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Monday, September 22, 1986

CALL TO ORDER

At 10:01 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

The National Anthem was sung followed by a prayer led by Mr. Adolfo S. Azcuna, to wit:

Almighty Father, help us to remember that to think great thoughts we must be heroes as well as idealists; that we must learn to fix our course by a star which we have never seen; to dig by the divining rod for springs which we may never reach; and to go on working and giving it our best, sustained only by the conviction that years from now, generations yet unborn will be marching to the tempo of our thoughts.

Amen.

ROLL CALL

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

Alonto, A. D. Padilla, A. B.

Azcuna, A. S. Muñoz Palma, C.

Bengzon, J. F. S. Quesada, M. L. M.

Bernas, J. G. Rama, N. G.

Rosario Braid, F. De los Reyes, R. F.

Calderon, J. D. Rigos, C. A.

De Castro, C. M. Rodrigo, F. A

Concepcion, R. R. Romulo, R. J.

Foz, V. B. Samiento, R. V.

Gascon, J. L. M. C. Sumulong, L. M.

Guingona, S. V.C. Tingson, G. J

Jamir, A. M. K. Treñas, E. B

Maambong, R. E Uka, L. L

.Monsod, C. S. Villacorta, W. V.

Nieva, M. T. F. Villegas, B. M

Ople , B. F.

With 31 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar Y. R.

Colayco, J. C.

Aquino, F. S.

Davide, H. G.

Maambong, R. E

Nolledo, J. N.

Natividad, T. C. Tan, C.

P. M

Bacani, T. C. Tadeo, J. S. L

Bennagen, P. L

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Messrs. Regalado and Rosales were sick.

Mr. Laurel was absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 949 — Constitutional Commission of 1986

Communication from Mr. Zacarias P. Raner, 8 Barile Street, Kabankalan, Negros Occidental, expressing his reaction against the proposal to make Tagalog/Pilipino as our national language, saying that the dominance of Tagalog, which is spoken by around 25% of our people, has caused the alienation of the 75% of our compatriots who are non-Tagalog.

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 950 — Constitutional Commission of 1986

Letter from Mr. Rodulfo S. Rosales, Editor, The Lemuria Times, 65 V. Luna Road, cor. Maginoo St., Quezon City, expressing support for the retention of the U.S. military bases and against the policy of neutrality.

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

Communication No. 951 — Constitutional Commission of 1986

Communication from Sister Carmen Balazo and nineteen (19) other members of the Association of Religious Women in Zambales, seeking the dismantling of the U.S. military bases in the Philippines.

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

Communication No. 952 — Constitutional Commission of 1986

Communication from Mr. Ernesto C. Gonzalez, 669 Aurora Blvd., Quezon City, expressing opinion on the status of Filipino citizens who are "green card" holders, saying that a "green card" holder who remains to be a Filipino retains his Filipino citizenship and as such, is entitled to the rights, duties, obligations and privileges of a Filipino citizen and consequently entitled to hold public office.

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

Communication No. 953 — Constitutional Commission of 1986

Communication from Mr. David D. Boaz, 224 Second Street SE., Washington, D.C., transmitting a copy of the Cato Report containing an article by Dr. Paul Craig Roberts, "The Constitutional Protection of Economic Freedom," hoping that the same may be of use to the Constitutional Commission.

TO THE STEERING COMMITTEE

Communication No. 954 — Constitutional Commission of 1986

Communication from Mr. Dexter B. Bajade, transmitting Resolution No. 13, series of 1986, adopted by the Sangguniang Panlalawigan of Agusan del Sur, expressing support for the adoption of a nationalist-oriented Philippine Constitution.

TO THE STEERING COMMITTEE

Communication No. 955 — Constitutional Commission of 1986

Communication from Ms. Erlinda Q. Martinez, transmitting Resolution No. 47-86 of the Sangguniang Bayan of Trento, Agusan del Sur, expressing support for the adoption of a truly nationalist constitution.

TO THE STEERING COMMITTEE

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 36 ON PROPOSED RESOLUTION NO. 537 ON THE ARTICLE ON DECLARATION OF PRINCIPLES

On motion of Mr. Calderon, there being no objection, the Body resumed consideration, on Second Reading of proposed Resolution No. 527 (Committee Report No. 36) on the Article on the Declaration of Principles, entitled: Resolution to incorporate in the Constitution an Article on the Declaration of Principles.

Mr. Calderon stated that the Body was in the period of amendments.

Thereupon, the Chair recognized the Chairman and Members of the Committee on Preamble, National Territory and Declaration of Principles to occupy the front table.

At this juncture, the Chair reminded the Members to observe the five-minute rule in speaking in favor or against an amendment, and requested the Committee to designate only one spokesman, unless there are separate views.

SUSPENSION OF SESSION

On motion of Mr. Calderon, the Chair suspended the session to allow the proponents to confer with the Committee on their amendments.

It was 10:10 a. m.

RESUMPTION OF SESSION

At 10:26 a. m., the session was resumed.

SECTION 10 AS AMENDED BY MESSRS. GASCON, MONSOD AND DAVIDE

Upon resumption of session, Mr. Tingson read Section 10 as amended by Messrs. Gascon, Monsod and Davide, to wit:

THE STATE RECOGNIZES THE VITAL ROLE OF THE YOUTH IN NATION-BUILDING AND SHALL PROMOTE AND PROTECT THEIR PHYSICAL, MORAL, SPIRITUAL, INTELLECTUAL AND SOCIAL WELL BEING. IT SHALL INCULCATE IN THE YOUTH PATRIOTISM AND NATIONALISM AND ENCOURAGE THEIR INVOLVEMENT IN PUBLIC AND CIVIL SERVICE.

Mr. Davide further proposed to change the word "service" with AFFAIRS, which amendment was accepted by the Sponsor.

In reply to Mr. Gascon's query, Mrs. Rosario Braid, affirmed that "involvement in public and civic affairs" would include the participation and representation of the youth in such public and civic affairs.

MANIFESTATION OF MRS. QUESADA

Thereupon, Mrs. Quesada pointed out that the Committee decided to transpose the paragraph on page 3, lines 13 to 15 to the Article on Family Rights which provides that "The State shall protect children from all forms of neglect, cruelty and exploitation, particularly in conditions harmful to their physical, mental or moral well-being."

APPROVAL OF SECTION 10, AS AMENDED

Thereafter, Mr. Tingson restated Section 10, as follows:

SEC. 10. THE STATE RECOGNIZES THE VITAL ROLE OF THE YOUTH IN NATION-BUILDING AND SHALL PROMOTE AND PROTECT THEIR PHYSICAL, MORAL, SPIRITUAL, INTELLECTUAL AND SOCIAL WELL-BEING. IT SHALL INCULCATE IN THE YOUTH PATRIOTISM AND NATIONALISM, AND ENCOURAGE THEIR INVOLVEMENT IN PUBLIC AND CIVIC AFFAIRS.

Submitted to a vote, and with 22 Members voting favor and one against, the same was approved by the Body.

MANIFESTATION OF MR. CALDERON

At this juncture, Mr. Calderon manifested that Ms. Aquino has made reservations to propose amendments on Sections 11 and 12. He then requested for deferment of consideration of both Sections.

Mr. Tingson affirmed that the Committee had acceded to her request. Thereupon, he requested permission to read the Committee's formulation of Sections 11 and 12 for the Body's consideration without prejudice to Ms. Aquino's amendments later on.

INQUIRY OF MR. OPLE

In reply to Mr. Ople's query whether the Body has a quorum since only 22 Members voted out of the 31 Members who responded to the Roll Call, the Chair affirmed that there is a quorum but only 22 voted out of those present.

SECTIONS 11 AND 12, AS REFORMULATED

Thereafter, Mr. Tingson read Sections 11 and 12 as follows:

SEC. 11. THE STATE RECOGNIZES THE ROLE AND PARTICIPATION OF WOMEN IN NATION-BUILDING AND SHALL ENSURE THE EQUAL RIGHTS OF WOMEN WITH MEN IN ALL SPHERES OF ECONOMIC POLITICAL, CIVIC, SOCIAL AND CULTURAL LIFE INCLUDING FAMILY LIFE.

SEC. 12. THE STATE AFFIRMS THE PRIMACY OF THE RIGHT OF LABOR AS A SOCIAL AND ECONOMIC FORCE, AND SHALL PROMOTE THE WELFARE AND PROTECT THE RIGHTS OF WORKERS.

In reply to Mr. Rigos' query whether the Committee intends to omit the paragraph concerning children, Mrs. Rosario Braid stated that the paragraph will be transferred to the Article on Family Rights.

Thereupon, Mr. Monsod requested that typed copies of the reformulated versions of Sections 11 and 12 be distributed to the Members.

SECTION 13

Mrs. Rosario Braid then read Section 13 as follows:

SEC. 13. THE STATE SHALL ESTABLISH, MAINTAIN, AND SECURE ADEQUATE SOCIAL SERVICES, SECURITY IN OLD AGE AND GUARANTEE A LIFE WORTHY OF HUMAN DIGNITY.

INQUIRY/PROPOSED AMENDMENT OF MR. MONSOD

On Mr. Monsod's query whether there is a difference between "human dignity" and "improved quality of human life" in the sections previously approved and the one being proposed, Mrs. Rosario Braid explained that the phrase "adequate social services and security in old age" is mentioned for the first time.

Mr. Monsod stated that he agrees with the first part but not with the second part. He proposed to place a period (.) after "services" and to delete the rest of the sentence.

Mr. Guingona proposed to amend Mr. Monsod's proposal by placing the period after "age" and deleting the rest of the sentence.

Mr. Monsod pointed out that taking care of the elderly is part of social services. Mr. Guingona, however, contended that "security in old age" was originally sought to be deleted by Mr. Maambong to which he also objected. He added that Mr. Davide suggested that the phrase be included in Section 13 which the Committee accepted.

Mr. Monsod then asked for a vote on whether "and guarantee a life worthy of human dignity" should be added or not.

Mr. Guingona agreed with a reservation to propose the addition of the phrase IN THE FIELDS OF EDUCATION AND SECURITY IN OLD AGE later on.

In reply to Mr. Ople's query whether "social services" include social security, Mr. Monsod answered in the affirmative.

Mr. Ople then urged the Committee against putting workers who are paying for their social security benefits in the bracket of dependent wards of the State.

Mr. Monsod agreed by stating that "social services" is precisely a more comprehensive and broader term.

However, Mr. Guingona manifested that not all who are presently covered by the Social Security System would be included in the social security program that is envisioned under the proposal. He suggested the adoption of Mr. Davide's proposal to elaborate on the meaning of social security with the following clause:

INCLUDING SECURITY IN THE EVENT OF UNEMPLOYMENT, SICKNESS, DISABILITY, WIDOWHOOD, OLD AGE, OR LACK OF LIVELIHOOD IN CIRCUMSTANCES BEYOND THE CONTROL OF THE CITIZEN.

