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Tuesday, August 5, 1986

OPENING OF SESSION

At 9:48 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Teodoro C. Bacani.

Everybody remained standing for the Prayer.

PRAYER

BISHOP BACANI: Father, for more than two months now we have been working at our appointed task of formulating a Constitution that will be truly responsive to the Filipino people. Often now we feel weariness, a perhaps, on occasions, discouragement.

Father, give us renewed strength. Continue to pour down Your light upon us; continue to fill our hearts with love and concern for our brethren, especially the less privileged; and continue to give us strength of body and soul, so that with unflagging zeal we may continue the task that You have given us and that what You have begun so marvelously in us may be accomplished by You through us.

This we ask You through Christ our Lord. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Bengzon Present [*]

Alonto Present [*] Bennagen Present

Aquino Present [*] Bernas Present

Azcuna Present [*] Rosario Braid Present

Bacani Present Brocka Present

Calderon Present Quesada Present

Castro de Present Rama Present

Colayco Present [*] Regalado Present

Concepcion Present Reyes de los Present

Davide Present Rigos Present

Foz Present Rodrigo Present

Garcia Present Romulo Present

Gascon Present Rosales Present

Guingona Present Sarmiento Present

Jamir Present Suarez Present

Laurel Present Sumulong Present

Lerum Present Tadeo Present

Maambong Present Tan Present

Monsod Present Tingson Present

Natividad Present [*] Treñas Present

Nieva Present Uka Present

Nolledo Present [*] Villacorta Present

Ople Present [*] Villegas Present

Padilla Present

The President is present.

The roll call shows 39 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of quorum.

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

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from Mr. Oscar N. Rivera of Zobel Street, San Miguel Village, Makati, suggesting that the issue of United States military bases in the Philippines be treated as a separate proposal independent of the main Constitution when the Constitution is presented to the people for ratification.

(Communication No. 442 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions

Letter from Fr. Raymundo Hilot of the Episcopal Commission on Tribal Filipinos, 372 Cabildo Street, Intramuros, Manila, submitting a resolution adopted by the 5th SILDAP-SIDLAKAN General Assembly, seeking inclusion in the Constitution of provisions on the national tribal Filipinos' right to self-determination.

(Communication No. 443 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Sheikh Ahmad Bashier, Chairman of the Bangsa Moro Multi-Sectoral Conference, submitting proposals on autonomous governments and autonomy for the Bangsa Moro nation as special constitutional provisions.

(Communication No. 444 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Fred C. Whiting, President, The American Chamber of Commerce of the Philippines, Inc., P.O. Box 1578 MCC, Makati, Metro Manila, expressing the opinion that proposed resolutions before the Constitutional Commission regarding foreign participation in franchised utilities in the Philippines would be counter-productive to the government's goal of making the business climate attractive to foreign investment, urging therefor a very serious consideration of the negative effects that may well result from altering the present 60/40 ratio of participation

(Communication No. 445 — Constitutional Commission

To the Committee on the National Economy and Patrimony.

Letter from Ms. Remedios C. Galsim and five others of the Concerned Citizens Council, B.F. Homes, Parañaque, Metro Manila, suggesting inclusion in the Article on Social Justice in the Constitution, the definition and principles of "just wage" and "labor has priority over capital."

(Communication No. 446 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Elviro P. Lagrana of Pulupandan, Negros Occidental, submitting a position paper for the retention of U.S. military bases in the Philippines until such time as we attain economic strength capable of developing our land, air and naval defenses against external attack.

(Communication No. 447 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Delfin R. Manlapaz of 1707 E. Rodriguez, Sr. Blvd., Cubao, Quezon City, Metro Manila submitting proposed amendments to "Resolution to Incorporate in the New Constitution an Article on Education, Science and Technology, Sports, Arts, and Culture" (Committee Report No. 29).

(Communication No. 448 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from the Tribal Filipino Apostolate, Diocesan Pastoral Services, Sacred Heart Convent, Zamora Street, Butuan City, signed by Mr. Erric Rico and forty-one others, urging the Constitutional Commission to consider the following proposals: (1) that the Lumads be given the right to own/utilize their ancestral domain; (2) that the Lumads be given the right to self-determination; (3) that the Lumad culture be honored and respected; (4) that a government agency motivated to serve the Lumads and the rest of the minority peoples be created; and (5) that government services be made available to the Lumads.

(Communication No. 449 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letters from Mr. Bienvenido A. Castillo of 50 McKinley, Pulilan, Bulacan, suggesting the following prohibiting election officials from acting as sponsors in weddings or baptism to do away with the padrino system; congressional approval of the declaration of martial law, suspension of the writ of habeas corpus and foreign borrowings; prohibiting members of the Cabinet from holding other government offices; prohibiting the President to grant reprieves, commutations and pardons; trial by jury, among others; opposing the creation of autonomous governments of Cordillera and Mindanao; opposing land reform, saying that it is outright landgrabbing and a political gimmick of the past regime, and opposing the discussion of the U.S. military bases issue at this time as it is delaying the country's economic recovery.

(Communication No. 450 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Briccio T. Aguilos, Jr., Provincial Attorney of Leyte, submitting, upon direction of the Sangguniang Panlalawigan of said province, proposals on local government autonomy.

(Communication No. 451 — Constitutional Commission of 1986)

To the Committee on Local Governments.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF
PROPOSED RESOLUTION NO. 534
(Article on Social Justice)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: On the agenda this morning, we still have the continuation of the consideration of the Article on Social Justice. We have just finished the period of sponsorship and debate. The last interpellator spoke at the end of the session yesterday. So, I move that we close the period of sponsorship and debate on the Article on Social Justice.

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

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

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

The body is now open to consider amendments. We are requesting the different proponents to submit their proposed amendments to the Committee.

SUSPENSION OF SESSION

THE PRESIDENT: To give the Committee time to deliberate on the amendments and to enable its members to express their reactions thereto, the Chair suspends the session for a few minutes.

MR. RAMA: Thank you, Madam President.

It was 9:59 a.m.

RESUMPTION OF SESSION

At 10:17 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. SARMIENTO: After conferring with the members of the Committee and the proponents of various amendments, I would like to announce that this will be our procedure this morning. First, the proponents will present their amendments. Should there be a clarification, the members of the Committee will give their explanation but without necessarily accepting the amendments. All the proponents will present their amendments and the Committee will pool all of these and then discuss the amendments this afternoon or tonight. Then, by tomorrow, they will give their ruling on these amendments presented by different proponents.

So, let this be clear that we will not vote on the various amendments that will be presented by the proponents this morning.

THE PRESIDENT: Who is the first proponent?

MR. SARMIENTO: Madam President, Commissioner Villegas would like to yield to Commissioner Romulo for his amendments.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Madam President, on Section 1, I have an amendment by substitution which reads as follows: THE STATE SHALL PURSUE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL ENACT MEASURES TO ENHANCE HUMAN DIGNITY BY REDUCING SOCIAL, ECONOMIC AND POLITICAL INEQUITIES AND BY EQUITABLY DIFFUSING WEALTH AND POWER FOR THE COMMON GOOD.

MR. BENGZON: Would Commissioner Romulo be willing to change the word "REDUCING" to ELIMINATING?

MR. ROMULO: Is that possible in the real world?

MR. BENGZON: Some of our fellow Commissioners in the Committee are opting for that word but, of course,

the Committee is divided on that.

MR. ROMULO: My only objection is that it is unreal.

MR. BENGZON: All right.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Would the proponent be willing to add the word PROFITS after "WEALTH"?

MR. ROMULO: Yes, I accept that amendment.

MR. VILLEGAS: Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: May I present an amendment to the amendment of Commissioner Romulo?

THE PRESIDENT: Commissioner Villegas may proceed.

MR. VILLEGAS: After the clause "CONGRESS SHALL ENACT MEASURES," I propose to add TO PROMOTE PRIVATE INITIATIVE IN ECONOMIC ACTIVITY.

Let me explain this amendment to the amendment.

I think quite a number of Commissioners have expressed the apprehension that we have overly concentrated on distributing the pie, and we have not concentrated on making the pie grow. There are a lot of injustices that have been committed in the past which have prevented millions upon millions of small and medium-scale entrepreneurs from growing. Crony capitalism or state capitalism have inflicted untold injustices not on workers, not on farmers, but on the millions of self-employed entrepreneurs whom I am afraid the entire Article seems to have forgotten, because we have dichotomized the economic underprivileged into farmers and workers. What about the millions of people who are neither workers nor farmers — the people who operate tricycles, who own sari-sari stores, who are eking out a living trying to sell cigarettes or all types of goods? They are not employees and they are not subject to exploitation by employers but by specific policies of the State and of other large businesses that stifle their private initiative. That is why it is very important in this Article on Social Justice to give recognition to millions of self-employed entrepreneurs. Hence, that is the reason I would like to insert this expression: TO PROMOTE PRIVATE INITIATIVE IN ECONOMIC ACTIVITY.

MR. BENGZON: Which portion is that? Where should we insert that?

MR. VILLEGAS: Commissioner Romulo's amendment states, "CONGRESS SHALL ENACT MEASURES TO ENHANCE THE DIGNITY," etc. Before the phrase "TO ENHANCE THE DIGNITY," I propose to insert: TO PROMOTE PRIVATE INITIATIVE IN ECONOMIC ACTIVITY so as to read: "CONGRESS SHALL ENACT MEASURES TO PROMOTE PRIVATE INITIATIVE IN ECONOMIC ACTIVITY TO ENHANCE THE DIGNITY."

MR. ROMULO: I accept the amendment, Madam President.

THE PRESIDENT: We request Commissioner Romulo to give the Secretariat a copy so that we can provide all Members copies thereof.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Would Commissioner Romulo entertain an amendment? I propose that "ENACT" be deleted and substituted with GIVE HIGHEST PRIORITY TO THE ENACTMENT OF so that it reads: IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF. . ." I suggest "HIGHEST PRIORITY" to emphasize the fact that this is a very important matter. If all we say is that "CONGRESS SHALL ENACT MEASURES," it means that Congress should exercise police power. But if we say, "GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES, ENHANCE HUMAN DIGNITY," and so forth, plus the amendment of Commissioner Villegas, then we are giving it a sense of urgency.

MR. ROMULO: I accept.

MR. BENGZON: So, where do we insert that amendment?

MR. ROMULO: This is, I believe, subject to corrections. My proposed amendment, as amended, will now read: THE STATE SHALL PURSUE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES TO PROMOTE PRIVATE INITIATIVE IN ECONOMIC ACTIVITIES AND TO ENHANCE HUMAN DIGNITY BY REDUCING SOCIAL, ECONOMIC AND POLITICAL INEQUITIES AND BY EQUITABLY DIFFUSING WEALTH, PROFIT AND POWER FOR THE COMMON GOOD.

BISHOP BACANI: May I ask whether Commissioner Romulo would be agreeable to say, "SHALL GIVE THE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES TO ENHANCE HUMAN DIGNITY BY PROMOTING INITIATIVES IN ECONOMIC ACTIVITY AND BY REDUCING SOCIAL, ECONOMIC AND POLITICAL INEQUITIES," so that the centerpiece is human dignity — the "ENHANCEMENT OF HUMAN DIGNITY"?

MR. ROMULO: I have no objection to that; we accept the transposition.

Thank you.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Romulo entertain another amendment by transposition to his amendment? I think the focus of Section 1 is on the reordering of social and economic relations in order to bring about structural social justice. The insertion of another major philosophy, which is the freedom of initiative or the freedom of enterprise, tends to offset the central meaning of Section 1, unless it can be transposed to a new section or perhaps, postponed till the last part of this paragraph.

I did not bring a prepared text with me; but the freedom of initiative may detract from the central meaning of the principle of social justice unless it is transposed to a more appropriate part of Section 1.

MR. ROMULO: That was the suggestion of Commissioner Bacani, to transpose it after "HUMAN DIGNITY."

MR. OPLE: That will still be too early in the paragraph.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I share the sentiment of Commissioner Ople and I object to the inclusion of that phrase in that section. In fact, growth in the development of private initiative or private entrepreneurship does not necessarily

mean social distribution of its benefits, and it does not fit well with the concept of social justice as it is being envisioned. I would see some kind of an imbalance in concepts, unless this is transposed or deleted from that section.

MR. OPLE: Yes, I favor a transposition, Madam President. Moreover, I think the right way of entry for freedom of initiative should be in connection with the consequences of social justice in the sense that this opens up new opportunities for economic development. I laid the basis for this amendment yesterday when I said that in the case of the so-called economic miracles now in our neighborhood such as Japan, Taiwan and Korea, it was necessary to introduce first radical land reform before new courses and new capital could be released from the land, so that land reform fuelled industrialization rather than hindered it. If this is correct, I see no reason why it can be controverted.

Then the new growth, new development through freedom of initiative can become the consequence of the social justice policy. I will leave it to the craftsmen . . .

MR. ROMULO: Yes. May I ask Commissioner Ople and Commissioner Aquino to indicate where they feel this "freedom of initiative" or "private initiative" should be placed?

MR. OPLE: It will look more technically correct and, perhaps, more elegant in terms of constitutional, concepts if this probably can be made supportive of Section 1 in a new section.

MR. ROMULO: May I ask Commissioner Villegas if he will agree?

MR. VILLEGAS: I can agree; it can be a separate section.

Let me just reiterate what I said. A lot of injustices are being committed against small entrepreneurs or self-employed people and they should also be the object of our concern for social justice. So, I am not thinking of economic growth here. Economic growth will be addressed sufficiently in the Article on National Economy and Patrimony.

I am thinking here of precisely historical, monopolistic, feudalistic and other practices which favor either state corporations or large corporations to the detriment of a lot of people who are trying to start their own businesses. I think this has to be recognized in the Article on Social Justice because we are trying to give everyone his due. Remember, justice is defined as trying to give everyone his due, and from our analysis of Philippine economic history, a lot of small- and medium-scale entrepreneurs have been systematically prejudiced by State policies, as well as by the practices of private monopolies whether multinational or national.

MR. ROMULO: Therefore, Madam President, I believe I should withdraw for the moment to compose this new section, together with the other proponents.

THE PRESIDENT: The proposed amendment of Commissioner Romulo is still on the floor. So, if there are any other remarks, let us concentrate first on the proposed amendment of Commissioner Romulo.

We are not voting on any amendment this morning. Actually, this is a freewheeling discussion of proposed amendments.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: My amendment would be in connection with the amendment of Commissioner Romulo as further amended by Commissioner Villegas.

May I state my amendment.

THE PRESIDENT: The Commissioner may proceed.

MR. TINGSON: Madam President, I am impressed by the original statement of the Committee which states: "Social justice, as a social, economic, political, moral imperative." In the light of the good remarks of the Chairman of the Steering Committee yesterday that what we are stating here are goals, ideals and objectives and that probably we are to reach the ultimate or the immediate, I wonder if Commissioner Romulo will accept my amendment. I propose that we reword the first sentence of Section 1 to read: THE STATE SHALL PURSUE THE MORAL IMPERATIVE OF SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT.

Originally, the Committee wanted to put under moral imperatives social, economic and political goals. So my amendment would be: THE STATE SHALL PURSUE THE MORAL IMPERATIVE OF SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT.

THE PRESIDENT: What does Commissioner Romulo say?

MR. ROMULO: Madam President, I regret I cannot accept the amendment because if the Commissioner will notice in the original statement of the Committee, "moral" is only one of the imperatives. Hence, if we accept that, then we will be restricting the sense of this paragraph. I feel that social justice by now has a definition that is understood, and what the Committee wants to do is to apply social justice in all phases of national development.

MR. TINGSON: Madam President, I would like to be satisfied by the answer of the Committee. My understanding here is that since "moral imperative" is preceded by the article "a," then "social, economic and political" are all categorized as a moral imperative; otherwise they would have said "moral imperatives." That is why I am wondering if my amendment would not strengthen the Gentleman's amendment.

THE PRESIDENT: Commissioner Romulo has already stated his position.

Thank you.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized. Is the Commissioner's amendment in relation to the proposed amendment of Commissioner Romulo?

MR. DE CASTRO: No, Madam President. We cannot follow the discussion of the amendments because we do not have a copy of what the proponent is trying to propose. I suggest that we be given copies of proposed amendments so that we can participate in the discussion of this important subject matter.

Thank you, Madam President.

THE PRESIDENT: Yes, we have asked the Secretariat to prepare copies for distribution to the different Members.

MS. ROSARIO BRAID: Madam President. .

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: This is in connection with Commissioner Romulo's proposed amendment. I think the amendment thereto of Commissioner Villegas could be accommodated as a new provision after Section 9 which would attend to the needs of small-scale industries. This is the underground economy. We also propose to include a new provision on agricultural workers who have also been left out. Perhaps we could formulate it afterwards. So, the amendment of Commissioner Villegas could be deleted from the first section.

Thank you.

THE PRESIDENT: By the way, may we request all Members who have already proposed amendments to give copies to the Secretary-General so that they can be reproduced and distributed?

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May I offer a further amendment, a very simple one, to the proposed amendment of Commissioner Romulo. I propose to insert the word CULTURAL after "SOCIAL," so that it will read: "BY REDUCING SOCIAL CULTURAL, ECONOMIC AND POLITICAL INEQUITIES," because there are such things also as "cultural inequities" especially when we consider our indigenous cultural communities.

MR. ROMULO: I accept, Madam President.

MR. REGALADO: Thank you.

MR. ROMULO: Madam President, I think I should now retire and rewrite this section together with the amendments I have accepted, and then ask the Secretariat to circulate it so that somebody else can proceed with Section 2.

THE PRESIDENT: Yes. By the way, we have already stated that the Committee will be given time to go over all these proposed amendments. We are not expecting the Committee to give its official reaction right away, unless there are individual Members who would like to react on these amendments. So, we can now proceed to the next proposal.

MR. SARMIENTO: Madam President, I ask that Commissioner Davide be recognized for Section 2.

THE PRESIDENT: Section 2. Is there any other amendment or version for Section 1?

MR. SARMIENTO: Madam President, I ask that Commissioner Padilla be recognized for Section 1.

THE PRESIDENT: The Vice-President is recognized.

MR. PADILLA: Madam President, I am in favor of the proposed amendment of Commissioner Villegas with regard to promoting, enhancing or encouraging private enterprise and economic activity, because that is the real cause that will give social justice substance and enhance human dignity. So I do not exactly agree to transposing it to a lesser position in the section. In my estimation, such private initiative and economic activity will lead to productivity or to the growth of economic wealth which will underlie the blessings of social justice.

MR. SARMIENTO: Madam President, all the proponents are now pooling all their amendments. They are now conferring with one another. May I ask that Commissioner Davide be recognized for his amendment on Section 2?

