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Monday, October 6, 1986

OPENING OF SESSION

At 10:29 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the national Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Cirilo A. Rigos.

Everybody remained standing for the Prayer.

PRAYER

REV. RIGOS: Almighty God, in Whom we live and move and have our being, we look back to the past four months with deep gratitude in our hearts for the mysterious ways by which Thou hast guided us. Thou hast enabled us to overcome not only the clashes of ideas and philosophies each one of us possesses and passionately cherishes, but also the aberrations in our personal relationships that rent our hearts and disturbed our peace. We thank Thee for the miracle of Thy love which enabled us to transcend all difficulties and to come up with a document produced collectively.

As we look forward to the future, grant us the faith to believe that our nation will enjoy a greater measure of freedom and prosperity, the grace to honor the new Constitution, and the wisdom to preserve it for as long as necessary. And for the present, particularly today, all we need is the guidance of Thy Spirit and humility on our part to obey the same.

We beg Thy special comforting grace upon Flerida Ruth Romero, whose beloved mother, Juliana Pineda, passed away two days ago. Give her the assurance of Thy divine companionship especially during the period of bereavement.

We pray in Jesus' name. Amen.

ROLL CALL DISPENSED WITH

THE PRESIDENT: Although we have a quorum, we will dispense with the roll call this morning in view of the condition of the weather.

Will the Assistant Floor Leader proceed to our business for this morning.

MR. CALDERON: I move that we dispense with the reading of the Journal of last Saturday's session.

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Communication from the participants of the LUSSEA regional consultation with the basic sectors, expressing appreciation of the introduction and approval of several provisions which are believed will promote the welfare and interests of the poor and underprivileged sectors of society, at the same time commenting on the various economic concepts embodied in the proposed Constitution.

(Communication No. 1053 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Noli Carbonel of 373 Quezon Avenue, Quezon City, urging the continuance of the U.S. Military Bases in the Philippines if the rental paid thereof is more or at par with what the U.S. pays to Spain, Greece and Turkey; otherwise, the U.S. bases should be dismantled.

(Communication No. 1054 — Constitutional Commission of 1986)

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

Letter from Mr. Bienvenido Castillo of Pulilan, Bulacan, reminding the Constitutional Commission not to rush the Constitution, or else the country will be trailing the same path of the most dejected Filipino administration in the past, saying that if it needs 365 days to finish the draft that will give a more satisfying outcome, then, let it do so.

(Communication No. 1055 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Joseph A. Cosente, OIC, Municipal Mayor of Tublay, Benguet, transmitting Resolution No. 32 of

the Sangguniang Bayan of Tublay, indorsed by the OIC, Provincial Governor of Benguet, opposing the proposal to create the Cordillera as one autonomous region like Muslim Mindanao, instead, favor its creation as one separate and distinct region from Regions I and II.

(Communication No. 1056 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Enrique B. Inting, Provincial Fiscal of Bohol, proposing amendment to Sec. 3, Art. IV of the 1973 Constitution, favoring "strong evidence of guilt" to "probable cause" in the issuance of arrest and search warrants, and also submitting a copy of his article, "Probable Case: A Procedural Anathema In Our Criminal Justice System," printed in the Criminal Justice Journal, January-April 1985 issue.

(Communication No. 1057 — Constitutional Commission of 1986)

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

COMMITTEE REPORT

Committee Report No. 41 on Petition No. 4, prepared by the Steering Committee, entitled:

AN URGENT PETITION TO REOPEN SECTIONS 3, 7, 10, 11, 13 and 14 OF THE ARTICLE ON THE JUDICIARY, recommending that the same be unanimously given due course.

Sponsored by Hon. Bengzon, Jr. and Concepcion.

To the Calendar of Unassigned Business.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 38

(Article on Transitory Provisions)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we continue the consideration of Committee Report No. 38 on the Article on Transitory Provisions.

SUSPENSION OF SESSION

THE PRESIDENT: Is there any objection? May we know if the Chairman of the committee, Commissioner Suarez, and his Members are here?

The session is suspended for a few minutes.

It was 10:37 a.m.

RESUMPTION OF SESSION

At 10:39 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. SUAREZ: Madam President, may we request the Floor Leader to call upon Chief Justice Concepcion.

MR. RAMA: Madam President, I ask that Chief Justice Concepcion be recognized for his amendments.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Thank you, Madam President.

Considering the discussions we had last Saturday, I have sought to redraft what could become Section 21 of the Transitory Provisions, to read as follows:

"THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIOD FOR THE DECISION OR RESOLUTION, OF THE CASES OR MATTERS SUBMITTED FOR ADJUDICATION BY COURTS OF JUSTICE SHALL BE DETERMINED AND DECIDED OR RESOLVED BY THE SUPREME COURT AS SOON AS PRACTICABLE AFTER SUCH RATIFICATION."

We propose additional paragraphs, paragraphs (3) and (4) of Section 14, Article VIII of the Article on the Judiciary, which provide for the means for the disposal of cases filed after the ratification of the Constitution which shall read: "THE PROVISIONS OF PARAGRAPHS (3) AND (4) OF SECTION 14 OF THE MAIN TEXT OF THE ARTICLE ON THE JUDICIARY SHALL APPLY TO CASES OR MATTERS FILED BEFORE THE RATIFICATION OF THIS CONSTITUTION WHEN THE APPLICABLE PERIODS LAPSE AFTER SUCH RATIFICATION."

I am now prepared to answer whatever questions the Members of the Commission would care to propound. During the previous session, the problem anticipated by the Commission referred to the number of cases that may have to be filed to determine the status of the cases, the periods for which have lapsed before the adoption of this Constitution. The principal amendment the committee proposes to introduce is to require the Supreme Court to decide the same as far as practicable and as soon as possible after the adoption of the new Constitution.

THE PRESIDENT: Do we have any comments?

MR. CONCEPCION: Instead of the courts waiting for parties to take the initiative, since there are quite a number of cases already pending in the Supreme Court, the Supreme Court may, in one or a few of them, pass upon the question as an incident of the case or matter.

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

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Thank you, Madam President.

The Committee on the Judiciary will propose for the approval of this Commission an amendment to increase the number of Supreme Court justices from 11 to 15 and to allow the Supreme Court, in its discretion, to be divided into divisions of three, five or seven members.

MR. CONCEPCION: That is right.

MR. PADILLA: The idea, I believe, is to give the Supreme Court more members and at the same time to be able to dispose more expeditiously the pending cases, whether those filed after the peaceful revolution of 1986 or those that have been pending for some time prior thereto.

MR. CONCEPCION: That is right.

MR. PADILLA: And the suggestion of even allowing a division of three is to further expedite the less important cases especially those coming from labor, the workmen's compensation, the appeals from the Sandigan and other minor cases of importance.

MR. CONCEPCION: That is right.

MR. PADILLA: In Section 5 of the Transitory Provisions that we have already approved, we are giving the Supreme Court a one-year period after the ratification of this Constitution to adopt a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court or the lower courts.

Does the Commissioner not believe that these two provisions in the Articles on the Judiciary and the Transitory Provisions would be sufficient to expedite the disposal of cases including the so-called backlog?

MR. CONCEPCION: These are two of the provisions that we have adopted to accomplish that purpose. There are other provisions. For instance, in cases heard by the court en banc, a vote of the majority of all the members who actually took part in the deliberations of the court will be sufficient.

MR. PADILLA: Would the proposed additional section be necessary to be expressly included in the Transitory Provisions, considering that the legal effect will always be subject to appropriate judicial proceedings as stated in that proposed section, when we have already provided for a plan and for measures to be adopted by the Supreme Court not only for itself but for the lower courts in this desire to dispose of all pending cases including the backlog?

MR. CONCEPCION: The provision that we are now discussing for insertion in the Transitory Provisions contemplates something other than the disposal of the backlog because in connection with this, there might be a question as to whether there is already a vested right for the affirmance of the appealed decisions or the dismissal of the original cases of petitions for certiorari, prohibition, et cetera.

The provision for a plan to reduce or eliminate the backlog refers to the disposition of cases on the merits. We are merely discussing here the legal effect of the lapse of the period, whether the lapse of the period creates in favor of the appellee in appealed cases or the respondent in original petitions a vested right to have the petitions dismissed or the appeals to have the decision of the lower court affirmed.

MR. PADILLA: Yes, but that is a judicial issue.

MR. CONCEPCION: That is precisely the question. That is why we are asking the Supreme Court now to dispose of that issue once and for all, so that all other courts will be relieved of the task of trying to guess what might be, in the future, the solution that the Supreme Court would deem proper.

MR. PADILLA: But the legal effect or lapse, according to this proposed section, shall be determined in appropriate judicial proceedings.

MR. CONCEPCION: Not anymore; we have the amendments now. It shall be determined by the Supreme Court as soon as practicable after the ratification of this new Constitution.

We have proposed to amend the draft that the Commissioner is now reading so that the Supreme Court in two or three cases may settle the matter and save other courts the task of determining what is the legal effect of the lapse of the applicable periods.

MR. PADILLA: I have no objection to the Supreme Court deciding the legal effect of the lapse because, after all, that is judicial in nature requiring maybe either party to raise the issue for determination by the Supreme Court. But what I was doubting is whether it is necessary to include in the Transitory Provisions this particular provision

on the legal effect of the lapse.

MR. CONCEPCION: Precisely, I proposed the amendment because of the observations made yesterday. As to the number of cases that may have to be filed in the lower courts to pass upon this particular question to avoid the multiplicity of cases, we are declaring that the Supreme Court shall decide once and for all this particular issue as soon as practicable.

MR. PADILLA: But can there be one decision that will apply to all pending cases when every particular case may have different facts and involve different issues?

MR. CONCEPCION: In general, there would be guidelines. If there are variations the parties will have to take the appropriate steps should they feel that the decided case is different from their particular cases. There will always be variations; we cannot avoid that.

MR. PADILLA: Thank you very much.

I have no real objection to the purpose of this section, except that I am doubting its proper insertion or inclusion in the Transitory Provisions.

MR. CONCEPCION: Thank you.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: We are thinking of blending the two sections. We notice that the first section refers to cases of lapses before the adoption of the Constitution.

MR. CONCEPCION: That is right.

MR. SUAREZ: And the second section covers lapses after the ratification of the present Constitution. Would we be satisfied with only one section so that the first section would read: "THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIOD. . ." and that would already include the lapses even before the adoption of this Constitution?

MR. CONCEPCION: No, because the second paragraph refers to cases the periods of which lapse after the ratification of the Constitution, although the cases were filed before the ratification of the Constitution.

MR. SUAREZ: Therefore, we can even put the words "BEFORE AND AFTER THE RATIFICATION."

MR. CONCEPCION: No, because if they lapse after the ratification of the new Constitution the same would apply.

MR. SUAREZ: So, the Commissioner is envisioning here two decisions or rulings or principles to be enunciated by the Supreme Court. Is that the meaning, Madam President?

MR. CONCEPTION: No, the ruling is necessary only in connection with cases or matters whose periods lapse before the adoption of the Constitution, but in cases whose periods lapse after the ratification, the normal provisions to this effect will apply.

MR. SUAREZ: Thank you.

So, may we suggest that the two sections be voted upon separately. The first section would read: "THE LEGAL EFFECT OF THE LAPSE, BEFORE THE RATIFICATION OF THIS CONSTITUTION, OF THE APPLICABLE PERIODS FOR THE DECISION OR RESOLUTION OF THE CASE OR MATTER

SUBMITTED FOR ADJUDICATION BY THE COURTS, SHALL BE DETERMINED BY THE SUPREME COURT AS SOON AS PRACTICABLE AFTER THE RATIFICATION OF THIS CONSTITUTION."

THE PRESIDENT: Are we ready to vote on that now, Mr. Floor Leader?

MR. RAMA: Yes, Madam President.

VOTING

THE PRESIDENT: As many as are in favor of the proposed new section, please raise their hand. (Several Members raised their hand.)

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

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 19 votes in favor, none against and 1 abstention; the proposed section is approved.

MR. RAMA: Madam President, may I ask the committee chairman to read the two other amendments.

MR. SUAREZ: Madam President, before we do that, may we put a tentative section number to the section just approved to be numbered Section 21, and the succeeding section as Section 22. May we read now the proposed Section 22: "THE PROVISIONS OF PARAGRAPHS (3) AND (4) OF SECTION 14, ARTICLE ON THE JUDICIARY, SHALL APPLY ALSO, TO CASES FILED BEFORE THE RATIFICATION OF THE PRESENT CONSTITUTION, WHEN THE APPLICABLE PERIOD LAPSES AFTER SUCH RATIFICATION."

THE PRESIDENT: Are there any comments?

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May I move for the deletion of the word "ALSO" so that the directive as to its application will be more categorical.

MR. SUAREZ: We will have no objection to that, Madam President.

MR. REGALADO: Madam President, I also move for the insertion of the phrase "OR MATTERS" on the third line to align it with the other sections so that it will read: "SHALL APPLY TO CASES OR MATTERS FILED BEFORE THE RATIFICATION OF THE PRESENT CONSTITUTION."

MR. SUAREZ: Yes, that is accepted. In fact, the draft of the Chief Justice contains the words "OR MATTERS."

MR. REGALADO: Thank you.

MR. SUAREZ: Thank you.

MR. SARMIENTO: Madam President, may I be recognized.

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

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: For an intelligent consideration of this proposed amendment, since we are not in possession of that Article on the Judiciary, may we know these paragraphs 3 and 4 of Section 14 of the Article on the Judiciary?

MR. SUAREZ: Paragraph (3) reads:

Upon the expiration of the corresponding period, a certification to this effect signed by the Chief Justice or the presiding judge shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served upon the parties.

But I think the question of the Honorable Sarmiento becomes very pertinent because in the printed copy that I have, Section 14 contains only three subsections. And here we are talking about paragraphs 3 and 4, and according to the Chief Justice, they are going to propose further amendments to these.

May we have a one-minute suspension, Madam President, so we can clear up this situation.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 11:03 a.m.

RESUMPTION OF SESSION

At 11:07 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. SUAREZ: Madam President, may we be recognized?

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Just for purposes of record and for the information of the Commissioners, the Committee on the Judiciary is going to suggest by tomorrow the further amendment of Section 14 which would consist of four paragraphs. Paragraph 3, as proposed, would read: "UPON THE EXPIRATION OF THE CORRESPONDING PERIOD, A CERTIFICATION TO THIS EFFECT SIGNED BY THE CHIEF JUSTICE OR THE PRESIDING JUDGE SHALL FORTHWITH BE ISSUED AND A COPY THEREOF ATTACHED TO THE RECORD OF THE CASE OR MATTER, AND SERVED UPON THE PARTIES. THE CERTIFICATION SHALL STATE WHY A DECISION OR RESOLUTION HAS NOT BEEN RENDERED OR ISSUED WITHIN SAID PERIOD."

Then paragraph 4, as proposed, would read: "DESPITE THE EXPIRATION OF THE APPLICABLE MANDATORY PERIOD, THE COURT, WITHOUT PREJUDICE TO SUCH RESPONSIBILITY, IF ANY, AS MAY HAVE BEEN INCURRED IN CONSEQUENCE THEREOF, SHALL DECIDE OR RESOLVE THE CASE OR MATTER SUBMITTED THERETO FOR DETERMINATION, WITHOUT FURTHER DELAY." Since, Madam President, Section 22 of the Article on Transitory Provisions may be affected by the action which may be taken by the Commission on these proposed amendments to Section 14 of the Article on the Judiciary, may we request that further discussions on Section 22 be deferred until action has been taken by the Commission on proposed amendments of Section 14 of the Article on the Judiciary which we understand would be taken up on the floor by tomorrow.

THE PRESIDENT: As requested by the honorable chairman of the committee, the consideration of paragraph no. 9 in this draft on new proposals or new provisions will be deferred. So can we take up no. 10 now?

MR. SUAREZ: Yes.

THE PRESIDENT: That is the section providing for salaries of the President, Vice-President, Chief Justice, associate justices.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Last Saturday, we requested the Commission to study the wisdom and advisability of making adjustments in the salaries of the President, the Vice-President, the Chief Justice, the associate justices of the Supreme Court, Senators and other constitutional officers, including members of the constitutional commissions. And the following salaries were suggested: P200,000 for the President; P150,000 for the Vice-President and the Chief Justice; P120,000 for the associate justices and the Senators; and P100,000 for all other constitutional officers.

May I state for the record, Madam President, that according to the information received by the committee during the public hearings conducted wherein members of the Ministry of the Budget were invited, we have 23 ministers, 36 deputy ministers, 61 assistant ministers and 302 bureau directors. And during that hearing held last August 20, 1986, it was suggested that the President would receive an adjusted salary of P3 million annually; the Vice-President, P2 million annually; the ministers, P1.5 million annually; the deputy ministers, P1 million annually; the assistant ministers, P500,000 annually and the bureau directors, P250,000 annually. It was also suggested then that the Chief Justice would be receiving an annual salary of P2 million; the associate justices, P1.5 million; the presiding justice of the Court of Appeals, P1.2 million; the associate justices of the Court of Appeals, P1 million; the commissioners of the constitutional commissions, P1.5 million and their deputies, P1 million; the Senators, P1.5 million and the Congressmen, P1 million annually.

It was also revealed during that hearing, Madam President, that presently the President is receiving a salary of P110,000 a year; the Vice-President P103,000 a year; the Speaker was receiving P93,500 annually; the ministers, a salary range from P87,000 to P96,000 annually; the deputy ministers, a salary range from P82,000 to P87,000 annually; assistant ministers, P71,000 to P82,000 annually; bureau directors, between P55,644 to P82,840; the Chief Justice, P130,000 annually, plus allowances of P63,000 or a total of P194,600; the associate justices of the Supreme Court, P109,900 and allowances of P51,600; the presiding justice of the Court of Appeals, P100,992 annually; the associate justices, P96,180 annually and P15,600 in allowances; the commissioners of the constitutional commissions, P106,668 a year and the deputies, P79,860 annually; the Sandiganbayan Justice, P100,992 annually plus allowances of P45,600 and the associate justices of the Sandiganbayan, P96,180 annually plus P34,000 in allowances. Those were the figures given to us.

But subsequently, Madam President, we received an official communication from the Minister for the Budget advising us that the official position of the Budget Ministry is that there should be no adjustment in the salaries of the top officials of the land because what is imperative is that the salaries of the government employees at the lowest level should get top priority in the adjustment, if necessary, considering that the given situation is, the lowest government employee is only receiving P550 monthly. That is the official position taken by the Ministry of the Budget. This is the present situation, Madam President.

