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Wednesday, September 3, 1986

OPENING OF SESSION

At 9:56 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 Teodoro C. Bacani.

Everybody remained standing for the Prayer.

PRAYER

BISHOP BACANI: Let us put ourselves in the presence of God.

O wise and Almighty God, as we begin our work today, make us realize that we are all pilgrims towards the truth. Grant us a share of Your truth but make us realize always that each of us can only have a share. Let us not fall into the belief that the share that we hold is the fullness of truth. Let us not identify truth simply with our own positions. Help us to search for the fullness of truth as we work, argue and debate together.

Help us to look at the merits of the arguments of our opponents in this hall and grant that as we look at the merits of their arguments, we may desist from questioning their motivations.

Grant us, O Father, trust in one another, that indispensable condition for our working together for the good of Your people. Grant us the grace to work in peace with one another; be hospitable to one another even while we are not hospitable to one another's ideas.

Grant us, O Father, to be able to fashion a fundamental law of the land worthy of our people. These we ask You in the name of Jesus, the Lord. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Natividad Present [*]

Alonto Present Nieva Present

Aquino Present [*] Nollado Present

Azcuna Present Ople Absent [*]

Bacani Present Padilla Present

Bengzon Present Quesada Present[*]

Bennagen Present Rama Present

Bernas Present [*] Regalado Present

Rosario Braid Present Reyes de los Present

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Absent

Davide Present Sarmiento Present

Foz Present Suarez Present

Garcia Present [*] Sumulong Present

Gascon Present Tadeo Present [*]

Guingona Present Tan Present

Jamir Present Tingson Present [*]

Laurel Present Treñas Absent

Lerum Present [*] Uka Present

Maambong Present [*] Villacorta Present

Monsod Present Villegas Present

The President is present.

The roll call shows 34 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

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

THE PRESIDENT: Is there any objection that we dispense with the reading of the Journal of yesterday's session?
(Silence) The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

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

THE PRESIDENT: Is there any objection that we approve the Journal of yesterday's session? (Silence) The Chair hears none; the motion is approved.

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolution on First Reading and Communications, the President making the corresponding references:

PROPOSED RESOLUTION ON FIRST READING

Proposed Resolution No. 543, entitled:

RESOLUTION CONGRATULATING THE HONORABLE JOSE B. LAUREL, JR. ON HIS BEING CONFERRED THE ORDER OF KALANTIAO.

Introduced by Hon. Davide, Jr., Maambong, Foz, de los Reyes, Jr., Bengzon, Jr., Bennagen and Rama.

To the Steering Committee.

COMMUNICATIONS

Communication from one Roque J. Fernandez of Guimbal, Iloilo, suggesting the redistricting of Iloilo to seven congressional districts so as to provide the people equitable allotment of district representation.

(Communication No. 692 — Constitutional Commission of 1986)

To the Committee on the Legislative.

Telegram from the Cantilan Gospel Church, Cantilan, Surigao del Sur, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 693 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Telegram from the officers and members of the Philippine International Islamic Crescent Society, sent by its Secretary-General, Dr. Maguid Malang, expressing profound gratitude for the approval of a constitutional provision granting autonomy to Muslim Mindanao and the Cordilleras.

(Communication No. 694 — Constitutional Commission of 1986)

To the Archives.

Telegram from Sheik Ibrahim Nader, President, Federation of Islamic Arabic Schools, Poon-a Bayabao, Lasur, requesting vehemently the grant of autonomy to Mindanao.

(Communication No. 695 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Telegram from the Interchurch Peace Council of the Netherlands expressing hope and support for the inclusion in the Constitution of a provision making the Philippines nuclear-free and foreign-bases free.

(Communication No. 696 — Constitutional Commission of 1986)

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

Communication from the Kapunongan sa Kapilya sa Kristohanong Katilingban (4 K's) and Maayong Panglawas ng mga Surigawnon, signed by 85 residents of Surigao City, requesting inclusion in the Constitution of a provision regarding: (1) the creation of health centers; (2) reduction of the cost of medicines; (3) creation of sectoral committees, particularly on health; (4) prioritization of health, education and other social services; (5) respect for the right of hospital workers to organize and form labor unions; (6) orient the people on health education; (7) enactment of laws providing for free pre-natal checkups, vaccination, etc. for women during pregnancy and childbirth; and (8) removal of the U.S. military bases and support the call for a bases-free and nuclear-free Philippines.

(Communication No. 697 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Job Elizes, Jr. and family, 19 Filipinas Avenue, Parañaque, Metro Manila, requesting inclusion in the Constitution of a provision that will mandate the State to "include the teaching of specific acts and omissions in grade school which are in everyday life relating to respect and caring for the fellowmen, law and order, conducive to peaceful and orderly life, to develop in the child, law and order habit as his second nature and part and parcel of his being."

(Communication No. 698 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication signed by Mr. Gerardo C. Enriquez and 23 other concerned citizens of Alabat, Quezon, requesting the Constitutional Commission to incorporate in the Constitution a provision restricting the entry of foreign fishing and/or mining groups to prevent unmanageable depletion and exploitation of our natural resources.

(Communication No. 699 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from 153 signatories of Digos, Davao del Sur, appealing to the Constitutional Commission to include, among others a provision that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State.

(Communication No. 700 — Constitutional Commission of 1986)

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

Communication signed by 413 signatories from various parts of the country, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 701 — Constitutional Commission of 1986)

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

Communication from 169 signatories of Hagonoy, Davao del Sur, appealing to the Constitutional Commission to consider, among others, provisions that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State.

(Communication No. 702 — Constitutional Commission of 1986)

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

Letter from Mr. Mauro P. Balingit of 37 Aldrin Street, Doña Faustina Village, Culiati, Diliman, Quezon City, requesting that before the Constitutional Commission submits the final draft of the Constitution to the President for action, it should be published in full in the leading newspapers to give time for the concerned citizens to appeal on the items that may be objectionable to them.

(Communication No. 703 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from the Alliance Evangelical Church, Cotabato City, signed by its Chairman, Rev. Jose V. Empleo, and 21 other officers, urging the Constitutional Commission to incorporate, among others, a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 704 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Community Evangelical Church, Dadiangas Heights, General Santos City, signed by its Chief Elder, Roberto Y. Cania, and 15 other officers, urging the Constitutional Commission to incorporate, among others, a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 705 — Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Madam President, I ask that Commissioner Romulo be recognized on a question of privilege.

THE PRESIDENT: Commissioner Romulo is recognized.

But before we do so, may the Chair inquire what is the nature of the privilege speech or remarks?

MR. ROMULO: It is with regard, Madam President, to the news stories that have been appearing today on our so-called role as "moles for multinationals" in this Commission.

THE PRESIDENT: Does Commissioner Romulo believe that this is an urgent matter that cannot wait until Friday under the Rules?

MR. ROMULO: Yes, Madam President, because I believe that our integrity is at question here.

THE PRESIDENT: Commissioner Romulo may proceed with his privilege speech.

QUESTION OF PRIVILEGE OF COMMISSIONER ROMULO

MR. ROMULO: I regret, Madam President, that I must once again take up the time of this Commission to deliver a privilege speech, and on this occasion perhaps regale it with my professional activities on account of the canard and misrepresentations being made by a special interest group concerning my actuations in this Commission. It is alleged, I understand, that because my law firm represents some foreign investors, I should abstain from voting on provisions in the Article on National Economy and Patrimony.

Let me say outright that I represent no foreign investor which may be affected by the Article on National Economy and Patrimony, for the simple reason that none of my firm's foreign clients are engaged in the area of natural resources or public utilities. Moreover, President Aquino was well acquainted with my professional activities, because I so stated them in my bio-data that I submitted, when she appointed me to this Commission. I see no cogent reason, therefore, why I should not participate in the consideration of the Article on National Economy and Patrimony. The proposition advanced, carried to its logical extreme, would apply to any Commissioner here who represents a particular sector, since obviously that sector's interest would be affected by one or more of the provisions we have adopted. I could ask Bishop Bacani, for example, whether foreigners confess to him, because that may influence him. Or I may ask Commissioner Bernas, whose Jesuit Order is truly multinational, whether that affects him because, unlike me, he takes a vow of obedience.

On the other hand, I have on several occasions voted against the interest of some of my firm's clients. For example, several of my Filipino and foreign clients will be affected by the trade liberalization policies of the government. Nevertheless, I voted against "constitutionalizing" protectionism of local industries. Since I represent Lepanto Consolidated Mining Company, a Filipino corporation, I should have voted for a higher percentage of Filipino equity in the natural resources provision; but I did not do so. Again, I should have voted against the 1,000-hectare limitation because I have Filipino clients who will be much affected by that limitation; but instead, I voted for it.

Thus, as I have observed before, resort to motivations is not only unfair, but unproductive and self-defeating. Let us stick to the facts, to the issues, the merits of the case and reasoned arguments. I vote as a Filipino, not as a lawyer, and I do so guided only by what I believe is for the best interest of our country. I welcome opposite views because they test my own. In the amendments I have proposed, I have depended on their merits and never have I resorted to name-calling, nor pretended that I have a monopoly of wisdom or patriotism, nor questioned anyone's motivation. I, therefore, expect the same civilized treatment.

Let me now, Madam President, dwell on the list of my clients which the so-called coalition disseminated so freely yesterday. First of all, the list comes from Martindale-Hubbell Law Directory, a publication which invites selected lawyers from all over the world to publish a profile of their law firm. Modesty aside, once a lawyer is listed in this publication, that lawyer has arrived. The information from Martindale-Hubbell Law Directory comes from me and is, indeed, paid for by my firm. Thus, my firm's clientele has never been a state secret. The purpose of listing one's clients in Martindale-Hubbell Law Directory is to let a prospective client judge the depth of one's legal experience and expertise, and, therefore, we enumerate not only present but also past clients.

It is relevant to state at this point that my law firm more than 25 years old, founded by the late Justice Roman Ozaeta, of whom there was no more ardent nationalist. And in our roster of clients, the ratio is 10 to 1 — may I repeat — 10 to 1 in favor of Filipino clients. Of the 34 clients mentioned by the so-called coalition, 16 of them were either clients for a single transaction, or no longer operating here or are dormant corporations. These are: American Can (I helped them with their joint venture that did not go through); American Smelting and Refinery; Kristian Jebsens (I helped them with a joint venture with Aboitiz), E. E. Black, Beecham Group Ltd. (I

represented them in one patent case); Credit Swiss (I represented them in one loan transaction); Dibrell Carolina; Falconbridge, Philippines; Granexport; GTE Industries; Mission Exploration; NDC-Guthrie Plantations (By the way, in this case, I represented NDC, the National Development Corporation. I do not think one can be more Filipino than that); Reader's Digest (no longer here); Sime Darby; 20th Century Fox; and Ford, Philippines, whose assets have been sold and whose operations have closed down.

May I mention again that these are corporations that do not even operate here. My firm's active foreign clients are: Ace-Compton, AHS Philippines, Avon, Coca-Cola Export, Cyanamid, Honda, IBM, Mellon Bank, for whom I have been chasing for the last seven years the \$1 million that was sent here mistakenly; Goulds Pumps, Citibank, Geothermal Philippines, and W. R. Grace, all of whom are either manufacturers, distributors, or service organizations and none of them, the body will note, are in the natural resources or public utilities. The rest are Filipino companies, namely: Hooven-Comalco, Lepanto, National Development Corporation, Philippine Acetylene, Staedtler Philippines, Mercury Group and Peter Paul. Madam President, it seems, that the interest group had a hard time tagging Commissioner Bengzon. I offer him some of my clients so that he can be a bona fide member of the "Four Horsemen."

Once again, Madam President, I have been maligned. I am convinced that the systematic attack, the continuous vilification and character assassination campaign against some of us are aimed at discrediting this Commission. Unfortunately, certain elements in our society do not want us to succeed, because our success would mean political stability and unity for our country and our people.

If that is the price I must pay for our country's progress and that price is to accept a daily dose of vituperation and verbal abuse, then, Madam President, so be it. I pay the price willingly.

Thank you, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Villegas be recognized on an urgent privilege matter.

THE PRESIDENT: If it is on the same nature, then we will recognize Commissioner Villegas.

QUESTION OF PRIVILEGE OF COMMISSIONER VILLEGAS

MR. VILLEGAS: Yes, Madam President.

I owe no one an explanation for the decisions I have taken in this honorable body. From the very beginning of my professional career as an economist, I have always endeavored to contribute to the common good. But since some vested interest groups have chosen to distort the truth about my independence, let me set the record straight.

In my work as a business economist, I provide vital economic information to more than 600 firms and individuals operating in the Philippines. Some 80 of them happen to be multinational corporations. Each of them makes regular and equal contribution to fund the research activities of the Center for Research and Communication (CRC), a private nonprofit and nonstock foundation engaged in business and economic research, where I am one of the senior economists. Each of them gets exactly the same and identical information about the national, regional and international economy. Each of them has precisely learned how to highly appreciate the information they obtained from me because I am beholden to no one, not even during the last oppressive regime. For my work, some of them decide to appoint me as a member of their respective boards, others designate me as a consultant on corporate planning, and still others are numbered among the corporate friends of CRC.

McDonalds, the company that my detractors have chosen to single out, is just one of the more than 600 firms that receive regular economic information from me. If any group can exert pressure on me, it is the group represented by more than 500 Filipino firms and entrepreneurs, who provide the bulk of the financial contributions to CRC. I have worked more closely with such companies, like MERALCO and PLDT, than any multinational firm. And, therefore, logically I should have voted for 100 percent Filipino equity in public utilities. I have worked more closely with Ayala Corporation, producing Purefoods products, and RFM, producing all types of consumer products. I should have voted for complete protection of the domestic economy against foreign competition and I can go on and show that if I am to be accused of conflict of interest, it would have to come precisely from the Filipino firms. Some of them were in the galleries during that memorable day, trying to put pressure on the committee to enshrine protectionism forever and ever in our Constitution.

I find, therefore, these wild accusations levelled at me in yesterday's press conference, ridiculous and indicative of intellectual bankruptcy of the individuals who have chosen to malign me. They have run out of solid logical arguments and facts to defend their extremist views, with which I happen to disagree.

Thank you very much, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Madam President, I ask that Commissioner Monsod be recognized on a similar urgent privilege matter.

THE PRESIDENT: If it is on the same matter, the Chair will recognize Commissioner Monsod.

QUESTION OF PRIVILEGE OF COMMISSIONER MONSOD

MR. MONSOD: Thank you, Madam President.

There are people who claim that I represent interest other than Filipinos because I happened to have worked in the World Bank group from 1963 to 1970. My answer is simple. Since 1970, I have had no connection with the World Bank nor do I have any beneficial interest in any multinational company. That I worked in the World Bank is public knowledge because it is contained in every biodata I issue when requested in any speaking engagement. It is the same biodata I submitted to the President for appointment to this Commission.

Madam President, I do not apologize for having worked in the World Bank. I was a professional among 11 selected from a competition of a field of 500 world-wide in the first group of young professionals hired by the bank. I gained valuable experience there, which I hope to use for my country. I do not need to advertise what I do, but it is public knowledge or it is knowledge in government that in the last two months it was my opinion that the International Finance Corporation not be allowed as a joint venturer in the company that would manage the privatization of the assets of government. Anybody who cares to do honest research can look into that. I resigned in 1970 from the World Bank as division chief of the International Finance Corporation for South Asia and the Middle East. I did not have to come back to this country. I was told I had a future in the bank. But my wife and I chose to come back and refused to live for opportunities abroad even under persecution by President Marcos because we have chosen to criticize him since 1972. Since then we have done what we could in our common aspiration for freedom.

I wish these tactics of black propaganda would cease, even for the sake of our families and our children who also contributed their share of sacrifices and who often ask me now: "Is this what we fought for?" But I want to say that my children and my family continue to understand even at their age, that those who choose public service do

so with certain risks. I have voted in this Assembly according to my conscience, what it tells me is good for the country. The record of this Commission is open for everybody to see. To me, freedom is the highest value and truth its handmaiden. To paraphrase somebody, I consider myself the State's good servant and God's first. God forgive me, if I digress from that path. I ask Him also to give me the grace to forgive those to whom I now appeal for a return to decency and fair play.

Thank you.

MR. RAMA: Madam President, in connection with the privilege speeches, I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, may I make a slight correction on the statement of our Floor Leader. This resolution is not in connection with the speeches. In fact, this resolution was prepared before I heard the privilege speeches. This resolution was prepared because of news items that have appeared in media since yesterday afternoon up to this morning. I will read the resolution. It is self-explanatory, and I submit this for the consideration of the body:

RESOLUTION DEPLORING ANY ACTION FROM ANY SOURCE TO SUBVERT THE INDEPENDENCE AND CREDIBILITY OF THE CONSTITUTIONAL COMMISSION.

Whereas, various interest groups have been making unfounded charges against Members of the Commission, impugning their integrity and patriotism in an attempt to coerce and intimidate them;

Whereas, these tactics tend to subvert the independence and credibility of the Commission and to influence Members of the Commission and restrict their right to vote freely on issues;

Whereas, the independence of the Commission from external pressures from any source is indispensable to the accomplishment of its task;

Now, therefore, the Commission hereby resolves to deplore any action from any source to subvert the independence and credibility of the Commission;

Further resolves to reaffirm its confidence in the independence, integrity and patriotism of each and every Member of the Commission.

Madam President, I move for the approval of this resolution.

MR. REGALADO: Madam President, I second the motion.

THE PRESIDENT: Is there any objection to this particular resolution that has been submitted by Commissioner Rodrigo and seconded by Commissioner Regalado?

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, in view of the importance of the proposed resolution, may I suggest that the body vote affirmatively, positively on this, instead of just requesting if there is any objection or if the suggestion is well taken.

THE PRESIDENT: Does Commissioner Bengzon suggest a raising of hands or a nominal voting?

MR. BENGZON: Just a raising of hands would do, Madam President.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: May we ask the proponent of the resolution certain questions?

MR. RODRIGO: Gladly, Madam President.

THE PRESIDENT: Please proceed.

MR. FOZ: Will the proponent kindly enlighten the body on the specific basis for his drafting the resolution? What are the specific instances the proponent referred to which caused him to prepare such a resolution?

MR. RODRIGO: I think it is known to everybody. I refer to the news item regarding an alleged meeting of certain so-called economists or nationalists at a certain place maligning some of the Members of this Commission and imputing bias on some Members. And it is my well-considered opinion that any ugly reflection, any stain on the name of some Members of this Commission will reflect and can reflect on the whole Commission.

MR. FOZ: Madam President, is that single incident or event now made the basis for the resolution?

MR. RODRIGO: Let us not call that "only." I do not call that "only."

MR. FOZ: No, I mean that is the single event or cause which is now made the basis of the resolution. Are there other instances or statements made outside the Commission and perhaps published in the newspapers or in the media which the proponent would say form the basis for his having presented such a resolution?

MR. RODRIGO: That was the immediate cause. But then, there were antecedents. But I would not want to go into the details of those antecedents because I would not want to exacerbate this matter which might involve some Members of the Commission. What I want is for us, by means of this resolution, to state categorically that each and everyone of us has faith and confidence in the integrity and patriotism of each and every Member of this Commission. Please do not make me rake up past incidents; I would not want to do that because that can be divisive.

MR. FOZ: Thank you.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Will Commissioner Rodrigo yield to a few clarifications, Madam President?

MR. RODRIGO: Gladly, Madam President.

MR. SUAREZ: Thank you.

I understand the concern of Commissioner Rodrigo for protecting the integrity of this honorable Commission. I share with him that sentiment. In the resolution, I take it that Commissioner Rodrigo deplores the action taken by external or outside forces imputing certain acts upon three distinguished Members of this Commission. Is my understanding correct, Madam President?

MR. RODRIGO: Yes. That is the immediate cause of this.

MR. SUAREZ: Thank you.

And the Commissioner would want that this Commission should now stand up in unison and declare that we have faith in the integrity of our own colleagues?

MR. RODRIGO: Of each and every colleague of ours.

MR. SUAREZ: Yes, and the Commissioner feels that that is a duty on his part and on the part of this Commission to do so.

MR. RODRIGO: That is if, in conscience, the other Members of this Commission believe so, as I, in conscience, believe.

MR. SUAREZ: So, the Commissioner is practically not taking up the cudgels, in a manner of speaking, for the three Commissioners whose names have been dragged into this situation, but he is doing it in the interest of the entire Commission.

MR. RODRIGO: Mainly, yes.

MR. SUAREZ: Thank you.

MR. RODRIGO: But then as I said, any stain in the name of some Members of this Commission reflects on the whole Commission.

MR. SUAREZ: Thank you, Madam President.

Because of the importance and value of the resolution, would the proponent agree to distribute copies thereof before we take a vote on the matter? And if so, would the proponent, if it is called for, agree to some amendments which is the characteristic procedure in this Commission?

MR. RODRIGO: If it is necessary, I have no objection to that.

MR. SUAREZ: Thank you.

So, may we respectfully request the Secretariat to distribute copies of the proposed resolution of Commissioner Rodrigo.

THE PRESIDENT: The Secretariat is so ordered. In the meantime, we will defer action on this particular resolution.

Is there any other business?

MR. RAMA: Madam President, I move that Commissioner Bengzon be recognized.

THE PRESIDENT: Commissioner Bengzon is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 543

(Congratulating the Honorable Jose B. Laurel, Jr.
on His Being Conferred the Order of Kalantiao)

MR. BENGZON: Madam President, in the Order of Business this morning, Resolution No. 543 was proposed by several Commissioners, which was referred to the Steering Committee and which the Steering Committee now in turn request that it be considered by this body. The resolution is entitled:

RESOLUTION CONGRATULATING THE HONORABLE JOSE B. LAUREL, JR. ON HIS BEING
CONFERRED THE ORDER OF KALANTIAO.

The resolution was introduced by Commissioners Davide, Maambong, Foz, de los Reyes, Bennagen, Rama and this Representation.

Madam President, may I move that the proposed resolution be considered now and that it be approved.

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

Will the proponent please read the entire resolution?

MR. BENGZON: I do not have a copy of the resolution now, Madam President. May I request that this matter be deferred until it has been filed with the Secretariat.

THE PRESIDENT: Yes.

MR. VILLACORTA: Madam President, may I second that motion?

THE PRESIDENT: Is Commissioner Villacorta seconding the resolution or the motion to defer?

MR. VILLACORTA: The motion congratulating Commissioner Laurel, Madam President.

MR. SARMIENTO: Madam President, even without waiting for the copies of the resolution, may we vote on the resolution?

APPROVAL OF PROPOSED RESOLUTION NO. 543

(Congratulating the Honorable Jose B. Laurel, Jr.
on His Being Conferred the Order of Kalantiao)

THE PRESIDENT: Is there any objection that we proceed to vote on this resolution even without reading the contents of the resolution? (Silence) The Chair hears none; the motion is approved.

As many as are in favor of this resolution congratulating the Honorable Jose B. Laurel, Jr. on his being conferred the Order of Kalantiao, please raise their hand. (All Members raised their hand.)

The resolution is unanimously approved.

MR. BENGZON: May I move, Madam President, that the text of the resolution be incorporated in the Record. [*]

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

MR. RAMA: Madam President, for a parliamentary inquiry regarding the Rules, I ask that Commissioner de Castro be recognized.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

This is a matter of inquiry, Madam President. In the proceedings yesterday, it will be recalled that I filed an amendment to Section 1 on the Article on Education, and my amendment reads as follows: "THE STATE SHALL GIVE PRIORITY TO EDUCATION, SCIENCE AND TECHNOLOGY, ARTS, CULTURE AND SPORTS." All the words from lines 9 to 11 were deleted. This proposed amendment was lost on the floor with a vote of 17 against and 14 in favor. After some deliberations on the same section, Commissioner Aquino moved for a reconsideration of my amendment. However, the Chair ruled otherwise and the said motion for reconsideration was not put on the floor for decision. I explained my amendment, as well as the proposed reconsideration; still it was ruled that there will be no need because Commissioner Aquino shall put amendments on her motion for reconsideration. Allow me to read, Madam President, Section 43 of our Rules:

Timeliness; withdrawal; period: and adoption — A motion for reconsideration, if timely made, shall not be withdrawn without the consent of the Constitutional Commission and may be considered upon the call of a Member.