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, on the Romulo proposal, I am requesting a deferment of the consideration of Section 2, because my original intendment was to combine Sections 1 and 2. It would depend on the result of the Romulo proposal.

THE PRESIDENT: The Chair would like to know if the Committee has copies of Commissioner Davide's proposed amendment.

MS. NIEVA: Yes, we have.

MR. DAVIDE: Yes, it might be incorporated eventually in the Romulo proposal.

THE PRESIDENT: So, is Commissioner Davide submitting this formally so it can be taken up by the Committee?

MR. DAVIDE: After the Romulo proposal is approved, one way or the other.

MR. SARMIENTO: May I ask that Commissioner Romulo be recognized for his amendment to Section 2.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. SARMIENTO: Madam President, I am one of those who are proposing an amendment to Section 2.

THE PRESIDENT: The Commissioner may proceed.

MR. SARMIENTO: I request Commissioner Romulo to consider my amendment which is to use INCREMENTS THEREOF instead of "fruits." So, line 16 will read: "acquisition, ownership, use and disposition of property and INCREMENTS THEREOF."

THE PRESIDENT: We do not have the proposed amendment of Commissioner Romulo yet.

MR. SARMIENTO: Commissioner Romulo has already accepted my amendment, Madam President.

THE PRESIDENT: But what is his amendment? This is the problem of the Chair. The Chair is equally confused. We are not given copies of the proposed amendments, so how can we be expected to participate even just by way of making our own comments?

MR. SARMIENTO: Madam President, may I ask that we proceed to Section 3 because the proponents are pooling their amendments on Sections 1 and 2 and preparing a draft thereof?

THE PRESIDENT: Shall we proceed to Section 3?

MR. SARMIENTO: Madam President, I ask that Commissioner Davide be recognized for his amendment on Section 3.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

THE PRESIDENT: May I have a stenographer right here beside me?

MR. DAVIDE: The proposed amendment will actually cover Sections 3 and 4 or a combination of both. The same is contained in the mimeographed copies of this amendment.

It shall read:

SECTION_. IT SHALL BE THE DUTY OF THE STATE TO:

(A) AFFORD FULL PROTECTION TO LABOR, BOTH DOMESTIC AND OVERSEAS, ORGANIZED AND UNORGANIZED, AND TO PROMOTE FULL EMPLOYMENT AND EQUALITY OF EMPLOYMENT OPPORTUNITIES REGARDLESS OF SEX, AGE, RACE, CULTURE, CREED OR POLITICAL AFFILIATION;

B) GUARANTEE THE RIGHTS OF WORKERS OF ANY CLASS OR KIND TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND NEGOTIATIONS, PEACEFUL CONCERTED ACTIVITIES, FOR THE MUTUAL BENEFIT, WELFARE OR AID, SECURITY OF TENURE, JUST AND HUMANE CONDITIONS OF WORK, AND TO PARTICIPATION IN POLICY AND DECISION-MAKING PROCESSES AFFECTING

THEIR INTERESTS;

C) PROMOTE VOLUNTARY MODES OF SETTling DISPUTES BETWEEN WORKERS AND EMPLOYERS, INCLUDING CONCILIATIONS, AND ENFORCE MUTUAL COMPLIANCE THEREOF;

D) REGULATE RELATIONS BETWEEN WORKERS AND EMPLOYERS IN A MANNER THAT RECOGNIZES THE MUTUALITY OF THE RIGHTS OF WORKERS TO JUST RETURNS OF THEIR LABOR AND EMPLOYERS TO REALIZE THEIR GROWTH POTENTIAL AND REASONABLE RETURNS ON INVESTMENTS; AND

E) PROVIDE FOR COMPULSORY ARBITRATION BETWEEN WORKERS AND EMPLOYERS IN SUCH CASES WHERE THE STABILITY OF THE GOVERNMENT OR ANY OF ITS AGENCIES, OR THE PUBLIC INTEREST, GENERAL WELFARE OR COMMON GOOD IS SERIOUSLY AFFECTED.

THE PRESIDENT: Have copies been distributed to the Commissioners?

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: Do all the Commissioners have copies of this proposed amendment of Commissioner Davide?

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: I am sorry I came late. I also submitted an amendment combining Section 1 with Section 2. I would like to present it before the Committee for consideration if the Chair would permit me.

THE PRESIDENT: We will take that up later; we will settle first the proposed amendment of Commissioner Davide. We are not voting on the amendments right now.

Does Commissioner Davide desire to explain his proposed amendment by substitution?

MR. DAVIDE: Yes, Madam President.

This is just to enumerate the duty of the State with respect to labor. Aside from the Committee's proposal in the matter of full employment and equality of employment opportunities, I have added RACE AND POLITICAL AFFILIATION. This is very important because in the Philippines we have two classes of citizens: the natural-born and the naturalized Filipinos who may belong to a particular nationality or race, and so the Constitution, insofar as labor is concerned, must also assure protection to those citizens belonging to another race. The inclusion of political affiliation is necessary in order to avoid the possibility that by reason of one's political affiliation, he may be discriminated upon.

On another point, this Member has, in effect, deleted the phrase, "including the right to strike," because it is my sentiment and it is my view that "strike" is already included in concerted activities. Jurisprudence is well settled that strike is only one of the means of indicating or demonstrating a concerted act or activity of labor, so that would not be necessary. As a matter of fact, to include the phrase "including the right to strike" may only provide greater room for misapprehension and misunderstanding because it may be believed that the State would no longer have the right in the exercise of its police powers to prevent strikes in certain areas. By excluding the phrase "including the right to strike," we can really strike a balance where in some instances, like in cases involving the exercise of purely constituent or governmental functions, we leave to Congress the authority to determine whether strikes may be allowed there or not. But excluding that particular phrase does not mean that we already deleted or rather prohibited the right to strike because, as I said, it is included in "concerted activities."

This proposal also recommends the restoration of compulsory arbitration in certain cases. This is again in the light of settled provisions of the 1935 and the 1973 Constitutions which I believe must be restored because the State may not at all be given that exclusive power in certain cases. Its deletion in the proposed provision might again be the subject of a misapprehension or misunderstanding that since the same authority was vested in the 1935 and in the 1973 Constitutions, its deletion may amount to a prohibition of that particular right. So, in order to preserve the very meritorious intent of compulsory arbitration, it is proposed that we retain that particular power.

BISHOP BACANI: May I ask Commissioner Davide two questions? When the Commissioner refers to the equality of employment opportunities regardless of race, would that mean that a noncitizen would be deemed under our laws to have the same opportunities for employment as a citizen?

MR. DAVIDE: What I added are only the words RACE and POLITICAL AFFILIATION.

BISHOP BACANI: But suppose a person is of another race and he is not a Filipino citizen, will the matter of citizenship be the more preponderant consideration?

MR. DAVIDE: Precisely I included the word RACE because there might be a distinction between a natural-born Filipino citizen and a naturalized citizen. So to be very clear about it, we should add the word RACE.

BISHOP BACANI: So that is the point of the Commissioner?

MR. DAVIDE: Yes.

BISHOP BACANI: May I be clarified also on the deletion of the words "including the right to strike." Even with that deletion, is the Commissioner nevertheless really including the right to strike?

MR. DAVIDE: Yes, as a matter of fact, the language of the original proposal already indicates that that right is there. So it is included already in the phrase "concerted activities."

BISHOP BACANI: Thank you.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: May I ask a question of the proponent.

In the 1973 Constitution, the duty of the State to afford protection to labor is found on Section 9, Article II under Declaration of Principles and State Policies which reads:

The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration.

We do not have yet the report of our Committee on Declaration of Principles. Where does the Commissioner think this particular provision should be incorporated? Should it be in the Article on Social Justice or, as indicated in the 1973 Constitution, in the Article on Declaration of Principles and State Policies?

MR. DAVIDE: In the light of the special importance that we are giving now to social justice and the necessity of emphasizing the scope and role of social justice in national development, I strongly believe that it should be here in the Article on Social Justice and not just in the Article on Declaration of Principles and State Policies.

MR. RODRIGO: I think the Chairman of the Committee on Declaration of Principles and State Policies is

Commissioner Rosales and the Vice Chairman is Commissioner Tingson. So, they can just get together and decide where it will be included.

MR. ROSALES: It should be in the Article on Social Justice. In the 1973 Constitution, there was no separate article on social justice. There is such an article now, and we concede this declaration in favor of the Article on Social Justice.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would just like to make some comments on the presentation of Commissioner Davide.

The body must know that we have had about four public hearings involving labor. In all these public hearings, the people have been very strong in their position that their right to strike should be really spelled out in the Constitution. As a matter of fact, they did comment that in other Constitutions of the world, such right has been very explicitly mentioned.

The Constitution of Uruguay says:

The strike is declared to be a right of trade unions. Regulations should be made governing its exercise and effect on that basis.

The Constitution of Argentina under Article XIV, the Declaration of Rights and Guarantees, states:

Trade Unions or gremios are hereby guaranteed the right to conclude collective labor agreements; the right to resort to conciliation and arbitration and the right to strike.

The Constitution of the Turkish Federated State of Cyprus states that:

(1) Employees shall have the right to collective agreement and to strike in their relations with employers for the purpose of protecting and improving their economic and social status. (2) Their exercise of the right to strike may be regulated by law for the purpose only of safeguarding the security of the State or the Constitutional order of the public order or the rights and liberties guaranteed by this Constitution to any person.

The Constitution of Costa Rica under Article LXI thereof states:

The right of employers to lock out and of workers to strike is recognized, except in public services, in accordance with provisions of law and regulations on the subject.

So, would Commissioner Davide be amenable to the retention of the earlier provision which includes the right to strike, except that we provide a clause that would spell out that the law would provide limitations?

MR. DAVIDE: I would be willing to accept that proposal and stand that, in one of the Constitutions referred to, excluded in the right to strike are those in the public services.

If the Committee would be amenable to putting INCLUDING THE RIGHT TO STRIKE, EXCEPT IN MATTERS INVOLVING PUBLIC SERVICES, I would have no objection.

MS. QUESADA: But that would run counter to the general spirit or intention of the Article on the Civil Service which did not specify whether it would grant such right to civil servants. According to Commissioner Foz, they were silent on this. Although civil servants have the right to self-organization, that Article did not spell out whether or not they have the right to strike.

MR. DAVIDE: That would not really be inconsistent because of the silence of the Article on the Civil Service.

So, I think the proper area really for the spelling out of the exception will be here; that is, if the thinking of the Committee is to exclude public services from the scope of strike. As a matter of fact, personally I would even say that it should apply only in instances which would involve the exercise of governmental functions or constituent functions.

MS. QUESADA: The earlier proviso in the original draft only excluded the Armed Forces and the civil defense.

MR. DAVIDE: I would rather opt for functions involving exercise of constituent functions or governmental functions.

MR. BENGZON: Madam President, the Committee is also divided on this issue. So, I would suggest that we leave the discussion on that particular point. When the proper time comes, we can just throw that matter on the floor.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Since the Committee is going to study this matter, I would like to add a point.

If I heard Commissioner Quesada correctly, she read one of the provisions of a constitution in Latin America. In mentioning strikes, she also mentioned lockouts. So, that is something which should also be studied by the Committee. I think during the interpellations, this was brought out by one of the Commissioners, that if we guarantee the right to strike, should we not also protect or guarantee the right to lock out? I am just submitting that for the study of the Committee.

MR. SARMIENTO: Madam President, I ask that Commissioner Foz be recognized.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Madam President, my proposed amendment would only affect the last sentence of Section 4. It would actually be rearranged, but it is not a matter of style because some substantive ideas are sought to be incorporated. My proposed amendment is as follows: THE STATE SHALL REGULATE THE RELATIONS BETWEEN LABOR AND CAPITAL, RECOGNIZE VOLUNTARY MODES OF RESOLVING LABOR OR INDUSTRIAL DISPUTES, ENSURE MUTUAL COMPLIANCE THEREWITH AND PROVIDE FOR COMPULSORY ARBITRATION ONLY IN NATIONAL INTEREST DISPUTES. Then another sentence follows: THE STATE RECOGNIZES THE PRIMACY OF THE RIGHT OF LABOR TO ITS SHARE OF THE FRUITS OF PRODUCTION AND THE CORRESPONDING RIGHT OF CAPITAL TO A REASONABLE RETURN ON INVESTMENT.

Madam President, may I give a brief explanation of my proposed amendment. This clause, to the effect that the State shall regulate the relations between labor and capital, is actually nothing new. This is still the subject of a lot of decisions and commentaries in the sense that the relations between labor and capital are not merely contractual. This is something invested or affected by public interest, and so this gives the State, through the government, the right to impose certain minimum regulations or rules to be followed by both sides for the orderly relationship between them, so that the larger interest of society or the community is not adversely affected. On the second phrase: RECOGNIZE VOLUNTARY MODES OF RESOLVING LABOR OR INDUSTRIAL DISPUTES, instead of the word "promote" as contained in the draft provision of the Committee, I would use the word RECOGNIZE to stress the fact that both sides, labor and capital, are actually in a position to resort to certain methods on their own, without intervention of the government, to peacefully and promptly resolve whatever differences they have in their day-to-day relations and in their long-term relations in the work scene. And because

the government recognizes these voluntary modes of resolving disputes, then it is incumbent upon the government to insure that both parties comply with what they have agreed upon which is actually the law between the parties.

As to compulsory arbitration, my amendment would limit it only in the so-called national interest disputes or cases. The phrase "national interest disputes" is well recognized in our labor law jurisprudence as referring to certain cases which affect the national interest way above the interest of labor or capital. The last sentence is just a rewording of what is already contained in the draft provision of the Committee. But just the same, I use the phrase "RECOGNIZES THE PRIMACY OF THE RIGHT OF LABOR" to give stress to the primacy of the right of labor to share the fruits of production. I add the words OF PRODUCTION after the word "fruits," and, of course, the corresponding right of capital to a reasonable return on investments.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: For Commissioner Foz, may I just clarify the intention of the Committee in deleting the provision on compulsory arbitration to facilitate the harmonization of our interest. This is as far as the Committee's intention is concerned. I have initially discussed this with Commissioner Davide and he is amenable likewise to delete a provision on compulsory arbitration on the firm and strong commitment that the intention of an express provision on voluntary modes of settling disputes does not exclude the right of the State to provide for compulsory arbitration in situations where it may be warranted such as when it involves a threat to the national interest or to the national welfare. Would the Commissioner not be amenable to the deletion of that provision on this strong commitment that the State, in any case, is not precluded from providing for compulsory arbitration anyway?

MR. FOZ: We must remember that the provision on compulsory arbitration is contained in both the 1935 and the 1973 Constitutions.

MS. AQUINO: Yes.

MR. FOZ: If the new Constitution would no longer expressly provide for compulsory arbitration, the implication might be that we are no longer authorizing or empowering the State to resort to compulsory arbitration as a means of resolving labor or industrial disputes.

MS. AQUINO: Madam President, I sympathize with the difficulty of Commissioner Foz, but if only to focus on the essentials, it will help us to be reminded that the provision in the 1935 Constitution, which is in the Article on General Provisions, and the provision in the 1973 Constitution which is a section in the Article on the Declaration of Principles are express provisos in terms of "may." Both say "The State may provide." In other words, both in the 1935 and in the 1973 provisions, there was an implicit reservation of the right to provide for compulsory arbitration. In fact, the jurisprudence would bear out that the intention is to give preference and priority still to voluntary modes of settling labor disputes. It is just that in the nature of a compulsory arbitration which is, shall we say, direct interference of the State, there was an explicit proviso to allow the State to interfere. However, even as there is an omission of a proviso on voluntary modes in both the Constitutions, it did not likewise exclude voluntary modes of settling labor disputes. What we are proposing here in the new draft is a 180-degree turnabout, by voluntary modes without precluding compulsory modes.

MR. FOZ: If that is the interpretation of the Committee, that while emphasizing voluntary arbitration for solving labor and industrial disputes, we do not rule out completely the reserved authority and power of the government to provide for compulsory arbitration, then I am amenable to delete the term "compulsory arbitration."

MS. AQUINO: Thank you, Madam President; I also thank the Commissioner.

MR. BENGZON: May we request Commissioner Foz to give his proposed amendment to the Secretariat so that we can have it in the Committee.

MR. FOZ: I have submitted a copy to the Secretariat for action.

MR. BENGZON: Thank you.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Commissioner Rodrigo invited our attention to Section 9 on the Declaration of Principles and State Policies of the 1973 Constitution, which reads:

The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities, regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration.

According to Commissioner Rosales, the Chairman of the Committee on Declaration of Principles and State Policies, because of this special Article on Social Justice, they would have no objection to transferring Section 9 under the fundamental principles to a paragraph or to a section on social justice.

In my opinion, the Declaration of Principles is stronger than another paragraph or section in the Constitution because these are fundamental principles. My suggestion is, after Section 1, whatever appears in Section 2 with regard to labor, we just adopt Section 9 to cover the social justice on labor. I understand that Commissioner Lerum, who is known for his concern for labor, will have no objection to such a suggestion. In other words, instead of rewriting Section 9 and making it much longer and more complicated, I wonder if the Committee will consider the transposition of Section 9 of the Article on the Declaration of Principles to the Article on Social Justice.

MR. BENGZON: We will consider that, Madam President.

MR. LERUM: Madam President, may I comment on the statement of Commissioner Padilla?

THE PRESIDENT: The Commissioner may proceed.

MR. LERUM: I told the Commissioner that I am in favor of having that incorporated in the Article on Social Justice, but it does not prevent the inclusion later on of other provisions. Actually, that provision is all-embracing, and I think it covers several sections on social justice. So, my conformity is that it could be a part of the Article on Social Justice.

MR. PADILLA: But if this provision, this Section 9 — Declaration of Principles — is already all-embracing, pursuant thereto, regarding details or some measures to implement those principles, it will be for the Congress to enact the measures as suggested in the Romulo amendment to Section 1. We declare the fundamentals or the objectives, and let us not burden the Constitution with so many additional words or additional paragraphs. Make it simple, of course, with the understanding that the Congress may always enact measures to implement these fundamental principles and objectives.

MR. BENGZON: We will consider, Madam President, in the Committee.

MR. PADILLA: Thank you.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. SARMIENTO: May I ask that Commissioner Nollado be recognized for an anterior amendment.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

I would like to express my gratitude for this opportunity of presenting an anterior amendment.

I came late, Madam President, because I was snarled in a traffic jam at EDSA.

I am presenting this amendment for serious consideration of the Committee, and the purpose of this amendment is to reflect the contents of the entire report of the Committee, and it is to the credit of the Committee that I am reproducing many of the words used by them. I hope that they will not be unduly influenced by the Romulo amendment. I would like to give emphasis to the words "regulating property" because I did not find them in the Romulo amendment.