MR. SARMIENTO: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I address this question to Commissioner Suarez? Does the Commissioner sincerely believe that we are in a position to fix the salaries of the President and the other officials, considering the fact that we had only one hearing on this point, a hearing that was called by the Committee on Transitory Provisions where

officers of the Ministry of the Budget were asked to testify? Thereafter, I recalled that no hearing was again conducted on this very same issue and that the issue on salaries was discussed by only a few Commissioners. So, does the Commissioner think it would be wise on our part to fix the salaries of these ranking government officials?

MR. SUAREZ: The position the Commissioner has taken is shared by the committee members. In fact, we were suggesting that this matter should be referred to the proper committee. In other words, the issue of the salaries of the President and the Vice-President should properly be taken up by the Committee on the Executive. The same is true in the case of the proposed salaries for the Senators and the Congressmen which we feel should be referred to the Committee on the Legislative, and so on down the line.

MR. SARMIENTO: The Minister for the Budget, Minister Romulo, suggested that we should neither discuss nor fix the salaries of the President and the Vice-President pending discussion of the salaries of the government employees. Considering that suggestion from the Ministry of the Budget, are we now in a position to discuss the salaries?

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: May I just inject this thought, Madam President, that if we are not going to talk about the salaries of these officials mentioned, then the amount in the present Constitution would stay. As a matter of fact, there might even be a question involved there because we are making a new Constitution and the salaries of these officials are included in all the previous Constitutions. So, I think it is a must that we take up and consider this point. With respect to the comment of the Budget Minister, I appreciate his position. Certainly, he has no choice but to make a statement like that because it is highly political. But, nevertheless, it is known that the salaries of the lower officials and all the way down to the lowest employee of the government are categorized and based on the salary of the highest officer of the land. I believe the reason why the salary of the lowest government employee cannot be really adjusted is that there is a constitutional ceiling to the salary of the highest government official.

So I believe that if we open up, necessarily it would follow that the salaries of the lowest employees will then be adjusted. There will be a lot of room given to the agency of the government that fixes the salaries of the government employees.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I would like to support the decision taken by Commissioner Bengzon. I think we have an obligation to act on the salaries of the President, the Vice-President and the Members of the Congress who will be elected in the first national elections that have already been determined to take place on May 11, 1987.

The reason, Madam President, is that it will be unseemly and unbecoming, if not constitutionally insufferable, for Members of Congress to fix their own salaries. And the Constitutional Commission in effect may not evade the responsibility for fixing the salaries of the Members of Congress now. Otherwise, they themselves may have to fix these salaries for themselves. And that is the reason we have to begin at the top, because the salaries of the Members of Congress are going to be interrelated with the salaries of the President and the Vice-President, and the Members of the Cabinet as well. We already have a rather awkward situation where the Chief Justice of the Supreme Court receives a higher salary than the President of the Philippines. This kind of asymmetry is too pronounced for us to overlook. And we can be accused of mental and intellectual sloth if we allow this to continue

after having taken cognizance of it.

Madam President, Commissioner Bengzon is right. Unless we fix the salary of the President, in effect we are putting a cap on the upward salary standardization beginning at the base of the public service. I think we should not fear to fix the salaries as we see fit. I remember a debate in the Singapore Parliament when Prime Minister Lee Kuan Yew was himself sponsoring a raise in pay for the members of his Cabinet, and there was one member of parliament who stood up and said:

But, Mr. Prime Minister, is not this pay scale you are proposing for the Cabinet higher even than the salary of the President of the Philippines?

And Prime Minister Lee took a little pause and then said, "But, you know, in the Philippines, the President does not need a high salary," which if reported correctly ought to have been a ground for filing a strong diplomatic protest with the government of Singapore, specially in the light of the close association that we have with them in the Association of Southeast Asian Nations. A becoming and befitting salary for the President and other high officials of the Philippine government is actually connected with their ability to support a code of honesty and integrity. And this goes down the whole hierarchy.

In that meeting of the Committee on Transitory Provisions headed by the Honorable Suarez about four days ago when the Minister for the Budget personally appeared, he also made the point that it would be politically unpalatable to fix a salary for the President probably at a level higher than the existing one although this has not been changed for a long time because there must be a movement of salaries for the lowest paid government employees. He also agreed with me in that meeting that the government should begin by applying the minimum wage law for the private sector to the employees of the government. This now stands at a level of P57 for the national capital region and somewhat less for the rest of the country. And, therefore, if this can be done — to immediately apply the effective minimum wage rate for the private sector to the government then we overcome this pretext for not dealing with the salaries of the President, the Vice-President, the Members of the Cabinet and the Members of Congress.

THE PRESIDENT: The time limit has expired.

MR. OPLE: Thank you, Madam President.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

I am a member of the Committee on Transitory Provisions and I have been constantly attending the meetings with, first, the representative of the Budget Ministry and later by the Budget Minister himself. What was stated by Honorable Suarez about the ranges of salaries was true in accordance with what we have taken up during the committee meetings.

So that we can stop this continuous discussion about salaries, I would recommend that the Committee on Transitory Provisions meet after lunch today and suggest to the Commission the salaries for these constitutional officers for the guidance of the Commission. There is something at the back of my mind about the salaries. I feel that there are Members of this Commission who would like to run for national office as Congressmen or Senators, so after the Committee on Transitory Provisions recommends the appropriate salaries, I would suggest that if these Members intend to run, they should at least refrain from discussing the salaries because it may not appear moral especially if at the back of their mind they would like to be Senators or Congressmen. So I recommend,

Madam President, that the Committee on Transitory Provisions meet immediately after lunch to finish its work at two o'clock.

Thank you, Madam President.

MR. BENGZON: Madam President, there is an anterior point.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would like to seek clarification on this proposed provision specifying the salaries because the 1935 and 1973 Constitutions provided this in the Article on National Assembly. In the Constitutional Commission, we are now proposing this in the Transitory Provisions which, to my understanding, would be transitory or transient meaning, after it has been implemented, it is not really stated as a principle that such offices will receive such compensation. So, is there any logic in its being introduced now here in the Transitory Provisions?

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May we explain the parliamentary situation regarding the fixing or the determination of the salaries for the constitutional officers?

One will remember that in most of the articles, the proposals governing this matter were left blank on the understanding that they would all be referred in a consolidated way before the Committee on Transitory Provisions. In other words we are only doing a transient obligation to each of the committees involved such as the Committee on the Executive, the Committee on the Judiciary, the Committee on the Legislative and the Committee on Constitutional Commissions and Agencies. They all left blank the proposed salaries for their constitutional officers. The arrangement was that this would be taken up during the discussions on the Transitory Provisions. In other words, we took it upon ourselves only to leave the discussions and the eventual filling up of all these blanks to our Constitution.

That is why earlier, we suggested that the matter should be referred to the proper committees. But since this obligation was thrown to the Committee on Transitory Provisions, we are now obligated to take this up with the Commission. That is all we are suggesting.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: An anterior point, Madam President. There seems to have been a question thrown to the floor by Commissioner Sarmiento raising the basic question of whether or not we should take up this matter.

I suggest that the Commission decide first this issue as to whether we are going to tackle the salaries of the constitutional officers. If we do approve that and we do agree that we will put the salaries of the constitutional officers on the Commission, then the suggestion of Commissioner de Castro would be in order.

THE PRESIDENT: We will hear from Commissioner Sarmiento if he is insisting on that point.

MR. SARMIENTO: Commissioner Bengzon explained the wisdom for including in this Constitution the salaries of these officials: President, Vice-President, Members of the Judiciary, et cetera. And considering that the salaries appeared in the 1935 and 1973 Constitutions, I am not insisting, Madam President.

THE PRESIDENT: So the point is, there is no question that there should be a provision in the Constitution about

the salaries. The only issue now is whether this should be determined or recommended by the Committee on Transitory Provisions or by the respective committees as stated by Commissioner Suarez.

MR. SARMIENTO: Yes, Madam President.

MR. LERUM: Madam President, may I be recognized.

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: I am a member of the committee, but I am not in favor of the committee's proposal to fix the salaries of these officials in the Transitory Provisions of this Constitution. Their proposed salaries are very much out of proportion with the salaries of the lowest government employees, many of whom are not getting even the minimum wage fixed for workers in the private sector. The salaries for these officials fixed by the 1935 and 1973 Constitutions were not followed anyway.

I heard from our chairman that according to information received by the committee, the lowest salary in the government is about P500 monthly. And now we have the committee recommendation that the salary of the President should be increased from P100,000 to P3 million annually. A proportionate increase is also recommended for the other constitutional officials. I am apprehensive that such a move will create widespread discontent among the low-salaried workers in the public and private sectors. In the private sector, the minimum wage is P37 and the cost-of-living allowance is P17 daily. This was the result of Wage Order No. 6 issued by the former President on November 15, 1984. No salary increase has been enacted since then.

Unless we are prepared to increase proportionately the statutory wage in the public and private sectors, I am against putting such a provision in our Constitution. It is impractical to fix the salaries of the constitutional officials in the Constitution. Experience has shown that the salaries fixed in the 1935 and 1973 Constitutions have not been faithfully followed. Then there is the question of inflation. Any amount that we fix today may not be enough tomorrow.

THE PRESIDENT: Is the Commissioner submitting now a motion that the Constitution should be silent on the salaries? That has been withdrawn by Commissioner Sarmiento.

MR. LERUM: I am submitting the motion, Madam President, that we do not provide in the Constitution the salaries of any offices.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I support the proposal or the motion of Commissioner Lerum that we should not at all mention anything about salaries of the officials. Let us leave it to Congress because aside from the point of practicality raised by Commissioner Lerum, I think we are going to create a bad image for ourselves.

THE PRESIDENT: Excuse me, Commissioner Foz. What happens during the time that the Congress does not provide for any salary? All these people — the President, the Vice-President, et cetera — will serve without salary? Is that the understanding? Will the Gentleman please clarify that to us?

MR. FOZ: Are these not adequately covered by existing laws regarding salaries?

THE PRESIDENT: So that they will receive as is.

MR. SUAREZ: No, Madam President.

MR. FOZ: In the case of the President and Vice-President, the Budget Office in the meantime that Congress is not

in session could very well appropriate their salaries. If the Office of the Budget and Management would like to adjust the salaries of existing officials, even of future officials, it could very well be done without us setting the salary scales of these officials.

THE PRESIDENT: Then the motion should be clear on that point.

Commissioner Bengzon is recognized.

MR. BENGZON: If we do not say anything about the salaries of these constitutional officials in this 1986 Constitution, and the 1986 Constitution is ratified, so the 1973 Constitution is set aside. There is no basis for the payment of the salaries of the constitutional officials because the 1973 Constitution is completely erased and it cannot be done by law because there is no basis.

MR. FOZ: But there are existing laws, Madam President.

THE PRESIDENT: Maybe they can provide for themselves P1 million or P2 million, if it is open-ended.

MR. GUINGONA: Madam President.

THE PRESIDENT: Excuse me, Commissioner Tingson is recognized first.

MR. TINGSON: Madam President, what is scary to me is the misconception of making almost everybody who runs for office a millionaire, and we understand that because of the high prices now of commodities and the inflation, we are suffering. To include the fixed salaries of public officials in our proposed Constitution could be utilized by those who will oppose the ratification of our Constitution, Madam President. And as already expressed by somebody, we do not even propose increasing the minimum wages of our laborers here. That is just a little bit scary to me. Besides, Madam President, take the case of Mexico and Indonesia where almost overnight there was a tremendous drop of the value of their money. What happens now? Then the President will need P10 million later.

Now I realize the problem, but if the committee could meet as suggested by General de Castro, and then discuss this problem, I would propose it. I am a member of the committee too, Madam President. Probably we could come up with a measure. But that sounds very scary to me. I can almost see the headline now of the newspapers: "Run for the Congress and be a millionaire."

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized, to be followed by Commissioner Nolleddo.

MR. GUINGONA: Thank you, Madam President.

May I address a question to Commissioner Foz. Would the Gentleman allow Congress to fix the salary of its Members? Would it not be better, at least as far as the legislature is concerned, that an outside, perhaps impartial, body should make a decision rather than the Congress itself?

MR. FOZ: Congress is the appropriating body and it is within the competence of Congress to do it.

MR. GUINGONA: Yes.

MR. FOZ: Not only for themselves but even the salary scales of the President, the Vice-President and the other officials of government. But the point here is that, we are providing for salaries which will run into millions of pesos for top officials of the government and that is what is wrong. And it will be seen as if we are giving maximum benefits for those at the top. What about those at the bottom of the government hierarchy? They are all complaining about low salaries; they cannot cope with inflation and so on and so forth. And here we are providing

for very fat salaries and even allowances for the top officials of our government.

THE PRESIDENT: Commissioner Foz, may we just correct that for the record? There is nothing here yet that shows we are providing for millions.

MR. FOZ: Yes, I stand corrected on that score.

THE PRESIDENT: That might be misinterpreted by the press.

MR. FOZ: I stand corrected about allowances, Madam President.

THE PRESIDENT: All that we are deciding here so far is, shall we provide salaries for these officials or not? There has been no amount provided yet.

MR. FOZ: Under existing law, Madam President, I recall a memorandum — an administrative order by the former President — with regard to the retirement benefits of Members of the Constitutional Commission. The benefits provided to members of the judiciary under existing law are extended to Members of the Constitutional Commission.

So, a retiring Member of the Constitutional Commission gets a five-year lump sum. And if we provide P1 million plus for a Member of the Constitutional Commission upon retirement, that will mean more than P6 million upon retirement. And all these will backfire against the Commission.

THE PRESIDENT: So, may the Chair suggest that Commissioner Foz submit a specific motion, so that we can vote on it.

MR. FOZ: I am just supporting the motion of Commissioner Lerum — for us not to consider any proposal setting or providing for salaries of officials of the government.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

I would like to support the stand of Commissioner Bengzon because upon ratification of the Constitution, there will be no basis for the payment of salaries of these constitutional officers. There will be a hiatus; we have to fix certain amounts that will constitute as basis, until Congress shall provide otherwise. Perhaps, we should not fix higher amounts, Madam President. I believe the existing laws talked about by Commissioner Foz referred to retirement benefits.

We are talking here of basic salaries. So upon ratification, this Constitution will supersede the 1973 Constitution and of course, the Freedom Constitution. The provisions on salaries of the President, Vice-President, et cetera are found now in the Freedom Constitution which will be superseded by the 1986 Constitution.

What will now be the basis of the salaries of these constitutional officers upon the ratification of the Constitution? Madam President, if this body should decide not to fix the salaries, perhaps, we can provide in the Transitory Provisions that the President, Vice-President, et cetera shall receive the same salaries as they now receive, until otherwise provided by Congress.

Thank you, Madam President.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

May I explain that the question I raised earlier was limited only to Congress, in view of the manifestation made by Commissioner Ople, that it may be unwise to allow Congress to fix the salaries of its own Members. In effect, I was trying to find out from the Commissioner whether he believes that it should be the Commission or the President through an order, who should fix the salaries of the Members of the House of Representatives and the Senate. The first question, therefore, is, would the Commissioner agree to the statement made by Commissioner Ople that it would be unwise and not proper for Congress to fix the salaries of its own Members.

And second, if the answer is yes, then who should fix the salaries — is it the Commission or should it be the President through an order?

Thank you, Madam President.

MR. FOZ: May I respond to the question, Madam President

THE PRESIDENT: To whom is the question of the Commissioner directed?

MR. RAMA: It is a rhetorical question.

MR. GUINGONA: To the honorable Commissioner Foz, Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: We know that under existing law, there is nothing about salaries of Members of Congress because we are recreating the Congress. But before Congress convenes, I think it would be well within the competence of the existing government to provide for the salaries of the next Congress.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: May I just wrap up the issue, Madam President. The question really is very simple and the Chair is absolutely right when it said that the only issue we are determining now is whether or not this Commission will fix the salaries of this constitutional officers. We are not talking of amounts. It may be that we will retain the same amount that they are receiving now, but we must not, and that is the motion of Commissioner Lerum, fix any salary of constitutional officers in this Constitution.

MR. RAMA: Madam President.

MR. BENGZON: So, we are ready to vote.

MR. RAMA: Madam President.

THE PRESIDENT: Commissioner Rama is recognized.

MR. RAMA: There are two issues here, Madam President: the legal issue and the moral issue. I beg to differ from Commissioner Bengzon saying that the only issue is whether or not we should state the salaries of these officers. Under the circumstances, we should, but there is a moral issue whether or not their salaries would take a quantum leap from what is the existing law or what they have been receiving in 1973. The moral issue being that the new administration has a moral tone that we must support. The new administration goes for frugality. The economic situation in the country is terrible, where you have starvation salary for the lowly employees of the government so that the moral issue can be resolved by sticking to the salaries that they have now or giving them a slight increase, not the millions or the quantum leap that has been recommended by the budget committee.

MR. LERUM: May I be recognized, Madam President.

THE PRESIDENT: Is Commissioner Rama through? Commissioner Lerum is recognized.

MR. LERUM: The reason why I proposed this resolution is that whatever amount we fix in the Constitution, this will not be followed and we have seen that we want to make honest men of the Congressmen and Senators that we are going to elect. The same is true with the other officers.

Let us take the Batasang Pambansa. The salary of a Member of the Batasang Pambansa was P60 thousand. But there were other ways by which this was increased because that amount of P60 thousand was unrealistic. So, my position is that let this matter be fixed in the budget — in every budget that will be submitted because of inflation. If we put an amount here that is very high, then the workers will complain — the low-salaried employees will complain because their salaries remain the same while we have increased the salaries of the law-makers and the executives. On the other hand, if we fix it at a low amount, what will happen due to inflation? They will find ways and means to increase this amount over and above what we have provided in the Constitution.

So, my position is that we do not fix the amount of the salaries of these constitutional officers in the Constitution and leave it to the budget and leave it to people power to control if it could be controlled. That is the reason for my resolution, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I feel that this Constitution in the Transitory Provisions should provide for the salaries without other allowances or other benefits of the constitutional officers like the President, Vice-President, the Justices of the Supreme Court, members of the constitutional commissions and the Members of Congress, but only for the transitory period until Congress determines either increasing or decreasing said salaries. Now, we are always talking of inflation, but we hope that with our national development — not only agricultural but industrial — the exchange rate of the peso to the dollar may go down, that it is really the Congress that would be in a better position to determine the salaries especially of the other government offices.

Madam President, when a member of the budget committee mentioned millions, we were all alarmed. And there was a tentative suggestion that the President probably can have P50,000 a month: the Vice-President, P40,000 a month: the Chief Justice, P30,000 a month; the Associate Justice, P25,000 a month. Then, the Members of Congress can also be provided for, including the Members of the Constitutional Commission. But this determination should not be final. It should be effective until the Congress shall determine otherwise in either increasing or decreasing it. I am in favor of placing also in the Constitution that the minimum salary of the lowest government employee shall be so much, instead of P550, maybe P800 a month. And the other officers of the government can then be determined by the Office of the Budget and Management in proportion to their importance and their hierarchy in government.