The Chair however, stated that the Body should first vote on Mr. Monsod's proposal.

Ms. Tan opined that taking care of the aged is not only included in social services and social security but is, in fact, a deeply embedded Filipino tradition which needs no constitutional mandate.

Mr. Monsod also pointed out that the Article on Family Rights contains a section which provides for care for the elderly as a Filipino tradition, to which Ms. Tan agreed.

MR. PADILLA'S AMENDMENT TO THE AMENDMENT

Mr. Padilla sought the deletion of the entire section as unnecessary, since it is already covered by other provisions in the Constitution.

Mr. Monsod accepted the proposal but suggested the insertion of "social services" after "social justice" in Section 8, to which Mr. Padilla agreed.

Mr. Bengzon stated that the Body should first consider Mr. Padilla's motion to delete the entire section and then consider Mr. Monsod's suggestion.

Thereupon, Mr. Padilla's proposal to delete Section 13 was submitted to a vote and with 19 Members voting in favor and 16 against, the same was approved by the Body.

SUSPENSION OF SESSION

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

It was 10:53 a. m.

RESUMPTION OF SESSION

At 10:57 a. m., the session was resumed.

MOTION FOR RECONSIDERATION/AMENDMENT OF MR. MONSOD

Upon resumption of session, on motion of Mr. Monsod, there being no objection, the Body reconsidered the approval of Section 7. Thereafter, he proposed to insert the phrase PROVIDE ADEQUATE SOCIAL SERVICES after "policies that" so that Section 7, as amended would read as follows:

SEC. 7. THE STATE SHALL PROMOTE A JUST AND DYNAMIC SOCIAL ORDER THAT WILL ENSURE THE PROSPERITY AND INDEPENDENCE OF THE NATION AND FREE THE PEOPLE FROM POVERTY THROUGH POLICIES THAT PROVIDE ADEQUATE SOCIAL SERVICES, PROMOTE FULL EMPLOYMENT, A RISING STANDARD OF LIVING AND AN IMPROVED QUALITY OF LIFE FOR ALL.

Mr. Tingson accepted the proposal.

Mr. Padilla proposed to change "full" with MAXIMUM.

At this juncture, Mr. Villegas informed that in the field of economics, "full employment" is usually defined as attainable employment which tolerates a certain level of understandable unemployment due to changes of jobs and training and therefore it does not really mean perfect employment.

In view of the above concept of "full employment," Mr. Padilla did not insist on his proposal.

APPROVAL OF SECTION 7, AS AMENDED

Submitted to a vote, and with 31 Members voting in favor and none against, Section 7, as amended, was approved by the Body.

PROPOSED COMMITTEE AMENDMENT ON SECTION 11

Thereafter, Ms. Aquino presented the Committee proposal to amend Section 11, to read:

THE STATE RECOGNIZES THE ROLE AND PARTICIPATION OF WOMEN IN NATION-BUILDING AND SHALL ENSURE THE EQUAL RIGHTS OF WOMEN WITH MEN IN ALL SPHERES OF ECONOMIC, POLITICAL, CIVIC, SOCIAL AND CULTURAL LIFE, INCLUDING FAMILY LIFE.

INQUIRY OF MR. ROMULO

In reply to Mr. Romulo's inquiry whether the proposal would automatically amend the pertinent provision of the Civil Code, Ms. Aquino stressed that it does not intend a massive dislocation in Civil Code and in civil law jurisprudence but would give impetus for its amendments through statutes.

As to whether the proposal means that when choices are necessary, as in the matter of choosing a residence, that the same cannot be lodged by law in the husband, Ms. Aquino stated that the intention of the Committee is to ignore sex where sex is not a relevant factor in determining rights and duties. She stated that in the context of equality in fact and in law, sex where it is irrelevant should not be considered in the determination of rights and duties. She affirmed that this establishes the principle of non-sexism.

INQUIRY OF MR. BENGZON

On the inquiry of Mr. Bengzon, Ms. Aquino affirmed that Section 11 gives credence, meaning and recognition to Filipino customs and values on family life. As to which would prevail in case of conflict, Ms. Aquino stated it is axiomatic in the interpretation of laws that courts should take judicial recognition of customary laws. The judicial recognition, she maintained, would not mean affirmation or contravention of customs and traditions in the drafting of statutes and laws. She affirmed that Section 11 does not mean that Congress may totally ignore Filipino culture or cultural ties.

INQUIRIES OF MR. BERNAS

In reply to Mr. Bernas' inquiry whether it is not in fact true that a subsequent Constitutional provision amends an existing civil law or criminal law provision which is in conflict with it, Ms. Aquino stated that the process of transition to a new set of laws on the rights of women with men would have to go through amendatory process in the legislature.

Specifically, as to what effect the provision would have on pending and prospective legal cases for legal separation considering that the grounds therefor may no longer be found in the new Constitution, Ms. Aquino informed that the Civil Code Revision Project of the U.P. Law Center, of which Secretary-General Romero is a member, is implementing this new provision as intended by Section 11. She observed that it would appear that in the absence of a statutory implementation of Section 11, which is, however, being considered in the Civil Code Revision Project, the provisions in the Civil Code may be considered in a state of suspension.

She affirmed that with respect to pending cases, the Civil Code would have to yield to the Constitution. Mr. Bernas opined that since it is a project and not yet a law, there would be no law on legal separation once Section 11 is approved. Ms. Aquino, at this point, reiterated the Committee's position that in the hierarchy of legal values, the constitutional mandate takes precedence over statutes and in the absence of a statutory implementation of Section 11, the intention of Section 11 should take precedence without precluding specific statutory implementation which would amend the Civil Code. She stated that it would not be an ipso facto amendment.

On the possibility that nothing is done by way of amendment, Ms. Aquino averred that the Civil Code Revision Project will, by itself, provide enough ground for the amendment of the Civil Code.

Mr. Bernas observed that a mere intent that is not specified in a constitutional provision is not only vague but one which runs contrary to the letter of the provision. The letter, he stated, would have to prevail over any unexpressed intent since it is the letter that clearly expresses equal protection to which every inequality in existing laws must yield.

Ms. Aquino contended that the problem in providing for an ipso facto amendment of the Civil Code on the determination of rights and duties between husband and wife, particularly pertaining to laws on personal and family relations is that it carries intricate details which could not proceed from a vacuum or statement that ipso facto the provisions in the Civil Code are repealed. She stated that there must be a semblance of standards.

At this juncture, Mr. Bernas proposed to clarify the matter with an amendment to the effect that pending the enactment of new laws on this subject, existing laws shall continue. He stated that this would express the intent and save the Supreme Court from trying to reconcile two diametrically opposing provisions.

As to whether such amendment would still be necessary considering that it is already clearly intended in the provision, Mr. Bernas replied that it would be necessary inasmuch as the records are appealed to only when the letter is unclear. He noted that the letter of the provision — "equal" — is clear and whatever is said in the debate will have to yield to the letter.

Ms. Aquino stated that the Committee would be willing to accommodate an amendment should it be convinced of its necessity. Replying thereto, Mr. Bernas affirmed his intention to convince the Committee on the necessity of the amendment although he would not be against the ipso facto abolition of existing inequities. Ms. Aquino noted that an ipso facto amendment may cause a massive dislocation in civil law and jurisprudence. She stated that the Committee would be willing to accommodate a transitory provision.

INQUIRIES OF MR. NOLLEDO

As to whether custom must never be contrary to the Constitution or existing law which is a basic provision of the Civil Code, Ms. Aquino stated that there is no Filipino custom that mandates the inequality of men with women.

Mr. Nollado manifested his apprehension that the Section might cause some social upheaval in Muslim Mindanao inasmuch as Muslim men consider women inferior to them. Ms. Aquino replied that the Civil Code would yield to Muslim laws on personal and family relations and that the Shari'a courts apply the Muslim Code.

Mr. Nollado noted that Section 11 might automatically amend the provisions of Muslim personal laws and that Muslim women might claim equal rights with Muslim men who will never surrender their rights. Ms. Aquino assured Mr. Nollado that the Section does not intend to affect the distinctive character of cultural groups, particularly the Muslim people who have adopted their own Civil Code on personal and family relations.

As to whether under Section 11 the wife could claim joint administration with the husband, Ms. Aquino replied in the affirmative. She stated that ideally the statutory implementation of the provision, as far as administration of conjugal property is concerned, should pertain to joint administration between husband and wife. She noted that under the Civil Code, the wife has only the right to object when the administration has been known to be contrary to family interests and when the husband is mismanaging the conjugal partnership property.

Mr. Nollado observed that under the Civil Code, the wife can exercise any profession or engage in any kind of business subject to the right of the husband to object on the ground that it might affect morality in the family. He inquired whether the Section would allow the wife to engage in any kind of business or exercise her profession without any objection from the husband. Ms. Aquino, in reply, stated that the Committee's position is that the equality of rights of men with women is not absolute equality and is not contemplated in terms of likeness. She stated that it yields to the requirements of best interests of the family which should not necessarily be interpreted as sublimating the interests and rights of women.

On whether the marrying age should now be the same for men and women, Ms. Aquino observed that the provision on marrying age would seem to say that the level of maturity of the men is not at par with women

inasmuch as the marrying ages are 14 for women and 16 for men.

Mr. Nolledo then inquired whether the Committee would be willing to entertain an amendment limiting equality between men and women to civil and political life excluding social life. He noted that it would affect a lot of customs and traditions of indigenous communities and asked whether the provision could be reconciled with the provision that the State shall respect the customs and traditions of indigenous communities. Ms. Aquino replied that as far as the indigenous communities are concerned, there is no intention to contravene customary laws. She maintained, however, that the provision cannot be limited to political and civil life because social life comprehends civil and political life.

REMARKS OF MR. PADILLA

Mr. Padilla observed that the Civil Code and the Penal Code are statutory enactments by Congress and are subject to revision also by Congress. He stated that he would oppose the provision if it should entail amendments of the Civil Code by a Constitutional provision. He noted that there is a wrong assumption that the Civil Code favors husbands and fathers as against wives and mothers in families, but he explained that the provisions contained therein are intended to preserve the unity and solidarity of the family. He maintained that there is nothing in the Civil Code which unduly favors the husband as against the wife.

On the matter of concubinage and adultery, he noted that the infidelity of the wife may give occasion to conception of an illegitimate child who is introduced into the legitimate family. He stated that when a mother delivers a child during the coverture with her husband, that child is conclusively presumed to be legitimate and yet the child may be the product of the wife's infidelity. On the other hand, he observed that should the husband have intercourse with a woman other than his wife, there is no danger for him because the child born out of the indiscretion would not disturb the integrity and harmony with the legitimate family.

