissioner has referred to, was not the Philippine government, therefore, in a position to make a unilateral renunciation or abrogation of the treaty?

MR. GARCIA: A Philippine government sovereign, and not subservient, would have done so.

MR. REGALADO: And the Philippine government that we have had, having not done so, was in the Commissioner's opinion not independent but was subservient?

MR. GARCIA: Unfortunately, our history shows that very often we have been subject to pressures from powers that are far beyond our capacity to challenge. Because of our long colonial history, economic weakness and other factors, we have been unable to stand our ground and state specifically our sovereign nature.

MR. REGALADO: Insofar as the categorization is concerned, I recall that the statement yesterday was that the military bases agreement was not de jure but de facto.

MR. GARCIA: These military bases exist de facto but the agreement is null and void ab initio; it is not valid. Therefore, if any new treaty must be contracted between two parties, it must be under the terms and conditions similar to Britain, Spain, Turkey and Greece. Why? Are they not also sovereign nations because they have bases? Precisely, in the case of the Philippines, it is different. It was more of a colonial imposition while in the case of the other nations, it was a surrender of part of their territory willingly as a sovereign nation. That is the difference, the very big difference, that we must, I believe, perceive in this issue.

MR. REGALADO: The military bases agreement, I understand, was signed and ratified in 1947. Am I correct?

MR. GARCIA: The Commissioner is correct, Mr. Presiding Officer.

MR. REGALADO: And we were supposed to have achieved independence in 1946; and by 1947, were we not an independent republic?

MR. GARCIA: That is correct, but precisely this is a violation of the Constitution and we cannot simply disregard this. The precise submission for approval by the people in a plebiscite should have been made and because it was not made, we cannot simply rectify this by any agreement. That is why we are saying that this should not be allowed under any presidential or any kind of administration. This must be a declaration of principle.

MR. REGALADO: As stated yesterday, we, therefore, have a de facto and not a de jure military bases agreement. My question is: Is there any parallelism or any precedent in public international law where there can be such thing as a de facto treaty, executive agreement or entente aside from what we are supposed to have now?

MR. NOLLEDO: Unfortunately, we are in that situation. But it does not mean that just because no such kind of agreement exists in other countries, we have to nullify our statement that there was an agreement, which is de facto in nature

MR. REGALADO: No, because our confusion here stems from the use of the terms. If it is an agreement which is null and void ab initio, we know that the phrase "ab initio," from the very beginning, connotes that there was never such a treaty. In other words, the treaty is nonexistent from the very beginning. There is no treaty to speak of whatsoever. There is, therefore, nothing to abrogate. There is nothing to renegotiate. But, on the other hand, while we say that it is null and void ab initio and, therefore, nonexistent from the very beginning, we are also talking here about renegotiation. We are having a referendum until the agreement expires in 1992 under a theory of a de facto military bases agreement, wherein I cannot find any precedent in public international law. Perhaps, it is either my mental equipment that is defective or the books that I am reading do not have such a provision. But I cannot find one to go into the concept of a de facto international concordat or entente.

So what should be the proper term to use, Mr. Presiding Officer?

MR. NOLLEDO: Mr. Presiding Officer, we insist that it is null and void from the very beginning, but we cannot go against the reality that the American bases are here and that there exists such an agreement. The fact that we say "null and void" does not mean that the agreement does not exist at all. It exists but we categorize it from the legal point of view as null and void. I repeat: The American bases exist. We cannot go against the reality; we consider them existing in fact but not valid.

MR. REGALADO: From the legal standpoint, therefore, the treaty does not exist; but from the de facto standpoint, the bases, not the treaty exist

MR. GARCIA: Yes, the bases exist.

MR. NOLLEDO: But there is a treaty. We know the provisions.

MR. REGALADO: Then why do we call it null and void ab initio?

MR. NOLLEDO: Yes, otherwise, there is nothing to call null and void ab initio, if there exists no treaty. That is a fact.

MR. REGALADO: In law, if it is null and void, is there an existing treaty?

MR. NOLLEDO: One does not use "null and void" if there is no contract or agreement. We recognize the existence of the agreement. We know the one-sided provisions of the agreement so we classify it as null and void.

MR. REGALADO: So where are we now, Mr. Presiding Officer? Is it null and void ab initio, nonexistent from the very beginning? Or would the Commissioner say it is voidable, so much so that it exists and is still capable of clarification?

MR. NOLLEDO: No, Mr. Presiding Officer. When we say "voidable," it is valid, but subject to annulment by a competent court. There exists an agreement here, but we classify it as null and void; otherwise, we should not apply the principle of nullity, if there is no such agreement.

MR. REGALADO: That is what bothers me because if it is null and void and nonexistent from the very beginning, then we can just disregard any mention of it in the Constitution. There is nothing to nullify and renegotiate because it does not exist in the law. It will not terminate in 1991 because it never had any existence from the very beginning. So we are back again to the tyranny of terminologies. How do we classify that, Mr. Presiding Officer?

MR. NOLLEDO: As I told the Commissioner, because of the existence of the American bases, we cannot go against reality. We have to realize that the United States of America, through the bases, is functioning in the Philippines.

MR. REGALADO: Yes, insofar as reality is concerned. We do not deny that fact.

MR. NOLLEDO: And we will have to meet that situation head on by stating that we are adopting the principle of neutrality.

MR. REGALADO: We do not deny that there are bases in Angeles and Subic. That is a reality. But my question is: From the legal standpoint, since we are framing these things in a constitution and the constitution is a legal document, that agreement is a legal compact between the Filipino people and the sovereign authorities. And insofar as this bases agreement is concerned, it is also a legal instrument, not only inter se but also ex allunde because it refers to our international relations. Therefore, we are trying to view this from the legal standpoint, both from the standpoint of municipal law and from the standpoint of international law. Our problem here is how we would categorize this. Do we have a military bases agreement? Do we say it is null and void ab initio, therefore, legally nonexistent from the very beginning? Or do I misread the phrase "ab initio"?

MR. GARCIA: Let me put it very clearly, Mr. Presiding Officer.

MR. REGALADO: Yes, please teach me how to find my way through this welter of technical terms because I am little confused.

MR. GARCIA: I realize that it is a unique animal in the zoo but put very simply it is this: 1) The military bases agreement is a violation of the 1935 Constitution and that must be stated clearly; 2) Even the United States government perceives this as an executive agreement not as a treaty. In fact, that is the reason why they are not paying rent but giving assistance or aid; 3) The committee's position precisely is this. Because this is a de facto situation although the agreement void, we allow, therefore, the agreement to expire in 1991 after which — this is a committee accommodation — If there is a new treaty, it must be under different conditions. It must be Concurred in by the Philippine Senate, ratified by the people in a plebiscite determined for that purpose and later on also ratified by the Senate or Congress of the concurring party. In other words, it will be a new treaty. The old one will simply lapse.

MR. REGALADO: Yes, that is for the future. We are not talking about the future. That will be completely a new treaty. We are talking about the one under discussion.

MR. GARCIA: The committee's stand is that this agreement must be made to lapse in 1991 and should not be

renewed.

MR. REGALADO: If the treaty is nonexistent from the very beginning, what is there to expire in 1991?

MR. GARCIA: The agreement, which from our point of view is null and void, is very similar to a situation in Guantanamo, Cuba. The sovereign government is not willing to have bases, and yet the other party contended the validity of their agreement with Cuba on the ground that the term was indefinite and, therefore, they are staying in Guantanamo, without the host country having to determine.

MR. REGALADO: In other words, as a concept of public international law, this Commission is willing to accept that there is such a thing as a de facto international agreement.

MR. GARCIA: This was brought about by force of circumstances, the colonial history of this country and its inability, due to economic, political and military weaknesses to correct a historical error. The only solution I can think of, if the government wishes to do so, would be to bring this to the International Court of Justice at The Hague.

THE PRESIDING OFFICER (Mr. Maambong): May the Chair interrupt? The Chair would like to know from the Floor Leader whether it is the decision of the floor that we should starve because it is already 12:34.

SUSPENSION OF SESSION

MR. RAMA: Mr. Presiding Officer, I move that we suspend the session until two-thirty in the afternoon.

THE PRESIDING OFFICER (Mr. Maambong): Is there any objection? (Silence) The Chair hears none; the session is suspended until two-thirty in the afternoon.

It was 12:34 p.m.

RESUMPTION OF SESSION

At 3:02 p.m., the session was resumed.

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

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, we now resume the consideration of the Article on the Declaration of Principles. I ask the chairman and the members of the committee to take their seats.

THE PRESIDING OFFICER (Mr. Maambong): The chairman and the members of the committee are advised to take the front seats.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Bacani be recognized to interpellate.

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

BISHOP BACANI: Thank you, Mr. Presiding Officer.

May I ask Commissioner Nollado regarding Section 1 which states that the Philippines is a republican and democratic State. Did I get it right yesterday that this is a declaration of principle that rejects communism for the Filipino people?

MR. NOLLEDO: I said the term "democratic state" is not understood as it is understood in the lingo of a socialist or communist country. And when we talk of republicanism, it by itself rejects communism because we have

regular elections and a Bill of Rights under a republican government.

BISHOP BACANI: So when we combine the two together, this comes out as a declaration of principles that is tantamount to a rejection of communism for the Filipino people?

MR. NOLLEDO: Yes, Mr. Presiding Officer. That is my personal opinion. I do not bind the other members of the committee.

BISHOP BACANI: I thank the Commissioner very much, Mr. Presiding Officer.

Let me go to Section 3. There was a long argument yesterday regarding the validity or invalidity of the agreement because of the vitiating circumstances which according to the Commissioner, rendered the treaty or executive agreement null and void ab initio.

MR. NOLLEDO: I would like to correct the Commissioner with respect to the use of "vitiating circumstances." From the legal point of view, when the Commissioner talks of "vitiating circumstances," he it talks of a vitiated consent because I am talking of unconstitutionality or illegality here. It is contrary to the Tydings-McDuffie Law which was made part and parcel of the 1935 Constitution. I said that Resolution No. 93 was a unilateral declaration on the part of the United States of America under which the RP-US Bases Agreement was entered into. So, "vitiating circumstances" may refer to the circumstances under which the treaty was entered into. But, in addition to that, there was a violation of the Constitution.

BISHOP BACANI: Yes, but I was wondering, being a nonlawyer, whether there cannot be a consent from the silent majority who seem to have acquiesced to this treaty or executive agreement. We will remember that it was Commissioner Romulo who quoted that in the 11 regions where the UP Law Center held public hearings, there was a unanimous desire for a retention of the bases.

In a survey conducted for Metro Manila and which was published in one of the newspapers, 67 percent of the people opted for the retention of the bases. In my own little parish in Paco, when I asked for a show of hands, without preliminary explanations either way, whether the matter of the retention or removal of the bases from the Philippines be made part of the constitutional provision, more than two-thirds voted that such matter not be placed in the Constitution.

MR. NOLLEDO: With respect to our consultations — I do not know with respect to the consultations of other Commissioners — I think the people are in favor of retaining the bases up to 1991. Besides the Filipino people do not know all the ins and outs of these bases. To tell the Commissioner frankly, as a lawyer, I made my researches here and I found out that there was really a legal defect. Before, I thought it was a valid treaty. I even labored under the mistaken impression that it was ratified by the U.S. Senate. I think if all these circumstances are mentioned before the people, we might get another result. Even before we voted on this question in the committee, I was also in favor of the retention of the American bases, but my research convinced me that there is something wrong with the retention of these bases. I have to compromise and follow the will of the majority that the bases can be retained only up to 1991.

BISHOP BACANI: Yes. But what I mean is that given the state of knowledge of the people, all these times majority of them seem to have acquiesced to the retention of these bases and there has not been a strong demonstration of the will of the majority that the foreign bases be not allowed any more beyond 1991.

MR. NOLLEDO: Mr. Presiding Officer, in law, acquiescence is valid only if all the facts are laid down on the table and all the arguments, pros and cons, are apprehended or comprehended by the people. So we cannot readily conclude that there is really implied consent on the part of the people until all facts are known to them — the

advantages and disadvantages, pros and cons widely discussed. While many leaders of the country are against the bases, like J.B.L. Reyes and Senator Tañada, I think they have not articulated enough before the people the disadvantages of the existence of these bases in the country.

I think I can agree with the Commissioner that the people are correct in impliedly consenting, if all the facts are known and all the arguments are articulated before them. So it must be an intelligent consent, whether expressed or implied, that will result in acquiescence.

BISHOP BACANI: May I now move on to something cognate. I heard Commissioner Garcia say twice this morning, and it seems to me to be a change in the committee's position, that if he represents the committee's position he would be for allowing this treaty or executive agreement to lapse and enter into a new agreement which will then be submitted for ratification by the people. This does not seem to be what is said here in the last section, 'PORTION FOR INCLUSION IN TRANSITORY PROVISION,' which states:

Upon the expiration of the RP-US bases agreement in 1991, foreign military bases, troops and facilities, shall no longer be allowed in any part of the Philippine territory.

Am I right in conceiving that as a retreat in the position of the committee?

MR. GARCIA: Let me explain that, Mr. Presiding Officer.

The committee's position is that we will respect until 1991 the existence of the military bases. If and when — this is hypothetical — there is going to be a new treaty to negotiate the existence of foreign military bases, it must be under certain conditions, one of which is a referendum, whereby we will get the approval of the entire Filipino nation.

BISHOP BACANI: Combining the provisions of Section 3 and the "PORTION FOR INCLUSION IN THE TRANSITORY PROVISION," that does not seem to be what the Commissioner is asking for.

MR. GARCIA: Exactly, what I am trying to say is that the committee's position is that there will be no foreign military bases after 1991.

But if and when — and I am saying this is hypothetical because that was the way the question was formulated — there are going to be new negotiations, there will be a need for a new treaty with certain conditions, and that is what I formulated earlier this morning.

THE PRESIDING OFFICER (Mr. Maambong): Just a moment. Committee member de Castro would like to interject something:

DE CASTRO: Yes, thank you, Mr. Presiding Officer.

I am only correcting the words "the commit view." I request that it should be "the majority view of the committee," but not the whole committee.

MR. GARCIA: We agree.

MR. NOLLEDO: We agree.

MR. DE CASTRO: I would like to put that on record, because it is not the whole consensus of the committee.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Bacani may proceed.

BISHOP BACANI: Mr. Presiding Officer, I was under the impression that the Commissioner wanted a

constitutional stop to all foreign military bases in the country after 1991. Am I correct?

MR. GARCIA: That is correct. In Section 3, in fact, that is what the committee report suggests.