Madam President, when someone mentioned P3 million for the President, well, that is a wild dream. But definitely the President should not have a salary at present which is much less than the salary of the Chief Justice. That would be anomalous. So; perhaps, we should fix tentatively, but effective until Congress otherwise provides, certain salaries of the constitutional officers.

THE PRESIDENT: What we have now before the body is the motion of Commissioner Lerum. And it is simple — that the question of salaries of the officials mentioned here shall not at all be provided in the Constitution.

Did I state that correctly, Commissioner Lerum?

MR. DE CASTRO: May we put it in the positive, Madam President.

THE PRESIDENT: Commissioner Lerum will please state his motion.

MR. LERUM: It is more or less like this, Madam President.

THE PRESIDENT: The matter of salaries.

MR. LERUM: May I have a few seconds, Madam President?

MR. DE CASTRO: Madam President, may I move to make it in the positive?

THE PRESIDENT: Let us leave it to Commissioner Lerum. He is the one who has the motion.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 11:54 a.m.

RESUMPTION OF SESSION

At 12:02 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

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

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, sometime ago when we were discussing the salaries of the legislative and the constitutional commissions, I put a motion to the floor to treat the salaries uniformly by not mentioning figures in the body of the Constitution, but just mentioning there that the salaries shall be provided by law and may not be increased or decreased during their tenure, and to put the starting salaries, from the ratification of this Constitution, in the Transitory Provisions. This was duly passed by this body. Therefore, what I suggest is that we implement that resolution now which would need harmonizing all the references to salaries in the body, and then debate, if the committee wishes, on how much the starting salaries would be. But as far as the need or the placement of that provision, that has already been approved by this body, Madam President. I am asking Mr. Nazareno to dig out the files because I was the one who made the motion: Commissioner Bacani was involved in the motion, and that was duly recorded and approved, Madam President.

MR. LERUM: Madam President, in view of that manifestation, which I assume to be correct, I am withdrawing my motion.

THE PRESIDENT: For the time being.

MR. LERUM: Yes, Madam President.

MR. GUINGONA: Madam President.

MR. MONSOD: May I just respond, Madam President.

THE PRESIDENT: We will just check the records. So we will defer this matter until we have clarified the motion referred to by Commissioner Monsod. Is there any other comment on this?

MR. MONSOD: Thank you.

MR. GUINGONA: That was going to be my suggestion, Madam President. Thank you.

THE PRESIDENT: Thank you.

MR. DE CASTRO: Madam President, I move that this matter be given to the committee, and I move that the committee meet after lunch so that we can take this up at two o'clock and finish the Transitory Provisions today. That is our schedule.

THE PRESIDENT: Yes, we will check on that — on the statement of Commissioner Monsod and we will refer it to the committee and how we will stand.

MR. DE CASTRO: Thank you, Madam President.

THE PRESIDENT: Is there any other comment?

MR. RAMA: There are other amendments, Madam President.

MR. SUAREZ: Madam President, may we request that the Honorable Regalado be recognized for an amendment.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President, I had a proposed amendment with respect to lands of the public domain, which reads: "CONGRESS SHALL PROVIDE AN EFFICACIOUS PROCEDURE AND ADEQUATE REMEDIES FOR THE REVERSION TO THE STATE OF ALL LANDS OF THE PUBLIC DOMAIN AND REAL RIGHTS CONNECTED THEREWITH WHICH HAVE BEEN ACQUIRED IN VIOLATION OF THE CONSTITUTION AND THE PUBLIC LAND LAWS OR THROUGH CORRUPT PRACTICES." Incidentally, regarding what was distributed the other day, I have amended the second sentence to read as follows: "NO TRANSFER OR DISPOSITION OF SUCH LANDS OR REAL RIGHTS SHALL BE ALLOWED UNTIL AFTER THE LAPSE OF ONE YEAR FROM THE RATIFICATION OF THIS CONSTITUTION." And may I be given a few minutes to explain this, Madam President.

THE PRESIDENT: Please proceed.

MR. REGALADO: I used the phrase "efficacious procedure and adequate remedies" because procedure refers to the steps to be taken while the remedies will be the forms or types of action which could be taken even by administrative or judicial proceedings. The reason for this is that, at the present stage, all we have are jurisprudential basis on the meaning of "reversion." It is true that in the Rules of Court there is a provision on the procedure for escheat and reversion but I do not find a substantive provision on the remedy of reversion to the State of lands which were illegally acquired. These were actually jurisprudential and, as a matter of fact, in those cases decided by the Supreme Court, they were limited only to cases involving violations of the Constitution or the public land laws. There were no decisions with respect to those which were acquired through corrupt practices.

As a matter of fact, the procedure there in recovering property in favor of the State was a simple action — a revindictory action or an accion reivindicatoria — and I propose that Congress be given that opportunity to provide by law for a remedy specifically now stating the substantive basis for reversion proceedings to the State of lands acquired in violation of the Constitution and the public land law. But we are aware also that during the previous regime there were some acquisitions which appeared to be within the provisions of the Constitution or appeared to be within the laws, meaning the presidential decrees, because the decrees could always be tailored to make the acquisitions lawful. That is why, expanding the concept of the basis for reversion proceedings, I have added that additional phrase "or through corrupt practices."

The second sentence is only a holding sentence in effect that no transfer or disposition of such lands or real rights shall be allowed until after the lapse of one year to enable the State or the government to review these lands thus acquired under dubious circumstances pending the passage of a law by Congress. So that at least during the one-year period, there can be no disposition or transfer of these lands to other persons. I understand now that many who may be affected are already trying to transfer these properties. So, this, in effect, is a freeze on the possible transfer so that within the one-year period after the ratification of this Constitution and before Congress has passed this proposed reversion law, at least the State can take steps to recover and, even if the case is pending, at least a notice of *lis pendens* can be annotated thereon.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Is there any comment?

Commissioner NolleDO is recognized.

MR. NOLLEDO: Thank you, Madam President.

Will the Gentleman yield to interpellations?

MR. REGALADO: Yes, gladly.

MR. NOLLEDO: Could the Gentleman state the meaning of "in violation of the Constitution"? Which Constitution is he referring to, the 1935 Constitution, the 1973 Constitution, the Freedom Constitution or the present Constitution?

MR. REGALADO: Naturally, the Constitution as of the time of the acquisition.

MR. NOLLEDO: Is the Gentleman not referring to the present or the forthcoming 1986 Constitution?

MR. REGALADO: No, Madam President, because the basis for determining the validity of the acquisition would be the law in force as of the time of the acquisition.

MR. NOLLEDO: Is the Gentleman referring to the Krivenko doctrine?

MR. REGALADO: No, Madam President, this is on a broader scope because if we have to rely only on jurisprudence, there would be no need for this. I am expanding the concept of reversion proceedings.

MR. NOLLEDO: Would the Gentleman's proposal cover a situation where the land is acquired by an alien and there is violation of the Freedom Constitution or the 1973 or 1935 Constitutions?

MR. REGALADO: If acquired by an alien in violation of the Constitution, then there could be a reversion proceedings. That is actually on a jurisprudential basis. Although lately, and that is what bothers me and as the Gentleman is aware, the Supreme Court has handed down decisions that even if the acquisition was originally illegal, if thereafter the land illegally acquired was transferred for value and in good faith to a third person, the third person acquires the land and holds the title to the property validly despite the fact that originally it was illegally acquired. And that is what I have always been against, because it is reaping the fruits from the poisoned tree, but that has been the decision of the Supreme Court.

MR. NOLLEDO: Precisely, that was the point I was driving at. If it is null and void for being violative of the Constitution, would the Gentleman agree with me that the ruling of the Supreme Court is not correct because no title can be transferred to the third person regardless of good faith in that situation?

MR. REGALADO: Insofar as those cases already decided by the Supreme Court are concerned, I am afraid there is nothing we can do about it, because we will be barred by the doctrine of *res adjudicata* and the rule of the law

on the case. But this provision will have prospective effect, and we would like to have Congress come out now with a specific law on the matter of reversion. As it is now, our concept of reversion is based on a case-to-case basis, although the Rules of Court, as I have said, talk of escheat or reversion proceedings. Well, escheat has a substantive basis, meaning no heirs when a person dies; but reversion has no specific basis. It is only an accion reivindicatoria on the part of the State, which to my mind was first started when they had this illegal expansion of land by table surveys. I think the Commissioner is familiar with that — where a piece of land, only eight hectares, was later, by subdivision on the table without actual field inspections, expanded into several titles of a hundred or thousand hectares.

The government here had to bring an action, but purely an accion reivindicatoria on the mother title. And I understand, there are about 200 or 300 cases pending in Quezon City alone, because we have no law. It is purely an accion reivindicatoria. So, that is why I say here "remedies," meaning the form of the action. It could even be by administrative proceedings.

MR. NOLLEDO: Would the Gentleman agree with me that the importance of his provision will be minimized if we agree with the ruling of the Supreme Court? Because upon ratification or even before ratification of the Constitution, persons who are now holding lands in violation of the Constitution can easily circumvent his provision by transferring to third persons in good faith and for value the landholdings that they now illegally hold.

MR. REGALADO: That is why, in the second sentence, there is that holding provision, "NO TRANSFER OR DISPOSITION OF SUCH LANDS OR REAL RIGHTS SHALL BE ALLOWED UNTIL AFTER THE LAPSE OF ONE YEAR FROM THE RATIFICATION OF THIS CONSTITUTION." I put it at one year because we cannot have somebody who may have acquired the property legally dangling for so long under the shadow of a doubt. But, again, that one-year period will be long enough for our government authorities to review these cases, like those in Mindanao and, I understand, in the Gentleman's province in Palawan.

MR. NOLLEDO: Yes.

(At this juncture, the President relinquished the Chair to the Honorable Francisco A. Rodrigo.)

MR. REGALADO: Within that one-year period pending the law on reversion, they can already proceed on an accion reivindicatoria in favor of the State and, at least, annotate a notice of lis pendens.

MR. NOLLEDO: Another circumvention I am fearful about is that an alien who now illegally holds a land because it is in violation of the Constitution, can just apply for naturalization and perhaps, through cooperation of the judicial authority will render academic the Gentleman's provision if he acquires the citizenship in view of the recent ruling of the Supreme Court that his acquisition of Filipino citizenship will validate the possession of the land.

MR. REGALADO: To that extent, our apprehension should be a little minimized because now we do not have LOI 270 on naturalization by administrative proceedings. At least if he does want to apply now for naturalization, judicially, there will be enough time for us to counter what cannot be proved, that what cannot be done directly cannot be permitted to be done by indirection.

MR. NOLLEDO: Mr. Presiding Officer, there is a technicality involved. Does the Commissioner remember the lands acquired under the parity law?

MR. REGALADO: Yes.

MR. NOLLEDO: The 1973 Constitution provided — I am not sure whether the Freedom Constitution still reproduces the provision — that the transfer of land shall be valid as far as the parties are concerned but not as

against the State. What is now the effect of the Gentleman's proposal upon these landholdings acquired under the parity law, because the 1973 Constitution recognizes the validity as between the private parties but does not prohibit the State from escheating this property?

MR. REGALADO: With respect to those properties already acquired under the regime of the former Constitutions and/or on which there have already been judicial decisions, as I said, we are already bound by the doctrine of res adjudicata. It would already be a serious violation of vested rights if we were to apply this retroactively. This is to be with prospective effect. And the second sentence, that is the freezing, at least would give the government an opportunity to review land transfers and dispositions in Mindanao, in the central part of my own province (of which I am aware) and in a few areas there and islands in Palawan.

MR. NOLLEDO: But would the Gentleman's proposal not cover lands that are idle or abandoned?

MR. REGALADO: No, Madam President.

MR. NOLLEDO: I notice that Commissioner Tadeo is presenting a proposal that idle or abandoned lands shall be forfeited in favor of the State under certain conditions.

MR. REGALADO: This is completely different, because that of Commissioner Tadeo is with respect not only to idle or abandoned lands but he contemplates the possibility of expropriation proceedings. Mine is not on expropriation proceedings which will involve a financial outlay on the part of the government. Mine is that, there being an illegality in the very basis of acquisition, reversion of the same is justified in favor of the State. There is no need for the State to pay anything to the person who illegally acquired the same. That of Commissioner Tadeo is on idle, abandoned and foreclosed property to be expropriated by the State for purposes of land reform, which is a different matter.

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

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Treñas is recognized.

MR. TREÑAS: Mr. Presiding Officer, may I ask a few questions?

MR. REGALADO: Yes, gladly.

MR. TREÑAS: The Gentleman's proposed section refers to lands acquired in violation of the Constitution. Does this refer to acquisition by aliens or any other violations of the Constitution?

MR. REGALADO: Any acquisition as long as it is in violation of the provisions of the Constitution at the time of the acquisition.

MR. TREÑAS: Is there no period specified when the alleged violation took effect?

MR. REGALADO: The alleged violation must be determined under the provisions of the Constitution as of the time of the acquisition. The reversion proceedings here have no time basis because what is null and void ab initio is not subject to prescription.

MR. TREÑAS: Can prescription in the meantime set in from the time of the alleged acquisition?

MR. REGALADO: The rule is, null and void contracts as well as null and void transactions are not subject to prescription.

MR. TREÑAS: The Gentleman's second sentence referred to a prohibition that reads as follows: "No transfer or disposition of such lands or real rights shall be allowed until one year after the ratification of this Constitution." How can we identify those lands so that they cannot be subject to transfer?

MR. REGALADO: That is for the ministries concerned to look into these properties dubiously acquired. The reason why I put this "freeze period" is that I have learned that a number of people whose properties are now being looked into by the authorities concerned appear to be taking steps to divest themselves by selling these to third persons who may later invoke that they are purchasers for value and in good faith and since these are covered by the Torrens system, they can avail of the protection thereunder. Now, as to how this will be determined, well, we leave it already to the authorities concerned. I understand that they are investigating these matters also. The second sentence is to give them a one-year period because there might be dispositions.

MR. TREÑAS: Unless a notice of lis pendens is annotated on the title, those lands even acquired allegedly in violation of the Constitution may be sold or transferred to innocent purchasers who may have paid value for the sale.

MR. REGALADO: Mr. Presiding Officer, that is precisely why we have this freeze period of one year. Within that period while we are still awaiting the prospective reversion law that we are mandating Congress to enact, the government, having identified the properties in question, may already proceed to file the corresponding accion reivindicatoria, and at the same time, annotate a notice of lis pendens. It is true that even if the property is subject to an annotation of lis pendens, it can still be sold or transferred. However, the transferee receives or acquires the same, subject to the results of the pending case.

MR. TREÑAS: That is all. Thank you very much.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Regalado yield to a few questions?

MR. REGALADO: Gladly.

MR. OPLE: Is there no possible color of an ex post facto law to this proposed amendment?

MR. REGALADO: No, I do not think so, Mr. Presiding Officer.

MR. OPLE: Will this not disturb existing contracts?

MR. REGALADO: No, because the test of the applicability of these Transitory Provisions is the validity or invalidity of the acquisition tested under the provisions of the Constitution and the law in force at the time.

MR. OPLE: In situations where reversion proceedings have not been completed or have been adjudicated against the State, will this amendment foreclose the option of the government to seek a reconsideration?

MR. REGALADO: A reconsideration, Mr. Presiding Officer?

MR. OPLE: Yes.

MR. REGALADO: What does the Gentleman mean exactly? A reconsideration of what?

MR. OPLE: A reconsideration of the rulings of the proper courts.

MR. REGALADO: The government could always seek a reconsideration or appeal from the decision involved.

MR. OPLE: So that there is nothing here that will bar that option for the State.

MR. REGALADO: No, the government still has open options.

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

MR. NATIVIDAD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Natividad is recognized.

MR. NATIVIDAD: Will the Commissioner yield to a few questions?

MR. REGALADO: Yes, gladly.

MR. NATIVIDAD: In this amendment there are three ways by which the reversion to the State of all lands of the public domain can be achieved: 1) by violation of the Constitution; 2) by violation of public land laws and 3) through corrupt practices. Am I correct, Mr. Presiding Officer?

MR. REGALADO: The Gentleman is correct, Mr. Presiding Officer. It is an expanded version of what is known as the basis for reversion proceedings.

MR. NATIVIDAD: Yes. But how is this achieved through corrupt practices? What is the Gentleman's concept? Would there be a need of conviction for corrupt practices?

MR. REGALADO: No, Mr. Presiding Officer. Of course, that will be subject to what Congress will provide. But as a guideline to Congress when they provide for the law on reversion proceedings for property of this nature, they can specifically mention "contrary to the Constitution." Secondly, contrary to the public land laws, like Commonwealth Act 141 and its subsequent permutations, they can even make a prima facie presumption that such properties acquired in this manner shall be subject to reversion proceedings and the party will have to prove that it was not acquired through corrupt practices acts.

MR. NATIVIDAD: As the proponent, is the Gentleman not asking for a prior conviction of the parties concerned for corrupt practices?

MR. REGALADO: No, Mr. Presiding Officer. Precisely, the use of the phrase "adequate remedies" could even include administrative remedies.

MR. NATIVIDAD: If the Gentleman is asking for prior conviction, I think this would be ineffectual.

MR. REGALADO: If prior conviction is required, then no such law is necessary, because if he is convicted, under Article 45 of the Revised Penal Code there is the accessory penalty of confiscation and forfeiture of the fruits and the instruments of the crime.

MR. NATIVIDAD: What would be included in the phrase "real rights," Mr. Presiding Officer?

MR. REGALADO: For instance, leasehold rights, where property has been leased beyond the permissible areas or limits, or not in accordance with the administrative regulations.

MR. NATIVIDAD: Are these leasehold rights executed or given by the Minister of Natural Resources, for example?

MR. REGALADO: Yes, Mr. Presiding Officer.

MR. NATIVIDAD: My interest here is in the communal fishing grounds. The communal fishing ground concept cannot be enforced because, invariably, we come up with leaseholds or with lease contracts by and between these wealthy fishpond owners and the ministers concerned, in violation of the provision of public land laws. Will this then be covered by this constitutional mandate to the Congress?

MR. REGALADO: I am not sure exactly what type of fishing grounds the Gentleman is referring to because there are several types, I understand, as regulated by the Bureau of Fisheries. However, just as a guide, although we

speak here of the lands of the public domain as well as real rights — although what is involved here are fish and fishponds — under Article 415 of the Civil Code, fish, while they are still in fishponds, are still considered real property. So, this may be invoked. That may be the basis of Congress also in taking into account the classification of fish and fishponds as real property for incorporation in the projected reversion law.

MR. NATIVIDAD: The situation that this provision seeks to address has always been a source of frustration among our people. In what way will this improve the situation, Mr. Presiding Officer?