It will be recalled that I was moving for the reconsideration of the motion of Commissioner Aquino and I put it to the Chair for the appropriate ruling.

THE PRESIDENT: Was that just an observation or is there any motion attached to it?

MR. DE CASTRO: I move, Madam President, that Section 43 of our Rules be followed.

THE PRESIDENT: To explain the situation further, the ruling of the Chair yesterday was premised on the fact that the motion filed or submitted by Commissioner Aquino is not really a motion for reconsideration because a motion for reconsideration of the loss of a particular amendment should refer exactly to that particular amendment.

But the proposed amendment of Commissioner Aquino, as shown by the records of the case, did not tally exactly with the proposed amendment of Commissioner de Castro. So how can it be a motion for reconsideration on the vote of the proposed amendment of Commissioner de Castro when these two — the proposed amendment of Commissioner de Castro and the proposed amendment of Commissioner Aquino — are not the same? That was the basis of the ruling of the Chair.

MR. DE CASTRO: Madam President, I am not insisting.

THE PRESIDENT: I suppose, just to cut short the argument that was going on, Commissioner Aquino stood up and withdrew her motion for reconsideration.

MR. DE CASTRO: Madam President, I am not insisting on my amendment, but I am only putting the records straight. Madam President, allow me to read page 16 of the Journal yesterday, starting from the fourth paragraph:

On Mr. de Castro's query whether she was withdrawing her motion for reconsideration, Ms. Aquino stated that she was submitting to the ruling of the Chair.

At this juncture, in reply to Mr. de Castro's observation that a Member who voted with the majority was moving for reconsideration, the Chair stated that Ms. Aquino's amendment was not an amendment to Mr. de Castro's amendment. Mr. de Castro yielded to the Chair's ruling.

Thereupon, Ms. Aquino manifested that conformably with the ruling of the Chair, she was withdrawing her motion for reconsideration, in lieu of which she would present an amendment by substitution.

I am only making certain clarifications so that our Rules may be followed in the proceedings of our Commission.

Thank you, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like to state for the record that the ruling of the Chair yesterday was correct. Section 48 of our Rules on "Amendments" provides:

When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order. It shall also be in order to offer further amendment by substitution, but it shall not be voted upon until the original motion or proposition is perfected. Any of said amendments may be withdrawn before a decision is had thereon.

This was exactly complied with by the Chair yesterday — I refer to Section 48 — the withdrawal of the motion of Commissioner Aquino was in order because she offered amendments by substitution thereafter.

MR. DE CASTRO: Madam President, just for the record. Section 48 of our Rules speaks of amendments; Section 43 speaks of a motion for reconsideration. There can be no compatibility between the two sections. The former speaks of amendments, amendments to the amendment, but Section 43 specifically refers to a motion for reconsideration.

Thank you.

MR. DAVIDE: Yes, Madam President. Yesterday we were in the period of amendments, that is the reason why Section 48 is the more applicable law.

THE PRESIDENT: Thank you.

MR. DE CASTRO: Thank you, Madam President.

MR. RAMA: Madam President, I ask that Commissioner Foz be recognized for a motion to vote on Third Reading on the Article on Human Rights.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Madam President, I thought that the Floor Leader would call for approval on Third Reading of Proposed Resolution No. 539 which would incorporate in the new Constitution the provisions on the Commission on Human Rights.

Is that the motion of the Floor Leader now?

MR. RAMA: I move, Madam President, for a vote on Third Reading on the Article on Human Rights.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I move to amend the motion of the Floor Leader, because there was an understanding that it should not be known as an article; it may be placed anywhere depending on the action of the Committee on Sponsorship. It is not an article.

MR. RAMA: That will be explained precisely by Commissioner Foz.

MR. FOZ: Madam President, this is a proposed resolution to incorporate in the new Constitution the provisions on the Commission on Human Rights. So, we are not calling this a separate article.

Madam President, before we go into Third Reading approval of this resolution concerning the creation of the Commission on Human Rights, we would like to call attention to a reservation made by Commissioner Regalado, and to which the Committee on Constitutional Commissions and Agencies has subscribed, regarding a provision which this body had earlier approved in connection with the Article on Accountability of Public Officers.

I refer specifically, Madam President, to Section 12 (2) of the Article on Accountability of Public Officers where the following phrase, as presented by Commissioner Regalado and approved by the committee, appears and I quote: "including any violation of civil, political, or human rights." This has reference to the jurisdiction of the Office of the Ombudsman. That amendment was approved by the Committee on Accountability of Public Officers and by this body, with the understanding that if the proposal to create a Commission on Human Rights is approved by this body, then this phrase in question would be deleted.

So, with the approval by this body of the proposed Commission on Human Rights, I would like to call the attention of the Committee on Sponsorship and also, perhaps, the Committee on Style, so that the phrase

"including any violation of civil, political, or human rights" which is now part of the Article on Accountability of Public Officers, Section 12 (2), be deleted accordingly.

Thank you, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:51 a.m.

RESUMPTION OF SESSION

At 11:00 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Madam President, this is with respect to the motion to vote on Third Reading on the Article on Accountability of Public Officers, as well as the proposed resolution on the Commission on Human Rights.

THE PRESIDENT: Which shall we take first?

MR. RAMA: Commissioner Foz has agreed I was right that there was no Third Reading vote on the Article on Accountability of Public Officers. So, I ask that we vote first on Third Reading on the Article on Accountability of Public Officers.

THE PRESIDENT: Is that correct? When we suspended the session, there was a proposal to have a Third Reading vote on the resolution on the Commission on Human Rights.

May we ask Commissioner Foz which he prefers to take up first, because of the remarks he made.

NOMINAL VOTING ON PROPOSED RESOLUTION NO. 539 ON THIRD READING
(Article on the Constitutional Commissions — Commission on Human Rights)

MR. FOZ: I move, Madam President, that we first approve on Third Reading Proposed Resolution No. 539 on the Commission on Human Rights. Then after that, we go on to the Article on the Accountability of Public Officers.

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

Printed copies of Proposed Resolution No. 539 were distributed on September 1, 1986 pursuant to Section 28, Rule VI of the Rules of the Constitutional Commission.

Voting on the proposed resolution on Third Reading is, therefore, in order.

The Secretary-General will read the title of the bill.

THE SECRETARY GENERAL: Proposed Resolution No. 539, entitled:

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

FIRST ROLL CALL

THE PRESIDENT: The body will now vote on this proposed resolution and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Foz Yes

Alonto Garcia

Aquino Gascon Yes

Azcuna Guingona Yes

Bacani

Yes Jamir

Bengzon Laurel

Bennagen Yes Lerum

Bernas

Yes Maambong Yes

Rosario Braid

Monsod Yes

Calderon

Yes Natividad Yes

Castro de Nieva

Colayco

Yes Nollado Yes

Concepcion Ople Yes

Davide

Yes Padilla

COMMISSIONER PADILLA EXPLAINS HIS VOTE

MR. PADILLA: Madam President, I also vote yes but I hope that this will not be a duplication and worse, a relegation of the entire governmental machinery for the enforcement of human rights and the prosecution and trial and conviction of violators thereof. As I stated in my earlier observations, the enforcement and protection of human rights will not merely depend on a Commission on Human Rights but would involve the entire governmental machinery, including the law enforcement agencies, the prosecution arm of the government and an effective administration of justice.

Thank you, Madam President.

THE SECRETARY-GENERAL, reading:

Muñoz Palma Yes Suarez Yes

Quesada Yes Sumulong

Rama Yes Tadeo

Regalado Tan

Reyes de los Yes Tingson Yes

Rigos

Treñas

Rodrigo Yes Uka

Romulo Yes Villacorta Yes

Rosales

Villegas Yes

Sarmiento Yes

MR. OPLE: Madam President, may I know how my vote was recorded?

THE SECRETARY-GENERAL: Yes.

MR. OPLE: May I explain my vote, Madam President?

THE PRESIDENT: Please proceed.

COMMISSIONER OPLE EXPLAINS HIS VOTE

MR. OPLE: I think this is a historic milestone in the entire history of the struggle for civil liberties and human rights in our country. Some of us had initial reservations about setting up a constitutional body that would act with reasonable independence of the government itself in the pursuit of the crusade for human rights, but I think a consensus grew that nothing short of a constitutional sanction and mandate would be required in order to make human rights or the concern for human rights second nature to our countrymen.

Madam President, it is unfortunate but true that when one leaves the boundaries of the metropolitan areas, the protection of the Constitution for civil rights seems to diminish or dwindle in direct proportion to the distance. And that is the reason why in Metro Manila we do not hear of newspapermen being killed; it is very seldom when we hear of members of the mass media being assassinated in Metro Manila because we have in metropolitan areas the existing infrastructure for the enforcement of constitutional rights. We have ready access to the courts; we have ready access to media; we have ready access to the highest levels of government for redress. We have human rights groups that are eager to listen, but in proportion to the distance from metropolitan centers, the risk for the exercise of human rights and civil liberties aggravates. And that is the reason why in 1985, no less than 18 members of media — newspaper editors and radio commentators — were killed, and I think in the majority of cases, the authorities have not come up with findings on who perpetrated these brutal assassinations which are considered a way of striking at the roots of press freedom.

And so, in voting for this provision for a Human Rights Commission, Madam President, I see my mind focusing

on the possibilities for this commission to propagate a human rights consciousness so that even in the remote hinterlands of our country, the people who lack the infrastructure of redress and of amenities in metropolitan areas will begin to assimilate the significance of human rights in their lives as a civilized society.

Thank you, Madam President.

SECOND ROLL CALL

THE PRESIDENT: The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Abubakar Yes Aquino Yes

Alonto

Yes Azcuna Yes

Bengzon Yes Regalado Yes

Rosario Braid Yes Rigos Yes

Castro de

Yes Rosales

Concepcion

Yes Sumulong Yes

Garcia Yes Tadeo Yes

Jamir Yes Tan Yes

Laurel Yes Treñas

Lerum Uka Yes

Nieva Yes

APPROVAL OF PROPOSED RESOLUTION NO. 539

ON THIRD READING

(Article on the Constitutional Commissions —
Commission on Human Rights)

THE PRESIDENT: The results show 44 votes in favor, none against and no abstention.

Proposed Resolution No. 539 is approved on Third Reading.

MR. RAMA: Madam President, I move that we vote on Third Reading on Proposed Resolution No. 456, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE 1986 CONSTITUTION AN ARTICLE ON
ACCOUNTABILITY OF PUBLIC OFFICERS.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Before we go to the voting, I would request certain clarifications on the Article on Accountability of Public Officers. On page 4, Section 6, line 3 speaks of the Ombudsman to be known as Tanodbayan. In this connection, I would like to relate this incident to the body. Last Saturday evening, when I met the Honorable Raul Gonzalez, he immediately accosted me and asked, "Why did the Commission prohibit me from running for election?" I was dumbfounded, Madam President; I did not know what he was talking about, until I realized that he was the Tanodbayan. And so I told Honorable Gonzalez point-blank, as I usually speak because I am not a diplomat, "Your Honor, you are not the Ombudsman; you are a special prosecutor of the Sandiganbayan, and the one we are prohibiting from running for election is the Ombudsman." There really is a little difference or some misunderstanding when we say:

There is hereby created the independent Office of the Ombudsman, composed of the Ombudsman to be known as Tanodbayan.

To avoid all misunderstanding on this point, until such time that we may be able to have the appropriate word for Ombudsman, I will really move that the words "to be known as Tanodbayan" be deleted from the third line of Section 6, page 4.

THE PRESIDENT: May we hear from the chairman, Commissioner Monsod?

MR. MONSOD: Madam President, I believe that the article is quite clear. As a matter of fact, we should draw the attention of the present Tanodbayan to Section 5 of the article, not Section 6, which says: "The Tanodbayan, presently existing, shall hereafter be known as Special Prosecutor." In effect, what we are saying here is that, Justice Gonzalez, after the ratification of this Constitution, is to be known as the Special Prosecutor, to whom no disability applies in running for the Senate. If, however, the President so chooses to appoint him in accordance with this article as the Tanodbayan or Ombudsman under the new Constitution and he accepts such appointment, then the prohibition will apply to him. So, we submit, Madam President, that there is no need for any amendment because the article, as written, is quite clear.

MR. DE CASTRO: Madam President, with the explanation, I submit, and that I just like to give the information to this body about the apparent misunderstanding of the present Tanodbayan — that he is the Ombudsman.

Thank you, Madam President.

MR. MONSOD: Thank you.

MR. RAMA: The body, Madam President, is now ready to vote on Third Reading on said article.

MR. MONSOD: Madam President, I believe that Commissioner Foz had earlier made a manifestation. And before we vote, may I repeat the manifestation as chairman of the committee. That in accordance with the reservations and the record of the debates on the section on the Ombudsman, Section 12 (2), we approve on Third Reading this article with the deletion of the phrase "including any violation of civil, political, or human rights." With the approval of the proposed Commission on Human Rights, this phrase now becomes redundant because the intention at that time was that this phrase would really be eliminated once the Commission on Human Rights is approved by this body.

THE PRESIDENT: So that there will be a period (.) after "duties."

MR. MONSOD: Yes, Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Just a point of clarification from Commissioner Monsod. Does this mean that any violation of civil, political or human rights in the performance of duties of public officers will no longer be within the jurisdiction of the Tanodbayan, and should be with the Commission on Human Rights?

MR. MONSOD: Yes. The jurisdiction over civil and political rights, defined in the Commission on Human Rights as the human rights under its jurisdiction, is now taken out of the jurisdiction of the Ombudsman.

MR. MAAMBONG: Forgive me, but I was acting under the impression that any kind of violation, as long as it is committed by public officers, should exclusively pertain to the Tanodbayan, regardless of whether it is a violation of civil, political or human rights. The benchmark I thought was that, in cases where public officials or public employees or public officers are involved, these should properly be with the Tanodbayan.

MR. MONSOD: I think the jurisdiction of the Commission on Human Rights is quite clear — that all violations of human rights involving civil and political rights are now within the jurisdiction of the Commission on Human Rights, and one of the issues that was precisely raised by Commissioner Bengzon at that time was that we should try to eliminate overlaps in government offices. Therefore, with this amendment and in consonance with the representation at that time of Commissioner Regalado, this is now taken out of the area of the Ombudsman and placed under the Commission on Human Rights.

MR. MAAMBONG: Just one point, Madam President. If we are agreed that violations of civil, political or human rights committed by public officers will be with the Commission on Human Rights, I would assume that there will be practically no cases within the jurisdiction of the Tanodbayan. During my interpellation of the committee, when we talked about civil, political or human rights, the committee was very specific in saying that when we say "political rights" we are also talking of violations of individual rights, and this will take out practically all the jurisdiction of the Tanodbayan.

MR. MONSOD: No, I believe it was clarified in the interpellations and debates that the area of the Commission on Human Rights is much narrower and there was even an enumeration of those violations mentioned by the panel at that time. We are only trying to take out the overlap here, Madam President. I agree with the Gentleman that if one were to take human rights in its broadest context, then the Commission on Human Rights will be a super body under our Constitution. However, if the Gentleman were to read the provisions on the Commission on Human Rights, the intent there is to have very modest objectives for the Commission on Human Rights, and only after Congress so provides under Section 3 of the article, on recommendation of the Commission itself, will it expand the area of the coverage of the Commission on Human Rights.

MR. MAAMBONG: Madam President, if it will not gravely damage the schedule on this article, would it be all right, with the permission of Commissioner Monsod, that we defer consideration on Third Reading of this particular article?

I will not insist on this but if it is all right with the Commissioner, could we ask for deferment of the consideration of this particular article?

MR. MONSOD: May I know, Madam President, the basis of the request for deferment, because the records of the deliberations on the article are, I believe quite clear, and the interpretation will now be left to the courts and for Congress to implement. I believe there is enough in the records, to solve any of these overlaps.

MR. MAAMBONG: I was thinking that we should discuss this not necessarily on the floor so that it will not take much of our time. However, I will not insist, Madam President.

THE PRESIDENT: Commissioner Maambong, this was already approved on Second Reading with that

reservation.

MR. MAAMBONG: Yes, I understand that, Madam President, but I am not really insisting on it. I was just thinking that perhaps the chairman of the committee would take this under proper advisement and we can talk about it first.

MR. MONSOD: Madam President, perhaps we can go ahead with the Third Reading and Commissioner Maambong can make the manifestations in the record invoking the distinctions that must be made in order to avoid overlaps in the functions of these two offices.

MR. MAAMBONG: We submit, Madam President. That would be all right.

NOMINAL VOTING ON PROPOSED RESOLUTION NO. 456

ON THIRD READING

(Article on Accountability of Public Officers)

MR. RAMA: I move that we vote on Third Reading on Proposed Resolution No. 456.

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

Printed copies of Proposed Resolution No. 456 were distributed on July 30, 1986 pursuant to Section 28, Rule VI of the Rules of the Constitutional Commission.

Voting on the proposed resolution on Third Reading is, therefore, in order.

The Secretary-General will read the title of the bill.

THE SECRETARY-GENERAL: Proposed Resolution No. 456, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE 1986 CONSTITUTION AN ARTICLE ON
ACCOUNTABILITY OF PUBLIC OFFICERS.

FIRST ROLL CALL

THE PRESIDENT: The body will now vote on this proposed resolution and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar

Calderon Yes

Alonto Castro de Yes

Aquino Colayco Yes

Azcuna

Yes Concepcion Yes

Bacani

Yes Davide Yes

Bengzon Yes Foz

Bennagen Garcia

Bernas Yes Gascon

Rosario Braid

Yes Guingona

MR. GUINGONA: Madam President, may I be allowed to explain my vote?

THE PRESIDENT: The Gentleman has three minutes.

COMMISSIONER GUINGONA EXPLAINS HIS VOTE

MR. GUINGONA: With regard to the matter of impeachment, although I fully concur with the assertion that impeachment is a political device and I also admit that in previous constitutions, the power of impeachment and the power to adjudicate cases of impeachment have been vested in the legislature. I had proposed that at least in the case of the President, the adjudicatory power should not be vested in the Senate but in the Supreme Court because vesting this power of adjudication in the Senate would make the provision on impeachment of the President a paper provision, unrealistic and almost unimplementable. The reason is that the Senate is generally made up of Members who belong to political parties and matters could be aggravated where the President would belong to the same party as the majority of the Members of the Senate. Besides, Madam President, adjudication is unquestionably a judicial function. And so, I regret that the adjudicatory power to impeach the President has been vested in the Senate, rather than in the Supreme Court.

I also have my reservation, Madam President, with regard to the provisions on the Ombudsman because I believe that instances could and would occur when the Ombudsman would have to be vested with prosecutory functions where his direction and attempts at persuasion will go unheeded. Without such prosecutory authority, the effectivity of the Ombudsman to serve as champion or watchdog of the people will be impaired. For these reasons, Madam President. I abstain.

THE SECRETARY-GENERAL, reading:

Jamir Monsod Yes

Laurel

Yes Natividad Yes

Lerum

Nieva Yes

Maambong

Yes Nollado

MR. NOLLEDO: I am voting yes, Madam President, and I would like to explain my vote for two minutes.

THE PRESIDENT: Please proceed.

COMMISSIONER NOLLEDO EXPLAINS HIS VOTE

MR. NOLLEDO: Madam President, the present and future generations of Filipinos will certainly look back with gratitude to this day when the 1986 Constitutional Commission approved on Third Reading the report of Commissioner Monsod's Committee on Accountability of Public Officers. The said report contains provisions creating the Office of the Ombudsman in the concept as this is understood and proven most effective in Scandinavian countries. An ombudsman is an official critic, a mobilizer, a watchdog and a protector. He is an intercessor for and a guardian of the rights of the downtrodden, as against the government. Being truly a new office in our country and considering our graft-ridden and bureaucratic way of governing our country, the ombudsman will certainly find himself swamped with complaints from aggrieved parties from all walks of life. As a suggestion to the appointing power, an ombudsman should be a man full of vigor and energy, with highest competence, with unassailable integrity and with a magnanimous heart. For in the words of Jose Maria Escriva, magnanimity connotes a large heart wherein many can find refuge.

Today, Madam President, my dream of having a true ombudsman in the Philippines, nurtured by me since my earlier years as lawyer, shattered during the 1971 Constitutional Convention because of Marcos' unjust intervention in the affairs of the convention, was realized.

Thank you, Madam President.

THE SECRETARY-GENERAL, reading:

Ople

Padilla

COMMISSIONER PADILLA EXPLAINS HIS VOTE

MR. PADILLA: Madam President, I vote affirmatively, but I wish to state that this Article on Accountability of Public Officers mentions the Sandiganbayan as the anti-graft court and the Tanodbayan as its prosecuting arm, and this should cover the crimes committed by public officers or crimes against public administration, punishable under Title VII of the Revised Penal Code. However, under the Marcos regime, the Sandiganbayan's jurisdiction was extended to murder cases like the Aquino-Galman case. In the case of Lecaroz vs. Sandiganbayan, 128 SCRA 324, this jurisdiction was extended to a case of coercion committed by a municipal mayor.

I hope that the clear distinction now between the Sandiganbayan as the anti-graft court and its prosecuting arm, the Tanodbayan, will be limited to Title VII of the Revised Penal Code, especially now that we have the Commission on Human Rights. I also hope, Madam President, that in the last amendment on Section 13, regarding the recovery of properties unlawfully acquired by public officials, and where we mentioned the word "transferred" this should be understood as including nominees of public officials who may be guilty of having ill-gotten wealth.

Thank you, Madam President.

THE SECRETARY-GENERAL, reading:

Muñoz Palma

Reyes de los

Quesada Rigos

Rama Rodrigo

Regalado

MR. RODRIGO: Madam President, may I briefly explain my vote?

THE PRESIDENT: Please proceed.

COMMISSIONER RODRIGO EXPLAINS HIS VOTE

MR. RODRIGO: I vote yes, although I have misgivings on two points. First, the creation of the Ombudsman. I agree with the idea; however, in this provision, I am afraid that it will not be as effective as expected by the people. We might disappoint the people. We might raise their hopes only to be frustrated later on, because the only power of the Ombudsman is to investigate. It does not have the power to prosecute. Another point is on impeachment. Under the 1935 Constitution, impeachment is initiated by a two-thirds vote of all the Members of the House. Now, in this provision, we reduced it only to a one-third vote.

I moved for the amendment of this provision to make it at least a majority vote but that was voted down. I only hope that the officers subject to impeachment, including the President, Vice-President and justices of the Supreme Court, will not be harassed by unfounded impeachment charges by one-third of the Members of the House who might constitute members of a bloc or an alliance of parties, now that we are initiating a multiparty system.

This notwithstanding, I vote yes.

THE SECRETARY-GENERAL, reading:

Romulo Yes Sarmiento Yes

Rosales Suarez

MR. SUAREZ: Madam President, may I explain my vote?

THE PRESIDENT: The Gentleman has three minutes.

COMMISSIONER SUAREZ EXPLAINS HIS VOTE

MR. SUAREZ: Thank you, Madam President.

Even as I concede that the article in question contains a number of outstanding pro-people features, I am compelled to vote against the article. We have confirmed in this article the continued existence of two constitutional bodies vested with jurisdiction over cases of graft and corrupt practices of public officials, namely; the Sandiganbayan as the tribunal and the Special Prosecutor as its prosecution arm. A third arm in this tripartite scheme would be the Ombudsman or Tanodbayan, a sort of constitutional watchdog. I respectfully submit, Madam President, that its creation is unnecessary, not to say, duplicitous, redundant and expensive. It serves to make the administration of justice murky and confusing.

As a legal practitioner for more than 30 years, I am aware of the existence, not only of the Office of the Solicitor General, the Office of the State Prosecutor directly under the Minister of Justice, but also of the various city and provincial fiscals all over the country. All of these administrative bodies are involved in the resolution of matters involving the actuations of public officials. Worse, we might be creating a superbody. We may be spawning provincial and regional vehicles of harassment. This particular portion of the article, to my mind, spoils the entire article, especially, when we consider that, in truth, we may be creating only a toothless tiger, capable, nonetheless, of unmitigated abuses, totally devoid of prosecutory powers.

In our present situation, Madam President, we cannot afford this constitutional luxury. In the words of Tanodbayan Raul M. Gonzalez, "If we create the Office of Ombudsman, giving it lofty powers but without teeth to enforce its findings, how will this new Ombudsman be effective?"