BISHOP BACANI: Yes. However, what the Commissioner is saying now is that he is amenable to having a renegotiation after 1991 and the result of that will be submitted to a plebiscite. So I think that is different, Mr. Presiding Officer.

MR. NOLLEDO: Mr. Presiding Officer, the Commissioner will find out that there was a premise laid down by the Honorable Teodoro Natividad. His opinion, it seems to me, is that the question on the bases should be submitted to the people for ratification. But we claimed that there is nothing to submit for ratification because the military bases agreement is null and void, and if it were a treaty and submitted to the people for ratification say, later on, assuming we did not win in our committee report, then we will submit that there is no derogation of sovereignty. It was stated by Commissioner Garcia in a hypothetical manner, without necessarily abandoning the recommendation of the committee.

BISHOP BACANI: That is why I am asking Commissioner Garcia whether or not that is the position of the majority members of the committee — that after 1991, the Philippine government can negotiate a treaty on the bases with the U.S. government and then submit the result of that negotiation to the people for ratification.

MR. GARCIA: Once the present agreement lapses in 1991, if and when the Philippine government decides to enter into a new treaty, we could discuss this and find out what the terms are under which such a treaty could be negotiated, one of which is submission to the Filipino people for ratification which is very important.

BISHOP BACANI: If Section 3, as it is proposed, is approved, that would not mean that the Philippine government is forbidden to initiate or enter into negotiations with the U.S. government on the question of bases. Am I correct?

MR. GARCIA: If this Section 3 is approved, we cannot enter into such a treaty.

BISHOP BACANI: That is what I was trying to get from the Commissioner because his position, as he stated it this morning, is contradictory to that.

MR. GARCIA: That is why I was saying we have to reformulate; that it was a hypothetical answer to such a question. This is just in case of a new treaty, not necessarily following this section, because in this section, we definitely do not want a renewal or an extension of the military bases agreement.

MR. NOLLEDO: Mr. Presiding Officer, I would like to tell the Commissioner in advance that there is a proposed amendment by Commissioner Bernas allowing the Philippine government to enter into a treaty with any foreign power for the maintenance of bases in the country, subject to certain conditions. The committee will entertain that amendment. We can discuss with the Members of the Commission later.

BISHOP BACANI: I am glad for that information, because that seems to be a less inflexible position than that of the committee.

MR. NOLLEDO: We always submit to the will of the Commission, Mr. Presiding Officer.

BISHOP BACANI: I thank the Commissioner very much, Mr. Presiding Officer.

Let me go to Section 4 which is about the Philippines being a nuclear-free country. I am a supporter of this particular provision. I must confess that from ethical and religious convictions, I second the arguments.

I would just like to cite, in support of this provision, what the Second Vatican Council said. In dealing with the

arms race, the Council Parish in 1965 — this was 20 years ago when nuclear arms were not even as well developed as they are now — said, and I quote:

Rather than eliminate the causes of war, the arms race serves only to aggravate the situation. As long as extravagant sums of money are poured into the development of new weapons, it is impossible to devote adequate aid in tackling the mystery which prevails at present in the world. Instead of eradicating international conflict once and for all, the contagion is spreading to other parts of the world.

New approaches based on reformed attitudes will have to be chosen in order to remove the stumbling block to free the earth from its present anxieties and give back to the world a genuine peace. Therefore, we declare once again that arms race is one of the greatest curses on the human race and the harm it inflicts on the poor is more than can be endured. There is every reason to fear that if it continues it will bring forth those lethal disasters which are already in preparation.

So I would like to put that on record in support of this committee provision as explained especially by Commissioner Azcuna as a matter of principle which may allow exceptions here and there.

MR. NOLLEDO: As I see it, the Commissioner echoes the reasons of the Bishops Conference of the United States in 1985.

BISHOP BACANI: Yes, Mr. Presiding Officer.

Let me go to Section 5 which states:

The State values the dignity of the human person, guarantees full respect for human rights . . .

So the State shall guarantee full respect for human rights at any stage of a person's development?

MR. NOLLEDO: As far as I am concerned, as proponent of this provision, that concept is included.

BISHOP BACANI: I thank the Commissioner very much. I am glad that that is included.

Let me go to Section 7. Will the Commissioner be amenable to an amendment because I find these enumerations rather restricting? I have learned of the legal adage that to enumerate is to limit. Is that the interpretation in law? I ask because in philosophy, when we enumerate but do not exclude, we do not necessarily exclude.

MR. NOLLEDO: Is the Commissioner referring to *inclusio unius est exclusio alterius*?

BISHOP BACANI: Yes. We speak here of the establishment of a "socio-political and economic system" as the prime concern of the State. Will the Commissioner be amenable to changing that later to "DYNAMIC SOCIAL ORDER"? "Socio-political and economic system" may be a little too restricting. Culture, for example, is not explicitly included.

MR. NOLLEDO: We will consider that seriously, Mr. Presiding Officer. I think the Commissioner has a good point there.

BISHOP BACANI: I thank the Commissioner very much. And perhaps later on, we will shorten the other part of the provision.

May I now go to Section 9. I would like to ask Commissioner Villegas. First, would I be right in saying that the aim of Section 9 is for the State to equally protect the life of the mother and the life of the unborn from the moment of conception? I will concentrate only on the life of the unborn from the moment of conception but recognizing the very important part that the first part plays, which seems to be noncontroversial at present and admitted by all. Mr. Presiding Officer, am I correct in thinking that this particular sentence is meant to be a

constitutional shield against the abolition of our present abortion laws?

MR. VILLEGAS: The intention, Mr. Presiding Officer, is to make sure that there will be no pro-abortion laws ever passed by Congress or any pro-abortion decision passed by the Supreme Court.

BISHOP BACANI: Is it the intention of this provision to make sure, especially because of the abortion that is already happening in the United States, that abortion shall be forbidden or forestalled?

MR. VILLEGAS: Yes, Mr. Presiding Officer. That is the ultimate evil that has to be completely forestalled.

BISHOP BACANI: Is it further the intention or the necessary implication of this that viability is not going to be the rule in the determination of the existence of human life?

MR. VILLEGAS: It will not be the rule, Mr. Presiding Officer.

BISHOP BACANI: I thank the Commissioner very much. May I, at this point, interject some comments in response to some questions this morning which are also in support of this particular sentence. I consider this very important because the question has been raised as to when human life begins. Actually, I believe that if we say, "The State shall protect the life of the unborn from the moment of conception," we can allow Congress to determine when conception begins. But they will have to ask the doctors when conception begins, and I am afraid it will not be such an exciting search for them anymore because they will find the answer rather easily. Mr. Presiding Officer, among those that I wanted to quote this morning is Dr. Lily, who is called the Father of Fetology. By the way, there is now fetology so that the fetus is now considered a human patient and not an animal, which is an interesting development. I would like to quote him partly:

Seven days after fertilization, the young individual in command of his environment and destiny, with a tenacious purpose, implants in the spongy lining and, with a display of physiological power, suppresses his mother's menstrual period. This is his home for the next 270 days and to make it habitable, the embryo develops a placenta and a protective capsule of fluid for himself. He also solves single-handedly the homograft problem, that dazzling feat by which fetus and mother, although immunological foreigners who could not exchange skin grafts nor safely receive blood from each other, nevertheless, tolerate each other in parabiosis for nine months. We know that he moves with delightful easy grace in his bouyant world that fetal comfort determines fetal position. He is responsive to pain, touch, cold, sound and light. He drinks his amniotic fluid more if it is artificially sweetened, less if it is given an unpleasant taste. He gets hiccups and sucks his thumbs. He wakes and sleeps. He gets bored with repetitive signals but can be taught to be alerted by a first signal or a different one. And finally, he determines his birthday, for unquestionably the onset of labor is a unilateral decision of the fetus. This then is the fetus we know. This is the fetus we look after in modern obstetrics, the same body we are caring for before and after birth who before birth can be killed in diagnosis and treatment just like any other patient.

The Commissioner is defending this sentence. He is described as a Catholic leader. Is this a Catholic position?

MR. VILLEGAS: Definitely but not exclusively Mr. Presiding Officer. Actually, in the sponsorship speech, I made it very clear that even before Christianity came to this country, our ancestors already considered the baby in the womb of the mother as a human being by the use of the word "nagdadalangtao" and our Muslim brothers here have exactly the same opinion. And there are doctors who are not Christians who confirm the fact that human life begins at the moment of conception.

BISHOP BACANI: Yes. Also, I would like to confirm that all orthodox Jews, Islam, Buddhism and Hinduism reject abortion. May I name some big names among Protestants who adhere to the same opinions: Karl Barth, perhaps the greatest Protestant, not only Protestant theologian of the century; Deitrick Bonhoeffer, martyred under Hitler; Professors Otto Piper of Princeton and Helmut Thielicke, a Lutheran professor of religion at the University

of Hamburg.

So I would like to concur with that and support that as a statement of fact.

Thank you very much, Mr. Presiding Officer.

MR. ABUBAKAR: Mr. Presiding Officer, may I interpellate the speaker.

THE PRESIDING OFFICER (Mr. Maambong): Before anything else and before the Chair recognizes the Floor Leader, in the spirit of liberality of our Rules, the Chair would now like to acknowledge the presence of high school students from the Western Philippine Colleges. The Chair is hopeful that they will benefit from our discussions of the Article on the Declaration of Principles and State Policies.

The Floor Leader is recognized.

MR. RAMA: With the indulgence of Commissioner Abubakar, there are about seven interpellators here. They have been waiting for their turn to speak.

I ask that Commissioner Villacorta be recognized.

MR. ABUBAKAR: Am I to speak, Mr. Floor Leader?

MR. RAMA: Commissioner Uka has just said he will have two words.

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

MR. UKA: Mr. Presiding Officer, as a Muslim, I am against abortion in any form. It is against the law of Almighty God, as expressed in the Talmud, the Holy Bible, and the Holy Qur'an. The fertilized ovum or conceived child is already a human being, a very young human being in the first stage of life, created through the power of Almighty God. Abortion is pure and simple murder, and this is against one of the Ten Commandments of God which says, "Thou shalt not kill." Whether we are Jews, Christians or Muslims, we must follow this law. Let us not murder the innocent conceived child. Jesus said in the Holy Bible: "Suffer little children, and forbid them not to come unto me: for of such is the Kingdom of heaven." Let us follow what Jesus said, because I am sure all of us also want to go to heaven. I repeat, let us not kill our children by aborting them, especially considering that the Philippines is predominantly a Christian country with a sizeable number of Filipino Muslims.

Thank you very much.

MR. VILLEGAS: Thank you.

THE PRESIDING OFFICER (Mr. Maambong): May the Chair ask the Floor Leader if Commissioner Abubakar is scheduled to interpellate the committee so that the Chair can properly recognize him.

MR. RAMA: He is not scheduled, but he has already spoken. So, may I ask that Commissioner Tan be recognized.

MR. ABUBAKAR: This is just an interpellation; I am not going to speak.

MR. RAMA: No, the Commissioner can interpellate after Commissioner Tan. We give preference to the ladies.

MR. ABUBAKAR: I agree.

THE PRESIDING OFFICER (Mr. Maambong): Is that all right, Commissioner Abubakar?

Commissioner Tan is recognized.

SR. TAN: Mr. Presiding Officer, it will only take one minute to say what I have to say. I am against abortion in all stages of conception. But I would entreat the men in this Commission to go slow in making laws for us women, particularly the highest law of the land, on vital, personal and extremely delicate matters of which they have no personal experience. We, women, have suffered enough from the laws made by men. Men will never comprehend the extreme anguish women have to struggle with for years and the nervous and psychological disorders they have to suffer because they sometimes bear, for a lifetime, the burden of guilt caused by this inability to obey the laws made by men due to psychological or material reasons or by their noncompliance of these laws. I feel that a law is written to help us out, to free us and to liberate us. I feel men have no right to consciously or subconsciously write laws which add more burden to women. They may do this only for themselves.

Thank you.

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

MR. VILLEGAS: May I just reply to that.

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

MR. VILLEGAS: This is just a very short reply. These laws are not being made by men for women. Precisely, the very core of the issue is that there is already another human being in the womb of the woman, so we are making laws for that human being whose life begins at conception. And if the Commissioner is going to take a very feminist approach to it, the chance of that human being, being male, is 50-50 from the statistical point of view. So, this is not a law being made by men to torture women. This is a law which is made precisely to protect the life of an innocent human being who just happens to be captive in the womb of the mother.

SR. TAN: Yes, I understand that. I do not mean to be personal. I am truthfully against abortion. I am just saying that we go slow about writing into the Constitution the right to life.

MR. VILLEGAS: That is the point. If one is against abortion, he will be against the possibility of it ever being legalized. As I have shown enough empirical evidence, the moment one starts appealing to compassion or to feminist views, then we open up the possibility of two million abortions in the country as they did in the United States.

SR. TAN: These are not feminist views. These are human views.

MR. VILLEGAS: Yes.

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

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

MR. ABUBAKAR: We have heard arguments from every sector of society — religion, science, commerce and finance — from which each speaker could draw inspiration, whether he is for or against this proviso in the Constitution. We have had several constitutions like the Malolos Constitution and the 1935 Constitution but this proviso never appeared in any of the articles of the past constitutions. I understand that even different governments, from the 14th to the 17th century or even as old as the European continent, have no such proviso in their constitutions or in their common laws. This proviso did not appear in the constitutions of South American countries, the majority of whom are Roman Catholics. There are Protestants as there are Muslims and many other people of different faith. This proviso has elicited salient comments not only from our fellow Commissioners but also from the others. Our own experience dictates and points to us that in all our constitutions, there is no proviso to this effect. We are a divided House not because of differences in religion, financial status or intellectual

thinking or approach but because we cling to our own views and conception. As I am saying, I do not care if 60 or 105 countries in this globe do not have provisions on the right of the mother or the child that is conceived. We have no such proviso in our laws.

So, I hope our distinguished colleagues will share my view that we should not provide this concept or belief in the Constitution. If we want to raise this matter, we can always bring it before the legislative body which will be formed after the Constitution is ratified. To put it in the Constitution because it is a belief, it touches religion and it touches our own free thinking and intellectual conception would provoke a divided House. Regardless of how we put this proviso in the Constitution, regardless of how we vote here, our people individually and collectively would adhere to what they believe is the way for them and the way they think is right. I am sure the proviso will be constantly violated. So, in our wisdom, should we not trust our individual Filipino brothers or sisters who are in the church and let them decide the right moment to bring this child into the world? This may be an unwanted child, but I believe that the right of the unborn from the moment of conception is not an issue between the mother and the child.