MR. REGALADO: It improves the situation, in the sense that while formerly there can be no reversion proceeding as long as a party says that he obtained the property in accordance with the Constitution or the laws, there is now a further ground that while ostensibly it was in accordance with the laws, if it was, however, through corrupt practices, then that can still be a basis for reversion of the property.

MR. NATIVIDAD: What does the Gentleman mean by "efficacious" in this provision?

MR. REGALADO: I used the word "efficacious" instead of "effective" procedures, because whether it is effective or not is tested by the results, if we use "efficacious," it is an intent to have the procedure effective ultimately.

MR. NATIVIDAD: How about this last sentence, what is the significance of this last sentence, Mr. Presiding Officer?

MR. REGALADO: That during the one-year period from the ratification of this Constitution, while the government authorities are still making a catalogue and a review of these different properties which may have been dubiously acquired, the persons in possession thereof will not be permitted to transfer or dispose of the same and then later hide behind the cloak of the Land Registration Law by saying that it is already in the hands of a third party who acted for value and in good faith.

At least within that one-year period, any transfer or disposition will not bar the applicability on the property of the projected reversion law.

MR. NATIVIDAD: No mention is made of one year here, Mr. Presiding Officer.

MR. REGALADO: The last sentence has it, Mr. Presiding Officer. The Gentleman may be reading the unamended portion. I have announced here that we subsequently amended the second sentence to read: "NO TRANSFER OR DISPOSITION OF SUCH LANDS OR REAL RIGHTS SHALL BE ALLOWED UNTIL AFTER THE LAPSE OF ONE YEAR FROM THE RATIFICATION OF THIS CONSTITUTION."

Regarding the previous sentence there, I decided to delete that because it was a little unspecific.

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

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

MR. PADILLA: Mr. Presiding Officer.

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

MR. PADILLA: I have my serious doubts as to the necessity of this provision to be included in the Article on Transitory Provisions. I agree that acquisition of property in violation of the Constitution at the time of its acquisition is void, but the prohibition in the new Constitution is obviously accepted to be prospective. So it will apply only to violations before or during the previous Constitution.

I also agree that when there is a transfer or conveyance, the transferee or buyer acquires by derivative title no better rights than his predecessor. So that if the original vendor had no right, then the transferee can acquire no

better right.

However, there are two exceptions to this rule: first, the "Negotiable Instruments Law" which protects a holder in due course; and second, the "Torrens System" under which a purchaser in good faith, for value and without notice of any defect of the title acquires an indefeasible title. These two basic exceptions are based on some public policy which is to ensure the negotiability of a negotiable instrument and the stability of the title acquired under the Torrens system.

So that, if "A" acquired a piece of land in violation of the Constitution, he has no valid title. But if that title is transferred to "B" and "B" secures a new Torrens title which is irregular and should have not been done; and "B" sells it to "C," and "C" finding no defect in the title of "B" buys for value and in good faith, then "C" acquires a good title. I think that is the law and the jurisprudence.

Under this proposed section, it will apply only to violations before the 1986 Constitution. If in my example, "C" acquires a valid title, even if the title of "A" was void, the Torrens system and our jurisprudence will sustain the validity of the title acquired by "C" and not the title of "B."

As to the other phrase about "corrupt practices," to what law does it refer? Does that refer to RA 3019 or the "Anti-Graft and Corrupt Practices Act"? And if the corrupt practices exist, the fault will be attributable, perhaps, to the Land Registration Commission or the Register of Deeds, not necessarily to a third person, like "C" in my example. Moreover, the second sentence will grant one year. Assuming there is a defect in the title of one who has acquired such land, many transactions may be rushed within the said one year period, especially because it will require an act of Congress to provide a reversion law.

In my opinion, the purpose of Commissioner Regalado is laudable, but it may not be necessary and its implementation will be very difficult if this section were to be included in the Article on Transitory Provisions. I regret really to express my opinion that I am against this provision.

MR. REGALADO: Mr. Presiding Officer, with respect to the question of Commissioner Padilla as to what was contemplated in the corrupt practices, it could be under the anti-graft law — Republic Act 3019 — or under the law on unlawfully acquired property — Republic Act 1379 — or any other corrupt practices by public officers under Title 7 of the Revised Penal Code. That is why I used the generic phrase "corrupt practices."

With respect to the second sentence, it is intended to give the government a one-year period within which to go over these questionable transactions. In effect, there should be a clearance within that one-year period before there can be transfers or dispositions on assumption that possibly by that time Congress may already have come out with an expanded reversion law, the proceedings under which may not necessarily be judicial but administrative because there is also administrative legalization of titles. That is what I have contemplated here because, up to now, we are not exactly very sure about the facts and the modes of acquisition of properties in Mindanao or in the south which we have only heard of and are yet being investigated.

MR. RAMA: Mr. Presiding Officer, I ask that we take a vote on this provision which has been sufficiently debated on.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor, please raise their hand. (Several Members raised their hand.)

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

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 13 votes in favor, 4 against and 1 abstention; the amendment is approved.

SUSPENSION OF SESSION

MR. RAMA: Mr. Presiding Officer, I move for a suspension of the session until two-thirty this afternoon.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the session is suspended.

It was 12:42 p.m.

RESUMPTION OF SESSION

At 3:01 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, I move that we continue consideration of the Article on Transitory Provisions.

MR. SUAREZ: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: For the information of the Commissioners, at lunchtime the Committee on Amendments and Transitory Provisions met in order that they can submit a reasonable proposal regarding the fixing of the salaries for the constitutional officers. On the committee level, it was agreed upon that we would recommend salaries only for six positions; the position of the President, the Vice-President, the Speaker of the House of Representatives, the Senate President, the Senators and the Congressmen. We have circulated copies of the proposed resolution on the understanding that with respect to the other constitutional officers not mentioned here and whose salaries have not been provided, they will be receiving the salaries they are presently receiving under existing laws, Madam President.

Let us take the case of the officers on the constitutional commissions, the Justices of the Supreme Court, the Chief Justice, the Justices of the Sandiganbayan, the Tanodbayan, or the Ombudsman — they will be receiving the salaries which they are presently getting, subject, of course, to the understanding that all of these salaries would continue until otherwise provided by Congress.

So that is the recommendation of the committee and as outlined, the committee is suggesting that to start with and until Congress shall have provided otherwise, the President shall receive an annual salary of P200,000; the Vice-President, P150,000; the Senate President, P150,000; the Speaker, P150,000; and the Senators and Congressmen, P120,000, respectively, Madam President.

THE PRESIDENT: Mr. Chairman, have we verified from the Secretariat about the statement of Commissioner Monsod regarding the alleged approval of his motion that the question of salaries be provided in the Article on Transitory Provisions?

MR. SUAREZ: We have requested Mr. Roberto Nazareno to conduct the necessary investigation, and I understand he found out that the resolution wherein this matter of determining the salaries for two constitutional positions on the Article on the Legislative and the Article on the Executive had been indeed referred to the Article on Transitory Provisions for determination and deliberation. May I read a portion of the transcript, Madam President.

THE PRESIDENT: Commissioner Suarez may please proceed.

MR. SUAREZ: The deliberations on July 23, 1986 read:

The salaries of Senators and the Members of the House of Representatives shall be determined by law. No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase.

The phrase "until otherwise provided by law" will now be transferred to the Article on Transitory Provisions. And that is reflected, Madam President, in the transcript. That is the reason why we feel that the Committee on Transitory Provisions is now obligated to take up final deliberations on this matter, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: There are no more registered speakers. There is a proposed amendment from Commissioner Bengzon. May I ask that he be recognized.

THE PRESIDENT: On the subject of salaries?

MR. RAMA: Yes, Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, this proposal of P200,000 a year is less than P20,000 a month, is it not?

MR. SUAREZ: That is right, Madam President.

MR. BENGZON: That is about P16,666 a month?

MR. SUAREZ: The computation appears to be correct, Madam President.

MR. BENGZON: Madam President, I was just talking to one of our colleagues here, Commissioner Natividad. We were even working under the assumption that perhaps what will come out of the committee will be a salary of P20,000 a month for the President, and in the words of Commissioner Natividad, that is the salary of a useless vice-president of a bank. I would not want to take that statement in its literal sense but what I would like to say is that I agree with him that that is a salary of a vice-president of a bank who is not such a hot shot. I would not want to put it that way but it is embarrassing to say the least.

So I would like to propose an amendment which I believe is still way below what the President deserves but at the same time, because of the condition of the times, it will not be too embarrassing for the President. I am thinking also of the situation that at this moment the salary of the top executive of the land is actually a cap that is placed on the salaries of all the employees and officers of the government so that whatever is the range of the salary of the top officer of the land will certainly control the salary of the lowest employee of the government.

And so, to begin with, I would propose that the monthly salary for the President be P25,000 which would be P300,000 a year; P20,000 for the Vice-President which would be P240,000 a year and that would also be the same for the Senate President and the Speaker, P17,000 for the Senators and Congressmen which would be P204,000 a year.

I would also propose that this Commission stipulate the salaries of the Chief Justice, the associate justices of the Supreme Court, and the other constitutional officers whose salaries have been stipulated in the previous Constitutions. Insofar as the salaries of the constitutional commissioners are concerned, like COA and all the rest,

I believe that a rank has been assigned to each of them. For example, the chairman of a constitutional commission has the rank of an associate justice of the Court of Appeals, then we should match their salaries. If the rank of a commissioner is equivalent to an associate justice of the Supreme Court, then the salary of that chairman of the commission should be equivalent to the salary of the Supreme Court justice.

Those are my suggestions, Madam President, and of course, these would be subject to discussions, and at the proper time, I will convert these into a motion.

MR. SUAREZ: Madam President, the committee has decided to limit its recommendation to only six positions. In the case of the President and the Vice-President, we felt rather strongly that an adjustment should be made because of the present existing condition obtaining, and that is, that the Chief Justice of the Supreme Court receives an annual salary of P131,600; whereas, the President of the Philippines receives only P110,000 a year. We felt that it was imperative that this adjustment must be made, such that the salary for the President of the Philippines should be higher than that being received by the Chief Justice. In the matter of the other constitutional officers, we felt that there was no need to make a provision regarding this matter. We only felt the necessity of providing for salaries for the positions of President of the Senate, Speaker of the House of Representatives, Senators and Congressmen, because there is no existing provision or provisions or regulations regarding this matter. Since the Batasang Pambansa had already been abolished and we are now creating a bicameral system of legislature we have not as yet provided for the salaries to be received by the Senators and the Congressmen.

MR. BENGZON: May I address a question to the Chairman, Madam President.

THE PRESIDENT: Commissioner Bengzon may proceed.

MR. BENGZON: With respect to those constitutional officers, like the Chief Justice of the Supreme Court and all the rest whose salaries were stipulated in the previous Constitution and whose salaries the committee does not wish to incorporate in the 1986 Constitution, is it the thinking of the Committee on Transitory Provisions that there would be a catchall statement that whatever salaries they are receiving at this moment will continue until such time as Congress will state otherwise?

MR. SUAREZ: That is within the contemplation of the Committee, Madam President, or we can state that into the record.

MR. BENGZON: All right, I would confine myself, Madam President, to a discussion of the proposed section. Therefore, I move that the annual salary of the President be P300,000 a year; the Vice-President, P240,000; the same for the Senate President and the Speaker; and for the Senators and Congressmen, P204,000 a year.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: May I be allowed, before we take up the motion presented, to ask a few questions of the honorable Chairman of the Committee?

MR. SUAREZ: Willingly, Madam President.

MR. GUINGONA: When we speak of salaries here, this does not include possible allowances including representation allowances?

MR. SUAREZ: Yes, this refers only to the basic salary, Madam President.

MR. GUINGONA: The second question is: When the committee considered these amounts, did the committee take into consideration the manifestation made by the Minister of the Budget during that meeting that we had a

few days ago where he expressed his view that the salaries of the officials starting with the President should not be unduly increased because he said it was also the view of the President herself that any increases should start from the rank and file and, therefore, any increases beyond this might go against that manifestation made by the honorable Minister of the Budget?

MR. SUAREZ: We took into account all of those factors, Madam President.

MR. GUINGONA: Thank you, Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I address one question to the proponent of the amendment, Commissioner Bengzon.

This noon, Madam President, the committee including this humble Representation agreed that the salaries of the President and Vice-President should be P200,000 and P150,000 respectively. This is contained in the sheet of paper distributed to all the Commissioners. He is now proposing that it should be increased to P300,000 and so with the salary of the Vice-President, et cetera. May we know the reason behind this increase from P200,000 to P300,000? May we know from the honorable Commissioner what motivated the committee to raise the salary of the President to P300,000?

May I inform the Commissioner that the public servants and those running for public positions should be inspired by no other consideration except to serve and that monetary consideration should be secondary or tertiary.

MR. BENGZON: To begin with, I would agree with the Gentleman's premise that service to the government is something that demand sacrifice from the people seeking that office. I do not dispute that, but at the same time, I think we should also remember that these people have to have the necessary compensation for their living and for the representation that they need. We cannot expect them to really render service well, metaphorically speaking, on an empty stomach. I understand that the purpose of the committee in putting a P200,000 level is because of the present salary of the Chief Justice of the Supreme Court. I happen to believe that that salary of the Chief Justice of the Supreme Court is an embarrassing amount and although he deserves much more, we should fix an amount which is not that low because I think all of us know what the conditions are — the cost of living — and we add to that the standard of living that has to be maintained by the officials concerned. I do not believe that P300,000 is an unconscionable and unreasonable amount. As a matter of fact, if we really educe the position and the responsibility and the prestige that position as a guiding factor, P300,000 is low. What I am saying is that P300,000 is not much to add.

MR. SARMIENTO: Madam President, will not the phrase "until Congress provides otherwise" satisfy the Gentleman?

MR. BENGZON: No, it would not because this phrase has been provided in the past Constitutions and it is a very explosive subject. Politically, I am sure they will not touch it. Even if they do touch it in Congress, the provision will not apply to those who have passed it but it will apply to those who will come after them. I do not think we are changing that kind of a concept. So they would not touch it. What will they do? They will resort to other means and there are a lot of areas which are very fertile in Congress such as the committees and things like that. That is one area where they will try to make up. And I believe that is not a very nice way of making up. If we do give them a salary that may not be embarrassing or may not be commensurate, then, in fact, the people would have greater clout to demand better service, more honesty and integrity from these officials of the government.

MR. SARMIENTO: Thank you.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: May I ask Commissioner Bengzon some questions?

MR. BENGZON: Yes, please.

MS. QUESADA: Early this morning, he said that raising the salaries of these officials would in effect also serve as the standard by which the other officials or public servants aspire for higher salaries because he is setting a precedent for the rest of the public servants.

Does the Gentleman not think that setting this to a level of P300,000, as compared to the level that has been agreed upon by the committee, would raise false hopes for the people that they would be able to bridge the yawning gap between the top officials and the lowly public servants?

MR. BENGZON: No. Precisely, if we do raise this from P200,000 to P300,000 then there would be a better leeway and more elbow room for that particular agency of the government — Office of Compensation and Position Classification (OCPC) — to increase the salaries of the lowest employee. If for example, a janitor receives about P500 or P550, then there would be greater reason for this agency of the government to increase this salary of the janitor to a much higher level, since the top position has been increased at a bigger level.

Then, we might even ask, how about the budget? How and where will the government get this kind of money? And as I have said to the committee chairman that if we have to go on deficit spending, I would rather go on deficit spending on the salaries of the government employees and officials because by then, the officers, employees, heads of bureaus and divisions would have better clout in demanding better service from their subordinates all the way down to the lowest rank. There is incentive for these people to really give their service and their time for the government, and for me, this is a cycle that will be started because we will have better initiative and better efficiency. In that case, we can generate more funds and we can be able to generate more taxes. This is something that would snowball. But if we are going to scrimp, I would rather not scrimp in this particular aspect. That is why I said if we have to go on deficit spending, I would rather go on deficit spending for the salary of the government employees than for other reasons.

MS. QUESADA: With those intentions, we in public service, in government service, would indeed be very happy to support this provision, since it would raise the levels with which we can aspire, knowing that we have given this as a direction for Congress to work on.

Thank you, Madam President.

MR. BENGZON: May I add, Madam President, that I happen to know that one of the reasons why the salaries of an ordinary government employee cannot just be increased, even if those who are looking at it would want to increase it, is because of this ceiling. They cannot increase the salary of a janitor from his level now because this immediate superior also has a ceiling. And if there will be an increase, it is going to be a chain reaction.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I would like to move that we also include the justices of the Supreme Court and the chairman of the constitutional commissions. They are not included in the resolution of the Committee on Transitory Provisions. And if we are going to make a statement anyway that the other constitutional officers will receive compensation at parity with the other officers at which they have been aligned in the past, then the

Justices of the Supreme Court will get the same as that of congressmen and chairmen of the constitutional commission were also put at parity with the congressmen. These are the two areas that we have not touched.

If we state in a general statement that they will be at parity, then the salaries will amount to the same thing, because we certainly do not want the chairman of the constitutional commission to remain at P60,000 a year at this point. This is really very unrealistic because that is what is in the 1973 Constitution. The chairmen of the constitutional commissions get P60,000 while the ordinary commissioners get P50,000, and the Chief Justice gets P75,000. There may have been a law in between to increase their salaries, but as far as the constitutional provision is concerned, that is what is in the books. So my suggestion is to put the Chief Justice at the same level with the Speaker and the Senate President at P240,000; and the associate justices at the same level with the Senators and Congressmen because that is what they were allotted in the 1973 Constitution.

In the case of the constitutional commissions, the chairmen should be at the same level with the Congressmen because that was the provision of the 1973 Constitution and the associate commissioners would receive 5/6 of that amount. Therefore, I would like to move that the salaries of the Chief Justice, the associate justices and the constitutional commissioners be also included in the Article on Transitory Provisions.

THE PRESIDENT: Is that acceptable to Commissioner Bengzon?

MR. BENGZON: I take that as an amendment to my amendment and I accept it, Madam President.

THE PRESIDENT: May we have the reaction of the committee?

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: May I please direct a question to the honorable Commissioner Bengzon.

MR. BENGZON: Yes, Madam President.

MR. GUINGONA: I understand from the Gentleman that his principal purpose in suggesting the increase is to be able to generate possible increases as far as the rank and file employees are concerned.

MR. BENGZON: Yes, that would necessarily follow. There would be a stronger and better justification for demanding the increase of salaries of the rank and file.

MR. GUINGONA: During the interpellation of the honorable Commissioner Quesada, he also said that in the matter of salaries, he would not want to scrimp, and therefore, he would approve of deficit spending.

MR. BENGZON: Madam President, I said that if we have to go on deficit spending, I would rather go on deficit spending for this purpose.

