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Wednesday, August 6, 1986

CALL TO ORDER

At 9:41 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Joaquin G. Bernas, to wit:

Hesus na Aking Kapatid

Hesus na aking kapatid, sa lupa nami'y bumalik: Iyong mukha'y ibang iba, hindi kita nakikilala. Tulutan Mong aking mata mamulat sa katotohanan: Ikaw, Poon, makikilala sa taong mapagkumbaba.

Hesus na aking kapatid, putikin man ang 'yong sapin, Punit-punit ang 'yong damit, nawa ika'y mapasaakin. Ikaw, Hesus na aking kapatid, sa bukid ka nagtatanim, O sa palengke din naman, ikaw ay naghahanapbuhay.

Walang sinuman ang nabubuhay para sa sarili lamang; Walang sinuman ang namamatay para sa sarili lamang.

Tayong lahat ay may pananagutan sa isa't isa. Tayong lahat ay tinipon ng Diyos na kapiling Niya.

Sa ating pagmamahalan at paglilingkod sa kanino man, Tayo ay nagdadala ng balita ng kaligtasan."

Hesus na aking kapatid, tulutan mong aking mata mamulat sa katotohanan: Ikaw, Poon, makikilala sa taong mapagkumbaba.

Amen.

ROLL CALL

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

Alonto, A. D. Calderon, J. D.

Azcuna, A. S. De Castro, C. M.

Bacani, T. C. Colayco, J. C.

Bengzon, J. F. S. Concepcion, R. R.

Bennagen, P. L. Davide, H. G.

Bernas, J. G. Foz, V. B.

Rosario Braid, F. Gascon, J. L. M. C.

Jamir, A. M. K. Rigos, C. A.

Laurel, J. B. Rodrigo, F. A.

Maambong, R. E. Romulo, R. J.

Monsod, C. S. Rosales, D. R.

Natividad, T. C. Suarez, J. E.

Nieva, M. T. F. Sumulong, L. M.

Nolledo, J. N. Tadeo, J. S. L.

Padilla, A. B. Tan, C.

Muñoz Palma, C. Tingson, G. J.

Quesada, M. L. M. Treñas, E. B.

Rama, N. G. Uka, L. L.

Regalado, F. D. Villacorta, W. V.

De los Reyes, R. F. Villegas, B. M.

With 40 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R. Lerum, E. R.

Aquino, F. S. Ople, B. F.

Brocka, L. O. Sarmiento, R. V.

Garcia, E. G.

Mr. Guingona was absent.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Calderon, there being no objection the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body.

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 452 — Constitutional Commission of 1986

Communication signed by Atty. Ramon Tagle, Executive Director, Family Planning Organization of the Philippines and nine others, proposing an amendment to Section 8 of Proposed Resolution No. 531, attaching thereto the registration list of participants in the meeting of non-governmental organizations involved in the Philippine population program

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 453 — Constitutional Commission of 1986

Communications from the Philippine Nurses Association; Adolescent Center, Dagupan City; Philippine Association of the Deaf, Inc.; Kapatiran-Kaunlaran Foundation, Inc.; Integrated Midwives Association of the Philippines, Inc.; NORFIL Foundation, Inc.; and all Nations Women's Group signed by MB. Florida R. Martinez, and seven others, urging the Constitutional Commission to incorporate in the Constitution provisions for the protection of Filipino children, youth and mothers

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 454 — Constitutional Commission of 1986

Letter from Atty. Leandro P. Garcia, 9th Floor, Strata 100 Building, Emerald Avenue, Pasig, Metro Manila, submitting, for the consideration of the Constitutional Commission, a summary or analysis of a personal survey of public opinion on vital issues before the Constitutional Commission

TO THE STEERING COMMITTEE

Communication No. 455 — Constitutional Commission of 1986

Communication from Ms. Ledelina A. Cruz of 105 Evangelista Street, Santolan, Pasig, Metro Manila, and one hundred thirty-eight others with their respective addresses, urging the Constitutional Commission not to include in the Constitution the United States Military Bases issue

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 456 — Constitutional Commission of 1986

Communication signed by Ms. Carol Doria of Quezon City and thirty-two others, mostly from Metropolitan Manila, seeking a constitutional provision giving the Legislature the power to regulate foreign investments

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 457 — Constitutional Commission of 1986

Letter from Ms. Isabel Oriol, c/o Oriol Marble Works, Tels. 833-7254/831-09-06 and eighty-two others, urging the Constitutional Commission to favor the retention of the U.S. military bases in the Philippines after 1991 and give President Aquino the opportunity to re-negotiate for better terms and conditions favorable to the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 458 — Constitutional Commission of 1986

Communication from the Women's Health Care Foundation, Inc., 1589 Quezon Avenue, Quezon City, signed by its Executive Director, Florence M. Tadiar, submitting, for the consideration of the Constitutional Commission, a "Statement on Women's Rights"

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 459 — Constitutional Commission 1986

Letter from Mr. Hector L. Bisnar of 3 Kalamansi St., Matina, Davao City, transmitting his suggestions and proposals regarding a new Constitution of the Philippines

TO THE STEERING COMMITTEE

Communication No. 460 — Constitutional Commission 1986

Communication from Ms. Fe Samaniego of 1070 cor. Roxas-Bautista Streets, Singalong Subd., Manila, submitting for consideration of the Constitutional Commission, proposed provisions under the Declaration of Principles and State Policies, attaching thereto some printed materials related to the attainment of world peace

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 461 — Constitutional Commission of 1986

Letter from Mr. Elly Velez Pamatong, 131 Aurora Blvd., San Juan, Metro Manila, transmitting a resolution adopted by the Ad Hoc Committee of Filipino-Canadians For Dual Citizenship, requesting the Constitutional Commission to include in the Constitution a provision allowing Filipino emigrants to retain their citizenship upon being naturalized as citizens of another country, and restoring Filipino citizenship to former Filipino citizens who have lost it by acquiring citizenship from another country

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

Communication No. 462 — Constitutional Commission of 1986

Communication from Mr. Jose Rojas and fifty-five others, urging the Constitutional Commission to leave to the Legislature regulation of foreign investments and to determine the areas where foreign investments will be welcome

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 463 — Constitutional Commission of 1986

Communication from Ms. Norhata D. M. Alonto, submitting in behalf of Abdul Khayr Alonto a position paper; entitled "Autonomy of the People"

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 464 — Constitutional Commission of 1986

Communication from Mr. Vic Felipe, Editor, Manila Hotline Magazine, Room 404, Plywood Industries Bldg., T. M. Kalaw corner Mabini Street, Ermita, Manila, submitting a proposal re: Edukasyong Tunay na Maka-Pilipino and Ang Populasyon at ang Pambansang Kaunlaran, requesting the revival of the real Pilipino education (ABAKADA instead of ABC); and limiting the number of children for every couple to be able to meet/provide their children's needs

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 465 — Constitutional Commission of 1986

Communication from Ms. Marisse C. Reyes, Correspondence Secretary, Office of the President, transmitting letters from the following: Gabriel Ma. J. Lopez of 105 Kentucky Avenue, S. E., Washington D. C. 20003, proposing that Filipino citizens residing abroad be allowed to vote in national elections; Mr. Francisco L. Baligao, c/o Mr. Ely Cruz Ramirez, Radio Action, DZXL, Intramuros, Manila, proposing that the Philippine statehood issue be submitted to the people in the plebiscite for the ratification of the new Constitution; Mr. Juan L. Cabida and 75 others of Bayugan, Agusan del Sur, proposing that the Philippine statehood issue be submitted to the people in a plebiscite in the forthcoming local elections; MARILAG, proposing a change in the Agrarian Reform Code in line with capitalism and free enterprise, among others; Dumaguete Fellowship of Reconciliation, Siliman University, opposing compulsory religious instruction; and Mr. Pablo B. David of San Juan Nepomuceno, Betis, Guagua, Pampanga, proposing a Constitution that is for freedom, justice and equality, and authority of the state to put order on the first three, and saying that the power balance in this part of the world occasioned by U.S. military presence be not disturbed at this time

TO THE STEERING COMMITTEE

Communication No. 466 — Constitutional Commission of 1986

Communication from Mr. Fulgencio S. Factoran, Jr., Deputy Executive Secretary, Office of the President, transmitting a letter of Mr. Apolonio G. Ramos of 42 Mindanao Street, Filipinas Village, Marikina, Metro Manila, submitting the following proposals, among others: a presidential type of government with a unicameral legislature composed of elected members only; a six-year presidential term with no reelection; the President can only declare martial law for a specific period and with the concurrence of three-fourths of the legislature; the President and other officials shall not be immune from suit; the President shall not have law-making powers; political plurality rather than the two party system shall be practised; the creation of a Commission on Appointments; the barangay system shall be abolished; municipal, city and provincial councils shall likewise be abolished; revision of the Local Government Code to provide for uniform local laws and ordinance; the Supreme Court shall have administrative control and supervision of all courts; provisions to improve the civil service; and provisions providing for electoral reforms

TO THE STEERING COMMITTEE

Communication No. 467 — Constitutional Commission of 1986

Letter from Mr. Luciano G. Benigno of San Pascual, Masbate, suggesting that in the distribution of arable lands of the public domain priority be given to landless farmers; limiting to 50 hectares pasture land grants to individuals or corporations, and the rigid reclassification of public lands

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 468 — Constitutional Commission of 1986

Letter from Mr. Eufrasio B. Tepace of Catubig, Samar, suggesting the elimination of local elections for provincial, municipal and barangay officials, saying that these are expensive as well as divisive in nature, and proposing that these officials undergo competitive examinations to qualify for selection

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 469 — Constitutional Commission of 1986

Letter from Mr. Desiderio C. Villanueva of 1140 F. Villanueva Street, Butuan City, suggesting that the State shall pursue a national program to help workers establish their own small-scale industries in the countryside

and to promote the formation of cooperatives among grain farmers and millers

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 470 — Constitutional Commission of 1986

Letter from Mr. Norberto N. Caparas for the Bayanihan Homeowners and Residents Association, No. 655 Kaunlaran Street, Barangay Commonwealth, Quezon City, proposing that government lands occupied by the squatters be donated to actual occupants, subject to certain conditions

TO THE COMMITTEE ON SOCIAL JUSTICE

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 534 ON PROPOSED RESOLUTION NO. 534 ON THE ARTICLE ON SOCIAL JUSTICE

On motion of Mr. Rama, there being no objection, the Body deferred consideration of the Article on Social Justice to eleven o'clock in the morning, at which time copies of proposed amendments to the Article shall have been distributed to the Members.