I would, therefore, suggest, even if it is out of the ordinary discussion, that this particular proviso be deleted from the Constitution. We love our Constitution; we will fight to defend that Constitution. But with a divided people, that Constitution in a state of promoting unity will divide us regardless of our goal. Each will follow the practice we believe is correct. Therefore, why put a proviso that will cause division, that will not be accepted and make the Constitution a mere scrap of paper to be violated rather than to be observed? We never had this proviso before in our past constitutions. We Under our organic law, we have progressed and we are enlightened. So, why put a factor that may not even be accepted by the women of the Philippines? We ourselves doubt its wisdom and practicality.

Thank you.

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

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

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

I just have a few clarificatory questions addressed to the committee, if the committee will allow it. This is with respect to Section 9 which states:

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

I think the main proponent is Commissioner Villegas. Would this provision contemplate roving teams sponsored by the State to monitor the activities of women to make sure that they do not abort the fetus within their bodies?

MR. VILLEGAS: I do not think that is the idea. We will not have any intrusion into the privacy of any person. I am sure Commissioner Natividad can, if he wants, add information on how specific crimes of abortion are actually proved by the State. But I do not think it is a matter of monitoring.

MR. VILLACORTA: With this mandate that the State shall protect the life of the unborn, would it not be incumbent upon the State, assuming that this is approved, to ensure such a protection by organizing monitoring teams or task forces?

MR. VILLEGAS: That is already in the implementation, but I do not think that would be the intention. It depends on people who have the evidence to report, but I think the Commissioner is bringing it to an extreme. I do not think that is the intention of this specific provision.

MR. VILLACORTA: Realizing that the intention of the committee is that this should not be carried to the extreme, would it not be possible to add the phrase to make sure that an extreme implementation of this duty of the State to protect the life of the unborn will not happen?

MR. VILLEGAS: It may not be necessary because it is precisely incumbent upon Congress and the other divisions of government to be prudent in the implementation of this provision. I do not think the Commission would have to actually tell the people that they should be prudent.

MR. VILLACORTA: Our recent political experience proves that the government can be imprudent and extremist in applying the force of the law. This is one of the fears of those who have reservations or misgivings about this provision. I myself have nothing against protecting the life of the unborn. What I am more worried about is the extreme application of this provision once the State is given the mandate. It depends really, as the Commissioner is implying, on who will implement this provision. If we have a bigot to implement this, then we might be inviting trouble.

MR. VILLEGAS: Yes, but I do not think the Constitution should start making provisions for bigots and tyrants in this specific case. There will be other ways of safeguarding this. There are a lot of articles like the Bill of Rights which talk about the right to privacy. There are just enough safeguards as far as the Commissioner's fears are concerned.

MR. VILLACORTA: We have provisions, not just in this Constitution but in the other constitutions, in which the State has the duty to protect the lives of its citizens.

MR. VILLEGAS: That is right.

MR. VILLACORTA: That is why we have police forces or armed forces. In the same manner, we are giving the State the duty to protect the life of the unborn. So it is only logical that certain monitoring groups be formed by the State in order to protect the life of the unborn. Anyway, the contemplation has been clarified, and perhaps at the proper moment this Representation will propose an amendment.

On Section 10, lines 13 to 15, about the protection of children, this Representation, along with four female Commissioners as well as four male Commissioners, sponsored Resolution No. 355 and the title of that resolution is: "Resolution Providing for the Equality of Women and the Protection of the Rights of Women, Children and the Family." Looking through the list of resolutions that this committee considered, we do not find our Resolution No. 355. However, we are happy to note that our proposed sections giving women equal rights in all fields of life, as well as the right of the family to develop its capabilities, were incorporated in the draft article. There are two provisions which we consider important but were not incorporated in the draft article; for example, the section that says: "Marriage must be founded on the free consent and equality of both spouses." I do not know the member of the committee who is concerned with the rights of women and children. It may be Commissioner Rosario Braid or Commissioner Aquino. We would like to know whether or not this is part of the intendment of the committee's provision. I skipped Section 11; then I will go back to Section 10 with the Commissioner's indulgence.

Section 11 has to do with the role and participation of women in nation building and the right of women to equal protection. In behalf of my cosponsors, I would like to ask this question: Is the provision "Marriage must be founded on the free consent and equality of both spouses " included in the contemplation of Section II?

MS. ROSARIO BRAID: Since we were concerned with the general principle here, to which the Commissioner can include a phrase, the said resolution has been referred to the section about the family.

MR. VILLACORTA: I see.

MS. ROSARIO BRAID: So, we only considered a very general resolution for inclusion in this Article on the Declaration of Principles.

MR. VILLACORTA: But just the same, since the Commissioner is talking about the right of women to equal protection in all spheres of life, would she still include this principle that marriage is founded on the free consent and equality of both spouses?

MS. ROSARIO BRAID: We will entertain the Commissioner's amendment to this provision during the period of amendments.

MR. VILLACORTA: In other words, at present it is not included in the sense of Section 11 and, therefore, an amendment would have to be introduced?

MS. ROSARIO BRAID: This is very general and we could take it as when we say "equal protection." The Commissioner could include that in the section dealing with family life. If the Commissioner will present his amendment on the family, which will be considered after this article, we will welcome it.

MR. VILLACORTA: Thank you.

MR. NOLLEDO: May I be permitted to ask a question.

What do we mean by "on the free consent and equality between spouses?" The marriage law which is now found in the Supreme Court of the Philippines requires that marriage must be voluntary and free. There is no problem about that. But about the word "equality," I have some reservations. May I be enlightened on what we mean by "equality"?

MR. VILLACORTA: This simply means that in a marital relationship, both the husband and the wife have equal rights in that relationship, it is not a superior-subordinate relationship in which the wife or in some cases the husband will be inferior in status and in rights compared to the other spouse.

MR. NOLLEDO: May I inform the Commissioner that there is a provision in the Civil Code of the Philippines that the father and the mother jointly exercise parental authority over their children. But in case of conflict, it seems to me that the rule is that the decision of the father shall prevail.

Would the Commissioner agree with me, if I say that that provision should not be institutionalized in the sense that it should be governed by the Civil Code or by the civil law?

MR. VILLACORTA: I cannot speak on behalf of the other sponsors but from my point of view, if that Civil Code provision will be retained, then it will go against the principle that women should enjoy equal rights with respect to men in all spheres of economic, political, civil, social and cultural life including family life. I am quoting from Section 11 of the draft article.

MR. NOLLEDO: I think Section 11 will cover the word "equality." If we talk of "consent," that is unnecessary. It should not be placed in the Constitution anymore because all marriage laws in civilized countries require consent before marriage is celebrated.

MR. VILLACORTA: Thank you for explaining that. But what we really mean when we speak of "equality of both spouses" is not just the consent but the maintenance of equal status between the two partners in marriage throughout the marital life. Therefore, what the Commissioner quoted from the Civil Code — that the father has precedence over the mother in parental authority — would probably go against the provision in Section 11.

MR. NOLLEDO: What I mean is that when we talk of social and cultural life, then we are embodying the spirit of the Commissioner's resolution with respect to equality. As far as equality between husband and wife is concerned, in case of conflict, how can we resolve the conflict? We have to go to court. So, the provision that the decision of the husband should prevail is, more or less, designed to preserve harmony in the family because if we let either party go to court, then they will be fighting each other and there might be friction in the family.

MR. VILLACORTA: I think a case involving conflict between two human beings should not be decided on the basis of gender or a hierarchy of priority. In other words, if there is a conflict between husband and wife, the case should be decided on the merits of the case — who committed the wrongdoing — and not on the basis of who is the woman and who is the man. I think this is the intendment of Section 11 and, therefore, am I correct in interpreting Section 11 as leading to the repeal of that particular provision in the Civil Code and in other marriage laws that are discriminatory to women?

MR. NOLLEDO: I would agree with the Commissioner.

MR. VILLACORTA: Is that the sense of the committee? Is the committee unanimous on that?

MR. NOLLEDO: I cannot bind the committee but that is my personal opinion.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): With the indulgence of the two Gentlemen on the floor, the Chair recognizes Commissioner Aquino to help in the debate. Maybe it will take a woman to solve the problem.

MR. VILLACORTA: No, Mr. Presiding Officer, I am answering on behalf of the committee.

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

MS. AQUINO: The intention in Section 11 is to provide for a self-implementing provision that would itself repeal all discriminatory and antifeminist laws in the Civil Code and the Revised Penal Code. We made a research on the laws in the Civil Code and in the Revised Penal Code. For example, discrimination would amount to an imbalance in parental authority, discretion in the matter of family rights and the imbalance in the management of the conjugal partnership of gains. On the matter of political rights, by way of linguistic limitation or maybe by habitual assumption that the female gender is already included in the person or in the reference to a "he," it cannot be disputed that the major fields of politics, economy, culture and social sciences are firmly controlled by men. Therefore, with the passing of this provision, it is our intention that all these laws shall be considered repealed. We do not ask for absolute equality or sameness. Even the law would recognize that sex provides a justifiable and valid classification; that is, in the context of the equal protection of the law clause. But what we want is for us to rid ourselves of the very comfortable notion that women are just to be protected in a pedestal, since we have always considered them to be belonging to a pedestal. The law has done very little except to perpetuate the myth that women are helpless and, therefore, should be put on a pedestal. The fact is, the pedestal is a cage, constricted by social systems and hemmed in by archaic and anti-feminist laws. In the same vein that Commissioner Nolleddo would mention the law on joint parental authority, there is also a provision in the Civil Code which says in Article 117 that a husband may object to his wife's exercise of a profession or occupation or her engaging in business, if his income is sufficient. There is also a provision in the Civil Code, which has been echoed in a lot of civil law cases, that even as a Constitution guarantees the liberty of abode and travel, it cannot be impaired except for specific causes, like in the constitutional provision. The wife's mobility however is subordinate to her husband's choice of residence. On the provisions on conjugal partnership of gains where each partner gets equal shares upon its dissolution, the rights of management are not equally shared. The husband is the administrator of the conjugal property, while the wife, consistent with her assigned role of wife and mother, is given management of the

household. This is the kind of myth that is being perpetuated by the law, as if it is the law of the Divine Creator that the women should fulfill the noble offices of being a wife and a mother. This is the problem that this provision attempts to address itself to.

MR. VILLACORTA: Thank you.

So, it is clear that the sense of the committee is that antifeminist laws will be repealed, if this provision is approved.

MR. OPLE: Mr. Presiding Officer, may I ask Commissioner Aquino a question? Commissioner Villacorta may supplement her answers, if he desires.

THE PRESIDING OFFICER (Mr. Maambong): With the indulgence of the two Commissioners in debate, Commissioner Ople is recognized.

MR. OPLE: I have a very positive reaction to Section 11, until this is elaborated in the interpellations to become a veto or a fiat actually against existing laws on family relations that are construed to be unaligned or inconsistent with Section 11.

To what extent will this precipitate massive dislocations in family life, when we completely disregard the cultural matrix in which these relations now flourish and the uniqueness of families in the sense that they probably have their own attributes and properties not readily susceptible to being measured by legal standards of this nature?

In effect, are we not treating families in the Philippines like a Procrustes' bed on which we lay down the body of the patient and if there are protruding limbs, we chop them off? Will that not be the result? What about the sociological and the anthropological points of view? There are societies that are inherently matriarchal. Good examples are the Keralan culture in India, the Minangkabau culture in Indonesia and the Negris-Simbilan culture in Malaysia. There are cultures that are dominantly patriarchal. Even in this country, I think there are variations. Are we now going to fit them onto a legal bed of Procrustes under Section 11? And if their limbs protrude because they do not fit the constitutional bed, we are going to chop them off?

MS. AQUINO: It may not be exactly painless for the men, but that would be the effect.

MR. OPLE: So, it is going to be a constitutional bed of Procrustes.

MS. AQUINO: The onus and the burden of this provision when approved will fall primarily on the provisions on family relations in the Civil Code, but then, of course, it would also include the discriminatory laws in terms of undue evidential burden, as on the laws of concubinage and adultery.

MR. OPLE: So, this will have the effect of repealing all of these laws that are considered prejudicial to family equality established in Section 11. I think I am right now experiencing a change of mind about Section 11. That is just a manifestation, Mr. Presiding Officer.

MR. AZCUNA: Mr. Presiding Officer.

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

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

On behalf of the committee, as I am the acting chairman right now, I just would like to point out that perhaps, it is not necessary to maintain that anything protruding will be cut off under Section 11, considering that what Section 11 really says, as Commissioner Aquino has pointed out, is that the right given to women is that of equal protection. It does not say they have equal rights. They have a right to equal protection. That does not mean that

they will have equal or identical rights, but what equal protection means is that whatever rights are given to them are entitled to equal protection. So, I believe that they are still within the ambit of a reasonable classification since we cannot erase the differences between men and women. In fact, as the French said, "Vive le difference," or let the difference live long. It is possible for the law to treat different matters differently, and men and women being different, they are to be treated differently without violating the equal protection clause. Unless we subscribe to the formulation, like in the UP draft, that men and women are equal in law and in fact, which is not what Section 11 says, then we can still maintain that certain protuberances can survive Section 11.

MS. AQUINO: Mr. Presiding Officer, may I be allowed to some clarification.

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

MS. AQUINO: Initially, we manifested that the intention in Section 11 is not to advocate absolute equality or sameness. We have to concede to certain biological differences which, by the law of the Creator, are historically and biologically determined. However, the idea behind Section 11, and I would fully concur with Commissioner Azcuna on that, would be to address itself to imbalances in law and jurisprudence, as well as in the conferment of civil rights between men and women, without saying that men and women can be equal absolutely in all spheres of their lives. For example, we are burdened perennially, and that cannot be challenged, with the responsibility of bearing children and carrying them for nine months before birth. These are the biological differences that we have to concede to and recognize.

MS. ROSARIO BRAID: Mr. Presiding Officer.

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

MS. ROSARIO BRAID: Yes, in behalf of the committee and this is just for the record, let me cite some constitutional provisions that show we are behind many countries in terms of women's rights. In Poland, an article states that women in "The Republic" have equal rights with men in all spheres of public, political, economic, social and cultural lives. In France, it says, and this is in the Preamble: "The law guarantees women's rights with men in all domains." In the Federal Republic of Germany, it says: "Men and women shall have equal rights." In the German Democratic Republic, it says: "Men and women have equal rights." In Italy, it is the same — that they would have the same rights in employment; and even in Japan, which is considered a place where women are subordinates, it says: "Law shall be enacted from the standpoint of individual dignity and the essential equality of the sexes."