He stated that he does not understand why feminist movements stress that there are inequalities in the provisions of the Civil Code and the Penal Code regarding family relation. He noted that if this is the intention of the provision he would move for its deletion.

REPLY OF MS. AQUINO

Ms. Aquino noted that the self-sacrifice of women, who comprise half of the population, is almost legendary. She averred that Mr. Padilla's proposal would be the worst form of aggravation and would even institutionalize the powerlessness and destitution of women.

Thereupon, she invited Mr. Padilla's attention to Article 110 of the Civil Code which gives the husband the sole prerogative to choose the family residence which Section 11 seeks to be a matter which both husband and wife should determine for the best interest of the family; Article 114 which prohibits the wife from acquiring any property by gratuitous title except from her ascendants, descendants, parents-in-law and collateral relatives within the fourth civil degree although there is no such prohibition imposed on the husband; Articles 165 to 168 which vest in the husband the administration of the conjugal property when the Filipino women have proven themselves competent in managing the affairs of conjugal partnerships; Article 111 which says that the husband is responsible for the support of the wife and the rest of the family; Article 115 which says that the wife manages the affairs of the household, which seems to indicate that the mission and paramount destiny of women in this country is just to fulfill the benign offices of wife and mother; and Article 84 which prescribes the legal requirement that a widow would have to wait 300 days before she can be issue a license for a new marriage when, as opined by one of Panorama's writers, the issuance of a medical certificate to the effect that the applicant is not pregnant is sufficient precaution to forestall the introduction of a spurious child to the line of the family. Moreover, she observed that

under Article 17 of the Child and Youth Welfare Code, the provision withdraws from a widow, who remarries, her parental authority over her children while

no such inhibition exists for the widower. She also noted the inequalities in the matter of citizenship as well as in existing laws on annulment and separation.

REMARKS OF MR. VILLACORTA

Mr. Villacorta observed that the prevailing assumption in the Body seems to be that equality for women is contrary to Filipino customs and values. He said that the opposite is what has existed and is existing. He noted that even in pre-colonial Philippines, historians and anthropologists show that Filipino women have always had high status in society. He stated that there were female rulers and the revered priests, the babaylans, and were mostly women. He stated that women have as much share as the men in terms of responsibility and work opportunity and that in the management of the household and certain family businesses, women have played an active and important role. He contradicted the contention that in Philippine culture, women have a subordinate role. In this connection, he adverted to Mr. Padilla's discussion on the matter which confirmed the assertion of women's equality in the Civil Code which was heavily influenced by Spanish culture.

Mr. Villacorta also stated that Japan has a specific constitutional provision that there shall be no discrimination on the basis of gender and that the equal rights of women have always been asserted in Japanese laws. In Philippine culture, however, he observed that while equality of women is affirmed, the identity of women in relation to men is not accepted and, as Ms. Aquino had said, equality is not the same as identity and that differences between women and men, biological or otherwise, are acknowledged in Philippine culture, although the equal rights as well as equal duties of women are accepted.

On equality in economic life, Mr. Villacorta invited attention to the fact that men and women have equal right to be gainfully employed, to receive the same wages for the same type of work; that women are not denied employment on the basis of their gender, age or civil status and that they have equal opportunity for promotion and professional development; that marriage shall not affect the rights of women to own and control their own property, freely engage in commerce or industry, and practice any profession, trade or craft and use as they please the proceeds of their labor.

On family life, Mr. Villacorta stated that marriage shall be based on free and mutual consent, equality of both spouses and that properties bought or awarded for the benefit and welfare of the entire family shall be in the name of both spouses, the management and disposal of which must be upon their mutual determination.

INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' query, Ms. Aquino agreed that under the Rules of Court, a wife could not sue without joining the husband; however, under the proposal, a wife could sue without joining the husband and correspondingly the defendant could file a counterclaim against the wife without joining the husband.

On the substantive aspect, Mr. Suarez observed that the wife is not the administrator or co-administrator of the conjugal partnership, in view of which, he stated, Mr. Bernas proposed to provide a transitory provision to cover such situation, to which the proponent had agreed.

Ms. Aquino, likewise, affirmed that a "right" usually carries a corresponding obligation.

On the contention that implementation of the proposal would put the wife under legal obligation to maintain and support the family, Ms. Aquino pointed out that rights necessarily carry with it duties and obligations, but in the

realm of possibilities, the contention is absurd. She stated that she does not see how the provision would destroy the concept of conjugality of property ownership between husband and wife because if it is the intention of Section 11 to make the wife co-administrator of the conjugal property, such arrangement would be in conformity with the nature of the conjugal partnership of gains.

On whether the children, under the proposal, could file a claim for support from the mother and not necessarily from the father, Ms. Aquino stated that they could, although jurisprudence points to the fact that an action for support usually proceeds from the wife who is abandoned by the husband. She stated that in any case an action for support filed by the child is joined by the mother as a co-party litigant because, understandably, the child is a minor. She pointed out, however, that the Civil Code provides that upon reaching the age of majority, the child is no longer entitled to support.

On both parental support and custody, Ms. Aquino agreed that the children would have the option of choosing whether it is the father or the mother with whom they should be placed in custody and support, in effect, amending the Child and Youth Welfare Code which provides that the child remains with the mother until the age of seven.

On the proposal to limit the equality of rights to civil and political exercises, Ms. Aquino stated that it would smack of mental dishonesty because civil and political rights are part and parcel of social life.

INQUIRIES OF MR. RODRIGO

Mr. Rodrigo prefaced his query by stating that the Revised Penal Code provides for two crimes on marital infidelity, one for men and another for women. He stated that for the husband, concubinage is committed only when he cohabits with another woman, or does it under scandalous circumstances, or keeps a woman in the conjugal home; whereas in the case of the wife, a single act of infidelity or sexual intercourse with another man is adultery. He pointed out that women consider this unequal. He then inquired whether, to equalize this, men should be penalized for a single act of indiscretion.

Replying thereto, Ms. Aquino stated that what actually happens is that the evidentiary burden, to be able to establish a crime of concubinage, would have to fall squarely with the requirements of the definition of concubinage, while infidelity would make a woman punishable for every single sexual act outside the marital bed.

On whether the law should penalize a husband for a single act of sexual indiscretion, or it should penalize the wife, only if she cohabits with another man or does the act of infidelity under scandalous circumstances or keeps a paramour in the conjugal home, Ms. Aquino stated that she is not prepared to come up with a configuration of equality except in terms of evidentiary burden. She pointed out, however, that the institution of the law providing that infidelity is just as grave an act as concubinage is justified in view of the biological difference between man and woman, the fact being that the woman has the monopoly of child-bearing.

Mr. Rodrigo stated that that is what worries the men because they just do not know how such inequality between a man and a woman could be equalized.

INQUIRY OF MR. COLAYCO

Mr. Colayco manifested that there is no need for this provision because, in actual practice, the equality between men and women has been recognized in the economic, political, civic, social and cultural life. He stated that although it may be true that some of the provisions in the law are considered disadvantageous to women, all these provisions are not observed, for which reason, he is supporting those who are for the disapproval of the provision.

Responding thereto, Ms. Aquino stated that Mr. Colayco's manifestation is true to the extent that it pertains to women who have achieved some education for whom the opportunities for career and social mobility are infinite. She stressed that the concept of women inequality partakes of two fronts, namely, one is inequality attendant to the social class to which the woman belongs; and the other pertains to the inequality arising from a sexual and biological difference.

INQUIRY OF MR. OPLE

In reply to Mr. Ople's query on whether there has been a perceptible state of rebellion among the women of the Philippines against the Civil Code, especially its parts pertaining to family life, Ms. Aquino gave the assurance that there is a great deal of women consciousness which, unfortunately, has not attained the level of a revolt. She pointed out, however, that women organizations have been mushrooming all over the country protesting against the Civil Code in particular.

Reacting thereto, Mr. Ople stated that he is aware of women groups fighting for equality in all fields, especially in the economic and in the political spheres, but he is not aware of rebellion against the family provisions of the Civil Code as one of the issues that have inspired their existence.

Responding thereto, Ms. Aquino pointed out the distinction between the two classes of oppression being made to bear upon women, namely, the oppression arising from their being members of a social class which pertains to economic and political issues; and the oppression arising from gender. She also stated that a lot of the women organizations that had mushroomed during martial law and the dark days after the lifting of martial law had been born out of a struggle against the Marcos dictatorship that was essentially the imprint of women oppression, although it did not preclude the development of the feministic aspect of the women's equality movement.

Thereupon, Mr. Ople reserved a turn to oppose the provision in due time.

REQUEST OF MS. AQUINO

At this juncture, Ms. Aquino asked for suspension of the three-minute rule on the ground that the issues under discussion are of momentous significance not only to the 47 families represented by the 47 Members of the Commission but also to the 52 million other Filipinos outside the halls of the Assembly.

Replying thereto, the Chair stated that the three minutes had been quite fruitful.

INQUIRY OF MR. GUINGONA

In reply to Mr. Guingona's query on whether the rule envisioned in Section 11 is a hard and fast rule, Ms. Aquino stated that Section 11 is a constitutional provision that seeks recognition, in law and in fact, of the equality of men and women. She pointed out that the provision does not speak of absolute equality or likeness because of the necessity of recognizing biologically determined differences and, therefore, there could be exceptions. She stated, however, that it is not a question of who would determine the exception because it is axiomatic that there is a biologically determined difference between man and woman and for so long as the difference is relevant, there is need for one to give way to the other.

On the determination of relevancy, Ms. Aquino stated that the Constitutional mandate could not exist in a vacuum and it could only be given flesh by statutory implementation and by the customs of society.

Thereupon, Mr. Guingona proposed an amendment to add the phrase AS MAY BE PROVIDED BY LAW after "family life".

Ms Aquino did not accept the amendment on the ground that it would diminish the intent and meaning of the section.

REMARKS/SUGGESTION OF MR. VILLEGAS

Mr. Villegas stated that, as a student of economic development of the country over the last twenty years, he had gathered enough empirical evidence that the Philippines is basically a matriarchal society wherein the women had definite prominence in economic life by usually starting entrepreneurial enterprises. He stated that it is only in the professional field where men predominate and that even in the running of family finances, very important decisions are usually left to the women who literally have a monopoly of deciding how to make use of funds.

He pointed out that the statistics cited by Mr. Ople attest to the fact that in teaching, women have always been prepared than the men and about 70% of college graduates in the country are women. He stated that even the United States does not have such a bias in favor of women. He stressed that the provision smacks of colonial mentality and does not apply at all to Philippine culture.

Mr. Villegas then suggested that the section should read as follows:

THE STATE RECOGNIZES THE ROLE AND PARTICIPATION OF WOMEN IN NATION-BUILDING AND SHALL ENSURE THE FULL USE OF THEIR RIGHTS IN ALL SPHERES OF ECONOMIC, POLITICAL, CIVIC, SOCIAL AND CULTURAL LIFE, INCLUDING FAMILY LIFE.