I think the concept of property articulated even by the Vatican many years ago has already changed. The demands of the times indicate that we have to abandon the usual concept of property contemplated in the 1935 Constitution and the 1973 Constitution.

Before I present my amendment, I would like to cite for the record some statements indicating the stand of the Vatican, of the Pope, on the nature of property.

In the documents of Vatican II, it is stated:

By its very nature, private property has a social quality deriving from the law of the communal purpose of earthly goods. If the social quality is overlooked, property often becomes a source of greed and of serious disturbance. Thus, to those who attack the concept of private property, a pretext is given for calling the right itself into question.

In another paragraph, also from the documents of Vatican II, it is stated:

God intended the earth and all that it contains for the use of every human being and people. Thus, as all men follow justice and unite in charity, creative good should abound for them on a reasonable basis. Whatever the forms of ownership may be, as adopted to the legitimate institutions of people, according to diverse and changeable circumstances, attention must always be paid to the universal purpose for which creative goods are meant.

In using them, therefore, a man should regard his lawful possessions not merely as his own but also as common property, in the sense that they should accrue to the benefit of not only himself but of others.

My amendment consists of combining Sections 1 and 2 of the report of the Committee on Social Justice, because I think Section 2 is merely a sequel to Section 1 and, therefore, Sections 1 and 2 must go together.

I have reproduced many of the words of the Committee.

I would like the Commission to know that the Supreme Court of the Philippines, in the case of *de la Cruz vs. Paras*, on July 25, 1983, said that regulation does not mean control. There is no control involved- there is no prohibition involved. So, regulation for the common good is an expression that should find acceptance in modern Filipino society.

So, Section 1, as amended, should read: "Social Justice, as a social, economic, political AND moral imperative DESIGNED TO PROTECT AND ENHANCE THE INALIENABLE RIGHT TO HUMAN DIGNITY AS WELL

AS TO PROMOTE THE COMMON GOOD shall be CONSIDERED BY the State in national development. To this end, THE Congress shall give the highest priority to the reduction of social, economic and political inequities BY REGULATING THE ACQUISITION, OWNERSHIP, USE AND DISPOSITION OF PROPERTY AND ITS FRUITS, ESTABLISHING INDEPENDENT AND SELF-RELIANT SOCIO-POLITICAL AND ECONOMIC STRUCTURES, AFFORDING PROTECTION TO LABOR, WOMEN AND MINORS, UPLIFTING THE CONDITION OF THE POOR, PROTECTING THE HEALTH OF ALL THE CITIZENS AND RESPECTING THE RIGHTS OF INDIGENOUS COMMUNITIES."

Madam President, this provision reflects the entire contents of the report of the Committee on Social Justice. We will notice that the definition of "social justice" by Jose P. Laurel in *Calalang vs. Williams* talked only of social and economic structures or aspects. I commend the Committee on Social Justice for adding the political aspect as well. When Commissioner Regalado asked about the legal aspect, I think it is already included in the political aspect.

There are some good points in the Romulo amendment such as respect for human dignity and distribution of political power. I did not find the word "political"; I found only the word "power." So, I would be happier if the Romulo amendment will incorporate the power of the State to regulate property of any kind for the common good.

Thank you, Madam President.

THE PRESIDENT: What is the reaction of the Committee?

MR. BENGZON: Madam President, the Committee has more than enough enlightenment from Bible quotations. We will consider the . . .

MR. ROMULO: Just a point of clarification, Madam President. Actually, I did not amend Section 2. I was only concerned with Section 1. So, as far as I am concerned, Section 2 is still in the draft.

MS. NIEVA: Yes, we understand that, Commissioner Romulo.

MR. SARMIENTO: Madam President, may I ask that Commissioner Davide be recognized for his amendment on Section 5.

MS. QUESADA: Madam President, before we proceed to Section 5, may I be recognized.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would like to state some observations on Section 3, on labor, which I would like to put on record because these have not been brought out in earlier discussions. This is the inclusion in Section 3 of the State affording full protection to labor, both domestic and overseas. I would like to highlight the problem of Filipino overseas workers.

As a matter of fact, in our Committee, there was a proposal to have a separate section, particularly for the problems of overseas workers. But since we wanted to be brief but broad, we covered this as part of the provision on Section 3. The original intent was really for the State to recognize the right and welfare of Filipino overseas workers, and for the State to exercise firm control over manpower export and promote bilateral labor agreements with countries of employment. There is recognition that the problems of overseas or migrant workers are distinct and they have characteristics entirely different from domestic labor, more particularly under the social environment in which these migrant workers operate.

So, this section is with the understanding that the State should afford special protection to our overseas workers

who are not covered by Labor Code provisions precisely because they are operating in a foreign social environment.

This is just for the record, so that legislators will later on take note of this particular intention.

Thank you, Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: This is on Section 5, Madam President. This is an amendment by substitution.

MR. OPLE: Anterior amendment, Madam President.

THE PRESIDENT: What is the anterior amendment of Commissioner Ople? Is it on Section 4?

MR. DAVIDE: There is still a pending amendment to Sections 3 and 4 which the Committee is still studying.

THE PRESIDENT: Yes. Commissioner Ople, is it in connection with Section 4, Madam President.

THE PRESIDENT: Because no action is being taken by the Committee. We are just receiving amendments.

MR. OPLE: Yes, I will most graciously yield to Commissioner Davide if he wants to take precedence, but this will probably take just a minute of the Commission's time.

MR. DAVIDE: My amendment is with the Committee already.

MR. OPLE: Thank you, Commissioner Davide. Thank you, Madam President.

Actually, this amendment may not be necessary at all if the Committee, through Commissioner Aquino, in particular, can give a satisfactory answer.

In connection with Section 4, the Committee may have overlooked a major source of government intervention in labor disputes, usually in favor of management and against labor. I refer to judicial injunctions against strikes. Both the National Labor Relations Commission and the courts routinely issue injunctions against strikers with a view to terminating them by firing especially with respect to the right of the freedom of egress and ingress and warnings of violations of law in the picket lines, all of which have the effect of judicial intimidation of workers picketing a firm, which means that the hand of the law, in this case, an injunction by the courts, is seen as repressive of the right to picket. I therefore would like to inquire whether the authors of this Section 4 may have taken this into account and whether they agree that we should add a sentence or insert a new section which will prohibit the courts from enjoining strikes.

MS. AQUINO: Madam President, on behalf of the Committee, may I reply to Commissioner Ople?

THE PRESIDENT: Yes, Commissioner Aquino may proceed.

MS. AQUINO: I would have a lot of difficulty accepting his proposal for an expressed provision on the prohibition against court injunctions. In the first instance, it is a generally accepted principle of labor-management relations that the court cannot by judicial fiat enjoin labor disputes by way of return-to-work orders. Besides, there is a statutory provision in the Labor Code on this matter which prohibits courts from enjoining labor disputes.

MR. OPLE: Which the courts routinely disregard.

MS. AQUINO: Yes, in fact, the origin of the statute is the Norris-La Guardia Act.

My problem is that an expressed proviso which attains the level of a constitutional provision might unduly stymie

the possibilities of settlement of disputes which would involve national interest and national welfare. However, I would like to assure Commissioner Ople that when we say there should be preference for voluntary modes of settling disputes, the position is to reduce to the barest minimum State intervention and State interference in the settlement of labor-management conflicts.

MR. OPLE: And this includes court injunctions.

MS. AQUINO: This includes court injunctions.

MR. OPLE: If that is the intendment of the Committee and of the Commission, then I will not press this amendment, Madam President.

Thank you.

MS. AQUINO: I thank the Gentleman.

MR. LERUM: Madam President.

THE PRESIDENT. What is the pleasure of Commissioner Lerum?

MR. LERUM: May I make a comment? Under the Labor Code, the courts are prohibited from issuing injunctions. The injunctions that Commissioner Ople is talking about are injunctions issued by the Ministry of Labor. During the discussion of Cabinet Bill No. 45 which became B.P. Blg. 130, we objected to the power of the Minister of Labor to issue injunctions ordering striking workers to return to work. We objected to this strenuously, and we were even brought to Malacañang about this provision. What I am trying to say is that the injunctions were not issued by the court.

MR. OPLE: Commissioner Lerum is referring to injunctions issued by the NLRC.

THE PRESIDENT: Let us allow Commissioner Lerum to finish his sentence.

MR. LERUM: May I continue please? The other subject of injunction that the Gentleman is talking about is this: Whenever there is a strike and the gates of the factories are blocked or sometimes padlocked, laborers who are not involved in the strike — because most of the strikes are carried out by minority unions — have to get injunctions in order that they can get in the factory. That is the problem we had and that is also the problem at present. The problem then is that the Minister of Labor had been allowing this kind of obstruction. We have no objections to an injunction to remove the obstructions in violation of the law.

I hope Minister Ople will remember that when we talked about Cabinet Bill No. 49 which became B.P. Blg. 227, I objected to the provision which says that ingress and egress to a strike-bound plant should not be obstructed. I said that that was unnecessary because that was already covered by the Penal Code. I said that if we put this provision in the law, the laborers will feel that the Batasang Pambansa is the author of this provision when, in fact, that is already covered by the Penal Code.

So, my point is that under the Labor Code, the courts are already prohibited from issuing injunctions.

MR. OPLE: Thank you for that reply.

MR. LERUM: What should be the subject now is the injunction issued by the Ministry of Labor.

MR. OPLE: Yes, thank you for that reply.

Of course, I exonerate Commissioner Lerum from any blemish of B.P. Blg. 227, which we helped put together during the Batasang Pambansa days. Commissioner Aquino and I took cognizance earlier that the Labor Code

does explicitly prohibit court injunctions against strikes. But this is not the same as saying that this is not ignored. At the same time, Commissioner Lerum is right that the more likely source of injunctions is the National Labor Relations Commission, which is the quasi-judicial body attached to the Ministry of Labor empowered to issue injunctions.

The trend of my questioning, directed to the Committee, precisely embraces the injunctions issued both by the regular courts and the National Labor Relations Commission. The way I understood the reply of the Committee, through Commissioner Aquino, is that under Section 4 now, even the National Labor Relations Commission should not issue injunctions. It is on that understanding that I withdraw my proposed amendment, Madam President.

Thank you.

MR. FOZ: Madam President, may I be allowed to make a short comment?

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I think it is safe to say that under existing law — referring to the Labor Code — the entire range of labor-management relations is already out of judicial competence. There is no single case or instance of a labor dispute which the courts or the judiciary is allowed by existing law to resolve. Under our provision here, the proposed Section 4, there is nothing to prevent the Congress from changing all that so that the judiciary may be empowered by Congress to provide that labor cases may be or shall be decided by the regular courts. But under existing law, the Labor Code, no courts are authorized to resolve a labor dispute.

Thank you, Madam President.

MR. SARMIENTO: May I ask that Commissioner Davide be recognized?

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President. This is just an amendment to Section 5.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: May I be allowed some kind of a redirect on the matter because the manifestations of Commissioner Foz are fraught with danger that might be susceptible to misinterpretations of the mandate of the Constitution on the labor provisions.

THE PRESIDENT: Commissioner Aquino may proceed.

MS. AQUINO: I am in full agreement with the first part of his manifestation and it is correct to say that to a certain extent the spectrum of labor-management relations has been virtually taken out of the jurisdiction of the court, except when there is a specific law which vests in the court jurisdiction over that certain matter. However, it is not correct to say that Congress may at any time overturn the constitutional mandate on the sanctity of labor-management relations and the primacy of the voluntary modes of settling labor disputes over the compulsory modes. It will in effect disturb the established interpretation which we have put on record to enrich the intention of the provisions now being proposed. It should remain that the Committee's intention is to really vest authority and jurisdiction over the resolution of labor disputes in the various modalities of voluntary and free collective bargaining reducing to the barest minimum State interference in the form of compulsory arbitration as to even prohibit court injunctions or injunctions issued by the Ministry of Labor.

MR. FOZ: Madam President, in response to the statement made by Commissioner Aquino, there is nothing to prevent Congress from passing a law authorizing the courts to handle compulsory arbitration.

Thank you.

MR. DAVIDE: May I proceed to Section 5?

THE PRESIDENT: Will Commissioner Davide now proceed without any interruption?

MR. DAVIDE: The proposed amendment would be by substitution. I already submitted to the Committee the proposal. It reads: THE STATE SHALL UNDERTAKE A GENUINE AGRARIAN AND LAND REFORM PROGRAM UNDER WHICH FARMERS AND FARMHOLDERS, WITH PRIORITY TO THE LANDLESS, MAY OWN INDIVIDUALLY OR COLLECTIVELY THE LANDS THEY TILL. SUCH PROGRAM SHALL COVER ALL AGRICULTURAL LANDS WHICH, SUBJECT TO SUCH LIMITATIONS AS CONGRESS MAY PRESCRIBE TAKING INTO ACCOUNT CONSERVATION, ECOLOGICAL AND DEVELOPMENTAL REQUIREMENTS, SHALL BE EQUITABLY DISTRIBUTED, UPON PAYMENT OF JUST COMPENSATION IN RESPECT TO PRIVATE LANDS.

MR. TADEO: Madam President, minsan pa gusto kong ipaliwanag ang agrarian and natural resources reforms bago ko sagutin si Commissioner Davide upang maiwasan ang kaguluhan sa isang napakaselan at napakahalagang seksyon sa ating Saligang Batas.

Kung sinasabi nating si Kristo ay liberating dahil ang api ay lalaya at ang mga bihag ay mangaliligtas, sinabi rin ni Commissioner Felicitas Aquino na kung ang history ay liberating, dapat ding maging liberating ang Saligang Batas. Ang magpapalaya sa atin ay ang agrarian and natural resources reforms.

The primary, foremost and paramount principles and objectives are contained on lines 19 to 22: "primacy of the rights of farmers and farmworkers to own directly or collectively the lands they till." Ito ang kauna-unahan at pinakamahalagang prinsipyo at layunin ng isang tunay na reporma sa lupa — na ang nagbubungkal ng lupa ay maging may-ari nito.

Ano naman ang ibig sabihin ng "farmworker"? Dito nagkakaroon ng problema. Alam natin na ang farmers ang tiller of the soil. Ayon sa Kilusang Magbubukid ng Pilipinas, dalawa ang ibig sabihin ng "magbubukid": tiller of the soil at manggagawang bukid o farm worker. Kaya ang ibig sabihin ng magbubukid ay farmer at farm worker; to own directly means magmay-ari. Ang ibig sabihin nito ay maaari kong ariin ang isang ektaryang lupa, halimbawa.

Sa salitang "farmworkers," hindi kasama rito ang hired laborer, ang seasonal laborer at ang mga sakada. Ano ang ibig sabihin ng farm workers? Ito ay ang mga regular farm workers. Mas mahalaga ang kanyang tungkulin sa produksyon kung ihahambing sa hired laborer. Ano ang ibig sabihin ng "collectively"? Ang ibig sabihin nito ay ang sama-samang paggawa batay sa tenant prerogatives; sa tanim tulad ng asukal, pinya at saging; at sa sukat ng lupa sapagkat kung ito ay maliit, makakamit ng mga magbubukid ang economies of scale sa sama-samang paggawa. Iyan ang ibig sabihin ng "collectively."

Tungkol naman sa sinasabing "just distribution of all agricultural lands," ang ibig sabihin nito ay tuluyan nang wawasakin ang tinatawag na land monopoly. On lines 23 and 24, the term "retention limits" ay nangangahulugang binibigyan ng proteksiyon ang maliit na panginoon ng lupa lalo na ang owner-cultivator na maiiwanan ng lupang maaari niyang sakahin. Ang pangalawang napakahalagang nagbibigay proteksiyon sa panginoon ng lupa ay ang "fair and progressive system of compensation." Ito ay hindi just compensation na nangangahulugang fair market value sa jurisprudence. Ang batas ay pasulong at hindi paatras sa ilalim ng right of preemption and right of

redemption. Ang ibig sabihin nito ay kailangan ang reasonable capacity of the tenant to pay. Ayon sa mga linyang 23 at 24, kapag maliit ang lupa, malaki ang halaga nito; at habang lumalaki ang lupa, lumiliit ang halaga nito upang mabigyan ng proteksiyon ang tenant-beneficiaries.

Ang Section 6 ay nagsasabi ng mga component ng agrarian reform; hindi sapat lamang ang agrarian reform.

MR. DAVIDE: My amendment is only on Section 5 yet.

MR. TADEO: Kung maaari lamang ipaliliwanag ko munang lahat. Magpapaliwanag muna ako upang malutas ang kaguluhan sa dalawang araw nating pagtatalakayan. Ito ang layunin ko.

Ang ibig sabihin ng Section 6 ay may mga component ang agrarian reform gaya ng farmers' and farm workers' participation in planning, organizing and management of the program, plus appropriate technical assistance, adequate financial and marketing assistance. Ito ang mga component ng isang matagumpay na programa.

Ang Section 7 ay tungkol sa pagbibigay o disposisyon ng ibang natural resources, public domain and public lands sa tatlong milyong tao. Ito ay ang pagpapatupad ng prinsipyong "land for the landless."

Bumalik tayo ngayon sa Section 5. Gaya ng sinabi ko, nawawala rito ang primacy of the rights of farmers and farm workers. Inalis na ba ng Ginoo ang land reform?

MR. DAVIDE: By the way, I would like to make a correction. Instead of "FARM HOLDERS," it should be "FARMWORKERS."

MR. TADEO: Iminungkahi ng Ginoo na tanggalin na ang "natural resources" subalit isinama namin ito sa kadahilanang saan natin dadalhin ang tatlo hanggang apat na milyong landless agricultural workers?

MR. DAVIDE: That is on the title only, not on Section 5.

MR. TADEO: Hindi na kasi ginamit ng Ginoo ang "land reform"; mas tamang salita ang "agrarian reform." Ang ibig sabihin ng land reform ay problema sa lupa lamang; ang ibig sabihin ng agrarian reform is the land in relation to farmers and farm workers.

MR. DAVIDE: That is correct.

MR. TADEO: Kayat sa "agrarian reform," kasama na rito ang relasyon ng lupa sa tao at sa lipunan, sa pangkalahatan. Subalit nakita kong nawala ang una.

Iminungkahi rin ng Ginoo ang mga salitang "MAY OWN" subalit parang nahihinaan ako rito, hindi potent. Dapat ay MUST OWN dahil hindi potent ang "MAY."

Inalis din ng Ginoo ang "retention limits." Sa akin ay napakahalaga ng "retention limits." Kapag ang panginoon ng lupa ay hindi nagbubungkal ng lupa, hindi siya magkakaroon ng retention limit. Ang ibig nating sabihin ay subject to such limitation, mayroong karapatan ang owner-cultivator na maiwan ang pagsasaka.