Thank you, Madam President.

THE SECRETARY-GENERAL, reading:

Sumulong

Tan

Tadeo Tingson

MR. TINGSON: Madam President, may I say a few words to explain my vote?

THE PRESIDENT: The Commissioner has three minutes.

COMMISSIONER TINGSON EXPLAINS HIS VOTE

MR. TINGSON: I vote yes, Madam President, and I try to get into a distance from this particular article of our Constitution, and I see the verdant forest, not the few rotting trees. I believe in the word "stewardship," and while we may not be able to write this particular word in our Constitution, I take it that "accountability" is synonymous with the word "stewardship," because we are indeed accountable stewards of our time, our talents and our treasures.

I vote yes, because I believe that our government should not only be responsive to the needs of the people, but that we should also be responsible in making that government work. I vote yes, Madam President, because I see in this article a norm of conduct, a code of ethics and that altogether, it becomes an incentive, a motivation not to become idle spectators but active participants in the building of a real democracy in our country. And I can see a prayer here, Madam President:

Lord, give us men, Filipinos with hearts ablazed, all rights to love and all wrongs to hate. These are the Filipinos, government officials our country would need; these are the bulwarks of the State.

Thank you, Madam President.

THE SECRETARY-GENERAL, reading:

Treñas

Uka

Villacorta Yes Villegas Yes

THE PRESIDENT: I vote yes.

THE SECRETARY-GENERAL: Madam President votes yes.

SECOND ROLL CALL

THE PRESIDENT: The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Abubakar Yes Rama Yes

Alonto

Yes Regalado Yes

Aquino

Yes Reyes de los Yes

Bennagen Yes Rigos Yes

Foz Rosales

Garcia Yes Sumulong Yes

Gascon Yes Tadeo Yes

Jamir Yes Tan Yes

Lerum Treñas

Ople Yes Uka Yes

Quesada Yes

APPROVAL OF PROPOSED RESOLUTION NO. 456

ON THIRD READING

(Article on Accountability of Public Officers)

THE PRESIDENT: The results show 41 votes in favor, 1 against and 1 abstention.

Proposed Resolution No. 456 is approved on Third Reading.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NOS. 496 & 533

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

PERIOD OF AMENDMENTS

MR. RAMA: I move that we take up the main subject scheduled for this morning which is the Article on National Economy and Patrimony. This was scheduled last week.

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

The honorable chairman and members of the committee will please occupy the front desk.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, the parliamentary situation is this: When we last discussed the article, the committee requested that we do not close the period of amendments because we were expecting the proposals on additional provisions or amendments from some Commissioners who had expressed their intention to do so. While the records show that we have made some deadlines, we believe that for circumstances that are not of the

making of our Commissioners, we are entertaining now the additional proposals that were proposed to be made then. And there are two proposals that were made. We believe that copies of these have been circulated by, I believe, Commissioners Suarez and Garcia to the Members of this Commission and we intend to take them now, Madam President.

THE PRESIDENT: These proposals will constitute new sections.

MR. MONSOD: Yes, Madam President.

MR. DE CASTRO: Madam President, may I ask the committee a question?

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

Are these the only proposals to be taken up in this article?

MR. VILLEGAS: These are the only ones, Madam President.

MR. DE CASTRO: Thank you.

MR. GASCON: Madam President, I presented two proposals consisting of two additional sections in our meeting last Friday but I do not have a copy of them. So aside from those which they have, I have two proposals which the committee is aware of.

MR. VILLEGAS: Yes, we have copies of the proposals on foreign investment, national market and economic nationalism.

MR. DE CASTRO: Madam President, may I make another clarification from the committee.

THE PRESIDENT: The Commissioner will please proceed.

MR. DE CASTRO: How many proposals do we have, Madam President?

MR. VILLEGAS: There are actually five in our possession, Madam President. Commissioner Gascon wants to say for the record that they are not amendments but proposals.

MR. DE CASTRO: We request that we be furnished copies of these proposals because as of now, we only have two proposals on our desk.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

This is by way of a parliamentary inquiry which we would like to address to the honorable members of the committee who are now seated in front.

Madam President, we circulated the other day, in compliance with our undertaking, not only copies of the two new proposals, but also copies of what is captioned "Proposed Amendments to the Committee Report on National Economy and Patrimony." The idea being, Madam President, that we are inviting the Members of this distinguished Commission to take a step backward and look at the provisions already approved, which I understand number about 22 as of now. Now as correctly pointed out by the Honorable Monsod, we have a parliamentary problem regarding this discussion on the proposed amendments. That means this may, indeed, require either the filing of a seasonable motion for reconsideration or for a suspension of the Rules. That is only in

connection with the proposed amendments to the provisions already approved.

On the other hand, Madam President, we have this parliamentary situation on the new proposals to the Article on National Economy and Patrimony. And as of yesterday, Commissioner Monsod confirms the fact that only two new proposals had been thus far submitted. This morning, I understand there are some more new proposals which are being submitted to the committee. So, my inquiry, Madam President, is: Which one should the body in its entirety take up first in the interest of the article in question? Are we going to discuss the proposed amendments to the sections already approved, or is it the Commissioner's thinking that it might be more practical and advisable to take up the new proposals? That is the subject of the parliamentary inquiry, Madam President.

THE PRESIDENT: What does the committee say?

MR. MONSOD: Madam President, it is the opinion of the committee that we should continue to discuss new provisions before we go back. After we have discussed all the new provisions, then we can discuss the parliamentary situation with respect to the possibility of their reconsideration or reopening. As a matter of fact, right after we have considered all the new provisions, we can close the period of amendments and then discuss the issue of their reconsideration, Madam President.

THE PRESIDENT: We have certain rules on that particular matter, but the Chair will not enter into any argument on that point. The Chair believes that it would be best to consider the new proposals because that would not involve any particular reference to the Rules.

MR. MONSOD: We submit, Madam President.

THE PRESIDENT: So the body will first consider those proposals which are in the nature of additional sections.

MR. SUAREZ: We submit to the discretion of the Chair, Madam President.

MR. COLAYCO: Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Parliamentary inquiry, Madam President. Are we to understand that the period of amendments is still open?

MR. VILLEGAS: Yes, Madam President, it has not been closed yet up to this session.

MR. COLAYCO: Does the Commissioner mean that after this no more amendments will be accepted?

MR. VILLEGAS: That is our thinking — we will close the period of amendments.

MR. COLAYCO: I understand there are several pending amendments. I want to be clear on this: If I should think of submitting another amendment, when would be the deadline?

MR. VILLEGAS: Today is the last day for the period of amendments.

MR. COLAYCO: Today, so tomorrow would be too late.

MR. VILLEGAS: Yes, Madam President.

MR. COLAYCO: Thank you.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May we now ask the proponents of the new provisions to make their amendments.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

I am submitting for the consideration of the committee a blanket proposal. We have had exhaustive debates and discussions on the approved provisions which constitute now the draft Article on National Economy and Patrimony. It has generated heated discussions, the effects of which we are not certain about up to now. So in order that we can cushion the impact, if necessary, of the approved provisions on national economy, it is my humble suggestion that we come up with a sort of omnibus provision, Madam President. I suggest that we incorporate in the Article on National Economy and Patrimony, as its last provision, a sort of omnibus subject covering the entire spectrum of said article.

I propose, Madam President, that we approve the following unnumbered section, which reads: "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, THE STATE MAY ADOPT ADDITIONAL (CORRECTIVE) MEASURES TO PROMOTE THE INTEREST OF FILIPINOS AND ENSURE THE DEVELOPMENT OF A SELF-RELIANT, PROGRESSIVE, AND INDEPENDENT ECONOMY."

We do realize, Madam President, that this may be in a way repetitive of what appears to have been approved as Section 1 of the Article on National Economy and Patrimony. Nonetheless, we would like to introduce a measure of flexibility or fluidity of international and national situations as they come up in the future.

We have to understand and admit the fact, Madam President, that the State is obligated to uphold the economic rights and ideals of the Filipino people to ensure their full and effective participation in the development of our economy.

This amendment provides the foundation for a solid basis for encouraging private initiative that is rooted in enabling Filipino private economic interest, represented by all sectors of society, to gain beneficial and effective control of the economy of the country.

More than enabling full participation by all in the economy, the government commits itself to be an active partner and/or pioneer in economic activities where private initiative and investment may be inadequate or timid to participate. It is a sort of a general provision, providing for some measure of flexibility in promulgating economic programs towards national economic development.

Thank you, Madam President.

THE PRESIDENT: Commissioner Suarez, I just want to be clarified. Was there another word after "ADDITIONAL"?

MR. SUAREZ: None, Madam President. I am only sort of, in parentheses if necessary, changing the word "ADDITIONAL" to "CORRECTIVE." That is only an alternative phrasing, but actually the word I used is "ADDITIONAL."

Thank you, Madam President.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Will the Commissioner entertain some clarificatory questions?

MR. SUAREZ: Gladly, Madam President.

FR. BERNAS: The proposal starts with the word "NOTWITHSTANDING." Is that to be understood to mean that the State, through the legislature, may pass legislation contrary to the provisions of the article?

MR. SUAREZ: Not necessarily contrary, but the amendment would provide additional or corrective measures.

FR. BERNAS: So it is not meant to authorize the legislature to disregard any provision of the Constitution.

MR. SUAREZ: The Commissioner is correct. The amendment should not be taken in the light that we are negating the constitutional provisions already approved and adopted. We are only providing for some measures of flexibility in adopting additional measures which may be corrective of the situation, promoting the interest of Filipino enterprises, Madam President.

FR. BERNAS: When the Commissioner introduced this amendment, is it merely his intention to emphasize that the State can act independently of this proposed provision?

MR. SUAREZ: The Commissioner is right, Madam President.

FR. BERNAS: So this is being put in merely for emphasis.

MR. SUAREZ: Not only for emphasis, but for the possibility that what may have been adopted as a policy in this Constitution may not really be promotive of the interests of the Filipinos and, in that instance, then the State may adopt some corrective measures which are not totally nugatory of the economic principles and policies enunciated under these approved provisions, Madam President.

FR. BERNAS: Madam President, in my reading of the provisions so far approved, I see some which are clearly mandatory and prescriptive and it is not the Commissioner's intention to authorize the legislature to contradict what is mandatory and prescriptive; for instance, a maximum of 40 percent equity participation of foreigners. That is prescriptive. So is the Commissioner not authorizing the legislature to raise that maximum?

MR. SUAREZ: No, not in that sense, Madam President.

FR. BERNAS: At any rate, the legislature is already authorized to lower that.

MR. SUAREZ: I think there is an increase in the percentage under one approved section of the article in question, Madam President. We are not contemplating it in that manner.

FR. BERNAS: My main question is: If we were not to approve the Commissioner's proposal, would not Congress already have the flexibility to do all these?

MR. SUAREZ: We are afraid it may not possess that kind of flexibility in the manner we have it in mind as already contained in the approved sections, Madam President.

FR. BERNAS: Will the Commissioner be more specific, Madam President.

MR. SUAREZ: For example, in the matter of giving priority to agricultural development as against industrial development, in this provision, we would be providing a degree of flexibility for the State to determine whether or not our economy based on agricultural development would really promote the best interest of the Filipinos. In other words, the State can reverse the direction and concentrate on rapid industrialization, rather than on the development of our agricultural economy.

MR. VILLEGAS: Madam President, may I just make a correction. There is absolutely nothing in the approved sections of the article that states that agriculture will have priority.

MR. SUAREZ: We are only discussing it on the hypothetical basis. I think that is how I take the question

addressed by Father Bernas.

FR. BERNAS: And that precisely is my problem, too. Because the way I read that provision on agriculture in relation to industrialization, it is not prescriptive. As the chairman of the committee himself has repeatedly said, economy is an inexact subject. So it seems to me that the provision is formulated in a general way. But for me, the most it says is that it should be a combination of agriculture and industrialization.

MR. SUAREZ: It should be like that.

FR. BERNAS: That is the way I understand it, Madam President. I do not understand it as saying that agricultural development should have priority.

MR. SUAREZ: No, except for the wording "based on agricultural economy" as already approved under Section 1, Madam President. In other words, industrialization, as now envisioned in Section 1, must be based on agricultural economy. And that gives a lot of confusion in the interpretation. That is why in our proposed amendment, instead of the phrase "based on," we use the phrase "TOGETHER WITH" or as suggested by Commissioner Monsod probably, we can employ the words "CONSISTENT WITH." Now in order to remove any confusion in this regard, if there is any confusion in the interpretation, we are providing this general provision: That we let the State be the one to determine exactly the kind of policy that will promote the interest of the Filipinos.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, we believe that the record of the discussions on the floor does not reflect what Commissioner Suarez is saying with respect to agricultural economy. If, on the other hand, his interpretation and the purpose of his amendment are precisely to give Congress a carte blanche or an absolute authority to reverse or override that kind of interpretation, then we believe that his amendment is out of order because it constitutes a reopening of the issues in Section 1.

FR. BERNAS: Madam President, I would perhaps put it differently that if we approve the proposed amendment of Commissioner Suarez on the understanding that he is correct in his reading, that the provisions we have approved prescribed a certain priority between "agriculture" and "industrialization," in effect, he would be authorizing Congress to go against what is prescribed. And we are putting on record an interpretation of Section 1 which makes that relationship prescriptive rather than merely hortatory or suggestive.

MR. SUAREZ: Is the Commissioner suggesting, Madam President, that we should do away with the introductory phrase: "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE"? We would have no objection to that, in order to make a direct positive statement about possible State interference in the future.

FR. BERNAS: A little more than that, Madam President. I am hoping that an interpretation which makes Section 1, second paragraph, prescriptive will not be read into the record, because once it is read into the record and accepted as the interpretation, then Congress will be bound by it.

MR. SUAREZ: We agree to the procedure outlined by the Commissioner. Maybe, we really have to do away with this introductory phrase, if only to concretize what he has in mind, devoid of interpretative statements.

FR. BERNAS: My main problem is that if the Commissioner makes his interpretation of the second paragraph of Section 1 as the basis for his proposed amendment, in effect he seems to be admitting that the second paragraph about industrialization and agriculture is prescriptively saying that agriculture should have priority, which is not I think its meaning.

MR. SUAREZ: We see the thrust of the Commissioner's observation and we are agreeable not to read into the record any form of interpretation, also with respect to the second portion of our proposal, Madam President.

FR. BERNAS: So that if the Commissioner reads most of these provisions as not prescriptive, then it would seem that his proposal would be unnecessary.

MR. SUAREZ: Not really, Madam President.

FR. BERNAS: It gives Congress greater flexibility, Madam President.

MR. SUAREZ: Yes, that is the purpose. In a general sense, that is the principal thrust in submitting this proposal, Madam President.

FR. BERNAS: But I guess our differences lie in our reading of the provisions of the degree of flexibility which Congress has. I see Congress as already possessing the flexibility that is desired by the Commissioner's proposal.

MR. SUAREZ: The Commissioner has a different perception of the situation but we would like to clear up all of these possible confusions in the interpretation of the thrust of the approved Section 1 of the Article on National Economy, Madam President.

FR. BERNAS: Just one final observation, Madam President. A general statement like this will not really clarify anything.

MR. SUAREZ: I beg the Commissioner's pardon, Madam President.

FR. BERNAS: A general statement, as the Commissioner has worded it, will not clarify anything which might be considered as unclear.

MR. SUAREZ: No, it is not meant to clarify anything. It is meant only to provide, as I have been saying repeatedly, some degree of fluidity and flexibility on the part of the administrators of our country.

FR. BERNAS: Thank you, Madam President.

MR. LAUREL: Madam President.

THE PRESIDENT: Commissioner Laurel is recognized.

MR. LAUREL: It is true, and there can be no doubt about it, that what the Constitution does not prohibit will be within the competence of the law-making body and the executive department to step into. So I do not think there is any necessity of introducing and adopting the proposed amendment.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

I would like to ask the proponent some clarificatory questions.

THE PRESIDENT: The Commissioner will please proceed.

MR. NOLLEDO: Is Commissioner Suarez willing to entertain clarificatory questions?

MR. SUAREZ: Most willingly, Madam President.

MR. NOLLEDO: Madam President, based on the questions of Commissioner Bernas, I think we are agreed that the corrective measures shall take the form of legislation.

MR. SUAREZ: The Commissioner is right, Madam President.

MR. NOLLEDO: This is in connection with Section 3 of the Article on National Economy and Patrimony, specifically the second and third paragraphs, where the President is constitutionally authorized to enter into service contracts and also constitutionally required to notify Congress of every such service contract. I think the Commissioner is aware that the Bill of Rights provides that no law shall be passed abridging the obligations of contracts. Since the Commissioner used the words "CORRECTIVE MEASURES," can Congress adopt corrective measures with respect to existing service contracts entered into under Section 3 of the article?

MR. SUAREZ: In my humble opinion, the answer is in the affirmative, especially considering the mandatory requirement that the President should notify Congress of every contract entered into in accordance with this provision within a period of thirty days from its execution. That provision would be meaningless not unless we vest unto Congress the right to enact measures, corrective, if necessary, of the situation, Madam President.

MR. NOLLEDO: I precisely asked that question, Madam President, because it seems that there is a general objection to the proposal of Commissioner Suarez that the provision will serve no purpose.

I personally approached the chairman of the committee and told him that the last paragraph, which is the third paragraph of Section 3, would really be meaningless if Congress cannot do anything with respect to the service contract entered into by the President, as authorized by the second paragraph. If we just notify Congress by furnishing it with a copy of the contract and without giving it any power to review the same and take remedial measures, like the corrective measures proposed by Commissioner Suarez, then that provision would be truly meaningless.

Thank you, Madam President.

MR. SUAREZ: I thank the Commissioner.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, I would just like to ask the proponent certain clarificatory questions.

Am I right in my interpretation that the Commissioner's proposed amendment is in anticipation of certain problems which the State may encounter in applying its plenipotentiary powers for promoting the national interest?

MR. SUAREZ: The Commissioner is absolutely correct, Madam President.

MR. VILLACORTA: And that one of these problems is whenever the State would like to protect certain local enterprises and that State action is challenged in the Supreme Court on the basis of Section 1 which limits protection to unfair foreign competition. Does the Commissioner anticipate that as a problem, Madam President?

MR. SUAREZ: That is exactly one of the factors which motivated us to formulate this omnibus provision, Madam President.

MR. VILLACORTA: I asked that question because the State, as we know, has, for reasons of national interest and security, to protect local companies even against fair competition. But the present Section I will tie the hands of the State, and we realize how long it takes for a Supreme Court litigation to be resolved. Does the Commissioner anticipate that as part of the problem, Madam President?

MR. SUAREZ: Yes, Madam President.

MR. VILLACORTA: Madam President, if this is one of the problems anticipated and which the proponent seeks to provide in his amendment, how would the committee react to this anticipation of that particular problem?

THE PRESIDENT: Are there any other comments before the committee answers? (Silence)

Commissioner Davide is recognized.

MR. DAVIDE: Madam President, will the proponent yield to some questions?

MR. SUAREZ: Yes, Madam President.

MR. DAVIDE: This would refer more particularly to the Commissioner's answer to the question of Commissioner Nollado in the sense that in one aspect on service contracts, he admitted that the corrective measure may amount to even a review or the setting aside of the contract. Did I get the Commissioner correctly?

MR. SUAREZ: That is correct, Madam President, except that it may be a little more complicated than that because, as also correctly pointed out by the Honorable Nollado, there is another colliding constitutional provision regarding the nonimpairment of the obligations of contracts.

MR. DAVIDE: Yes. That is exactly the point I am raising because if that would happen, which shall prevail, the provision in the Bill of Rights regarding the nonimpairment of contracts or this broad authority now covered by the Commissioner's Proposal?

MR. SUAREZ: We would say that this provision we are proposing should be controlling in that regard because the two contracting parties are not strictly private — one is the government and the other could be a private individual or, firm or enterprise.

MR. DAVIDE: Yes. In other words, under the Commissioner's proposal, we will now allow Congress to propose measures or to enact legislations which would impair the obligations of contracts which is guaranteed under the Bill of Rights, and that should be taken merely as an exception.

MR. SUAREZ: It could amount to that, Madam President, under justifiable circumstances.

MR. DAVIDE: What would be the possible justifiable circumstances which could authorize Congress to violate, impede or impair this nonimpairment of contract clause in the Bill of Rights?

MR. SUAREZ: Madam President, this was pointed out in our proposal that it must be promotive of the interest of the Filipinos, such that if it does not promote the interest of the Filipinos but is in fact prejudicial and damaging to the Filipino interest, then the State can come in through Congress to provide the necessary corrective measures.

MR. DAVIDE: Madam President, service contracts may be allowed by Congress itself. Would it mean that Congress by an act declare itself by a succeeding act that its previous act was not promotive of people's interest?

MR. SUAREZ: Madam President, my impression is that under the approved Section 1, Congress is without authority to enter into service contract.

MR. DAVIDE: It is not Congress is mandated to provide the law.

MR. SUAREZ: Yes, Madam President.

MR. DAVIDE: To allow the execution of service contracts, there must be a law for said service contracts.

MR. SUAREZ: There must be a general law providing for the terms and conditions under which particular service contracts can be entered into by the executive department, Madam President.

MR. DAVIDE: Yes, Madam President.

MR. SUAREZ: And, therefore, if necessary in the future and pursuant to this general provision, Congress could

enact corrective measures in order that it can ensure that entering into service contracts would only promote the Filipino interest.

MR. DAVIDE: Does not the Commissioner contemplate a situation where such a corrective measure should not be given retroactive effect in order that it will not violate the nonimpairment of contract clause in the Bill of Rights?

MR. SUAREZ: The Commissioner is right. That is why when we say "CORRECTIVE," that is practically prospective in character. Madam President.

MR. DAVIDE: If it is prospective in character, the very act which is supposed to be corrected will continue since it may, to make it applicable to an existing act or contract, continue to be not promotive of the common good.

MR. SUAREZ: If the Commissioner is thinking strictly in terms of enactment of legislative measures, he is right, Madam President. But, probably, what can be done after that would be to conduct an investigation similar to what was done before by the Senate Blue Ribbon Committee.

MR. DAVIDE: But cannot the matter be approached in this way? May a service contract executed by the Chief Executive pursuant to a general law authorizing the service contracts be set aside or nullified because it violated the law itself which allowed the said service contract?

MR. SUAREZ: In a situation envisioned by the Commissioner, it may have to pass through the judicial department, Madam President.

MR. DAVIDE: But this proposal would rather not prevent the judiciary from inquiring into the validity of a service contract entered into by the Chief Executive.

MR. SUAREZ: Definitely not, Madam President.

MR. DAVIDE: So under the Commissioner's proposal, we will have two remedies actually — judicial and legislative actions.

MR. SUAREZ: Yes, Madam President.

MR. DAVIDE: Another point, Madam President. The proposal is precisely to provide corrective measures to possibly offset the effects of Section I of the proposed Article on National Economy and Patrimony in order that we can provide ample, sufficient and adequate protection to Filipino entrepreneurs and the Filipinos themselves.

MR. SUAREZ: Yes, the Commissioner is right.

MR. DAVIDE: Madam President, I notice, however, that in Section 1 of the proposed Article on National Economy and Patrimony, the national economy to be developed is a self-reliant and independent economy.

The Commissioner's proposal included "PROGRESSIVE." Would this not necessarily expand the scope of Section 1 and would now justify the use alone of the word. "PROGRESSIVE" as an addition? Would this not overhaul completely all the provisions of the Article on National Economy and Patrimony?

MR. SUAREZ: Not necessarily, Madam President. This is only an additional criterion or factor in determining whether or not corrective or additional measures should be enacted or promulgated by Congress. The basic features of the Article on National Economy should really be concentrated on self-reliant and independent economy as reflected in Section 1.

MR. DAVIDE: So if the idea is to align this with Section 1 in the sense that we will have to allow Congress flexibility to provide for corrective measures, would the Commissioner not agree to the deletion of the word

"PROGRESSIVE"? so we maintain the original Section 1 on the nature of the national economy.

THE PRESIDENT: Commissioner Laurel is recognized.