MR. GUINGONA: If we increase the salaries of the top officials in order to increase the salaries of the rank and file, would it not be preferable also to include a minimum salary that the rank and file employees could expect from the government so that they would know that these are not mere promises or mere desires or sentiments on our part? This is something that would bring about increase in the salary of the rank and file and perhaps to the employees in the lowest level.

MR. BENGZON: To me, Madam President, that is already a matter of legislation. It is sufficient for us to express our intent into the record and it would already be up to the executive department or to Congress, whoever has the jurisdiction, to really take up the matter and implement it. If Congress would wish to put a minimum rate on salaries of government employees as it does on the salaries of private employees, they are very much welcome to

it but I believe that that is not a matter that should already be stated in the Constitution. That is already for legislation because it is an implementary act.

MR. GUINGONA: But the Gentleman agrees that an increase in the salaries of the highest officials will not necessarily mean a corresponding increase to be made by the authorities that he has mentioned — either Congress or some other authority — that this is just a speculation on his part.

MR. BENGZON: No, I do not believe so but let me just put it this way. There would be absolutely no more justification for the executive or the judiciary or whichever branch of the government is supposed to decide on the salaries of the rank and file because then there would be leeway in increasing the salaries of the rank and file. The only other possible reason that the government could give is that there is no money but as I said I would rather go on deficit spending if we have to when it comes to this reason.

MR. FOZ: Madam President.

MR. GUINGONA: Final question, Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Thank you, Madam President.

Will the proponent of the amendment be amenable to an amendment to add a sentence at the end of this proposal, to read as follows: "AT THE EARLIEST POSSIBLE PERIOD, CONGRESS SHALL INCREASE THE SALARY SCALES OF THE RANK AND FILE EMPLOYEES OF THE NATIONAL GOVERNMENT."

MR. BENGZON: I do not think there should be any problem to that. I accept it.

MR. MONSOD: Madam President, I would object to that.

THE PRESIDENT: Just a minute. Commissioner Bengzon is accepting the amendment.

MR. BENGZON: Yes, Madam President. I said I do not think there is any problem to that. I accept the proposed amendment.

THE PRESIDENT: Is there any objection?

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I do not think that we should mandate that here because this takes a very thorough study of the government's structure — the definition of their functions, the alignments of shares and so on — but it is merely directory anyway and I think our task is to name the salaries of constitutional officers.

MR. FOZ: Madam President, may we respond to the statements of Commissioner Monsod?

Precisely, the idea is to balance this provision. If we provide for the salaries of top officials in the government from the President, Vice-President Members of Congress, the judiciary and the constitutional commissions, it is but fair that we provide some things like these to balance this provision. It does not say that the increases of the rank and file shall be immediate. It just says "AT THE EARLIEST POSSIBLE PERIOD, CONGRESS SHALL INCREASE THE SALARY SCALES OF THE RANK AND FILE EMPLOYEES OF THE NATIONAL GOVERNMENT." So I think this is something that should be accepted as a reasonable provision that should logically be tucked-in as part of this conditional provision.

MR. BENGZON: Madam President.

THE PRESIDENT: The proposed amendment of Commissioner Foz will, in fact, take care of the reservations made by Commissioner Guingona about the increase of salary of the other employees.

MR. FOZ: May we also point out, Madam President, that in the Article on General Provisions involving the members of the armed forces, we have provided that the members should receive adequate remuneration — this proposal of mine is in line with that. If we are willing to provide something for the armed forces in this manner, then we should also provide a similar provision for the rank and file employees of the national government.

THE PRESIDENT: Will the Commissioner please repeat his proposal.

MR. FOZ: The exact sentence reads: "AT THE EARLIEST POSSIBLE PERIOD, CONGRESS SHALL INCREASE THE SALARY SCALES OF THE RANK AND FILE EMPLOYEES OF THE NATIONAL GOVERNMENT."

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Instead of using the phrase "RANK AND FILE" because it sounds like a labor law provision, can we just say "OF THE OTHER GOVERNMENT OFFICIALS AND EMPLOYEES"?

MR. FOZ: Accepted, Madam President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: In the section on the Article on Constitutional Commissions-Civil Service, there is reference not only in the letter, but there is reference in our Journal because we discussed it — that there will be a review of salary structures, classification of jobs, and so on by the Civil Service Commission, and with the mandate that this should be continually reviewed.

I really do not have very strong objections to this. It is just that I think that this is already well covered in the civil service section. And if we want to assuage our conscience, that is fine with me. But I think that it is unnecessary, Madam President.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: I would like to support the Foz amendment. Commissioner Bengzon was talking about a leeway. I cannot see what leeway he is thinking about when in fact, the lowest paid employees of the government are now receiving as low as P500 and we are speaking of a P25,000 a month salary. The difference is so big that no matter how wide or how high the hierarchical pyramid might be, the leeway is out of proportion, Madam President. That is why I would like to support the amendment with the expression of the sense that when we talk of the employees of the government, we should make it clear that our main concern is the employees in the lowest rank.

Thank you, Madam President.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I just want to call attention to the fact that while I agree with the objective of the Foz amendment, I do not think it is Congress that sets the salary scale of all government employees.

MR. FOZ: That has to be Congress because Congress is the appropriation body.

MR. RODRIGO: Because it says "Congress shall raise. . ." It is not Congress. Maybe we should say "the government shall raise . . ." and not Congress. Congress appropriates the money, but it is not Congress that determines the salary scale.

MR. FOZ: If Commissioner Rodrigo is suggesting that as an amendment, I accept the amendment, Madam President.

MR. RODRIGO: I think we should be using "the government" instead of "Congress," because Congress is not the body that determines the salaries.

THE PRESIDENT: Who fixes the salaries if it is not Congress?

MR. RODRIGO: This is recommended in the budget. The budget commissioner, each bureau director, each ministry, or each department, submits a salary plan and then the President incorporates this in his budget message. Ultimately, it is Congress that appropriates the money for the budget.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I just wanted to inform the body that during the discussions on the civil service, Minister Romulo talked to us and made representations that the Ministry of the Budget is working with the Civil Service Commission to make the plantillas, rankings, job classifications and so on of the entire government machinery with a view to alignment, increases and so on.

I am just apprehensive, Madam President, that a provision here in the Constitution might complicate the origin or the responsibilities for this review. Unless we are willing to make a general statement that the government shall review, it would then encompass the Ministry of the Budget and the Civil Service.

MR. FOZ: May we respond to the statement, Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Precisely, the idea of this provision is for the government to review because it cannot possibly increase or provide for salary increases without a study. This has to involve a review. When we say "at the earliest possible time," this is some kind of a directive to the government to go into the study right away so that if salary increases can be accommodated, then they can go ahead and do it.

This will really involve a review. We do not have to say "the government shall review." Let us just go direct and say "shall increase." Of course, such a salary increase will involve a review.

MR. MONSOD: Madam President, is the Commissioner now changing "CONGRESS" to "GOVERNMENT," because his original proposal was "CONGRESS"?

MR. FOZ: The term "GOVERNMENT" has been accepted.

MR. MONSOD: So it will be changed to "GOVERNMENT."

Thank you.

THE PRESIDENT: How will it read now?

MR. BENGZON: I will read my amendment, Madam President, after which I will ask Commissioner Foz to insert his amendment.

THE PRESIDENT: What does the committee say?

MR. SUAREZ: Madam President, the committee feels that it should maintain its original position, so may we submit the matter to the wisdom of the Commission.

MR. GUINGONA: Madam President, before we take a vote, may I just ask for a clarification?

In case the proposal of Commissioner Bengzon is not approved, would Commissioner Foz be precluded again from adding his proposal to the committee formulation?

THE PRESIDENT: I do not think so because this is separate and distinct.

MR. GUINGONA: Thank you, Madam President.

MR. CONCEPCION: Madam President.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Regardless of the amount of compensation fixed, my reaction upon reading the proposal of the committee is that by omitting the Supreme Court, it would appear as if the proposal refers to the top officers of the government only — the President, the Vice-President, the Senate President, the Speaker of the House and the Members of Congress. I noticed these officials represent the executive and the legislative departments. But the omission of any reference to the judicial department would seem to suggest that the judicial department is lower in rank with the other two departments.

Under the principle of coequality, I would say that, at least, the heads of the three major departments should be included in this constitutional provisions. As to the amount of the salaries, I would leave it to the committee to pass upon it and stress the resulting psychological impression, if the judiciary was not mentioned. Sad to say, in the past, there seemed to have been a tendency on the part of members of our legislative department and cabinet secretaries or ministers to consider themselves superior to those of the judiciary. Hence, they tended to be over assertive in their dealings with the judiciary. I hope that the provision would put the judiciary at a level not lower than that of Cabinet ministers and members of the legislative department. Although, I feel that the members of the committee may not have intended this result, it would obviously be best that the Chief Justice and the Associate Justices of the Supreme Court be mentioned in the provision.

Thank you, Madam President.

MR. BENGZON: Madam President, that is why I accepted the amendment of Commissioner Monsod to include the Chief Justice and the associate justices of the Supreme Court.

So, if I may read now my amendment, Madam President.

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: In connection with the proposal of Commissioner Foz, I think this is already covered in the provision in the Article on Constitutional Commissions under the section of Civil Service, because I was the one who proposed this. The Congress shall provide for the standardization of compensation of government-owned

or controlled corporations, taking into account the nature of the responsibilities pertaining to and the qualifications required for the positions concerned. Is that not covered in this provision, Madam President?

MR. BENGZON: Madam President, to simplify matters, may I suggest that we first vote on my amendment with respect to the salaries of the constitutional officers mentioned. And then after that, we move into discussing and voting on the amendment proposed by Commissioner Foz.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: With regard to the proposed annual salary of the President and the Vice-President, the committee proposes P200,000 and P150,000, respectively. Commissioner Bengzon proposed P340,000. There may be too much disparity between the legislative and the judiciary with regard to the executive.

Can I make a compromise to make the President's salary P240,000; the Vice-President, P180,000; and then, keep the Senate President and the Speaker at P150,000; the Senators and the Congressmen at P120,000; the Chief Justice at P150,000; and the associate justices at P120,000?

MR. BENGZON: No, Madam President, I adjusted everybody's salary.

May I reiterate my suggestion, Madam President, that we first vote on my amendment, and then we vote on the amendment of Commissioner Foz.

THE PRESIDENT: The Gentleman will please read his proposed amendment.

MR. BENGZON: Yes, Madam President. It reads: "UNTIL CONGRESS PROVIDES OTHERWISE, THE PRESIDENT SHALL RECEIVE AN ANNUAL SALARY OF THREE HUNDRED THOUSAND; THE VICE-PRESIDENT — TWO HUNDRED FORTY THOUSAND; THE SENATE PRESIDENT — TWO HUNDRED FORTY THOUSAND; THE SPEAKER — TWO HUNDRED FORTY THOUSAND; THE CHIEF JUSTICE OF THE SUPREME COURT — TWO HUNDRED FORTY THOUSAND; THE ASSOCIATE JUSTICES OF THE SUPREME COURT — TWO HUNDRED FOUR THOUSAND; THE SENATORS — TWO HUNDRED FOUR THOUSAND; THE CONGRESSMEN — TWO HUNDRED FOUR THOUSAND; THE CHAIRMAN OF THE CONSTITUTIONAL COMMISSION — TWO HUNDRED FOUR THOUSAND; AND THE ASSOCIATE COMMISSIONERS OF THE CONSTITUTIONAL COMMISSION — ONE HUNDRED EIGHTY THOUSAND."

MR. RODRIGO: Madam President, before we vote, may I ask a question.

THE PRESIDENT: Commissioner Rodrigo may please proceed.

MR. RODRIGO: Madam President, mention was made of the constitutional commissions. Does this apply to the three constitutional commissions?

MR. BENGZON: Yes, Madam President.

MR. RODRIGO: Because we have created some new commissions, like the Human Rights Commission, the Tanodbayan which is considered a commission. Will this salary scale apply to these newly created commissions or only to the three constitutional commissions; namely, COA, COMELEC and Civil Service Commission?

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I believe that that classification was resolved in the deliberations on the Article on the

Commission on Human Rights; we did not put that commission at par with the other three commissions. As far as this Constitution is concerned, there are only three constitutional commissions, Madam President.

MR. BENGZON: Yes.

VOTING

THE PRESIDENT: We are now ready to vote.

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

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

The results show 20 votes in favor and 6 against, the first portion of the new section on salaries is approved.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Inasmuch as quite a number of positions are allocated the same amount of salary, can we leave that to the Committee on Style later on, Madam President?

THE PRESIDENT: All right, the suggestion is noted.

MR. FOZ: Madam President.

THE PRESIDENT: May we now hear the proposed amendment of Commissioner Foz.

MR. FOZ: May we now submit the second part of the proposal which should really balance the first portion because this refers to the lower officials of government, but unfortunately this had to be split into two. May I submit now the provision which reads: "AT THE EARLIEST POSSIBLE PERIOD, THE GOVERNMENT SHALL INCREASE THE SALARY SCALES OF THE OTHER OFFICIALS AND EMPLOYEES OF THE NATIONAL GOVERNMENT." May we take a vote on that?

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, may I just advance the information that under Section 9 of the Civil Service Commission provision, the Article on the Constitutional Commissions which was adopted by this Commission on July 22, 1986, we have the following:

The National Assembly or the Legislature shall provide for the standardization of compensation of government officials and employees, including those in government-owned or controlled corporations, taking into account the nature of the responsibilities pertaining to, and the qualifications required for, the positions concerned.

I just wonder whether or not this provision already covers the proposal of Commissioner Foz.

MR. FOZ: May we respond to the statement, Madam President.

THE PRESIDENT: The Commissioner will please proceed.

MR. FOZ: That provision speaks of standardization of the salaries of government officials and employees, taking into consideration the responsibilities of the work involved. But I submit that with this provision, what we have in mind is the increase of salaries in response to present-day realities and also in conjunction with the salary increases that we are providing for the top officials of the national government starting from the President down. So there is a difference, a marked difference, between that provision read before us a few minutes ago and this

provision that we are now submitting for the approval of this body.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would like to make a minor amendment to the Foz amendment, which is to change "INCREASING" to "UPGRADE" to read: "UPGRADE THE SALARY SCALES." We do not increase salary scales but upgrade them.

THE PRESIDENT: Is that acceptable to the Commissioner?

MR. FOZ: It is accepted, Madam President.

THE PRESIDENT: May we have the reaction of the committee on the second portion.

MR. SUAREZ: Because of the observation made by the Honorable Rigos, may we leave that matter to the decision of the body, Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: There are no registered speakers, Madam President. I think the body is ready to vote.

THE PRESIDENT: Will Commissioner Foz restate his proposed second sentence to the section.

MR. FOZ: The proposed second sentence reads: "AT THE EARLIEST POSSIBLE PERIOD, THE GOVERNMENT SHALL UPGRADE THE SALARY SCALES OF THE OTHER OFFICIALS AND EMPLOYEES OF THE NATIONAL GOVERNMENT."

VOTING

THE PRESIDENT: As many as are in favor of the Foz amendment, please raise their hand. (Several Members raised their hand.)

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

The results show 26 votes in favor and none against; the second sentence is approved.

MR. FOZ: Madam President, we would like to mention, in connection with the approval of that amendment, that the cosponsors of that provision are Commissioners Quesada, Sarmiento, Villacorta and Guingona.

Thank you.

THE PRESIDENT: The Chair would like to inquire from Commissioner Suarez what would be the number of this new section.

MR. SUAREZ: Madam President, it would be Section 23, which consists of two paragraphs.

At the moment, we still have to consider the Davide amendments which consist of three new sections, but the Honorable Davide is not present at this afternoon's session. Also, we still have a proposed transitory provision submitted by the Honorable de los Reyes. We also have pending for deliberation Sections 7 and 8 and the provision that was transposed from the Article on the Declaration of Principles governing the foreign military bases. So those are the only matters pending for consideration.

May we request, Madam President, that the Honorable de los Reyes be recognized, and after that we will discuss the Villacorta amendment on Section 8.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, this proposed Section 24 of the Article on Transitory Provisions provides as follows: "THE PRESIDENT IN THE EXERCISE OF HIS LAWMAKING POWER UNDER SECTION 2, ARTICLE _____ OF THIS CONSTITUTION, AND BEFORE THE HOLDING OF THE LOCAL ELECTIONS, SHALL MERGE DEPRESSED AND FINANCIALLY DISTRESSED MUNICIPALITIES WITH ADJACENT CITIES IN ORDER THAT THE NEW LOCAL GOVERNMENT UNITS THUS FORMED CAN ELECT THEIR OFFICIALS ACCORDINGLY."

The Commissioners will recall that a few days ago, Commissioner Maambong made a proposal which reads like this: "DEPRESSED AND FINANCIALLY DISTRESSED MUNICIPALITIES ADJACENT TO HIGHLY URBANIZED OR COMPONENT CITIES SHALL FORM PART OF THE LATTER." This was vigorously objected to by the honorable chairman of the Committee on Local Governments, Commissioner Nollado, on the ground that the proposal was not transitory in nature. And so to meet the objection of Commissioner Nollado, we have reformulated the provision in order to emphasize its transitory nature. It will be noted that this Commission is not merging at once the depressed and financially distressed municipalities with the adjacent cities, but we give such power to the President in the exercise of her lawmaking power under Section 2 of the Article on Transitory Provisions. So it is within the entire discretion of the President whether to merge it or not. If she does not want to, there is no problem about it. But if she decides to do so for the benefit of the depressed area and its inhabitants, then we give her enough leeway and discretion to do so, only for the first local elections after the ratification of the new Constitution.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: In view of the manifestation of the honorable Commissioner de los Reyes, would it not be better to clarify by referring to the first local elections? There is nothing in the proposal that speaks of the first local elections and it would appear that, assuming the President still has the lawmaking power later on after Congress has been organized, a President in the future might still merge.

MR. DE LOS REYES: So the Commissioner proposes that we clearly specify that the new local government units thus formed can elect their officials accordingly during the first elections after the ratification of the new Constitution. Am I correct?

MR. GUINGONA: Yes, that is the intention as expressed by the Commissioner.

MR. DE LOS REYES: Yes, we will be willing to accept such formulation in order to express the meaning of this provision.

MR. GUINGONA: I thank the Commissioner.

May we ask for a clarification of the expression "DEPRESSED AND FINANCIALLY DISTRESSED MUNICIPALITIES." I have no objection to it. I just wanted a clarification.

MR. DE LOS REYES: Madam President, depressed municipalities are those municipalities whose earnings cannot even pay the salaries of their employees and mayor. They have to depend on the aid of the national government in order to survive such that the provincial government does not attend to them, rather, it is the city government that attends to them because they are so near the city that they could survive better if they are practically made part of the city. They do not have high schools. Let me give the reason for this.