AMENDMENT OF MR. AZCUNA

Mr. Azcuna proposed the substitution of the words "equal rights of women with men" with the words FUNDAMENTAL EQUALITY BEFORE THE LAW OF WOMEN WITH MEN, explaining that equality before the law means equal protection.

INQUIRIES OF MRS. QUESADA

On Mrs. Quesada's inquiry whether the proposed amendment would include certain school policies relative to admission of students, specifically in courses like medicine and nursing, home economics physical education courses where the discrimination seems to highlight the difference between men and women, Mr. Azcuna stated that these types of discrimination are within the ambit of the new formulation. He quoted Aristotle who said that "it is the highest inequality to treat the same things differently and to treat different things the same way." He pointed out that the second portion of the amendment drawn up originally from Mr. Romulo's proposal is an affirmative provision in the sense that it makes legal affirmative action correct past discrimination.

The Committee accepted Mr. Azcuna's proposed amendment.

PROPOSED AMENDMENT OF MR. ROMULO

Mr. Romulo proposed another formulation to insert after the word "shall" the words BY LAW REMOVE ANY DISCRIMINATION AGAINST WOMEN BY REASON OF SEX.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 12:02 p.m.

RESUMPTION OF SESSION

At 12:09 p.m., the session was resumed.

MODIFICATION OF THE AMENDMENT

Upon resumption of session, Mr. Azcuna, jointly with Messrs. Romulo, Villacorta, Ople, Guingona, Monsod and Maambong, proposed the following reformulation of Section 11:

THE STATE RECOGNIZES THE ROLE AND PARTICIPATION OF WOMEN IN NATION-BUILDING AND SHALL ENSURE THE FUNDAMENTAL EQUALITY BEFORE THE LAW OF WOMEN WITH MEN AND SHALL BY LAW REMOVE ANY DISCRIMINATION AGAINST WOMEN BY REASON OF SEX IN ALL SPHERES OF ECONOMIC, POLITICAL, CIVIC, SOCIAL AND CULTURAL LIFE.

INQUIRY OF MR. SARMIENTO

On Mr. Sarmiento's inquiry as to how the new formulation which speaks of "fundamental equality before the law" differs from the Committee's original formulation which speaks of "equal rights of women with men," Mr. Azcuna explained that while the intention is the same, the new formulation would make it clear that the equality envisioned is not an identical set of rights but equal protection before the law which must spring from their dignity as persons. He stressed that this could admit a different treatment without violating the equality where the difference is based on rational, relevant or germane distinctions.

On whether this would likewise include customs and traditions like the responsibility of men and women in relation to family life, Mr. Azcuna stated that caution should be applied insofar as customs are concerned especially in indigenous culture but he stated that if they strike at the fundamental rights of a person, then customs should yield to equality.

On whether this would have implications in value orientation which need not be legislated but which could be part of the thrust of the new orientation towards equality, Mr. Azcuna stated that in view of this new thrust, even schools could voluntarily start affirmative action such that if they are challenged in court, the courts should sustain a voluntary affirmative action to remedy the imbalance in violation of this equality.

INQUIRY OF MRS. ROSARIO BRAID

Mrs. Rosario Braid inquired whether the proposal provides a climate for transformation of attitudes such as what are found in mass media and in the world of symbols where women are always portrayed in stereotype roles, among others, by exploiting their attractiveness rather than their quality of mind. She stressed the need to restructure the world of symbols and attitudes in order to promote an improved communication based on equality, to which Mr. Azcuna replied that the provision encompasses all those mentioned by Mrs. Rosario Braid.

INQUIRY OF MR. MONSOD

Mr. Monsod prefaced his inquiry by commenting on Mrs. Quesada's remarks on alleged discrimination in admission requirements to medical schools which, he stated, could not be totally eliminated because there are rational bases for them, among others, that statistical records show a proportionately very high number of women who do not practice the profession after graduation. He opined that it would be wrong to make a categorical statement on alleged discrimination because no one in the Commission would know the basis of the policy. He agreed with the new formulation but he stated that he would not interpret it to mean that all these things have no basis.

On whether there is need for retaining the words "and participation" considering that the words "recognize the role of women in nation-building" already include the idea of participation and involvement, Mr. Azcuna stated that the Committee is amenable to the deletion of the words "and participation".

INQUIRIES OF MR. COLAYCO

On whether the phrase "the area of family life" has been excluded from the new formulation, Mr. Azcuna explained that the phrase "including family life" has been excluded but the phrase "the area of family life", although not explicitly stated, is still included in the phrase "social and cultural". He affirmed that Congress would be justified in amending the Civil Code so that both husband and wife would have joint administration of the conjugal partnership. He stated that this is one of the modes already allowed in the Civil Code in the sense that the parties to a marriage are allowed to choose under an ante-nuptial contract their domain or regime of property relationship during the marriage which, in the absence of any choice, automatically becomes a conjugal partnership of gains.

As to what would be the authority of Congress to modify the present provisions of the Civil Code in the absence of ante-nuptial agreements, Mr. Azcuna opined that it would still be within the ambit of legislative power to do so although it need not be resorted to. He expressed the view that the "equality before the law" clause still admits a regime of conjugal partnership of gains.

On whether the wife can say "no" to what her husband wants to purchase for the family, as when the husband wants to buy a car, Mr. Azcuna stated that it is up to Congress if it feels that there is no rational difference between a husband buying a car and a wife doing it.

Mr. Colayco warned that this might cause a lot of disagreements because under present laws, the wife can buy the necessities for the family. He observed that under the proposal, the husband cannot buy anything without her consent. He asked if this would not cause disruption and confusion, if not disagreement, between husband and wife.

In reply, Mr. Azcuna expressed the view that the proposed formulation grants enough flexibility for Congress to gradually fine-tune the Civil Code both in the light of the demand for equality by women as well as the antecedent structure of cultures in society.

INQUIRIES OF MR. DAVIDE

As to how the proposed provision is distinguished from the second sentence of Section 1 of the Article on Bill of Rights which provides "nor shall any person be denied the equal protection of the law," Mr. Azcuna stated that there is no real difference in the sense that equality before the law means equal protection.

On the contention that the "equal protection of the law" clause applied to both men and women, Mr. Azcuna pointed out that women have been treated second-class persons and it is the intent of the provision to correct such treatment by emphasizing that this fundamental equality obtains in the relationship between men and women.

As to what are contemplated as components of nation-building, Mr. Azcuna affirmed that nation-building refers to the development of people civilly, politically, socially, economically, intellectually and even spiritually.

On the observation that the second portion of the second sentence may not even be necessary because of the flagship provision that the State recognizes the role of women in nation-building, that "fundamental equality" is covered by the "equal protection" clause, and that the words "civil, political, social, economic and cultural" are already components of nation-building, Mr. Azcuna reiterated the need to emphasize that in nation-building, the

women are equal participants and are not just taking the backseat role.

Mr. Davide stated that the provision is one of first impressions because it never appeared in the 1935 and 1973 Constitutions. He stated that recognizing the role of women in nation-building is a recognition of the role of women.

INQUIRY OF MR. TINGSON

On Mr. Tingson's query, Mr. Azcuna stated that as a metaphor, he would agree that the husband is the head and the wife is the heart of the home.

On the reason why "including family life" was deleted, Mr. Azcuna stated that it is already-embraced and subsumed by the phrase "social and cultural life". He stressed that it is not good drafting style to give examples in the law. He clarified that the phrase "according to law" is included in the second portion in the sense that it says "and shall by law remove any discrimination . . ."

MR. PADILLA'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Padilla proposed to amend Mr. Azcuna's proposed amendment to read: THE STATE RECOGNIZES THE ROLE OF WOMEN IN NATION-BUILDING AND SHALL ENSURE EQUALITY OF MEN AND WOMEN BEFORE THE LAW.

Mr. Azcuna did not accept the amendment to his amendment on the ground that it is necessary to explicate that the equality before the law should be in all spheres of endeavor.

Mr. Padilla explained that his proposed amendment to the amendment is anchored on the phrase "equality of men and women" in lieu of the phrase "equality of women with men" since the latter implies some discrimination or inequities before the law, as also implied in the phrase "shall by law remove any discrimination . . ." which he proposed to delete.

He opined that if, for the sake of argument, there are such discrimination, then it would be the function of Congress to amend the law, particularly the Civil Code and the Revised Penal Code. He also stated that the words "in all spheres" would not be necessary, because as observed by Mr. Davide, they are already presumed in nation-building.

The Sponsor, likewise, did not accept Mr. Padilla's proposed amendment to the amendment.

At this juncture, Mr. Tingson suggested that the consideration of Mr. Azcuna's proposed amendment be continued after lunch to allow the Committee and the proponents to formulate said amendment.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 12:32 p.m.

RESUMPTION OF SESSION

At 3:03 p.m., the session was resumed.

MR. PADILLA'S AMENDMENT, AS AMENDED

Upon resumption of session, Mr. Padilla read Section 11 as follows:

SECTION 11. THE STATE RECOGNIZES THE ROLE OF WOMEN IN NATION BUILDING AND SHALL ENSURE EQUALITY OF MEN AND WOMEN BEFORE THE LAW.

Thereupon, Mr. Romulo proposed to amend the proposal to read:

SECTION 11. THE STATE RECOGNIZES THE ROLE OF WOMEN IN NATION-BUILDING AND SHALL ENSURE THE FUNDAMENTAL EQUALITY OF MEN AND WOMEN.

Mr. Padilla accepted the proposal.

However, Ms. Aquino proposed to transpose "men and women" to WOMEN AND MEN.

Mr. Padilla pointed out that according to Mr. Davide, the matter should be left to the Committee on Style. He added that the first portion refers to the role of women so that the second part should be "equality between men and women".

Ms. Aquino maintained that precisely because of this it is logical to give preference in terms of attention and focus to women than men.

Mr. Rodrigo stated that alphabetically it should be "men and women". He stated that Adam was created before Eve.

Mr. Romulo, however, accepted Ms. Aquino's proposal.

Thereafter, Section 11 was submitted to a vote and with 28 Members voting in favor and none against, the same was approved by the Body.

CONSIDERATION OF SECTION 12

Ms. Aquino then read Section 12 as follows:

SECTION 12. THE STATE AFFIRMS THE PRIMACY OF LABOR AS A SOCIAL AND ECONOMIC FORCE AND SHALL PROMOTE THE WELFARE AND PROTECT THE RIGHTS OF WORKERS.

PROPOSED AMENDMENT OF MR. BENGZON

Mr. Bengzon proposed to reword the Section to read:

SECTION 12. THE STATE AFFIRMS THAT LABOR IS A PRIMARY SOCIAL AND ECONOMIC FORCE. ACCORDINGLY, IT SHALL PROMOTE THE WELFARE AND PROTECT THE RIGHTS OF WORKERS.