MR. LAUREL: Madam President, with all due respect to the Gentlemen on the floor, gusto ko lang sabihin na wala naman tayong dapat pagtalunan dito. The only question is whether or not the Constitution prohibits the other two branches of the three branches of the government from doing anything. It is a question of bawal ba o hindi bawal. Kung ipinahihintulot ng Saligang Batas, iyong hindi ipinagbabawal ay kayang gawin ng lehislatura at ng executive. Kung ang isa ay mayroong duda at siya ay naaapi, pumunta siya sa Korte Suprema. From the facts, the laws arise. Each and every individual case noong mga nagsasabing siya ay agrabiyado ay maaaring idulog sa Korte Suprema upang alamin kung ipinahihintulot o hindi ang kaniyang ginawa. Kung hindi ipinahihintulot ay huwag gawin. Wala tayong dapat pagtalunan. Basta ipinahihintulot, to paraphrase Commissioner Uka, at hindi ipinagbabawal na ipasok ay ipasok; kung hindi, ay huwag ipasok. In other words, I feel, Madam President, with all due respect to the Members of this body, we have discussed the matter well enough.

MR. DAVIDE: I would have no further questions, Madam President.

MR. SUAREZ: I thank the Commissioner for his observation.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, the matter of the nonimpairment of the obligation of contracts was brought up. But, Madam President, is it not a fact that in existing jurisprudence, from *Ruther vs. Esteban* all the way down, the guarantee of the obligation of contracts in the Bill of Rights yields to a reasonable exercise of police power?

MR. SUAREZ: Definitely, that is why although we suggested that all of these corrective measures should be prospective in application and operation, the proposal will not deprive any private taxpayer to contest the legality and validity of those contracts already approved.

FR. BERNAS: Madam President, what I am saying is precisely more than that because, for example, when the Tenancy Law provided for a 60 to 40 ratio, Congress passed a new Tenancy Law making it 70 to 30. The question is: Did that impair the obligation of contracts? And the answer is: Yes. But it was a valid exercise of police power, and even existing 60 to 40 contracts had to be transformed to 70 to 30.

MR. SUAREZ: I think that is a nondebtable issue, Madam President. We agree.

FR. BERNAS: So that even without authorizing Congress to make corrective measures, service contracts can be corrected by the exercise of police power.

MR. SUAREZ: That again is a debatable issue, Madam President. That is why we want to clear it up; we want to make it very clear in this general provision that Congress Possesses that power.

FR. BERNAS: But unless the Commissioner specifies what the corrective measure is, he really does not make it very clear. The only way of making it clear is by eliminating the nonimpairment contract clause in the Bill of Rights.

MR. SUAREZ: No, that is not the intention. Precisely, we say these contracts must be honored, but it does not deprive the Congress to introduce additional measures by way of correction of the terms and conditions that may have proven to be detrimental to the interest of the Filipinos.

FR. BERNAS: My only point, Madam President, is that even without stating it in the Constitution, Congress

already has the power to correct the contracts.

MR. SUAREZ: Yes, we get the drift of the Commissioner's argument, Madam President.

FR. BERNAS: I thank the sponsor.

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: We subscribe fully to Commissioner Bernas' proposition. The Police power of the State is paramount. The nonimpairment clause, as most legal scholars will agree, is almost a fiction. It always yields to the police power of the State. That is also how legislation has progressed, despite any provision in a contract. I believe that as far as jurisprudence is concerned, contracts, especially the ones mentioned in this article which involve natural resources, are always subject to congressional law, prospective or retroactive.

MR. AZCUNA.: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: May I know whether or not the Honorable Suarez is willing to accept a slight amendment to the initial sentence of his proposal?

MR. SUAREZ: May we hear the proposal, Madam President.

MR. AZCUNA: Madam President, instead of "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE," we substitute "NOTHING IN THIS ARTICLE SHALL PRECLUDE THE STATE FROM ADOPTING CORRECTIVE MEASURES," so as not to emphasize an antagonism.

MR. SUAREZ: We accept that proposal, Madam President.

MR. AZCUNA: Thank you, Madam President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, in the interpellation by Commissioner Villacorta of Commissioner Suarez, I believe the issue was defined when he asked the question of whether or not the purpose of this section is to give Congress the power to protect industries or whether the competition was fair or unfair. He, in fact, defined the purpose of this amendment which is contrary to the intent of Section 1. Therefore, the position of this committee is that the proposal partakes of the nature of a reopening of Section 1 because Section 1 is quite clear that the protection will be against unfair competition. Even under the interpellation by Commissioner Bernas, the answers of Commissioner Suarez also show what the intent was. And whether or not we use "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE," it is clear that what really happens here is that this section would give Congress the right to override or disregard the rest of the Provisions of the article.

And by way of parenthetical remark, Madam President, if that is the case, then what we should do is to have an omnibus clause in this entire Constitution which would say the same thing: That notwithstanding anything in this Constitution, the State may adopt whatever additional or corrective measures it has. Let us put this after each and every article — after the Social Justice, the Legislative and the Judiciary Articles — so that then it would negate the purpose, the spirit and the letter of the Constitution.

Madam President, we consider this kind of omnibus amendment out of order. We consider it a reopening of

Section 1 and, therefore, the committee refuses to accept it.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: In fairness to Commissioner Suarez, he said in his remarks that the purpose of this proposed amendment is to cushion the impact of, and not to contradict or dispute, Section 1. That he made clear in his remarks.

Thank you, Madam President.

MR. MONSOD: Madam President, I agree that Commissioner Suarez said that, but in the interpellation by Commissioner Villacorta, his answer was also very clear.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: The remarks of Commissioner Monsod have made things a little more unclear for me, because Commissioner Monsod's interpretation is that only unfair competition by foreigners can be prohibited by the State. I think the language of Section 1 is much broader than that when it says: "The State shall protect Filipino enterprises against unfair foreign competition and trade practices." Section 1 does not say that the State shall protect Filipino enterprises only against unfair competition. This is not an exclusive statement of what the State can protect Filipino enterprises against. The State can protect Filipino enterprises against foreign competition even if it is fair but harmful to the best interest of the nation.

So I would like to hear the official interpretation of the committee as far as this line is concerned because as it stands now, it does not say that only unfair foreign competition can be prohibited. But among other things, unfair competition should be prohibited. But if there are other forms of competition, even if they are fair but harmful to the best interest of the Filipinos, then the State may also prohibit them.

MR. MONSOD: Madam President, I believe that in the discussions on this issue, we precisely said that if the competition is harmful to the interest of the Filipinos, then it is unfair.

MR. VILLEGAS: Madam President, it is very clear on record that we said the government can declare as unfair anything that hurts Filipino enterprises and that the word "unfair" in Section 1 does not partake of any unique economic or legal interpretation given by international organizations since we can declare as unfair anything that hurts Filipino enterprises.

MR. LAUREL: Madam President, the committee, through Commissioner Monsod, has raised a point of order. I ask that the Chair make a ruling on that point of order.

THE PRESIDENT: The point of order of Commissioner Monsod is whether or not this proposed new section is, in fact, an amendment to Section 1 or to all the sections of the article.

MR. MONSOD: Yes, Madam President. The committee believes that the proposal as stated is really a *carte blanche*. It is really an absolute authority to negate or override all the provisions that have been promulgated or approved by this body. This was highlighted in the exchange between Commissioner Villacorta and Commissioner Suarez, in which the former asked the latter whether this provision would now authorize Congress to protect Filipino industries against fair or unfair foreign competition. In other words, contrary to the letter of Section 1. The answer was yes. Now this really partakes of an amendment to reopen Section 1. The committee's stand on its interpretation is that anything prejudicial to the greater interests of the Filipino people can be

considered unfair and, therefore, is subject to action by Congress. But in the debates on Section 1, precisely the issue was whether or not to delete the word "unfair." So anything presented flat addresses that same issue reopens Section 1.

THE PRESIDENT: Commissioner Laurel is recognized.

MR. LAUREL: In other words, Madam President, it would look like we are not preparing any fundamental law, any organic act, that will be superior to ordinary statutes of the law-making body. It is just like we are adopting any constitution that is supposed to be obeyed by the entire law-making body. The President would have to sign statutes adopted by the law-making-body. What are we here for?

MR. VILLACORTA: Madam President, I was alluded to.

REV. RIGOS: Madam President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: I understand that we in this Commission have to be guided by certain rules. But I wonder whether on this particular issue we can afford not to be too technical in order that we may allow the fullest ventilation of ideas on this particular subject and, more importantly, to save the Chair from making a ruling on whether or not the motion is out of order. There must be a way of sharing each other's ideas on this subject and resolving the issue, not purely on the basis of technicality.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleddo is recognized.

MR. NOLLEDO: Thank you, Madam President.

Before the Chair makes a ruling, I beg to disagree with Commissioner Monsod. This is an amendment being presented and just because there is a purpose to cushion the effects of Section 1 does not necessarily mean that we are reopening it. He merely says it has the effect of reopening Section 1. If we have approved a particular section, it does not prohibit the Commission from qualifying that section by another provision. So I feel that there is no reopening of Section 1.

MR. LAUREL: Madam President, since the idea is to enable the law-making body under the Constitution we are adopting to override the Constitution itself and presumably after we shall have adopted it, what kind of a Constitution are we working on? I repeat, what kind of a Constitution are we working on here? I asked because the only question is whether it is authorized or not. That is as simple as that. If the law-making body is prohibited from adopting any measure, the only reason is that it is not allowed to do so under the Constitution.

In other words, if we put into the Constitution any provision that would enable the law-making body to do away with a constitutional provision, then there will be no need for the Constitution we are working on here.

I move for the previous question.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, I just want to clarify because my interpellation was referred to as an argument against the amendment of the Honorable Suarez.

What I simply asked, Madam President, was whether the proponent anticipated certain problems arising from Section 1. And he said that it was only one of the problems anticipated by this amendment. My particular reference, Madam President, was the plenipotentiary powers of the State, which was affirmed by the committee. If

the committee finds nothing wrong with strengthening or reaffirming the police powers of the State, then I cannot understand why it is now against this amendment, which is practically an omnibus amendment.

But before the Chair rules, if ever it will rule on this point of order, may I just ask the committee a simple question. What basically is the philosophy of most of the provisions of the Article on National Economy? Is it a laissez-faire economic philosophy that the committee or most of its members are espousing?

MR. VILLEGAS: Madam President, it is very clear in our record that the economy we want is that based on private initiative which is very compatible with the dignity of every human being and that the State can intervene whenever there is default on the part of private individuals and whenever the common good so requires.

So as we will remember, the phrase "mixed economy" was used, but with emphasis on Private initiative.

MR. VILLACORTA: Going back to my question, is it laissez faire, Madam President?

MR. VILLEGAS: It is not, Madam President. Laissez faire has a very peculiar interpretation in political and economic history and it is usually understood as untrammelled irresponsible enterprise.

MR. VILLACORTA: In other words, it is not pure competition?

MR. VILLEGAS: No, it is not.

MR. VILLACORTA: I asked because I find it hard to reconcile that philosophy, which is a watered-down version of laissez faire, with several sections of the article. And that is why I concur perfectly with the Honorable Suarez that this omnibus provision is necessary, precisely to embody what the Commissioner has just said that we do not want the laissez-faire economic philosophy to prevail in this Constitution and in our land. I think it is important that even if the Chair rules that we are out of order, we further contemplate on this issue, because it cuts right through the heart of the Constitution and the very philosophy and future of our society. I plead to the Chair not to rule us out of order.

If I may just quote from a very reputable newspaper Veritas:

A reminder to the Constitutional Commission seems necessary. The willingness to reconsider and reopen debates and open-minded approach to issues do not necessarily reflect a lack of conviction nor a wavering of principle. These men and women must keep in mind that there is no point to the exercise if they are not ready to rethink their thoughts, or at least, to rework the expression of their thoughts.

The Malaya editorial of August 20 states:

In the end, the people will judge the Con-Com not by the speed with which it met its deadline, nor the calmness or smoothness of its proceedings, but by the product that it will offer them.

In that light, Madam President, I beg the indulgence of the Chair to allow the continuation of the discussions on this matter and not to consider the amendment of Commissioner Suarez out of order.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I just want to make it of record that when the committee made its comments, it was because there were no other discussions. Everybody had already a say. That was the only time when the committee was asked what its position was. Therefore, I want to make it of record that there has been no termination here of anybody who wanted to speak. Please, let us be fair to the committee.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Before the Chair rules on the motion to rule the amendment out of order, let me just say that my opposition to the proposed amendment is not because it is out of order, but because I find it unnecessary. However, it would be out of order indeed if we give a narrow interpretation to the meaning of the word "unfair." But if, as the committee said, "unfair" means anything harmful, then it is not out of order and the problem would be more on style than on substance. The problem seems to be on the use of the word "unfair" and perhaps, that can be subjected to examination by the Style Committee because it does not seem to express exactly what the committee means.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President. The comment of Commissioner Monsod that the proposal is out of order relies on the fact that it states: "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE." From the interpellations made, it appears that Congress can overhaul the whole section on patrimony on the reason of corrective measures, promoting the interest of the Filipino people, et cetera, which would give Congress, as what the Honorable Laurel said, the right to make its own Constitution. Congress can disregard by this proposal what this Commission is doing at this time. To overhaul the whole section by this phrase "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE" would be making Congress the constitutional body and not this Commission. That is the reason the Honorable Monsod said the proposal is out of order.

Thank you, Madam President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, in deference to our fellow Commissioners, may we disregard the issue of being out of order at this point and just vote on the proposal of Commissioner Suarez, without considering it as a reopening of Section 1 in order that we may already resolve the issue.

MR. LAUREL: Madam President, it is not really my intention to press a ruling on the matter mentioned. I simply feel that the matter has been discussed well and long enough. So I would suggest that the matter regarding the point of order be forgotten and that we resolve on the merits of the proposal.

MR. BENGZON: Without considering it as a reopening of Section 1, Madam President.

THE PRESIDENT: And of all the other sections in the article.

MR. BENGZON: Yes, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

May I express my personal gratitude to Commissioners Monsod, Laurel and Rama for disregarding technicalities in the interest of our country. I thank the Gentlemen very much.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Is it the intention of the Commission to proceed on the amendment of Commissioner Suarez without considering it as a reopening of Section 1 ?

MR. VILLEGAS: Yes, Madam President.

MS. AQUINO: Then in that spirit, may I ask Commissioner Suarez whether or not he would be willing to yield to a major amendment to his proposal.

MR. SUAREZ: May we hear the proposed amendment. Madam President.

MS. AQUINO: I was attempting to abstract the principle of the Commissioner's proposal and at the same time balance the interest of Section I as has been previously approved. I would like to propose an alternative formulation which is as follows: "CONGRESS SHALL, IN ALL INSTANCES, ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT."

MR. SUAREZ: That sounds sensible.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We believe that that declaration belongs to the Article on the Declaration of Principles.

MR. SUAREZ: Is it not a safety clause as we propose it to be?

MS. AQUINO: It can be interpreted as a constitutional refuge or some kind of a breakwater that will be a supplement or a reinforcement for the interpretation of Section 1.

MR. MONSOD: Madam President, the entire Article on National Economy and Patrimony is all in the interest of the Filipino. As a matter of fact, the first sentence already conveys that message. If we go through it, that is the sense of the article. And if at all that belongs to the Article on the Declaration of Principles, the entire Constitution considers the interest of the Filipino paramount, Madam President.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I am not inclined to a cavalier dismissal of the proposal as being a surplusage or a redundancy. The matter of national economy and patrimony is transcendental and we cannot overemphasize the underpinnings of nationalism and independence in the national economic development programs of the country.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: I have a proposed amendment similar to the amendment proposed by Commissioner Aquino. It was distributed to all the Members of the Commission. It reads: "THE STATE SHALL PROMOTE THE ECONOMIC INTEREST OF THE FILIPINO PEOPLE TO ENABLE THEM TO GAIN EFFECTIVE AND BENEFICIAL CONTROL OF ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT THROUGH APPROPRIATE MEASURES THAT WILL SUPPORT ALL SECTORS OF SOCIETY, TO PARTICIPATE IN THE OWNERSHIP AND MANAGEMENT OF ECONOMIC ENTERPRISES AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE COUNTRY."

Madam President, it is already 12:54 p.m. May I ask for a suspension of session so that we can harmonize all our proposals.

MR. SUAREZ: I join Commissioner Sarmiento in his prayer for a suspension of session, Madam President.

MR. VILLEGAS: I would treat the proposals of Commissioners Sarmiento and Aquino as separate amendments. But I think we should make a decision on the proposal of Commissioner Suarez which is also a separate amendment.

THE PRESIDENT: The proposed amendment of Commissioner Suarez was amended by Commissioner Aquino and it is accepted by the Commissioner.

MR. VILLEGAS: I do not think Commissioner Suarez accepted the amendment at this stage yet, because I was going to suggest that we try to blend all of these proposals together, the ones submitted by Commissioners Aquino and Sarmiento.

THE PRESIDENT: Yes, but the Chair would rather have right now a vote on this particular proposed amendment of Commissioner Suarez, as amended by Commissioner Aquino.

MR. VILLEGAS: We agree, Madam President.

MS. AQUINO: Madam President, we ask for a suspension for us to be able to agree or at least agree to disagree on the alternative formula that Commissioner Suarez and I would like to incorporate.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 12:55 p.m.

RESUMPTION OF SESSION

At 1:05 p.m. the session was resumed.

THE PRESIDENT: The session is resumed.

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

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

I would like to state that when the Commissioners stand up here with their own honest convictions, I am really warmed. And so with the clarifications and various statements made on the floor, not only by the members of the committee, but also by our colleagues — particularly with statements like " 'unfair' has nothing to do at all with economic or international implications but only as we define it here in the Constitutional Commission and it is anything that is harmful and protective of Filipino interests"; "Congress, in the exercise of the police power of the State, possesses the power to make or institute corrective measures even with respect to service contracts which may not be promotive of the interests of the Filipinos"; "the interests of the Filipinos are always paramount — I am compelled to withdraw my proposal, Madam President.

This is on record, and I leave it to Commissioner Aquino to press for her own proposal.

Thank you, Madam President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, the committee appreciates the manifestation of Commissioner Suarez, and we would like to unite with him in those interpretations because we have common goals.

MR. SUAREZ: One final request, Madam President. Maybe the use of the word "unfair" can be thrown to the Committee on Style later on, to reflect the common sentiments of the Commission.

MR. VILLEGAS: Madam President, when the time comes, we can discuss Section 1 as we discussed it in the committee, and there is the possibility that the whole sentence will be deleted and substituted with a provision that was introduced by Commissioner de Castro and approved by the body, which states that the State shall give preferential treatment to the use of Filipino labor, domestic materials and locally produced goods. That is a more positive statement which I am sure will not be subject to controversy. But as we said in the beginning of this session, we will take up those possible changes only after we have decided on all the new amendments that are being proposed.

MR. MONSOD: Madam President, may I also say that while we agree with all the interpretations, the issue on the use of the word "unfair" has been fully discussed, and we do not consider it as a matter of style. But we agree with the interpretations which the Commissioner has read.

MR. SUAREZ: Thank you, Madam President and the members of the committee.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner will please proceed with her own proposed amendment.

MS. AQUINO: In view of the arrangement, my amendment, as originally drafted, would now read: "CONGRESS SHALL ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT."

The intention of this proposal is to provide for some kind of a reservation of the essential attributes of primacy of the interest of the Filipinos as the basic postulate in any economic order. Such that in the interpretation of any and all controversies arising from the provision of Section 1, this proposal will serve as some kind of a guiding or fixed star in the constitutional constellation of economic provisions.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Do we understand from the comments of Commissioner Aquino that this reserved power must be always consistent with the Constitution and therefore, this is not in the same frame as the proposal of Commissioner Suarez where Congress may nullify or disregard what is in the Constitution? Is this an amplification and a promotion of what is consistent and/or already said in the Constitution, Madam President?

MS. AQUINO: The intention of this amendment is not to reserve the power but it would serve as the reservoir of decisional norms in all controversies pertaining to the provisions on economy.

THE PRESIDENT: But does not necessarily contravene any of the provisions that may have been approved as part of the Constitution. Otherwise, we will go back to the argument of Commissioner Laurel that we will be authorizing Congress to overrule.

MS. AQUINO: Not necessarily, Madam President. And there is no such intention to defeat that in any manner.

THE PRESIDENT: Are there any other comments?

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Instead of insisting on my separate amendment which is similar to the amendment being proposed by Commissioner Aquino, I would like to propose an amendment to her amendment. After "DEVELOPMENT," add the words "AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE COUNTRY."

MS. AQUINO: Would that not form part and parcel of the concept of national economic development?

MR. SARMIENTO: The intendment is that all aspects of national economic development will cover utilization and development of the natural resources of the country.

MS. AQUINO: Yes, it is covered.

MR. SARMIENTO: With that explanation, Madam President, I withdraw my amendment.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Just to be consistent also with the earlier interpretation of the proposed amendment, may I propose this amendment: after the word "CONGRESS," add the following: a comma (,) and the phrase "CONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION" and another comma (,).

MS. AQUINO: I accept, Madam President.

THE PRESIDENT: Commissioner Aquino has accepted. What does the committee say?

MR. MONSOD: Madam President, as formulated by Commissioner Aquino and amended by Commissioner Davide, this provision says nothing more than what Commissioner Laurel has been saying — that the power is inherent in Congress.

MS. AQUINO: What is inherent need not be necessarily overlooked.

THE PRESIDENT: Does the committee accept or not?

MR. VILLEGAS: The opinion of the committee is that the State shall develop a self-reliant and independent national economy effectively controlled by Filipinos. This is exactly what Commissioner Aquino wants to stress. And we can just read into the record that all the statements made by Commissioners Aquino and Sarmiento are the interpretation of the very first statement of the whole section.

MS. AQUINO: Madam President, I submit this proposal to the decision of the body.

THE PRESIDENT: Will Commissioner Aquino please restate her proposed amendment, as amended.

MS. AQUINO: It would read: "CONGRESS, CONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION. SHALL ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT."

VOTING

THE PRESIDENT: As many as are in favor of this proposed amendment of Commissioner Aquino, as amended by Commissioner Davide, please raise their hand. (Few Members raised their hand.)

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

As many as are abstaining, please raise their hand. (Three Members raised their hand.)

The results show 15 votes in favor, 23 against and 3 abstentions; the proposed amendment, as amended, is lost.

SUSPENSION OF SESSION

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

THE PRESIDENT: The session is suspended.

It was 1:15 p.m.

RESUMPTION OF SESSION

At 3:06 p.m., the session was resumed with the Honorable Rustico F. de los Reyes, Jr. presiding.

THE PRESIDING OFFICER (Mr. de los Reyes): The session is resumed.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): The Floor Leader is recognized.

MR. RAMA: I move that we continue the consideration of the Article on National Economy and Patrimony.

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection? (Silence) The Chair hears none; the motion is approved.

We will now continue the consideration of the Article on National Economy and Patrimony. The chairman and members of the committee are requested to occupy their respective seats.

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

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Garcia is recognized.

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

I would like to present to the committee two companion proposals, the first of which introduces a new perspective on the issue of a self-reliant and independent national economy. If I may be permitted, I would like to present a very brief explanation for the proposed amendment, which reads: "THE NATIONAL MARKET FOR GOODS AND SERVICES SHALL BE PROTECTED FROM FOREIGN COMPETITION PREJUDICIAL TO THE DYNAMIC DEVELOPMENT OF LOCAL INDUSTRIES IN A PROGRESSIVE ECONOMY.

"THE STATE, THROUGH DEMOCRATIC CONSULTATION, SHALL PLAN THE DEVELOPMENT OF DOMESTIC PRODUCERS IN ALL SECTORS OF THE ECONOMY IN A MANNER THAT WILL ENSURE THEIR VIABILITY AND GROWTH TO SERVICE THE NATIONAL MARKET."

The general context of this amendment is as follows: In terms of population, the Philippines is potentially the fifteenth largest national market in the world. The proposal says, in effect, that the national market must be serviced first and foremost by the development of local industries that will provide for the basic goods and

services needed by our people. The State must promote reliance on local production initiatives to meet the consumption needs of the citizens by promoting, for example, the local processing of agricultural products to meet local consumption needs rather than undue reliance on foreign trade susceptible to the vagaries and instabilities of the international market and subject to the domination of the developed countries.