In the meantime, Mr. Rama suggested that the Body approve on Second Reading the Articles already considered by the Body. He then asked that Mr. Bengzon, Chairman of the Steering Committee, be recognized.

Thereupon, Mr. Bengzon informed the Body that the Articles on the Executive and the Legislative Departments had been finished, except for the matter of staggering the term of office of Senators in the latter Article.

APPROVAL ON SECOND READING OF THE RESOLUTION PROPOSING AN ARTICLE ON THE LEGISLATIVE, AS AMENDED

Thereafter, Mr. Davide, Chairman of the Committee on the Legislative, was recognized to make some clarificatory remarks regarding the proposed Article on the Legislative, as amended.

Mr. Davide explained that the staggering of the term of office of Senators in Section 3 is as yet unfinished. He noted that in the proposal the first batch of 24 Senators shall be divided into two groups of 12 — the first group to serve for six years and the second group to serve for three years. Mr. Davide, however, stated that there is a need to reconcile this scheme with the dates of the first and second elections to accomplish synchronization. He informed that the Body could proceed to the approval on Second Reading of the proposed Article should it allow the Committee to introduce an amendment to accomplish the objective of synchronization.

At this juncture, he invited attention to minor corrections and amendments on the proposed Article: 1) on page 2, line 13, the gap between the words "organizations" and "the party" was due to the deletion of the phrase "as provided by law" which would be a repetition of the same phrase found on line 11; 2) on page 3, line 14, on the clause "except the sectoral and the party list representatives", the words "the sectoral" should be deleted to harmonize the provision with the approved amendment of Mr. Monsod; and 3) on page 3, lines 18 to 21, put a period (.) after the word "may" on line 20 and delete the last clause "and every six or three years respectively".

There being no objection to the amendments of Mr. Davide, the same were approved by the Body.

On motion of Mr. Bengzon, there being no objection, the Body proceeded to vote, on Second Reading, on the proposed Article on the Legislative.

With 32 Members voting in favor, three against and two abstentions, the Body approved on Second Reading the Proposed Article on the Legislative with the reservation on Section 3.

Messrs. Bennagen and Garcia abstained from voting.

APPROVAL ON SECOND READING OF RESOLUTION NO. 517 ON THE PROPOSED ARTICLE ON THE EXECUTIVE, AS AMENDED

Thereupon, the Chair recognized Mr. Regalado, Vice-Chairman of the Committee on the Executive, for some explanatory remarks on the proposed Article on the Executive.

Mr. Regalado explained that Proposed Resolution No. 517, copies of which had been distributed to the Members, contains some omissions which were accepted by the Committee and threshed out in the caucus, to wit: 1) on page 1, line 23, the blank space should be filled with the words JUNE NEXT such that the line would read: NOON ON THE THIRTIETH DAY OF JUNE NEXT FOLLOWING THE; and 2) on page 2, between lines 7 and 8, the proposed amendment of Mr. Jamir which was accepted by the Committee and considered in the caucus should be inserted, to read: NO PERSON WHO HAS SERVED AS PRESIDENT FOR MORE THAN FOUR YEARS SHALL BE QUALIFIED FOR ELECTION TO THE SAME OFFICE AT ANY OTHER TIME. He explained that this provision would be parallel with the provision on the elected President who, after expiration of his term, could no longer run for reelection. The amendment, he noted, contemplates a situation where the President may die after having served less than two years, at which instance, the Vice-President would succeed him. The prohibition, he stated, would bar the Vice-President, who thereby becomes President, from running again for the presidency.

Upon inquiry of the Chair, Mr. Regalado informed that the amendment of Mr. Jamir was accepted by the Committee, but it had not yet been approved by the Body.

Mr. Rodrigo interposed an objection, stating that the original proposal would apply to any person who has served as President for more than three years. He stated that he was not aware that the three years has been changed to four. He added that it is similar to the 21st Amendment to the United States Constitution.

Mr. Jamir, in explaining his amendment, stated that he opted for three years, but upon the suggestion of many Members, he had agreed to change it to four years.

Mr. Rodrigo observed that if the President dies a day less than 4 years, the Vice-President would serve as President one day less than 4 years, so that the Acting President could then run for election to the presidency to which Mr. Regalado noted that it would be correct.

RESTATEMENT OF MR. REGALADO'S AMENDMENT

Mr. Regalado restated his amendment on page 2, between lines 7 and 8, to insert a new paragraph to read as follows:

NO PERSON WHO HAS SERVED AS PRESIDENT FOR MORE THAN FOUR YEARS SHALL BE QUALIFIED FOR ELECTION TO THE SAME OFFICE AT ANY OTHER TIME.

Submitted to a vote, and with 31 Members voting in favor, 5 against and 1 abstention, the amendment was approved by the Body.

AMENDMENT OF MR. REGALADO

On page 4, line 8, after the word "source", Mr. Regalado proposed an amendment to insert the sentence THE CONGRESS SHALL PROVIDE BY LAW FOR THE ANNUAL SALARIES OF THE PRESIDENT AND THE VICE-PRESIDENT.

Mr. Regalado stated that the amendment is in line with the agreement in the Executive Caucus that the salaries of

the incumbent President and Vice-President would be the subject of a transitory provision.

In reply to Mr. Gascon's query on whether it would be possible for Congress to increase or decrease the salary of the President within the six-year term, Mr. Regalado pointed out the provision that no increase in said compensation shall take effect until after the expiration of the term of the incumbent during which such increase was approved.

Submitted to a vote, and with 32 Members voting in favor and none against, the amendment was approved by the Body.

FURTHER AMENDMENT OF MR. REGALADO

As proposed by Mr. Regalado, there being no objection, the Body approved an amendment on page 5, line 21, to change the words "one hundred eighty days" to EIGHTEEN MONTHS.

Mr. Regalado adverted to Mr. Monsod's explanation that a presidential election would entail an expensive outlay of P270 million which could not be justified by the holding of an election to fill a vacancy just eighteen months before the next presidential election.

At this juncture, Mr. Monsod stated that he was not the one who quoted the figure of P270 million although this does not detract from the argument that it would be quite a big expense.

INQUIRY OF MR. DE CASTRO

Upon inquiry of Mr. de Castro, Mr. Regalado stated that the phrase "vote of a majority of all the Members of Congress" contemplates voting jointly.

On Mr. de Castro's observation that Sections 5 and 9 contain the same provisions on the matter of succession to the office of the President and Vice-President, Mr. Regalado explained that Section 5 refers to a situation where the President-elect and the Vice-President-elect die or become incapacitated before they could assume or qualify in office while Section 9 refers to death, permanent incapacity or resignation after they have assumed office.

On whether there would still be a necessity for the provision that Congress may by law vest in the President the power to appoint "other officers lower in rank" after providing that he "shall also appoint other officers of the Government whose appointments are not otherwise provided by law", Mr. Regalado explained that it is necessary to avoid any hiatus in the matter of appointment because, while the President's power of appointment is plenary, it is subject to limitations and to classification by Congress with respect to minor officers.

At this juncture, Mr. Regalado informed the Body that, for purposes of Third Reading, the Committee would furnish the Members with copies of the same Article containing the same substantive provisions but with some Article containing the same substantive provisions but with some rearrangement and renumbering of the sections in logical sequence.

POINT OF INFORMATION

At this juncture, Mr. Maambong, on a point of information, stated that he was the source of the information on the P270 million needed for a presidential election which the Chairman of the Committee attributed to Mr. Monsod. He stated that said figure was based on the testimonies of officials of the Commission on Elections and of the Office of Budget and Management.

SUGGESTION OF MR. VILLACORTA

On Section 16, page 7, lines 29 to 32, Mr. Villacorta suggested placing a period (.) after "dent" on line 30, deleting "or" and the comma (,) after it, and starting another sentence in modified form which he would just take up with the Committee.

The chair then asked if the Body was ready to vote on Second Reading.

REMARKS OF MR. PADILLA

At this juncture, with reference to the powers of the President as Commander-in-Chief to call out the armed forces to suppress lawless violence, to suspend the privilege of the writ of habeas corpus, and to proclaim martial law, Mr. Padilla recalled that when he tried to propose the distinctions between the three situations, Mr. Regalado stated that it could be entertained in the period of amendments, but he was prevented from doing so, on the observation of Mr. Bernas that in the discussion of the Bill of Rights the issue of suspension of the privilege of the writ of habeas corpus had already been decided. He also recalled, however, that during the discussion of the Bill of Rights, particularly the suspension of the privilege of the writ of habeas corpus, Mr. Bernas stated that "perhaps the better place to discuss this (suspension of the privilege of the writ of habeas corpus) is on the Article on the Executive Department because you place this in the total context of the Commander-in-Chief powers of the President". Mr. Padilla further recalled that when he insisted on discussing more thoroughly the distinction between the suspension of the writ and the proclamation of martial law in the discussion on the Executive Department, Mr. Bernas stated that it could not be done unless the rules were suspended, and that a motion was presented for reconsideration of the provision on the suspension of the writ in the Bill of Rights. Mr. Padilla objected to the Bernas' opposition during the discussion of the Executive Department but the Chair ruled him out of order on the ground that a decision had already been made regarding the suspension of the writ in the Bill of Rights. He disagreed with the ruling, but had to respect it in the meantime.

Mr. Padilla stated that he agrees with the provisions of the Article on the Executive Department except the section on the powers of the President as Commander-in-Chief of the Armed Forces in view of his inability, on account of a technicality, to discuss more fully the distinction between the suspension of the privilege of the writ of habeas corpus and the power to proclaim martial law.