MR. DAVIDE: May I respond now?

Madam President, the proposal would even strengthen the concept of reform. I insisted on the addition of LAND because there is really a distinction between agrarian reform and land reform. Obviously, agrarian reform will relate only to instances of lands where we have somebody working there who is not the owner of the property. But in land reform, we allow the distribution even of public lands to the landless, or to those who are qualified to acquire, especially to farm workers and farmers who do not own their own land or who are only working on another's land. So, we broaden the effect of land and agrarian reforms because, I repeat, technically speaking, there is a distinction — a wide distinction — between agrarian reform on the one hand, and ordinary land reform on

the other hand.

Secondly, in this particular case, we did not delete the concept of the primacy of the rights of farmers and farm workers. In other words, this only confirms the existence of the right, as worded; it is confirmatory of that right. There is no need to reemphasize that right because that right is conceded, and it now becomes the duty of the State to undertake these genuine and authentic land and agrarian reforms. We do not need to state "retention limits" because in the course of the interpellations, Commissioner Tadeo always emphasized that it will be left to the Congress. So, we will leave it to the Congress. I am sure that the matter of retention would be among those to be taken up, especially taking into account the provisions on the national patrimony with respect to public lands and privately owned lands.

Under my proposal, we do not even compel the payment of just and progressive compensation if it would be for public lands. The State would have the sole authority, the discretion even, to distribute these lands freely. But under the original proposal, the farmers and farm workers are required to pay just and progressive compensation even for public lands. Under my proposal, we leave it to the State; we leave it to the Congress to decide whether to require payment for it or not. But with respect to private lands, we should not go against the mandate of the Bill of Rights on just compensation. After all, it would be the State that will expropriate; it is the State that will pay, and it is now for the State to determine how reimbursement of such payments will be made by the farmers or the farm workers to the government. So, it should not be said that I am trying to delimit or diminish the impact of the original proposal; I am even helping broaden its impact.

MR. TADEO: Nagpapasalamat ako kay Commissioner Davide.

Marahil ay mayroon tayong suliranin dito. Ang pag-uusapan natin dito ay iyong natural resources o land. Palagay ko, ito ang magiging problema natin.

MR. DAVIDE: Yes. That should belong to the Article on National Economy and Patrimony, a copy of which I brought with me. I believe that the proper area for this would really be the Article on National Economy and Patrimony. I have here Committee Report No. 24 of the Committee on the National Economy and Patrimony. I believe that the objectives of the Committee on Social Justice are all embodied in the proposed Article on National Economy and Patrimony which is even broader in effect. So, we have to give due recognition also to the proposed Article on National Economy and Patrimony. I understand that Commissioner Villegas would support this particular view that the provisions in the proposed Article on National Economy and Patrimony would even be broader than what is recommended. So, we should delete "natural resources reform" and transfer it to the Article on National Economy and Patrimony.

MR. TADEO: Iilan na lamang ang hindi natin napagkakasunduan dito. Para akong nahihinaan sa salitang "may" kayat baka maaari itong gawing MUST.

MR. DAVIDE: It can be changed to SHALL. I agree.

MR. TADEO: Maliwanag na nandito iyong primacy of the rights.

MR. DAVIDE: Certainly, it is inherent, it is conceded, and that is why we give a mandate. We make it a duty on the part of the State to respect that particular right.

MR. TADEO: Pinasasalamatan ko si Commissioner Davide.

MR. BENGZON: Am I to understand that perhaps the underlying reason why the Gentleman used the word "may" is that he is envisioning a situation where there may be some farmers who may not wish to have . . .

MR. DAVIDE: To enjoy the benefit.

MR. BENGZON: Yes.

MR. DAVIDE: That is really at the back of my mind but we can put it there as SHALL.

MR. BENGZON: But that is the underlying reason why the Gentleman placed the word.

MR. DAVIDE: Yes, certainly, because we also cannot compel a farmer to avail of the advantage or the right if he does not want to.

MR. BENGZON: Thank you.

MR. RODRIGO: Madam President, may I ask a few questions for clarification in the record?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: On the fourth line of the proposed amendment, the two words "to own" have been a subject of much misunderstanding in Central Luzon, particularly in my home province of Bulacan. As was stated by Commissioner Ople, I was one of the small landowners in Bulacan whose land was subjected to land reform; I agreed to relinquish those lands voluntarily. However, after the tenants obtained their Land Transfer Certificates, most of them came back to me, disillusioned, disappointed, even bitter. They said:

"Hindi pala kami ang tunay na may-ari ng lupa." This has reference to the word "own." "Hindi pala kami ang may-ari ng lupa. Ngayon lang namin nalaman na ito palang lupa ay hindi mamamahin ng aming mga anak kapag kami ay namatay." "Tulad ko halimbawa," sabi ng isa, "lima ang aking anak. Itong napunta sa aking bukid ay dalawang ektarya lamang. Akala ko ba kapag ako ay namatay, ito ay mamamahin ng aking limang anak; hindi pala."

Under the law, there is a system of primogeniture. If the recipient of this land has five children and he dies, his five children will not automatically inherit the land intestate. No, the procedure will be something like this. If none of the five children wants to cultivate the land, then the land goes back to the Samahang Nasyon at pipiliin ng Samahang Nasyon kung sino ang taong pagbibigyan ng lupa upang ito ay sakahin.

If, let us say, out of the five children, three would like to cultivate the land, only one would be entitled and that is the eldest. Primogeniture. May nangyari nang ganyan. Yaong panganay ang nakakuha ng lupa. At ang kadalasang sinasabi ng apat na mas nakababatang kapatid: "Suklian mo kami. Ikaw naman ang nakakuha ng lupa ng mga magulang natin, kaya dapat ay suklian mo naman kami." Kayat iyan ang mga problema.

That is why I want a clarification on the record of that word "own" because it has been the cause of much disillusionment and misunderstanding. At the same time, paano naman kung maaari itong manahin ng mga anak subalit dalawang ektarya lamang ang lupa at ang anak ay lima? Masyado nang maliit ang magiging saka ng bawat isa. At sa susunod na saling lahi o henerasyon, lalong liliit ito.

At hindi lang iyon. Sabi pa ng iba: "Hindi pala kami ang may-ari kayat hindi pala namin maipagbibili ang lupa." Subalit hindi naman dapat payagang ipagbili ito sapagkat baka maipagbibili ito sa hindi naman nagbubungkal ng lupa. Bukod pa rito, may mga nagsasabing: "Hindi pala kami ang may-ari, gusto sana naming gawing residential lot ang kalahati ng lupa."

That is why I want to make clear in the Record the meaning of the word "own" because in law as well as in common understanding, if one is the owner, he has certain rights — the right to use, the right to sell, the right to inheritance, and if one has children, the right to bequeath.

Kayat iyan ang gusto kong itanong. What are the rights and what are the limitations of the rights of a farmer or a tiller who, let us say, becomes the beneficiary of two hectares of riceland which, according to this provision, he

will "own individually"? Ano ang kahulugan ng "own individually"? What is the scope of these words?

MR. TADEO: Pinasasalamatan ko si Commissioner Rodrigo sa napakagandang katanungan.

Nagkataon kasing ang lupain ng Ginoo ay sa Plaridel. Ako ay taga-Plaridel at nang ipairal ang reporma sa lupa ng panahon ni Macapagal, isa ako sa kauna-unahang technician. Nais kong ipaliwanag sa Ginoo na kaya hindi maaaring ipamana ang lupa ay dahil bawal ang land fragmentation.

MR. RODRIGO: Iyon nga ang sinabi ko.

MR. TADEO: Ayon sa RA 3844, ang economic family-size farm ay isang sukat ng lupang kayang tugunan ang pangunahing pangangailangan ng isang pamilyang may lima hanggang anim na miyembro, gaya ng food, clothing, shelter, education and hospitalization. Kapag pinayagan natin ang land fragmentation at ipinamana ang lupa sa limang anak, mawawala na ang economic family-size farm. Kaya ito ay proteksiyon. Ang ibig sabihin nito, kapanabay ng land reform ang pambansang industriyalisasyon. Kung ipamamana ang lupa, masisira na ang konsepto ng economic family-size farm.

Bakit naman hindi ito maaaring ipagbili? Ito ay proteksyon sa kanila upang kapag sila ay nagipit ay hindi nila maipagbibili ang pinagkukunan nila ng kanilang ikinabubuhay. Kayat binibigyan lamang natin sila ng proteksyon.

MR. RODRIGO: Maraming salamat.

Iyon din ang pagkakaalam ko. Gusto ko lang maging maliwanag ito sa Record upang hindi masawi ang pag-asa ng mga magsasaka na ang akala ay magiging sa kanila ang pag-aari ng lupa. Nais nating liwanagin na hindi ito complete ownership, limited rights lamang.

MR. TADEO: Salamat din po.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I heard Commissioner Tadeo state that this proposal of a fair and progressive system of compensation is a deviation from or is not in conformity with the basic concept of just compensation. He mentioned preemption or redemption. The Civil Code has recognized the rights of preemption and/or redemption in the law on sales in favor of a co-owner or an adjacent owner when a co-owner sells his share in the co-ownership or has a ready buyer for his undivided share. The right of preemption is for one of the co-owners to exercise that right before actual sale by offering to pay the same price offered by a prospective buyer to a co-owner. The right of redemption is exercised when the sale is consummated by a third person covering the portion of a co-owner of the undivided property. So, the rights of preemption and redemption are based on actual sale of property, and that is the meaning of just compensation, where a person who wants to sell and another who wants to buy can agree on the value of the property.

So, I want to clarify that these rights of preemption or redemption are not an infringement of the principle of just compensation. They are, in fact, a clear application of that principle of just compensation because there is a prospective sale or an actual sale which is voluntary and the parties have agreed on the value or the price thereof.

When this committee report says that the farmers or workers will "own the lands they till," I suppose we have to make a distinction, as Commissioner Davide said, between public lands and privately owned lands. If they are public lands, there will be no problem because they are part of the lands of the public domain which, if alienable, can and should be distributed for more cultivation and production. But with regard to privately owned lands, will this not violate the principle in the Bill of Rights regarding the exercise of eminent domain?

The three powers of government are taxation, police power and eminent domain. The Bill of Rights provides:

No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

And Section 2 states: "Private property shall not be taken for public use without just compensation."

Article 435 of the Civil Code provides for the same principle that private property may only be taken in the exercise of eminent domain by competent authority for a public purpose and upon payment of just compensation. Some people will say: "If we pass this section on agrarian reform in the Constitution, then it cannot be unconstitutional because it is in the Constitution." But it violates the principle of private property and the proper exercise of the right of eminent domain.

Should we not reconcile or harmonize both provisions? Otherwise, I am afraid that a provision that private lands be owned by the farm workers will be embodied erroneously in the 1986 Constitution, that provision will be unconstitutional or, at least, an illegal exercise of the purported right of eminent domain or expropriation.

The 1935 Constitution permits the distribution of big landed estates. But that provision, in many decisions of our courts, does not permit the distribution or division of private property for disposition to or to be allocated in favor of other persons because we will then be sacrificing the right of private property which is guaranteed in the Bill of Rights. I would like the Committee to consider.

MR. TADEO: Ibig ko lamang sagutin ang Ginoo na sa ilalim ng 1973 Constitution, nakalagay sa Declaration of Principles, Article II, Section 6, ang "equitably diffuse property ownership." Pahayag ito ng isang paninindigan ng isang saligang batas.

Tingnan natin ang social justice ayon sa Calalang vs. Williams case. Ang sumusunod ang naging desisyon sa nabanggit na kaso:

But the humanization of laws and the equalization of social and economic forces by the State, the promotion of the welfare of all the people, the adoption by the government of measures calculated to insure economic stability of all the component elements of society through the maintenance of the proper economic and social equilibrium . . .

Sinasabi rin natin sa *salus populi est suprema lex*, the voice of the people is the supreme law.

Ayon sa pananaliksik ni Mahar Mangahas,

The new Constitution should recognize that the people cannot be compelled to obey unjust laws or to acquiesce to action which are based on such unjust laws.

Again, the voice of the people is the supreme law. It is the people, not the law, who ultimately define social justice and how the law should be made and, wherever necessary, reformed to conform to the people's consensus of justice.

MR. PADILLA: Ang sinabi ng Ginoo, Madam President, speaks of all the people, all the components of society, and *salus populi est suprema lex*, the welfare of the people is the supreme law. That is why the government, the State, has the police power, in addition to taxation and eminent domain. Police power is precisely to promote the general welfare, which the Committee has been using as common good. But common good and general welfare is for all the people, all the components of society, not the privilege of one sector at the expense of others. That is very important because we must have a just and humane society. We must protect and promote the rights of labor, workers, fishermen and others. We have no objection to those principles of social justice but there must be, as the Calalang decision says, the equilibrium of all forces — social, economic, political, et cetera — so that we may have

stability, not anarchy on the one hand, nor despotism on the other.

Thank you.

MS. NIEVA: I thank Commissioner Padilla.

May we have any proposed amendment that the Gentleman may have. We would like to have it in writing, if possible, because we will be discussing this amendment this afternoon.

Thank you.

MR. PADILLA: I have not prepared an amendment because I feel that the basic concepts on expropriating private property for even the deserving farm workers under a system of compulsory land expropriation, private land expropriation, under a system of compulsory private land expropriation are, in my opinion, illegal and unconstitutional.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I think the concern of Commissioner Padilla is well taken care of in my proposal. Under my proposal, with respect to private lands, payment of just compensation is required

THE PRESIDENT: So, the Committee will study this particular proposed amendment of Commissioner Davide.

MS. NIEVA: Yes, we shall. We have it in written form.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. SARMIENTO: It is now 12: 15 p.m. I move for a suspension of the session until 2:30 p.m.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

May we remind the Commissioners that we are having our caucus with our luncheon at South Caucus Rooms A and B immediately after this session.

It was 12:16 p.m.

RESUMPTION OF SESSION

At 2:50 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Madam President, I will just manifest that Commissioner Ople and I have also submitted an amendment for Section 5 which is already with the Committee and everyone has been furnished a copy of it.

Thank you.

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

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

I am recommending to the Committee on Social Justice to combine Section 5 and 7 of its report because they are related to each other. This is for purposes of symmetry and legal craftsmanship but with substantial modifications which I~ would like to explain before this honorable Commission.

As combined, Sections 5 and 7 should read as follows: "The State shall undertake a genuine agrarian reform program founded on the rights of farmers and farmworkers to own directly or collectively the lands they till. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such EXEMPTIONS." My original amendment mentioned RETENTION LIMITS but upon consultation with a number of colleagues, I changed the term RETENTION LIMITS to EXEMPTIONS.

To continue: "AND PRIORITIES," which is a substantial amendment, then "as Congress may prescribe and subject to a fair and progressive system of compensation AS DEFINED BY LAW."

The second paragraph of this section should now read: THE PRINCIPLES OF AGRARIAN REFORM SHALL LIKEWISE APPLY TO LANDS OF THE PUBLIC DOMAIN UNDER LEASE OR CONCESSION, SUBJECT TO PRIOR RIGHTS OF SMALL SETTLERS OR LANDHOLDERS — there are Filipinos granted landholdings, homesteads, and they are not merely settlers — AND THE RIGHTS OF INDIGENOUS COMMUNITIES TO THEIR ANCESTRAL LANDS. IN APPROPRIATE CASES, THE PRINCIPLES OF AGRARIAN REFORM SHALL LIKEWISE APPLY IN THE DISPOSITION OF OTHER NATURAL RESOURCES. In the case of the last sentence, it seems to me that Commissioner Davide has a point when he said that this should be referred to the Committee on the National Economy and Patrimony. I have no objection if the Committee refers this to the Committee on the National Economy and Patrimony because it seems to me that the explanations of the Committee with respect to the application of the general principles of agrarian reform to the disposition of other natural resources is nebulous, but I have a feeling that the Gentleman must be referring to security of tenure when he provided for the application of principles of agrarian reform to the disposition of natural resources.

I would like to explain, Madam President, for a few minutes this proposed amendment. I am deeply concerned about the plight of small landholders because they constitute a great bulk of the middle class of Filipino society. I would like to quote the Journal of Saturday, August 2, 1986. It says on page 32:

On genuine land reform, Mr. Tadeo stated that Congress would enact a scheme for implementation. He stated that small landowners should not be apprehensive about the program since the scheme contemplated by the Committee would be implemented on them on its last phase when the country shall have reached the stage of industrialization. He stressed that the program would be implemented gradually.

I am concerned about these small landholders to whom we will present the Constitution for ratification. They now own their landholdings and their plight was brought to the fore in this Constitutional Commission by no less than our Journal Officer, Mr. Vicente Roy Kayaban, Jr., who distributed a dissertation on the plight of the small landholders.

I know very well that these small landholders have also some tenants and they are considered farmers in contemplation of the committee report. I would like to mention that I talked to some members of the Committee and they even articulated before this Commission that the retention limit with respect to small landholders should be seven hectares, perhaps influenced by the pertinent provisions of P.D. No. 27. Some of them recommended 10

hectares.

There are many factors to be considered in determining the retention limits or the exemptions that I mentioned in my proposed provision. I said that 24 hectares may cover lands that are not productive compared to two hectares that are highly productive, because there are lands that are not productive in the sense that they are stony and no matter how much fertilizer is used, the produce of the land may not even support a family with four or five members.

So, I think we should leave it to Congress to determine the extent of the exemption that should be granted, instead of Congress determining the intention of the Commission from separate statements coming from the members of the Committee.

I would like to quote the Supreme Court about these small landholders whose lands might be subject to agrarian reform, thereby creating a new set of impoverished people. By transferring one land from a group to another group of landless people, we thereby create another group of landless citizens, which is a grave injustice. The Supreme Court referred to these small landholders in the case of *Nilo vs. Court of Appeals*, speaking through Justice Gutierrez. According to the Supreme Court, these small landowners are teachers, clerks, nurses and other hardworking and frugal people who, in a lifetime of sacrifice, gathered their pitiful little savings and purchased small farms to supplement the inadequate pension from the Government Service Insurance System or the Social Security System.

The Supreme Court went further by saying that these landowners constitute part of the economic middle class which the government is trying to build. They deserve as much consideration as the tenants themselves in order not to create economic dislocation, where the tenants are solely favored while this particular group of land-owners is impoverished.

So, ladies and gentlemen, I think we should leave it to Congress to determine priorities and exemptions with respect to the implementation of the land reform program. I think this is a sane proposal. These landowners constitute a great bulk of the Filipino population. They are alarmed by the statement of Mr. Tadeo that their landholdings shall be subject to agrarian reform.