Inasmuch as the mechanisms of private enterprise promote the philosophy of free trade and the value of foreign competition, the State must be given a clear mandate to act as an effective counterweight in promoting Filipino control of economy and in enhancing the progressive growth of local industries that service the domestic market. This is the proposal that I would like to make.

THE PRESIDING OFFICER (Mr. de los Reyes): What is the reaction of the committee to the Garcia proposal?

MR. VILLEGAS: We have studied this proposal since Commissioner Garcia gave it to us sometime ago and the reaction of the members of the committee here is that it is really a rehashing of the protectionist measure that was fully discussed in Section 1 and especially if, as was already intimated this morning, we can come to an agreement on how to improve the style of Section 1. We think this would be unnecessary.

THE PRESIDING OFFICER (MR. de los Reyes): In other words, the committee does not accept.

MR. MONSOD: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: Even the wording of the second line of this section talks about protection from foreign competition and we feel that this is already covered by Section 1. Furthermore, with due respect to Commissioner Garcia, the same issue was discussed. The Commissioner has already discussed this issue during our discussion of Section 1. I am sure that the records of the Commission will reflect the same arguments that the Commissioner has proposed today. So we feel that this has already been fully discussed and fully resolved. As a matter of fact, without meaning to be repetitive, we feel that this is again an issue that reopens Section 1 and this is in the nature of a reconsideration of Section 1 because this is the same issue that was raised and fully discussed and fully resolved in Section 1. At this Point, we do not want to raise again the question of point of order and, therefore, we would like to appeal to Commissioner Garcia to withdraw this proposal in the context of the explanations and the manifestations of Commissioner Suarez and this committee shortly before lunch.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Garcia is recognized.

MR. GARCIA: Mr. Presiding Officer, may I respond?

THE PRESIDING OFFICER (Mr. de los Reyes): The Commissioner may proceed.

MR. GARCIA: We have discussed this at length, it is true, but at the same time, as I mentioned earlier in my introductory remark, it is a new perspective on the same problem. In other words, here, it is a national market we are trying to envision as having high potential for growth, being a very large national market. Therefore, it is important to give the privilege of servicing that market to Filipino entrepreneurs and enterprises that would meet basically the needs in goods and services of the people. In other words, although I recognize that this has been discussed in Section 1, still, I believe that taken from a different perspective, the national market approach could also in a sense help safeguard and preserve the preeminence of Filipino interest in that area.

MR. MONSOD: If I remember correctly, the first time the Commissioner raised this, he called it the patrimony of the country — that the market was part of the patrimony of the country. Therefore, it belongs to Filipinos.

MR. GARCIA: That is right.

MR. MONSOD: The market is composed of buyers and sellers.

MR. GARCIA: Yes.

MR. MONSOD: Who are being protected?

MR. GARCIA: Basically, we are protecting in the long term the entire Filipino industries and the Filipino nation because we are able to build a self-reliant economy here, both for the Filipino industries and the Filipino consumers.

MR. MONSOD: If we take a look at the discussions on this point in the minutes, if we look at Section 1 as a rehash and a representation of what has already been discussed and resolved in Section 1, this committee's position, therefore, is that this is a reconsideration of Section 1 and is out of order.

THE PRESIDING OFFICER (Mr. de los Reyes): Is the Commissioner asking the Chair to rule on the proposal of Commissioner Garcia as an out-of-order proposal?

MR. MONSOD: We are asking the Chair on the basis of this reading of Section 1 and the records of the discussions that that was the point discussed in Section 1 and therefore would constitute a reconsideration of Section 1.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Rodrigo is recognized.

SUSPENSION OF SESSION

MR. RODRIGO: May I ask for a suspension of the session for a few minutes?

THE PRESIDING OFFICER (Mr. de los Reyes): The session is suspended.

It was 3:15 p.m.

RESUMPTION OF SESSION

At 3:17 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes): The session is resumed.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): The Floor Leader is recognized.

MR. RAMA: There is a request that we should go into a vote on the amendment instead of taking up the suggestion on the issue of out of order.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: In the context of that request to vote on the proposed amendment, can we handle this the way we handled the earlier question and just put it to a vote without considering this as a reopening of Section 1?

MR. RAMA.: I think the body is ready to do so. I have asked Commissioner Garcia who is willing to submit it to a vote.

MR. GARCIA: All right. If the body wishes, I will read the text of the amendment once again.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Garcia may proceed.

MR. GARCIA: The proposed new section will read: "SECTION ____ . THE NATIONAL MARKET FOR GOODS AND SERVICES SHALL BE PROTECTED FROM FOREIGN COMPETITION PREJUDICIAL TO THE DYNAMIC DEVELOPMENT OF LOCAL INDUSTRIES IN A PROGRESSIVE ECONOMY.

"THE STATE, THROUGH DEMOCRATIC CONSULTATION, SHALL PLAN THE DEVELOPMENT OF DOMESTIC PRODUCERS IN ALL SECTORS OF THE ECONOMY IN A MANNER THAT WILL ENSURE THEIR VIABILITY AND GROWTH TO SERVICE THE NATIONAL MARKET "

MR. VILLEGAS: Let me just summarize the stand of the committee.

It is very clear in the records of the discussion on Section 1 that we object to any protection that is given to the market. Protection has to be given to individual Filipino entrepreneurs. Thus, any attempt to protect the market always results in a tremendous prejudice to 55 million consumers today and 70 million consumers in the year 2000. So, very clearly that was the stand. The minority disagree and they make what we consider illogical distinction between producers and consumers being eventually benefited by protectionism, and that is exactly the bone of contention. Therefore, the statement that the national market is being protected is inherently objectionable. Secondly, all the statements in the other sections which talk about the State promoting the preferential use of domestic materials, of Filipino labor and of locally produced goods, more than enough cover the intent of this specific amendment. That is why we are not accepting this new amendment.

MS AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Aquino is recognized.

MS. AQUINO: May I seek clarification on that statement by Commissioner Villegas?

THE PRESIDING OFFICER (Mr. de los Reyes): The Commissioner may proceed.

MS. AQUINO: Is the Commissioner, in effect, saying that regardless of whether Filipino enterprises are capable of taking up the measured capacity, that is, the supply and demand gap, they are not entitled to protection?

MR. VILLEGAS: No. They are entitled to protection if: (1) they are infant enterprises, because it would be unfair to subject them to competition with the Goliaths of international trade; and (2) they are paying very high rates in electricity and if they are being taxed unnecessarily. If certain industries in Korea and Taiwan are being subsidized through very low interest rates. . . I can go on and on.

MS. AQUINO: This is regardless of whether or not it is able to take up the measured capacity, it may be protected.

MR. VILLEGAS: Yes, exactly.

MS. AQUINO: Thank You.

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes): Is the body ready to vote now?

As many as are in favor of the Garcia proposal, please raise their hand. (Few Members raised their hand.)

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

As many as are abstaining, please raise their hand. (Two Members raised their hand.)

The results show 15 votes in favor, 20 against and 2 abstentions: the proposed amendment is lost.

MR. GARCIA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Garcia is recognized.

MR. GARCIA: I would like to read also my companion amendment.

THE PRESIDING OFFICER (Mr. de los Reyes): The Commissioner may proceed.

MR. GARCIA: "SECTION ____ ECONOMIC NATIONALISM SHALL BE FOSTERED IN ALL SCHOOLS AND PROPAGATED BY THE STATE WITH A VIEW TO INCREASING FILIPINO PARTICIPATION IN THE ECONOMIC DEVELOPMENT OF THE COUNTRY AND IN THE PROMOTION AND PATRONAGE OF LOCAL PRODUCTS AND SERVICES "

THE PRESIDING OFFICER (Mr. de los Reyes): Is that being proposed as another section?

MR. GARCIA: Exactly, as an unnumbered section.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Davide is recognized.

MR. DAVIDE: I am in favor of this amendment. However, I feel that it should be included in the Article on Education, Science, Technology, Arts and Culture as submitted by the Committee on Human Resources. I would like to inquire: The moment this proposal will be rejected, can it be reintroduced in the said article? Or, would its rejection now foreclose its presentation in the said article which is the most appropriate article? Like the Article on Human Rights, I really believe that that amendment should be part of the curricula of all schools.

MR. VILLEGAS: Mr. Presiding Officer, since we also have had ample time to study this — Commissioner Garcia gave this to us ahead of time — our reaction is that the first part really coincides with the recommendation of Commissioner Davide that economic nationalism should be incorporated into the definition of nationalism and patriotism that we have been considering in the committee report submitted by the Committee on Human Resources. It is a matter of either expanding that specific section in the proposed articles submitted by the Committee on Human Resources, or actually reading into the records that when we talk about inculcating patriotism and nationalism, we should include economic nationalism, in addition to cultural nationalism and other types of nationalism that may be defined.

The second part is clearly included in the provision that was approved which says that the State shall promote the use of Filipino labor, of domestic raw materials and of locally produced goods, so I think it would be clearly a surplusage if we once again mention that the promotion and patronage of local products and services will be the objective of the State.

That is the stand of the members of the committee here, and my answer to Commissioner Davide's question is: It does not preclude someone during our deliberations on the article submitted by the Committee on Human Resources from bringing up the possibility of either expanding the definition of nationalism or actually reading it into the records.

THE PRESIDING OFFICER (Mr. de los Reyes): Does the Commissioner insist on his proposal?

MR. GARCIA: In the light of that explanation, I would suggest that this be incorporated in the Article on Education. But I would like to make this remark very briefly. This amendment really looks forward or towards the

future, because I believe that to build a sound economy that is self-reliant, independent and effectively controlled by Filipinos, we in effect have to do it also and build it in the consciousness and in the minds of the young. Therefore, this in a sense is working towards that realization — to patronize our own products, our own services and to be willing to increase Filipino participation in all areas.

These cannot be done simply by legislation. There has to be also a change in consciousness, a transformation of economic attitudes; and that is why I thought it is important to have it also in the Article on National Economy and Patrimony. But if the committee feels that this could be incorporated better in the Article on Education, I would be willing to present it when the time comes.

THE PRESIDING OFFICER (Mr. de los Reyes): Is the Commissioner withdrawing his proposal?

MR. GARCIA: I am not withdrawing my proposal. I will reserve my proposed amendment when the discussion on the Article on Education is opened once again.

THE PRESIDING OFFICER (Mr. de los Reyes): Is the amendment temporarily withdrawn from this committee?

MR. GARCIA: From this committee, yes.

MR. MONSOD: Thank you.

We also wanted to add, as Commissioner Villegas said, that this committee and this body already approved what is known as the Filipino-First policy which was suggested by Commissioner de Castro. So, that is now in our Constitution.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I rise on a parliamentary inquiry?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Sarmiento is recognized for a point of parliamentary inquiry.

MR. SARMIENTO: Mr. Presiding Officer, this morning I submitted a proposed amendment to the committee but the committee did not act on it and the body did not also vote on this proposed amendment. For clarity and for the information of this body, my amendment states: "THE STATE SHALL PROMOTE THE ECONOMIC INTEREST OF THE FILIPINO PEOPLE TO ENABLE THEM TO GAIN EFFECTIVE AND BENEFICIAL CONTROL OVER ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT THROUGH APPROPRIATE MEASURES THAT WILL SUPPORT ALL SECTORS OF SOCIETY TO PARTICIPATE IN THE OWNERSHIP AND MANAGEMENT OF ECONOMIC ENTERPRISES AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE COUNTRY."

May I know the reaction of the committee to this proposed amendment?

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: We believe that the proposed amendment is unnecessary not because it has no merit but because it is already in the provisions that have been approved. Section 1 provides that the State is mandated to encourage the broad ownership of private enterprises. Included in this section is the task of the State to promote the ownership by employees of other sectors in the enterprises, because, as Commissioner Garcia has said, the future of our country depends on our ability to own our enterprises and to democratize the ownership of these

enterprises. As a matter of fact, the Board of Investments has a rule for those who have incentives to offer their shares to the public but this has not been very successful because the terms have not been attractive. So by our records, this should also remind Congress to have attractive terms so that the workers and employees will have the incentive to buy shares.

I also think that in the section we have approved which states that Congress shall create an agency which shall promote the viability and growth of cooperatives as instruments for social justice and economic development, we are also asking Congress to give incentives to groups of people, employees or whatever to establish cooperatives which can own economic enterprises because that is again part of the democratization of the wealth objective of the country. So, we believe that the Commissioner's proposal is already incorporated in the present sections of the Article on National Economy and Patrimony.

THE PRESIDING OFFICER (Mr. de los Reyes): Is Commissioner Sarmiento satisfied with the answer to his inquiry?

MR. SARMIENTO: I have only one question, Mr. Presiding Officer. Did I hear Commissioner Monsod right when he said that the employees shall share in the ownership of enterprises?

MR. MONSOD: Yes, the enterprises should be encouraged and there should be incentives to enable the employees to own shares. It need not come alone from the owners of the enterprises. The government itself can give subsidized loans for the employees who want to buy shares. It can also give incentives to the employees to form investment clubs. This practice is usually done in the United States to enable the employees to have the incentives to own shares from their companies. These employees are the ones who know whether the share is attractive or not because they know how the company is doing. Hence, when they want to buy their shares, then the incentives should be given to them to enable them to do so.

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

THE PRESIDING OFFICER (Mr. de los Reyes): The Floor Leader is recognized.

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

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Quesada is recognized.

MS. QUESADA: Mr. Presiding Officer, I would like to propose an amendment to define the role and scope of participation of foreign investment in the national economy. The idea is not to repeat what has already been discussed or covered in Section 1, but to expand or to clarify how some of the principles enunciated in Section 1 could be concretized.

THE PRESIDING OFFICER (Mr. de los Reyes): The Commissioner may proceed.

MS. QUESADA.: The proposal is: "FOREIGN INVESTMENT SHALL PLAY A SECONDARY ROLE IN THE NATIONAL ECONOMY. IN ALL CASES FOREIGN INVESTMENTS SHALL BE SUBJECT TO DIVESTMENT BASED UPON TERMS AND CONDITIONS THAT CONGRESS SHALL FORMULATE GIVING DUE REGARD TO FAIR AND EQUITABLE COMPENSATION AND TO PRIOR RIGHTS OF EMPLOYEES OF THE ECONOMIC ENTERPRISE TO ACQUIRE OWNERSHIP."

There are actually two elements in this proposal. One is to have a concrete guide for Congress saying that foreign investment shall play a secondary role. The second concept here is divestment which Commissioner Monsod has somehow expressed but not very concretely when he said that employees will be given the right to own some shares in the enterprise. May I just explain the position?

THE PRESIDING OFFICER (MR. de los Reyes): The Commissioner may proceed.

MS. QUESADA: This amendment is proposed to explicitly state what form of foreign investment that the country would like to attract. In precise terms, this particular amendment addresses the extent of participation of foreign investment, maintaining always the unequivocal condition of contributing to long-term growth of the economy. Participation of foreign investment may be allowed under conditions that will favor a real economic contribution in areas where there is proven scarcity of domestic capital or where specific foreign technology is needed for the development and improvement of production after this condition has been exhaustively evaluated, except in economic activities which are critical to the stability of the economy and to national security.

The following guidelines are contained in the UP School of Economics paper towards recovery and sustainable growth which has been authored by Minister Monsod, et al:

- (1) A multinational firm should be required to export a stipulated proportion of its output, 70 percent of which would be an indicative number.
- (2) A multinational firm will not be allowed to avail of domestic capital, except for working capital purposes.
- (3) The rule on foreign ownership which will be eventually adopted should be followed strictly. No loopholes and exceptions, such as pioneer industries should be allowed.

There is also the concept here of democratization which has been expressed by Commissioner Monsod and that we are also focusing on how the common good can be best served; that is, not to concentrate on a few established economic interest, by ensuring that there will be this divestment after a period of time. I suppose that this is the divestment program covered in the Board of Investments rules, but I was thinking that perhaps there is a need to express in concrete terms this guideline which would be in keeping with some of the approved additional provisions; namely, the creation of the agency which shall promote the viability and growth of cooperatives.

We have also approved the provision mandating the State to promote a trade policy that serves the general welfare and utilizes all forms of arrangement of exchange on the bases of equality and reciprocity. We have also a provision on foreign loans. We have also a provision that would promote and sustain the development of a national talent pool of Filipino entrepreneurs and also on the preferential use of Filipino labor. I suppose this proposal would make explicit our guidelines on the kind of foreign investment that would contribute to the national economy and translate the basic principle contained in Section 1.

THE PRESIDING OFFICER (Mr. de los Reyes): What is the reaction of the committee?

Is Commissioner Quesada through?

MS. QUESADA: Yes.

Thank you, Mr. Presiding Officer.

MR. NOLLEDO: Mr. Presiding Officer, may I ask some clarificatory questions?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you.

Will the lady Commissioner please yield to some questions?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Quesada may yield, if she so desires.

MS. QUESADA: Willingly.

MR. NOLLEDO: What does the Commissioner specifically mean by saying that foreign investment shall play a secondary role in the national economy? Am I right if I say that foreign investment will be welcome only in areas which are not adequately exploited by Filipinos?

MS. QUESADA: That is the implication.

MR. NOLLEDO: And that, this should give way to the rule that Filipinos should be given first the chance to invest in such areas of investment before foreigners will be given the opportunity to do so?

MS. QUESADA: That is also the understanding of this Particular principle.

MR. NOLLEDO: When the Commissioner talks of divestment, does she contemplate a particular period during which a foreign investor may operate in the Philippines?

MS. QUESADA: The rules of the Board of Investments provide a period of ten years before a divestment program could begin and this is actually in keeping with our belief that by that time, these foreign investors would already have contributed and they would have all profited from their investments in the Philippines. And by then, the Filipinos would already have developed the technology and the managerial competence by which they could also become involved in the management of an enterprise.

So, this is actually our idea of these foreign investments contributing to a self-reliant economy and that we will not forever be kept dependent on them. I think that is what all of us believe in; that we cannot remain dependent, but that we should learn how to stand on our own. If we can attract foreign investors who will have that kind of interest in the Philippines, knowing that we are still a developing country, I am sure that there will be many such countries who would be willing to help the Philippines, especially under the new dispensation of President Aquino.

So, we will be more selective. I understand that there are other developed countries who are just willing to have that kind of intention in our country.

MR. NOLLEDO: Is the lady Commissioner aware of a provision in the investment law that investors shall enjoy freedom from expropriation? The provision states and I read:

There shall be no expropriation by the government of the property represented by investments or the property of enterprises except for public use, or in the interest of national welfare and defense and upon payment of just compensation.

Would the Commissioner agree with me that if her proposed amendment is approved by the body, this provision of the investment law will be superseded?

MS. QUESADA: I suppose that once it is approved it will supersede all existing laws that would be in contradiction with what is provided in the fundamental law.

MR. NOLLEDO: In that case, the moment equitable compensation is paid, would the Commissioner agree with me that that compensation can be remitted by the recipient, perhaps, under certain conditions to his estate, to the estate of the investor?

MS. QUESADA: I suppose so.

MR. NOLLEDO: Is it possible then that this just compensation be made subject to the condition that it shall also be invested in the Philippines?

MS. QUESADA: The Congress should be able to formulate the policy guidelines that would govern this

particular arrangement.

MR. NOLLEDO: Therefore, the terms and conditions that Congress may fix on divestment shall be dependent upon the Members of the Congress themselves.

MS. QUESADA: Yes.

MR. NOLLEDO: I think the amendment is reasonable enough. I am going to support it.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Aquino is recognized.

MS. AQUINO: I fully concur with the spirit and intent of the proposed amendment, but I have serious doubt about the first line. The intended potency in terms of restricting foreign investments may be effectively watered down by the first sentence being susceptible to misinterpretation. It could even set the pace for unmitigated influx of foreign capital. I have no quarrel with foreign capital. In fact, I am willing to concede that foreign capital is needed for industrialization, but what is desirable is not direct foreign investment but loans in the form of capital goods that would militate against the possibility of foreign investment directly flooding the private Filipino entrepreneurs.

On the second note, I could distinctly remember that in the previous discussions, Commissioner Ople had the savvy and the candor to withdraw an approved amendment, if only to yield to the questions raised by some of the Commissioners that the constitutionalization of the phrase "foreign investment" may be fraught with danger. The way "foreign investment" is being used now in the first sentence is exactly the kind of danger that I have been very conscious and wary about.

MS. QUESADA: Does the Commissioner have any proposed amendment to this formulation?

SUSPENSION OF SESSION

MS. AQUINO: Mr. Presiding Officer, may I move for a suspension of the session?

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection? (Silence) The Chair hears none; the motion is approved.

The session is suspended.

It was 3:43 p.m.

RESUMPTION OF SESSION

At 3:50 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes): The session is resumed.

MS. QUESADA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Quesada is recognized.

MS. QUESADA: Mr. Presiding Officer and distinguished members of the committee, we have arrived at a compromise; thanks to Commissioners Aquino, Azcuna and Sarmiento. This formulation has been inspired by the Charter of Economic Rights and Duties of States which the Philippines cosponsored with 96 other nations and the United Nations in 1974. It states: "THE STATE SHALL REGULATE AND EXERCISE AUTHORITY OVER

FOREIGN INVESTMENTS WITHIN ITS NATIONAL JURISDICTION AND IN ACCORDANCE WITH ITS NATIONAL GOALS AND PRIORITIES." This particular provision would then cover such acts as divestments. This would actually now remove the succeeding formulation which is on the divestments based upon the terms and the conditions that Congress shall formulate.

THE PRESIDING OFFICER (Mr. de los Reyes): Will the Commissioner please read again the exact proposal.

MS. QUESADA.: The exact proposal reads: "THE STATE SHALL REGULATE AND EXERCISE AUTHORITY OVER FOREIGN INVESTMENTS WITHIN ITS NATIONAL JURISDICTION AND IN ACCORDANCE WITH ITS NATIONAL GOALS AND PRIORITIES."

THE PRESIDING OFFICER (Mr. de los Reyes): What is the reaction of the committee?

MR. MONSOD: The committee accepts.

MS. QUESADA: Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes): The committee has accepted the amendment.

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

MR. MONSOD: Thank you.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Aquino is recognized.

MS. AQUINO: In order to clarify for the record the modalities of the State regulations, may we request Commissioner Quesada to answer a few questions.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Quesada may yield, if she so desires.

MS. QUESADA: Willingly.

MS. AQUINO: For the record, may we ask the Commissioner to please state the modalities within which the State could assert State regulation and restriction of foreign investments?

MS. QUESADA: The modality for such regulation would consist of the divestments scheme, based upon terms and conditions that Congress shall formulate, giving due regard to fair and equitable compensation and to prior rights of employees of the economic enterprise to acquire ownership.

MS. AQUINO: Thank you.

MR. MONSOD: We do not agree with that interpretation because that is not clear in the intent of the section. The provision is now in the jurisdiction of the committee and that is not the interpretation of the committee.

MS. QUESADA: I submit.

THE PRESIDING OFFICER (Mr. de los Reyes): What is the interpretation of the committee?

MR. MONSOD: We leave it entirely to Congress in order to determine the rules and regulations for the same reason that there now exist investment laws in the country, but this section does not necessarily mandate divestment.

MS. AQUINO: But neither does it preclude a scheme of divestment.

MR. MONSOD: Right now, the investment laws have such a scheme, but not the focus of this section.

MS. AQUINO: When the Commissioner said that he disagreed with the interpretation, it was as if he were rejecting it as a possible modality.

MR. MONSOD: We disagreed with it because it was presented as the focus of the section.

MS. AQUINO: As the intent, but it could be interpreted as a mode which can possibly provide for a statute.

MR. MONSOD: That is within the realm of possibility.

MS. AQUINO: Yes.

MR. VILLEGAS: Mr. Presiding Officer, let me just point out that Section 9 is very clear that if Congress feels that certain industries of investment should be 100 percent Filipino, it is perfectly free to actually legislate for a 100 percent Filipino ownership and, therefore, divestment is automatically included in that kind of legislation.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Davide is recognized.

MR. DAVIDE: Taking into account the manifestation of the chairman of the committee and the modalities expressed by. Commissioners Aquino and Quesada, would it mean, therefore, that divestment as proposed in the amendment of Commissioner Quesada would well be covered by Section 9? In other words, when Congress exercises the authority as provided in Section 9, is divestment always allowed?

MR. VILLEGAS: Obviously.

MR. DAVIDE: Thank you.