REMARKS OF MR. BERNAS

Reacting thereto, Mr. Bernas pointed out that in the discussion of the Bill of Rights, the only subject matter that was under consideration was the power to suspend the privilege of the writ of habeas corpus. He recalled that while there was a limitation on the power to suspend the privilege of the writ, there was no indication whatsoever as to who could suspend it.

On the matter of making a distinction between the three power of the President as Commander-in-Chief which was brought up during the discussion on the Bill of Rights, Mr. Bernas stated that what he said then was that the proper place to discuss it would be in the consideration of the Article on the Executive Department. He stressed, however that the Body discussed thoroughly the matter of suspension of the privilege of the writ of habeas corpus during the discussion on the Bill of Rights.

Mr. Bernas also recalled that when the Body was discussing the Executive Department, Mr. Padilla tried to make a distinction and that he thought Mr. Padilla would offer a presentation of the Commander-in-Chief powers in three parts. He stated that there was an opportunity to do so, but it was never done. He stressed that the Body had discussed thoroughly the basis for the suspension of the privilege of the writ of habeas corpus, particularly on

whether to delete insurrection or imminent danger of invasion. He stated that he made the motion on a point of order precisely on the ground that the Body had thoroughly discussed the basis for the suspension of the privilege of the writ, which point of order was sustained by the Chair.

Mr. Bernas recalled that when the Body deliberated on the Article on the Bill of Rights, it did not discuss the powers of the President, not on the distinct rights of the President as Commander-in-Chief of the Armed Forces, but the right to the privilege of the writ of habeas corpus.

REACTION OF MR. PADILLA

Mr. Padilla maintained that the issue then was the deletion of the phrase "imminent danger thereof". He disputed the claim of Mr. Bernas that he did not make any proposal for the distinction between the suspension of the privilege of the writ of habeas corpus and the proclamation of martial law and stated that he actually submitted two proposals, one of which was the proposed inclusion of "subversion, sedition, imminent danger of rebellion or invasion" as among the grounds for the suspension of the privilege of habeas corpus because the declaration of martial law was then limited to actual rebellion or actual invasion. He recalled that when he presented such proposal, Mr. Bernas raised a point of order on the ground that the matter had already been decided in the Article on the Bill of Rights and it would be improper to present amendments of the same nature in the Article on the Executive. Unfortunately, such point of order was sustained by the Chair compelling him to say "I respect the decision of the Chair, although, I do not agree with it."

AMENDMENT OF MR. REGALADO JOINTLY WITH MR. VILLACORTA

On Section 16, page 7, Mr. Regalado, jointly with Mr. Villacorta, proposed to change the comma (,) after "dent" on line 30 to a period (.); to delete the word "or" and the comma (,) after it; to start a new sentence by capitalizing the letter "u" in the word "upon" and after the word "President" and the comma (,) to insert the words CONGRESS MAY; after the word "extend", delete the article "the" and insert the words SUCH PROCLAMATION OR SUSPENSION; and, to delete the word "same" on line 31, so that the whole line 30 would read: "dent. Upon the initiative of the President, CONGRESS MAY extend such PROCLAMATION OR SUSPENSION".

As proposed by Mr. Azcuna, and accepted by Mr. Regalado the Body approved the amendment to insert the words IN THE SAME MANNER between the words "may" and "extend".

MANIFESTATION OF MR. RODRIGO

Mr. Rodrigo stated for the record that he does not favor the use of the words "voting jointly" because it is very much against the very basic idea of bicameralism. He maintained that Congress, it being a bicameral body, must vote separately whenever it acts.

APPROVAL OF MR. REGALADO'S AMENDMENT, AS AMENDED

There being no further objection, the Body approved Mr. Regalado's amendment, as amended.

Thereupon, Resolution No. 517 on the Article on the Executive, as amended was submitted to a vote, and with 33 Members voting in favor and 8 Members voting against, the Chair declared the same approved by the Body.

EXPLANATION OF VOTE OF MRS. QUESADA

Mrs. Quesada stated that she was voting No on the Article as she did when the amendment was presented to the Body because of her belief that it would just hand on a silver platter to any power-driven President in the future the opportunity to reinstall a one-man rule in the country. She pointed out that so much had been said about evil and corruption, the venality and the utter disregard of human values that the Filipino people suffered during the last fourteen years and it was for this reason, she said, that the Commission had conscientiously worked out provisions to ensure that such arbitrary rule and abuse of presidential power would never again be easily repeated.

She reminded the Body that this was the overriding concern expressed by the people who participated in the public hearings, hoping that the Members of the Commission would articulate such concern to eliminate every possibility that another dictator would rule again. She expressed her disappointment over the 180-degree turnabout of the Committee that worked hard to incorporate in the new charter the proper mechanisms that would eliminate such possibility.

Mrs. Quesada placed on record her objection to the grant of powers to the President regardless of all the checks and balances entrusted to the Legislature and to the Judiciary. She stressed that historical precedents within living memory have demonstrated the ineffectiveness and impotency of such fiscalizing measures. She maintained that a power-mad dictator, exemplified by countless historical examples, would simply abolish the Judiciary and padlock the Congress and send all dissenters to the stockade, a reality which the proponents of the amendment seemed to have forgotten.

Mrs. Quesada noted that a wise man from Spain said "Those who forget the past are doomed to repeat it" and in the same vein, a columnist who wrote "They never learn", an attribution to the Constitutional Commission three days after the victorious passage of the amendment.

Finally, Mrs. Quesada lamented the fact that those who learned their lessons and did not forget the past are only in the minority but whose opinion is shared by many Filipinos outside the Session Hall who are not empowered to cast their votes.

REACTION OF MR. REGALADO

Lest the Committee would be misunderstood, Mr. Regalado made it clear that in order to meet a very serious and dangerous situation that might occur during an actual rebellion or invasion, the President, by the amendment, is granted the power of immediate response by declaring martial law or suspending the privilege of the writ of habeas corpus but such an act, if found to be incorrect and not factually substantiated, could be revoked by Congress even the day following the proclamation or suspension.

INQUIRY OF MR. SUAREZ

On Mr. Suarez' inquiry on the propriety of a Committee Member standing and justifying the Committee's action during the voting, the Chair replied that Mr. Regalado was allowed to make a reaction in the same manner that Mrs. Quesada was allowed to explain her vote although it is proper only during nominal voting.

Mr. Suarez maintained that an explanation of vote is part of the voting process but not an explanation of the Committee's action.

ANNOUNCEMENT OF MR. BENGZON

At this juncture, Mr. Bengzon announced that should the Body finish the Article on Social Justice within the day's session, it would proceed to consider Committee Reports Nos. 21 and 25 on the Article on Local Governments. In view thereof, he stated that all other reports would have to be moved back. He informed the Body that with respect to the Article on Family Rights, it would be discussed together with the Article on Human Resources which, as originally scheduled for August 14 and 15, would be moved back because of the delay in the deliberations on the Article on Social Justice.

REPLY OF THE CHAIR TO MR. SUAREZ' INQUIRY

Replying to the query of Mr. Suarez, the Chair stated that although it allowed Mr. Regalado to make his own statement, it took note of Mr. Suarez' statement.

MANIFESTATION OF MR. RAMA

Mr. Rama informed that the Committee on Social Justice is ready to present to the Body the proposed amendments it had accepted and to defend such amendments if necessary.

REQUEST OF MR. RODRIGO

Mr. Rodrigo requested for suspension of the session in order that the Members would be given time to go over the proposed amendments.

SUSPENSION OF SESSION

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

It was 10:57 a.m.

RESUMPTION OF SESSION

At 11:23 a.m., the session was resumed.

MR. MONSOD'S EXPLANATION OF VOTE

Upon resumption of session, with the permission of the Chair, Mr. Monsod explained his affirmative vote on the Article on the Executive.

Adverting to the remarks that those who voted for his amendment are victims of subjugated consciousness, could not learn from the past, or suffer from lack of awareness of the people's sentiments, Mr. Monsod stressed that freedom means having the confidence to fight a dictator, and the capacity to allow freedom to defend itself against actual invasion or rebellion. He added that the premise that a dictator is ready to disregard the Constitution would mean that no amount of safeguard can prevent him from a naked assumption of power outside the Constitution.

Furthermore, he opined that any insinuation of subjugated consciousness or lack of patriotism and responsiveness is an offensive generalization to include those who did not allow themselves to be dictated upon by Mr. Marcos even at the expense of their lives and their livelihood. He stated that conclusions should not be based on one's stand on an issue but on his conviction and patriotism.

EXPLANATION OF MR. OPLE

Mr. Ople explained that those who voted in favor of the Article on the Executive should not be questioned for independence, intelligence and righteousness, and that they should be accorded due courtesy for their convictions.

He pointed out that the original provision requiring the concurrence of Congress in imposing martial law or suspending the privilege of the writ of habeas corpus went through thorough debate and every aspect of it had been scrutinized. He opined that it was not right to equate patriotism with being able to clip the powers of the President, and that the provisions of the Article pertain to practical situations where national security would be the bond of patriotism for all Filipinos.

He noted, however, that the Commission had also put such Executive powers under a system of check and balance and that the Article is attuned to the freedom and rights of the citizens. He further stated that it provides for a strong President but whose powers would, in certain cases, require the concurrence of the representatives of the people.

PERIOD OF AMENDMENTS ON THE ARTICLE ON SOCIAL JUSTICE

On motion of Mr. Rama, there being no objection, the Body proceeded to the Period of Amendments on the Article on Social Justice.

Thereupon, the Chair recognized Mrs. Nieva, as Chairman of the Committee on Social Justice, and the members of the Committee for the amendments.