I will not bother the body with other provisions but there are many provisions which do attest to the equality of women not only in terms of protection but equality in all domains.

Thank you.

MR. PADILLA: Mr. Presiding Officer.

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

MR. PADILLA: I concur with the view of Commissioner Azcuna that if there be equal protection of the rights, that is all what the law or even the Constitution can provide. Due to the natural differences between man and woman, it is only a woman who can give birth to a child, and that is a very great privilege. In fact, it is the female who is more valuable than the male.

There are some provisions in the Revised Penal Code which favor women; for instance, one of the aggravating circumstances is the disrespect or the disregard of respect due the offended party by reason of his rank, age or sex. This is a recognition of the natural differences between man and woman. If the offended party is a female, except

in crimes against chastity where it is an inherent element of the offense, that fact, if it constitutes disrespect or disregard of the respect due the offended party by reason of her sex, by being a woman, is an aggravating circumstance. Whereas, there is no such provision in favor of the male or man. Also, when a woman and a man are separate, both have equal rights. But when they get married, there is not only a contract; there is also a sacrament. I believe the Civil Code properly governs the relations between husband and wife. The fact that the Civil Code provides that, as a general rule, it is the husband then who becomes the head of the family. He chooses the family domicile. He is the administrator of the conjugal property. That is not an attack on the rights of the wife. These are important for the unity and harmony within the family. But as a matter of actual fact, not of law, most families prosper where it is, in effect, the woman who acts as the head or the administrator of the family fortunes. As Senator Recto once said: "La mujer reina pero no gobierna."

Thank you, Madam President.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: I ask that Commissioner Villacorta be recognized. He is not yet finished.

THE PRESIDING OFFICER (Mr. Maambong): Before Commissioner Villacorta proceeds, frankly speaking, the Chair is itself confused about the interpretation of the committee on Section 11. So, may the Chair suggest to Commissioner Villacorta to probably ask more questions so that the committee will make a definite statement on the right of women which is supposed to be equal with men and to be insured under Section 11 so that probably we can get a definitive statement from the acting chairman without any contradictory statements from any other members. The Commissioner may go ahead, please.

MR. VILLACORTA: I agree with the Presiding Officer that we are getting different signals from the different members of the committee. So may we request the acting chairman of the committee to restate once more the consensus of the committee, unless he would like to suspend the session and consult the other members of the committee.

MR. AZCUNA: Mr. Presiding Officer.

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

MR. AZCUNA: Mr. Presiding Officer, the sense of the committee is that what is afforded here is the right to equal protection which does not mean uniformity in everything. There is equality insofar as the difference is not relevant. That is what equal protection means. We cannot treat it differently where the differences are irrelevant for the purpose of the law for that particular purpose. Where sex is irrelevant, then that should not be the basis for a different treatment. But it does not mean that the law will always treat them the same way. For where and when their differences are relevant, then it is valid for the law to treat them differently.

MS. AQUINO: Yes. There is actually no difference, Mr. Presiding Officer, in the interpretation of Section 11 between Commissioner Azcuna and the committee.

MR. NOLLEDO: Mr. Presiding Officer.

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

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

Protection to women just as we also give protection to men should not mean equal rights to both in the absolute sense. For example, in the case of conjugal partnership, under the Civil Code, it is the husband who manages the

conjugal property because the wife is supposed to take care of the household chores and may not have time to manage the conjugal property. In that case, the wife is not denied the right to object to a mismanagement by the husband. The wife may even ask the court to transfer the management of the conjugal partnership to the wife if the husband abuses his powers of administration. In this case, there is some sort of equality. However, I will cite one instance where there is a complete discrimination against women in the case of adultery and concubinage cited by Commissioner Aquino. This is the case of really patent discrimination.

Under the Revised Penal Code, the husband is guilty of concubinage under three expressly stated instances: 1) Maintaining a paramour in the conjugal dwelling; 2) Maintaining a paramour in a place other than the conjugal dwelling; and 3) Having sexual intercourse with the woman not his wife under scandalous circumstances. In the case of a woman, the woman is guilty of adultery as long as she has carnal knowledge or sexual intercourse with a man not her husband under any circumstance. In the case of the husband, there are only three instances mentioned by law. So if a husband brings a woman to a hotel close to the prying eyes of everyone, that is not concubinage and he is not criminally liable. So, that is a clear case of discrimination against the women. In that case, I think the law should be amended. I agree with Commissioner Aquino that there is a discrimination in that respect.

Thank you, Mr. Presiding Officer.

MR. TADEO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): With the indulgence of the Gentlemen, the Chair would like to recognize Commissioner Tadeo.

MR. TADEO: Sandali lang po ito. Mga 30 segundo lamang.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Tadeo may proceed.

MR. TADEO: Sa Section 11, makabubuti sigurong tingnan natin kung paano nilikha ang babae. Saan ba siya hinugot? Hinugot siya sa tadyang ng lalaki. Ang ibig sabihin partner or equal. Hindi siya kinuha sa huling bahagi ng lalaki upang maging katulong at hindi rin naman siya kinuha ng Panginoon sa unang bahagi para mauna sa lalaki; hinugot siya sa tadyang upang maging partner. Ang ibig sabihin ay kabalikat siya sa pampulitika, pang-ekonomiya't pang-kulturang pakikibaka. Kasabay nating nilalansag ang feudal relation sa pagitan ng babae at lalaki, kaya kaisa ako rito sa Section 11. Ang ibig sabihin ng babaeng hinugot sa tadyang ay kabalikat sa pagbabago.

THE PRESIDING OFFICER (Mr. Maambong): With that "tadyang" explanation, can we now proceed, Commissioner Villacorta?

MR. VILLACORTA: I think Commissioner Bengzon wanted to ask a follow-up question.

MR. BENGZON: Just to clarify, Mr. Presiding Officer.

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

MR. BENGZON: I address the question to Commissioner Azcuna. With the interpretation that was articulated by Commissioner Azcuna after the exchange of dialogue between Commissioners Aquino and Ople, I want to ask this question: Under the interpretation of Commissioner Azcuna, does it mean then that if Section 11 is passed, all laws in the Civil Code which are contradictory to Section 11 will be automatically repealed?

MR. AZCUNA: Yes, because the Constitution will repeal a statute if it is absolutely irreconcilable and contradictory. But as we stated, not everything that treats men and women differently would go against Section 11; only if that different treatment is irrelevant or based on an irrelevant distinction will it be contrary to Section

11 because it would violate the equal protection clause.

MR. BENGZON: In which case, the courts of law will be the one that will determine which will be in conflict with the Constitution or not.

MR. AZCUNA: Yes, or Congress can itself revise or go over the Civil Code and perhaps align it with the new Constitution.

MR. BENGZON: Thank you.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Villacorta still has the floor.

MR. VILLACORTA: I would like to go back to Section 10 with respect to the provision on children. It says here: "The State shall protect children from all forms of neglect, cruelty and exploitation. . ." This is negatively stated. I wonder if the committee would consider having a more positive statement or stipulation of said protection, something that our resolution proposed: "CHILDREN SHALL HAVE THE RIGHT TO PROPER CARE, NUTRITION, A RELEVANT NON-SEXIST AND QUALITY EDUCATION, AS WELL AS PROTECTION FROM EXPLOITATION AND MENTAL AND PHYSICAL ABUSE."

MR. AZCUNA: The committee will gladly consider an amendment along those lines at the proper time.

MR. VILLACORTA: Thank you.

MS. QUESADA: Mr. Presiding Officer.

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

MS. QUESADA: This is just to enrich some concepts on Section 11 related to family life. It will not just be changes in the existing laws but also changes in curriculum as well. For example, in family life, there will be some implications in the curriculum of schools whereby home economics and responsibility of being members of the family will now be taught, because we like equality of women and men in relation to household responsibilities. Hence, it will not be mainly women who will now be domesticated but that everybody will have the opportunity to serve and work in the domestic chores. So I think that will be one implication that will arise as a result of this equality in family life.

THE PRESIDING OFFICER (Mr. Maambong): Is there any response from the committee?

MR. NOLLEDO: If I may be permitted, Mr. Presiding Officer.

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

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

If we will adopt the interpretation of Commissioner Quesada, we will be changing the customs and traditions of the Filipino people by constitutional mandate. I do not know if that is the appropriate remedy. I have my own misgivings, Mr. Presiding Officer, because customs and traditions are evolved; they are not dictated by any constitutional mandate.

MR. VILLACORTA: Mr. Presiding Officer.

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

MR. VILLACORTA: May I ask a question related to Section 15, lines 7 to 9:

The State shall eradicate all forms of discrimination against indigenous cultural communities and shall promote

mutual respect and understanding between them and the rest of the Filipino people.

May I inquire from the committee whether this involves banning and rectifying erroneous allusions to ethnic minorities in books, museums, other institutions and records of the government? Is this retroactive?

MS. ROSARIO BRAID: Yes, that is the implication of this provision. We will examine past records of inequities, discriminatory practices and we will attempt to rectify all of these practices.

MR. VILLACORTA: Thank you.

On Section 17, with respect to the recognition by the State on the role of health, will health consciousness as a goal of education be included in the curricula of schools?

MS. ROSARIO BRAID: Commissioner Quesada, who is a member of our committee, will respond.

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

MS. QUESADA: Yes, definitely, the inculcation of health consciousness will be part of protecting the health of the people. That is part of the intention.

MR. VILLACORTA: Thank you very much.

With respect to page 5, Section 21, lines 4 to 5:

The State shall protect the right of the people to communicate and shall promote access to information to enhance social and political participation.

Because there is an absence of a comma after the word "information," would the kind of information that the State will promote access to limited to that information aimed at enhancing social and political participation? Or is this modifying phrase "to enhance social and political participation" in reference to access and not to information?

May I just clarify my point. This might give the impression that the State shall promote access only to information that is aimed at enhancing social and political participation.

MS. ROSARIO BRAID: The phrase "social and political participation" is a consequence of availability of as many kinds of information: economic, cultural, socioeconomic, but we wanted to underscore the enhancement of certain qualities that will contribute to the participation of people. So, this is really a consequence of having access to as much information.

MR. VILLACORTA: I see. At least it is clearer to us now, and probably we could propose some amendments in the style to make it clearer.

MS. ROSARIO BRAID: Yes.

MR. VILLACORTA: Section 23 states: "The State shall broaden opportunities to public office and prohibit political dynasties."

I have two questions on this: How do we broaden opportunities to public office and how do we prohibit political dynasties? Are not these two goals too lofty and are they achievable at all?

MR. NOLLEDO: Although this was initially decided by the Commission when we took into consideration the report of the Committee on Local Governments, I still hope that the Commission will see the proper light.

I am the author of this provision because I take into consideration the political realities in the Philippines, where we have small political kingdoms in different parts of the country. I am talking of family dynasties. For example,

we have dynasties in Luzon, in Visayas and in Mindanao.

In our provisions on the Articles on the Executive and the Legislative, we are allowing reelection. In the Philippines, I think it is known to everyone that a person runs for governor; he becomes a governor for one term; he is allowed two reelections under our concept. Then he runs for reelection; he wins. The third time, he runs for reelection and he wins and he is now prohibited from running again until a lapse of another election period. What does he do? Because he is old already and decrepit, he asks his son to run for governor.

In the meantime, he holds public office while the campaign is going on. He has control; he has already institutionalized himself. His son will inherit the position of governor, in effect, and then this will go to the grandson, et cetera. The others who do not have the political advantage in the sense that they have no control of government facilities will be denied the right to run for public office. Younger ones, perhaps more intelligent ones, the poorer ones, can no longer climb the political ladder because of political dynasty.

It seems to me that public office becomes inherited. Our government becomes monarchical in character and no longer constitutional.

And so, I plead to the Members of this Commission to please approve this provision.

As to prohibition of political dynasties, we leave it to Congress to determine the circumstances under which political dynasty is prohibited. This Commission will not determine hard and fast rules by which political dynasty may be condemned. But I think this is a very progressive provision and, in consulting the people, the people will like this provision. I hope the Commission will hear the plea of our people.

MR. VILLACORTA: There is no doubt about the merits of this proposal, but I am sure that Congress would want to be clearer as to the contemplation of the committee with respect to this prohibition of political dynasties.

MR. NOLLEDO: In that respect, if the Commissioner will permit me because I might get lost, after the second reelection, I would recommend that Congress may take this into account; the son may not run because the father has an edge since he controls the incumbent governor and his son is now running.

MR. VILLACORTA: In other words, the Commissioner is mandating Congress to pass laws that will prohibit a next of kin or a member of the nuclear family from running in the same public office, am I right?

MR. NOLLEDO: Under the circumstance, the son may not run but later on, when the governor is no longer incumbent and the son wants to run, he can run later. I think there is an interregnum; there is a period during which he cannot run, but he is not prohibited.

MR. VILLACORTA: The Commissioner is referring only to the same public office.

MR. NOLLEDO: To the same public office or to another public office. Perhaps, he may run for another public office.

MR. VILLACORTA: Would not the concept of political dynasty also refer to other public offices?

MR. NOLLEDO: It is possible.

MR. VILLACORTA: For example, the father is the governor; the mother is the mayor; the son is a municipal council member.

MR. NOLLEDO: Yes, I think that concept should be taken into account by Congress in defining what is a political dynasty.

MR. VILLACORTA: In other words, the sense of the committee is against that also.

MR. NOLLEDO: I am against that situation.

MR. VILLACORTA: Here is a situation which is not hypothetical but something which actually happened. Corazon Aquino ran for President vice her husband who was assassinated. Should that situation be repeated? Would the committee be against that kind of situation?

MR. NOLLEDO: That is hypothetical because Corazon Aquino did not succeed the husband. The husband never ran for public office. Corazon Aquino ran on her own.

MR. VILLACORTA: But is it not a kind of continuity within the family with respect to the aspiration for a public office which is the presidency? Would we prohibit that?

MR. NOLLEDO: Why do we not make it like this: the husband is the President and he died; the wife runs for President? In that case, I think the Congress may take into account that the husband is no longer incumbent; he is dead and may not have control of the facilities of the government. There will be no undue advantage that may take place. Perhaps, the rule against political dynasty may not apply to such kind of a situation.

MR. VILLACORTA: In other words, the Commissioner is limiting the concept of political dynasty to a situation where the next of kin is an incumbent.

MR. NOLLEDO: That is only an example. There may be other circumstances that we may not now foresee.

MR. VILLACORTA: Thank you.

What about broadening opportunities to public office? Why does the Commissioner want this? We would like to know why the Commissioner wants to broaden opportunities to public office. Is it not that having too many people in public offices and having too many public positions are our problems?