Mr. Tingson accepted the amendment.

INQUIRIES OF MR. MONSOD

Mr. Monsod pointed out that primacy of labor is not a social and economic force but is the primacy of the right to a just share in the fruits of production.

Mr. Bengzon explained that the primacy of the rights of labor to a just share in the fruits of production is already enshrined in the Article on Social Justice, hence, the principle sought to be declared by the proposal is the promotion of the welfare and protection of the rights of workers as the primary social and economic force.

Mr. Monsod then inquired as to the meaning of "primary social and economic force", to which Ms. Aquino replied that the intention in using the word "primary" is to give due recognition to the human element in the creation of vital commodities thereby affirming the human dignity of workers.

On the query as to what is labor a primary force in, Mr. Bacani stated that part of the inspiration of the provision came from the Proposed Resolution he filed and the idea is to give labor primacy over capital or the assertion of human dignity over things. He stressed that in the production process, labor is always considered as primary and efficient cost while capital is merely the instrumental cost, but in the present system the latter is given primacy over the former so that when prices of raw materials increase, the prices of goods also increase without a corresponding increase in workers' wages.

Mr. Monsod stated that if the intention is to affirm the primacy of labor as against capital, this could only be concretized in terms of sharing, to which Mr. Bacani agreed.

Thereupon, Mr. Monsod queried whether Mr. Bacani would be amenable to rewording the section to read: THE STATE RECOGNIZES LABOR AS A PRIMARY SOCIAL AND ECONOMIC FORCE AND SHALL PROTECT THEIR WELFARE AND THEIR RIGHT TO A JUST SHARE OF THE FRUITS OF PRODUCTION.

Mr. Bacani stated that it does not fully convey the spirit of the resolution he filed. He suggested the following as a better alternative: THE STATE RECOGNIZES THE PRIMACY OF LABOR OVER CAPITAL AND SHALL PROTECT THE JUST SHARE OF . . .

Mr. Monsod pointed out that during the discussions on the Article on Social Justice, the same subject came up and the compromise was to say that capital has a corresponding right and that, therefore, the deletion of the last phrase pertaining to the right of capital would result in an imbalanced provision, to which Mr. Bacani replied that "capital" in the Article on Social Justice has an ambiguous meaning because it referred not to things but to the capitalists. He stressed that what the provision seeks to assert is the primacy of the human factor over the non-human factors of production.

SUSPENSION OF SESSION

Upon request of Ms. Aquino, the Chair suspended the session.

It was 3:18 p.m.

RESUMPTION OF SESSION

At 3:22 p.m., the session was resumed.

Upon resumption of session, Mr. Bengzon read the new formulation of Section 12 as follows:

SECTION 12. THE STATE AFFIRMS LABOR AS A PRIMARY SOCIAL ECONOMIC FORCE. ACCORDINGLY, IT SHALL PROMOTE THE WELFARE AND PROTECT THE RIGHT OF WORKERS. .

At this juncture, Mr. Padilla observed that Section 12 is unnecessary because in the Article on Social Justice, the Body had already agreed on the principle of shared responsibility between workers and employers, the right of labor to a just share in the fruits of production and the right of enterprises to reasonable returns on investments, expansion and growth. He also manifested agreement with Mr. Bacani's opinion that human participation in production should be given more importance than the means of production like machinery or equipment. He added that what the country needs are investors for agricultural and industrial development so that the

unemployed could be given opportunities to work.

Mrs. Quesada stated that the Committee's position is that the provision is very vital for the labor sector and that it should be retained as a principle or implementing guideline for the other principles found in the Article on Social Justice.

Submitted to a vote and with 25 Members voting in favor, and 2 against, the same was approved by the Body

MANIFESTATION OF MR. MONSOD

Mr. Monsod made a reservation to propose a new Section that would affirm the support of the State for private initiative, to complement the approved provision on labor.

SUGGESTION OF MR. MAAMBONG

Mr. Maambong suggested, in line with Mr. Monsod's manifestation, to transpose the last sentence of Section 3 of the Article on Social Justice to the last sentence of Section 12, which sentence reads: IT SHALL REGULATE THE RELATIONS BETWEEN WORKERS AND EMPLOYERS, RECOGNIZING THE RIGHTS OF LABOR TO ITS JUST SHARE IN THE FRUITS OF PRODUCTION AND THE RIGHT OF ENTERPRISES TO REASONABLE RETURNS ON INVESTMENTS, EXPANSION AND GROWTH.

In reply, Mr. Tingson stated that the Committee would like to limit the Article to a statement of principles and would prefer to leave the sentence where it is. Mr. Maambong, however, maintained that Section 12 would be incomplete because it only speaks of the rights of workers. He suggested the transposition in order that the Body would not be burdened with a reformulation.

The Chair stated that the suggestion of Mr. Maambong would be taken up as soon as the Body receives the proposed amendment of Mr. Monsod.

SECTION 14 DENOMINATED AS SECTION 13

Thereafter, Mrs. Rosario Braid read Section 14 which had been denominated as Section 13, to wit:

THE STATE SHALL PROMOTE RURAL DEVELOPMENT AND AGRARIAN REFORM AS PRIORITIES BASED ON COOPERATIVISM.

She informed that the last phrase had been deleted. Mr. Monsod suggested dropping "cooperativism". He explained that some labor unions do not consider it a primary mode of organization and that there is already a provision on the matter in the Article on National Economy.

Mrs. Rosario Braid affirmed that there is a section therein which mandates Congress to create an agency that will unify and integrate efforts on cooperatives. She reasoned, however, that this specific section recommends cooperativism as a principle of rural development based on bayanihan as a leading value in Philippine society. She noted that agrarian reform and other rural development projects have been beset by the lack of adequate collective efforts in pursuing them. She stressed that rural development does not preclude other principles but cooperativism is being recognized over other forms of organizing mechanisms.

Mr. Monsod manifested that he was going to move for the deletion of the section inasmuch as it is part of Social Justice. The reference to cooperativism, he stated, gives emphasis to something not yet fully determined which might be better placed in the Article on National Economy.

Mrs. Rosario Braid replied that the Article on Social Justice does not mention rural development and that as a

strategy it has not been mentioned at all in any of the provisions.

AMENDMENT OF MR. MONSOD

Mr. Monsod, thereupon, suggested a reformulation, to read: THE STATE SHALL GIVE PRIORITY TO RURAL DEVELOPMENT AND AGRARIAN REFORM or else to delete the Section.

Mrs. Rosario Braid, on behalf of the Committee, accepted the suggestion with the understanding that cooperativism shall remain the guiding principle of the provision.

PROPOSED AMENDMENT OF MR. SARMIENTO

Mr. Sarmiento opposed the amendment to delete the Section arguing that since women and labor have been given their respective places in the Article, agrarian reform and rural development should also be given proper attention. Thereupon, he proposed to include industrialization so that as amended, the provision would read:

THE STATE SHALL PROMOTE RURAL DEVELOPMENT, AGRARIAN REFORM AND INDUSTRIALIZATION AS PRIORITIES WITH COOPERATIVISM AS ITS ORGANIZING PRINCIPLE.

PROPOSED AMENDMENT OF MR. JAMIR

Mr. Jamir moved to delete Section 14, which the Committee did not accept. Thereupon, Mr. Jamir asked for a vote on his proposal.

REMARKS OF MR. TADEO

Mr. Tadeo opposed the motion to delete Section 14 stating that the farmers who comprise the largest sector of society would no longer accept mere palliatives.

REMARKS OF MR. GASCON

Mr. Gascon supported Messrs. Sarmiento and Tadeo's position that there should be a provision stating the general principle on rural development, which affects the peasantry most. He noted that the Commission does not state the implementing guidelines covered by the Article on Social Justice. He objected to the anterior amendment and stated that voting upon it should not preclude any amendment on the provision.

REMARKS OF MR. ABUBAKAR

Mr. Abubakar remarked that Mr. Sarmiento's amendment is in order since rural development is one factor which will make society rich and progressive, and industrialization is another factor through which progress can be achieved. He observed that industrialization should also have a place in the Declaration of Principles and that rural and industrial development should be combined.

REMARKS OF MRS. NIEVA

Mrs. Nieva spoke in favor of retaining Section 14 on the ground that there would be an imbalance if the primacy of labor is stressed without giving due importance to the great majority of people who live in rural or agricultural areas. She noted that there is no mention of rural development per se in the Article on Social Justice when everything else leads to rural development.

PARLIAMENTARY INQUIRY OF MR. RODRIGO

Mr. Rodrigo noted that while there is a motion to delete Section 14, there is also a proposed amendment from Mr. Monsod. He stated that the motion to delete takes priority and inquired whether Mr. Jamir would be willing to withdraw his motion to give way to the amendment of Mr. Monsod.

On the Chair's query, Mr. Jamir stated that should the Committee accept the amendment of Mr. Monsod, he would withdraw his motion.

Mr. Gascon objected to Mr. Jamir's statement and asked for a vote on the motion to delete.

The Chair stated that Mr. Jamir's withdrawal of the motion to delete should not be conditional. Thereupon, Mr. Jamir asked for a vote on his motion.

REMARKS/INQUIRIES OF MR. MAAMBONG

Mr. Maambong stated that for purposes of clarification, the Committee would be willing to accept Mr. Monsod's amendment up to the word "agrarian reform" subject to the interpretation of Mrs. Rosario Braid. He opined that there is no reason to delete the Section inasmuch as Mr. Monsod's amendment had been accepted.

On the query of Mr. Maambong whether the Committee would accept Mr. Monsod's amendment to place a period after the word "agrarian reform", Mrs. Rosario Braid replied in the affirmative. She then stated that Mr. Sarmiento's motion is not preempted because should the Body approve Mr. Monsod's amendment, the former could put in an additional amendment.

On the Chair's observation that Mr. Jamir had a motion to delete the Section which should first be voted upon, Mr. Maambong reiterated that Mr. Jamir would be willing to withdraw his motion to delete should the Committee accept the amendment of Mr. Monsod. The Committee then affirmed its acceptance of Mr. Monsod's amendment.

REMARKS OF MR. GASCON

At this juncture, Mr. Gascon explained that what he was objecting to was the condition that the Committee would not accept any other amendment once it accepts the amendment of Mr. Monsod.

REMARKS OF MR. NOLLEDO

Mr. Nollado objected to the motion of Mr. Jamir on the ground that Section 14 was formulated by the Committee to underscore the importance of the rural areas to national development, noting that economic experts claim that if rural development fails, democracy would also fail in the country.

PARLIAMENTARY INQUIRY OF MR. RODRIGO

Mr. Rodrigo inquired whether approval of Mr. Jamir's amendment would preclude Mr. Monsod from presenting his amendment based on a new formulation, in reply to which the Chair stated that Mr. Monsod could present his amendment after the motion to delete shall have been voted upon.