PROPOSED AMENDMENT OF MR. ROMULO, JOINTLY WITH MESSRS. AZCUNA AND DAVIDE

Mr. Romulo, together with Messrs. Azcuna and Davide, proposed to amend Section 1, to read as follows:

SECTION 1.- THE STATE SHALL PROMOTE SOCIAL JUSTICE AS A PRIMARY IMPERATIVE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL ENACT MEASURES THAT PROTECT AND ENHANCE THE RIGHT OF EVERY CITIZEN TO HUMAN DIGNITY, REDUCE SOCIAL, CULTURAL, ECONOMIC AND POLITICAL INEQUITIES, AND EQUITABLY DIFFUSE WEALTH AND POLITICAL POWER FOR THE COMMON GOOD.

On Mr. Bernas' proposed amendment on the second sentence, in lieu of the word "enact", to insert the phrase GIVE HIGHEST PRIORITY TO THE ENACTMENT OF, Mr. Romulo observed that it would be redundant because of the term "primary imperative", which includes the mandate to Congress to give it the highest priority.

Mr. Bernas stated that he would be willing to withdraw his amendment if that would be the interpretation.

In this connection, Mr. Garcia opined that the sense would be the same if the qualifying word "primary" before "imperative" would be changed to "an", and then to adopt the amendment of Mr. Bernas that CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES. . .

On the qualification of the word "imperative", Mr. Ople suggested that the word "moral" would better qualify it because it also pertains to politics and ethics in the Aristotelian definition.

Mr. Bennagen stated that during the Committee deliberation on the Section, he specifically pointed out that "moral" should be retained as an adjective to "imperative" in order to emphasize development in favor of the underprivileged. He suggested that the word be retained to advance social morality.

Mr. Azcuna pointed out the legal impediments in enforcing "morals" since natural laws are unenforceable in the legal field because what is legally enforceable is a requirement of the legal system and not merely of moral

theology. He stressed that the phrase "shall promote it as a moral imperative" might be construed merely as a dictate addressed to the conscience rather than a legally enforceable and demandable claim.

Mr. Ople opined that "imperative" without being moral, territorial or political would be an inappropriate word in the Section unless it is modified or given a context.

Mr. Romulo suggested that the dilemma could be removed if the phrase "primary objective" would be deleted and Mr. Bernas amendment of "giving highest priority" adopted instead, which was the original phrasing.

Mr. Ople stated that it is acceptable.

At this juncture, Mr. Monsod manifested that the Committee had accepted the deletion of the phrase "at a primary imperative" so that the first statement would be a general statement and that urgency would be given in the enactment of measures.

Mr. Romulo accepted the amendment.

AMENDMENT OF MR. BERNAS

On Section 1, line 5 of the modified amendment, Mr. Bernas proposed to reword the phrase starting with "reduce" to read as follows: REDUCE SOCIAL, ECONOMIC AND POLITICAL INEQUALITIES, CULTURAL INEQUITIES, AND EQUITABLY DIFFUSE WEALTH AND POLITICAL POWER FOR THE COMMON GOOD.

He explained that he used "inequalities" after "political" instead of "inequities" because it involves no moral judgment and is merely a description of what is happening in the nation. On the other hand, he explained that he used "cultural inequities" instead of "cultural inequalities" because it is not the intention to equalize all cultures but rather to protect them against inequities.

Mrs. Nieva accepted the amendment.

Thereupon, Mr. de los Reyes proposed to change "reduce" with ERADICATE.

Mr. Bernas rejected the proposal because "inequality" by itself is not evil. Mr. de los Reyes, however, accepted the suggestion to place ERADICATE before "cultural inequities".

Mr. Monsod rejected the amendment.

Mr. Bernas, however, insisted that "inequities" are evil and that the State should not merely reduce them but as much as possible remove them. He then suggested to change "eradicate" with REMOVE.

Mrs. Nieva accepted the amendment.

At this juncture, Mr. Padilla pointed out that the use of the word "inequalities" as distinguished from "inequities" might lead to expectations of utopia, but it is not humanly possible to equalize.

He also pointed out that he would favor the retention of "moral imperative" as a moving factor for Congress to enact lawful measures and he stressed that although "moral" would not lead to legal rights, the word "imperative" would prod Congress to enact measures that would give rise to legal rights.

As to the word "highest", Mr. Padilla opined that the Body should not control the legislative discretion of the future Congress to give social justice the first or "highest" priority which could be best achieved through economic advancement or productivity. He then proposed to delete "highest".

Mr. Bacani stated that according to Mr. Bernas, "highest" does not mean number one but among the first.

In addition thereto, Mr. Bernas stated that "highest" merely means a very high priority.

Thereupon, Mrs. Nieva read the proposed amendment of Mr. Romulo on Section 1, as modified by Messrs. Bernas, Davide, Nollado, Azcuna, Mrs. Rosario Braid, and Mr. de los Reyes, which was accepted by the Committee, to wit:

SEC. 1.- THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES THAT PROTECT AND ENHANCE THE RIGHT OF EVERY CITIZEN TO HUMAN DIGNITY REDUCE SOCIAL, ECONOMIC AND POLITICAL INEQUALITIES, REMOVE CULTURAL INEQUITIES, AND EQUITABLY DIFFUSE WEALTH AND POLITICAL POWER FOR THE COMMON GOOD.

Thereupon, the proposed amendment was submitted to a vote, and with 37 Members voting in favor and 1 against, the same was approved by the Body.

Thereafter, Mr. Padilla's proposal to delete the word "highest" was submitted to a vote and with 10 Members voting in favor and 27 against, the same was lost.

AMENDMENT OF MR. RODRIGO

Mr. Rodrigo opined that the phrase "enhance the right of every citizen" could be construed to mean that the benefits of social justice are limited only to Filipino citizens which is a departure from the provisions on social justice of the 1935 and 1973 Constitutions which guarantee social justice benefits to all people, Filipino citizens and non-citizens alike.

Mrs. Nieva explained that the Committee was really concerned with Filipino citizens without prejudice to the rights of non-citizens.

Thereupon, Mr. Rodrigo proposed to change "every citizen" to THE PEOPLE.

Mr. Padilla suggested ALL THE PEOPLE which is the same phrase used in the 1935 and 1973 Constitutions.

Mr. Rodrigo accepted the proposal.

Mrs. Nieva proposed EVERY PERSON.

Mr. Rodrigo rejected the proposal because ALL THE PEOPLE which has been used for many decades has already assumed a meaning even in jurisprudence.

Mrs. Nieva, on behalf of the Committee, accepted the proposal.

Submitted to a vote, and there being no objection, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. MAAMBONG

Mr. Maambong proposed the word PREVENT instead of "reduce" which only conveys the idea of minimizing the social, economic and political inequality.

Mrs. Nieva did not accept the proposed amendment on the ground that PREVENT projects the future while the Committee's concern is curing existing inequalities.

Mr. Maambong argued that "reduce" admits the fact that nothing can be done about existing inequalities,

however, he stated that he would not insist on his amendment.

COMMENTS OF MR. VILLEGAS

Adverting to the remarks of Messrs. Bernas and Padilla, Mr. Villegas stressed that there is nothing inherently immoral about inequalities since people have different talents, efforts or interests.

On the Bernas amendment, he stated that its adoption would make the phrase "equitably diffuse wealth and political power" redundant because there is no way by which social, economic and political inequalities could be reduced without equitably diffusing wealth and political power.

COMMENTS OF MR. BACANI

Mr. Bacani distinguished "inequalities" from "great inequalities" stating that there is nothing morally wrong with "inequalities" while "great inequalities" is morally wrong.

RESPONSE OF MR. BERNAS

Mr. Bernas stated that he had conferred with Mr. Villegas who agreed to the rewording of the proposed amendment to BY EQUITABLY DIFFUSING.

Mr. Bengzon on behalf of the Committee, likewise accepted the amendment which, there being no objection, was approved by the Body.

AMENDMENT OF MR. DAVIDE

As proposed by Mr. Davide, and accepted by the Committee, there being no objection, the Body approved the amendment on Section 1, to delete the comma (,) after "inequities" and the word "and".

RESTATEMENT OF SECTION 1, AS AMENDED

Upon request of the Chair, Mr. Bengzon read Section 1, as amended, to wit:

THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES THAT PROTECT AND ENHANCE THE RIGHT OF ALL THE PEOPLE TO HUMAN DIGNITY, REDUCE SOCIAL, ECONOMIC AND POLITICAL INEQUALITIES AND REMOVE CULTURAL INEQUITIES BY EQUITABLY DIFFUSING WEALTH AND POLITICAL POWER FOR THE COMMON GOOD.

PROPOSED AMENDMENT OF MR. TINGSON

Mr. Tingson stated that, together with Mr. Rosales, he feels that some Members may vote against Section 1 because of the word "highest" which he proposed to be changed to HIGH.

Mr. Bengzon, however, raised a point of order, stating that Section 1 had been voted upon, for which reason, Mr. Tingson desisted from pursuing his amendment.

AMENDMENTS OF MR. DAVIDE

Mr. Davide proposed the following amendments on Section 2: 1) to delete "Section"; the figure "2", and the period (.); and (2) to substitute "increments" with FRUITS, delete "thereof" and put AND before "promote". He

stated that the proposed Section 2 should not be regarded as a separate section because it is irretrievably linked with Section 1.

Mr. Sarmiento stated, however, that he suggested the word "increments" because it includes fruits, profits and gains. In view thereof, Mr. Davide did not insist on the change from "increments" to FRUITS.

Mr. Colayco sought to modify Mr. Davide's amendment by proposing a collective phrase TO THIS END in lieu of "Towards these ends". Mrs. Nieva stated that the matter could be referred to the Committee on Style.

Mr. Romulo proposed to delete the clause "promote the establishment of independent and self-reliant socio-political and economic structures", stating that it is redundant.

Mr. Davide agreed to Mr. Romulo's modification on condition that Sections 19 and 20 would be approved.

At this juncture, upon direction of the Chair, Mr. Davide read the second paragraph of Section 1 as proposed by him, to wit: TOWARDS THESE ENDS, THE STATE SHALL REGULATE THE ACQUISITION, OWNERSHIP, USE AND DISPOSITION OF PROPERTY AND ITS INCREMENTS.