MR. NOLLEDO: We are actually talking of political dynasties but the committee reformulated my original provision. The committee wanted to expand the meaning of the provisions, so they put: "The State shall broaden opportunities to public office." But we are talking of elective offices.

However, we do not preclude the application of this provision to other offices that are not elective in relation to political dynasties. The Commissioner is right when he said that I must be referring to the situation contemplated by his question.

MR. VILLACORTA: Thank you.

Section 24, lines 14 to 17 states:

The Philippines, under the conditions laid down by law, shall grant asylum to foreigners who are persecuted in their country in defense of human rights and in the liberation of their country and they shall not be extradited.

I personally laud the intention of this provision; however, can we not foresee a situation where the Philippines will be flooded by political refugees? Let us say, there was a revolution or a takeover of the government by an authoritarian or totalitarian group of leaders in a neighboring country, like Indonesia. We find thousands or even millions of Indonesians coming to the Philippines. With this mandate we cannot say no to them; we cannot deport them. This will open the floodgates of entrants who will be pushing aside our own population in terms of housing opportunities, food and other resources which are very limited.

MR. NOLLEDO: We will remember that, together with Commissioner Garcia, I presented this on the floor. There was a discussion and the Commissioner's apprehension and fear was originally expressed by Commissioner Ople, who cited instances, and because of which we wrote the words "under the conditions laid down by law," as

suggested by Commissioner Ople himself because of that possibility. I would like the Commissioner to know that the application of this provision should generally cover only the leaders of the liberation movement of a foreign country.

MR. VILLACORTA: Only the leaders.

MR. NOLLEDO: Their purpose here is to protect freedom fighters if we really believe in the freedoms guaranteed by the Bill of Rights. We must necessarily fortify that belief by extending to freedom fighters abroad our hospitality in welcoming them to our country. As mentioned by Commissioner Azcuna, who interpellated me in this respect, the stay of these freedom fighters in the country is only temporary. They will not become permanent residents here. We only want to manifest to the whole world that when we adhere to the importance of freedom, we want that freedom also to be enjoyed by aliens who would like our protection in case of persecution.

MR. VILLACORTA: In other words, the intention of the committee — I assume the Commissioner is speaking on behalf of the committee on this point — is to simply grant temporary asylum, is that correct?

MR. NOLLEDO: The Commissioner is correct.

MR. VILLACORTA: I see. The other thing is, who is going to decide whether these foreigners, who are seeking asylum are actually persecuted in their country, are actually defending human rights and fighting for the liberation of their country? Is it the asylum seeker himself or the government?

MR. NOLLEDO: Congress shall lay down the conditions under which that determination may be made. I recommend strongly for Congress to be given the initial right to determine the status of a foreigner seeking asylum to administrative authorities.

MR. VILLACORTA: Section 26, lines 23 to 25, states: ". . . it is the right of the people, it is their duty, to change such government." This is in reference to a government which has a long string of abuses and usurpation and to provide safeguards for their security. Is not the whole Constitution aimed at this? In other words, we have the mechanics for a peaceful political change in case there are abuses and usurpation by the government. If we are talking about changing such a government peacefully, then I think this is more than provided for in the provisions on the executive, et cetera, unless we are talking about a bloody revolution. If it is our intendment, then we should say so very clearly.

MR. DE CASTRO: I happen to be the author of this provision and, as I said yesterday, this was recommended to me by the armed forces and I noted later that it is almost verbatim except a few words which have been deleted and a few words added. This is taken from the Declaration of Independence of the United States, passed unanimously by the 13 original states on July 4, 1776. I thought that it was a good presentation of what really happened during the 20-year rule of the old regime and what we did in EDSA. And so, because I do not like to copy the Declaration of Independence, I have requested a few of my colleagues here, Commissioners Azcuna and Monsod, to give me a good formulation on how we can portray EDSA and the 20-year misrule.

On the other hand, after having been advised by some of my good friends, it seems that I am most afraid now that this may be used by the extreme left, by some cause-oriented groups, and principally by the communists in our country to take up arms against our government. Hence, I thought of a reformulation of this matter, and I will be most willing to receive whatever recommendation there may be from my colleagues. I am most afraid now of the possible effects of a minority revolting against our country. But my conscience was clear when I proposed this provision. This is just to highlight the misrule that lasted for 20 years and our peaceful revolution of February, 1986.

MR. OPLE: Mr. Presiding Officer.

MR. VILLACORTA: Thank you, Mr. Presiding Officer; I have no more questions.

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

Commissioner Ople is recognized.

MR. OPLE: We are talking of Section 26, and we are indebted to Commissioner Villacorta for calling attention to this section. I do not know if the committee took into account the original resolution filed by Commissioners Maambong, Natividad, de los Reyes and myself, which called precisely for a section recognizing the right to revolt by an oppressed people. Of course, I was pleasantly surprised when I came upon Section 26 which was lifted bodily from the text of the U.S. Declaration of Independence. It is an excellent formulation, except that if we allow it to stay in this precise fashion, we can be accused of the serious crime of plagiarism. I do not think the committee is wanting in the ability to formulate our own equivalent of these ringing words of the U.S. Declaration of Independence.

But when we filed this resolution with the Committee on the Declaration of Principles, Mr. Presiding Officer, we did not contemplate specific challenges to the security and the integrity of the State and the manner of groups that will bring that about in the future. We just want to establish the principle already embodied in Section 1 of the committee draft which states:

The Philippines is a republican and democratic state. Sovereignty resides in the Filipino people and all government authority emanates from them and continues only with their consent.

That last clause directly supports and is elaborated by Section 26. I think the general sense of this section is nothing more nor less than that government authority emanates from the people and continues only with their consent — once a nation has withdrawn its consent because a Constitution has been grossly disregarded by a ruler. This same Constitution that we are drafting, for example, after it is ratified, can reflect this timeless principle that the nation holds its destiny in its own hands without distorting the commitment to peace and to constitutional process.

Thank you, Mr. Presiding Officer.

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

MR. DE CASTRO: As I said before, this was a recommendation which I got from the armed forces and on first reading, I thought it really reflected what I have in my mind which is about the 20-year misrule and the February Revolution in EDSA. But when I submitted my resolution, I found out that some words were taken away, like "overthrow of the government, etc." from the Declaration of Independence. And upon advice, I am really most afraid now that this may be used by cause-oriented groups, the extreme left and more particularly the communists. So, I requested my colleagues who are good in formulating constitutional provisions to help me reformulate this. I hope that in the period of amendments, if I cannot get a better form, I will be the one to request its deletion.

Thank you, Mr. Presiding Officer.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Before the Chair recognizes Commissioner Sarmiento, the Chair suggests to the committee, considering that it has not yet found a new formulation, to go over Proposed Resolution No. 457, the formulation of which Commissioner Nollado has already been furnished.

MR. AZCUNA: Mr. Presiding Officer.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Just a moment. The acting chairman has something to say. Commissioner Azcuna may please proceed.

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

We would like to state for the record that the committee also took into account, although unfortunately it is not reflected in our report, the proposed resolution of Commissioners Ople, Maambong, de los Reyes and Natividad along these lines but we followed the wording proposed by Commissioner de Castro to the same effect. We are studying right now the proposed alternative wording to Section 26 and the wording I have here with me would be really taken up during the period of amendments. I just want to read it for the present: "THE END OF THE INSTITUTION, MAINTENANCE AND ADMINISTRATION OF GOVERNMENT IS TO SECURE THE EXISTENCE OF THE BODY POLITIC, TO PROTECT IT AND TO FURNISH THE INDIVIDUALS WHO COMPOSE IT WITH THE POWER TO ENJOY IN SAFETY AND TRANQUILITY THE RIGHTS AND THE BLESSINGS OF LIFE. AND WHENEVER THESE GREAT OBJECTS ARE NOT OBTAINED, THE PEOPLE HAVE A RIGHT TO ALTER THE GOVERNMENT AND TO TAKE MEASURES NECESSARY FOR THEIR SAFETY, PROSPERITY AND HAPPINESS."

Thank you.

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

MR. NOLLEDO: For purposes of record, may I be permitted to read the resolution of Commissioner Ople, Natividad and Maambong. It reads as follows:

The people may, where all peaceful remedies have been exhausted, resort to the ultimate expression of their sovereign right to eliminate a tyranny and replace it with the democratic government.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Sarmiento may now proceed.

MR. SARMIENTO: Mr. Presiding Officer, I would like to address one question to the committee particularly to Commissioner Nollado. Did I hear the Commissioner right that he limited the word "foreigners" to "leaders" under Section 24 which speaks of temporary political asylum? I ask this question because many of those who sought political asylum in the United States were not necessarily leader but followers, and we handled some of these applications for political asylum. Is the Commissioner limiting it to the leaders?

MR. NOLLEDO: That was only a suggestion to the Congress. As far as I am concerned, there should be no limit as long as there are reasonable conditions laid down by law.

MR. SARMIENTO: So followers would also be covered by the word "foreigners."

MR. NOLLEDO: They can be covered.

MR. SARMIENTO: Thank you.

MR. RAMA: Mr. Presiding Officer.

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

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

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

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

I would like to address a few questions to the committee if I may. I would like to ask Commissioner Nollado at the onset with regard to Section 1. Since the Commissioner has already mentioned it in the previous interpellations on this topic, may I ask his definition of communism and socialism.

MR. NOLLEDO: Is the Commissioner asking me the definition of socialism and communism?

MR. GASCON: Yes, because the Commissioner mentioned twice that this term "democratic State" on lines 7 and 8 does not imply at all or think of any communist or socialist state for the matter.

MR. NOLLEDO: I said it is not in the lingo as understood in socialistic and communistic countries.

MR. GASCON: Yes. What does the Commissioner mean by that?

MR. NOLLEDO: We should know that even the Russian Constitution talks also of freedom of religion, but in actual practice, they do not generally tolerate religion in the country. They do not believe in God and they talk of democracy also. But it seems to me that there is no democracy as understood in western style or Philippine style. In socialist republics, people also talk of democracy and the rule of the proletariat. But it seems to me that if there is a consultation, the consultation is not free and voluntary as may be contemplated in a democratic country like the Philippines. Please correct me if I am wrong on that.

MR. GASCON. I would like to clarify that point because it might lead to certain misconceptions that the dichotomy in the world is the dichotomy between communism and democracy or socialism and democracy. I beg to disagree that that is the dichotomy in the ideology in the world. If there is a dichotomy at all between communism and any other economic perspective, it is a dichotomy between communism and capitalism or communism or socialism against capitalism and not against democracy. There is such a movement known as democratic socialism. When we mentioned the words "it does not contemplate socialist perspectives," I was a bit bothered by that because if we look at the basic definition of democracy, which is governance of the people, for the people and by the people, socialists contend that theirs is a democratic state in the sense that it reflects the interests of the majority, the working class, the workers and peasantry.

MR. NOLLEDO: I would like the Commissioner to know that as author of this term "democratic state," I am not ruling out certain concepts in socialism. I am putting the word "democratic" because of the provisions that we are now adopting which are covering consultations with the people. For example, we have provisions on recall, initiative, the right of the people even to participate in lawmaking and other instances that recognize the validity of interference by the people through people's organizations, et cetera. So, I do not mean that when I talk of socialist republics I am talking of republics that believe purely in communism. I do not rule out socialistic ideas. In fact, we are adopting socialistic provisions. I tell the Commissioner frankly and publicly that I am a little bit socialist-oriented, but I am not a communist, definitely, because I am a firm believer in God. I am supporting the Bacani resolution of giving protection to the unborn.

MR. GARCIA: Yes. Mr. Presiding Officer, perhaps I would like to make more precise the concepts here. I think this section is trying to differentiate democracy from totalitarianism or authoritarianism wherein we exclude the majority from participation in government or in the decisions that will affect the life of society. So, that is a more precise distinction between democracy and totalitarianism or democracy and authoritarianism.

MR. GASCON: Thank you for that. As expressed by Commissioner Nollado this morning in his interpellations, I was a bit bothered in the sense that he was already making some judgments on certain governments at this point in time when I am totally for the provision on emphasizing that the State that we are establishing is a democratic

state. When he speaks of concepts of democracy, he must realize that there are different ideological groups with different perspectives and understandings of democracy. So, Commissioner Garcia's point is very clear that when he speaks of democracy, the dichotomy is really a dichotomy between democracy and totalitarianism since it is a fact that there are socialistic states which are totalitarian in character, and the Commissioner has mentioned his objection to them. I would agree with the Commissioner totally. So long as the State limits the freedoms of the people, we have to oppose it.

MR. NOLLEDO: But there are also republican forms of government which are totalitarian, just like Chile.

MR. GASCON: Yes, and then there are totalitarian states which are capitalists in character as well. So the point is that when we emphasize the word "democratic," it is not really a response against socialism per se or communism per se, but really against totalitarianism of whatever form, whether it be socialistic or capitalistic in character. Does the committee agree?

MR. NOLLEDO: As far as I am concerned, I can agree with the Commissioner, but I cannot bind the other members of the committee

MR. VILLEGAS: May I just add some thoughts to the discussion, Mr. Presiding Officer?

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

MR. VILLEGAS. As long as the communism that the Commissioner is talking about is a communism that is based on Marxist-Leninist lines, then by definition it requires a dictatorship of the proletariat and, therefore, that communism is completely incompatible with democratic principles because we will remember that Marx and Lenin talked about a transition by the State to pure communism going via socialistic principles where the State takes over all the means of production and there is dictatorship of the proletariat. If that is the kind of communism the Commissioner is talking about, then definitely it is completely incompatible with Section 1.

MS. ROSARIO BRAID: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): Before the Chair recognizes Commissioner Rosario Braid, the Chair thought that Commissioner Gascon was already totally satisfied with the reply of Commissioner Garcia. Can we not leave it at that and proceed to another point?

MR. GASCON: I would like to make a follow up on this point itself.

THE PRESIDING OFFICER (Mr. Maambong): Yes; but the Commissioner is satisfied.

MR. GASCON: I would like to listen to Commissioner Rosario Braid.

THE PRESIDING OFFICER (Mr. Maambong): Yes, however, is Commissioner Gascon satisfied with the reply of Commissioner Garcia?

MR. GASCON: Yes.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Rosario Braid may then proceed.

MS. ROSARIO BRAID: Commissioner Nolleto wanted to know whether or not this is a committee opinion. Yes, it is. We regard this kind of democracy as a participatory democracy. To reinforce Commissioner Garcia's point, communism and capitalism have seeds of totalitarianism; therefore, a certain sector in the population is excluded. It is really the concept of exclusion of certain sectors of the population that would make it less democratic. What we are trying to say is that this is a concept where people and sectors may participate. The concept of participatory or communitarian democracy perhaps best expresses this concept.