The Municipality of Cordoba is within Mactan Island and Lapu-Lapu City, and Lapu-Lapu City and Cordoba are

within Mactan Island. The students of Cordoba which is part of the Province of Cebu actually study in Lapu-Lapu City. The residents depend for their health services and other kinds of services on Lapu-Lapu City. This is the situation contemplated in this proposal, Madam President.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: How would the people in these depressed or financially distressed municipalities be involved in the decision that will now make them merge with the adjacent cities? Has the Commissioner thought of the mechanism by which the people will be involved? It is not just so much of economic considerations but of some historical and cultural heritage which the communities have and they might have some reservations on this merger.

MR. DE LOS REYES: This objection can be met by the fact that this is only transitory in a way.

MS. QUESADA: So is this merger only for the purpose of the elections?

MR. DE LOS REYES: Yes, during the first local elections after the ratification of the Constitution.

MS. QUESADA: So it is not really the absorption of these depressed municipalities by the city, like what happened during the past regime.

MR. DE LOS REYES: That will be covered by the provisions of the Article on Local Government where the creation or cessation of any municipality will be dependent also on the vote of the people in a plebiscite and that is the provision on local autonomy.

MS. QUESADA: So there will be a plebiscite.

MR. DE LOS REYES: This is only temporary and transient, Madam President.

MS. QUESADA: This is for the immediate elections.

MR. DE LOS REYES: Yes, Madam President.

MS. QUESADA: Does the Commissioner not think that there will be some confusion when we just resort to this kind of merger for the expediency of this forthcoming elections?

MR. DE LOS REYES: That is why the Commission does not do it. It merely empowers the President in the exercise of her sound discretion to do it. If she does not want to do so, that is all right.

MS. QUESADA: So the people themselves may opt to continue this merger?

MR. DE LOS REYES: Later, but they have to ratify it in a plebiscite.

MS. QUESADA: So it will be the President who will exercise the lawmaking power, not Congress?

MR. DE LOS REYES: Yes, during the first elections. It is not Congress, but the President who, in the meanwhile, exercises the lawmaking power while we have not convened any Congress.

MS. QUESADA: I am still confused.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Do I understand it that this is discretionary on the President?

MR. DE LOS REYES: Yes.

MR. MONSOD: So the word "SHALL" should really be "MAY" — "MAY MERGE," not "SHALL MERGE."

MR. DE LOS REYES: If the Commissioner would like to introduce that as an amendment, I will have no objection.

MR. MONSOD: Another point, Madam President. In effect, what this provision says is that the President may merge depressed and financially distressed municipalities with adjacent cities for purposes of the first national and local elections after the ratification of this Constitution. That is the idea.

MR. DE LOS REYES: Yes, Madam President.

MR. MONSOD: But that case may really be class legislation. In the example the Commissioner gave in the case of Lapu-Lapu City, I understand there is local politics involved — that somebody who is very strong with these close municipalities would then be able to run for the merged mayorship of Lapu-Lapu City and Cordoba. Am I right? I am wondering whether or not this is a proper subject for the Article on the Transitory Provisions, considering that, first, it is discretionary and second, it is for purposes of forming political units to serve specific ends.

MR. DE LOS REYES: No, this is not class legislation because it will apply to all depressed municipalities similarly situated.

MR. MONSOD: Yes, but the President has discretion. If there are 100 or 200 municipalities that would qualify, the President may only choose to do it in one or two cases. We are not saying here that all depressed and financially distressed municipalities, for purposes of the next elections, will be merged with the adjacent cities. That is not what we are saying.

MR. DE LOS REYES: It is not really discriminatory or class legislation because when Congress legislates on certain matters and fails or refuses to legislate on other matters, it does not mean that we are class legislating. It is just that Congress has enough leeway and discretion to do what it thinks is best for the inhabitants of the said municipalities.

MR. MONSOD: It seems rather too specific with very limited objective of only the first elections after this ratification. So that even the criteria for what is depressed or financially distressed would be overridden by the political considerations of merging areas for purposes of the elections.

MR. DE LOS REYES: But it is contemplated that this will be subject also to the recommendation of the Commission on Elections to the President.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 4:09 p.m.

RESUMPTION OF SESSION

At 4:38 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, I ask that Commissioner de los Reyes be recognized.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, after hearing the views of several Commissioners, although I intend to submit this proposal to a vote, and in view of the misunderstanding that this proposal has generated, especially the comment that this could cause headache to our President, I respectfully withdraw this proposal.

THE PRESIDENT: The particular proposed section is withdrawn.

Thank you.

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

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, along with my coauthors, I would like to propose the following amendment to Section 8 as submitted by the committee, which would read: "Any writ of sequestration AND freeze order issued or which may be issued in relation to the recovery of ill-gotten wealth shall continue to be operative FOR ONE YEAR after the convening of the First Congress; provided that Congress, in the national interest, as certified by the President, may extend said period."

Madam President, my cosponsors for this amendment are the following: Commissioners Romulo, Quesada, Treñas, Uka, Calderon, Rosario Braid, Sarmiento, Foz, Monsod, Azcuna, Rama, Tan, Rigos, Nieva, Guingona, Bengzon, Abubakar, Garcia, Tadeo, Tingson, Nollado, Bennagen, Suarez, Rodrigo and de Castro.

Madam President, may we explain this amendment or is it still necessary?

THE PRESIDENT: The Commissioner will please proceed.

MR. VILLACORTA: Madam President, the pillage of an entire nation by a single person is unprecedented in the modern history of the world. It is said that the loot taken away by Mr. Marcos, his family and cronies has reached \$10 billion or P200 billion. We made a computation, Madam President. If one were to live for 60 years and spend P1 million a day, it would take that person nine lifetimes before he can finish off P200 billion.

The P200 billion stashed away by Mr. Marcos is three times the national budget for fiscal year 1986, which is P60 billion. It is nineteen times the P11 billion appropriated for education and sports. With this amount, Madam President, 43 million schoolchildren could have seven years of free elementary education and 14.5 million high school children could have four years of free secondary education. With P200 billion, we could have purchased 6.6 billion textbooks and built 4 million classrooms and 800,000 school buildings throughout the country. If the P200 billion stashed away by Mr. Marcos stayed in the country, 56 state colleges and universities would not have been in the dire situation they are in now. And much more could have been appropriated for social services which received a measly provision of P423 million.

The P200 billion robbed from the people could have fed and sustained 8.3 million Filipino families for one whole year. It would have ensured better health services with the setting up of 800,000 clinics all over the country. At P1 million for every kilometer of roads, P200 billion could have created 400,000 kilometers of roads for the country. Thus, the amounts stolen could pay 2.25 million government employees, soldiers and policemen a monthly salary of P3,000 for a period of 30 years.

Given the magnitude of the past governments — "kleptocracy" and massive plunder of the national economy — we think six months is too short an allowance for the PCGG. A one-year extension of its sequestration powers will provide for the discovery of additional ill-gotten wealth and for delays in the proceedings.

In the present draft, Section 8, unless extended by Congress, the sequestration orders can no longer be enforceable

or effective after six months from the opening of the first Congress under the new Constitution. For the sequestration proceeding to continue, the PCGG has to secure the appropriate orders from the courts. In the meanwhile, that is from the time the sequestration orders lapsed until another order is issued by the court, if issued at all, the now sequestered properties or assets may be removed or concealed beyond the reach of the PCGG or the government authorities.

This will undoubtedly defeat the preservative value of the sequestration proceedings. After all, whatever abuses may be committed in the process do not detract from the necessity and legality of these proceedings and are matters of administration. While it may be admitted that sequestration, like receivership, although an equitable remedy, may be considered harsh, the situation under which the ill-gotten wealth exists is rather unusual and deserves extraordinary process. Anyway, the innocent is not without any legal remedy as he can invoke judicial process to have his property released. What is important is that the guilty should not be allowed to run away with or conceal the ill-gotten wealth placing it beyond the reach of the authorities to the great prejudice of the Filipino people who rightly owned the said wealth.

Thank you very much, Madam President.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: As a cosponsor of the proposal, I would like to support the proposal just read by Commissioner Villacorta and with the Chair's kind indulgence, I will give the following reasons.

THE PRESIDENT: Commissioner Guingona has three minutes.

MR. GUINGONA: First, the enormity of the ill-gotten wealth which Mr. and Mrs. Marcos, their relatives and cronies had fraudulently and illegally acquired during the Marcos rule even before martial law was declared. May I quote, Madam President:

The recovery of Mr. Marcos' ill-gotten wealth does not involve simply cases of malversation of public funds, bribery, extortion, theft or graft. The incriminating documents collected speak of grand larceny, of the plunder of an entire nation, an offense unfortunately which does not exist in our statute books.

Second, the fact that whatever would be recovered would be for the benefit of the Filipino people from whom the money and property were stolen.

Third, the need for fast action involving the element of surprise in order to implement the decision of the government as expressed in Proclamation No. 3, and I quote:

. . . (a) recover ill-gotten properties amassed by the leaders and supporters of the previous regime and protect the interest of the people.

If previous notice were to be given or a previous hearing were to be conducted before the issuance of a writ of sequestration, the ill-gotten wealth which is sought to be secured would probably disappear before the scheduled date of hearing. Bank accounts, shares of stock, expensive jewelry and other personal properties can be easily moved out to inaccessible places beyond the reach of the government.

Even the present method, it seems, is not fool proof and here I would just cite one instance, Madam President. A freeze order was issued covering the accounts of a trusted official of the former First Lady in the Ministry of Human Settlements. Due to work overload, the order was served late in the afternoon. Shortly before the service, the officer concerned was able to withdraw two hundred and sixty thousand dollars (\$260,000).

Finally, Madam President, after the issuance of the freeze or sequestration order, the parties adversely affected can challenge the legality of the issuance before an administrative agency or court of justice in appropriate proceedings, a remedy in fact availed of in certain instances.

Thank you, Madam President.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: I just have a minor amendment on terminology and then later a request for clarification. The proposed section states: "Any writ of sequestration AND freeze order." Madam President, a "writ" can issue only from a court of justice. Heretofore, the sequestration orders have been issued by a quasi-judicial agency. There is no such thing as a "writ of sequestration" unless it is issued by a court of justice and our courts of justice do not issue writs of sequestration. There are equivalents, of course, but not a writ of sequestration. So may I suggest a minor amendment in the terminology, so that the first line will merely read: "Any sequestration OR freeze order issued or which may be issued." So this will be broad enough to cover a sequestration order whether issued by an administrative body or, in the future, possibly by a court of justice, if the law on the point is amended.

MR. VILLACORTA: Madam President.

THE PRESIDENT: What does Commissioner Villacorta say?

MR. VILLACORTA: We accept, but Commissioner Bengzon would like some clarifications.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Just to make sure, Madam President, the sequestration orders that have heretofore been issued by the PCGG are entitled and called "writ of sequestration."

MR. REGALADO: Yes, Madam President.

MR. BENGZON: Just to be sure, I just would like to inform that the PCGG is authorized to issue writs of sequestration under Proclamation No. 3. We have no objection to the Commissioner's amendment, but the reason I am rising to clarify this point is, I do not want any question to be raised later on that these sequestration orders heretofore issued by the PCGG are of a questionable character.

MR. REGALADO: As I said, the word "order" will necessarily include what is supposedly a "writ" of sequestration, and that will include an order issued either by an administrative body or by a judicial body. I double-checked the concept of a writ. I do not know why they use the word "writ" here when the PCGG is not a judicial authority.

MR. BENGZON: I just want to make sure, Madam President, that by the Commissioner's comment, he does not imply in any way that the sequestration or the writs of sequestration heretofore issued by the PCGG are questionable.

MR. REGALADO: Definitely not, Madam President.

MR. BENGZON: Thank you.

MR. REGALADO: May I have one more clarification which I suppose Commissioner Villacorta can just put on record. The last portion here states that the period of one year may be extended by Congress, if certified by the President. Is it understood that that extension is not limited to any period, but such period as Congress may consider necessary based on the certification of the President?

MR. VILLACORTA: Yes.

MR. REGALADO: Thank you.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, I am a member of the committee, and I personally contributed my share in the formulation of Section 8. Actually, I was requested by the committee to say a few words on Section 8 when the time comes and when I am permitted to do so.

THE PRESIDENT: Does the Commissioner want to make that statement now? He has the floor for three minutes.

MR. TINGSON: Thank you, Madam President.

When the PCGG was created and began its difficult task of revealing the ill-gotten wealth of Mr. Marcos, it immediately became synonymous with sequestration. Cases have been filed before the courts questioning the power of PCGG to sequester and, so far, nothing of its actions was considered illegal. It is not for me to defend the PCGG, for the PCGG has justified its being. But let us keep the record straight. After all is said and done, the task of recovering the ill-gotten wealth will be judged in terms of actual results not in terms of legal niceties.

PCGG has turned over to the Office of the President around P2 billion in cash, free of any lien. It has also delivered to the President, as a result of a compromise settlement, around 200 land titles involving vast tracts of land in Metro Manila, Rizal, Laguna, Cavite and Bataan worth several billion pesos. These lands are now available for low-cost housing projects for the benefit of the poor and the dispossessed amongst our people. In the legal custody of the commission, as a result of sequestration proceedings, are expensive jewelries amounting to P310 million; 42 units of aircraft amounting to P780 million; vessels amounting to P748 million; shares of stock amounting to around P322 million; and real properties amounting to more than P3 billion.

The bulk of the ill-gotten wealth, Madam President, is located abroad, not in the Philippines. Through the efforts of the PCGG, it actually recovered the Marcos properties in New Jersey and caused the freezing or sequestration of properties, deposits and securities worth billions of pesos in New York, Hawaii, California and more importantly in Switzerland. Due to favorable developments in Switzerland, according to Swiss lawyers, the first deliveries of the Swiss deposits in the foreseeable future, perhaps in less than a year's time, will be a reality.

If the PCGG does not succeed in recovering all, since this is impossible, but a substantial part of the ill-gotten wealth here and in various countries of the world — something the revolutionary governments of China, Ethiopia, Iran and Nicaragua were not able to accomplish at all with respect to properties outside their territorial boundaries — the Presidential Commission on Good Government, which has undertaken the difficult and thankless task of trying to undo what had been done so secretly and effectively in the last twenty years, shall have more than justified its existence.

To paraphrase Abraham Lincoln, himself the object of so much criticism during one of the most difficult periods in American history:

If the end brings out all right, a thousand angels saying we had been wrong would make no difference at all.

Undoubtedly, the PCGG, despite its best efforts, will commit mistakes. On the other hand, there is only one way to avoid mistakes, that is to do nothing. As one writer puts it:

If virtue lies only in avoiding mistakes, then the one who does nothing about anything would be the most virtuous person.

Fortunately, our people have a different standard. In the latest survey released by the Philippine Survey and

Research Center, our people gave a high approval rating — 69 percent with 16 percent disapproval, and 15 percent neutral — to PCGG's sequestration of the properties of the Marcoses and their cronies. The highest rating of 84 percent was given.

THE PRESIDENT: The time of Commissioner Tingson has already expired, unless he wants an extension.

MR. TINGSON: Thank you, Madam President.

THE PRESIDENT: Does the Commissioner want an extension?

MR. TINGSON: Yes, Madam President.

THE PRESIDENT: The Commissioner will please proceed.

MR. TINGSON: In the final analysis, Madam President, this is our source of real strength — to find the best in ourselves and to be true to what we find for the purpose of life is to matter, to stand for something good and right and to make some kind of a difference that we lived at all.

So, Madam President, however Section 8 is amended, I still would like to vote for it and I am quite sure that our committee would vote for it because we believe that this would be for the best interest of our people.

Thank you, Madam President.

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized then to be followed by Commissioner Ople.

MR. ROMULO: I would like to support the amendment by discussing as briefly as possible some of the legal issues. The first one is: It is argued that orders of sequestration do not comply with the requisites for the issuance of a search warrant. An order of sequestration in our view is not a search warrant. It is a provisional remedy like preliminary attachment, preliminary injunction and receivership. It may be issued ex parte and its main purpose is to preserve the property until the question of ownership can be ultimately decided. It can be issued even in the absence of a main case, if the law authorizes it.

Second, it is claimed that only courts should be authorized to issue orders of sequestration. Due process does not demand that the proceedings be judicial. Indeed, the Securities and Exchange Commission can grant provisional remedies like preliminary attachment, preliminary injunction and receivership.

Third, it is contended that the issuance of orders of sequestration runs counter to the constitutional presumption of innocence. The law may provide that when certain facts are proven by prima facie evidence, guilt is presumed if it has a reasonable link between the facts established and the inference of guilt. In fact, Section 8 of the Anti-Graft and Corrupt Practices Act presumes that the wealth amassed by a public official manifestly out of proportion to his salary and other lawful income is ill-gotten.

Fourth, it is maintained that since the applicants for the issuance of order of sequestration are agents of the PCGG, and the one who will issue the order is the PCGG, this violates due process. This line of argument was buried by the Supreme Court more than a quarter of century ago. In the case of *Erlanger-Galinger vs. The Court of Industrial Relations*, it was argued that parties charged with unfair labor practice were being denied due process of law because the Court of Industrial Relations was the accuser, prosecutor and judge rolled in one. It is the prosecutors of the Court of Industrial Relations who filed the case with the Court of Industrial Relations after conducting an investigation. The Supreme Court brushed aside the argument because the findings of the prosecutors were not conclusive upon the Court of Industrial Relations, which remained free to accept or reject them.

Similarly, the agents who apply for the issuance of orders of sequestration are not the very same officers who will issue the order. The Presidential Commission on Good Government retains the discretion to deny the application of their agents. In fact, in the Bureau of Customs, seizure proceedings are initiated by the officers of the Bureau of Customs. The cases are heard by the hearing officers of the Bureau of Customs and decided by the collector of Customs. The same can be said of the Bureau of Internal Revenue. The Bureau of Internal Revenue examiner makes the initial finding, goes through a process; the officials of the bureau issue the formal assessment and then the Commissioner finally decides.

Lastly, it is feared that the Presidential Commission on Good Government rides roughshod over civil rights. The actions of the PCGG are always subject to judicial review. Even if the law does not provide for judicial review, the decision of any administrative tribunal may always be scrutinized by the courts, if it acted without jurisdiction or with grave abuse of discretion or committed an error of law.

Thank you, Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

FR. BERNAS: Madam President.

THE PRESIDENT: We will just finish with Commissioner Ople.

FR. BERNAS: Just one question for Commissioner Romulo, Madam President. Is it in order to interpellate the speaker?

THE PRESIDENT: Commissioner Bernas would like to interpellate Commissioner Romulo.

MR. ROMULO: Willingly.

FR. BERNAS: From the line of argument used by the Commissioner, he tried to demonstrate that the powers presently exercised by the PCGG are normal legal powers.

MR. ROMULO: Yes.

FR. BERNAS: Why then do we need this provision? Why do we need to fortify them in this Constitution if they are already normal legal powers?