Mr. Padilla pointed out that "towards these ends" is unnecessary and redundant because of the phrase "in pursuit thereof". He likewise stated that "the State" should be THE CONGRESS because "Congress shall" appears in the early part of the section.

Replying thereto, Mr. Davide stated that the phrase "Towards these ends" refers to the ends or objectives enumerated in the first paragraph which need emphasis. On the change from "the State" to THE CONGRESS, he stated that even the 1973 Constitution enunciates that such duty pertains to the State.

Mr. Bengzon, manifested the Committee's acceptance of Mr. Davide's amendment.

In support of the Committee's stand, Mr. Villegas volunteered the information that the first section of the Article on National Economy and Patrimony implies that all the structures shall be independent and self-reliant.

At this juncture, Mrs. Nieva manifested that the Committee is divided on the issue.

Reiterating his previous statement that the two major actors in the attainment of social justice are the State and the people, Mr. Bennagen stated that this principle should be included in Section 1.

In reply to Mr. Sarmiento's query on the meaning of "self-reliant socio-political and economic structures", Mr. Garcia stated that social justice is not attained merely by the diffusion of wealth and power. He stated that it is also important to create the structures that will enable and encourage the people to create wealth and to make decisions. On the word "independent", he stated that it refers to the nation, which means that the nation should not be dependent on any other power.

Responding to Mr. Regalado's request for a concrete example, Mr. Garcia adverted to Sections 19 and 20 stating that the Laguna Lake fishermen plagued by the fishpen problems have to be consulted on the planning and implementation of the program. He also cited the system of initiative and referendum, the system of cooperatives and consultative assemblies as examples of the structures referred to which complement or supplement each other.

Mr. Nollado invited attention to the fact that the deletion of the last three lines would make "political power" in the last line of Section 1 out of place.

Adding to the explanations of Mr. Garcia, Mr. Bennagen stated that independent economic organizations like those belonging to the category of small-scale enterprises are contemplated in the concept of independent and self-reliant socio-political and economic structures.

Replying to Mr. Nollado's observation, Mr. Davide stated that the deletion of the last three lines in Section 1 would not have the effect stated by Mr. Nollado because of the provisions of Sections 19 and 20 which make reference to people's organizations.

Mr. Nollado, however, maintained that Section 2 would not reflect the sense of Section 1.

MOTION OF MR. RAMA

At this juncture, Mr. Rama stated that the issue had been thoroughly discussed, for which he moved for a vote.

ACCEPTANCE BY MRS. NIEVA

Mrs. Nieva, on behalf of the Committee, accepted the first part of Mr. Davide's proposals to make Section 2 as the first paragraph of Section 1.

INQUIRY OF MR. REGALADO

In reply to Mr. Regalado's query, the Chair affirmed that approval of Mr. Davide's amendment would not foreclose further amendments on the Section.

RESULT OF THE VOTING

Submitted to a vote, with 36 Members voting in favor, and 2 against, the Body approved Mr. Davide's first amendment.

Thereafter, the Chair called for a vote on Mr. Davide's second proposed amendment to delete the clause "promote the establishment of independent and self-reliant socio-political and economic structures".

COMMENTS OF MR. BENNAGEN

Mr. Bennagen commented that since Sections 1 and 2 were consolidated, it is necessary to maintain some conceptual symmetry in relation to the State and the people as instruments of social justice.

RESULT OF THE VOTING

Submitted to a vote, with 23 Members voting in favor and 18 against, the Body approved the amendment.

PROPOSED AMENDMENT OF MR. ROMULO

Mr. Romulo proposed to transpose Section 10, which is a general section, as a new subsection under Section 2. He explained that Section 10 deals with the promotion of social justice which includes the commitment to create economic opportunities based on freedom of initiative especially to small and medium-scale entrepreneurs and therefore would not belong to Agrarian Land Reform.

In reply thereto, Mrs. Nieva informed that the Committee did not intend the Section to be under Agrarian Land Reform and that the "entrepreneurs" should be treated as a separate sector just like the farmers and laborers. She added that the provision under Section 10 should be a subsection with the heading "Entrepreneurs" following Agrarian Land Reform to which, Mr. Romulo suggested that the Section on "Entrepreneurs" be placed before "Labor".

Upon inquiry of Mr. Bengzon, Mr. Romulo insisted on his amendment by transposition as it would provide balance in the first Section as pointed out by Mr. Villegas. He opined that the provision could lose its effect if it is

placed in Section 10 or under some other headings.

Mr. Bennagen noted that two concepts are embodied in Section 10 — the commitment to create economic opportunities based on the freedom of initiative and the special concern for small and medium-scale entrepreneurs. He stated that the first concept would apply to all, not only to small and medium-scale industries. He added that the sector deserves a separate section to attend to its peculiarities, in response to which, Mr. Monsod remarked that there is a difference of opinion among Committee Members, noting that there were those who felt that the provision would rightfully be placed after Section 1.

Mr. Sarmiento observed that Section 10, which is also covered by Section 1, would not be necessary inasmuch as Section 1 provides that Congress shall give the highest priority to the enactment of measures which protect and enhance human dignity and reduce inequalities.

In support of Mr. Romulo's amendment, Mr. Bernas stated that Section 1 deals with the diffusion of wealth, while Section 10 deals with the creation of wealth. He noted that putting the two Sections together would provide for the creation and diffusion of wealth, two basic principles involved in the provisions.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session until two-thirty in the afternoon.

It was 12:45 p m.

RESUMPTION OF SESSION

At 2:44 p.m., the session was resumed.

PROPOSED AMENDMENT OF MR. ROMULO

Mr. Romulo proposed Section 10 to be the new Section 2 and accepted Mrs. Nieva's amendment to substitute the words "especially through small and medium-scale entrepreneurs" with AND THE PRINCIPLE OF SELF-RELIANCE.

REMARKS OF MR. SARMIENTO

At this juncture, Mr. Sarmiento stated that before the session was suspended, he moved for the deletion of Section 10 on the ground that it is covered by Section 1, besides, Section 10 would give importance to just one sector.

Responding thereto, Mr. Monsod stated that the deletion of the phrase "especially through small and medium-scale entrepreneurs" would precisely avoid giving importance to one sector.

Thereupon, Mr. Sarmiento withdrew his amendment.

Additionally, Mr. Bennagen stated that the phrase "principle of self-reliance" would mandate the State not to do everything for the people, including the private sector, but to encourage the nongovernmental organizations.

AMENDMENT OF MR. ROMULO

As proposed by Mr. Romulo and amended by the Committee, the Body approved the amendment making Section 10 Section 2 which shall read as follows:

SECTION 2. THE PROMOTION OF SOCIAL JUSTICE SHALL INCLUDE THE COMMITMENT TO
CREATE ECONOMIC OPPORTUNITIES BASED ON THE FREEDOM OF INITIATIVE AND THE

PRINCIPLE OF SELF-RELIANCE.

PROPOSED AMENDMENT OF MR. FOZ

On Section 3(b), between the words "workers" and "to", Mr. Foz proposed to insert the phrase INCLUDING THOSE IN THE PUBLIC SECTOR.

Mr. Davide stated that the proposal of Mr. Foz was already included in the words "any class or kind".

Ms. Aquino pointed out, however, that said phrase was deleted by the Committee to avoid any distinction.

Thereupon, Mr. Davide registered his objection to the proposal of Mr. Foz, to which Ms. Aquino agreed, stating that the Committee holds the same position.

Mr. Foz stated that he could not see why there should be any objection to his proposal to include the phrase "including those in the public sector" in the light of the Committee's admission that the term "workers" would include those in the public and private sectors.

Ms. Aquino maintained, however, that the amendment is unnecessary and that the explicit inclusion of such phrase would open the Article to the interpretation of some unwanted distinction which the Committee precisely wanted to avoid.

Thereupon, Mr. Foz withdrew his amendment.

INQUIRY OF MR. RODRIGO

In reply to Mr. Rodrigo's query on the intent of the phrase "including the right to strike in accordance with law", Mrs. Nieva stated that it was explicitly provided in view of the exceptions therein like those in the armed forces and civil defense. In this connection, she agreed that Congress has the power to enact a law granting the right to strike except for members of the armed forces, police forces and civil service.

INQUIRY OF MR. FOZ

In reply to the query of Mr. Foz, Mr. Suarez stated that the phrase "in accordance with law" does not refer to all the rights enumerated in the provision but would only be limited to the phrase "including the right to strike".

On whether it could also mean that while Congress may regulate the right to strike, it may not regulate self-organization, collective bargaining, negotiation and peaceful concerted activities, Mr. Suarez opined that Congress is not precluded from enacting laws guaranteeing the rights of workers in relation to the activities stated.

AMENDMENT OF MR. FOZ

As proposed by Mr. Foz and accepted by the Sponsor, the Body approved an amendment on Section 3(b), to insert the words TERMS AND between the words "humane" and "conditions".

PROPOSED AMENDMENT OF MR. FOZ

On the same Section 3(b), Mr. Foz proposed to insert ADEQUATE EDUCATIONAL OR TRAINING PROGRAMS between the comma (,) after "work" and "and".

Explaining his amendment, Mr. Foz stated that the Convention of the International Labor Organization provides that workers should be given adequate opportunity to have continuing education and training not only for their self-improvement but also to keep up with the technological changes going on in the industry.

Responding thereto, Mrs. Quesada pointed out that the proposal is already covered in the terms and conditions of work which workers and trade unions negotiate with management.

Mr. Foz pointed out, however, that the terms and conditions of work may not adequately encompass the concept of continuing education and training of the workers, to which Mr. Suarez replied that in most collective bargaining agreements, there is a specific provision calling for promotional and educational campaigns on the rights of laborers.

SUGGESTION OF MRS. ROSARIO BRAID

Mrs. Rosario Braid inquired whether Mr. Foz would agree to include his concept in a separate section to be introduced later which would incorporate the concept of the human resources development or nonformal education which would include labor and people's organizations.

Mr. Foz stated that as long as the concept is there, he would agree to the deferment of his proposed amendment until the Body would take up Section 20.