I am in favor of agrarian reform, a meaningful and genuine agrarian reform. But I think the Members of Congress should be given some leeway. They are not less patriotic as the members of the Committee or the Members of this Constitutional Commission. Besides, they can articulate more validly the sentiments of the people, they being elected by the people, and thereby enjoying the mandate of the people.

Some people outside say that the Members of this Commission do not enjoy a real mandate from the people, although I think that the people tacitly gave us that mandate. And so, I hope the Committee will seriously consider my reasonable amendments.

I would like to mention here, Madam President, that in yesterday's Manila Chronicle, quoting Minister Heherson Alvarez, of the 710,000 hectares of land that should come under the operation of P.D. No. 27, only 11,000 hectares are covered by land transfer certificates. That is the reason why I mentioned the word "priorities" in the amendment, in view of the statement of Minister Mitra that we should still finish land reform covering rice or corn land before we go to land reform of coconuts or sugarland. I think the supporting structures of the land reform program will entail a lot of expense, Madam President, and we cannot raise the false hopes of our people, in the words of Commissioner Rodrigo.

I want to be realistic on this aspect, although I am fully in favor of a genuine land reform program because with respect to sugar or coconut lands, we should leave much of the discretion to Congress because we may be bound

by certain international commitments on quota requirements. For example, we cannot apply the land reform program as understood with respect to rice or corn to sugar or coconut land or even to saltbed or to fishponds. I think much leeway should be given to Congress, because Congress has the facilities. Congress may have the technological knowledge or the expertise but we are subject to constraints of time and we are likewise subject to limitations of facilities. I think we should have more confidence in the representatives of the people.

Thank you, Madam President.

THE PRESIDENT: May I inform the body that we have just approved a rule in our caucus that we will limit the time for every speaker to ten minutes. Let us be guided, and I shall ask the Secretariat to put on the timer.

MS. NIEVA: Can we get the amendment of the Commissioner in writing? Is this a new one?

MR. NOLLEDO: I submitted the amendment in writing to the Committee. I will give the original to the Committee, and I hope this can be reproduced soon. Commissioner Gascon has the amendment. Instead of using "retention limits," upon consultation with some of my colleagues, I changed it to EXEMPTIONS for wider coverage.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May the Committee make a few remarks in response to the remarks of the Commissioner?

THE PRESIDENT: Please proceed.

MR. MONSOD: We just want to make a clarification. In Section 7, the Gentleman mentioned that he thought the intent of the Committee in mentioning "principles of agrarian reform" was merely to reiterate security of tenure. We just want to clarify that the Committee means more than that. Commissioner Tadeo answered the other day that natural resources may be of several types. These may be forestry, mining, lands of the public domain, but which are subject to alienation, lease or concession.

So with respect to lands and the public domain suitable to agriculture, it is the intention of the Committee that the principles of agrarian reform be practiced by the State itself when it does dispose or alienate lands of the public domain. The example is the Guthrie palm oil plantation of which 8,000 hectares were initially declared by decree to be alienable and disposable, but were disposed of in favor of the NDC. The NDC then went into an agreement with Guthrie on a 6040 basis. This is an example where, perhaps the State should at first have thought of the people who were there, that they should have been given an opportunity to have the ownership of this land since it was going to be alienated and disposed of anyway. The principal thing is that the State should start with its own backyard, if it is serious about agrarian reform.

In the case of other natural resources, let us say, forestry or mining, the intent of this provision is merely to say that in applying the principle of agrarian reform, the chief beneficiaries should be the people in the areas. So, instead of having absentee logging concessions owned by people from outside the area, the people in the area and the communities themselves should be considered, too, as the principal beneficiaries. The people may be entrusted with the land but need not be given to them by title. It can be the same kind of concession or rights that are now given under the law. If they are the ones given that right, we expect that they will take better care of the area because their children and grandchildren will still be there and, therefore, they would undertake activities like reforestation.

On Section 7, Commissioner Davide proposed that the words "natural resources" be amended and replaced with the word "land." The intent of the Committee is more than just "land"; it means other natural resources and lands

of the public domain suitable to agriculture, regardless of whether it be disposable or alienable, or under lease or concession. That is the intent of the Committee.

MR. NOLLEDO: I got the point, Madam President. At any rate, I am reproducing in my amendment almost the exact words of the Committee.

Thank you.

MR. MONSOD: May I also add another aspect to this. The Committee feels that there are several instances where it might be termed "an unjust acquisition," for example, if it is the product of political patronage or cronyism. If it is a product of a real, honest and bona fide transaction, certainly in the transition from a single beneficiary to the community as the principal beneficiary, there would be scope for just compensation.

MR. RAMA: Madam President, I would like to request all those who desire to present amendments to present the text of the same to the Secretariat to be immediately typed and distributed for more expeditious proceedings so that the Commissioners, besides the Committee members, can study them intelligently.

MR. NOLLEDO: For the information of the Floor Leader, Madam President, I submitted the amendment to the Committee. That amendment was given by the head of the Committee to Commissioner Tadeo.

MR. RAMA: Please submit them to the Secretariat who will distribute the same.

MR. NOLLEDO: Yes.

THE PRESIDENT: Who is our next speaker?

MR. RAMA: The next speaker, Madam President, is Commissioner Davide who started amending this particular section this morning.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: This is on Section 5, Madam President. I wonder if the Committee has already resolved the issue with regard to the amendments on changing the word "may" before "on" to SHALL, and "farmholders" to FARMWORKERS, and "justly" to EQUITABLY. The entire proposal on Section 5 will now read as follows:

THE STATE SHALL UNDERTAKE A GENUINE AGRARIAN AND LAND REFORM PROGRAM UNDER WHICH FARMERS AND FARMWORKERS, WITH PRIORITY TO THE LANDLESS, SHALL OWN INDIVIDUALLY OR COLLECTIVELY THE LANDS THEY TILL. SUCH PROGRAM SHALL COVER ALL AGRICULTURAL LANDS WHICH, SUBJECT TO SUCH LIMITATIONS AS CONGRESS MAY PRESCRIBE TAKING INTO ACCOUNT CONSERVATION, ECOLOGICAL AND DEVELOPMENTAL REQUIREMENTS, SHALL BE EQUITABLY DISTRIBUTED, UPON PAYMENT OF JUST COMPENSATION IN RESPECT TO PRIVATE LANDS.

THE PRESIDENT: Is there any reaction from the Committee?

MS. NIEVA: Madam President, we will consider that among the other amendments.

MR. TADEO: Ang problema lang ay tungkol sa "just compensation" dahil, sa ilalim ng P.D. No. 27 ni Ginoong Marcos, ang pagbabayad ng lupa ay ibinatay doon sa average harvest ng tatlong nakaraang ani times 2.5.

MR. DAVIDE: That was for leasehold.

MR. TADEO: Hindi, sa amortizing owner, kaya ito iyong Operation Land Transfer, under a certificate of land transfer. Ano ang halaga ng lupang babayaran for fifteen years with equal annual amortizations? Ang halaga nito

ay hindi sumusunod sa just compensation or fair market value. Actually, with six percent na naiwan sa principal, inaabot ito ng P13,000 to P15,000. Batay mismo sa karanasan mula noong 1972 hanggang doon sa umalis na diktadura, ang nakabayad lamang sang-ayon na rin kay Minister Heherson Alvarez ay nine percent, ang halaga lang ay P15,000, huhulugan mo pa sa loob ng 15 years. Kaya ang punto rito na suliranin ko ay iyong just compensation. Ang nakikita namin dito ay dapat gamitin ang RA 3844, ang right of preemption or right of redemption or reasonable capacity of the farmer to pay.

MR. DAVIDE: Madam President, since the use of the term "just compensation" is also in the Nollado proposal — and I understand this is also the proposal of Commissioner Padilla — I would request for a deferment until the Committee shall have taken into account and studied all the proposed amendments to Section 5.

MR. TADEO: Salamat po.

MR. BENGZON: Would Commissioner Davide be willing to go back to the old definition of "just compensation"?

MR. DAVIDE: Yes.

MR. BENGZON: Before that decree of President Marcos, did "just compensation" mean the true market value?

MR. DAVIDE: That should be aligned with the meaning of "just compensation" in the Bill of Rights.

MR. BENGZON: So that is the kind of meaning the Gentleman would impute to these words "just compensation" under the proposal.

MR. DAVIDE: Yes, that was the meaning indicated by the Chairman of the Committee when we took up the Article on the Bill of Rights.

MR. BENGZON: Thank you.

MR. MONSOD: May we also suggest that in the case of "just compensation," we merely state the compensation to be paid to the former landowner?

MR. DAVIDE: Yes.

MR. MONSOD: However, as far as the source of the repayment is concerned, it may be that the farmer is not able to afford the just compensation. This is a proper area where the State can come in, if it intends to give support or subsidy. That may be called for in order that the farmer will get a chance to own a piece of land. Besides, there might not be a strict correspondence between a just compensation for the landowner and the capacity of the farmer to pay.

MR. DAVIDE: As a matter of fact, the opening sentence of my proposal states: "It is the duty of the State." This means that the State should first expropriate, distribute and then the government will deal with the farmers or the farm workers as to the mode of reimbursement or refunding the amount that the government had paid to the landowner, which should be a more just and equitable arrangement for the farmers and the farm workers. It is now a duty.

MR. MONSOD: That is why I believe that this is consistent with the comments of Commissioner Tadeo because the objective of agrarian reform is equity. It is really not efficiency or production, but the first objective is equity. In that sense, the State may have to step in to help the farmer pay for the land.

MR. TADEO: Iyon ang ibig sabihin ng fair and progressive system of compensation. Kayat binibigyang proteksyon dito iyong owner-cultivator sapagkat kapag maliit ang lupa mo, mas mataas ang halaga. Pero,

kapanabay noon, binibigyan din ng proteksyon ang tenant-beneficiaries, iyong sinasabi ni Commissioner Monsod. Doon ngayon papasok ang government na tutulong upang magkaroon siya ng "reasonable capacity." Dahil sinasabi natin dito upang protektahan natin ang maliit na panginoong may lupa, kinakailangang maging mataas ang halaga ng kaniyang lupa, ngunit hindi kaya iyon ng tenant. Kayat makikita natin, tama iyong sinasabi ni Commissioner Monsod.

MR. DAVIDE: Under the proposal of Commissioner Tadeo, we would rather leave it to Congress to define what should be the compensation. If Commissioner Tadeo says the smaller the area, the higher the value, there seems to be no specific parameter for determining how small is small and where the value will be higher. So, the best is to define "just compensation" in the language of the Bill of Rights, and then leave it to Congress to restate how to require payment by way of reimbursement of the amount paid by the State to the landowner.

MR. RAMA: Madam President, may I ask that Commissioner Jamir be recognized for one clarificatory question.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR. I have one simple question addressed to Commissioner Davide. This morning, with respect to Section 5, Commissioner Davide used the phrase "may own," and I understand that he used the word "may" advisably because no individual should be compelled to own a parcel of land if he does not want to. Then, I understand that he has changed it to "shall own." Are we to understand now that individuals may be compelled to own lands?

MR. DAVIDE: Of course, a right may be waived, but the sense of the proposal is to clarify the mandate on the State. It is up to the farmer or the farm worker to enjoy the benefit or the privilege or the right.

MR. JAMIR: Thank you for the clarification.

MR. RAMA: Madam President, may I ask that Commissioner Maambong be recognized for another amendment.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Thank you, Madam President.

In Section 5, the word "genuine" is used to qualify the agrarian reform program, and this word has been carried over in the proposed amendment of Commissioner Davide and that of Commissioner Nollado. My only proposed amendment is to change the word "genuine" to CONTINUING so that it would read: CONTINUING agrarian reform program. This agrarian reform program has been with us for a long time. If my memory serves me right, in the prize-winning oration of then Senator Raul Manglapus in the Ateneo while he was still a student, he was already talking about agrarian reform in his piece entitled "Land of Bondage." And because of that oration, I understand President Quezon took notice of him. Yesterday, I mentioned the favorite Republic Act of Commissioner Tadeo — RA 3844, the Agricultural Land Reform Code. In 1971, we had the Code of Agrarian Reforms, RA Nos. 6389 and 6390, and then we had P.D. Nos. 2 and 27. So, it would not really be in keeping with correctness if we use the word "genuine" with the agrarian reform program. To my mind, we would rather use the proper term "continuing agrarian reform." If we say "genuine," it gives a sad commentary on the reform programs undertaken not only by President Marcos, but also by the previous Presidents of this Republic. I am submitting this for consideration but the Committee does not have to rule on it right now.

Thank you very much.

MR. TADEO: Commissioner Maambong, ang problema po kasi kapag sinabi mong "continuing" ang P.D. No. 27, ito'y tinawag ng mga magbubukid na "fake land reform." Ang ibig ba nating sabihin ay "continuing the fake land reform program," kaya ginagamit namin ang "genuine agrarian reform program"?

MR. MAAMBONG: While we can say for the record what the Commissioner just said: that is, that it is "fake," yet he has always been quoting RA 3844 since the beginning of our discussion. Are we also saying that RA 3844 is fake, since the Committee has been quoting it time and time again? If we can put it on record that P.D. Nos. 2 and 27, as far as the Committee is concerned, are fake, let it stay that way as part of the pronouncement of the Committee, but let us not say that RA Nos. 3844, 6389 and 6390 are also fake. I am presenting this so that the language used in the Constitution will be in keeping with what is exactly intended here- to continue the agrarian reform program.

Thank you, Madam President.

MR. RAMA: Madam President, perhaps the better words would be "a more effective land reform or agrarian reform," in order to avoid the implications of whether it is genuine or fake.

MR. MAAMBONG: I am open to that suggestion, Madam President.

MR. RAMA: Madam President, may I ask that Commissioner Davide be recognized to amend Section 6.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: On Section 6, we should eliminate the distinction between "independent farmers' organizations" from other kinds of farmers' organization, and insofar as "support" is concerned I added the word REFINANCING so, as proposed, it will now read as follows: "The State shall CONSULT the farmers, farm workers, farmers' cooperatives OR ORGANIZATIONS in the planning, organizing, and management of the program and shall provide support to agriculture through appropriate technology and adequate financial, CREDIT, REFINANCING, production and marketing assistance AND OTHER AIDS."

May I elaborate on the new kind of refinancing assistance. In the United States, there is an agency of the Department of Agriculture known as the Farm Credit Administration, with facilities to be expanded in times of economic depression in agriculture, and utilized for the refinancing of farm indebtedness. This should be entirely different from the simple concept of financial assistance. My proposal is intended to help the farmers in times of economic depression in agriculture, by allowing them refinancing scheme for farm indebtedness. This will broaden the concept of assistance in agrarian reform.

MR. TADEO: Maraming salamat, Commissioner Davide, sa isang napakagandang susog, dahil ang katotohanan, 90 percent ng mga magsasaka natin ay nakabaon sa kumunoy ng pagkakautang, kaya mahalaga iyong ipinasok po ninyo.

MR. ROMULO: Would Commissioner Davide consider a minor amendment?

MR. DAVIDE: Very gladly.

MR. ROMULO: Between the words "the" and "farmers," I propose to insert LANDOWNER, and between the words "the" and "program," insert AGRARIAN REFORM for clarity.

MR. DAVIDE: May we have the first amendment again.

MR. ROMULO: The first part will read: "The State shall CONSULT the LANDOWNER, farmers, farmworkers . . .

MR. DAVIDE: What about the second amendment?

MR. ROMULO: The second shall read: ". . . organizing and management of the AGRARIAN REFORM program," so that we know what program we are talking about.

MR. DAVIDE: I gladly accept the amendments.

MR. ROMULO: On the last line, I think we can delete "and" between "production" and "marketing."

MR. DAVIDE: I agree. The amendment is willingly accepted .

MR ROMULO: Thank you.

MR. RAMA: What does the Committee say?

MR. TADEO: Pag-aaralan muna namin itong plain owner.

THE PRESIDENT: Please proceed to the next.

MR. RAMA: Madam President, I ask that Commissioner Nollado be recognized to amend Section 7.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Section 7 was already included in my original amendment because I recommended that Sections 5 and 7, which are related to each other, should be combined.

Thank you, Madam President.

MR. RAMA: In that case, Madam President, Commissioner Sarmiento has some clarificatory questions to be addressed to Commissioner Nollado.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Just one brief clarificatory question, Commissioner Nollado.

MR. NOLLEDO: Gladly.

MR. SARMIENTO: In the amendment to line 23, the proponent added the words "exemptions and priorities" as Congress may prescribe. As a noted professor on land reform, may we know from the proponent the scope, the extent and the nature of these exemptions and priorities for the guidance of future legislators?

MR. NOLLEDO: In my explanation, I alluded to small landholders.

MR. SARMIENTO. : Is this the only exception?

MR. NOLLEDO: No, I am giving that only as an example. That is the reason I did not give other exemptions so I emphasized that Congress should be given much leeway in determining the exemptions. I would recommend one exemption, for example, agro-industrial corporations that have been viable and are involved in exportation of certain products that contribute to the development of the national economy, in the sense that Congress determines that. Applying the principles of agrarian reform to employees of these corporations might prejudice in some way the quota requirements on exportation.

MR. SARMIENTO: Thank you.

MR. RAMA: Madam President, Commissioner Davide has registered to amend Section 8.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: My amendments would affect lines 7 and 8 of the proposed Section 8. On line 7, I seek for the insertion of the word MARGINAL before the word "fisherman" and the change of "fisherman" to FISHERMEN. On line 8, I propose to delete the words "direct or communal"; on line 11, I propose to insert the words TO SAID FISHERMEN AND before the word "for." The entire section will now read: "The State shall protect the rights of

MARGINAL FISHERMEN and local communities to the use of marine and fishing resources, both inland and offshore, and shall provide appropriate financial, technical and research assistance TO SAID FISHERMEN AND for the development and conservation of such resources."

MR. TADEO: Bakit po natin kinaltas ang "direct or communal" use?

MR. DAVIDE: Frankly speaking, this is not even necessary because marine and fishing resources are considered communal. The idea really is to protect the interest of the marginal fishermen. So whether the fishermen will directly use or not, they are entitled to the use of the marine and fishing resources. My second proposal is that the assistance is only for development and conservation, not an assistance to the fishermen themselves, so there is the necessity of mandating such assistance to the fishermen themselves and not just to the conservation and development of the resources.

MR. TADEO: Madam President, mayroong isang konkretong halimbawa sa Laguna Lake. Hindi ba mahalaga na kung ilalagay natin ang "direct or communal use," ang ibig sabihin ay mayroon silang atas na mangisda doon sa Lawa ng Laguna? Kung aalisin natin iyon, hindi ba mahalaga na manatili ang "direct or communal use"?