INQUIRY OF MRS. QUESADA

In response to the query of Mrs. Quesada, Mr. Jamir stated that his motion for deletion was based on the statement of Mr. Monsod that the Section is unnecessary.

REMARKS OF MR. RIGOS

Mr. Rigos interposed to state that Mr. Jamir was willing to withdraw his amendment if the Committee would accept Mr. Monsod's amendment. The Chair replied that there was an objection to this condition and thereupon, Mr. Rigos informed that Mr. Jamir had withdrawn the condition.

VOTING ON MR. JAMIR'S AMENDMENT TO DELETE

Thereafter, the Chair called for a vote on Mr. Jamir's amendment and, with 9 Members voting in favor and 21 against, the same was lost.

RESTATEMENT OF MR. MONSOD'S AMENDMENT

Mr. Monsod restated his proposed amendment to put a period (.) after the words "agrarian reform" such that the Section would now read THE STATE SHALL PROMOTE RURAL DEVELOPMENT AND AGRARIAN REFORM.

The Committee accepted the amendment.

On the matter of industrialization, Mr. Monsod pointed out that "rural development" is not synonymous with "agricultural development" but the former includes both agricultural and industrial development and that the word "rural" refers to place and does not solely concern agriculture or industry.

By way of a rejoinder, Mr. Sarmiento maintained that "rural development" would not cover industrialization and that "urban development" includes industrialization. He opined that rural development, agrarian reform and industrialization are three different concepts to which the State should give importance. He observed that "industrialization" is a very vital element of national progress and development.

Mrs. Rosario Braid noted that "industrialization" is a strategy of rural development and that rural development may be in the form of a balanced agro-industrial development. "Rural development", she stated, is an all-encompassing term which covers the concept of industrialization.

At this juncture, Mr. Sarmiento suggested a vote on his proposed amendment.

PROPOSED AMENDMENT OF MR. PADILLA

Mr. Padilla proposed the following: THE STATE SHALL PROMOTE RURAL AND URBAN, AGRICULTURAL AND INDUSTRIAL DEVELOPMENT to harmonize the two proposals.

REMARKS OF MR. TADEO

Mr. Tadeo, in supporting the inclusion of "cooperativism", observed that there can be no rural development unless organized by the residents of a community and that agrarian reform cannot succeed without this organization. He noted that farmers who failed to organize themselves were not able to protect themselves against the system.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 3:54 p.m.

RESUMPTION OF SESSION

At 4:05 p.m., the session was resumed.

MODIFIED AMENDMENT

Upon resumption of session, Mrs. Rosario Braid presented the reformulation, with Messrs. Monsod, Davide, Sarmiento, Villacorta and Padilla as co-authors, to wit:

THE STATE SHALL PROMOTE A COMPREHENSIVE RURAL DEVELOPMENT AND AGRARIAN REFORM.

INQUIRY OF MR. SARMIENTO

In reply to Mr. Sarmiento's query on whether the concept of "industrialization" would be covered by "comprehensive rural development", Mrs. Rosario Braid stated that "rural development" is an all-encompassing term which includes social, economic, human, cultural and political development as well as industrial, agro-industrial and integrated area strategies. She also stated that cooperativism is a primary organizing principle which does not preclude other mechanisms for organization.

Thereupon, Mr. Sarmiento manifested that he would support the new formulation.

REMARKS OF MR. PADILLA

Mr. Padilla registered his objection to the amendment in view of the introduction of the word "comprehensive" stating that he could not see how industrialization could be included in rural development. He opined that it gives the wrong impression that the term "agrarian reform" which is already provided in the Article on Social Justice is the "end-all" and the "be all" of productivity. He further stated that job opportunities should be given to the unemployed, which could not just be covered by rural development even with the qualification of the word "comprehensive because job opportunities are usually found in industrial plants. He reiterated his objection to the reformulation of the amendment.

Responding thereto, Mrs. Rosario Braid stated that the Committee has taken note of Mr. Padilla's amendment which has not been accepted by the Committee because it is of the opinion that all activities and strategies are all part of rural development. She explained that agrarian reform has to be mentioned because it is the basic program on which rural development is anchored and that the other concepts of agricultural productivity or entrepreneurship could be accommodated in a separate provision which Mr. Padilla could submit at the appropriate time.

MR. PADILLA'S AMENDMENT TO THE AMENDMENT

Mr. Padilla proposed an amendment to the amendment, to wit:

THE STATE SHALL PROMOTE RURAL AND URBAN DEVELOPMENT, AGRICULTURAL AND INDUSTRIAL PRODUCTIVITY.

REMARKS OF MR. GASCON

Mr. Gascon manifested his opposition to Mr. Padilla's amendment and his support of the Committee's formulation on the ground that Mr. Padilla's proposal speaks of "urban, rural, industrial and agrarian" development while the Committee's proposal concentrates on the issue of rural development and agrarian reform.

INQUIRY OF MR. DE CASTRO

In reply to Mr. de Castro's query on whether "rural" includes "urban", Mrs. Rosario Braid replied in the negative and stated that 70% to 75% of the population live in the rural areas which is the reason why it should take primacy over urban development.

She pointed out that the Committee's insistence to develop the 75% would not exclude the remaining 25% because other provisions would attend to the needs of the urban population in labor and social services that would improve the lives of Filipinos since a great percentage of labor comes from the urban population.

On Mr. de Castro's contention that 70% of the people in the urban areas are also poor, Mrs. Rosario Braid stated that while organized labor primarily comes from the urban areas, it is the rural areas which supply agricultural labor. She stated that the Section would mandate Congress to come up with a vigorous policy on rural development.

VOTING ON MR. PADILLAS' AMENDMENT

Thereupon, the Chair submitted Mr. Padilla's amendment to a vote. With 5 Members voting in favor and 16 against, the amendment was lost.

APPROVAL OF SECTION 14

Thereupon, the Chair restated Section 14, to wit:

THE STATE SHALL PROMOTE A COMPREHENSIVE RURAL DEVELOPMENT AND AGRARIAN REFORM.

Submitted to a vote, and with 20 Members voting in favor and 4 against, Section 14 was approved by the Body.

PROPOSED AMENDMENT OF MR. TINGSON

Mr. Tingson proposed the following amendment to Section 15 which would be renumbered as Section 14, to wit:

THE STATE RESPECTS THE RIGHTS OF INDIGENOUS COMMUNITIES TO PURSUE THEIR OWN PATH OF DEVELOPMENT WITHIN THE FRAMEWORK OF NATIONAL UNITY.

MR. MONSOD'S AMENDMENT TO THE AMENDMENT

Mr. Monsod proposed an amendment to the amendment, to wit:

THE STATE SHALL RECOGNIZE AND RESPECT THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES WITHIN THE FRAMEWORK OF NATIONAL UNITY AND DEVELOPMENT.

Mr. Tingson accepted the amendment on behalf of the Committee.

MR. DAVIDE'S AMENDMENT TO THE AMENDMENT

Mr. Davide proposed an amendment to the amendment by inserting after "communities" the phrase AND ENSURE THEIR FULLEST DEVELOPMENT WITHIN THE FRAMEWORK OF NATIONAL UNITY.

Mr. Tingson accepted the amendment on behalf of the Committee.

Mr. Monsod, however, opined that the amendment is a surplusage because development is being tackled in other sections and, therefore, fullest development would just be a verbiage at this point.

Mr. Davide stated that if Mr. Monsod was not willing to accept the word "fullest", then development must be ensured within the framework of national unity and it should not just be respect for or recognition of the right within the framework of national unity, to which Mr. Monsod stated that the rights include the right to develop fully — culturally, economically and socially.

MODIFIED AMENDMENT

Messrs. Davide and Monsod agreed to the following modified amendment, to wit:

THE STATE RECOGNIZES AND SHALL PROMOTE THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES WITHIN THE FRAMEWORK OF NATIONAL UNITY AND DEVELOPMENT.

Mr. Tingson accepted the modified amendment.

MS. AQUINO'S AMENDMENT TO THE AMENDMENT

Ms. Aquino proposed to amend the modified amendment, to wit:

THE STATE RECOGNIZES AND PROMOTES THE RIGHTS OF. . .

Mrs. Rosario Braid accepted the amendment on behalf of the Committee.

Mr. Monsod stated that the matter could be Mr. Tingson proposed the following amendment resolved by the Committee on Style.

APPROVAL OF SECTION 15, AS AMENDED

Mrs. Rosario Braid restated Section 15, which would be renumbered as Section 14, to wit:

THE STATE RECOGNIZES AND PROMOTES THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES WITHIN THE FRAMEWORK OF NATIONAL UNITY AND DEVELOPMENT.

Submitted to a vote, and with 23 Members voting in favor and none against, Section 15 was approved by the Body.

PROPOSED AMENDMENT OF MR. TINGSON

Mr. Tingson proposed the following amendment to Section 16, which would be renumbered as Section 15, to wit:

THE STATE SHALL ENCOURAGE NON-GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS TO ENGAGE IN ACTIVITIES THAT PROMOTE THE WELFARE OF THE NATION.

MR. MONSOD'S AMENDMENT TO THE AMENDMENT

Mr. Monsod proposed an amendment to the amendment, to wit:

THE STATE SHALL ENCOURAGE NON-GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS TO ENGAGE IN ACTIVITIES THAT PROMOTE THE WELFARE OF THE NATION.

Mrs. Rosario Braid accepted the amendment on behalf of the Committee.

MR. DAVIDE'S AMENDMENT TO THE AMENDMENT

Mr. Davide proposed an amendment to the amendment by inserting the word INDEPENDENT before "non-governmental".

Responding thereto, Mrs. Rosario Braid stated that the provision recognizes the philosophy prevalent in many countries of the world that volunteerism and participation of non-governmental organizations is an acceptable concept. She stated that the importance given to it acknowledges the fact that the law would rise on the wave of volunteerism and private initiative. She explained that community-based organizations may be organized by the government itself or by private enterprises and are therefore, broader than the organizations contemplated in the Article on Social Justice.

Thereupon, Mr. Davide did not insist on his amendment.

INQUIRY OF MR. OPLE

In reply to Mr. Ople's request for examples of non-governmental organizations, Mrs. Rosario Braid stated that they could be classified into civic organizations such as the Rotary and the Jaycees; development organizations such as the CC Foundation; independent organizations such as the NAMFREL; women organizations such as the YWCA; business men organizations such as the Bishops-Businessmen Conference; or the Philippine Business for Social Progress. She affirmed that labor and peasant organizations may be included.

INQUIRY OF MR. SARMIENTO

Mr. Sarmiento inquired whether organizations such as the Jaycees and the Rotary Clubs are included in non-governmental and community-based organizations.