INQUIRY OF MR. ROMULO

In reply to the queries of Mr. Romulo, Mr. Foz affirmed that collective bargaining agreements usually provide educational and training programs for workers, but in the absence of such agreements, the State does not necessarily pay for these programs because there could be a law that provides such opportunities for the workers, at any level — general, social, civic or trade union education.

On whether it is his intention to make it mandatory on the part of the employers to provide these training programs, Mr. Foz pointed out that generally, it is management which provides such opportunities for the workers, like allowing them to study during working hours, with the end in view that this would redound to the benefit of management.

Mr. Romulo, however, pointed out the feasibility and cost in making such a thing compulsory not only in terms of company time but also in terms of wages.

INQUIRY OF MS. AQUINO

In reply to Ms. Aquino's inquiry, Mr. Foz agreed to withdraw his proposed amendment with the assurance that the proposed Section 3(b) would be a sufficient mandate to Congress to give impetus to a statutory implementation in the contest of his proposal.

MANIFESTATION OF MR. OPLE

At this juncture, Mr. Ople manifested his desire to seek clarification with regard to Section 3(b).

INQUIRY OF MR. FOZ

In reply to Mr. Foz' inquiry, Mrs. Nieva stated that the Committee had already accepted his amendment to insert **TERMS AND** between the words "humane" and "conditions".

Thereupon, Mr. Ople desisted from asking questions to the Committee.

REMARKS OF MR. COLAYCO

Mr. Colayco noted that Section 3 merely enumerates the rights of labor which have already been provided under existing laws and this may unnecessarily clutter the Constitution.

Adverting to letters he received that the Constitutional Commission may be too wordy in framing the draft Constitution, Mr. Colayco quoted one of the recommendations of Constitutional writers, to wit:

"Generally, a Constitution should be brief and should limit itself to fundamentals, avoiding all legislative matters. It should affirm general principles leaving details to legislation.

"The Constitution should be as short as possible which is little more than an enumeration of the powers of the various branches of the government to which is added the Bill of Rights."

If the intent of the Committee is to elevate to the constitutional level the plethora of existing laws, Mr. Colayco opined that Sections 1, 2 and even a portion of Section 3 which simply states that "It shall be the duty of the State to afford full protection to labor", would have been enough to reflect the real intent without in any way diminishing or reducing the importance of preserving the rights of labor.

REACTION OF MS. AQUINO

Ms. Aquino, on behalf of the Committee, maintained that the rights enumerated under Section 3 which are repetitions of the provisions of the 1935 and 1973 Constitutions rightfully elevate to the Constitutional level the basic and fundamental rights of workers and these, she opined, are immutable and unyielding to the protestations of brevity.

Mr. Colayco, however, maintained that those rights are already contained in existing laws and in lawbooks, and it would be unlikely for the Legislature to just declare these laws annulled. He stated that he was just presenting his suggestion that would guide the Committee to be consistent with the accepted norms of constitution-writing.

COMMENTS OF MR. LERUM

Commenting on Mr. Colayco's remarks, Mr. Lerum warned that a short Constitution is liable to misinterpretation and cited a provision in the 1973 Constitution which provides the right to form associations in accordance with law and yet such a right had been restricted by a provision in the Labor Code.

Replying thereto, Mr. Colayco pointed out a provision in the proposed Article on Social Justice which is similar to Section 7 of the Article of the Bill of Rights. He suggested that the Committee be more parsimonious in the use of words.

Mrs. Nieva took note of Mr. Colayco's observations.

On Mr. Monsod's query whether he has some suggestions so that the proposed Section would be less enumerative; Mr. Colayco stated that he was just concerned with the delay, because the Body took an hour and a half just to approve one section.

INQUIRY OF MR. FOZ

In reply to Mr. Foz' inquiry, Mrs. Nieva affirmed that the concept of a decent living wage is already covered in the concept of just and humane terms and conditions of work.

PROPOSED AMENDMENT OF MR. FOZ

In view of Mrs. Nieva's reply, Mr. Foz proposed the deletion of the phrase "and to a decent living wage".

PARLIAMENTARY INQUIRY OF MR. RODRIGO

At this juncture, in reply to Mr. Rodrigo's inquiry on the status of Mr. Foz' proposed amendment to insert the words TERMS AND between the words "humane" and "conditions", the Chair stated that the Body had not acted on the amendment and, therefore, should vote on it.

OBJECTION OF MR. DAVIDE

In objecting to the proposed amendment, Mr. Davide maintained that the word "terms" would include "living wage" which he would not like to be deleted later. He stated that the word "conditions" refers to the conditions of labor, like a better place or habitat for the employees. He pointed out that "just and humane terms" would refer to compensation which is taken care of by the succeeding phrase, to which Mr. Foz replied that the word "terms" would be a more encompassing word.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 3:28 p.m.

RESUMPTION OF SESSION

At 3:43 p.m., the session was resumed.

RESERVATION OF MR. COLAYCO

Upon resumption of session, Mr. Colayco made a reservation to present his proposed amendments on Section 3 in the next session, which reservation was noted by the Chair.

PROPOSED AMENDMENT OF MR. FOZ

Thereafter, Mr. Foz stated that the Committee had second thoughts on its acceptance of his proposed amendments to insert the words TERMS AND between "humane" and "conditions"; and to delete the phrase "and to a decent living wage".

Thereupon, Mr. Suarez, on behalf of the Committee, instead proposed to delete the words "just and" before the word "humane", and to delete "decent" before "living wage" so that the phrase would read SECURITY OF TENURE, HUMANE CONDITIONS OF WORK, AND TO A LIVING WAGE . . . He explained that living wage would include the basic wage as well as other allowances or emoluments.

In view thereof, Mr. Foz withdrew his proposed amendment on the understanding that wage would refer not only to basic wage but to all monetary emoluments.

AMENDMENT OF MR. OPLE

In reply to Mr. Ople's query on whether mutual benefit, welfare or aid, security of tenure, humane conditions of work, living wage, and the right to participate in policy and decision-making processes affecting their interest, would constitute additional grounds for labor to strike, Ms. Aquino stated that it was not the intention to expand

the grounds contained in existing laws and jurisprudence, however, any amendment on Section 3(b) would be welcome.

In view thereof, Mr. Ople proposed to delete the word "mutual" before "benefit"; to put a period (.) after "aid"; and to insert the phrase THEY SHALL BE ENTITLED TO before the word "security"; and to change "participation" to PARTICIPATE.

He explained that the word "mutual" only refers to internal benefits of the organization of workers, rather than to mutuality between workers and employers.

Mrs. Nieva accepted the proposed amendments of Mr. Ople.

In reply to Mr. Lerum's query, Mr. Ople stated that workers may still strike on the ground of unfair labor practice.

MR. REGALADO'S AMENDMENT TO MR. OPLE'S AMENDMENT

Thereafter, Mr. Ople accepted Mr. Regalado's amendment to his amendment by changing the comma (,) after the word "law" to a period (.), and deleting the phrase "for their mutual benefit, welfare or aid."

Mrs. Nieva accepted Mr. Ople's amendment as amended by Mr. Regalado, such that Section 3(b) would read:

b)

GUARANTEE THE RIGHTS OF WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND NEGOTIATIONS, PEACEFUL CONCERTED ACTIVITIES, INCLUDING THE RIGHT TO STRIKE IN ACCORDANCE WITH LAW. THEY SHALL BE ENTITLED TO SECURITY OF TENURE, HUMANE CONDITIONS OF WORK, AND TO A LIVING WAGE, AND TO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR INTERESTS.

INQUIRY OF MR. FOZ

In reply to Mr. Foz' query on whether Congress would be prevented from stating other grounds for strike since the Committee stated that strikes could only be staged on grounds of collective bargaining deadlocks, Mr. Monsod stressed that strikes could be staged "in accordance with law"; therefore, Congress may still provide for limitations on strikes. Mr. Ople added that under existing laws, nothing could prevent Congress from expanding the grounds for strike.

Likewise, Ms. Aquino explained that what the Committee stated was that under present labor laws and jurisprudence, the right to strike would be recognized if it involves deadlocks in collective bargaining and unfair labor practice, but the future Congress could not be prevented from providing for other grounds to strike.

AMENDMENT OF MR. DAVIDE

On Section 3(b), as proposed by Mr. Davide, Mrs. Nieva accepted the insertion of the word AND between the comma (,) after "negotiations" and the word "peaceful".

MANIFESTATION OF MR. BENGZON

At this juncture, Mr. Bengzon, on behalf of the Committee, manifested that the right to strike includes the right to lock out.

On Mr. Lerum's contention that the employer has no right to declare a lockout, Ms. Aquino explained that it is not

the intention of the Committee to recognize the employer's right to declare a lockout in situations warranted or defined by law, but it would only balance the interests of both the workers and the employers.

FURTHER AMENDMENT OF MR. SARMIENTO ON SECTION 3(a)

At this juncture, as proposed by Mr. Sarmiento, and accepted by the Sponsor, the Body approved, on Section 3(a), second line, to change the word "domestic" to LOCAL.

APPROVAL OF SECTION 3(a)

There being no objection, the Body approved Section 3(a), subject to the reservation of Mr. Colayco to propose amendments thereon.

PROPOSED AMENDMENT OF MR. REGALADO

In reply to Mr. Regalado's query whether the last sentence of Section 3(b) would suggest that the workers must have a seat in the board of directors of a company, Mr. Ople pointed out that in most European countries, they have successful work councils at the level of enterprise, wherein non-adversarial issues between labor and management are settled before they become adversarial. In this manner, he said, labor is able to participate and contribute to policies and decisions for the productivity of the company.

Mrs. Quesada also explained the three levels in which employees could influence management in decision-making, namely: 1) the corporate level, which deals with strategic policies concerning mergers, acquisitions, pricing, marketing, and disposition of properties; 2) the plant and department level where administrative decisions are made, like hiring, promotion, firing, cost and quality control, resource allocations, achievement of quotas, etc.; and 3) the shop floor level where decisions regarding schedule of work, safety regulations, work methods, and training of employees are made.