MR. ROMULO: It is normal within Proclamation No. 3 and the executive orders issued thereunder.

FR. BERNAS: In other words, would not, therefore, Executive Orders 1, 2 and 14 suffice, if they are exercised as normal powers anyway?

MR. ROMULO: No. It is normal in the exercise of powers derived from the Freedom Constitution and the executive orders issued thereunder.

FR. BERNAS: But all the arguments the Commissioner used were arguments based from decisions prior to the Freedom Constitution?

MR. ROMULO: Yes.

FR. BERNAS: So it did not rely on the Freedom Constitution?

MR. ROMULO: My contention is, even if we want to argue that this sequestration order partakes of search and seizure, one can distinguish it within existing jurisprudence.

FR. BERNAS: Precisely, and for that reason we would not need this in the Article on Transitory Provisions

because it can be justified even in the normal jurisprudence on search and seizure order.

MR. ROMULO: No. The existing jurisprudence merely helps me to distinguish it from search and seizure but certainly an order of sequestration, without Proclamation No. 3, is unknown in our law. One must anchor it on Proclamation No. 3 and, therefore, once the new Constitution is ratified, I believe it would then supersede the Freedom Constitution and a doubt would arise as to whether or not the PCGG can exercise sequestration or freeze order.

MR. BERNAS: So in other words, the proposal is to allow exception to the provisions of the new Constitution in case there is any conflict.

MR. ROMULO: In case — I would like to emphasize that — there is any conflict or to settle any doubt, an exception, if the Commissioner wants to put it that way, is being recommended in the Article on Transitory Provisions.

FR. BERNAS: And specifically, the possibility is that the exception would be from the provisions in the Bill of Rights.

MR. ROMULO: That is correct, and that is why I said that current jurisprudence helps me distinguish the sequestration order from the search and seizure provision of the new or recommended Bill of Rights.

FR. BERNAS: Madam President, I would like to reserve the right to speak against the proposal and to move for its deletion later on.

THE PRESIDENT: We will finish first with all the speakers who are in favor of this amendment or the committee report.

Commissioner Ople is recognized.

MR. OPLE: Madam President, thank you very much.

I think the chairman of the committee, the Honorable Suarez, will recall that the present formulation of Section 8 was based on a proposal that Commissioners Maambong, de los Reyes and myself put forward to the Committee on Amendments and Transitory Provisions and which was refined subsequently by other contributors. So I am very supportive of the committee's own formulation of Section 8 although in some degree I see that the amendment presented by Commissioner Villacorta and the other coauthors improves upon the section in two respects: The words "search" and "seizure" were deleted and the grace period of six months provided in this Section 8 after the convening of the first Congress was changed to one year and they kept the clause "provided that Congress, in the national interest, as certified by the President, may extend said period." The proposed Section 8, of course, commands a lot of interest throughout the country because of the signals that will come from here on a certain temper of the Constitution that we are drafting.

I would like to ask a few questions, if the sponsors are willing to answer them, in order to satisfy certain uncertainties that hung over this provision. Commissioner Romulo may continue to field these questions.

MR. ROMULO: Yes, Madam President.

MR. OPLE: Will this provision in effect ratify by constitutional fiat all the orders so far issued by the PCGG, its agents and task forces both here and abroad?

MR. ROMULO: I do not think so. These amendments, strictly speaking, deal only with the power not with the actions that have been taken pursuant to these powers.

MR. OPLE: The answer is very important, Madam President, because there are many such orders now pending in the courts where the petitioners have invoked the Bill of Rights of the Freedom Constitution. And it is reassuring to know that according to the intent of the committee, we are not, through this provision, preempting the courts of justice and the Supreme Court, in particular, of jurisdiction over these orders that have been questioned before them.

MR. ROMULO: Yes, I affirm the Commissioner's view.

MR. OPLE: Commissioner Romulo, in reply to some questions of Commissioner Bernas, said that there are conceivable situations where this provision authorizing by a constitutional provision the PCGG to exercise the powers of sequestration and freezing of assets or of accounts, in case of ill-gotten wealth, could clash with the Bill of Rights and that if such situations arise, the Bill of Rights, presumably by virtue of this provision, will have to yield to the exigencies which the sponsors say are the justification for these powers of the PCGG we are now enshrining in the Article on Transitory Provisions.

MR. ROMULO: Let me put it this way.

I think the proposed amendment can be reconciled with the Bill of Rights in that a sequestration order is not the equivalent of a search and seizure order. However, in the event that such doubts exist, we propose this amendment precisely to create an exception.

MR. OPLE: Is Commissioner Bernas' thesis supported by the Honorable Romulo?

MR. ROMULO: No.

MR. OPLE: That this is an extraordinary measure justified by the nature of the exigencies that it seeks to correct and that where the Bill of Rights and these powers come into a confrontation, the Bill of Rights must necessarily yield to the exigencies that are sought to be corrected by these powers of the PCGG in amended Section 8?

MR. ROMULO: It may have to, unless the Commissioner agrees with me that both provisions can be reconciled by distinguishing an order or a writ of sequestration from a writ of search and seizure. And that is precisely why I make the distinction. But as I say, in the event that both are irreconcilable, then for the safety of the national interest we propose an exception.

MR. OPLE: We are leaving no discretion whatever to the courts to uphold the Bill of Rights in such situations, Madam President?

MR. ROMULO: In the first place, our position is that there is no conflict. And in the second place, when we make an exception, that does not mean that the Bill of Rights is disregarded because due process is still guaranteed. The complainant or the respondent is not deprived of his day in court. All we are talking about is an initial action by the PCGG to track the ill-gotten wealth. That is all.

MR. OPLE: One of the provisions of the Bill of Rights states that only the courts may issue search and seizure order. The amendment, although this is not yet acknowledged, proposes the deletion of the words "search and seizure" in Section 8.

MR. ROMULO: Yes.

MR. OPLE: Is this an attempt no matter how feeble to try to accommodate the Bill of Rights?

MR. ROMULO: It is not feeble. It precisely illustrates our point that sequestration and freeze order is not equivalent or similar to a search and seizure order.

MR. OPLE: A writ of sequestration can stand without having to recourse to search and seizure.

MR. ROMULO: I believe so.

MR. OPLE: Does this also mean that if this section as amended is approved, that for search and seizure proceedings, the PCGG from the time of the ratification of this Constitution must apply to the court?

MR. ROMULO: Let me say this that normally, if we request a writ of search and seizure, the new Bill of Rights mandates that we go to the court because it is only the court, upon personal examination of the affiant, which can issue a search and seizure.

MR. OPLE: Therefore, the answer of the sponsor is "yes"; that upon the ratification of this Constitution, there will be no discretion whatsoever left with the PCGG in the matter of search and seizure proceedings except to apply to the court for the necessary permission.

MR. ROMULO: Unless we create the exception assuming that PCGG is asking for a search and seizure order, that is my premise.

MR. OPLE: Yes, that is the premise of my question, that search and seizure orders are deemed necessary to support writs of sequestration. In such a situation, the PCGG will have no choice under this provision, as amended, except to apply to the courts.

MR. ROMULO: That is right. I distinguish a writ of sequestration and freeze from a search and seizure order.

MR. OPLE: Yes, that seems to be clear. I think it is very important to establish the answer to the following question, Madam President. In recent days, the newspapers have been writing about the PCGG in the exercise of its powers under Executive Orders 1 and 2 and under appropriate provisions of the Freedom Constitution, taking over virtually certain companies under sequestration, voting on these sequestered shares so that in effect, they choose the board of directors and through this recourse, actually, managing and running these companies. A notable example is the United Coconut Planters Bank (UCPB) where sequestered shares, although still subject to final determination in an appropriate court as to the real ownership, are already voted on by the PCGG to determine who should be the board of directors. Is there anything in this section that would lend support to the thesis that this is inherent in the powers of the PCGG as defined in Executive Orders 1 and 2 and under the Freedom Constitution?

MR. ROMULO: The Freedom Constitution and the various executive orders do give those powers to the PCGG.

MR. OPLE: Including the presumption of the right to vote on sequestered shares as though the final ownership had been determined?

MR. ROMULO: Yes.

MR. OPLE: Even while they profess that the Sandiganbayan may at any time rule that these sequestered shares may belong ultimately and properly to a person who might be innocent of the charges against them?

So, do I take it, Madam President, that the sponsors are saying that when we vote for this section as amended, part of the consequence is that the PCGG may vote on sequestered shares in certain corporations even before a final determination of their ownership in an appropriate court, and therewith proceed to take over a company, its management and its operation?

MR. ROMULO: If given time, I will look for the appropriate section. Right now, executive orders were issued precisely to confirm the authority of the PCGG to vote the shares. Really, it is the voting on the shares and the allowance of that which allows them to sit in the board of directors. That is how I understand it under an express

provision of one of these executive orders.

MR. OPLE: Madam President.

MR. ROMULO: As I understand, the running of the company really proceeds from the fact that they are able to vote on the shares that they have sequestered and, therefore, are entitled to the number of seats in the board of directors represented by the sequestered shares.

MR. OPLE: Yes, and the writ of sequestration is at the root of this practice and, therefore, will Commissioner Romulo agree that this section might in effect be a constitutional license to the PCGG to take over sequestered companies and run them even before a court of competence can rule on the true ownership of such shares?

MR. ROMULO: Is the Commissioner describing the present situation?

MR. OPLE: Yes.

MR. ROMULO: All right, I do not deny that; but as I say, that is pursuant to the authority given it by these executive orders.

MR. OPLE: I am speaking of the consequence of Section 8, as amended, if approved. Will this lend constitutional support to this practice now of voting sequestered shares so that the PCGG can take over whole companies and in some cases whole industries through the writ of sequestration?

MR. ROMULO: I believe that the writ of sequestration as presently described and authorized will allow them, through the board of directors and the appropriate representatives of the board of directors, to help operate the company.

MR. OPLE: Madam President, I have already stated that I was partly responsible for Section 8 as now formulated. I thought it was a happy compromise and, of course, it did not settle immediately in my mind some of the propound issues that our people are seeking to answer with respect to the issue of the PCGG powers. I think there is no question that we want to help the PCGG accomplish its historic tasks. At the same time, as people appointed to frame a constitutional commission and a tribune of the rights of the people according to the historic tradition of those who write democratic constitutions, I think it was necessary to bring out these facts and consequences concerning the operation of Section 8, as amended, if approved. Also, I want to continue to ponder the magnitude of these consequences for the Bill of Rights, for the freedom of our citizenry, for the old axiom underlying our moral world that the end shall not justify the means and I will keep an open mind until we reach the period of voting.

Thank you, Madam President.

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: In view of the context of our discussion, may I just say for the record that even if one must concede that sequestration and freeze orders are searches and seizures, it does not necessarily result in their invalidity because of the absence of initial judicial determination.

The case in the United States of *Philips v. Commissioner* has the following ruling:

Where adequate opportunity is afforded for a later judicial determination of the legal rights, summary proceedings to secure prompt performance of pecuniary obligations to the government have been consistently sustained. Where only property rights are involved, mere postponement of the judicial inquiry is not a denial of

due process if the opportunity given for the ultimate judicial determination of liability is adequate.

Thank you.

MR. NOLLEDO: Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: With the indulgence of Commissioner Nollado and the rest who are registered earlier to speak in favor of the resolution, I should like to break this symphony orchestra, Madam President, and let us listen to a voice who will present the other side of the question.

So may I ask Commissioner Bernas to be recognized.

THE PRESIDENT: In other words, we are through with the speakers in favor; we are now calling on those who are against.

MR. NOLLEDO: No, Madam President, I make a reservation to speak in favor of the amendment; and Commissioner Rama assured me. It is a very short speech, Madam President.

THE PRESIDENT: The Chair believes that we should finish first all the speeches in favor so that whoever will talk against can answer all the arguments at once and the same time. So, Commissioner Nollado is given three minutes if he is speaking in favor of the proposed amendment.

MR. NOLLEDO: Thank you, Madam President.

My dear colleagues in the Commission.

The Presidential Commission on Good Government came into existence at the critical period of our history when the repressive, graft-ridden and inglorious Marcos regime passed out, leaving dry the national treasury and burdening the new government with a gargantuan foreign debt.

Madam President, Proclamation No. 3, issued in a state of a revolutionary government, gave the incumbent President the right to give priority, among others, to the people's mandate to recover ill-gotten properties amassed by the leaders and supporters of the Marcos regime, through orders of sequestration or freezing of assets or accounts. Pursuant to this provision, Executive Order No. 1 was issued creating the PCGG which has issued sequestration orders after it has determined, based on evidence, existence of a prima facie case.

Madam President, the Suarez report on the PCGG is designed to give constitutional support to this body. I fully indorse the Suarez report, subject to the Villacorta amendment, for the following reasons:

1. The PCGG is tasked with a delicate, transcendental and difficult work of ferreting out ill-gotten wealth hidden in subtle ways, like the use of dummies, employment of nominees, use of bearer certificates, and others where discovery of real ownership of properties can be done only after going over voluminous and technical documents;
2. The PCGG should not be bound strictly by the provisions of Section 3 of the Bill of Rights because sequestration orders are being issued for preservative reasons;
3. The functions of the PCGG are vested with public interest and dictated by the imperative demands of public policy and, therefore, its powers are derived from and based on the police power of the State;
4. The exercise of powers by the PCGG affects merely property rights which involve stolen properties partaking of the nature of contrabands reachable by the hands of the State in the exercise of its police power;

5. As said by Senator Jovito R. Salonga, the PCGG observes due process by requiring determination of a prima facie case before a sequestration order may issue;

6. To transfer to the regular courts or to the Sandiganbayan the power to sequester may subject the pertinent case to the usual delay in judicial proceedings. In this connection, I notice that if the records are voluminous, the ordinary court or the Sandiganbayan may also appoint commissioners in order to determine the propriety of issuing a seizure order, or the equivalent of a sequestration order.

7. It is very shameful on our part not to give constitutional support to the PCGG while foreign countries are giving full support to it.

And last but not the least, Madam President, extraordinary situations in which the PCGG now finds itself should need extra legal actions or remedies.

Thank you, Madam President; and I also thanks my colleagues in the Commission.

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

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, there is something schizophrenic about the arguments in defense of the present amendment.

For instance, I have carefully studied Minister Salonga's lecture in the Gregorio Araneta University Foundation, of which all of us have been given a copy. On the one hand, he argues that everything the Commission is doing is traditionally legal. This is repeated by Commissioner Romulo also. Minister Salonga spends a major portion of his lecture developing that argument. On the other hand, almost as an afterthought, he says that in the end what matters are the results and not the legal niceties, thus suggesting that the PCGG should be allowed to make some legal shortcuts, another word for niceties or exceptions.

Now, if everything the PCGG is doing is legal, why is it asking the CONCOM for special protection? The answer is clear. What they are doing will not stand the test of ordinary due process, hence they are asking for protection, for exceptions. Grandes malos, grandes remedios, fine, as the saying stands, but let us not say grandes malos, grande y malos remedios. That is not an allowable extrapolation. Hence, we should not give the exceptions asked for, and let me elaborate and give three reasons:

First, the whole point of the February Revolution and of the work of the CONCOM is to hasten constitutional normalization. Very much at the heart of the constitutional normalization is the full effectivity of the Bill of Rights. We cannot, in one breath, ask for constitutional normalization and at the same time ask for a temporary halt to the full functioning of what is at the heart of constitutionalism. That would be hypocritical; that would be a repetition of Marcosian protestation of due process and rule of law. The New Society word for that is "backsliding." It is tragic when we begin to backslide even before we get there.

Second, this is really a corollary of the first. Habits tend to become ingrained. The committee report asks for extraordinary exceptions from the Bill of Rights for six months after the convening of Congress, and Congress may even extend this longer.

Good deeds repeated ripen into virtue; bad deeds repeated become vice. What the committee report is asking for is that we should allow the new government to acquire the vice of disregarding the Bill of Rights.

Vices, once they become ingrained, become difficult to shed. The practitioners of the vice begin to think that they have a vested right to its practice, and they will fight tooth and nail to keep the franchise. That would be an

unhealthy way of consolidating the gains of a democratic revolution.

Third, the argument that what matters are the results and not the legal niceties is an argument that is very disturbing. When it comes from a staunch Christian like Commissioner Salonga, a Minister, and repeated verbatim by another staunch Christian like Commissioner Tingson, it becomes doubly disturbing and even discombobulating. The argument makes the PCGG an auctioneer, placing the Bill of Rights on the auction block. If the price is right, the search and seizure clause will be sold. "Open your Swiss bank account to us and we will award you the search and seizure clause. You can keep it in your private safe."

Alternatively, the argument looks on the present government as hostage to the hoarders of hidden wealth. The hoarders will release the hidden health if the ransom price is paid and the ransom price is the Bill of Rights, specifically the due process in the search and seizure clauses. So, there is something positively revolving about either argument. The Bill of Rights is not for sale to the highest bidder nor can it be used to ransom captive dollars. This nation will survive and grow strong, only if it would become convinced of the values enshrined in the Constitution of a price that is beyond monetary estimation.

For these reasons, the honorable course for the Constitutional Commission is to delete all of Section 8 of the committee report and allow the new Constitution to take effect in full vigor. If Section 8 is deleted, the PCGG has two options. First, it can pursue the Salonga and the Romulo argument — that what the PCGG has been doing has been completely within the pale of the law. If sustained, the PCGG can go on and should be able to go on, even without the support of Section 8. If not sustained, however, the PCGG has only one honorable option, it must bow to the majesty of the Bill of Rights.

The PCGG extrapolation of the law is defended by staunch Christians. Let me conclude with what another Christian replied when asked to toy around with the law. From his prison cell, Thomas More said, "I'll give the devil benefit of law for my nation's safety sake." I ask the Commission to give the devil benefit of law for our nation's sake. And we should delete Section 8.

Thank you, Madam President.

THE PRESIDENT: Is there any other speaker against the amendment?

MR. RAMA: There is one, Madam President, Commissioner Aquino. Unfortunately, she is prevented by the floods to come. So, I will make a reservation for her speech to be inserted in the record, if she cannot arrive earlier.

May I ask Commissioner Sarmiento for a very brief remark.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. RAMA: Then, afterward, Commissioner Padilla.

MR. SARMIENTO: Madam President, I rise in support of the proposed amendment. The concept of sequestration as explained by the PCGG is a reasonable method employed in order to recover ill-gotten wealth. It is proportionate to the evil sought to be corrected. That there are some irregularities or errors committed in the implementation should not be argued against the continued exercise of sequestration powers.

The alternative venue, the judiciary, is undergoing reorganization. Because of this, I doubt if the courts at this time could act more judiciously or expeditiously than the PCGG to recover ill-gotten wealth. In the meantime, Madam President, the people cry out for justice. And what greater injustice is there than that committed against the nation itself by those who have plundered the national treasury.