MR. MONSOD: That is in the investment laws and ones not need to be manifested here.

MR. SARMIENTO: Mr. Presiding Officer, just a few questions.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Commissioner Quesada said that this amendment was inspired by the Charter of Economic Rights and Duties of States. Am I correct?

MS. QUESADA: Yes.

MR. SARMIENTO: We all know that the Philippines cosponsored with 96 other nations in the United Nations in 1974 the signing of this Charter of Economic Rights and Duties of States. Am I correct?

MS. QUESADA: I have said so.

MR. SARMIENTO: All right. This Charter of Economic Rights and Duties of States was the product of a study conducted by a 20-man committee called the group of eminent persons to study the role of multinational corporations and their impact on the process of development and also their implications for international relations. Am I correct?

MS. QUESADA: Yes.

MR. SARMIENTO: Now, this 20-man committee made 50 recommendations in connection with the regulation and exercise of authority over foreign investments. May I mention these two recommendations: (1) The group — I am referring to the 20-man committee — recommended that each host country should decide, in the light of its own needs and aspirations, those areas of economic activities in which the State will accept foreign investment and those which it wants to reserve for indigenous companies, and specified clearly the conditions upon which such

investments should be allowed in these sectors.

Does this amendment cover or contemplate this recommendation made by this 20-man committee?

MS. QUESADA: Yes.

MR. SARMIENTO: This committee also made this recommendation: (2) It suggests that the host country indicate the areas where foreign investment would be allowed; that it should also lay down as precisely as possible the conditions under which multinational corporations should operate and that such host country consider creating provisions for the review of such conditions at the request of either side, after suitable intervals. Now, does this amendment cover also this recommendation by this United Nations group?

MS. QUESADA: Yes.

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

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: May we say that the opinions read by Commissioner Sarmiento from the source he was reading represent the opinion of that body and perhaps his opinion, but not necessarily the opinion of the committee. That is up to Congress; that is precisely why we are leaving it to Congress. It is not mandatory.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Padilla is recognized.

MR. PADILLA: With regard to Section 9 where Congress may require a higher percentage, I am of the opinion that whatever Congress legislates will have prospective effect. It cannot have a retroactive effect, otherwise it may impair, the obligations of contracts or even vested rights. Hence, I do not agree with the opinion that the foreign investor may be compelled to be divested of what it has enjoyed under the Constitution and the laws then existing, much less can we compel a foreign investor, like any private entrepreneur, from being divested of its participation or share in favor of any particular sector or particular persons.

I believe in the basic rule that laws are prospective, not retroactive. Every law should be prospective in its application. And in expressing my legal opinions, I hope I am not wrong, a contrary interpretation might destabilize many existing business enterprises, and definitely will be a disincentive to foreign investment.

THE PRESIDING OFFICER (Mr. de los Reyes): The opinion of Commissioner Padilla is noted.

MR. VILLEGAS: Mr. Presiding Officer, I fully concur with the interpretation of Commissioner Padilla. The committee concurs in the sense that the law cannot have a retroactive effect, and the divestment scheme precisely is one that will apply to all prospective investors.

So, here, we are talking about how a divestment scheme can be incorporated into a law, and this falls within the purview of Section 9, as long as the intention is prospective rather than retroactive.

MR. RAMA.: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): The Floor Leader is recognized.

MR. RAMA: There is a previous question; we have to take a vote on the amendment of Commissioner Quesada.

THE PRESIDING OFFICER (Mr. de los Reyes): There was no objection to the amendment of Commissioner

Quesada, and it was approved without objection.

MR. RAMA: Our procedure is that we would still have to take a vote, even if there is no objection.

THE PRESIDING OFFICER (Mr. de los Reyes): Even if it was accepted by the committee?

MR. RAMA: Yes, the body will still have to vote on that particular amendment.

THE PRESIDING OFFICER (Mr. de los Reyes): The usual procedure is that when there is no objection and the amendment is already accepted by the committee there is no more need for a vote.

MR. RAMA: If that is the interpretation and is accepted by the body, then I would ask that we close the period of amendments.

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection that we close the period of amendments?

MR. RAMA: There is still one speaker to present an amendment. May I ask that Commissioner Gascon be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes): Does Commissioner Gascon have an additional amendment?

MR. GASCON: Yes, I have.

THE PRESIDING OFFICER (Mr. de los Reyes): The Commissioner may proceed.

MR. GASCON: This proposed amendment which I presented to the committee in a meeting last Friday was not accepted as additional amendments. However, in the course of some discussions, they said I would be allowed to present these amendments on the floor for enrichment of the records.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Gascon may proceed.

MR. GASCON: The first amendment is an additional section which would read: "THE CONGRESS MAY PROVIDE FOR THE FORMATION OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS ESTABLISHED WITH THE END IN VIEW OF TRANSFERRING OWNERSHIP TO THE WORKERS THEREIN." The rationale is to concretize the equitable distribution of wealth. It is not enough that there is public ownership of certain corporations, but rather, the propertyless and the less privileged sector should be given direct ownership of the means of production and the products which they labor over.

So, let us say hopefully that in the future, the government's capital could be the initiator for the encouragement of creation of corporations which in the long run will be given to the workers themselves through their hard work and through their process of buying the capital which was initiated or initially invested by the government itself.

The State sets up a corporation in an area of investment, preferably or probably one that deals with mass consumption. The State however does not crowd out any existing private corporations which may be presently operating in such a field. Hence, the government controlled corporations shall be a small- or medium-scale industry, since the market for mass consumption goods has not been extensively used. Of course, there will still be room for other industries which the government can enter into.

Moreover, the government shall act as an administrator to a corporation until such time that the enterprise becomes viable and operational. Capital stock shall then be transferred under the names of the workers of that corporation. The workers in effect would have earned their shares through their labor and they can determine the policies regarding operation of the corporation. Then when a worker decides to leave the corporation, his stocks would go back to the State. The intent is basically that in Section 1 we have the goal of equitable distribution of wealth and this proposed provision would allow Congress to initiate such steps toward distributing ownership and

wealth.

MR. NOLLEDO: Mr. Presiding Officer, may I ask the proponent some questions?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Gascon will yield, if he so desires.

MR. GASCON: Yes, gladly.

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

Will the Commissioner's proposed amendment apply to existing government-owned or controlled corporations? I ask because the Commissioner's amendment states: "THE CONGRESS MAY PROVIDE FOR THE FORMATION OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS," indicating that if it were approved, his amendment will have only prospective effect. How about the existing government-owned or controlled corporations?

MR. GASCON: The original intent of this proposed section is prospective in nature. However, I feel that if there are certain present government-owned or controlled corporations which are of public ownership and there are some attempts of expanding ownership to a greater number, it is also a possibility which Congress could consider but my intent is primarily prospective.

MR. NOLLEDO: The Commissioner said that when the stocks are transferred to the workers but the workers do not want to stay in the corporation as investors, these workers would transfer the stocks to the government.

MR. GASCON: Exactly, they cannot sell their stocks to someone else; the stocks go back to the State and will accrue to new workers who will come in.

MR. NOLLEDO: Would it not be better that these transferers transfer their stocks to existing stockholders or to their coworkers in the corporation?

MR. GASCON: So long as they are workers of that corporation.

MR. NOLLEDO: Am I right if I say that the purpose of the Commissioner's amendment is for the government to take the initiative because the government has the resources at its command and that it can ultimately transfer the ownership to the workers who do not have capital of their own?

MR. GASCON: Yes, exactly, because we realize that in a country such as ours where there are so many who are poor, oftentimes it becomes difficult for them to become initiators simply because they do not have the necessary capabilities or capital. However, the government can become active participant in encouraging more people to become active producers in our economy by initiating with the end in view of transferring ownership to them in the long run, of course, based on compensation back to the government.

MR. NOLLEDO: Would the Commissioner agree with me if I say that this provision should apply only to areas of investment that are not yet presently adequately exploited by other private corporations?

MR. GASCON: Yes. I stated that in the concept, this provision should not crowd out any existing private corporations which may be presently operating in a certain field. That is why I perceive it to be concentrated directly on small- or medium-scale industries and in areas of investment, primarily dealing with mass consumption, like food, clothing, et cetera.

MR. NOLLEDO: Thank you.

MR. GASCON: Thank you.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Davide is recognized.

MR. DAVIDE: May I be clarified on certain points?

MR. GASCON: Certainly.

MR. DAVIDE: How would the Commissioner either reconcile or harmonize this amendment with the proposed Section 11, whose second sentence reads as follows: "Government-owned or controlled corporations may be created or established BY SPECIAL CHARTER in the interest of the common good AND SUBJECT TO THE TEST OF ECONOMIC VIABILITY"? How would the Commissioner reconcile an apparent inconsistency? Section 11 provides the guidelines before a government-owned or controlled corporation may be created by a special charter.

MR. GASCON: That is correct.

MR. DAVIDE: Then, how would the Commissioner harmonize it in the sense that according to Section 11, before any such corporation could be organized, we have the following tests or preconditions: interest of the common good and subject to the test of economic viability.

MR. GASCON: I do not believe that there is inconsistency here. In fact, it would even supplement Section 11. So, when the government initiates the creation of government-owned corporations, it must have also considered these preconditions: the interest of the common good and economic viability. However, my concern is not only these two, but perhaps we could also further consider that in the long run, the provision shall transfer ownership to the workers therein.

MR. DAVIDE: Let us put it this way. Under the Commissioner's proposal, the following requirements would still be needed or complied with: interest of the common good and subject to the test of economic viability.

MR. GASCON: Yes. I think it is more supplemental than contradictory.

MR. DAVIDE: Another point is: Would not the phrase "common good" include the possibility of a transfer of ownership to the workers?

MR. GASCON: Not necessarily.

MR. DAVIDE: But can it include?

MR. GASCON: Yes, it could.

MR. DAVIDE: It could include. In other words, the Commissioner's idea is already included in Section 11, more particularly in the second sentence.

MR. GASCON: It is not clear. When we say "in the interest of the common good," the State could manage such a corporation, but ownership of such a corporation may be limited to the State alone. The intent is that it will transfer ownership to the workers therein. So, there is a difference. When we speak of the phrase "common good," it could handle certain public utilities for the common good. But it is another thing to say that it will transfer ownership to the workers therein as mentioned.

MR. DAVIDE: Did the Commissioner mention public utilities?

MR. GASCON: As a hypothetical situation.

MR. DAVIDE: We have specific provisions on "public utilities." We have Section 15 which states: "The State

shall encourage equity participation in public utilities by the general public." In that regard, would the Commissioner's proposal be either included in Section 9 or in Section 15?

MR. GASCON: To some degree yes, but again there is a difference between "public ownership" per se which means the general public could be stockholders. But the other thing is the owners themselves I think this is also related to the provision on "Cooperatives" which we have also accepted.

MR. DAVIDE: In the Commissioner's proposal, there is the phrase "THE END IN VIEW OF TRANSFERRING OWNERSHIP TO THE WORKERS THEREIN." In the event that the ownership is transferred to the workers therein, would a corporation cease to be a government-owned or controlled corporation?

MR. GASCON: I do not believe so.

MR. DAVIDE: How could it be when the government no longer owns or controls anything?

MR. GASCON: Whenever there is movement of workers outside the corporation the stocks would accrue back to the State.

MR. DAVIDE: So the State still has some form of administration. Is it a movement of the workers out of the corporation or into the corporation to become owners of the said corporation?

MR. GASCON: To become owners, they must move into the corporation.

MR. DAVIDE: So, if the workers would now become owners of the corporation to the full extent, would that corporation cease to be a government-owned or controlled corporation?

MR. GASCON: As I said, there would still be some administrative character of the State.

MR. DAVIDE: If a corporation is totally owned by the workers, what authority will the government have to administer it? Since an eventual divestment by the government to own its interest in the corporation in favor of the workers would necessarily result in making the corporation a private corporation, would not the Commissioner suggest that the government must take steps to encourage the public to organize corporations to be owned by the workers?

MR. GASCON: Yes, in the long run.

MR. DAVIDE: Thank you very much.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: Do I understand from Commissioner Gascon that he is not proposing this amendment and that he wants to make of record certain ideas?

MR. GASCON: Ideally, I would like to propose it, but we had a meeting and the committee did not accept it.

MR. MONSOD: May we say our reasons why we discouraged the presentation of this amendment?

The idea of the government organizing small-and medium-scale enterprises with the end in view of transferring these to workers is fraught with dangers and operational difficulties. In the first place, before it makes an impact — we are talking about small-and medium-sized industries — this has to be a massive undertaking of the government. Our experience in the government — and this is not limited in the Philippines — is that the government does not unfortunately have good entrepreneurial abilities, even in big enterprises. What more in a multiplicity of hundreds of small-and medium-scale enterprises? I think there seems to be a presumption here that the government is an

efficient entrepreneur, but it may be the opposite. In fact, the record shows it is the opposite. So, we will be inflicting upon the poor workers the inefficiency of the government.

Suppose the workers do not want to buy their shares. The government is stuck with these enterprises. Is the Commissioner saying that the workers must agree from the beginning that they must buy the shares of this corporation? I know that the sentiment of the honorable Commissioner is good, because he wants incentives and government support for workers to own enterprises. But this may be the wrong way to do it. As a matter of fact, with the divestment of the government from owning these enterprises, the government would like to offer the employees the shares of stock, but the employees do not want to buy the shares. That is why there are difficulties in the privatization movement of the government and the Commissioner's proposal would aggravate the situation because it mandates the government to set up new enterprises for divestment to workers.

If indeed our economy is based on private initiative and these projects are economically viable, perhaps the route is for the establishment or encouragement of cooperatives. But the initiative to establish or encourage cooperatives should come from the entrepreneurs and not for the government to expend its resources on entrepreneurial functions which could not be handled by the government itself.

MR. GASCON: I have also expressed my point, but I think the government has a role to play in the encouragement of the people's ownership in the long run. That is all.

THE PRESIDING OFFICER (Mr. de los Reyes): Is Commissioner Gascon throwing his amendment to the floor?

MR. GASCON: Yes.

THE PRESIDING OFFICER (Mr. de los Reyes): We shall vote on Commissioner Gascon's amendment. Will the Commissioner please read his amendment again?

MR. GASCON: My proposed amendment reads: "THE CONGRESS MAY PROVIDE FOR THE FORMATION OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS ESTABLISHED WITH THE END IN VIEW OF TRANSFERRING OWNERSHIP TO THE WORKERS THEREIN."

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes): The body is now ready to vote.

As many as are in favor of the Gascon amendment, please raise their hand. (Few Members raised their hand.)

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

As many as are abstaining, please raise their hand. (Three Members raised their hand.)

The results show 12 votes in favor, 20 against and 3 abstentions; the amendment is lost.

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

I have one last proposed amendment.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Gascon may proceed.

MR. GASCON: This is a new section which states: "CONGRESS SHALL ENACT MEASURES THAT WILL ENCOURAGE THE FORMATION AND OPERATION OF ENTERPRISES WHOSE CAPITAL ARE WHOLLY OWNED BY FILIPINOS." Granting that there is indeed a scarcity of domestic capital, we do not force Filipino entrepreneurs to go 100 percent in the ownership of business entities. This is provided in the 60-40 arrangement in favor of Filipinos. However, to encourage nationalization of industries in agricultural, industrial

and service sector so that we may achieve our goal of self-sufficiency, we must perhaps provide some incentives for our citizens to allocate their savings towards more productive endeavors that will be beneficial to the whole society.

So the whole context of this section which I am proposing now is generally for Congress to enact measures to encourage the more daring entrepreneurs who would like to form and operate enterprises which are wholly owned without prejudice to existing equity requirements which are in Section 9.

MR. ROMULO: Mr. Presiding Officer.

MR. NOLLEDO: May I ask some clarificatory questions?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Nolleddo is recognized first before Commissioner Romulo.

MR. NOLLEDO: With the kindest indulgence of Commissioner Romulo.

MR. ROMULO: Yes.

MR. NOLLEDO: Thank you.

Since this provision is worthy of support, I would like to know the meaning of the word "measures." Am I right if I give two examples? One example is extending loans to Filipino applicants, and the second example is granting incentives, like tax exemptions, during the first five years of operation. Am I right?

MR. GASCON: That is correct.

MR. NOLLEDO: Thank you very much.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Romulo is recognized.

MR. ROMULO: Mr. Presiding Officer, I have just two comments. I do not know if the Commissioner is talking about the same thing, but when Senator Diokno sponsored and formulated RA 5186, which is the Investment Law, that is exactly what he had in mind — that in order to encourage principally domestic investors, he laid out a lot of incentives. With these incentives arose the primary classifications of pioneer industry, non-pioneer, preferred and nonpreferred. So I believe that if it is really a measure by Congress, it exists now and perhaps what ought to be done is to refine that when we have a new Congress.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: We believe that the proposal is also covered under various sections, including Section 9 which states that the Congress has the right to reserve ownership to Filipinos and it could even increase. Also there is enough flexibility here because we are talking only in his proposal of "WHOLLY OWNED." The Commissioner should know that the Congress is for 75 percent, 66 2/3 percent, 60 percent and it is really a broader investment law because when we only give incentive to wholly owned, we are, in effect, discriminating against a 95 percent or even a 98 percent Filipino ownership. What I am saying is an absolutist approach to this which may be contrary to the interest of the Filipino entrepreneur.

The Filipino entrepreneur who may not have enough money or people to have a wholly owned enterprise is perhaps also entitled to incentives. We also have sections where we talk about preferential treatment of grants, privileges and concessions. There are also provisions which suggest that Congress should also give incentives for that and on the Filipino-First policy. So, we believe that there is enough flexibility and leeway in the present

articles to accommodate the idea that the Commissioner is presenting here.

MR. GASCON: First, I would like to clarify something. When I propose this amendment, I do not intend to discourage other equity ratios. What I would like to stress is the government encouragement of wholly owned corporations without prejudice to support any incentives to others.

MR. MONSOD: Yes, but what is mandated here is the incentive to the hundred percent. Hence, when we favor one, we disfavor another. That is in the scheme of things. If the Commissioner is saying that these certain areas of investment must be 100 percent Filipino-owned, then he is discriminating against those with 98 percent or less Filipino ownership.

MR. NOLLEDO: May I propound some questions, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Nolleddo is recognized.

MR. NOLLEDO: Thank you.

I do not believe so, Mr. Presiding Officer, because here comes a group of all-Filipinos applying for loans. Between that segment or group of Filipinos, there is a group of all-Filipinos applying for a loan and there is a segment where 90 percent are Filipinos and 10 percent are aliens. The government gives preference to the 100 percent Filipino. I find no inconsistency in that example.

MR. MONSOD: But that is an extremist position. We are saying that in the allocation of debt, it is not only the ownership that counts. Some were saying that we do not need a constitutional provision that specifically favors only wholly owned corporation because there are many Filipinos who deserve it but it may not be wholly owned for reasons which may be beyond their control.

MR. NOLLEDO: That is going towards Filipinization of certain basic industries, and if the State says that an enterprise is wholly owned by Filipinos, then we will give them the incentives including the lending preference. I find no inconsistency here.

MR. VILLEGAS: As Commissioner Monsod has already said, that situation is already included in Section 9 — the 100 percent Filipino-owned can be promoted by Congress. So, we think this amendment is a surplusage.

MR. NOLLEDO: Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes): Is Commissioner Gascon still insisting on his amendment?

MR. GASCON: Despite some comments that this amendment is a surplusage and it is already covered by Section 9, I suggest that we rather put it to a vote. Besides, what is one section among friends?

THE PRESIDING OFFICER (Mr. de los Reyes): Will Commissioner Gascon please read his proposal again?

MR. GASCON: My amendment reads: "CONGRESS SHALL ENACT MEASURES THAT WILL ENCOURAGE THE FORMATION AND OPERATION OF ENTERPRISES WHOSE CAPITAL ARE WHOLLY OWNED BY FILIPINOS."

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes): As many as are in favor of the second Gascon amendment, please raise their hand. (Several Members raised their hand.)

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

The results show 16 votes in favor and 16 against.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Bengzon is recognized.

MR. BENGZON: Commissioner Regalado is resting, and he told me that he would participate because he could hear everything. May we send someone to get his vote?

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Davide is recognized.

MR. DAVIDE: Would that be allowed under the Rules?

THE PRESIDING OFFICER (Mr. de los Reyes): We do not have to go into that extent. Maybe we will just break the tie.

MR. BENGZON: We will send someone to find out if he can come in and participate in the voting of the Gascon amendment.

MR. DAVIDE: But the results of the voting had already been announced.

MR. NOLLEDO: Mr. Presiding Officer, I think there is some unfairness because it is at the time of the voting that the Chair determines whether there is a tie or none. That is a basic principle in parliamentary practice.

THE PRESIDING OFFICER (Mr. de los Reyes): Section 41 states: "The President or the Presiding Officer shall not be obliged to vote except to break a tie."

Will the Commissioner please read his amendment again?

MR. GASCON: "CONGRESS SHALL ENACT MEASURES THAT WILL ENCOURAGE THE FORMATION AND OPERATION OF ENTERPRISES WHOSE CAPITAL ARE WHOLLY OWNED BY FILIPINOS."

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: May I just volunteer the information that although it is not in our Rules, there are precedents to the effect that if there is a tie, the Presiding Officer can ask for another voting; that is, if the Presiding Officer does not want to break the tie.

THE PRESIDING OFFICER (Mr. de los Reyes): I might as well do that.

MR. VILLEGAS: Commissioner Regalado is coming.

MR. GUINGONA: Mr. Presiding Officer, I wonder if the precedent that Commissioner Maambong is referring to is patterned from the Batasan, because in the absence of specific rules, I think the rule that the Commissioner has read should be followed.

MR. MAAMBONG: The precedent I am talking about is not in the Rules of the Batasan, but I would like to call the attention of the Commission that in the Rules of the Constitutional Commission, we use, in suppletory effect, the provisions not only of the Rules of the Batasang Pambansa but also the Jefferson's Manual. These precedents are found in the Jefferson's Manual and in the Rulings of the Chair in those occasions.

THE PRESIDING OFFICER (Mr. de los Reyes): Section 60 of the Rules provides:

The Rules of the Batasang Pambansa, the Rules of the House of Representatives and the Senate of the Philippines and the Jefferson's Manual may be invoked to govern in a supplemental manner insofar as they are not incompatible with the provisions of these Rules.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Thank you.

Commissioner Regalado has been attending our sessions for the whole morning. Unfortunately, he was resting when the voting took place. He is now present. Can we not give him an opportunity to give his vote on this matter?

I move that he be given an opportunity to vote on this important matter.

REV. RIGOS: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Rigos is recognized.

REV. RIGOS: Mr. Presiding Officer, the voting is over, and the Rules state that in case of a tie, the Presiding Officer may vote. The Presiding Officer will solve the problem if he were to cast his vote now.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Just a moment. Section 106 of the Rules of the Batasan which is applicable in a suppletory character states:

In case of a tie, the Speaker having voted, the motion is lost.

In case of a tie, the Speaker not having voted, the motion is lost unless he opts to vote affirmatively.

A tie vote on an appeal from the ruling of the Chair sustains the decision of the Chair.

MR. GUINGONA: Mr. Presiding Officer, I do not have a copy of the Rules. But from what was read, it would seem to me that the rules mentioned are suppletory. What is even worse is that Commissioner Maambong is referring not to the actual Rules but to the Rulings of the Speaker of the Batasang Pambansa. Perhaps, we could resolve this problem if we call for a nominal voting.

THE PRESIDING OFFICER (Mr de los Reyes): Order please.

MR. GUINGONA: Perhaps we can resolve this problem if the Presiding Officer prefers not to vote to break the tie. We can hold a nominal voting since Commissioner Regalado is already here.

THE PRESIDING OFFICER (Mr. de los Reyes): Is the Commissioner asking for a nominal voting?

MR. GUINGONA: Yes, I am asking for a nominal voting.

THE PRESIDING OFFICER (Mr. de los Reyes): All right, we shall have a nominal voting.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: Mr. Presiding Officer, perhaps in the interest of the unity of the body, we can resolve the problem by the committee accepting the amendment. (Applause)

MR. GASCON: Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes): The committee has accepted the amendment.

Is there any objection?

MR. JAMIR: I object to the committee's acceptance of the amendment.

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes): Then we shall put this to a vote.