In addition, Mr. Villegas pointed out some local examples of corporations, like United Laboratories and Timex, which do not have labor unions, but where the issues affecting the welfare of workers are discussed in "employer-employee councils" without any confrontation.

In view thereof, and in line with Mr. Suarez' explanation that the right to strike would be guaranteed by law which the Congress would enact, Mr. Regalado proposed to transpose "in accordance with law" after "the right to strike" to be placed after "guarantee" so that the sentence would read as follows: GUARANTEE, IN ACCORDANCE WITH LAW, THE RIGHTS OF WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND NEGOTIATIONS, PEACEFUL CONCERTED ACTIVITIES INCLUDING THE RIGHT TO STRIKE . . .

He explained that all the other items enumerated in the paragraph would then be made in accordance with law.

On Mr. Romulo's query as to the Committee's interpretation of the phrase "and to participate in policy and decision-making processes affecting their interest", Ms. Aquino explained that it is founded on the premise that workers should be consulted on matters affecting their interests with the following parameters: 1) references to the negotiations in the collective bargaining agreement and its terms; 2) processes covered by grievance machineries; 3) voluntary modes of settling labor disputes; and 4) conciliation proceedings which could be initiated and mediated by the Ministry of Labor and Employment.

SUSPENSION OF SESSION

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

RESUMPTION OF SESSION

At 4:59 p.m., the session was resumed.

MANIFESTATION OF MR. SARMIENTO

Upon resumption, Mr. Sarmiento manifested that the Committee had reformulated Section 3(b).

EXPLANATION OF MS. AQUINO

Ms. Aquino stated, on behalf of the Committee, that the phrase "participation in policy and decision-making processes affecting their rights and benefits" refers to the processes of grievance procedure, conciliation proceedings, voluntary modes of settling labor disputes and negotiations in the collective bargaining agreement. She stated that the scope and substance pertain to the rights and benefits of workers. On co-determination, she stated that it refers to corporate planning and charting of corporate programs. For purposes of clarifying the intention of the Committee, she stated that the Committee proposes to substitute "interest" with "rights and benefits".

INQUIRY OF MR. FOZ

In reply to Mr. Foz' query whether co-determination is covered by the proposed provision, Ms. Aquino answered in the negative.

Mr. Foz observed that the provision is a mere statement of what is provided for under existing structures and practices which, he said, does not advance the position of labor.

Replying thereto, Ms. Aquino stated that it is for that reason that co-determination was defined in the context of the practice in Japan and the industrialized nations in Europe.

On whether it could be foreseen that a law would be enacted to allow workers to be represented in the board, Ms. Aquino stated that the Committee has envisioned its evolution but not through a constitutional mandate.

RESTATEMENT OF THE PROPOSED PROVISION

At this juncture, Ms. Aquino read Section 3(b) to wit: GUARANTEE THE RIGHTS OF WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND NEGOTIATIONS AND PEACEFUL AND CONCERTED ACTIVITIES INCLUDING THE RIGHT TO STRIKE AS MAY BE PROVIDED BY LAW. THEY SHALL BE ENTITLED TO SECURITY OF TENURE, JUST AND HUMANE CONDITIONS OF WORK AND TO A LIVING WAGE, AND TO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS AND BENEFITS.

REQUEST OF MR. SARMIENTO

Mr. Sarmiento requested for a deferment of the voting on Section 3(b) because of the reservation of Mr. Colayco to submit further amendments thereon.

REMARKS OF MR. REGALADO

Mr. Regalado stated that he shared the views of Messrs. Colayco and Padilla and that he was deferring his proposed amendments on the same paragraph.

OBJECTION OF MR. OPLE

Mr. Ople pressed for a vote, reminding the Body of the agreement that voting may proceed without prejudice to Mr. Colayco's amendment, otherwise, the discussions and debates would have been futile.

Asked by the Chair whether the vote would be on principle, Mr. Ople agreed, stressing that it would be without prejudice to Mr. Colayco's proposals.

REMARKS OF MR. COLAYCO

Mr. Colayco disagreed to Mr. Ople's suggestion stating that the discussions and the views advanced would not go to waste since they are all on record to guide the future Congress when it considers the improvements proposed in the Article. He moved for a deferment of the voting on Section 3(b) until the morning of the following day.

MANIFESTATION OF MR. BENGZON

Mr. Bengzon expressed agreement with the points raised by Mr. Ople and suggested, that should Messrs. Sarmiento and Colayco insist on their motion to defer, the matter be submitted to a vote.

Mr. Ople pointed out that in accordance with the original agreement, the Body could act on the amendment right there and then without prejudice to Mr. Colayco's proposed amendment the next day.

Mr. Bengzon agreed with the points raised by Mr. Ople but noted that should the Acting Floor Leader and Mr. Colayco insist on deferring voting on Section 3(b), the matter should be submitted to the Body. At this juncture, Mr. Colayco informed that he was not insisting on deferment of voting on the amendments.

REMARKS OF MR. BROCKA

Reacting to Mr. Colayco's remarks about letters questioning the manner of framing the Constitution and which made allusions that what the Body is doing is legislating by including all the details, Mr. Brocka manifested his concern that the particular questions were never raised during earlier deliberations on other articles which contained details and which were subsequently approved by the Body on Second and Third Readings. He noted that it would be belaboring the point to refer to the Article on Social Justice as a new Article. He stated that there is a consensus among members of the Committee that certain provisions have to be spelled out such as that on labor which is a delicate and important item in the Article. He noted that the Committee Members were conscious about the problem of legislation which always cropped up. In fairness to the other Committees, he suggested that the Body be consistent from beginning to end and that for the remaining Article the Body could come up with noncontroversial provisions.

Thereafter, Mr. Bengzon suggested that the Body proceed and vote on Section 3(b) if there are no other amendment thereto.

REMARKS OF MR. PADILLA

In response to Mr. Brocka's statement, Mr. Padilla explained that there is a great deal of difference between the Article on Social Justice and the other Articles as those on the Executive, the Legislative Departments and the Judiciary inasmuch as the 1935 and 1973 Constitutions on these three Articles contained many sections which are absolutely necessary. The provision on Social Justice, he noted, was a one-sentence provision in the 1935 Constitution and a two-sentence provision under one Section in the 1973 Constitution.

PROPOSED AMENDMENT OF MR. PADILLA

Thereafter, on Section 3(b), Mr. Padilla inquired if the phrase "in accordance with law" after the words "the right to strike" has been amended to "as may be provided by law", which amendment was confirmed by Mr. Monsod. In relation thereto, he proposed ending the second sentence with the same phrase AS MAY BE PROVIDED BY LAW. He noted that in the deliberations, Mr. Lerum referred to the Labor Code which is a presidential decree and Mr. Foz spoke of salary, cost of living allowance and other benefit. He observed that such benefits if provided in a collective bargaining agreement would be well and good, but under the Marcos regime, through the exercise of Amendment No. 6, the Ministry of Labor and Employment (MOLE) had issued Wage Orders No. 1 to 6 which are impositions on the private sector. He stated that the benefit provided by the Wage Orders were not even extended to government employees. He observed that the phrase "as may be provided by law" in Section 3(b) would make it clear that the Body is not recognizing, much less constitutionalizing the provisions of the Labor Code which is a Presidential Decree nor the Wage Orders issued by MOLE. He noted that sometimes the efforts to grant more rights and benefits to labor work against the interest of labor, for they may discourage capital and management instead of protecting labor by generating more work opportunities. He stated that some private firms, especially those on the marginal side which could barely make profits, had been induced if not compelled to close because of the Wage Orders.

Mr. Ople, reacting thereto, noted the silence of the Committee and that the Committee seemed to be acquiescing with the theory that minimum wage fixing is by its nature abhorrent to the State or to the Body. He adverted to a question he posed to which Ms. Aquino replied to the effect that in speaking of modes of dispute settlement and strengthening of collective bargaining and negotiations, there is no implication that the government is thereby abandoning minimum wage fixing as a national policy. He recalled that the Minimum Wage Law was started in 1951 with the Minimum Wage Act passed by Congress and that in 1965 minimum wage fixing was reasserted and continued later on because of intermittent economic crisis beginning with the first energy crisis. He noted that whenever the OPEC raised the prices of oil by quantum leaps, minimum wage orders were enacted to mitigate the plight of Filipino workers. He stated that the wage orders benefited most of the workers, especially those unorganized workers who had no unions and collective bargaining agreements.

Mr. Lerum, responding to Mr. Padilla, corrected that the MOLE did not issue the wage orders and that the minimum wage orders and living allowances were issued by the former President, in accordance with Amendment No. 6 with the concurrence of the Batasang Pambansa. He noted that in a caucus to which the labor sector was invited, it was agreed that as far as wage fixing and cost of living were concerned, these would be done through decrees on the ground that the Batasang Pambansa would find it very difficult to enact such measures. He added that under Amendment No. 6 itself, the Batasang Pambansa, through a bill filed and approved by this legislative body, could overrule the President.

He stressed that the Committee would insist that the provision on living allowance should be included in the Article to emphasize that the legislature can exercise the power to fix wages so that the workers will not suffer.

Mr. Padilla, in the light of the explanation given by Mr. Lerum that the Wage Orders were not issued by the Ministry of Labor and Employment but by the President under Amendment No. 6, stated that he accepts the correction. He stated that he is not against decent and reasonable wages but the amount of wages should be agreed upon between labor and management. He stressed that Wage Orders Nos. 1 to 6 were imposed by the Marcos regime on the private sector which was not in full conformity with them. He added that the wage orders were imposed regardless of the financial condition of the private firms such that those which barely realize marginal profits could not comply and some were forced to close down. He noted that closure of firms affected the economy and also the rights and interests of labor.

Mr. Lerum explained that every wage order issued contained a safety clause that firms which could not afford to pay the mandated wages or living allowances could apply for exemptions. He noted that as far as management was concerned, though management could afford, most of them refused to pay. He added that under such situations the labor unions could bargain and obtain higher wages than those outside the organized sector. He underscored that it was for this reason that the minimum wage and allowances were incorporated so as to assist unorganized workers who are not covered by unions and collective bargaining agreement. He added that there should always be a safety clause that those who could not afford to pay are exempted provided that such firms could prove that they could not afford to pay.