In reply thereto, Mrs. Rosario Braid stated that she had already cited a few examples but pointed out that human rights, farmers and other community-based organizations are also included within the contemplation of Section 16.

Mr. Sarmiento pointed out that the Jaycees and similar organizations are exclusive clubs and not community-based organizations, to which Mrs. Rosario Braid replied that they would fall under non-governmental organizations as long as their activities are directed to the socioeconomic upliftment of the majority of the disadvantaged population.

On whether it is the intent of Section 16 to encourage this kind of organizations, the concerns of which are projects like extending free medical aids and similar projects, Mrs. Rosario Braid stated that these organizations fall under Section 16 considering that they contribute to the welfare of the people through a different kind of social service that gets away from dole-outs but which encourages participation and human development.

Thereupon, Mr. Sarmiento accepted the Committee's explanation with the understanding that the intent of Section 16 is to do away with dole-outs and other similar activities.

PROPOSED AMENDMENT OF MR. GARCIA

Mr. Garcia proposed a reformulation of Section 16 to read as follows:

THE STATE SHALL ENCOURAGE NON-GOVERNMENTAL, COMMUNITY-BASED AND INDEPENDENT SECTORAL ORGANIZATIONS OR SECTORAL ORGANIZATIONS THAT PROMOTE THE WELFARE OF THE NATION.

In reply to Mr. Monsod's inquiry, Mrs. Rosario Braid stated that the Committee is accepting the inclusion of the word "independent".

Mr. Monsod pointed out that the word "independent" should be applicable to all types of organizations and not just to sectoral organizations for which reason, he asked for its deletion.

Mr. Gascon manifested the withdrawal of the word "independent" on behalf of Mr. Garcia.

Mrs. Rosario Braid restated Section 16, as amended:

THE STATE SHALL ENCOURAGE NON-GOVERNMENTAL, COMMUNITY-BASED AND SECTORAL ORGANIZATIONS THAT PROMOTE THE WELFARE OF THE NATION,

explaining, upon Mr. Monsod's inquiry, that these are not cumulative.

As proposed by Mr. Davide, the Committee accepted the amendment to change the word "and" between "community-based" and "sectoral" to OR.

RESTATEMENT AND APPROVAL OF SECTION 16, AS AMENDED

Mrs. Rosario Braid restated Section 16 as amended, to wit:

THE STATE SHALL ENCOURAGE NON-GOVERNMENTAL, COMMUNITY-BASED OR SECTORAL ORGANIZATIONS THAT PROMOTE THE WELFARE OF THE NATION.

Submitted to a vote, and with 24 Members voting in favor, one against and no abstention, the Body approved Section 16, as amended, to be denominated as the new Section 15.

CONSIDERATION OF SECTION 17

Mrs. Quesada read the new formulation of Section 17, denominated as new Section 16, which reads:

THE STATE SHALL FOSTER HEALTH CONSCIOUSNESS AMONG THE PEOPLE.

She explained that the new formulation reflects Mr. Rama's reminder that the development of health consciousness among the people is cheaper than investing in curative medicine. She opined that this could be a principle that would govern all instrumentalities of the government called upon to promote health consciousness and develop a healthy citizenry.

INQUIRY OF MR. SARMIENTO

On Mr. Sarmiento's initial query, Mrs. Quesada affirmed that promoting health consciousness includes giving protection to the health of the people which also means giving support and incentives to private hospitals.

Mr. Sarmiento pointed out that many private hospitals are closing down because of expensive equipment and drugs and huge collectibles from indigent patients who are unable to pay their hospitalization, to which Mrs. Quesada replied that problems encountered by private hospitals would be taken care of by the Article on Social Justice which envisions that the government and private sectors work hand in hand in promoting health and in helping the people benefit from the right to health. She affirmed that there would be real effort on the part of the State to help public and private hospitals in the same manner that it is called upon to deliver educational services.

INQUIRY OF MR. OPLE

On Mr. Ople's inquiry, Mrs. Quesada affirmed that the new formulation of Section 16 puts emphasis on preventive approaches in health and medicine, adding that this would include education of the people in all settings.

Mr. Ople observed that the new Section 16 introduces a modern dimension cognizant of the fact that one of the great issues facing the medical community is the accusation against the medical profession and the medical community as a whole that preventive approaches in medicine are being systematically neglected and that the provision as formulated would mean health approaches that are not connected with the financial revenues of the medical community. In reply, Mrs. Quesada agreed, adding that Section 16 would stress the self-reliant role of individuals as they take care of their health and, therefore, the need for all people to develop a consciousness that would liberate them from dependence on doctors.

INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' inquiry, Mrs. Quesada affirmed that the provision contemplates sports development and physical fitness programs that would foster health consciousness, be it physical, mental, social or spiritual health.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to change the word "foster" to INSTILL as more declarative of a vigorous mandate.

PROPOSED AMENDMENT OF MRS. NIEVA

Mrs. Nieva proposed the adoption of the first sentence of the provision on health in the Article on Social Justice which reads THE STATE SHALL PROTECT AND PROMOTE THE RIGHT TO HEALTH if the intent is to have a very strong declaration of principle as far as health is concerned. She opined that health consciousness is just an awareness and is not a very active promotion of the health needs of the people in the sense that one could be conscious but may not act upon that consciousness.

In reply, Mrs. Quesada stated that the reason for the strong formulation in the Article on Social Justice is that it is in this Article where the social rights of the citizens are defined whereas the thrust of the Article on the Declaration of Principles is to make health care become more preventive rather than curative in orientation. She stressed that health consciousness would guide people's behavior and practice.

Mrs. Nieva expressed the view that the provision as worded is not strong enough and does not mandate the State to contribute its share to the total development of the citizens, to which Mrs. Quesada stressed that under the provision, emphasis is given to health education programs to be undertaken by the different instrumentalities and agencies of the government.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:51 p.m.

RESUMPTION OF SESSION

At 5:22 p.m., the session was resumed.

MR. MONSOD'S PROPOSED AMENDMENT TO THE AMENDMENT

Upon resumption of session, Mr. Monsod proposed that instead of combining Sections 16 and 17 as proposed by Mrs. Nieva, Sections 17 and 18 should be combined to read:

THE STATE SHALL PROTECT AND PROMOTE THE RIGHT OF THE PEOPLE TO HEALTH AND A BALANCED ECOLOGICAL ENVIRONMENT.

Mrs. Nieva insisted that Sections 16 and 17 be combined to read: THE STATE SHALL PROTECT AND PROMOTE THE RIGHT TO HEALTH AND INSTILL HEALTH CONSCIOUSNESS AMONG THE PEOPLE.

MR. GUINGONA'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Guingona, however, proposed to delete the words "right to" so that the phrase would read THE STATE SHALL PROTECT AND PROMOTE THE HEALTH AND INSTILL HEALTH CONSCIOUSNESS AMONG THE PEOPLE.

REMARKS OF MR. GASCON

Mr. Gascon objected to Mr. Monsod's amendment to Mrs. Nieva's amendment on the ground that Section 17 speaks of the duty of the State to ensure the optimum health of individual persons, while Section 18 provides for the maintenance of ecological balance.

He maintained that the two Sections should be separated in order to manifest the strong call for ecological balance through the economic, political and social programs and policies.

In reply, Mr. Monsod explained that health is something personal and internal while ecology is external, and since the two interact with each other, the State should protect both people's health and the environment.

Mr. Gascon maintained that although there is relation between personal health and environment, they should be delineated.

REMARKS OF MR. OPLE

Mr. Ople, also opined that Sections 17 and 18 should not be merged in order that the Article on the Declaration of Principles would have a powerful statement on the impact of ecology to health and the exhaustion of natural resources.

However, he agreed with Mrs. Quesada that Section 17 on the right to health should be retained in the Article on Social Justice to underscore that there is no distinction between the health of the rich and the health of the poor, without dissociating it from the promotion of health consciousness among the people, which has been the movement in the medical profession. He stated that if preventive approaches to health would be adopted, the large outlays for curative medicine would not be necessary.

REPLY OF MRS. QUESADA

Mrs. Quesada pointed out that it was agreed upon during the suspension of session to reformulate Section 16 as amended by Mrs. Nieva, and Messrs. Sarmiento, Davide, Gascon, Garcia and Guingona, to read:

THE STATE SHALL PROMOTE AND PROTECT THE RIGHT TO HEALTH AND INSTILL HEALTH CONSCIOUSNESS AMONG THE PEOPLE.

Mrs. Quesada explained that although health consciousness should be given importance as suggested by Mr. Ople, the same provision would be stronger if placed in the Article on Declaration of Principles.

Mrs. Quesada then appealed to Mr. Monsod to withdraw his proposal, which the latter did.

Thereafter, Mr. Guingona manifested his support for Mrs. Nieva's proposal.

On Mr. Padilla's observation that Section 11 of the Article on Social Justice is the same as Section 17, Mrs. Quesada explained that the first sentence of Section 11 would be transposed to the Article on Declaration of Principles in addition to Section 16 to avoid repetition.

In reply to Mr. Sarmiento's query whether private hospitals would get State support in the form of tax exemptions Mrs. Quesada stated that the matter as well as other incentives which private hospitals have been receiving for the past years, would be left to the decision of Congress.

On Mr. de Castro's query whether the first sentence of Section 11 of the Article on Social Justice would be transposed to the Declaration of Principles, Mrs. Quesada replied in the affirmative.

Mr. de Castro contended that it would be against the rules because the Article was already approved, to which Mrs. Quesada replied that it could be done as evidenced by several precedents.

On Mr. de Castro's query whether the sentence could be retained in the Article on Social Justice, Mr. Nollado replied that the transposition would not violate the Rules, to which the Chair agreed.

In reply to Mr. Maambong's query, Mrs. Quesada stated that with the transposition, the sentence would read as follows: THE STATE SHALL PROTECT AND PROMOTE THE RIGHT TO HEALTH.

APPROVAL OF SECTION 16, AS AMENDED

Submitted to a vote, and with 25 Members voting in favor, and none against, the same was approved by the Body.

CONSIDERATION OF SECTION 17

Thereafter, Mr. Tingson read Section 17 as reformulated, to wit:

SECTION 17. THE STATE RECOGNIZES THE RIGHT OF EVERY PERSON TO A HEALTHFUL ENVIRONMENT AND SINGULAR DEMAND OF NATURE TO FOLLOW ITS OWN RHYTHM AND HARMONY. IT SHALL THEREFORE PROTECT, RESTORE AND ENHANCE THE ECOLOGICAL BALANCE FOR THE SUSTENANCE OF THIS AND FUTURE GENERATIONS.

MOTION OF MR. MAAMBONG

Thereupon, Mr. Maambong moved that the first sentence of Section 11 in the Article on Social Justice be transposed to Section 17 with instruction to the Committee on Style and Committee on Sponsorship to so indicate the transposition.