MR. DAVIDE: For me, it will not really destroy the very concept of the recognition of the right. It is a right, whether direct or not, and so it makes the difference. If the Gentleman insists on his proposal, it would mean that they do not have the indirect right. So, we better eliminate this "direct or communal use" because that is already conceded in the right itself in the first opening sentence. That is already a right.

MR. RAMA: One clarificatory question from Commissioner Maambong.

MR. MAAMBONG: Madam President, may I direct this question to Commissioner Davide or to the Committee.

Does not the Committee think that the right granted in this particular section is already covered by Fisheries Act No. 4003, as amended by Commonwealth Act No. 471, as amended by so many presidential decrees?

MR. DAVIDE: I agree that we have these laws but let us also consider what is actually happening to the marginal fishermen and the local communities. They are deprived by those who can have the political clout, the protection of politicians. There are also big fishermen who have the monopoly of certain areas.

We direct it as a right. We mandate the State to respect it as a right and, therefore, it cannot be removed by legislation. The Fisheries Act can be amended at any time to deprive the marginal fishermen of the rights.

MR. MAAMBONG: In other words, Madam President, all these rights proposed to be granted in this Constitution are already covered by the Fisheries Act, as amended, and the administrative provisions of the Bureau of Fisheries but we just want them constitutionalized.

MR. DAVIDE: Yes, because this particular law and the regulations and rules thereof have always been made in favor of not the marginal fishermen but others who I said can have some political clout or can have the patronage of politicians.

MR. MAAMBONG: May I ask the Committee to comment on this?

MR. MONSOD: We agree with the position of Commissioner Davide that it might be appropriate to expressly mention it in the Constitution. However, we would like to inform Commissioner Davide that two of the problems that we wanted to address is a situation in Laguna de Bay where areas of the bay were appropriated or allowed to be used by private fishpen owners to the exclusion of the marginal fishermen. The other one is the question of the offshore fishermen where by reason of certain treaties with other countries, the off-shore fishermen were really deprived of a livelihood because of the presence of large-scale trawlers within seven kilometers from the

seashore. We sought to address ourselves to the problem by emphasizing communal use of water resources in inland waters, as well as offshore.

Would the amendment of the Gentleman still cove and emphasize the rights of these fishermen to these areas, or can he suggest appropriate language so that we amply cover those problems?

MR. DAVIDE: The opening of this section reads "The State shall protect the rights of fishermen." So here we already recognize the existence of that right whether that right is direct or indirect; but it is a definite, concrete, positive right that is being recognized. We also mandate the State to respect that particular right. So, insofar as the problems addressed to earlier are concerned, necessarily, any special grant over these areas will have to yield to this specific mandate now. So, all permits or concessions — I do not know how to call these benefits granted — will have to be reconciled with this and, therefore, if these would affect the rights of the marginal fishermen, those grants must necessarily have to be repealed or revoked.

MR. MONSOD: In other words, the amendment actually is less limiting than putting in the words "direct or communal."

MR. DAVIDE: That is correct. It is precisely to emphasize the positive character of the right.

MS. NIEVA: Would this also cover the problem of these big Japanese trawlers which come in and take advantage of the fishing resources so that the small fishermen can hardly finance?

MR. DAVIDE: Undoubtedly, because this is now a right of first impression. Before, they did not have the right, it was only a privilege, especially for offshore fishermen.

MR. MONSOD: Madam President, would it also help in the interpretation if we put PROTECT THE PREFERENTIAL RIGHTS OF MARGINAL FISHERMEN AND LOCAL COMMUNITIES TO THE USE OF FISHING RESOURCES?

MR. DAVIDE: That would be much better really. I agree to the use of "SHALL PROTECT THE PREFERENTIAL RIGHTS." That would remove all possible doubts in the interpretation of the right.

MR. SARMIENTO: Madam President, may I ask that Commissioner Rodrigo be recognized for one clarificatory question?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: My question has reference to the words "local communities" on line 8. The State shall protect the rights of local communities, not only fishermen, to fishing resources, both inland and offshore. Does "local communities" mean the communities bordering the fishing ground?

MR. DAVIDE: I would refer the matter to the Committee. It is not covered by my proposal.

MR. RODRIGO: I want to give an example. In my own province of Bulacan, we have municipalities bordering Manila Bay — Hagonoy, Paombong, Malolos, Bulacan and Obando. These are good fishing grounds; we call them communal fishing grounds. Fishermen from Bataan and Cavite go there to fish. Now, is it the purpose of this Article to instruct Congress to reserve these communal fishing grounds bordering the towns of Bulacan to Bulakeños only?

MS. NIEVA: Yes. I think that is precisely what the Committee thinks — that it is the local community who should be the first beneficiaries of the resources.

MR. MONSOD: We also want to say that while the intent is that there should be some preferential rights by shore

communities, this is not to the exclusion of everybody else. What we are trying to avoid is a situation where other people come in and completely take over the communal grounds and the people in the shore communities which derive their livelihood from that communal fishing ground, thereby losing all their livelihood opportunities. That is the intent of the Committee, Madam President, and we would be very happy to receive suggestions as to what may be properly reflected in the provision.

MR. RODRIGO: In other words, if Congress enacts a law, saying that only those Bulakeños living in the municipalities by the shoreline may fish in that communal fishing ground, that would not be valid.

MR. MONSOD: That would not be the intent, Madam President.

MR. OPLE: May I ask Commissioner Rodrigo and the Committee a question concerning this?

MR. RODRIGO: Yes.

MR. OPLE: I am concerned about the exclusivity of any section concerning marine resources including communal fishing grounds because it is a fact that fishermen from Bulacan go to Bataan and Pampanga to fish and, of course, this is reciprocated. Many of our fishing boats in Hagonoy actually go to Quezon, to the Lamon Bay especially where the catches are better in some parts of the year and also to Palawan. I hope there is no suggestion here that the communities bordering these waters could be given grounds under the Constitution and future laws to restrict the fishing only to the people from those localities. The mobility and interaction of fishermen along the Manila Bay coast and the coast of Luzon, since I do not know about the Visayas and Mindanao directly, is very important because this widens the scope of opportunities for them, especially since fishing is seasonal. In many instances where the Manila Bay is barren, one can proceed to the Quezon coast and try his luck there.

And so, I would welcome an interpretation by Commissioner Rodrigo and the Committee itself to the effect that there is no intention in this provision to restrict the mobility of small fishermen.

MR. MONSOD: The comment is well taken, and that is why we did not use the word "exclusive." One of the reasons why we also used "communal" with respect to these communities is that it is not the intention of the Article to say that some privileged people within those communities can parcel out among themselves exclusive areas for their own fishing benefits. That was one of the original reasons why we used the word "communal." But with the explanation of Commissioner Davide that that would all be encompassed, and with the further modification and interpretation of Commissioners Rodrigo and Ople that this is not exclusive, the intent of the provision is already clarified.

MR. NATIVIDAD: Madam President.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Thank you, Madam President.

I wish to clarify that point of Commissioner Davide on these communal fishing grounds for the reason that I was the author of a law during the old Congress days setting aside the 2,695 hectares of communal fishing grounds in Bulacan referred to by Commissioner Rodrigo for the bay shore area of Bulacan, Bulacan. The idea was that the area was dedicated and was reserved for the marginal fishermen, but anybody can fish with out him building a fishpond in that place. I put in the law that anyone building or parcelling a lot there to the prejudice of the marginal fishermen will have his obstruction removed as nuisance per se. I placed that in the law as nuisance per se and in a summary manner it can be removed by the government, expenses for which can be charged against the one responsible for the obstruction. That is the reason why we have a communal fishing ground in Bulacan.

Now the point is, I am also interested in emphasizing the right of the fishermen to the reserved communal fishing grounds because these are reserved for marginal fishermen who cannot be expected to have the equipment to go deeper into the sea. They are only marginal fishermen with small generators and small bancas and they actually need our help. May I inform the body about the results of this law.

As soon as this 2,965 hectares rich in shrimps were declared as communal fishing grounds, big fishpond owners from other provinces began to build fishponds there. Despite the law, which prescribes that the Constabulary will take charge of the area and the Department of Agriculture will protect the area, there was no such protection. I am just giving the body our own experience.

And so, I agree that in the Constitution it is time that we devote our attention to communal fishing grounds, but more importantly we should command the legislature to protect these communal fishing grounds, for without this protection we will just be giving the fisher men illusions because while they will have at the start communal fishing grounds, they will soon be deprived of this privilege as proven from our past experience.

MS. NIEVA: Therefore, does Commissioner Natividad want the retention of the phrase "the communal use"?

MR. NATIVIDAD: I am for the retention of "communal" fishing grounds and that they should be protected by the State. I would like to say that any obstruction should be dealt with summarily. As mentioned by Commissioner Maambong, there is a plethora of laws, but all of these laws only give a procedure. The complaint of the fishermen is brought before the district engineer, then appealed to Malacañang, and then later on to the courts, but it will take ten years before the fishermen can have their case resolved. In the end, the fishermen choose to keep quiet because they cannot wait for ten years to get back an area in which they can eke out a marginal livelihood.

So, I am just giving the body our experience in this regard because we should not have only communal fishing grounds, we should also say that they should be protected by the State.

Thank you, Madam President.

MS. NIEVA: So, would the Gentleman be recommending an amendment to add that protection?

MR. NATIVIDAD: I would like to, yes.

MS. NIEVA: Yes, and we would welcome such an amendment.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: May I make an inquiry of the Committee?

I admire the Committee for giving the marginal fishermen the preferential rights to communal fishing grounds and mention has been made of Laguna de Bay, along which I am particularly residing. The area along Laguna Bay is 90,000 hectares wide but began dying sometime in 1983 up to about 1986, so that I even wrote an article entitled "A Requiem to Laguna Bay" which I submitted to the Laguna Lake Development Authority. Has the Committee inquired why from 1983 up to early 1986 Laguna Bay has been dying? I would put an information because we know that the one that killed Laguna de Bay was the Napindan Control Structure built by the old regime for P220 million allegedly for the use of the waters of Laguna Bay for domestic use and for irrigation purposes. The purpose of the Napindan Control Structure was to prevent the entry of salt water from Manila Bay to Laguna Bay through the Pasig River. We complained to the Laguna Lake Development Authority that there is no water circulation in Laguna Bay, that is why from 1983 to 1985, the fishes in Laguna Bay got sick and began to die.

Now, has the Committee taken into consideration what is to be done with the Napindan Control Structure so that

the communal fishermen whom we are protecting here can be given their better livelihood?

MR. MONSOD: Madam President, during the hearings we received the testimony from both the associations of fishpen operators and of the fishermen around Laguna de Bay. There have also been quite a number of studies made, including an estimate of what would be an optimum area for fishpen operators.

MR. DE CASTRO: I am not talking of the fishpens in Laguna de Bay. I am talking of the Napindan Control Structure which prevents the entry of salt water to Laguna de Bay, thereby preventing water circulation and killing the very source of livelihood for the marginal fishermen whom we are protecting here.

MR. MONSOD: Madam President, we also received some technical testimonies on the effect of the Napindan Dam because of the inability of salt water to come in and help generate the food for fish to grow in Laguna de Bay. That was also presented to us in testimony although we ourselves are not the people who would say what should be done with the structures. We believe that this was one of the considerations when we decided to draft the Article emphasizing the communal use which would also be a mandate to the government to make sure that the fishing potential of the area is not hurt by artificial structures.

MR. DE CASTRO: May I inform the body that due to our continuous representation in the Laguna Lake Development Authority, the gate to the control structure has been opened and after six months Laguna de Bay became alive again. And so, we asked for the total dismantling of the Napindan Control Structure. Has the Committee taken that into consideration?

MS. NIEVA: I am afraid, Commissioner de Castro, that we were not really concerned with such matters as with actually providing protection to the marginal fishermen. I think we were not really going into the technical aspects of our studies.

MR. DE CASTRO: If we are concerned about the preferential rights and the livelihood of 10,000 families around Laguna de Bay, then we should look into the reason why Laguna Bay is dying. And so, I will request the Committee to make appropriate representation in order that the Napindan Control Structure be demolished so that the fishermen whom we are protecting be given their proper livelihood.

Thank you.

MR. MONSOD: Madam President, we are grateful for the manifestation of Commissioner de Castro and the records of the Commission will be a very good source of information with regard to this matter.

MR. DE CASTRO: Thank you.

SR. TAN: Madam President.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: I would like to express my appreciation to the Committee who thought of the small fishermen and for the elucidation of Commissioners Ople and Rodrigo. When we were in the public hearing in Pagadian, we were told that the small fishermen are being swallowed up by the big fishermen from the Visayas and Luzon.

Does "communal" mean that the big fishermen will have equal rights as the marginal fishermen? What was the intent of the Committee?

MS. NIEVA: Precisely, our intent was to protect the preferential right of these marginal fishermen.

SR. TAN: But if we say "communal," does it mean protection?

MS. NIEVA: For the communities that live there.

SR. TAN: Preferential for the community?

MS. NIEVA: Yes.

SR. TAN: Is it enough to protect them from the sharks-from the big fishermen?

MR. MONSOD: Yes, Madam President. I think this was part of the clarification made by Commissioner Davide that the right being sought to be protected is also the right to exclude the big fishermen from taking over completely the areas to the detriment of those who rely on it for their livelihood. While we are saying that it is not exclusive for such fishermen, the State has the duty to exclude the big fishermen who deprive them of their livelihood.

SR. TAN: Thank you very much.

MR. TADEO: Madam President, palagay ko po, kasama ang laot, dahil ang nakalagay dito ay "both inland and offshore."

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I just comment on the clarification earlier made by Commissioner Natividad that we should retain the "communal" provision. I fear that if we have to put in said provision, there might be a possibility that Congress will define a certain area in off-shore or inshore marine resource — fishing resources — as noncommunal. So necessarily we might, in effect, diminish the exercise of the right because it may be exercised only in areas which the law may declare as communal. Under the proposal, without the use of the word "communal," it simply means that this entire marine fishing resource — inland or offshore — will be open to the marginal fishermen for them to exercise preferential rights. And so, if we now place "communal," I am afraid that Congress will have a way of limiting the area within these resources as communal and the rest may be open to big fishermen.

MR. SARMIENTO: Madam President, may I ask that Commissioner Nolledo be recognized for his amendment.

THE PRESIDENT: Commissioner Nolledo is recognized.

MR. NOLLEDO: Thank you, Madam President.

I have a very short amendment on Section 13.

MS. QUESADA: Madam President.

MR. NOLLEDO: Have we reached Section 13 already?

MS. QUESADA: Not yet.

MR. NOLLEDO: Section 7 was included in Section 5 before, Madam President. I think this is the second time that I was called to present that amendment. It was already presented before.

MR. BENGZON: We are only in Section 9.

MR. NOLLEDO: Yes. I presented an amendment to combine Sections 5 and 7.

Thank you.

MS. QUESADA: Madam President, could I just make a comment on the proposed amendment by substitution of Commissioner Davide?

THE PRESIDENT: Please proceed.

MS. QUESADA: Madam President, instead of the State recognizing the right of farmers and farm workers, of cooperatives and other independent farmers' organizations to participate in the planning, organizing, and management of the program, Commissioner Davide is proposing the word CONSULTATION — TO CONSULT. But we would like the Commissioner to know that in a study of the levels of citizens' participation in decision-making, consultation is one of the lower ranks of real participation of the people. So, does not the Commissioner think that his proposal does not quite capture the intention of the Committee which is to recognize the right of farmers and farm workers of cooperatives, et cetera, to participate in the process of planning, organizing and management of agrarian reform? My concern is that, instead of giving them that right, the Commissioner is actually just giving them the right to be consulted. We know a lot of consultations are taking place, but what is gathered from consultations actually does not end up as significant in the decision-making.

MR. DAVIDE: Madam President, in the substitute proposal, the State is mandated to consult, while in the original proposal, it is recognition of a right. There is a difference in just merely recognizing a right from the more positive directive that they should really be consulted. It does not mean that these organizations will have to supplant the policies which Congress may finally decide. So, in effect, we consider the views of these groups in order that the legislature may be enlightened on the formulation of policies. So in other words, the proposal is stronger than just recognizing the right.

MR. SUAREZ: Madam President, the difference is with respect to the matter of consultation and participation in the planning. Under the draft proposal submitted by the Committee, a recognition on the part of the State to allow the farmers, farm workers, cooperatives and other independent farmers' organizations to participate in the planning is demanded. As the Commissioner proposes it, its target is the matter of consultation.

MR. DAVIDE: Under the proposal, is it the intention of the Committee to require that representatives from the farmers, the farm workers, the farmers' organizations or associations will sit in these agencies or instrumentalities of the government which would enforce or implement the agrarian reform program?

MR. SUAREZ: That is the thrust of the proposal under Section 6, Madam President.

MR. DAVIDE: So, is the State mandated now to provide a seat?

MR. SUAREZ: Yes.

MR. DAVIDE: Does this mean in any agency related to the formulation, planning, organizing and implementation of the agrarian reform program?

MR. SUAREZ: Not necessarily a formal seat, but participation for some . . .

MR. DAVIDE: Would that participation be the matter of public hearings or consultations?

MR. SUAREZ: Yes, more in public hearings and consultations.

MR. DAVIDE: It is not necessarily then an allocation of a seat in policy-making bodies.

MR. SUAREZ: Not a formal seat in the planning body, Madam President.

MR. DAVIDE: So, if that is the intention, I think the alternative proposal would reflect the real intention. Under the original proposal, it does not mandate that there should be seats allocated to them.

MR. BENGZON: That is not the idea. I think, as Commissioner Garcia will explain, we will have to correlate Section 6 with the last section of the Article on the role and rights of people's organization.

MR. DAVIDE: Correct, because a broader interpretation is possible on the present provision as proposed; that is, Section 6, together with the last particular section — possibly two interpretations: one, participation in the formulation by way of public hearings or two, submission of position papers or a situation where it has become a mandate that in these agencies in charge of the formulation, organizing and the implementation, representatives must be allowed to sit as either regular members or as ex-officio members.

MR. GARCIA: If I may be allowed to explain, I think this Article on Social Justice must be seen as a whole. One will notice that when we tackled the different sectors — farmers, workers, the indigenous communities, women — and the problem of health and the urban poor in the last section, we precisely recognized the role and the rights of people's organizations: first of all, their right to participate, and, secondly, the State shall ensure adequate consultation mechanisms for such participation. I think it is in this area of implementation of decisions which affect the lives of these sectors that they be made participants.

MR. DAVIDE: If that is the intention of the Committee, there is no need to state in Section 6 the right of farmers and farm workers because that is recognized already in another section.

MR. GARCIA: Yes. But, precisely, what we are trying to do here is to tie this up and make it specific. Sections 19 and 20, in a sense, are the enabling mechanisms. Not only is it the duty of the State to provide and to facilitate the rights of these people but the organizations of the people themselves must try to make these effective and real.