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

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

As many as are abstaining; please raise their hand.

MR. DE CASTRO: I abstain, Mr. Presiding Officer, because this is getting to be a diplomatic Constitutional Commission.

THE PRESIDING OFFICER (Mr. de los Reyes) The results show 31 votes in favor, 2 against and 1 abstention; the amendment is approved.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): The Floor Leader is recognized.

MR. RAMA: I move that we close the period of amendments.

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection?

Commissioner Maambong is recognized.

MR. MAAMBONG: Just a point of clarification from the committee.

In the copy that we received, I noticed that we have already approved additional provisions. I am sorry, Mr. Presiding Officer, maybe I was not very attentive when the section on page 7 was considered and which states:

The State shall protect the nation's marine wealth in its territorial waters, territorial sea and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

THE PRESIDING OFFICER (Mr. de los Reyes): That is the Ople amendment.

MR. MAAMBONG: Yes, that is the Ople amendment, I understand. However, I have here a copy of Resolution No. 20 which gave consent to the acceptance by the Honorable Jose B. Laurel, Jr. of the First Class Order of the Rising Sun from the government of Japan by the Batasang Pambansa. But in one of the whereases, it mentions that Honorable Laurel represented the Philippine panel as chairman and negotiated the Treaty of Amity, Commerce and Navigation between the Philippines and Japan in 1960. I wonder if the phrase "economic zone" would affect in any way this treaty mentioned in Resolution No. 20, and I would like to know from the committee if this has been considered because it might affect in some way our relations with Japan. Personally, I do not know the provisions of this treaty. I do not know if the committee can respond to this.

THE PRESIDING OFFICER (Mr. de los Reyes): Will the committee please respond to the query of Commissioner Maambong?

MR. VILLEGAS: Would Commissioner Ople want to respond to this?

MR. OPLE: Yes. It remains to be determined whether or not Japan is a signatory to the Convention on the Law of the Sea and whether or not it has deposited the necessary instrument of ratification. I think the United Nations was waiting for a total of 60 ratifications.

Let us presume that all nations are willing to sign the Convention on the Law of the Sea with the sole exception of the United States. I think these national manifestations have been made and they are a matter of common knowledge. All nations are signifying their intention to ratify this treaty except the United States of America. So if Japan and the Philippines are signatories, I suppose that both countries are bound by the Convention, the 200-mile exclusive economic zone is provided for. In the case of some neighboring countries or adjacent countries, say between Japan and the Soviet Union, actual negotiations have taken place on the economic zone because their seas are narrow and they overlap. In the case of the Philippines, I do not think that there is any basis to fear that this will violate any existing treaty including the Treaty of Commerce, Amity and Navigation with Japan provided that both countries subscribe to the Convention on the Law of the Sea. And it appears at this time — I say this without documentary proof, of course — that both are going to sign or have already signed the Convention on the Law of the Sea and therefore the deposits of the instruments of ratification should be forthcoming.

MR. MAAMBONG: Mr. Presiding Officer, I am prepared to accept the explanation if the committee is also accepting the same.

MR. VILLEGAS: We do accept the explanation of Commissioner Ople.

THE PRESIDING OFFICER (Mr. de los Reyes): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I ask that we close the period of amendments.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Before we close the period of amendments, I would like to request a correction on page 6, the last line of the unnumbered section. It says: "and adopt measures that help them be competitive." I suggest "adopt measures TO MAKE them competitive."

MR. MONSOD: That is being corrected, Mr. Presiding Officer. It should read: "and adopt measures that help make them competitive."

MR. DE CASTRO: Agreed.

MR. MONSOD: Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes): Is the Commissioner satisfied?

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Davide is recognized.

MR. DAVIDE: Before we close the period of amendments, I would like to invite the attention of the Commission and the committee particularly to page 3, the last sentence of Section 4, reading: "The foregoing shall be subject to the requirements of agrarian reform." That should be deleted as a consequence of my amendment to incorporate "requirements of agrarian reform" in the preceding sentence, which is now actually incorporated.

MR. VILLEGAS: The Commissioner is right. This was a typographical error.

MR. DAVIDE: So, I move for the deletion of the sentence: "The foregoing shall be subject to the requirements of agrarian reform," which is the last sentence of Section 4, page 3 of the last working draft.

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection to the Davide motion to delete the last sentence of Section 4? (Silence) The Chair hears none; the amendment is approved.

Is there any other manifestation or amendment?

Commissioner Azcuna is recognized.

MR. AZCUNA: I just would like to change the words "territorial waters" in the Ople amendment to "ARCHIPELAGIC WATERS" because "territorial waters" and "territorial sea" are practically the same. This is also to bring it in line with the archipelagic principle enshrined in the Convention on the Law of the Sea and also in our Article on National Territory.

THE PRESIDING OFFICER (Mr. de los Reyes): What is the reaction of the committee?

MR. VILLEGAS: On page 7, the first unnumbered section.

MR. AZCUNA: Yes, archipelagic waters and territorial sea.

MR. OPLE: Mr. Presiding Officer, the committee now has jurisdiction but as the principal author of this amendment, may I say that I will graciously yield to the proposal of Commissioner Azcuna and would invite the committee to do the same, also with the concurrence of Commissioner Davide, who introduced the phrase "territorial sea" into the amendment.

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Foz is recognized.

MR. FOZ: I would like to ask whether or not we will change "territorial seas" to "ARCHIPELAGIC WATERS."

MR. AZCUNA: No, Mr. Presiding Officer, We changed "territorial waters" to "ARCHIPELAGIC WATERS" because it mentions both territorial waters and territorial seas.

MR. OPLE: So, it will be territorial sea and archipelagic waters.

MR. AZCUNA: Yes, it will be "ARCHIPELAGIC WATERS, territorial seas and the exclusive economic zone," which come geographically one after the other.

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

MR. VILLEGAS: We accept the change in style.

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

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection to the change being proposed by Commissioner Azcuna? (Silence) The Chair hears none; the amendment is approved.

The Floor Leader is recognized.

MR. RAMA: May I reiterate my motion to close the period of amendments.

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: Mr. Presiding Officer, I move that we vote on Second Reading on the whole text of the Article on

National Economy and Patrimony.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Before we vote on Second Reading, I rise with fear and apprehension. Mine would be a radical suggestion and I beg the kindest indulgence of the Members of this august body.

Mr. Presiding Officer, we have finished discussing all of the sections and we deeply appreciate the accommodation given us by the committee. I just would like to move for the suspension of the Rules so that we can discuss some of the provisions which to us are controversial. For instance, my proposal is for the reopening of Section 1, so that instead of using the words "based on," it should be "TOGETHER WITH" or "CONSISTENT WITH." After all, this was the explanation given by the members of the committee when we tackled Section 1.

I respectfully submit, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Sarmiento, if we suspend the Rules, I think it should be made on motion of the chairman of the Steering Committee, in which case it will require a two-thirds vote.

MR. SARMIENTO: Yes, I know that.

THE PRESIDING OFFICER (Mr. de los Reyes): But if it is made by an ordinary Member of this Commission, it will need a unanimous vote.

MR. SARMIENTO: I am aware of that ruling, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Is the Commissioner submitting himself to that rule?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: The committee is in receipt of 22 supposed proposals to amend, based on suspension of the Rules and reconsideration of all the articles that have been approved. The position of the committee is that we have not fully discussed nor have we agreed with the proponents on these proposed amendments. And what we would like to suggest is that instead of voting on the suspension of the Rules, we vote on Second Reading because, in any case, a suspension of the Rules would be necessary while the committee sits down with the proponents and see if we can agree on changes in the provisions that have already been approved.

And so, until that time, it may not be timely for us to suspend the Rules and reopen now because we have not finished. If and when we can agree, then that would be the time to ask for a suspension of the Rules.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Aquino is recognized.

MS. AQUINO: My fear is that the motion being presented by Commissioner Sarmiento is a prejudicial question which some of us may be inclined to vote in favor of or against, depending on the tendencies of the amendments that are being presently considered. Without unduly burdening the committee, I think we should defer the vote on Second Reading until after we have considered the amendments that are now pending.

MR. MONSOD: Mr. Presiding Officer, if the committee is being asked at this time, the committee's position is that the amendments being proposed are too many and are unacceptable to the committee. That is why we do not want to go into that right now. But in any case, we would need a suspension of the Rules and, therefore, we are asking that we go on, without prejudice to such moves, should the committee be able to agree on the changes.

MR. SUAREZ: Mr. Presiding Officer, may we be recognized?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Suarez is recognized.

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

I would like to go along with the suggestion of Commissioner Monsod, short of probably calling for a vote on Second Reading on the article under consideration, because it is a matter of record that quite a number of proposals have been approved in this afternoon's deliberations. It is quite possible that after a careful review of the proposed amendments, many of the provisions approved this afternoon would render moot and academic many of these proposed amendments. I think the committee, as well as the Members of the Commission, would need time to consider the effects of this afternoon's approval of quite a number of proposals.

So, in view of this development, may we suggest that the prejudicial question of suspension of the Rules be suspended and perhaps the committee and the Members on the floor could discuss this among themselves.

THE PRESIDING OFFICER (Mr. de los Reyes): But the motion on the floor is to suspend the Rules, which was made by Commissioner Sarmiento, and it has not been withdrawn. One way or the other, this Commission has to act on it.

MR. SUAREZ: I was wondering whether we could appeal to Commissioner Sarmiento to review the entire situation in the light of this afternoon's developments.

THE PRESIDING OFFICER (Mr. de los Reyes): That depends on Commissioner Sarmiento.

MR. SARMIENTO: Mr. Presiding Officer, with the manifestation of Commissioner Suarez, this humble Member is willing to accommodate his suggestion. I therefore withdraw my motion.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Guingona is recognized.

MR. GUINGONA: Before we proceed to vote on Second Reading, may I request that the Members of this Commission be given a clean copy of this article, including the amendments which have been proposed and approved by this body today.

MR. SUAREZ: That is a very nice suggestion and I would like to second that motion.

THE PRESIDING OFFICER (Mr. de los Reyes): What does the Floor Leader say to the motion of Commissioner Guingona?

MR. SUAREZ: I am seconding the motion, Mr. Presiding Officer.

MR. RAMA: May I know what is the thinking of the committee?

THE PRESIDING OFFICER (Mr. de los Reyes): The committee will please give its position.

SUSPENSION OF SESSION

MR. RODRIGO: Mr. Presiding Officer, may I ask for a suspension of the session for two minutes?

THE PRESIDING OFFICER (Mr. de los Reyes): The session is suspended.

It was 4:52 p.m.

RESUMPTION OF SESSION

At 4:55 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes): The session is resumed.

MR. GUINGONA: Mr. Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Thank you.

As far as my record is concerned, we have approved this afternoon two amendments: the one presented by Commissioner Quesada and reformulated by Commissioner Aquino and the proposal of Commissioner Gascon. In many occasions, we voted on Second Reading even without a clean copy. For examples on the Article on Local Government, while the Floor Leader asked for a voting on Second Reading, I stood up and requested the Chair for a clean copy. My request was turned down; we voted on Second Reading. On the Article on Social Justice, there were so many amendments made and the Floor Leader again moved for approval on Second Reading and I stood up and requested for a clean copy; the Chair turned me down and we proceeded with the voting on Second Reading. If we will wait for a clean copy with these two short amendments before we vote on Second Reading, is this not a discrimination? I object to the proposition that we be furnished first a clean copy before we vote on Second Reading because I personally have been turned down on my move for a clean copy and I accepted it with grace. If this motion will be accepted, this, to me, is a clear discrimination of Members of this Commission.

Thank you, Mr. Presiding Officer.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Guingona is recognized.

MR. GUINGONA: Commissioner de Castro has forgotten or ignored the fact that we have also made changes in the original text. For example, there has been a deletion of the last sentence of Section 4. There has been a change of the word "territorial waters" to "ARCHIPELAGIC WATERS." The situation is different now because we have quite a number of unnumbered sections and we are not even informed as to the sequence or arrangement or the placing of these in relation to the other sections. That is why this is not going to be a matter that would be similar to the situations that the Honorable de Castro has referred to.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): The Floor Leader is recognized.

MR. DE CASTRO: Mr. Presiding Officer, considering that there are some deletions and corrections in the other sections of this article, there were more corrections in the Article on Social Justice; there were more corrections in the Article on Local Government for which this humble Member requested a clean copy but was turned down.

This, to me, is a clear discrimination by this Commission.

THE PRESIDING OFFICER (Mr. de los Reyes): There is no discrimination because the Chair has not yet ruled.

MR. GUINGONA: Mr. Presiding Officer.

MR. DE CASTRO: I hope that there will be no discrimination.

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

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Monsod is recognized.

MR. MONSOD: I just want to call the attention of Commissioner Guingona. There are only two provisions and, in fact, they have been circulated. There are only two minor changes — "ARCHIPELAGIC" in lieu of "territorial" and the deletion of a phrase. Perhaps, we should be truthful and say that if there is going to be a deferment, it is an accommodation, instead of trying to justify on the basis of technicalities.

MR. GUINGONA: No, no.

MR. MONSOD: I am saying that we are trying to see if there is room for accommodation and I think Commissioner de Castro is correct to say that if there is an accommodation here, that would mean a discrimination because when he was the one asking for it, it was not granted. So, let us just be truthful and then see what we can do about it.

MR. GUINGONA: Mr. Presiding Officer, I am not aware of the circumstances mentioned by the honorable Commissioner de Castro, but I mentioned other matters which I considered when I presented my motion, and this is the fact that there are quite a number of sections that have no number and no proper sequencing. However, Commissioner Monsod has given an additional reason and I am willing to accept the reason which I did not consider before. In addition to these reasons, I would like to ask for a deferment in order to accommodate the honorable Commissioners who have additional amendments to offer with respect to the text.

MR. MONSOD: There are no additional amendments. I correct the Commissioner.

MR. GUINGONA: Then whatever amendments they may have.

MR. MONSOD: Will the Commissioner please tell us his reason for seeking for a deferment?

MR. GUINGONA: The Commissioner was the one who mentioned it. He said: "Precisely, we wanted to accommodate." I was talking of the accommodation so that the committee and the group of Commissioner Suarez could meet and perhaps agree.

MR. MONSOD: Perhaps I should refresh the Commissioner's memory. We have in the record right now that the committee has said that it would prefer to go on Second Reading.

MR. GUINGONA: I know. I heard that.

MR. MONSOD: That is what is in the record right now.

MR. GUINGONA: Yes.

MR. MONSOD: And the Commissioner was the one who asked for a deferment.

MR. GUINGONA: Exactly. I know that, too.

MR. MONSOD: May I ask the Commissioner's reason?

MR. GUINGONA: I gave the reasons and I am also adding the reason that the Commissioner has suggested.

MR. MONSOD: I did not suggest.

MR. GUINGONA: And I have a pending motion, Mr. Presiding Officer, which has been seconded. I would like to ask for a vote.

THE PRESIDING OFFICER (Mr. de los Reyes): I think Commissioner Rosario Braid has something to say.

MS. ROSARIO BRAID: I would just like to suggest that we vote now on Second Reading and request the committee to do the sequencing afterwards.

MR. GUINGONA: May I still ask for a vote and if we could . . .

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Bengzon is recognized.

MR. BENGZON: I would like to remind the body that there is no more chance for any amendment to be presented because the body has already closed the period of amendments. So, what is the motion that is on the table now? I heard something about giving an accommodation or to give a chance to the others who may have other amendments. There are no more amendments. There will be no more amendments because the period of amendments has been closed. So, the accommodation that Commissioner Monsod was saying is an accommodation on the part of those who wish to defer the voting on Second Reading of the Article on National Economy and Patrimony. And if it is an accommodation, what Commissioner Monsod was trying to say is that if the Chair so rules, then there would be no discrimination.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): We shall just throw to the body the question of whether or not we shall vote on Second Reading on the Article on National Economy and Patrimony.

MR. GUINGONA: Yes, but may I just add that in connection with the statements of Commissioners Monsod and Bengzon, I have here the paper which was given to us and it is entitled: "Proposed Amendments Submitted to the Committee on National Economy and Patrimony" and this is exactly the paper that Commissioner Suarez was talking about. If the committee is saying that they are not accepting any further amendments, in effect, they are saying they are no longer willing to discuss this paper. Is that the sentiment of the committee?

MR. BENGZON: Mr. Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: The Floor Leader has clearly moved for the closure of the period of amendments and it was approved by the body. Then he moved for a vote on Second Reading, and that was the time when somebody asked for a clean copy and deferment of the voting on Second Reading.

Mr. Presiding Officer, the real reason here is, somebody wanted to put some more amendments beginning with Section 1. There was a need for a suspension of the Rules, and the honorable Presiding Officer stated the Rules: If presented by a Member, then it will be by unanimous vote, and if it is by the chairman of the Steering Committee, by a two-thirds vote. Then the committee, being diplomatic, which diplomacy had been ruling the whole day, would like to consider the motion of suspension of the Rules after we have voted on Second Reading.

Mr. Presiding Officer, I am only asking for equality of treatment in this Commission. If that cannot be given, then somebody will have to get out of this Commission. I will not walk out; I am going to resign if discrimination shall prevail in this Commission.

THE PRESIDING OFFICER (Mr. de los Reyes): The Chair will make a ruling.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Just a moment, the Chair will make a ruling.

The Floor Leader made a motion that we proceed to vote on Second Reading. Commissioner Guingona actually amended the motion by asking for a deferment and a clean copy thereof.

MR. GUINGONA: But before that, Mr. Presiding Officer, there was a motion for reconsideration.

THE PRESIDING OFFICER (Mr. de los Reyes): Yes, but that was already withdrawn.

MR. GUINGONA: Yes.

THE PRESIDING OFFICER (Mr. de los Reyes): So, there is no more motion for suspension of the Rules; that was already withdrawn.

MR. GUINGONA: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): So, the first question to be tackled is Commissioner Guingona's motion on whether or not to defer the vote on Second Reading in order to enable the Members to have a clean copy. If the motion is upheld, then we shall defer; if the motion is lost, then we shall proceed with the vote on Second Reading.

MR. GUINGONA: Yes. May I make a manifestation.

THE PRESIDING OFFICER (Mr. de los Reyes): What is the manifestation of the Commissioner?

MR. GUINGONA: Upon consultation with Commissioner Suarez, I have agreed to withdraw my motion.

THE PRESIDING OFFICER (Mr. de los Reyes): So, we shall now proceed with the voting on Second Reading.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Suarez is recognized.

MR. SUAREZ: May we ask for a suspension of the session for two minutes?

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection to the motion to suspend?

MR. SUAREZ: We can clear up the parliamentary situation.

MR. BENGZON: What is the parliamentary situation that has to be cleared up, Mr. Presiding Officer?

MR. SUAREZ: Because we heard the Chair say that the current situation is that there will be a voting on Second Reading.

MR. BENGZON: Correct.

MR. SUAREZ: Is our understanding in this regard correct?

THE PRESIDING OFFICER (Mr. de los Reyes): Yes.

MR. SUAREZ: And this was brought about because of the withdrawal of the motion of Commissioner Guingona.

THE PRESIDING OFFICER (Mr. de los Reyes): Which we would have voted upon.

MR. SUAREZ: That is right. So, what we are trying to say is that without any emotional disturbances, this consolidated proposal that we have submitted is addressed against those sections that were already approved by this Commission. This can be taken up by us directly with the committee in order that we can assess the effects of what have already been approved and stated in the record this afternoon, and what possible effects these would have on our consolidated motion to amend, if the Rules are suspended.

In other words, these are parliamentary situations which have to be cleared up step by step so we will not be confused. We would like to have a methodical presentation of all of these problems, including a possible suspension of the Rules on a partial basis. This is a capsulized version of what steps we propose to be taken by the Commission.

Assuming that the proposed consolidated amendments, which are addressed on those sections already approved, would refer to Section 1, then this humble Member would make a move to suspend the Rules only for the purpose of reviewing Section 1. It will probably not embrace a suspension of the Rules for all the 22 or 23 approved sections under the Article on National Economy and Patrimony. That is what we are trying to convey, not only to the committee and to the Chair, but to all the distinguished colleagues that we have in this Commission.

MR. BENGZON: Mr. Presiding Officer, may I just clear up the parliamentary situation as it is?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Bengzon may proceed.

MR. BENGZON: Whether or not we vote now on Second Reading on the article, we would have to have a suspension of the Rules in the event that the committee and Commissioner Suarez's group arrive at some agreement on this particular white paper consisting of four pages. That is another matter. There was already a gentleman's agreement insofar as that is concerned: that even after this Article on National Economy and Patrimony is passed on Second Reading, the committee, in its effort again to reconcile, would sit down with; Commissioner Suarez and his group to go over these; proposals consisting of four pages.

But we have already closed the period of amendments and there is a motion now to vote on Second Reading; the motion of Commissioner Sarmiento has been withdrawn. So, what we should really do now is vote on the article on Second Reading, after which, tonight or tomorrow the committee will sit down with Commissioner Suarez and his group and go over these many pages of white paper; and if we agree on certain matters, that is the time when we will tackle the parliamentary procedure of going back to the floor and asking for a suspension of the Rules.

Therefore, Mr. Presiding Officer, may I request that we already vote on Second Reading.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes):

Commissioner Ople is recognized.

MR. OPLE: In the light of the gentleman's agreement that has been revealed which, I think, by his acquiescence, Commissioner Suarez has confirmed, I just want to make the manifestation that there are some Members of this Commission, myself included, who are not ready to be bound by any agreement between the committee and the group of Commissioner Suarez.

Thank you.

MR. BENGZON: That is clear. We are not asking and we are not even implying that the Commissioners in this Commission will be bound. That is precisely why we will submit everything to the floor, whatever is the result of the meeting.

MR. VILLEGAS: And especially as far as Section I is concerned, because the most controversial paragraph there is something that we have to consult about, and that is very clear.

MR. RAMA.: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): The Floor Leader is recognized.

MR. RAMA: With all those clarifications, may I reiterate my motion that we vote on Second Reading.

MR. GUINGONA: Mr. Presiding Officer, may I just ask a parliamentary question?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Guingona is recognized.

MR. GUINGONA: Section 28 of our Rules says:

After a resolution providing for a constitutional proposal has been approved on Second Reading, it shall be included in the Calendar for Third Reading.

I was wondering if this particular rule will apply. If we approve this on Second Reading, then, would the Steering Committee have the authority now to calendar this for Third Reading?

THE PRESIDING OFFICER (Mr. de los Reyes): That is the general rule but, as the Steering Committee said, we can always suspend the Rules depending on the agreement.

MR. GUINGONA: So, the calendaring of this will be subject to that gentleman's agreement?

MR. MONSOD: Mr. Presiding Officer, perhaps, we should clarify that. I think Commissioner Ople's comment is correct. The committee is willing to take a look at this but there is no gentlemen's agreement or any amendments to be accepted.

THE PRESIDING OFFICER (Mr. de los Reyes): Does Commissioner Rodrigo still have any inquiry?

MR. RODRIGO: No. It is all right. So as not to delay the proceedings, let us now vote on Second Reading.

THE PRESIDING OFFICER (Mr. de los Reyes): Does Commissioner Aquino have any inquiry?

MS. AQUINO: Is that the ruling of the Chair?

THE PRESIDING OFFICER (Mr. de los Reyes): No, the ruling of the Chair is that we shall first submit the question on whether we shall have a voting on Second Reading or not.

MS. AQUINO: So, the prejudicial question is whether we will defer or not.

THE PRESIDING OFFICER (Mr. de los Reyes): That is the prejudicial question because the motion of the Floor Leader was actually objected to by Commissioner Suarez. That was the effect of the manifestation of Commissioner Suarez.

MS. AQUINO: May I make a final manifestation, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Aquino is recognized.

MS. AQUINO: We supported the motion to defer the vote on Second Reading not so much because we were asking for clear copies as it is actually because of the dilemma of some of the Commissioners, including myself.

For the moment, some of us are inclined to vote against it; some of us are inclined to abstain; some of us are inclined to vote in the affirmative. But in the absence of a thoroughgoing opportunity for intellection of the pending amendments, at the same time the opportunity maybe to face an honorable loss, we are not yet adequately prepared to make the correct vote.