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

Mr. Maambong then moved that the first sentence of Section 1 in the Article on Social Justice be transposed to the new Section 8.

In reply to Mr. Ople's query whether the same approach to transpositions without the formality of a motion for reconsideration does not violate the Rules, Mr. Maambong stated that the transpositions would not really affect the substance of the provisions and that what he is doing is merely to put the provisions in their proper place. He added that there is no need for a motion for reconsideration because the substance would not be changed.

In reply to Mr. Bacani's query whether the transposed sentence, in effect, would no longer appear in the Article of Social Justice, Mr. Maambong replied in the affirmative.

On what would happen to the rest of the sentences, Mr. Maambong stated that his next motion would be for the Committees on Style and Sponsorship to realign the other provisions.

The Chair noted this suggestion.

Mr. Jamir stated that when Mr. Romulo proposed the transfer of his proposed amendment to the Transitory Provisions, the Chair ruled that it would be considered in due time. He then inquired whether this would be a precedent that should be adopted by the Body, to which the Chair replied that the situations are different.

Mr. de Castro then pointed out that if the first sentence of Section 11 in the Article on Social Justice would be transposed to the Article on Declaration of Principles then the second sentence thereof would have no meaning, to which, the Chair replied that Mr. Maambong had suggested that the Committees on Style and Sponsorship restyle the provisions without necessarily changing their substance.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 5:44 p.m.

RESUMPTION OF SESSION

At 5:56 p.m., the session was resumed.

RECONSIDERATION OF MR. MAAMBONG'S MOTION

Upon resumption of session, Mr. Azcuna sought reconsideration of the approval of Mr. Maambong's motion, and there being no objection, the same was approved by the Body.

MR. AZCUNA'S PROPOSAL

Mr. Azcuna then proposed that instead of transposing the sentences they should be copied and left to the Committees on Style and Sponsorship for proper restyling and harmonization, to which Mr. Maambong agreed with the understanding that the transposed sentence has the same meaning.

Mr. Monsod suggested that the Body allow the duplication after which the Committees on Sponsorship and Style could make the proper recommendation at which time the Rules could be applied if the issue is raised.

Mr. Azcuna manifested his agreement thereto.

Mr. Azcuna also concurred with the Chair's suggestion that the Committees on style and Sponsorship be guided

as to what sentences should be retained or transposed.

On Mr. Monsod's query whether the Rules would be followed at that time, Mr. Azcuna replied in the affirmative.

Thereupon, Mr. Azcuna moved that the sentences in the Article on Social Justice mentioned by Mr. Maambong be duplicated in the Article on Declaration of Principles.

Mr. Ople seconded the motion.

Mr. Maambong opined that there is no need for such a motion, to which the Chair agreed.

Thereupon, Mr. Azcuna withdrew his motion.

RESTATEMENT OF SECTION 17, AS MODIFIED

Mr. Tingson read Section 17, formerly Section 18, as a new Committee formulation coauthored by Messrs. Garcia, Guingona, Bengzon, Rigos and Azcuna, to wit:

THE STATE RECOGNIZES THE RIGHT OF A PERSON TO A HEALTHFUL ENVIRONMENT AND THE SINGULAR DEMAND OF NATURE TO FOLLOW ITS OWN RHYTHM AND HARMONY. IT SHALL THEREFORE PROTECT, RESTORE AND ENHANCE ECOLOGICAL BALANCE FOR THE SUSTENANCE OF THIS AND FUTURE GENERATIONS.

INQUIRY OF MR. OPLE

Mr. Ople queried as to whether there is a kind of pantheistic dimension to the statement "singular demand of nature to follow its own rhythm and harmony" so that a regression to a state of nature for humanity would in effect be endorsed. He also inquired whether stone age civilizations might be preferable to the more advanced but strife-ridden culture. With particular reference to the Tasaday community, he stated that the Tasadays do not have the word "war" in their vocabulary and live in perfect harmony although man, by nature, is a savage.

Mr. Azcuna replied that there is no intention of being atavistic in the particular formulation but merely to respect the laws of nature, the violation of which, in turn, provokes violent reactions,

as in the denudation of forest which results in flooding. He added that this is merely a demand for balance in the environment. He affirmed that there are no tacit choices expressed as to the preferable state of human culture and civilization, and that it deals with ecology in terms of natural resources and rhythm of nature.

INQUIRY OF MR. VILLACORTA

Upon inquiry of Mr. Villacorta, Mr. Azcuna confirmed that the section mandates the State to provide sanctions against all forms of pollution. He added that the right to healthful environment necessarily carries with it the correlative duty not to impair and therefore, sanctions may be provided for impairment of environmental balance. He also affirmed that protection will be provided to communities surrounding airports, military bases and factories.

On whether the Section would protect the life and limbs as well as the psychological welfare of communities, Mr. Azcuna observed that anything which may harm the environment, like noise pollution, would be controlled or regulated.

PROPOSED AMENDMENT OF MR. SUAREZ, MR. MONSOD AS COAUTHOR

Mr. Suarez proposed an amendment by substitution, to wit: THE STATE SHALL PROTECT AND ENHANCE A BALANCED ECOLOGICAL ENVIRONMENT FOR THE PRESENT AND FUTURE GENERATIONS.

Mr. Suarez observed that the words "balanced ecological environment" is already included therein.

Replying thereto, Mr. Azcuna remarked that it does not state the right to a healthy or clean environment which is, in modern development, considered a right of every person which the State has the duty to protect by enhancing ecological balance in the environment.

Thereupon, Mr. Suarez suggested a reformulation, to wit: IT SHALL PROTECT AND ENHANCE THE RIGHT OF THE PEOPLE TO A BALANCED ECOLOGICAL ENVIRONMENT FOR THE PRESENT AND FUTURE GENERATIONS.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 6:09 p.m.

RESUMPTION OF SESSION

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

Upon resumption of the session, Mr. Azcuna informed that as reformulated, the Section would read:

THE STATE GUARANTEES THE RIGHT OF THE PEOPLE AND THEIR POSTERITY TO A BALANCED AND HEALTHFUL ECOLOGICAL ENVIRONMENT IN ACCORD WITH THE SINGULAR DEMAND OF NATURE TO FOLLOW ITS RHYTHM AND HARMONY.

REMARKS OF MR. PADILLA

Mr. Padilla commented that if the Body were writing poetry, the phrase "rhythm and harmony" may have some place but not in the Constitution. He noted that Section 17 is within the inherent police power of the State and that the Civil Code has provisions on nuisances, specifically Title VIII, Article 694, which provides that "A nuisance is any or act, omission, establishments, condition of property or anything else which:

1. injures or endangers the health or safety of others;
2. annoys or offends the senses;
3. shocks, defies or disregards decency or morality;
4. obstructs or interferes with the free passage of any public highway or street or any body of water; or
5. hinders or impairs the use of property."

He stated that it also provides for nuisance per se or per accidens, and public or private nuisances.

He called for a simple provision similar to the suggestion of Mr. Suarez or to simply state: THE STATE RECOGNIZES THE HUMAN RIGHT TO HEALTHFUL ENVIRONMENT AND TO ECOLOGICAL BALANCE OF NATURE. He noted, moreover, that whatever is placed in the Constitution is intended for the general welfare of the people now and in the future.

On the matter of environment, he observed that ecology may be disrupted by the cutting of trees, deforestation or denudation and that stagnant waters may bring diseases. He objected to the provision, particularly the phrase "the singular demand of nature for rhythm and harmony" which has no substantial meaning.

REMARKS OF MR. OPLE

Mr. Ople disagreed with Mr. Padilla and maintained that the section meets the standards of simplicity and clarity. He noted that far from being meaningless, it speaks of a balanced and healthful ecological environment in accord with the singular demand of nature for rhythm and harmony. He stated that inasmuch as the rhythm and harmony of nature had been violated with the spoiling of the forests and lakes, the admonitions of experts should be taken seriously because if nothing is done by the government and the people, in 50 years the Philippines would become a desert. The Laguna de Bay according to experts, he stated, could die in 20 years if nothing is done now and that in Bulacan, the pollution caused by chemical companies is irreparably damaging the fishing grounds of fishermen and the land of farmers which provide the only means of sustenance. He stressed that this statement on ecology has a proper place in the Declaration of Principles.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide, to shorten the provision, proposed to delete the phrase "the singular demand of nature to follow" which the Committee accepted.

PROPOSED AMENDMENTS OF MESSRS. MONSOD AND OPLE

Mr. Monsod proposed to change the word "guarantees" to SHALL PROTECT which Mr. Ople further proposed to modify with the addition of AND ADVANCE. Mr. Monsod observed that this should be "shall protect and enhance" as originally proposed by Mr. Suarez, to which Mr. Ople replied that ADVANCE is a stronger word than "enhance".

Thereafter, Mr. Azcuna read the Section as amended by Messrs. Davide, Monsod and Ople:

THE STATE SHALL PROTECT AND ADVANCE THE RIGHT OF THE PEOPLE AND THEIR POSTERITY TO A BALANCED AND HEALTHFUL ECOLOGICAL ENVIRONMENT IN ACCORD WITH THE RHYTHM AND HARMONY OF NATURE.

Upon inquiry of Mr. Gascon as to whether Mr. Padilla proposed an anterior amendment, the Chair noted that Mr. Padilla was making a suggestion and affirmed that the Body shall vote on the Committee's proposal taking into account his objection.

AMENDMENT OF MR. BENNAGEN

Mr. Bennagen proposed to simplify "ecological environment" to ECOLOGY.

To Mr. Azcuna's remark that ecological environment refers to the total human development, Mr. Bennagen stated that it would be the meaning of ecology. Thereafter, Mr. Azcuna accepted the amendment.

OBJECTION OF MR. MONSOD

Mr. Monsod objected to the word "advance", in reply to which Mr. Ople stated that "advancing the rights of people" is not odd but is encountered in all literature especially with respect to human rights. He stated that rights cannot be enhanced and that advancing the right of the people to "sound" ecology is perfectly in order and has resonance.

Upon direction of the Chair, Mr. Azcuna restated the amendment, to wit:

THE STATE SHALL PROTECT AND ADVANCE THE RIGHT OF THE PEOPLE AND THEIR POSTERITY TO A BALANCED AND HEALTHFUL ECOLOGY IN ACCORD WITH THE RHYTHM AND HARMONY OF NATURE.

AMENDMENT OF MR. ROMULO

Mr. Romulo proposed to delete "posterity". He agreed that Mr. Padilla was right in that what is placed in the Constitution would be for present and future generations. With this understanding, the Committee accepted the amendment.

VOTING ON SECTION 17

Submitted to a vote, and with 22 Members voting in favor, 1 against, Section 17 was approved by the Body.

ADJOURNMENT OF SESSION

On motion of Mr. Romulo, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of the following day.

It was 6:33 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMAZ
President

Approved on September 23, 1986

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