MR. GASCON: Or perhaps, popular democracy.

MS. ROSARIO B RAID: Yes.

MR. GASCON: Mr. Presiding Officer, I would like to make my reactions to the statements of Commissioner Villegas. In fact, I agree with the Commissioner in the sense that what is wrong with Marxist-Leninist thought is the concept of a vanguard party or a one-party system.

Do I take it to mean that when we say that the Philippines is a republican and democratic state there shall be democratic alternation of power, which means regular elections, representations by the people through direct elections? In certain totalitarian states, whether they be capitalist or socialist in character, there is only one party. What we should be emphasizing further is the encouragement of multiparties whether they be socialistic or liberal-democratic or capitalistic in character.

MR. NOLLEDO: I agree with the Commissioner.

MR. GASCON: I would like to give a hypothetical situation. Let us say that the Communist Party of the Philippines renounces violence and decides to participate in the electoral struggle. Does this provision allow for its participation?

MR. NOLLEDO: Yes, because of the multiparty system and the provision that I introduced in the Bill of Rights that no person shall be detained merely by reason of his political beliefs and aspirations as long as he pursues his objectives through peaceful means

MR. GASCON: Therefore, Mr. Presiding Officer, it is a possibility that this provision will not preclude a situation in the future when, let us say, the Communist Party becomes the dominant political party in Philippine society if it shall be elected into power by the people.

MR. NOLLEDO: That is a possibility.

MR. GASCON: Also, there is no contradiction in the phrase "democratic state" if, for example, the communist Party of the Philippines will be elected by the people, let us say, 20 years from now?

MR. NOLLEDO: That is a possibility, but the Communist Party in that case must respect the Constitution or it may change the Constitution and align it with the Constitution of Russia and other communist countries, although I do not consider that possibility to take place within 20 years; perhaps, 50 years or more.

THE PRESIDING OFFICER (Mr. Maambong): What is the pleasure of Commissioner Garcia?

MR. GARCIA: I would like to add my thoughts on this point. I think what has been stressed is a very important concept in democracy. That is democratic alternation in power. Secondly, it is also important that we have the free struggle of ideas in the parliamentary arena. In Europe, right now, they have seven governments which are in fact democratic-socialist governments: In France, there is the *Partie Socialiste* of Francois Mitterand where initially, they have as partners in government the *Partie Communist* with four ministries in government; in Spain, the *Partido Socialista Obrero de España*, led by Felipe Gonzalez, which is now in power; in Portugal, they have Mario Suarez they have one of the leading parties in Italy, the coalition government of Benito Craxi which is the *Partido Socialista de Italia*; and then, of course, in Austria.

The point I am trying to make is that this is possible so long as there is popular support. It was mentioned that there is no one party that is going to stay in power without any alternation. In fact, it is a very important point to make that in Chile, Salvador Allende was an elected Marxist President. He was unable to finish his term of office in 1970 because he was deposed by a military coup, primarily because his government curtailed freedom. Yet we

now see that the government of Pinochet, having been installed in power for the past 13 years and determined to stay longer in power, is what one would call authoritarian, in contrast with other countries who may have a different ideology but may not have this alternation that would be totalitarian and this is what we are against.

What we would want to have in this section is a democratic form of government no matter what economic vision and economic system it might have, because even the Universal Declaration of Human Rights respects the rights of nations to self-determination as to the viable political and economic systems that the people wish to support.

MR. GASCON: Thank you, Mr. Presiding Officer. In fact, that was what I was contemplating when I asked this question. I just hope that when we speak of a "democratic State," this does not exclude various political parties with different economic visions to participate in the free electoral and democratic processes as what has been mentioned already by Commissioner Garcia. I was contemplating very seriously that in the near future there could be a possibility, as there is a trend in Europe today, where socialist parties are popularly elected by the people. In fact, not only socialist parties but also communist parties are being elected into power. I believe Enrico Berlinguer's party was once a dominant party in Italy, it being a communist party, and they were elected popularly into power. These are the Eurocommunists. I was thinking that this term "democratic State" does not exclude any party and that we should really be fair on this commitment to a multiparty system, Mr. Presiding Officer.

MR. NOLLEDO: Mr. Presiding Officer, may I make a remark before the Commissioner proceeds because I might be charged of inconsistency. Commissioner Bacani asked me a question of whether the use of the term "democratic State" means a rejection of communism, so I said yes. That answer should be qualified by the possibility contemplated by the Commissioner's question that when the communist party lays down its arms and participates in the electoral process in a peaceful way, it wins support of the people. It is possible that the communist party may run the affairs of government in the expectation that that party should respect the Constitution.

MS. ROSARIO BRAID: In other words, regarding these cases mentioned in Europe, Italy, and others, the communist party loses many of its old features once it becomes legal and competes in the parliamentary struggle and its temper becomes moderate, et cetera.

MR. GASCON: Yes, once they are recognized. So there are also other political parties which present other viable alternatives which the people themselves will decide. The whole point is, we provide the people with the opportunities for choosing their leaders themselves through regular elections and other means of popular participation.

That would lead me to my second point, Mr. Presiding Officer. When we speak of "democratic State," as in the interpellation of Commissioner Tadeo where he spoke of the term "consultation" which I fully support, it implies that those elected into office must continually consult with the people. However, I would like to add my own perspective to this, Mr. Presiding Officer. Does this merely imply a consultation that is limited to a few? It is true that the elected officials will consult, but they will consult only, let us say, the ruling intelligentsia, the elite or those who have economic and political power. My point, Mr. Presiding Officer, is, when we add the phrase "democratic State," is this also a recognition of the struggle of the Filipino people for the past 20 years to move from an elitist type of democracy to a genuine popular democracy rooted in the masses and not in the choosing of leaders and alternation of powers of the few?

MR. NOLLEDO: We contemplate that movement, Mr. Presiding Officer, that is why we are talking of participatory democracy. We have to consult people from all sectors. We do not consult only those with vested interests.

MS. ROSARIO BRAID: With this provision, we will be opening up more channels of communication, strengthening people's consultative mechanisms by using all sorts of bottom up, horizontal and vertical communication and strengthening all these linkages so that we can ensure that there is actual dialogue and interaction going on. This provision has relevance to strengthening educational communication systems and all sorts of linkages with local government.

MR. GASCON: So, Mr. Presiding Officer, is this a repudiation of the formal elitist type of democracy?

MR. NOLLEDO: Certainly.

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

Section 2, line 12, speaks of the provision which says: "They renounce war as an instrument of national policy. . . " I would like to know why it is important to emphasize this provision. Does this mean that the Philippines shall not take a militaristic, imperialistic and colonialistic attitude as far as relating to other countries?

My second question is: Does this imply a pacifist attitude as far as foreign policy is concerned?

MR. NOLLEDO: Yes, it implies a pacifist attitude because what we renounce is only aggressive war; we do not renounce defensive war.

MR. AZCUNA: Mr. Presiding Officer, is the Commissioner telling us that if we are attacked we will not defend ourselves?

MR. GASCON: Mr. Presiding Officer, that is my point. Pacifism as a movement in the world today even renounces aggression in itself.

MR. NOLLEDO: Even in self-defense.

MR. GASCON: Yes. So, I would like to clarify that, Mr. Presiding Officer.

MR. NOLLEDO: A concept of pacifism is that when one is attacked, he just allows the attacker to kill him. Self-defense is an instinctive right that is inherent in human nature. I do not believe that even a pacifist will not defend himself.

MR. AZCUNA: This is best stated in the John Wayne philosophy, Mr. Presiding Officer, when he said: "We ain't looking for trouble, Mister, but if trouble comes galloping around looking for me, I ain't hard to find."

MR. NOLLEDO: One's instinct will urge one to defend himself.

MR. AZCUNA: We can defend ourselves. We renounce war only when it is an aggressive war.

MR. GASCON: As an aggressive policy of the State.

MR. AZCUNA: This is taken from the Pact of Paris of 1926, otherwise known as the Kellog-Briand Pact, which was incorporated in our Constitution in 1935. It is the renunciation of war as an instrument of national policy. This was also elevated to the UN Charter — renouncing the use of threat or force in international relations. And this has ripened into what is known as a peremptory norm in international law — a used cogence that is an imperative norm which not even a binding treaty can provide against; a treaty that violates a fundamental norm in international law would be void. So, we cannot even have a treaty allowing aggression. That would be a void treaty. So, this is very fundamental that is why we put it here.

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

MS. ROSARIO BRAID: If I may add, for the record, I think some of the members of the committee also feel that

demilitarization is one step towards this type of stand; we support demilitarization.

MR. GASCON. So, Mr. Presiding Officer, when we speak of a renunciation of war and demilitarization, does that imply a gradual deletion of our armed forces?

MS. ROSARIO BRAID: I suppose our general is not here, but I speak for some of the members who are for evolutionary and gradual demilitarization

MR. GASCON: That would, therefore, imply that for future executives, there will be cuts in the military.

MR. AZCUNA: Within the context of defense requirements, Mr. Presiding Officer, if we believe that there is a need to be ready, our geopolitical situations being considered, then we should develop a capability to defend ourselves especially through citizens armed forces, which are contained in the General Provisions of the 1973 Constitution. This humble Representation introduced the idea of a citizens army, a territorial army based on the citizens like in Yugoslavia, Israel and Switzerland, whereby the people will be able to defend themselves. We, in fact, propose in this declaration that it is the prime duty of the government to serve the people and then the people and the government in turn have the duty to defend the State.

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

Does this also mean that in relating with other countries in the world, we shall encourage the movement of peace? Is this directly related to Section 3, which calls for the establishment of a zone of peace, freedom and neutrality in this part of the world as part of that commitment to world peace?

MR. AZCUNA: Yes, Mr. Presiding Officer, that is right; to seek peace, to be peace-loving and at the same time to be ready to defend that peace, if it is threatened.

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

I would like to go now to Section 3. Much has been said about this section — the U.S. military bases in the Philippines and the need for their retention to maintain balance of power in this part of the world. I would like to be enlightened further on this issue of balance of power. Since I am a staunch believer of nonviolence, I would like to term it better as balance of terror in this part of the world. Is there really such a situation of a balance of power or terror which contemplates a necessity for the bases to stay in the Philippine territory, Mr. Presiding Officer?

MR. GARCIA.: I think the use of the phrase "balance of terror" is very apt. In fact, it is ironic, but one of the terms that they also use is mutually assured destruction" in terms of nuclear deterrents, the acronym of which is MAD. To be very precise, I think, the argument has been utilized time and again that we need the bases as a deterrent against communism. If we look at the issue in the Pacific, they say we must try to balance the two superpowers. What is the real score? What is the real story? Can we reexamine the historical record?

The U.S. has about 520 military installations in U.S. territories, East Asia and the Pacific region for its military operations and it is now concentrating in the area of the Pacific because this is where our bases are lying. Of these, some 350 bases are in foreign territories, 86 of them major military bases for its Pacific operation. That is as far as the U.S. is concerned.

In stark contrast to the U.S. basing system, the Soviet basing system is composed of about two dozen military bases in the region including its major bases in Vladivostok and the other in Petropavlovsk. Its extraterritorial bases are: Cam Ranh Bay, a naval base and Da-nang Air-base; Najin in North Korea, which is a naval facility; and an air defense installation in the Currie Islands. Thus, when the Commissioner speaks of the growing Soviet presence in the area, they should be seen in the context of long-standing U.S. military dominance and even

broader U.S. military deployment in the area. It should be noted that while the U.S. has most of its Pacific bases in foreign soil, the Soviets have most of their bases within Soviet territory. The important point to stress here is that there is definitely U.S. superiority over the Soviet Union in the Pacific. On the 29th of April, 1982, Defense Secretary Casper Weinberger admitted, and I quote, "I will not for a moment exchange anything between the U.S. and Soviet theater forces because we," meaning, the North Americans, "have an immense edge in technology." In the same year, on March 16, 1982, former Commander-in-Chief of the Pacific Command, Admiral Robert Long stated, and I quote: "The US is the dominant military and economic power not only in the Pacific theater but also in every other theater in the world." In 1980, General Maxwell Taylor declared: "I am concerned that too many people are downgrading our military. In four hours, we can rain more death and destruction on that country," meaning, the Soviet Union, "than they have experienced in four years of war." I think there is something wrong about the argument because right now there is Cam Ranh Bay. Therefore, they need Clark and Subic. One has to see it in its total context.

As I mentioned, there are 520 military installations of the U.S., 86 of them major bases in the Pacific operation as against two dozen military bases of the Soviet Union. It is important to note that even Cam Ranh Bay and Da-nang were originally American bases. Will the withdrawal of U.S. troops and facilities in their bases here create a vacuum so that the communists would come in? I think so much has been said, so much has been written in this politics of fear saying that if we do that, then we will create this problem. I would tend to think differently. There is a possibility that if there is a withdrawal of military bases and troops in our area, we could perhaps reduce military tensions, reduce the number of troops and military facilities, begin the process of demilitarization and also lower the level of nuclear arms in the area. I think it is noteworthy to take note of the 28th of July, 1986 statement of Mikhail Gorbachev in a forum on Soviet International Affairs in the Pacific wherein he stated:

In general, I would like to say that if the U.S. give up military presence, say, in the Philippines, we would not leave this unanswered.

First of all, I do not agree with him when he said: "if the U.S. give up its military presence" because it is not up to the U.S.; it is up to the sovereign nation, the Philippines, whether we wanted to terminate this presence. That is my disagreement with Gorbachev. But I would like for us to take seriously the statement. Is it possible, for the sake of regional and global peace, for us to explore and find out if it is true that if there is withdrawal of one force of a superpower in the region, there would be a corresponding action which would mean a reduction of tensions, of military presence and a reduction of bases? I think this is important to explore, for us to take seriously as one of our contributions to bring about peace in the region. I think it is also noteworthy in this same statement that support was expressed urging nuclear powers to respect nuclear-free zones. I think we must challenge them, if this is real on their part. Are the Soviets willing to remove their nuclear weapons in the area also if there is a corresponding action on the part of the North Americans? I think we may be a small nation but we can provoke this kind of thinking; we can widen the frontiers where nuclear-free zones can be respected just as New Zealand has done. In the South Pacific, they have also taken this move. I think this is important.