MR. DAVIDE: That is correct. In other words, Section 20 would be a general principle which will cover everything, to wit:

The State shall respect the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making, and shall ensure adequate consultation mechanisms for such participation.

This is very broad already as to cover Section 6.

MR. GARCIA: Especially in the pursuit of the ends of social justice which is the thrust of all of these different provisions on the different sectors.

MR. DAVIDE: Yes. Probably, we could amend Section 20 to cover everything.

MR. GARCIA: Precisely, that is the intention — for this to become a vehicle so that these sectors who normally are excluded from political decision-making and from economic rewards of their work will have a just share.

MR. DAVIDE: So, consequently, in view of the all-embracing provision of the proposed Section 20, we can limit Section 6 with the provision regarding support to agriculture.

MR. GARCIA: I think the reason it was placed here was that farmers, specifically, and their organizations want to participate in the land reform program from its organization up to its management.

MR. DAVIDE: Yes. That would be covered by Section 20.

MR. GARCIA: But more specifically, the intent of Section 6 is to provide for this precise program of land reform. Although I agree with the Gentleman that in a general manner, this is covered at the end, still, it does not in any way complicate . . .

MR. DAVIDE: It is already covered, so if the intention is just to . . .

MR. GARCIA: In fact, it zeroes in on the need of farmers to have this vehicle of participation.

MR. DAVIDE: So that there will be no different interpretations between Section 6 and Section 20, we should

reword Section 6 to carry the intent of Section 20.

MR. BENGZON: I was precisely going to suggest that, having known the intentions of the Committee and the correlation between Sections 6 and 20. May we have the Gentleman's thoughts on this matter? Perhaps, he could retire for a moment and realign Section 6 and give us his thoughts on this.

MR. DAVIDE: Retire for some moments, Madam President. I need time.

MR. SARMIENTO: Madam President.

MR. TADEO: Kaya namin ito inilagay sa Section 6 dahil isa itong component para sa implementation ng genuine agrarian reform program. Ang kailangan kasi dito ay participation mismo ng mga beneficiaries sa pagpapatupad ng programa. Kaya kailangang mapalagay dito iyong Section 6.

MR. SARMIENTO: Madam President, may I ask that the honorable Commissioner Villegas be recognized?

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, with due respect to the Committee members, I would like to suggest the deletion of Section 9. The reason is that the very first section of the Article on National Economy and Patrimony is an omnibus provision actually worked out by a member of this Committee, the Honorable Suarez, stipulating that all Philippine resources will be used for the Filipinos, with particular emphasis on the welfare of the poor, and I think Section 9 is more than adequately covered by such a provision. The other reason Section 9 is really controversial is that it uses the most mysterious word "integrated," especially referring to different sectors — agriculture, fishing and marine.

As I am sure many of us still painfully remember there was a certain lady in the past regime who used this word "integrated" ad nauseam. Everything was integrated and I am afraid that if we put in it this specific section, we will elicit a very negative reaction from the people. The word "integrated" as used in macroeconomics, just to use a technical jargon, is easy to explain. So, when we talk of an integrated national development program, we must be sure that all the various sectors are actually coordinated. But the moment we start applying it as an integrated area development, industrial integration and so on, we get bogged down with a lot of very intricate problems. I think this is better left to the legislature rather than a provision in the Constitution.

So, I submit that we completely delete Section 9.

Thank you.

MR. MONSOD: Madam President, when the Committee discussed this, we were aware that it might be a duplication of the Article on National Economy and Patrimony. We have agreed that we will transpose it if it is amply covered there, but just to tell the body our intention when we talk about integrated development, what the Committee wants to express is that there should be a forward or backward integration so that it would include processing of these resources, and perhaps even the marketing, so that the goods may be made available particularly to the poor at a reasonable cost. And since the Gentleman made the manifestation that this is amply covered in the other Article, we are willing to have it transposed and taken out from here.

MR. VILLEGAS: Thank you, Madam President.

MS. NIEVA: May we ask one question? There is a provision here that says "in order to meet the basic needs of the people." Would this be amply covered by that?

MR. VILLEGAS: Yes, because the wording of this omnibus provision says that "all the goods produced in the Philippines should be produced for the benefit of the Filipino people with priority to the welfare of the poor." And

then it goes on by talking about "all sectors being developed without priority to anyone." In fact, the members of the Committee on the National Economy and Patrimony will remember that some people objected to singling out agriculture, industry and services because there are so many sectors. We just made an omnibus statement that all sectors, without any bias, will be developed, whether forward, backward or sideward. So, that is more than covered in this provision.

MR. MONSOD: Thank you, Madam President.

MR. SARMIENTO: Madam President, may I ask that the honorable Commissioner Rosario Braid be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, may I comment on Section 8, regarding fishermen, wherein Commissioner Davide has suggested the adjective "marginalized" to describe them. Several studies have shown that the small-scale traditional fishermen are often classified as "municipal" fishermen. They are fishermen using vessels three tons or less with gears that do not require beats and who work in marine and inland waters. Forty percent of them own the boats they use in fishing. The category of "municipal" fishermen is acceptable in some studies.

I have earlier proposed also to transfer Sections 7 and 9 to the Article on National Economy and Patrimony. But should we retain Section 9 in this Article, I would suggest that we include the concepts of alternative community approaches in the development of agricultural small- and medium-scale industries.

Some of the concepts that I would like to submit to the Committee include approaches such as communal farms, cooperatives, nucleus states, etc.

The other comment that I would like to make is on Section 5 where I would substitute the word "genuine" with COMPREHENSIVE. This concept is used to describe land reform which seeks to expand areas beyond rice and corn.

In Section 1, on social justice, I hope the Committee would consider my proposal which seeks to incorporate the concept of equitable sharing of the fruits and means of production and power, as well as the concept of "achieving a balanced social order." In the latter phrase, I would like to suggest the concept of placing primacy on "need" and then working towards the distribution of resources in order that society becomes a habitat worthy of the dignity of man.

MR. MONSOD: Thank you, Madam President.

MR. OPLE: Madam President, may I ask a question of the Committee now that Section 9 is eliminated, or is it merely transposed?

MR. MONSOD: It would be transferred to the Article on National Economy and Patrimony because they have a similar provision.

MR. OPLE: Thank you.

I hesitated to propose this amendment before for fear that this section, I mean, the sections under "Aquatic Resources Reform," might become bloated. But now that Section 9 is transposed, can we address more directly and specifically these urgent concerns that were expressed by the fishermen in the hearings of some of our committees, both here and in the provinces, so that there will be another section to replace Section 9 and it will simply read: THE STATE SHALL PROTECT MUNICIPAL FISHING GROUNDS FROM INTRUSIONS EITHER BY MAJOR TRAWLERS OR FOREIGN FISHING VESSELS?

Commissioner Monsod had earlier stressed the fears and grievances of the small fishermen, especially from the Manila Bay area and the Laguna Lake. It will be remembered that even the commercial treaty between the Philippines and Japan was frequently cited as a threat to the rights of the small fishermen.

And when we speak of municipal fishing grounds, we really refer to what otherwise would have been called communal fishing grounds. These are the relatively small coastal areas where poor fishermen — and there are 600,000 of them according to the census — eke out their living day to day, when the weather permits. And yet, we know that off Zambales — I was there sometime ago — and in Iba, the fishermen were complaining about Japanese and Taiwanese poachers just two or three kilometers off the coast. And these fishing fleets are so powerful, so unscrupulous and so insensitive to national feelings that they are said to ram the small fishing boats of the municipal fishermen off Zambales.

I think this is not confined to Zambales, meaning, that these poachers from Japan, Taiwan and Korea routinely oppress our own small fishermen in their own municipal fishing grounds.

And so, if the Committee will be open to an amendment, specifically addressing these concerns raised by the small fishermen, I would like to formulate this in a more precise form to be submitted to the Committee.

And before we leave the subject, may I call the attention of the Committee to the fact that about 200,000 families along the Manila Bay coast — and this extends all the way from Zambales up to Cavite and portions of Batangas — may lose their livelihood entirely in just a matter of years because the Manila Bay is being drained of marine life, mainly because of the activities of the big trawlers that day to day bring up the catch from the seabed, including the germs of life, the fry, the spawners and the offspring. That is the reason the Bureau of Fisheries has proposed a sanctuary off Bulacan and Pampanga just to make sure that marine life will not ultimately disappear in the Manila Bay area.

And so, I also would like to address this problem of the depletion of the means of livelihood of our people in areas, like the Manila Bay and Laguna Lake, through a more specific amendment. If the Committee cares, these amendments will be precisely framed for its kind consideration.

MR. MONSOD: Madam President, in the previous interpellations, I think it was made explicit that the situations and the concerns that the Gentleman has expressed were covered by Section 8. However, we would still be happy to look at some of the additions or modifications he may want to propose. For example, when we talk about the use of marine and fishing resources, both inland and offshore, maybe we can put the phrase PARTICULARLY MUNICIPAL FISHING GROUNDS or something like this.

But it is our interpretation that we are covering already the concerns which the Gentleman has mentioned in this Article.

MR. OPLE: Thank you, Madam President.

I was referring to the elimination of one section from the subject "Aquatic Resources Reform." It is true that under Section 8, we are trying to accommodate the protection of small fishermen, but it was in a manner that they would fail to appreciate it unless a new section is added that will address the concerns that they urgently expressed in our public hearings, so that by appreciating this concern of the Constitutional Commission — there are 600,000 of them times five members of their household — quite a load of votes may be earned in favor of the ratification of this Constitution. I was wondering whether the Committee will take that into account when I present the more specific amendments.

Thank you, Madam President.

MR. MONSOD: Thank you.

MR. SARMIENTO: Madam President, may I ask that the honorable Commissioner Romulo be recognized.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Thank you, Madam President.

I have some minor amendments on Section 10, line 19. I would suggest that we delete the word "ensure" and in lieu thereof insert the word MAKE. On line 20, between "housing" and "at," insert the word AVAILABLE. And on line 21, put a period (.) after "areas" and delete the rest of the sentence.

The amendments for lines 19 and 20 are obvious. I feel that to say "ensure" is a very brave thing. One can never ensure but he can make available decent housing at an affordable cost. Probably, that is realizable.

The reason I suggest the deletion of the phrase "together with complementary infrastructure . . ." is that this should be left to Congress, otherwise, we may have the unintended result that if Congress cannot provide anyone of the enumerated qualifications, they will not go into basic housing at all. For example, if they can provide for infrastructure but not employment-generating economic activity, is it then the sense of the Committee that they should not go into decent housing available at affordable prices?

MS. NIEVA: In this specific provision, we took into consideration the sad experiences brought about by relocation where they would transfer thousands of low-income urban poor dwellers to the different relocation centers only to get them all back because there are no employment opportunities in the areas where they were sent.

MR. ROMULO: I realize that problem and I do not deny it. But what I want the Committee to consider is that we may be unintentionally limiting Congress.

MR. MONSOD: Would the Gentleman say that when we talk about urban land reform and housing program, the term "program" would necessarily include a mandate that to the extent possible and the resources available, it must be an integrated approach to the setting up of a decent housing? Would that be encompassed in the phrase "Urban Land Reform and Housing Program"?

MR. ROMULO: Yes, I think so. In fact, it is understood from even recent developments in this field that when we say urban land reform and housing program, these are terms of art which include the business of infrastructure, neighborhood services, etc. Anyway, I am presenting this for the consideration of the Committee.

On Section 11, line 24, I am now thinking of Commissioner Tan's distinction with regard to the urban poor dwellers which she described the other day. And I wonder if the following qualifying phrase may be helpful. Between "dwellers" and "shall," insert WITH LEGALLY VALID CLAIMS. I am not saying "title"; I am saying CLAIMS. So, that distinguishes them from outright squatters.

Let me complete my suggested amendments. On line 21, put a period (.) after "relocated" and delete the rest of the sentence. This is with the thought that, again, that could probably be worked out together with the Committee's program, rather than deciding at this point exactly how, when and where the urban dwellers are to participate in this kind of a program.

MR. MONSOD: Madam President, when we talk of urban poor dwellers, let me just tell the Gentleman what we are trying to address ourselves to and maybe he can help us with the wording.

MR. ROMULO: Yes, certainly.

MR. MONSOD: We realize that there are urban poor dwellers who may have a valid claim, but as what Commissioner Tan has mentioned yesterday, for some reason or another, they encounter red tape and all kinds of impediment that they cannot get titles to their land. In that case, it is quite clear that there is already an existing valid claim and, therefore, they have a right to receive title because they have been there for sometime. But there is another kind of urban poor dweller whom people would call squatters, and under the law, they may even be considered a nuisance per se. And we want to address ourselves as well to this problem, that even when there is no apparent legal claim or right, these urban poor dwellers should be dealt with in a humane manner. In effect, we have two types of urban poor dwellers here — those who may have a valid claim and those who may have no claim at all. One is subject to due process and the other, perhaps, to a just and humane manner of relocation.

MR. ROMULO: Yes, I think we have to separate the two concepts because they are probably incompatible.

MS. NIEVA: Would the Gentleman consider some thing like this: EVICTION AND RELOCATION OF URBAN POOR DWELLERS SHALL BE MADE IN A JUST AND HUMANE MANNER, and here we include rural communities. There are rural communities that have to be evicted and relocated also. Can we provide for something like that?

MR. ROMULO: Yes, even violators and criminals are entitled to humane treatment.

MS. NIEVA: Yes, but because of the many sad experiences that we had with forced eviction and relocation where even the military was brought in . . .

MR. ROMULO: Yes, these are the outright squatters.

MS. NIEVA: Yes. I think even they would have to be evicted and relocated in a just and humane manner.

MR. ROMULO: Let me then come back to the Committee with a possible wording.

MS. NIEVA: Yes.

MR. ROMULO: Section 10 is merely a compression. I think the term "agrarian reform program" has a meaning already because that was defined in a prior section. So, I would say that on line 2, delete "a comprehensive" and on line 3, delete "and development," so that the line will read "in the context of THE agrarian reform program." That is all.

Thank you.

MS. NIEVA: Thank you.

MR. SARMIENTO: Madam President, may I ask that Commissioner Tan be recognized for one clarificatory question on urban poor dwellers.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Madam President, it is about the amendment of Commissioner Romulo to insert "WITH LEGALLY VALID CLAIMS" on Section 11. I believe that it is the basic right of every person to be entitled to due process of law, so that my differentiation yesterday about the two kinds of urban poor dweller does not apply here. I support the Committee; I think it would apply more to Section 10.

MR. SARMIENTO: Madam President, may I be allowed to make one comment. With respect to Section 11, I think we should not make distinctions on whether one is an urban poor dweller with legally valid claim and an urban poor dweller with no legally valid claim. I request that we maintain the same provision because both types of dweller are entitled to due process of law.

I have reservations with the comment of one of the members of the Committee that if one is an urban poor dweller with no legal valid claim, he should be evicted but do it in a humane or compassionate manner. I think that is not our concept of the rule of law. Whether one is an urban poor dweller with or without legal valid claim, still he should be respected; he should be given the due process of law. So, I humbly request that we maintain the same provision of Section 11, without amendments.

I have another comment on the amendment of the honorable Commissioner Romulo about the exclusion of lines 21 to 23. With that amendment by exclusion may I suggest that on line 20, we add after "housing," the words AND SERVICES. Therefore, the lines will read: "decent housing AND SERVICES at affordable cost to deserving low-income citizens . . ." Will that be acceptable?

MR. ROMULO: Yes, I accept that.

MR. SARMIENTO: Thank you very much.

May I ask, Madam President, that Commissioner Padilla be recognized.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, I am referring to Section 10, particularly line 19, on the mention of Urban Land Reform and Housing Program. If the intention is to refer to the urban land reform decree issued by the past regime under P.D. No. 1517, may I suggest that the words "Land Reform and" be eliminated and instead "Urban Housing Program" be substituted because we will be constitutionalizing the decree issued by the past regime under Amendment No. 6. I mentioned the other day that even President Marcos did not implement his own decree. There were subsequent PDs declaring Metro Manila an urban land reform area, but these were again modified to limit it to a hundred or so of the so-called depressed areas. If we retain this urban land reform, then we not only assume the validity of P.D. No. 1517 which, in my opinion, is illegal and unconstitutional, but we are even constitutionalizing it. Why should this 1986 Constitution make the presidential decrees of President Marcos during the martial law regime a constitutional provision, or at least, giving it a constitutional recognition which may even prevent the Congress to pass the necessary legislation to modify or even repeal said P.D. No. 1517?

I hope that the members of the Committee will consider the deletion of the line and if not, at least the words "Land Reform and," so that it may remain as "Urban Housing Program."

MR. BENGZON: We will consider it, Madam President.

MR. PADILLA: With regard to Section 11, I do not understand why we have to distinguish between dwellers with a claim and dwellers without a claim. There was a question propounded by Commissioner Davide on whether there is no intention to repeal or amend the provisions on lease so we will have a contractual lessee. But there are also circumstances where there is forcible entry, unlawful detainer or some squatters do not have any color of right whatsoever and these are all governed by Rule 70 of the Rules of Court. As stated before, there is an article in the Revised Penal Code on all other forms of trespass. There is P.D. No. 772, I believe, which penalizes squatting and another presidential decree which penalizes squatting on public agricultural lands. There should be no order of ejectment or eviction unless there is an action in court and a judgment or a decision has been rendered. An eviction or an order of execution follows a judgment.

All these are governed by ordinary existing laws of the Revised Penal Code and the Rules of Court. Why are we going to put in the Constitution certain provisions that may render nugatory or even have the effect of repeal of these existing provisions of law? I suggest that Section 11 be eliminated.

Thank you, Madam President.

MR. BENGZON: Thank you very much, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: Excuse me, before we proceed further, we will suspend the session for a few minutes.

It was 4:43 p.m.

RESUMPTION OF SESSION

At 5:23 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

May we request the honorable Chairman and members of the Committee on Social Justice to please come forward.

How many speakers do we still have, Commissioner Sarmiento?

MR. SARMIENTO: We have about eight speakers more, Madam President.

THE PRESIDENT: Who will be the first?

MR. SARMIENTO: Madam President, may I ask that the honorable Commissioner Villegas be recognized for one clarificatory remark.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, the remarks of Commissioner Padilla led me to reconsider some of the phrases contained in Section 10, and let me just give a background. In our study of the housing problem in this country, first of all, we found out that housing is basically an urban problem and there are three markets which, I am sure, have been considered by the Committee. There is a so-called open market housing which is completely subject to the law of supply and demand anywhere. People belonging to the high-income and upper middle-income families can actually afford to buy at the present cost.

The second category is called economic housing. This is housing that is affordable only if there are some subsidies especially in the area of interest to the buyers. So, what the SSS, the GSIS and the other financial institutions have been doing over the years was to address the programs to the so-called economic housing sector.