In other words, for me, a vote is an expression of a conviction. And in view of the fact that some of the amendments are still not scheduled for deliberation, I would plead for this opportunity to allow us the chance for intellection and if we lose, then the opportunity for an honorable loss. I do not think we are asking too much. This is not any backdoor tactic or maneuver; it is just an admission of inadequacy.

MR. MONSOD: Mr. Presiding Officer.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. de los Reyes): The session is suspended.

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:38 p.m., the session was resumed

THE PRESIDING OFFICER (Mr. de los Reyes): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I would like to find out from the committee if there was some kind of an understanding that they have reached.

I ask that Commissioner Suarez be recognized.

THE PRESIDING OFFICER (Mr de los Reyes): The Chair interprets Commissioner Suarez manifestation earlier as an objection to the motion of the Floor Leader to call a vote on Second Reading on the Article on National Economy and Patrimony. Is he still insisting on his motion?

MR. SUAREZ.: Mr. Presiding Officer, I would not like to be instrumental in adding confusion to what is already a complicated situation. I wonder, with the indulgence of the Members of this Commission, if it is possible that we adjourn. We are mentally and emotionally exhausted regarding procedural and substantive discussion on the Article on National Economy and Patrimony, and maybe we could sleep over these problems that are now confronting the Commission. I am not making a motion to adjourn; I want to make it very clear. I am only hoping that probably sleeping over it through the night would enlighten us further on what practical course of action should be taken in connection with the matter pending before us.

MR. VILLEGAS: Mr. Presiding Officer, I would like to say that the committee is not in favor of adjournment and we would like to insist on deciding to vote on Second Reading. I think, without adding to the emotionalism, if anyone is to complain about discrimination, I, as chairman of the Committee on National Economy and Patrimony, feel extremely discriminated against because, for the information of everyone, this is already the twentieth day of the deliberations of this article and we still are not in our Second Reading. Something must be very terrible about the committee.

So, I would insist to vote on Second Reading without precluding the possibility of the Rules being suspended if we should come to an agreement and if the Commission, especially after the manifestation of Commissioner Ople,

would agree to our agreement.

MR. SUAREZ: May I just make one thing crystal clear, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

I appreciate the candidness of the chairman of the Committee on National Economy and Patrimony. I would just like to make it very, very clear that if we go into the process of voting on Second Reading, that will not preclude anyone of the Members of this Commission to ask for a suspension of the Rules in order that we can take a review of any of the sections already approved on Second Reading by the Commission.

MR. VILLEGAS: Yes, Mr. Presiding Officer.

MR. SUAREZ: And would the committee be gracious enough to consider the wisdom and practicality of such a request?

MR. VILLEGAS: Yes, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Bengzon is recognized.

MR. BENGZON: Of course, that is all subject to whether or not the Commission would agree to suspend the Rules.

MR. SUAREZ: Of course, that is understood. What I am only trying to say, because that will depend on whatever action the entire Commission will take, is that it is without prejudice to the reservation now being accepted and being made to the effect that if and when we feel that the circumstances warrant it, it will be without prejudice to anyone of the Commissioners to ask for the suspension of the Rules after having conferred with the distinguished members of the Committee. And that was what was expressly stated by the honorable chairman.

MR. VILLEGAS: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): So that is the understanding?

MR. VILLEGAS: That is the understanding, Mr. Presiding Officer.

MR. SUAREZ: Thank you.

APPROVAL OF RESOLUTION NOS. 496 & 533 ON SECOND READING (Article on National Economy and Patrimony and Provision on Ancestral Lands)

THE PRESIDING OFFICER (Mr. de los Reyes): Therefore, we shall now proceed to vote on Second Reading on the report of the Committee on the National Economy and Patrimony.

As many as are in favor of the Article on National Economy and Patrimony, please raise their hand. (Several Members raised their hand.)

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

MR. SARMIENTO: I abstain, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Please record the abstention of Commissioner Sarmiento.

The results show 26 votes in favor, 9 against and 1 abstention; the Article on National Economy and Patrimony is

approved on Second Reading.

MR. GASCON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Gascon is recognized.

MR. GASCON: I think there were three abstentions.

THE PRESIDING OFFICER (Mr. de los Reyes): Please correct the records; there were three abstentions. This was what was submitted to me by the Secretary General.

The Floor Leader is recognized.

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

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Rodrigo is recognized.

MR. RODRIGO: This is about the resolution that I filed this morning. Several amendments have been submitted to me by different Commissioners, most of which I accepted. The one who submitted amendments were Commissioners Suarez , Bernas, Davide, Villacorta and Bennagen jointly, and Christine Tan.

In the first paragraph, Commissioner Suarez would like to delete the word "interest" before "groups." I accepted this so that instead of "various interest groups," it is just "various groups." And Commissioners Villacorta and Bennagen added after the word Various, "INDIVIDUALS AND," so that the first line would read: "Whereas, various INDIVIDUALS AND groups." Commissioner Bernas' amendment is to place a semicolon (;) after the word "patriotism," which can be found at the end of the second line, and to delete the whole third line which reads: "in an attempt to coerce and intimidate them." So that the first paragraph would read: "Whereas, various INDIVIDUALS AND groups have been making unfounded charges against Members of the Commission, impugning their integrity and patriotism."

On the second paragraph, Commissioner Suarez would like to change the word "tactics" to "ACTS." And Commissioner Bernas would delete the phrase "and to influence Members of the Commission"; change the word "their" to "THE"; and between the words "right" and "to," insert the words "OF MEMBERS." So that the second paragraph would read: "Whereas, these ACTS tend to subvert the independence and credibility of the Commission and restrict THE right OF MEMBERS to vote freely on issues."

On the third paragraph, Commissioner Davide would add "AND ITS MEMBERS" after "Commission." Commissioner Bernas would delete the phrase "from any source" on the second line and delete the letter "s" in "pressures." So that the paragraph would read: "Whereas, the independence of the Commission AND ITS MEMBERS from any external pressure is indispensable to the accomplishment of its task."

On the last paragraph, Commissioners Villacorta and Bennagen would add after the words "to deplore" the words "AND PREVENT." Commissioner Bernas would delete the phrase "action from any source"; in lieu thereof insert the word "ATTEMPT." And Commissioner Tan would delete the words "each and every"; in lieu thereof insert the word "THE" and add "S" to "MEMBER." So that the resolutory paragraph would read: "resolves to deplore AND PREVENT ANY ATTEMPT to subvert the independence and credibility of the Commission; and

"FURTHER, RESOLVES to reaffirm its confidence in the independence, integrity and patriotism of THE MEMBERS of the Commission."

THE PRESIDING OFFICER (Mr. de los Reyes). Will Commissioner Rodrigo please read the resolution as a whole?

MR. RODRIGO: I have my own amendment to the title. The title should read: "RESOLUTION OF CONFIDENCE."

The whole resolution will read: "Whereas, various INDIVIDUALS AND groups have been making unfounded charges against Members of the Commission, impugning their integrity and patriotism;

"Whereas, these ACTS tend to subvert the independence and credibility of the Commission and restrict THE right OF MEMBERS to vote freely on issues;

"Whereas, the independence of the Commission AND ITS MEMBERS from any external pressure is indispensable FOR the accomplishment of its task;

"NOW, THEREFORE, the Commission hereby resolves to deplore AND PREVENT ANY ATTEMPT to subvert the independence and credibility of the Commission; and

"FURTHER, RESOLVES to reaffirm its confidence in the independence, integrity and patriotism of THE MEMBERS of the Commission."

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Does Commissioner Foz want to say anything?

MR. FOZ: Mr. Presiding Officer, may we suggest an additional word on the second sentence.

MR. RODRIGO: Second paragraph?

MR. FOZ: I mean, on line 2 of the first paragraph insert between the words "against and Members the word "CERTAIN. "

MR. RODRIGO: I accept that — "against CERTAIN Members."

MR. FOZ: In the last paragraph, in the resolutive paragraph, have we removed "each and every"?

MR. RODRIGO: Yes.

MR. FOZ: The words "each and every"?

MR. RODRIGO: Yes. That is Commissioner Tan's amendment. So, instead of "each and every," it should be "THE MEMBERS of the Commission."

MR. FOZ: That is all, Mr. Presiding Officer.

MR. VILLACORTA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Villacorta is recognized.

MR. VILLACORTA: May we emphasize that Commissioner Bennagen and I proposed amendments to the resolution.

We would like to emphasize that this resolution is also directed at attempts to present possible foreign interests and try to influence this Constitutional Commission, either directly or indirectly; directly, through their physical presence and action that would have the effect of tainting the reputation, independence and integrity of this Constitutional Commission. We would just like to make that clear because foreign intervention is very much possible, given the sensitive task and the sensitive issues that we are tackling.

MR. TINGSON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): The observation of Commissioner Villacorta is noted.

Commissioner Tingson is recognized.

MR. TINGSON: May I be allowed by the Chair to say a few words about this resolution?

THE PRESIDING OFFICER (Mr. de los Reyes): Please proceed.

MR. TINGSON: Mr. Presiding Officer, I speak to support this resolution which is a splendid gesture calculated to heal and to reconcile. We cannot afford to do less. The whole country, nay, the whole world, anticipates with high expectations that social and political stability in these fair isles would surely follow the ratification of our new charter.

Mr. Presiding Officer, he who trusts can be trusted. He who forgives deserves mercy. The resolution authored by the Honorable Rodrigo deserves our unanimous approval and active support. It deplores what is negative, yet it speaks eloquently of the positive virtues of independence, integrity and patriotism.

Mr. Presiding Officer, I say "Amen" to this resolution.

MS. QUESADA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Quesada is recognized, to be followed by Commissioner Bernas.

MS. QUESADA: I would just like to have some clarifications.

Would the adoption of this resolution, in effect, set a precedent for this constitutional body to respond to all the criticisms and charges impugning the integrity and patriotism of the Members of the Commission by individuals, groups or even the media? Because we have had several resolutions and even some interventions within everytime we have this feedback from the public. I firmly believe that as Members of this constitutional, body, we are, in effect, public functionaries or officials who will be subject to public criticism as are all people in public governance. So, I was wondering, if this body adopts this resolution, would it respond to every Member of this Constitutional Commission who will be the subject of any criticism?

I do recall that in the past, even before we started our sessions, some Members of this Commission were already charged or labeled by the media. I do recall that I was one of those who were named or labeled as hardcore leftists of the University of the Philippines, together with Commissioners Bennagen and Garcia. So, there will always be this imputation. Some media people will charge us as spoiled brats, emotional, et cetera, but does this mean that every time we get this kind of feedback from individuals or groups, we will rise up here and pass another resolution?

THE PRESIDING OFFICER (Mr. de los Reyes): Is that directed to the Chair or to Commissioner Rodrigo?

MS. QUESADA: I am presenting this to the body because this is only one occasion. There will be many more, I am sure, because we will not be discussing about persons but issues that will incite people to react. And we feel that possibly, after we have drafted this, there will be more criticisms. So, this is just to ask the body now on whether or not we will rise as one body to defend every Member of this constitutional body, not just three or four, but each Member who will henceforth be the subject of unfounded charges that will impugn his integrity, nationalism and patriotism.

MR. RODRIGO: Mr. Presiding Officer.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Will Commissioner Rodrigo care to reply?

MR. RODRIGO: I cannot answer for the other Commissioners, but as for me, it will depend on the seriousness of the circumstances.

MS. QUESADA: Would the Commissioner say then that this is the particular body or forum that would investigate or disprove whatever charges will be hurled against any Member of this body, whether it be the media in public forums or wherever? Who is to say that charges are unfounded? Will it be the function of this body to now investigate charges which we claim from our vantage point as unfounded?

MR. RODRIGO: We are not investigating; we are just passing a resolution. As a matter of fact, this resolution has not been voted upon. I do not even know if it is going to be approved. I am submitting this because I think that circumstances warrant its approval. As to whether in the future I would act in the same manner, it will all depend on my appreciation of the circumstances. But I cannot answer for the others in the body.

FR. BERNAS: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Bernas is recognized.

MS. QUESADA: Mr. Presiding Officer, I just want to express this concern and, possibly, for the body to really come out with a decision because I fear that the moment we do this now, there is no stopping the other resolutions because I expect that our decisions here will always be subjected to criticism from all sides. And with the freedom of expression and of the press that we now have, whenever the media feels that they would like to criticize, it will just come out in print or be broadcasted. There will be no limits unless there will be an ombudsman in the media sector to make it more responsible.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Bernas is recognized, to be followed by Commissioners Guingona, Tan and Gascon, respectively.

FR. BERNAS: Mr. Presiding Officer, I wonder if Commissioner Rodrigo will accept an amendment in the body of the resolution itself so that it will read: "resolves to deplore AND PREVENT ANY ATTEMPT FROM ANY SOURCE to subvert the independence and credibility of the Commission," and we stop there.

Let me explain why I suggest the deletion of the last three lines which reads: "and FURTHER RESOLVES to reaffirm its confidence in the independence, integrity and patriotism of Members of the Commission." While I have no reason for not having confidence in the independence, integrity and patriotism of the Members of the Commission, it would seem to me that the statement from us affirming our own independence and integrity would be self-serving and would perhaps not enhance our own dignity. We stand on the basis of our own performance rather than on the basis of what we say about ourselves. So, for that reason, I would recommend an amendment to delete the second part of the resolution.

MR. RODRIGO: So, where will the Commissioner place the period (.)?

FR. BERNAS: I will put the period (.) after "Commission."

MR. RODRIGO: I accept.

THE PRESIDING OFFICER (Mr. de los Reyes): Is it accepted?

MR. RODRIGO: Yes, I accept the amendment.

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection? (Silence) The Chair hears none; the

amendment is approved.

Commissioner Guingona is recognized.

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

I was going to make exactly the same observation as that of Commissioner Bernas. I believe that this last part is self-serving and, therefore, I will not repeat the reasons that he has already stated to which I concur.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Foz is recognized.

MR. FOZ: Yes. Reading from the resolutory portion of this resolution which says: "resolves to deplore and prevent," I was just wondering how the Commission could prevent such future attempts.

MR. RODRIGO: I would like to request Commissioner Villacorta, who was the proponent of that amendment, to answer that question.

MR. FOZ: Because we cannot stop people from talking either for or against us. That will involve some kind of censorship.

MR. VILLACORTA: Is the word "subvert" still there, Mr. Presiding Officer?

MR. RODRIGO: Yes.

MR. VILLACORTA: I mean, we would propose the insertion of "PREVENT" if the word "subvert" is retained.

MR. RODRIGO: Yes, it is still retained.

MR. VILLACORTA: So, it is retained. The insertion of the word "PREVENT" has to do with preventing any direct action to subvert the independence and credibility of the Commission. For example, if there should be attempts to directly influence us through the hard-sell approach, the use of physical coercion or other ways that could be interpreted as harassment, I think that is within the means of this Constitutional Commission to prevent that action. That is why we propose that we should not stop at deploring but should prevent this kind of action. That is why I am for action, not just attempt.

FR. BERNAS: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Bernas is recognized.

FR. BERNAS: May I plead with Commissioner Villacorta to drop the word "prevent" because it could reflect poorly on us in the sense that it could be read as an attempt on our part to say: "Stop criticizing us." It would be very bad if we give any impression that we resent people who disagree with us, or that we want to stop people who disagree with us.

MR. VILLACORTA: Mr. Presiding Officer, the prevention is not addressed to the criticisms but to subversion of the independence and credibility.

FR. BERNAS: But usually that is done through various forms of criticism.

MR. VILLACORTA: I am open-minded about the proposal, Mr. Presiding Officer, but what do we do with certain possible incidents in which, for example, a known agent of a foreign embassy approaches a Constitutional Commissioner — I am not saying it has happened; it might happen — and tries to influence the vote of that Commissioner. Would it not be incumbent upon the President of the Constitutional Commission to do something about it and not just to deplore it?

FR. BERNAS: To do something about it, yes; but to say that we will prevent it As a matter of fact, the situation which the Commissioner described has already happened. I mean, suppose somebody does that?

MR. VILLACORTA: The Commissioner has said it already; it has happened.

FR. BERNAS: No, no, I did not mean that. What the Commissioner was asking was, suppose somebody does that? If somebody does that, then one can do something about it but we cannot prevent him from doing that ahead of time.

MR. VILLACORTA: Could the Commissioner propose an alternative word?

FR. BERNAS: My alternative would be just to drop the word "prevent" and simply say "WE DEPLORE." And implicit there is the suggestion that there are things we will not take sitting down.

MR. VILLACORTA: Before I accept the proposal, I think the President of the Commission has accepted in principle in one of our caucuses — Commissioner Bernas was there — that agents of foreign interests should not be allowed to sit-in or to be present in our committee meetings. We have nothing against the public attending and, of course, we always welcome the media to attend our committee meetings, but people who are clearly associated with foreign interests, working with foreign embassies and whose main purpose in coming here is to lobby for foreign interests, should not be allowed to attend committee meetings.

FR. BERNAS: Mr. Presiding Officer, my worry is not about the proper things we can do. My worry is more about incorrect interpretations which the word "prevent" might get, interpretations which will be publicized and which can reflect badly on us.

MR. VILLACORTA: As long as I or some other Commissioners here reserve their right to publicly denounce such actions, then I accept the proposal.

FR. BERNAS: That is understood, Mr. Presiding officer.

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): So, the word "prevent" is dropped?

MR. RODRIGO: May I have a clarification?

THE PRESIDING OFFICER (Mr. de los Reyes): Is it understood that the word "prevent" is dropped?

MR. RODRIGO: May I have a clarification of the amendment in the resolatory clause? The way I understood the amendment, the Commissioner wanted the phrase "action from any source" to be changed to just one word "ATTEMPT." Does the Commissioner want to delete even the phrase "from any source" or not?

FR. BERNAS: I would prefer to just deplore any attempt.

MR. RODRIGO: To deplore any attempt to subvert?

THE PRESIDING OFFICER (Mr. de los Reyes): Does Commissioner Foz have anything to say?

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Foz is recognized.

MR. FOZ: I would like to ask a question, if I may be allowed.

THE PRESIDING OFFICER (Mr. de los Reyes): Please proceed.

MR. FOZ: Did I hear Commissioner Rodrigo say that passing this resolution should not be taken as some kind of a precedent?

MR. RODRIGO: No, why should it be?

MR. FOZ: The Commissioner has said that it would depend on the occasion or the acts performed.

MR. RODRIGO: Yes, that is correct.

MR. FOZ: What about if a columnist of a newspaper would say something like, "The Commission is a do-nothing body and should be abolished," would that statement constitute a serious charge?

MR. RODRIGO: If the Commissioner is asking my opinion, it all depends. If it is only one columnist, I would ignore him. But in this case, it was front paged, headlined. So it depends on the magnitude.

MR. FOZ: Suppose it was made by a well-known columnist who is believed by a lot of people and who has a wide readership and a very good reputation, like Mr. Max Soliven, would it matter?

MR. RODRIGO: It depends on what he says. It is a hypothetical question, I cannot answer it now. It all depends on what he says.

MR. FOZ: He said it before. The fact was that he made a statement in that tenor in one of his columns when he was still a columnist of the Philippine Daily Inquirer. It was even thrice, according to Ms. Rosario Braid. Would that constitute a serious charge against the entire Con-Com that would justify passage of a similar resolution of this tenor?

MR. RODRIGO: If the Commissioner will ask me, I would not, because it would just magnify. If somebody else wants to present a resolution, it is up to him.

MR. FOZ: Suppose a Member of this Commission is charged before a certain governmental body with a serious offense, let us say, malversation of funds or estafa, impugning his very integrity, would the filing of a charge like that prompt the entire Commission to rise as one and pass a resolution of the same tenor?

MR. RODRIGO: I would not. First of all, it is subjudice.

MR. COLAYCO: Mr. Presiding Officer, may I interrupt for a question of privilege.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Colayco is recognized.

MR. COLAYCO: I would like to suggest a solution to the problem. Under Rule XI of our Rules entitled "Questions of Privilege," which is defined to be those affecting the rights of the Constitutional Commission itself and those affecting the rights, reputation and conduct of the Members, individually, in their capacity as such Member, these problems are ordered to be referred to the Committee on Privileges for investigation and recommendation. I think, in the future, any criticism of our body or any Member of this body should be treated and considered under Rule XI of our internal rules.

MS. QUESADA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Quesada is recognized.

MS. QUESADA: Based on this representation by Commissioner Colayco, would it be proper then that this particular issue on the dignity and integrity of Commissioners be brought to the Committee on Privileges which has not yet received any such resolution? Would that not be the proper procedure if we are going to follow the Rules of the constitutional body?

MR. COLAYCO: Personally, I believe so.

MR. RODRIGO: That would add insult to injury because matters referred to the Committee on Privileges are matters of misconduct on the part of the Commissioners.

MR. COLAYCO: No. I will read verbatim what are questions of privilege. Rule XI, Section 53 (b) states:

Those affecting the rights, reputation and conduct of the Members, individually, in their capacity as such Member.

MR. RODRIGO: Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer.

MR. RODRIGO: Without prejudice to anybody referring this to the Committee on Privileges, I ask that we vote on my resolution. It can lose; it can win; let us vote.

MR. RAMA: That is the previous question that I would like to submit to the body.

THE PRESIDING OFFICER (Mr. de los Reyes): We shall now vote on the resolution.

MS. QUESADA: Mr. Presiding Officer, I had an earlier question brought to the body, and that is, would this kind of resolution then set a precedent that the Rules of this body will have to be overruled because now we can always cite the case of this particular resolution passed here without going through the proper procedures?

MR. RODRIGO: Mr. Presiding Officer, this is not a violation of the Rules.

THE PRESIDING OFFICER (Mr. de los Reyes): The Chair will rule.

Rule XI states:

(a) Those affecting the rights of the Constitutional Commission, its safety, dignity and the integrity of its proceedings;

(b) Those affecting the rights, reputation and conduct of the Members, individually, in their capacity as such Member.

Questions of privilege may be availed of only on Fridays, except when the matter at issue is urgent, subject to the ten minute rule. No interpellations shall be allowed beyond the ten-minute rule.

Rule II, Section 8 (14) states:

Committee on Privileges, 7 Members — all matters relating to conduct, right, privileges, safety, dignity, integrity and reputation of the Constitutional Commission and its Members.

If we follow the Rules strictly, we have to take this up on Friday. (Laughter)

MR. RODRIGO: Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Rodrigo is recognized.

MR. RODRIGO: This is not a privilege speech. As a matter of fact, the three privilege speeches were delivered this morning and they were allowed by the Presiding Officer on the ground that these were urgent matters.

This is not a privilege speech; this is a resolution. All I ask is we vote. why do we not want to vote on this resolution?

SR. TAN: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes): Commissioner Tan is recognized.

SR. TAN: I think we are becoming microscopic. Somebody out of goodwill just said something and he made a resolution. We did not want it; we amended it, let us vote on it.

MR. RODRIGO: Yes.

SR. TAN: If we want it to be a precedent, it depends on us. If I want it to be a precedent, tomorrow I will make another speech, but we are becoming too much like women, excuse me. (Laughter)

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection that we take a vote on the resolution?

MS. QUESADA: I would like the last words to be deleted, "just like women."

THE PRESIDING OFFICER (Mr. de los Reyes): Will Commissioner Rodrigo please read again the resolution?

MR. RODRIGO: The resolution reads:

RESOLUTION OF CONFIDENCE

Whereas, various individuals and groups have been making unfounded charges against certain Members of the Commission, impugning their integrity and patriotism;

Whereas, these acts tend to subvert the independence and credibility of the Commission and restrict the right of Members to vote freely on issues;

Whereas, the independence of the Commission and its Members from external pressure is indispensable to the accomplishment of its task;

NOW, THEREFORE, the Commission hereby resolves to deplore any attempt to subvert the independence and credibility of the Commission.

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes): As many as are in favor of the resolution, please raise their hand. (Several Members raised their hand)

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

Is Commissioner Quesada against?

MS. QUESADA: I am against.

THE PRESIDING OFFICER (Mr. de los Reyes): As many as are abstaining, please raise their hand. (A Member raised his hand)

The results show 29 votes in favor, 2 against and 1 abstention; the resolution is approved.

The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA: Mr. Presiding Officer, I move that we adjourn the session until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. de los Reyes): Is there any objection? (Silence) The Chair hears none; the session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:19 p. m.

[*] Appeared after the roll call.

[*] See appendix.

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