The final point I want to make is that it is rather clear that this nuclear deterrence, this nuclear madness, is escalating to such an extent that there is a violation even of nuclear-free zones. I do not know if many of us are aware that in February 1985, a document was made public by William Arkin, Director of the Arms Race and Nuclear Weapons Research Project of the Institute for Policy Studies, which was taken from a memorandum of the Nuclear Weapons Deployment Authorization. It was a memorandum entitled "Nuclear Weapons Deployment Authorization" in which President Reagan authorized the deployment of 467 nuclear bombs in eight nations without informing the countries concerned. And in this memorandum, the Philippines has a dubious distinction of being the recipient of the largest number of those nuclear bombs — 227 of the 467 bombs. The point I am trying to

make is, we must take this seriously. That the bases are connected with the problem of weapons is a fact but we should not risk our survival, our safety, our sovereignty in this context of the East-West conflicts and of Soviet-U.S. battle for supremacy and superiority. I think we have our own interest to protect and even as a small nation, we can take initiatives which can have worldwide repercussions

MR. GASCON: What the Gentleman is actually saying is that the nonpresence of U.S. military bases in the Philippines does not necessarily mean that there will be Soviet presence in our country

MR. GARCIA: Exactly.

MR. GASCON: Is it a possibility that if the U.S. bases are removed the bases of the Soviet Union in Vietnam will likewise be removed? My point of view is that before the bases are removed, we must also make sure that the bases in Vietnam are likewise removed so that we are really generally committed to a zone of peace, freedom and neutrality where none of the superpowers are allowed in our territory.

MR. GARCIA: Precisely, and I think that when Commissioner Aquino was explaining the movement towards a zone of peace, freedom and neutrality in the region, it was also in a sense directed to the effort of making sure that nuclear weapons and military bases in the region will be more avoided. If the Declaration of Principles in our Constitution will be approved, it could help future governments to have a more imaginative, creative and aggressive foreign policy that will enable a genuine and active peace policy to be pursued in the region. I think we must not be lacking in imagination. As I said, although we are a small country, at least we can take initiatives that can bring about peace in the region.

MR. GASCON: So our call for the removal of the U.S. military bases in our territory is also a call for the removal of other bases of other superpowers in the region?

MR. GARCIA: That is my understanding. As one can see, what we will be creating is not just a reality but also a consciousness within the region, together with other nations like New Zealand, which has taken a step forward, the South Pacific nations and ASEAN nations, which in their last conference also approved this direction, to think of our interest rather than simply aligning ourselves with one of the two superpowers in the world.

Allow me to paraphrase one of my favorite authors, Gabriel Garcia Marquez. When he received the Nobel Prize for literature, he in fact put it in this manner. He said:

Must we be condemned to be a pawn in the hands of either of the two superpowers? Is it impossible to find another destiny than to live at the mercy of the two great masters of the world?

And then in his very last paragraph, his answer is a resounding yes to life and freedom, and he said:

Yes to life where no one will be able to decide for others how they die, where love will prove true and happiness be possible, and where the races condemned to 100 years of solitude will have at last and forever a second opportunity on earth.

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

THE PRESIDING OFFICER (Mr. Maambong): May the Chair interrupt at this point. The Chair does not really mind long-winded discussions, but the Chair notices we have consumed something like 30 minutes on this point alone and we do have other scheduled interpellators. In fairness to them, may I just request the committee members to please limit their answers to the specific questions if it can be done at all.

Thank you.

MR. GARCIA: First of all, allow me just one minute to respond. I thank the Chair very much for allowing us the

time. I realize many of us have often said how important this matter is. A lot of us have done a lot of research knowing that this is a very, very serious matter. I wish the whole country can be involved in this entire debate. It is such an important thing to know that 30 minutes may seem long to us, but really it is such a short time if we consider the importance of the matter to the entire life of the nation.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: Of course, we realize that 30 minutes is very short. We are only requesting that repetitions be avoided. That is all.

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

MR. VILLEGAS: I also wanted to say that some points have been repeated again and again, and I think we are just losing time. If some people were not here during some of the deliberations, it is their fault; and if they keep on asking the same questions, I think we are losing time.

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

MR. GASCON: Thank you.

I would like to ask this question of Commissioner Azcuna, if I may. With regard to this zone of peace, freedom and neutrality, because much has also been said that it will be a diminution of our sovereignty if we make a strong commitment to neutrality, does diminution of sovereignty necessarily follow from a commitment to neutrality?

MR. AZCUNA: Mr. Presiding Officer, it does not necessarily follow that a state that commits itself to pursue a zone of peace, freedom and neutrality would diminish its sovereignty. As a matter of fact, this is sought to enhance the sovereignty of the State because it is a course of independence or self-reliance taken on a regional stance. They are staking together with their neighboring states' position where they stand alone and they do not rely on foreign powers to buttress their area. Therefore, I believe it does not diminish sovereignty but rather enhances the same.

MR. GASCON: Mr. Presiding Officer, with regard to this zone of peace, freedom and neutrality, much has also been said that we will be the first country that will commit ourselves to that. It is to my knowledge, and I just would like to ask if it is also the Gentleman's knowledge, that even the ASEAN members recognize that an ASEAN Declaration on Neutralization of Southeast Asia, which was in November of 1971, was a significant trend towards establishing a nuclear-free zone in this region. In fact, they say that it is a desirable objective.

So, even our ASEAN brothers believe that a nuclear-free zone in Southeast Asia and an eventual neutralization is a desirable objective. Is that correct, Mr. Presiding Officer?

MR. AZCUNA: Mr. Presiding Officer, the ASEAN has adopted a declaration to pursue the so-called ZOPFAN-zone of peace, freedom and neutrality. The point, I think, raised is that we would be the first State to put such a policy in the Constitution. I just would like to say that we are also the first State to have a peaceful revolution. It is not necessarily a negative thing to be the first.

Furthermore, Article IX, second paragraph, of the Japanese Constitution provides that Japan forsakes the maintenance of land, sea and armed force on a war potential. It is similar to the statement that the territory of Japan is limited to peaceful purposes.

MR. GASCON: So we are not alone, as far as the Philippines is concerned, in this commitment, Mr. Presiding Officer.

MR. AZCUNA: Not really.

MR. GASCON: Mr. Presiding Officer, when we speak of ZOPFAN, I cannot perceive a genuine ZOPFAN without the participation of the non-ASEAN countries which are in this region like the Indo-Chinese countries, Kampuchea, Laos and Vietnam, maybe even Taiwan and China. What are the possibilities of our working towards such a zone of peace, freedom and neutrality with these countries?

MR. AZCUNA: Mr. Presiding Officer, the idea of a ZOPFAN is that there will be a treaty entered into principally among the ASEAN countries, declaring the ASEAN zone a zone of peace, freedom and neutrality. And then, there will be several protocols attached to such treaty: Protocol I, Protocol II, Protocol III.

Under Protocol I, neighboring states to the ASEAN may subscribe and accede to such a treaty. Under Protocol II, superpowers will be asked to sign the protocol in order to guarantee the region its peace, freedom and neutrality and so on.

There are several types of participation where other states will be asked and invited to accede to the treaty or to its protocols in order to strengthen this zone of peace, freedom and neutrality. This is the mechanics of such types of treaties. Mr. Presiding Officer.

MR. GASCON: So, we shall relate with these other countries, Mr. Presiding Officer?

MR. AZCUNA: Definitely, Mr. Presiding Officer.

MR. GASCON: One final point on this issue. Much has also been said on this issue of the bases agreement being null and void. I will not touch on that really, but is it not true that Article 56 of the Vienna Convention of the Law on Treaties expressly allows unilateral denunciation or termination in two instances, namely: 1) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or 2) a right of denunciation or withdrawal may be implied by the nature of a treaty? So, a unilateral denunciation is a possibility.

MR. NOLLEDO: Yes, Mr. Presiding Officer, the Gentleman is right.

MR. GASCON: Especially assuming that a treaty is null and void.

MR. NOLLEDO: Yes.

MR. GASCON: Is it not also true that when an agreement does not contain any provision regarding denunciation or termination, such as the military bases agreement, it follows that there could be a unilateral denunciation?

MR. NOLLEDO: That is a possibility under the principle of *rebus sic stantibus*.

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

MR. ABUBAKAR: Mr. Presiding Officer, for a few minutes only.

THE PRESIDING OFFICER (Mr. Maambong): With the permission of the Commissioners in debate, the Chair recognizes Commissioner Abubakar. What is the pleasure of the Gentleman?

MR. ABUBAKAR: Just a few questions of Commissioner Garcia.

Historical narratives have pointed to us, in matters of foreign relations, as well as perspectives for the future, that treaties, agreements, adhesion to a policy of peace would not guarantee that we will not entangle in war or in conquest. This has been demonstrated in history.

Are we going to rely on the defense of the Philippines, its security and its prospect merely on a treaty obligation with other nations which declared and formulated a policy of peace and neutrality?

MR. AZCUNA: No, Mr. Presiding Officer. The idea is that a neutral state or a zone of neutrality does not mean that we will rely on the guarantees of outside powers. The idea precisely of a modern neutrality is that of a neutral zone that is able to defend itself. There should be development of our capability to defend ourselves, our country and the ASEAN region. So, while there can be no guarantee that any neutral state will not be violated, the idea of a neutral zone is something new.

In the past, there were neutral countries but not neutral groups of countries. The idea now would be a bigger zone where we have several states forging themselves together into a zone of peace, freedom and neutrality, thereby enhancing and combining their capabilities to defend their region in case of attack. So, there is synergy and better chances against violation of their neutrality, Mr. Presiding Officer, but there is no guarantee in this life. One cannot seek full guarantees even in this area.

MR. ABUBAKAR: But does the Commissioner agree that even if there is a group of committed countries that will adhere and preach the nobility of the principle of neutrality or nonintervention or nonalignment, this will not defend the position of the Philippines or any of its neighboring countries to which it is involved in partnership?

MR. AZCUNA: It is not a 100-percent guarantee, Mr. Presiding Officer, but as I said there is the synergy involved where we mutually put our forces together in order to defend the zone. It is not self-executing. It is not something that will happen tomorrow. That is why we say we strive towards this as a goal, as a direction. We should achieve a zone that is defensible, not a zone that is vulnerable. If we cannot establish that kind of a zone, then we should not, but we should strive to give it a chance. We should go towards that direction. The Declaration of Principles and State Policies seeks to provide basic directions and tells the government to go this way and try to pursue that goal because it is worth pursuing.

MR. ABUBAKAR: Mr. Presiding Officer, if the Commissioner is playing a poker game, as most countries are in their foreign policy, he does not show his hands. In our Constitution, this type of provision has never appeared, except in the present proposal. One keeps his hands close to his breast and during exigencies and moments when dark clouds of conflict develop, then he can formulate his position. But first one must be prepared.

I would rather say that we put our trust and our capacity to defend this beautiful and sacred land in our own hands first, in the military competence and ability of our friends and neighbors. In this respect, whether the countries would believe or abide by our profession of peace and regional security, our hands are strong enough in case there is a subterfuge or charge to undermine this unity and our capacity to defend ourselves.

I would, therefore, stress that as far as foreign policy is concerned, it is flexible; it changes; it is modified maybe from year to year. So, why should we reveal our hands, if we are playing a poker game? Let us keep it to ourselves, let the leaders decide, they have all the facts. Let us not insert this kind of a proviso in the Constitution. Why should we tell the world what we think or what we believe in when the life of the nation would in the future be endangered? So, let us keep our peace to ourselves. Let our hands be in our heart and let us develop the strength that on our own, as well as with the alliance of the other neighboring countries to which we are friends, especially the ASEAN, we would be able, at the appointed hour and when our security is threatened, to defend ourselves.

MR. AZCUNA: The committee is grateful for the suggestions and observations of the Honorable Abubakar. We will take this into account at the proper time in the period of amendments, Mr. Presiding Officer. The Commissioner's suggestions and observation are evident from his years of experience in the diplomatic service.

MR. ABUBAKAR: Thank you.

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Gascon still has the floor; he may proceed.

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

I would like to proceed now to Section 6, lines 11 to 13. It states:

The people and the government shall defend the State and in the fulfillment of this duty all citizens may be required by law with due regard to objections of conscience to render personal military or civil service.

I have two questions, Mr. Presiding Officer. The first is on the phrase "with due regard to objections of conscience." What does "objections of consciences contemplate and what can be included in this?

MR. AZCUNA: "Objections of conscience" are sincere beliefs based on religion or even personal convictions that one should not kill or take away life under any circumstances and, therefore, this is used as a reason for not being conscripted into the military service. Because we speak here of a law requiring citizens to render service, we are just asking, not necessarily to sustain them, that due regard be given to them so that sincere and conscientious objectors be given substitute service or noncombatant duties as much as possible. There is no guarantee that they will not face combat duties in war. As it often happens, war is won by remnant forces. In war, sometimes, it is the kitchen brigade that wins the last battle. So even those assigned to the kitchen may have to take up the arms when necessity demands. So the term "due regard" does not mean that they will not fight.

MR. GASCON: So, Mr. Presiding Officer, this does not limit itself to religious conviction if it is possible.

MR. AZCUNA: No, Mr. Presiding Officer, because some of them do not have any religion but they have personal convictions.

MR. GASCON: This provision speaks of times of war, Mr. Presiding Officer. Does this also speak of times of peace?

MR. AZCUNA: This may be in times of peace, Mr. Presiding Officer, where there is an emergency because, as the Commissioner knows, we do not declare war but we can declare a state of war. So even prior to a declaration of a state of war, there may be a need to require citizens to render personal military or civil service.

MR. GASCON: Mr. Presiding Officer, I ask that question because many of the students whom I represent have been against the National Service Law which at this point in time is shelved. I am also now against this compulsory military training which is a direct result of the National Defense Act or Commonwealth Act No. 1, which is a 50-year old law. Their point is, first, we have quite a huge armed force; and second, they believe that their time could be best directed into other more productive efforts outside of citizens, military training or citizens army training. Also, both high school and college students are clamoring for review and repeal of this act. I would like to know what is the contemplation of the Commissioner with regard to this provision as it relates to the National Defense Act, which by the way was good in 1946 because we were preparing then for eventual political independence. So we were preparing an armed force of our own, not dependent on the United States. But that has been 50 years past. We have a 200,000-strong armed force now and many students are questioning the validity of this law at this point in time, Mr. Presiding Officer. So I wonder if the committee will give the students some hope for its repeal come Congress.