Sequestration constitutes a valid exercise of police power in the national interest. It is directed against a particularly insidious evil and seeks to correct an injustice committed against the Filipino nation. The proceeds of sequestration is to be used to alleviate the economic hardships of our long suffering people. In 1965, 41 percent of all Filipino families were on or below the poverty line. In 1975, 51.49 percent were below the poverty line. In 1984, the average per capita income of the Filipino family went down to P1,750 from P1,897 in 1983, and more than 200,000 families joined the ranks of households living in abject poverty.

Madam President, we in this Commission cannot afford to fail our people in this very crucial issue.

Thank you, very much.

MR. RAMA: Madam President, there are three more registered speakers, Commissioners Padilla, Concepcion and Quesada. So, may I ask Commissioner Padilla to speak first, and afterward we shall have Commissioner Concepcion and Commissioner Quesada.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: I would like to speak for a minute on a question of privilege since my name was alluded to by the previous speaker.

THE PRESIDENT: The Commissioner may proceed.

QUESTION OF PRIVILEGE OF COMMISSIONER TINGSON

MR. TINGSON: Madam President, I appreciate the fact that this Representation was referred to as a Christian gentleman and I appreciated that very much. The Bernas arguments are based on pure legalism. We recognize the majesty of the Bill of Rights, and for the record may I say that I joyfully voted for the approval of the Bill of Rights. No one disputes that we can give exceptions in a limited period of time to serve the national interest. Madam President, the crimes committed by the President who escaped from our country were extraordinary crimes and these extraordinary crimes must be solved with extraordinary measures. I would like to be corrected if I am wrong but I understand that the Jesuit organization really believes that the end does not justify the means. Probably, we are just making use of that, Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, I would like to speak in support of this section and make some clarifications. Section 1(d), Article II of the Freedom Constitution, known as Proclamation No. 3, reads:

Recover ill-gotten properties amassed by the leaders and supporters of the previous regime and protect the interest of the people through orders of sequestration or freezing of assets of accounts.

And so the observation of Commissioner Regalado is correct; instead of "and," it should be "OR" between "sequestration, freeze and seizure order." In fact, Executive Order No. 2 states the purpose of freezing of assets and preventing of transfer. Executive Order No. 14 also states "sequestration or freezing of assets." Section 2 provides for an action with the Sandiganbayan.

Madam President, the Bill of Rights provides that warrant of arrest and search and seizure is judicial. We have eliminated in Section 3 of the Bill of Rights the clause inserted in the 1973 Constitution "or such other responsible officer as may be authorized by law." So, the deletion of the phrase "search and seizure" in Section 8 of the committee report is correct, so that said section shall be limited to sequestration or freeze order. And as the Bill of Rights covers warrants of arrest and search and seizure which must be issued by a judge after examining the

complainant and the witnesses he may produce, it does not exactly cover sequestration or freeze order to recover ill-gotten wealth.

Under R.A. 1379, which is the Anti-Graft Law of 1955, properties manifestly out of proportion of the salaries, lawful income or income from lawfully acquired properties are presumed fraudulent. The legal presumption is that such properties have been acquired fraudulently. But R.A. 1379 provides that the Solicitor General shall file a petition in court leading to the forfeiture of such unlawfully acquired property, which, under the Freedom Constitution, is called "ill-gotten wealth."

Madam President, I concur that the PCGG has the power to sequester or freeze assets constituting ill-gotten wealth. But oftentimes, the exercise of that power may be illegal or beyond the proper limits of the law. Therefore, any such order, which under the proposed amendment says "shall be operative," does not mean that all such sequestration and seizure orders are valid and legal, but they are subject to judicial action. As a matter of fact, I have appeared as amicus curiae in the Supreme Court on these several "sequestration and seizure orders" affecting the COCOFED, the BASECO, the Allied Bank, and the Foremost Farms. And the sequestration and seizure orders have not been assailed as illegal, specially their improper, excessive and illegal exercise. Invariably, the PCGG appoints its officer in charge (OIC) with his task force and oftentimes said task force exceeds and even violates laws in the exercise of that power.

And so, I think that there should be a proviso that all these operative orders are subject to the proper judicial actions. As a matter of fact, the issue of restraining orders in these cases are now pending in the Supreme Court.

Madam President, this proposed section has increased the period of six months in the committee report to one year, and it adds: "after the convening of the first Congress." I do not believe that there is any relation between the freeze orders of the PCGG with the convening of Congress. Rather, the time limit should refer to the ratification of this Constitution, because this right was granted under the Freedom Constitution, and that power is being reorganized and continued under the Transitory Provisions in this Constitution.

THE PRESIDENT: Does the Commissioner need further extension?

MR. PADILLA: One more minute for further clarification, Madam President.

THE PRESIDENT: The Commissioner may proceed.

MR. PADILLA: There is a distinction between "freezing" for purposes of conserving the assets that are suspected to be ill-gotten from "taking over" the business that is considered ill-gotten. Most of these sequestration orders have reference to certain shares of stock in ongoing business enterprises. In my oral arguments, I submitted to the honorable Supreme Court that BASECO which was NASSCO and a government-owned corporation, the PCGG, can even take over the entire business as ill-gotten wealth, and probably that can also refer to the COCOFED, because its funds were levies imposed by Congress and collected as public funds and, therefore, they are properties of the nation or of the people. But with regard to ongoing business enterprises where the seizure order, it should not be seizure, but freezing orders, is only applied to some shares of stock of few stockholders, the power of the PCGG is only to conserve those assets in the form of shares of stock and to place them under custodia legis so that they cannot be transferred nor disposed of and be subject to the legal action for their forfeiture in favor of the State.

Madam President, this word "sequestration" was used by the last regime in P.D. No. 885 on the Revised Anti-subversion Act, and it was wrong to have the assets of so-called to be subject to seizure and worse, the particular phrase "the taking over" and assumption of the management, control and operation of the private property or asset seized.

THE PRESIDENT: Will the Commissioner please wind up, because he has already consumed nine minutes.

MR. PADILLA: Just one more sentence to finish the thought, Madam President.

So that, when the seizure or sequestration refers to certain shares of stock, that cannot extend to the "taking over" of ongoing private business and not even for the PCGG to interfere with the management, control and operation of such ongoing property, an ongoing business as private property.

Thank you, Madam President.

THE PRESIDENT: Thank you.

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

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Thank you, Madam President.

The subject is open to a lot of discussions but I think a few points are undeniable. First, that the end does not justify the means, as Commissioner Tingson has stressed. Second, it has been generally emphasized that national interest demands the extraordinary measures or remedies adopted by the PCGG. I think, in principle that is an argument. My only apprehension about the argument is that it seems to assume that due process is inferior to demands of public interest. The requirements about the issuance of warrants of seizure and arrest are intended necessarily to curb abuses even by those who exercise authority properly. So, I do not know how to address certain questions.

I would wish to find out what measures are being taken by the proper authorities concerning properties being sequestered. For instance, are the orders of sequestration specific, at least, sufficient to identify the properties or assets to be sequestered? Second, are the objects of sequestration or freezing placed under the custody of courts of justice, so that parties adversely affected could immediately seek the remedies they are entitled to? Third, when certain acts have to be performed, such as voting on shares of stock or some other form of disposition of the assets that have been sequestered, are these acts performed without previous judicial authority? I suppose that once certain properties have been frozen or sequestered, the danger of their being disposed of improperly or illegally is already curbed. So, I wonder if someone could give us the information we need.

Something equivalent to reasonable grounds to suggest that there are justifiable reasons for the sequestration so that the interested party could intelligently question the order of sequestration. Under our laws, properties seized under a warrant of seizure must immediately be placed at the disposal of the proper court so that it can ensure that they are properly handled.

THE PRESIDENT: Commissioner Romulo will answer.

MR. ROMULO: Yes. I will try as best I can, but of course I am not familiar with all their procedures. But I shall answer as far as I can understand it.

As to the Commissioner's first question, they do sequester particular property; they are specific about what they sequester. I have a print-out here of the assets that they have sequestered, and it says: "Nature of Asset; 35,414 shares of Allied Banking Corporation." To make another illustration: "500,000 shares in Traders Royal, etc." So, it seems that they are specific about what they are sequestering.

MR. CONCEPCION: But these are the properties sequestered. What I am asking is whether the order of sequestration specifies or describes the properties or objects of sequestration or freezing.

MR. ROMULO: I can only answer that indirectly by quoting the procedure that is followed by the PCGG, and it seems to me that it may answer the Commissioner's other question, as well. It says:

That in the first phase upon receipt of data from a private person in the form of a varified complaint, or from any government agency, or upon its own motion, the PCGG conducts either a covert or open verification of information. If evidence on hand shows prima facie that the wealth referred to is ill-gotten as determined by the PCGG en banc, the writ of sequestration will issue.

Thus, as I say, indirectly, this seems to suggest that particular information is gathered before the writ of sequestration is issued.

MR. CONCEPCION: Would there be any objection to introducing in the proposed provision concerning the extension or the duration of the period of validity of these orders to specify certain conditions such as compliance with due process, at least, insofar as specific matters to ensure that measures are taken not merely on the basis of what the government entity concerned are issuing the order deems it best but as a condition for the enjoyment of the authority the period of which is being extended?

MR. ROMULO: I have no objection to that. Maybe if I can complete the different phases, I could give everyone an idea of how they work.

MR. CONCEPCION: There is still another question. Are these actions referred to a court as soon as the sequestration or freezing has taken place?

MR. ROMULO: Not yet, that is why I am going to read to the Commissioner the second phase, and these are questions I have asked myself. The first stage is ex parte and it is, more or less, analogous to an ex parte hearing of an application for a writ of attachment. The second stage is what they call a preliminary investigation. Having been notified of sequestration after the writ has been served on them, the affected persons have five days to contest it. If contested, the case goes into a preliminary investigation wherein the due process requirements of notice and hearing are complied with. The end result of this stage is a decision on whether to lift the sequestration or to file the case; that is, to file it with the Sandiganbayan as directed by the executive order depending on the findings by the PCGG of probable cause. This corresponds to the preliminary investigation in ordinary criminal cases.

The resolution of the PCGG may be appealed to the President within 15 days from receipt. I take it that once they are finished with the preliminary investigation, it is only then that the case is filed with the court by the Solicitor General. I asked them if the first case — where they issued the sequestration order in the case of President Marcos and his families, and with 28 respondents — has been filed in court with the Sandiganbayan. The answer is "no," because the preliminary investigation has not been completed because of the following: (1) There are about 28 respondents, each of whom has his own lawyer; and (2) These lawyers not only request postponements but some of them have filed certiorari petitions with the Supreme Court and the evidence adduced both by the PCGG and the respondents are voluminous.

So, they have not completed the preliminary investigation of any of these cases, and thus, my answer is that the sequestered properties are in the custody of the Commission but not in the custody of the court.

MR. CONCEPCION: That is right. Perhaps something could be done or a provision could be inserted to ensure that the property be placed under the custody of the court.

MR. ROMULO: I agree with that. I think their only problem is the time that this would require, and as they have explained to us, every evidence unearthed. For example, they find two or three other corporations which are involved and it is like unravelling a bundle of thread, so that according to them it may be very difficult for them to

complete an investigation within a fixed set of time.

MR. CONCEPCION: I can understand that. But would it not be better if the courts are advised immediately and for the court to determine whether the investigation is being conducted as expeditiously as it should be, rather than leave it to the sound discretion of the entity that conducts it?

MR. ROMULO: Yes. I think that they would have no objection to that provided that they do have some time to be able to freeze the property or sequester the property, which is their primary objective. And then before filing it in court, they should have the opportunity to finish the preliminary investigation.

MR. CONCEPCION: What I was thinking was that the court should determine whether or not the preliminary investigation is being conducted or being done or the necessary efforts are exerted to see to it that the party adversely affected is not unduly deprived of . . .

MR. ROMULO: Would the Commissioner put that stipulation after they have exercised their writ of sequestration?

MR. CONCEPCION: I mean, immediately after the sequestration order or the freezing order is served, that the action be reported to a court of justice.

MR. ROMULO: Yes. I suppose that any respondent would have the right to go to court, if he feels that they have abused their authority.

If the writ of sequestration is as it were delivered to the court for investigation to determine whether it has been properly exercised, what happens to the main case, because I take it that the preliminary investigation has not been completed? They only have the prima facie case.

MR. CONCEPCION: The courts would allow the investigation to continue, but always subject to the control of the court and to the determination whether proper action is being taken or not; to see to it that the parties affected are not unduly harassed instead of leaving a party at the mercy of this Presidential Commission on Good Government. But I understand there have been some abuses or some actions or omissions considered, in general, as unjust and unfair.

To dispel doubts about it, let there be a court to decide that question immediately after the sequestration or freezing.

MR. ROMULO: But for the court to determine whether the sequestration order was proper, they would then have to conduct as it were the preliminary investigation. Would the court have to do that?

MR. CONCEPCION: Yes, the determination of what further action will be taken will have to be done by the Presidential Commission on Good Government, but subject to the supervision of the court.

MR. ROMULO: Is that not always available to a respondent? He can always go to court to challenge their action.

MR. CONCEPCION: That depends. Courts are available to all, but not all can go to courts. But remember the parties concerned are fighting the government.

MR. ROMULO: Yes.

MR. CONCEPCION: The government has more facilities. And then, why should the property of any person for that matter, be he a criminal or not, be subject to the disposition of a government agency other than the courts of justice? Whatever others do should always be subject to the control of the courts of justice. This is an act already of deprivation, of disposition pending the investigation.

MR. ROMULO: Yes. This Article on the Transitory Provisions will take effect together with our Article on the Judiciary where we stipulate that judicial review is paramount to questions such as this.

MR. CONCEPCION: Precisely, because of that.

MR. ROMULO: That is why I feel that they always have the right to go to court, but I think, that the proper . . .

THE PRESIDENT: Maybe some of those ideas that have been expressed by Commissioner Concepcion could be taken up at the proper time when there is a proposal to improve the proposed amendment.

Thank you.

MR. ROMULO: That is right. That is what I am about to say.

MR. CONCEPCION: Thank you, Madam President.

MR. RAMA: Madam President, for the last speaker, may I ask that Commissioner Quesada be recognized for three minutes.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Thank you, Madam President.

I speak to support the proposal of the Commissioners to strengthen the role of the PCGG to recover the hidden wealth, the very much needed wealth that could very well have trickled down to benefit the 55 million Filipino people. Already, we see a campaign to discredit the PCGG. We read in the newspapers a seeming orchestrated effort to discredit what the PCGG is doing, and, therefore, we need to have this kind of provision that will constitutionalize what good they are doing to recover this much needed wealth.

Secondly, I believe that a lot of people are awaiting the action on this particular case because it is so grand a crime that not only the Filipino people but the rest of the world are watching how the wheels of justice will work in this new administration. Ordinary citizens have been asking, "Kami pag may kasalanan, nagnakaw lang kami ng P10, ng P20 para mabuhay ang aming pamilya, nakalaboso na kaagad, nabilanggo na kaagad at duon tumatagal sa bilanggo. Pero itong pagnanakaw na hindi mawari ng isang ordinaryong mamamayan kung paano bilangin ang \$10 billion ay libre, hangga ngayon nandoroon. Kaya wala pa tayong kasiguraduhan kung makukuha natin ulit iyong kayamananang nawala. Kaya, para sa ordinaryong mamamayan na hindi ganuon kahigpit ang isinasaad ng Bill of Rights sa mga legalese at saka iyong ating pinoprotect ngayon, para sa kanila ay napakasimpleng bagay. Mayroong kasalanan, napakalaking kasalanan sa taong-bayan, pero ngayon bakit natin pinahihirapan pa ang isang instrumento, ang isang ahensiya, komisyon, na gumagawa ng hakbang upang maibalik ang kayamanan na kailangang-kailangan ng taong-bayan? Lalo na sa mga mahihirap, sa mga ordinaryong mga manggagawa sa loob ng gobyerno, ang palaging sinasabi sa kanila nuon, "Hindi natin mataasan ang inyong suweldo kasi'y ang daming ninakaw ni Marcos." Samantalang nuong nakaraang taon, sino ang nagsakripisyo? Sino ang mababang suweldo? Sino ang palaging nagkokontribusyon, sino ang maghihirap nuong nakaraang taon? Ang mga ordinaryong manggagawa sa loob ng ating gobyerno. Sila ang nagsakripisyo nitong mga nakaraang taon, ngunit ngayon ay nalaman na nila, tayo palay ay sakripisyo nang sakripisyo, iyon pala ay ninanakaw ang karamihan ng ating kayamanan. Kaya naghihintay sila ngayon para makita na mayroon ngang katarungan. Tayo ay nasa bagong administrasyon na.

Kaya sa wari ko, napakalaking moral lesson ito sa atin. Hinihintay ng tao kung tutoo nga bang "Crime does not pay." Ito ay high crime o grand larceny ang tawag. Pero ngayon, nahihirapan ang isang Komisyon na ganuon lang nga ang kanilang gustong gawin. Kayat sa palagay ko ay nanduon ang punto ni Commissioner Bernas, pero nanduon din naman yong aspekto na kailangan talaga nating ipakita sa mundo na kaya nating gawan ng hakbang

kung anumang hakbang na hindi naman illegal para maibalik ang nakuhang kayamanan ng taong-bayan.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Madam President, Commissioner Concepcion is asking for a minute to respond to Commissioner Quesada.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: My main apprehension is on giving the Presidential Commission on Good Government or allowing the continuance of its present or past practices. My main apprehension is that this may be construed as to mean that the provisions in the Bill of Rights concerning searches and seizures are not being adopted by us in the traditional sense. That if we feel that the party concerned is guilty, go ahead by whatever means. At any rate, he is guilty; but that is a vital problem, Madam President. The arguments start from the assumption that the properties being frozen or sequestered are part of the properties that have been stolen. In other words, we are putting the cart before the horse. I am stressing the importance of the provisions in the Bill of Rights because these are intended for the protection of the people against government abuse — the abuse by the British soldiers who would enter houses, have their quarters in the house of the citizens and the like. So it is a problem really of a long range view as against a particular temporary problem.

I think there is no question. Everybody wants; we know we need to recover the properties stolen but the question is: Are the properties being sequestered part of the stolen goods? So, that is the issue. I would hate to find that the provisions of our Bill of Rights are less effective than they were before from the constitutional viewpoint. The provisions on searches and seizures are intended more, if not always, for the protection of the people. As a matter of fact, it is part of the powers that have been reserved for the people and withdrawn from the government which the Presidential Commission on Good Government represents. It is a question of looking into the immediate needs in relation to the general need of the nation to survive as a democratic society.

Thank you, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA: I move for the adjournment of the session until tomorrow at nine-thirty in the morning.

THE PRESIDENT: The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:18 p.m.

[*] Appeared after the roll call.

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