The remarks of Commissioner Padilla reminded me that, really, what we are trying to address in this specific section of the Article is what is known in technical parlance as social housing — a type of housing that can be made available to low-income families only, almost as; dole out; that one cannot really expect these low income families to afford paying for these houses no matter how low the cost may be. That is why, historically, people have realized that when they talk about low-cost housing, they really mean no-cost housing because the low-income families who are earning P2,001 a month, for example, can never afford even the lowest cost of housing that is made available. And so, after the remarks of Commissioner Padilla, I was thinking that we delete the words "Urban Land Reform" and instead this line should read: "a continuing SOCIAL HOUSING PROGRAM THAT WILL MAKE DECENT HOUSING AVAILABLE"; and delete "at affordable cost." It is very clear that we can never make social housing affordable to low-income families. So, it is an actual recognition that the State will have to make units available either through rentals or through actual doleouts to deserving low-income families. I think this is really the intent of this specific section. We are not talking here economic housing because this can be addressed by the appropriate policies of the SSS, the GSIS and, if we will remember, even the DBP was very much involved with some actual subsidy being given by government financial institutions, which I do not think we are really concerned with.

So, that would be my remark on Section 10.

MR. MONSOD: May we just respond a bit?

MR. VILLEGAS: We would like to be enlightened.

MR. MONSOD: We were aware that social housing was necessary for a certain segment of the population. What we wanted to avoid was a provision that constitutionalized a doleout. That is why we put "affordable cost." But it does not mean that the total cost of the housing will not need State subsidy. We just wanted to state that whatever can be afforded by the recipients should be paid. If that is not sufficient to cover the real cost of the housing, then that is when the State comes in. I guess this is parallel to our ideas on agrarian reform where again we have that idea that if the farmer cannot afford it, then the State has to step in in order to make up the difference between the actual cost and the affordable cost.

With respect to line 19, the intent of the Committee is to cover more than mere housing. We think that Commissioner Padilla's comments on the identification with Mr. Marcos' program of urban land reform can be avoided if we use something else, maybe a land-use program or land-use and housing program. These are some of the terminologies we are considering. But we take the comment that it should not refer or it should not appear to refer or be identical with Mr. Marcos' urban land reform program but the coverage is certainly more than just Pure housing. It includes a land-use plan.

MS. NIEVA: In this connection, we would like to state that we are not limiting this idea to strictly ready-made housing but also to the development of sites and services.

MR. VILLEGAS: Infrastructure, Madam President, before the word "services."

MS. NIEVA: Yes, because, I think, the new trend of just providing sites and services and encouraging the urban poor dwellers to build their own homes as they increase their incomes, adding another room as they go along, has been found to be effective in giving shelter to those who otherwise could never have afforded shelter. I think there have been quite a number of studies on this, and they have identified the cost of developing some 85,000 new sites and services each year in all urban centers. So, I think the Gentleman is not only speaking of complete housing per se but improving the sites and services and developing them.

MR. VILLEGAS: These are actually enumerated on lines 21 to 23.

MS. NIEVA: Yes.

MR. VILLEGAS: As regards Section 12, I mentioned the findings from studies on the housing problem; namely, that there is no real housing problem in the rural areas and people in rural areas are very flexible in adopting to their appropriate housing conditions. That is why I questioned the need for Section 12, unless there is a specific aspect of the agrarian reform program that we want to specify. But I think that is better left to future legislations on agrarian reform.

MR. SARMIENTO: Madam President, may I ask that Commissioner Foz be recognized.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Madam President, in connection with what has been discussed about socialized housing for the urban poor, I wonder if the Committee has come across a particular report submitted by a task force on reorganization which is assigned to the Ministry of Human Settlements, headed by Mr. Horacio Morales, regarding its findings on housing for the urban poor. Anyway, the findings of that task force headed by Mr. Morales are, among others: First, they have gone into some computations and, in consultation with the representatives of the urban poor in

Metro Manila, they have come up with a specific cost of a small lot for an urban poor family. They have come up with a figure of a little over P8,000 for a lot. And according to the urban poor representatives, they can afford an P8,000 lot and all that they are asking is to be given this lot which they are willing to pay on an installment basis and they are going to build the house by themselves according, of course, to certain specified standards to be supplied by the government. So, it is not going to be a give-away thing. The urban poor are willing to be given the lots at a very low cost; not only lots, of course, but the place should be provided with water and electricity, and the cost estimated is a little over P8,000. According to them, all they want, after being assigned a lot, is to have security from demolition. That is all they are asking for.

Thank you, Madam President.

MR. MONSOD: Madam President, may we just make a short comment. We appreciate the studies that have been made on that subject, but we would like to be careful not to give the impression that there is absolutely no need for a subsidy. I think we have to face that reality rather squarely, that in many cases, maybe in most cases, there might be a need for a subsidy. And to assume that there is no need for a subsidy might foreclose a housing program for the urban poor.

MR. FOZ: May I add, Madam President, that another finding of the task force is that about 75 percent of the squatters in Metro Manila are renting their squatter huts from other people, in other words, from the professional squatters; and only the 25 percent of the squatters are themselves the real squatters; 75 percent are paying from P100 to P150 per month to professional squatters.

MR. MONSOD: Thank you.

MR. SARMIENTO: Madam President, may I ask the Commissioners to be brief with their answers, interpellations, questions or amendments to give time to the Committee to deliberate on the proposed amendments. I think we have to end early to give them more time.

THE PRESIDENT: Who is next?

MR. SARMIENTO: May I ask, Madam President, that Commissioner Maambong be recognized for his brief amendment.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: This is really very brief, Madam President. I was made to understand in my interpellation a day or so ago that while the Committee is adopting the principles of the urban land reform of the previous administration, it has been properly explained that they are not equating this with the previous urban land reform decrees like P.D. Nos. 1517 and 1893. However, I notice that in Section 10, line 11, when the Committee used the words "Urban Land Reform and Housing," the Committee capitalized the first letters of the words "urban," "land," "reform" and "housing." This to me indicates a specific urban land reform program. And the only land reform program that I could think of is the urban land reform and housing program of the previous administration.

And so, my very short amendment is not to capitalize these words because it will indicate that these refer to the urban land reform and housing program of the previous administration.

MR. BENGZON: Yes, Madam President, we appreciate it.

MR. MAAMBONG: On this score, I just might add that this urban land reform program, as far as my interpretation is concerned and as far as the City of Manila is concerned, did not really start with the previous administration. I have with me the excerpt of RA 1162.

MR. BENGZON: We have that material, Madam President.

MR. MAAMBONG: Yes. And this Act provides for the expropriation of landed estates or haciendas or lands which form part thereof in the City of Manila, their subdivision into small lots and the sale of such lots at cost or their lease on reasonable terms or for other purposes. This indicates that even before the previous administration, there was already an urban land reform program. Is that the understanding also of the Committee, that as far as the City of Manila is concerned, the urban land reform program did not really start with the previous administration, but it started way back with RA 1162?

MS. NIEVA: Yes. We have all those documents.

MR. MAAMBONG: Thank you very much.

MS. NIEVA: Thank you.

MR. BENGZON: Thank you.

MR. SARMIENTO: May I ask, Madam President, that Commissioner Regalado be recognized for a very short amendment.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: It will be very short and sweet.

Madam President, I notice here that under Section 10, in relation to Section 12, there is a distinction between the urban poor and the rural poor. It would appear that in the case of the urban poor, not only will they be afforded lots but they will also be given low-cost housing at affordable cost and possibly with governmental subsidy. Whereas in the case of Section 12, the rural poor, since they are supposed to be appended to in the context of agrarian reform program, they may possibly just be, at the most, entitled to a home lot as envisaged in RA 3844.

We have been talking about urban poor and rural poor, and the Supreme Court itself has admitted that there is a little difficulty in determining whether it is an urban area or a rural area. Right in the Metropolitan Manila area, there are still many areas which are planted to rice and the same thing in the provinces.

So, to be brief about it and possibly to help the Committee, I will furnish them a copy of that decision of the Supreme Court in the case of *Fabia vs. Intermediate Appellate Court*, November 21, 1984, so that in their preparation of their report, they may take into account how the Supreme Court considered the distinction between urban and rural areas.

Thank you.

MR. MONSOD: Thank you.

MR. SARMIENTO: Madam President, may I ask that Commissioner Nollado be recognized.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: For a short amendment, Madam President. After the word "disabled" on line 11, page 4, add the following: THE STATE SHALL PROVIDE FREE MEDICAL CARE TO PAUPERS.

I will explain for one minute only. Madam President. This is a provision that implements the role of the State as *parens patriae*. I do not like to accept the argument that the State has no funds. I think that where there is a will, there is a way. If we have money for junkets, the government can create funds from various sources, like special levies, residence taxes and postage stamps. Paupers have acquired an established meaning in jurisprudence,

Madam President. They are basically those who have no source of livelihood, and even if they have sources of livelihood, they are living on a hand-to-mouth existence. Because of the economic turmoil which was brought about by the repressive and corrupt Marcos regime, the number of paupers has increased considerably. While many of them have developed resistance to disease because of antibodies developed by poverty, when disease strikes, they depend on the charity of others, and when that charity is inadequate, they simply die.

So, I hope the members of the Committee will consider favorably my recommended provision.

Thank you, Madam President.

MS. NIEVA: Thank you, we shall do so.

MR. SARMIENTO: Madam President, may I ask that Commissioner Davide be recognized, this time for his short amendments.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

I have several amendments on Sections 13, 14 and 15, but these are just realignments to clarify the provision. I am more interested in two new sections. One would be on minors and it is similar to the proposed amendment of Commissioner Sarmiento. The Committee may take them together. It shall read: THE STATE SHALL PROVIDE A SPECIAL PROTECTION TO MINORS ESPECIALLY WORKING MINORS AND SHALL PROHIBIT THEIR EXPLOITATION AND ENSURE THEIR FULL DEVELOPMENT.

The other will be on social security, and this is now on page 5 of my submitted document. It reads: THE STATE SHALL PROVIDE ADEQUATE SOCIAL SECURITY SERVICES, RELIEF FROM UNEMPLOYMENT SUCH AS UNEMPLOYMENT INSURANCE AND OTHER; SOCIAL WELFARE SERVICES FOR THE OLD.

There is a proposal by Commissioner Guingona to add after "OLD " the words THE AGED AND THE SICK OR DISABLED.

All the others, I leave to the Committee to consider.

MR. SARMIENTO: Madam President, since Commissioner Davide mentioned his proposed amendment, may I just briefly read the proposed amendment introduced by Commissioners Villacorta, Quesada and myself. It will read: CHILDREN SHALL HAVE THE RIGHT TO PROPER CARE, NUTRITION, A RELEVANT AND QUALITY EDUCATION AS WELL AS PROTECTION FROM ALL FORMS OF NEGLECT, CRUELTY AND EXPLOITATION PARTICULARLY IN EMPLOYMENT HARMFUL TO THEIR PHYSICAL, MENTAL OR MORAL WELL-BEING.

We distributed copies of this proposed amendment to the members of the Committee for their proper consideration. We believe that this is one sector that should be given special care and attention.

MS. NIEVA: Yes, and we shall try to reconcile this with the Declaration of Principles on family rights, the youth and children. There are two others.

MR. SARMIENTO: Thank you, Madam President.

May I ask, Madam President, that Commissioner Natividad be recognized.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Thank you, Madam President.

Even without being reminded, I will make it very brief. This is in connection with Section 14, page 4. I have drawn a remark from Commissioner Quesada that she also considers it a concern of the State to take care of the problems on drug abuse because this is not only a danger to physical health but to mental health also, especially of the youth.

Therefore, after the end of the sentence in Section 14, I am proposing an additional sentence to read: A PROGRAM FOR THE PREVENTION OF DRUG ABUSE SHALL BE UNDERTAKEN BY THE STATE.

Thank you, Madam President.

MS. QUESADA: Madam President, may I ask Commissioner Natividad a few questions?

MR. NATIVIDAD: Gladly.

MS. QUESADA: Of course, the Gentleman is aware that there is an existing drug abuse prevention program under the jurisdiction of the Dangerous Drugs Board.

MR. NATIVIDAD: Yes, Madam President, I happened to be the author of the Dangerous Drugs Act. But what I mean here is for the State to emphasize this campaign and not to let up in this campaign because the problem is not being solved.

The treatment approach, as well as the approach being undertaken now, seems not to reduce the incidence of drug addiction. In one instance alone, on the addiction to marijuana, it seems that the mental health of the youth is being affected. The latest findings on marijuana show that the brain is the one being affected. I am a witness to many young people who are now in Bicutan and other treatment centers, whose brain damages are serious because of drug addiction. And, therefore, because of this unabated drug situation, it is important to emphasize this area of public service and, if possible, expand the services against drug addiction. I think no student in this country would say that the drug addiction problem in this country has been solved already.

MS. NIEVA: Thank you.

MS. QUESADA: Does the Gentleman not think that ordinary legislation would be able to strengthen the existing drug abuse prevention program?

MR. NATIVIDAD: As a matter of fact, yes, I am the author of the law. What I mean is a mandate from the Constitution, not only for the legislature to update our laws but also to inspire cooperation in a program of this nature because this problem saps the vitality of the nation. A constitutional mandate would help focus the State's attention to a very serious malady in our society affecting the old and the youth alike.

MR. BENGZON: Thank you very much.

MS. NIEVA: Thank you.

We will take it up in the Committee.

MR. NATIVIDAD: Thank you.

MR. SARMIENTO: Madam President, may I ask that Commissioner Romulo be recognized.

MR. ROMULO: Madam President.

THE PRESIDENT: Please proceed.

MR. ROMULO: I only have a few perfecting amendments, so I will take it up with the Committee after we adjourn so as not to delay anyone.

MR. BENGZON: Thank you very much.

MR. SARMIENTO: Madam President, may I ask that Commissioner Rosario Braid be recognized for her integrated amendments.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Thank you, Madam President

This is on Section 14. I propose to insert a phrase on lines 12 and 13, after "shall," to read: "The State shall PROMOTE THE UTILIZATION OF INDIGENOUS FOODS AND HEALTH PERSONNEL." This is in view of the fact that we would like to promote the use of herbolarios, traditional midwives and traditional foods. If this is not acceptable, we could integrate this with Section 13, lines 7 and 8, and it will read "establish and maintain an integrated and comprehensive health care AND NUTRITION PROGRAM THAT SHALL PROMOTE UTILIZATION OF INDIGENOUS FOODS AND HEALTH PERSONNEL."

MS. QUESADA: Madam President, I would like to make some comments on the proposed amendment. Actually, when we talk about nutrition program, that is already covered in a comprehensive health program. That is one of the essential services that the State should provide to the citizens. The concept of a comprehensive health program also includes the concepts of utilization of indigenous foods and the inculcation of scientific health practices. This would also include the primary health care approach which is based on the principles of appropriate health care technology, people's participation, intersectoral linkages and a stress on the educational component of health program. So, we would like the proponent to know that these are actually covered and we will be going into the details if we mention just a few of these components, such as indigenous foods and health practices.

MS. ROSARIO BRAID: Thank you.

MR. BENGZON: Thank you.

MR. SARMIENTO: Madam President, my question will require a very brief answer from Commissioner Quesada. May I know the meaning of these words:

"promote appropriate health, manpower development and research."

MS. QUESADA: When we talk about "appropriate health, manpower development," we refer to a national relevant and responsive health manpower. "Development" refers to how they are trained and how they are utilized so that they are responsive to the health care needs of the country, instead of serving the other need of other developed countries. This would mean, among others, the teaching of more prevention, instead of cure more community-based rather than of hospital orientation and more service rather than profits which should be the undergirding principle of health professions.

MR. SARMIENTO: Madam President, with the brief answers and brief amendments, I move that we adjourn until tomorrow at nine-thirty in the morning.

MR. OPLE: Madam President.

MS. QUESADA: Madam President, before we adjourn, I would just like to put on record that I would like to submit a more comprehensive presentation of this health provision so that it will be entered into the Journal, because we did not have time to really explain just what are the concepts and underlying principles of these health provisions.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I can save my question which is a very brief one until tomorrow, if it is the desire of the body to adjourn now, provided I will be allowed to ask a question of the Committee, especially Commissioner Quesada.

THE PRESIDENT: Why do we not have the question now so that the Committee can go over whatever the question is?

MR. OPLE: Thank you very much, with the indulgence of the Acting Floor Leader.

We are talking about the promotion of health manpower. Is that correct?

MS. QUESADA: Yes, Madam President.

MR. OPLE: I have in mind some data that I have stored in my head as a matter of professional duty until recently. It seems that, precisely, because of the rapid development of our health manpower, we now have about 12,000 unemployed nurses in the Philippines. Is that correct?

MS. QUESADA: I think there are more than 12,000 unemployed nurses.

MR. OPLE: Anyway, this is the officially recorded figure. And our nursing schools every year graduate about 6,000 nurses, most of whom would compete not for jobs at home but for opportunities to work in the Middle East, the United States and Europe. Would that be correct?

MS. QUESADA: Yes.

MR. OPLE: And at one time, this has impelled the Ministry of Health, the Ministry of Labor and Employment and the Ministry of Education, Culture and Sports to consider closing some of these nursing schools because of the sheer glut of graduates that they produce for jobs that do not exist in the Philippines. Would that be correct?

MS. QUESADA: Yes.

MR. OPLE: And, therefore, when we speak of health manpower development, the sponsor is not thinking of increasing the number of nursing schools and aggravating the existing glut in the labor market for nurses.

MS. QUESADA: We are thinking of rationalizing health manpower development.

MR. OPLE: I am glad to hear that.

Moreover, Commissioner Quesada is aware that there is an urgent demand for nursing manpower in most of the rural health units of our country, and most of them do not want to go there. They want to congregate in the urban areas waiting for opportunities to work here, but also, and this is more important, to scout for opportunities to go abroad. Is that not correct? 721

MS. QUESADA: Yes, that is so.

MR. OPLE: And so, the contemplation, of health manpower development is really to rationalize this disturbing situation and to shift the emphasis from quantity to quality.

MS. QUESADA: That is right. And this includes the reorientation of the training or the education of our health professionals.

MR. OPLE: So that maybe the Committee will allow me in due time to present a minor amendment that will reflect this concern for quality.

MS. QUESADA: We would welcome that, Madam President.

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

MS. NIEVA: May we now ask the members of the Committee on Social Justice to remain behind to put these amendments into shape. We will meet at the South Lounge.

Thank you.

ADJOURNMENT OF SESSION

MR. SARMIENTO: Madam President, may I reiterate my motion for adjournment?

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

It was 5:57 p.m.

[*] Appeared after the roll call.

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