MR. AZCUNA: Yes, Mr. Presiding Officer. This has not been raised to that extent at the committee level. I personally have participated in the move to repeal the decree on the National Service Law. I have studied both the decree as well as Commonwealth Act No. 1. The one that is objectionable is really the decree, not so much Commonwealth Act No. 1 because there is a need for military training. However, it should be limited to military training and not indoctrinate the students into one type of ideology or another. The citizens, for instance, should be trained on how to assemble or disassemble a gun, how to throw a grenade. I think that is the type of training that we need in order to defend ourselves. We should leave to the schools and to the parents the right to decide

what subjects they should take and what kind of thoughts they should be encouraged to think. In other words, education or the formation of character is the primary right of parents and the school, who are *en loco parentis*, in place of parents. However, there is the duty to defend the State, therefore, there is a need to train citizens to be able to fulfill this duty. So, there is room for military training, Mr. Presiding Officer, but in that context there should be a proper law which should not violate the right of the school and parents to the formation of the character or education of the children.

MR. GASCON: Mr. Presiding Officer, I said this because many of those who were against the National Service Law are now directing their effort in proposing an alternative bill to the National Defense Act. My whole point is, this provision will not stop the eventual passage of a new law which would repeal the National Defense Act and make military training optional and other types of services as additional components to that whole concept of service to the country. This does not preclude that.

MR. AZCUNA: It will not preclude upgrading the National Defense Act, Mr. Presiding Officer; maybe it needs to be upgraded or revised. However, I doubt whether we should leave military service on a voluntary basis. I know only of one country that does that, and that is the United Kingdom and it is very hard to imitate the British. They say the British are always willing to die for you but they will never live with you. They are so different.

I believe, until we reach that level of consciousness and social awareness, Mr. Presiding Officer, we will have to have a draft.

MR. GASCON: I have nothing against the draft; my point is the optional military training in schools.

MR. AZCUNA: Yes. That can be governed by law. In Switzerland, for example, the Swiss army is a model; they spend one year away from school and train with the army. After that they spend one month every year to refresh. Such types of arrangements may be looked into as we revise the National Defense Act.

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

MR. DE CASTRO: Apropos of this military training, I am sorry I was out when this interpellation started. Under the General Provisions, we have a provision for a citizens armed force, meaning, all those of military age shall be trained for a citizens armed force, the reason being that our finances cannot continuously finance a large armed force, and it must be from the citizens. The citizens armed force is a concept under Commonwealth Act No. 1. It is also patterned after that of Switzerland where the armed forces are all citizens.

I think the Gentleman is questioning Section 6?

MR. GASCON: That is correct, Mr. Presiding Officer.

MR. DE CASTRO: It is the duty really of every citizen to defend his country.

MR. GASCON: No objections, Mr. Presiding Officer.

MR. DE CASTRO: And in so doing, one can be required by the government to render civil or military service unless we like to get our rights from the State without serving the State. That is the whole concept of the duty of every citizen to serve his country in civil or in military status.

When we go to the citizens armed force, one must perforce have a training. That is why under Commonwealth Act No. 1, there is what we call the trainee instruction for six months for those who are 20 years old. In college, students are given two years basic training. If one wants to rise as an officer like Commissioner Maambong, then one has to proceed to four years ROTC training to have the status of an officer, unlike the two years of basic training I think we can discuss this more fully when we reach the General Provisions on the armed forces.

MR. GASCON: Yes, Mr. Presiding Officer.

MR. DE CASTRO: Thank you.

MR. GASCON: Thank you, Mr. Presiding Officer. My whole purpose is just to assure that hopefully the future Congress will make the citizens army training or citizens military training optional and provide other options outside of that. That is all, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong): May the Chair inquire from Commissioner Gascon if he still has plenty of questions?

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

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

MR. DE CASTRO: Just a word. Does the Gentleman intend to have the military training optional?

MR. GASCON: Not here in the Constitution, Mr. Presiding Officer, but I do hope that some Congressmen will file a resolution in Congress to that effect.

MR. DE CASTRO: When we include in the Constitution the citizens armed force — the theory of our military establishment is a citizens armed force — perforce everybody will have to go to training or otherwise, we cannot form a military organization without training. So if we make this optional, it is possible that we will have no armed forces because everybody will say: "I do not like to be in the military service." The concept really is for every citizen to serve his country in the form of a citizen army.

MR. GASCON: Yes, Mr. Presiding Officer. Maybe at the proper time, we can discuss that more thoroughly.

THE PRESIDING OFFICER (Mr. Maambong): Will Commissioner Gascon please respond to the query of the Chair if he still has plenty of questions.

MR. GASCON: Yes, Mr. Presiding Officer, in other sections; about five more sections.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong): In the case, the Chair suspends the session for five minutes.

It was 5:57 p.m.

RESUMPTION OF SESSION

At 6:17 p.m., the session was resumed.

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

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

THE PRESIDING OFFICER (Mr. Maambong): Commissioner Gascon still has the floor; he may proceed.

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

I have one last question on Section 6 with regard to the term "civil service. I have received a letter from students asking that to avoid confusion between the words "civil service" which we used here and the "civil service" when we refer to government employees, it be changed to "CIVIC service. Is there a possibility that such be changed so that when we speak of "civil service," it does not imply this connotation of the Civil Service Commission, for

example, and instead, it would imply various forms of civic service such as social work, volunteering in relief work, volunteering in conservation of natural resources, helping in the preservation of wildlife, et cetera? What does the Gentleman think, Mr. Presiding Officer?

MR. AZCUNA: Commissioner de Castro desires to answer.

MR. DE CASTRO: The Commissioner may propose at during the period of amendments. We will consider it.

MR. GASCON: So it is a possibility, Mr. Presiding Officer. Thank you.

Section 8, line 21 states: "The State shall intensify efforts to promote social justice in the pursuit of national development objectives." May I know, Mr. Presiding Officer, why the issue of promotion of social justice is linked with "the pursuit of national development objectives." Can it not be a simple statement by the committee and by the Commission that we shall intensify efforts to promote social justice and not necessarily link it to the pursuit of national development objectives? I have no objections. My problem is how to emphasize that social justice is a means and an end in itself, Mr. Presiding Officer, and not merely a means towards achieving national development objectives. It seems that we are promoting social justice because of the end of national development when in my point of view, it might be correct or human to emphasize that we shall promote and seek social justice as an end in itself.

MS. ROSARIO BRAID: Yes, Mr. Presiding Officer, during the period of amendments, maybe the Commissioner could propose this amendment. I think what we shall try to do is to state this in very general principles and to harmonize it with the other provisions so that what would appear here will be more of a general principle and that would be accommodated in the final redrafting.

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

So, the Commissioner perceives the issue that when we seek social justice, it is not merely a means to achieve national development objectives but as an end in itself.

MS. ROSARIO BRAID: Yes, Mr. Presiding Officer.

MR. GASCON: So, the Commissioner agrees, Mr. Presiding Officer. Thank you.

With regard to Section 9, I would like to ask a question of Commissioner Villegas, if he is still here.

MR. AZCUNA: Commissioner Villegas is not in the hall at the moment, but the committee will be willing to answer.

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

As I mentioned in my speech on the U.S. bases, I am definitely pro-life, to the point that I would like not only to protect the life of the unborn, but also the lives of the millions of people in the world by fighting for a nuclear-free world. I would just like to be assured of the legal and pragmatic implications of the term "protection of the life of the unborn from the moment of conception." I raised some of these implications this afternoon when I interjected in the interpellation of Commissioner Regalado. I would like to ask that question again for a categorical answer.

I mentioned that if we institutionalize the term "the life of the unborn from the moment of conception," we are also actually saying "no," not "maybe," to certain contraceptives which are already being encouraged at this point in time. Is that the sense of the committee or does it disagree with me?

MR. AZCUNA: No, Mr. Presiding Officer, because contraceptives would be preventive. There is no unborn yet. That is yet unshaped.

MR. GASCON: Yes, Mr. Presiding Officer, but I was speaking more about some contraceptives, such as the intra-uterine device which actually stops the egg which has already been fertilized from taking route to the uterus. So, if we say "from the moment of conception," what really occurs is that some of these contraceptives will have to be unconstitutionalized.

MR. AZCUNA: Yes, to the extent that it is after the fertilization, Mr. Presiding Officer.

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

My second question is with regard to the population program. How would this provision affect the existing population program being implemented by the Population Commission? Second, if there is an approval of this provision here, because Commissioner Villegas said that he shall make a motion for deletion of that provision on population at the proper time, does it necessarily mean that the provision in the General Provisions Article on population will have to be deleted?

MR. NOLLEDO: Mr. Presiding Officer, not necessarily because family planning is consistent with the provision in Section 9 that there should be protection to the unborn. Before this proposed provision was formulated, taking into account the pertinent provision of the 1973 Constitution, family planning would include preventive pregnancy and even killing the fertilized ovum. But now, if we adopt the second sentence of Section 9, family planning would refer respectively only to preventive pregnancy as stated by Commissioner Azcuna.

MS. ROSARIO BRAID: Also, at the proper time, in the General Provisions we will discuss the population policy. The Commissioner will note it is no longer population control but population policy, which means that there are other ways of limiting population such as economic development, improving the education of women which is an indirect means of population control; or as in the case of Singapore, at one time it had a 1-2 child policy, but today they realize that they need to increase their population. And so, their population policy now is to have more children, whereas, 10 years ago they were limiting; they are now increasing. So, population policy would, therefore, mean that at a certain time when our population shall have stabilized, we can even have a policy towards increasing population. We will discuss this at the appropriate time in the General Provisions.

MR. GASCON: So, Mr. Presiding Officer, what this provision merely implies is that there will be certain programs as they are being implemented now which will have to be stopped, but not the whole program itself.

I have one last point on the issue of abortion, Mr. Presiding Officer. Have there been studies made with regard to the issue of the legalization of abortion being directly proportional to the population rate of other countries? I notice that in the past, about five or ten years ago, the trend was towards world population control program in industrialized countries; but now because they have succeeded, in one way or another, through population control programs or through legalization of abortion, they have a problem of a lull in their birth rate to the point that they are, as mentioned already, encouraging more births than discouraging births.

MR. AZCUNA: Yes, Mr. Presiding Officer, with respect to population policy, the studies have been made but the correlation coefficient is not conclusive. Suffice it to say that what is known as ZPG, zero population growth, is somewhere at 2.2 percent, the .2 percent being what is required to replace in addition to the father and the mother who do not reproduce, like the celibates. At 2.2 percent, population is maintained at its present level regardless of natural attrition. So, if a country falls below 2.2 percent in population growth, then it is actually decreasing in number. It is below zero population growth. Also, what is important in demography is what is known as the net reproduction growth rate; that is, the number of girls who will be born and who will bear children. That is very important. Is the net reproduction growth rate — the number of girls that are born and will bear children.

MR. GASCON: So, abortion does not have any direct relation to population growth.

MR. AZCUNA: As I said, the studies are not conclusive on the correlation coefficient.

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

Section 10 provides:

The State recognizes the vital role of the youth in nation-building and shall promote their physical, moral, spiritual, intellectual and social well-being. For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation.

I have filed a resolution containing this essence. I do not hope the resolution was one of those considered when the committee discussed this provision. One additional concept which I have included in my resolution which is not here is "representation." It reads: "The State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation AND SHALL FURTHER GUARANTEE THEIR REPRESENTATION IN THE POLICY-MAKING BODIES OF GOVERNMENT." If we analyze seriously the number of youth in our country today between ages zero to 24, they comprise 61 percent of the total population; 31.75 million, in fact, of the 52 million in 1983, or 61.06 percent. If we are to be true to the idea that indeed the youth plays a vital role in nation-building and as future leaders of our country, their representation must be granted. It might be said that guaranteeing representation to the youth would mean that representation should also be given to other sectors and I have no arguments there. But considering the reality that our population is a very young population should we not include in our Declaration of Principle on the provision on the youth a guarantee that they shall be represented, Mr. Presiding Officer?

MR. AZCUNA: We will entertain proposal that effect during the period of amendments, Mr. Presiding Officer?

MR. NOLLEDO: Mr. Presiding Officer, I would say that — because I am the author of the second paragraph of Section 10 — representation of the youth should already be deemed covered by or included in the involvement in the affairs of the nation.

MR. GASCON: So long as that is clear, Mr. Presiding Officer. When we speak of involvement, that is an assurance to the youth that they shall be adequately represented and shall be consulted in the affairs of the nation. Perhaps, we could include categorically "involvement and representation" in the affairs of the nation.

MR. NOLLEDO: That concept is included.

MR. AZCUNA: We will welcome a proposed amendment, Mr. Presiding Officer.

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

With regard to Section 12:

The State affirms the primacy of labor as a social and economic force and shall foster their welfare and protect their rights, subject to the corresponding claim of capital to reasonable growth and returns.

When we speak of the primacy of labor in relation to capital, what does the committee contemplate when it used the words "subject to the corresponding claim of capital" if indeed we are to be true to that basic statement that there is primacy to labor?

MR. AZCUNA: Mr. Presiding Officer, the words "subject to" are being deleted. We refer the Commissioner to yesterday's Journal, page 11.

MR. GASCON: I see. Thank you.

MR. NOLLEDO: The members of the committee have decided to delete those words.

MR. GASCON: So, how does it read now, Mr. Presiding Officer?

MR. AZCUNA: It shall be a period after "rights."

MR. GASCON: Thank you, Mr. Presiding Officer. That is all for the moment.

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

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

MR. RAMA: Mr. Presiding Officer, there are no more registered interpolators except one reservation. So, before we adjourn, I move that we close the period of sponsorship and debate and interpellations with one reservation.

Commissioner Ople would like to speak tomorrow. He is too tired now.

THE PRESIDING OFFICER (Mr. Maambong): Is there any objection to the motion with the reservation? (Silence) The Chair hears none; the motion is approved.

The Floor Leader is recognized.

MR. GASCON: Mr. Presiding Officer, does that mean that outside of Commissioner Ople, no one else can ask questions? What if tomorrow there are new questions which may arise?

MR. RAMA: In the period of amendments.

THE PRESIDING OFFICER (Mr. Maambong): That is the understanding of the Chair. As a matter of fact, the Presiding Officer is listed in that list of the Floor Leader. But with that motion that has been approved, it is only Commissioner Ople who will speak tomorrow

ADJOURNMENT OF SESSION

MR. RAMA: Mr. Presiding Officer, I move for adjournment until tomorrow at nine-thirty.

THE PRESIDING OFFICER (Mr. Maambong): There is a motion to adjourn.

Is there any objection? (Silence) The Chair hears none; the session is adjourned until tomorrow morning at the usual hour.

Reportedly, typhoon signal no. 2 has been raised in Manila.

It was 6:34 p.m.

[*]Appeared after the roll call.

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