Mr. Padilla restated his amendment by inserting the phrase "as may be provided by law".

Thereafter, Mr. Sarmiento moved for a vote on Section 3(b).

As amended by Mr. Padilla with the approval of the Committee, Section 3(b) would read as follows:

GUARANTEE THE RIGHTS OF WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND NEGOTIATIONS AND PEACEFUL AND CONCERTED ACTIVITIES, INCLUDING THE RIGHT TO STRIKE AS MAY BE PROVIDED BY LAW. THEY SHALL BE ENTITLED TO SECURITY OF TENURE, HUMANE CONDITIONS OF WORK, AND TO A LIVING WAGE AND TO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS AND BENEFITS, AS MAY BE PROVIDED BY LAW.

INQUIRY OF MR. FOZ

At this juncture, Mr. Foz inquired if a comma (,) follows the word "benefits" to which Ms. Aquino replied that there is a comma (,).

Upon inquiry of Mr. Foz, Ms. Aquino affirmed that the phrase AS MAY BE PROVIDED BY LAW would refer not only to participation in policy and decision-making processes but also to security of tenure and humane conditions of work and living wage.

As to whether this is different from the phrase IN ACCORDANCE WITH LAW in the first sentence of the provision containing the phrase "including the right to strike", Ms. Aquino replied that there is a difference.

Ms. Aquino explained that the difference is that the qualifier AS MAY BE PROVIDED BY LAW in the first part of Section 3(b) qualifies only the right to strike but does not have any reference to the right to self-organization, collective bargaining and others.

Mr. Foz observed that there would be a degree of difference between the right to self-organization and the right to security of tenure. Ms. Aquino affirmed that there would be a difference.

As to whether Congress may deprive certain groups of workers from enjoying the right to security of tenure, Ms. Aquino replied that Congress can only legislate to the extent that it is not inconsistent with the Constitutional mandate. She added that when the Constitutional mandate states that security of tenure must be guaranteed, this cannot be withdrawn by statute.

Upon further inquiry, Ms. Aquino affirmed that with regard to security of tenure, Congress can withdraw it but in the case of self-organization, Congress cannot withdraw it. Ms. Aquino stated that Congress can legislate only to the extent that it is consistent with the Constitutional mandate and that when the Constitution says that workers shall be entitled to security of tenure, Congress cannot withdraw that right to security of tenure. She added that Congress can amplify and reinforce the right to security of tenure.

As to whether Congress can restrict, Ms. Aquino stated that Congress can regulate but not withdraw or deny and that restrictions should be according to the tenor and mandate of the Constitution.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 5:33 p.m.

RESUMPTION OF SESSION

At 5:50 p.m., the session was resumed.

MOTION TO DEFER CONSIDERATION OF VOTING ON SECTION 3(B)

Mr. Colayco stated that his main reason for asking that the provisions of Section 3 be reduced to a minimum is that most of the rights and policies enumerated therein are already in the statute books as well as in the decisions of the Supreme Court. He pointed out that, for the sake of brevity, he was planning to capsulize all four paragraphs and mention only two rights, namely, the right to participate in policy-making and the right to a just share, which are not clearly established in the statute books. He requested that he be given a chance to think his amendment overnight.

Responding thereto, Mrs. Nieva stated that the deferment of the voting on Section 3 would be unfair to the Committee which had worked on the Article for over a month and had considered all views on the matter. She also stated that the Committee could not accept the proposal to capsulize the safeguards which the Committee wanted to constitutionalize.

At this juncture, Mr. Rodrigo presented a compromise to the effect that the Body vote on Section 3(b) and defer discussions on Section 3(c) and (d), to which Mr. Colayco and Mrs. Nieva acceded.

OBJECTION OF MR. FOZ TO MR. PADILLA'S AMENDMENT

Thereupon, Mr. Foz objected to Mr. Padilla's amendment to add the words AS MAY BE PROVIDED BY LAW after the word "benefits" at the end of the sentence. He pointed out that Mr. Padilla's amendment would be a drawback to what was contained in the 1973 Constitution, particularly on the right of the workers to security of tenure.

Mr. Rodrigo pointed out that the bone of contention in the proposal is the comma (.). He then inquired whether Mr. Foz would be satisfied with the removal of the comma.

MR. DAVIDE'S AMENDMENT TO THE AMENDMENT

At this juncture, Mr. Davide proposed an amendment to Mr. Padilla's amendment by inserting between the words "and" and "to", a comma (,), the phrase AS MAY BE PROVIDED BY LAW and another comma (,).

In reply to Mrs. Quesada's query, Mr. Davide agreed that the phrase "as may be provided by law" intends to convey the idea that the law shall implement this particular provision on the participation in policy and decision-making processes.

On the observation that the phrase "as may be provided by law" could raise the possibility that the law may not provide for such an implementation, Mr. Davide stressed that it is the duty of the State to provide for the rights and benefits of the workers, the mechanics for which may be provided by law.

Mr. Padilla however, did not accept the amendment to his amendment.

Thereupon, Ms. Aquino clarified the position of the Committee. She stated that the phrase "as may be provided by law" does not necessarily mean that the law would restrict, delimit, withdraw, eliminate or subtract but would, on the other hand, define, reinforce, provide the specific mechanics and amplify everything in the positive aspect, at the same time recognizing the fact that Congress would always have the inherent right to provide for statutory implementation of the constitutional provision.

Mr. Foz maintained, however, that adding the phrase "as may be provided by law" would leave the impression that it restricts the concept of security of tenure of the workers.

MR. BERNAS' AMENDMENT TO THE AMENDMENT

Mr. Bernas proposed an amendment to the amendment by putting a period (.) after the words "living wage" and treating as a separate sentence the following: THEY SHALL PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS AND BENEFITS AS MAY BE PROVIDED BY LAW.

Mr. Bernas explained that the problem is not just legal but also political, because any impression that the workers' rights are limited could be demoralizing to them even if it is a result of a misunderstanding by them of the intention of the Commission.

Mr. Padilla, likewise, rejected the amendment.

At this juncture, Mr. Romulo stated that labor would misunderstand if the Commission would make them misunderstand. He pointed out, however, that the Committee clearly stated that the phrase "as may be provided by law" is meant to implement what in the provision is guaranteed by the State, so much so that the law may not eliminate but may only implement and execute the right.

Thereupon, Mr. Ople supported Mr. Bernas' amendment to the amendment, stating that it establishes clearly the intent of the Committee.

Mr. Bernas pointed out that it is not just a question of trying to make the workers understand the provision correctly but by its phraseology it would just be giving ammunition or fuel for those who would be willing to mislead the workers.

VOTING ON MR. PADILLA'S AMENDMENT

Submitted to a vote, and with 7 Members voting in favor, 32 against and 1 abstention, the Chair declared Mr. Padilla's proposed amendment lost.

Mr. Colayco manifested that he abstained from voting.

APPROVAL OF MR. BERNAS' AMENDMENT

Submitted to a vote, and with 35 Members voting in favor, 2 against and 1 abstention, the Body approved Mr. Bernas' proposed amendment.

INQUIRY OF MR. ROMULO

In reply to Mr. Romulo's inquiry, Ms. Aquino, on behalf of the Committee, affirmed that despite the restructuring of the sentence, the interpretation she gave earlier would still stand.

RESTATEMENT OF SECTION 3(B), AS AMENDED

Mrs. Nieva restated Section 3(b), as amended, to wit:

B) GUARANTEE THE RIGHTS OF WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND NEGOTIATIONS, AND PEACEFUL AND CONCERTED ACTIVITIES, INCLUDING THE RIGHT TO STRIKE AS MAY BE PROVIDED BY LAW. THEY SHALL BE ENTITLED TO SECURITY OF TENURE, HUMANE CONDITIONS OF WORK, AND TO A LIVING WAGE. THEY SHALL ALSO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS AND BENEFITS AS MAY BE PROVIDED BY LAW.

INQUIRY OF MR. BENNAGEN

In reply to Mr. Bennagen's inquiry whether Section 3(b), as amended, would advance the cause of social justice for workers, Mr. Foz expressed disappointment on the last sentence of the provision stating that at the outset he was made to understand that it was the Committee's intention to allow the representatives of the labor sector to sit, even as a minority group, in the boards of corporations in order that they can voice their concern on issues affecting their rights and benefits. However, as explained later by the Committee, he understood it to mean that it would only refer to matters provided for under existing laws and practices in labor-management relations, thereby relegating labor to a lower level, although not exactly to the level of master-servant relationship.

INQUIRY OF MR. MONSOD

In reply to Mr. Monsod's inquiry whether he interprets Section 3(b) as merely a reiteration of a master-servant relationship, Mr. Foz denied having said that but he pointed out that the provision does not provide anything new and does not truly advance the cause of labor. He maintained that the provision does not mean what it says and it would be better if the last sentence is deleted.

Thereupon, Mr. Monsod asked that the Body vote on the matter.

POINT OF ORDER OF MR. DAVIDE

Mr. Davide raised a point of order on the ground that a call for a vote would in effect be a motion for reconsideration of the previous action of the Committee.

RULING OF THE CHAIR

The Chair ruled that it does not recognize Mr. Foz' statement as a motion for reconsideration and that the Body is only asked to vote on the entire Section 3(b), as amended.

REMARKS OF MR. BACANI

Mr. Bacani expressed the view that the Body should be reminded of Ms. Aquino's statement that the provision, as worded, would allow evolution later and does not close the avenue for future development.

APPROVAL OF SECTION 3(B), AS AMENDED

Thereupon, submitted to a vote, and with 36 Members voting in favor, none against and 5 abstentions, the Body approved Section 3(b), as amended.

ADJOURNMENT OF SESSION

In view of the deferment of the consideration of Section 3(c) and (d), on motion of Mr. Sarmiento, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of the following day.

It was 6:23 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on August 7, 1986

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