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Tuesday, September 16, 1986

CALL TO ORDER

At 10:15 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Serafin V. C. Guingona, to wit:

Merciful Father, we, Your sons and daughters in this Commission, offer to You today our renewal of total commitment and dedication to the task before us of framing a Constitution for our people. As we reach the last stages of its completion, we invoke Your Divine Aid for continued moral, mental and physical strength to stand by what is morally right, strength to be able to use our mental capacities to the utmost for the benefit of our people particularly the underprivileged, strength to carry us through to the last day of our sessions.

Dear Lord, You have brought us together. Help us to liken ourselves as members of a large family under Your Paternal care and guidance- each member different from the other, each blessed with different expertise and having different views yet sharing the same concern, each respecting the opinion of others, no one attempting to impose his or her will on another For it is in the harmonious blending of our efforts and abilities that we would be able to frame a Constitution that would be reflective of the ideals and aspirations of our people.

Grant us the resolve to persevere in our efforts and let not our human frailties hinder us from drafting a Constitution truly worthy of our people at the soonest possible time, a Constitution that would secure to ourselves and our posterity the blessings of democracy under the rule of law and a regime of truth, justice, freedom, love, equality and peace.

Amen.

ROLL CALL

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

Aquino, F. S.

Padilla, A. B.

Azcuna, A. S.

Muñoz Palma, C.

Bennagen, P. L.

Rama, N. G.

Bernas, A.. G.

Regalado, F. D.

Rosario Braid, F.

Rigos, C. A.

Calderon, J. D.

Rodrigo, F. A.

De Castro, C. M.

Romulo, R. J.

Colayco, J. C.

Sarmiento, R. V.

Concepcion, R. R.

Suarez, J. E.

Davide, H. G.

Sumulong, L. M.

Gascon, J. L. M. C.

Tan, C.

Guingona, S. V. C.

Tingson, G. J.

Jamir, A. M. K.

Treñas, E. B.

Nieva, M. T. F.

Uka, L. L.

Nolledo J. N.

Villegas, B. M.

With 30 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R.

Lerum, E. R.

Alonto, A. D.

Maambong, R. E.

Bacani T. C:

Monsod, C. S.

Bengzon, J. F. S.

Natividad, T. C.

Garcia, E. G.

Quesada, M. L. M.

P.M.

Foz, V. B.

Villacorta, W. V.

Tadeo, J. S. L.

Mr. de los Reyes was on official mission.

Mr. Rosales was sick.

Messrs. Laurel and Ople were absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF RESOLUTION AND COMMUNICATION

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

Proposed Resolution No. 545, entitled:

RESOLUTION TO DEFER VOTING ON BASES AND NEUTRALITY UNTIL AFTER THE
PRESIDENT'S VISIT TO THE UNITED STATES

Introduced by Honorable Villacorta, Concepcion, Suarez, Sarmiento, Nollado, Davide, Jr., Uka, Tan, Gascon,
Quesada, Garcia, Bennagen, Aquino, Tadeo, Bernas, Azcuna, Abubakar, Foz and Rosario Braid

TO THE STEERING COMMITTEE

COMMUNICATIONS

Communication No. 915 — Constitutional Commission of 1986

Letter from Atty. Flor S. Caritan, No. 1-3 Molave Street, 2nd Reyville Subdivision, Pamplona III, Las Piñas,
Metro Manila, expressing his views on the proposed "budget-priority in compulsory elementary and high
school education", saying that this can be a drawback to some other good provisions in the Constitution

because it can mean some delays in infrastructures, agricultural developments, the construction and repair of highways, bridges and roads, because it must be all out for education

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 916 — Constitutional Commission of 1986

Letter from Atty. Manuel T. Ferrer of the Small Rice Landowners Association of Camarines Norte, expressing full support to the provisions of Section 5 of the proposed Article on Social Justice

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 917 — Constitutional Commission of 1986

Letter from Mr. Roman Gonzales and three others, Barangay Abogado, Paniqui, Tarlac, urging the Constitutional Commission to consider the upliftment of the veterans who have been left out by Batas Pambansa Blg. 644

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 918 — Constitutional Commission of 1986

Letter from one Taisuke Ogawa of 329-1 Uyanagikami-machi, Katsushiro, Kumamoto, Japan, urging the Constitutional Commission to include the base-free and nuclear-free provisions to see a demilitarized and nuclear-free world

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

Communication No. 919 — Constitutional Commission of 1986

Communication from Mr. Agaton N. Ibarbia President, Small Landowners Association of Buhi Inc., Buhi, Camarines Sur, expressing Support for the adoption of a provision protecting the small fisherman from being dispossessed by the rich and foreigners and the provision for adequate employment opportunities of deprived citizens affected by the land reform laws

TO THE COMMITTEE ON SOCIAL JUSTICE

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

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 537 (Committee Report No. 36) on the Article on Declaration of Principles, entitled:

Resolution to incorporate in the Constitution an Article on the Declaration of Principles.

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

Pursuant to an earlier reservation, Mr. Rama asked for the recognition of Mr. Azcuna.

REMARKS OF MR. AZCUNA

Speaking in support of Section 3 of the Article on the Declaration of Principles, Mr. Azcuna stressed that the proposal seeks to assert Philippine sovereignty by providing that no foreign military bases would henceforth be allowed on Philippine territory. However, he explained that this is subject to existing international agreements

and therefore the proposal does not seek the immediate dismantling of foreign military bases in the country. Specifically, he stated that the existing military bases, pursuant to the RP-US Military Bases Agreement, may be allowed to stay until 1991 when the Agreement expires, adding that if by then it is allowed to lapse, the Philippine Government would not be reneging on any obligation by choosing not to renew it.

On the question of whether the Philippine Government should enter into a new treaty to allow these foreign military bases to stay after 1991, he stated that it is the position of the Committee that they should not stay after said date because their presence in Philippine territory derogates Philippine sovereignty

Mr. Azcuna disagreed with the suggestion that this matter should be left to the Executive to decide on the ground that the President is charged with the conducts of foreign relations. He maintained that this is not simply a question of foreign policy but a question of national sovereignty. He pointed out that the Constitution is first and foremost a document which defines the parameters of the people's sovereignty. He noted that having been tasked to draft the Constitution, the Commission is bound to encounter certain drawbacks, restrictions and derogations to the very sovereignty that it wishes to assert in the fundamental charter. He stated that these encounters should not be left for determination in other forums because the Commission is precisely called upon to perform the task of defining sovereignty and determining what may be the restrictions, infringements and impairments which stand in the way of its exercise. He likened the situation to that of a carpenter who, having been asked to build a house, encountered termites which could undermine its foundation, in which case, the carpenter could not just say he would not mind the termites because he was only asked to build the house. He argued that the removal of the termites is necessary, otherwise, there is no sense in building the house. Similarly, he stressed that restrictions on and derogation of sovereignty must also be addressed, otherwise, there is no sense in drafting a constitution.

Taking exception to the observation that the Philippines is a small country like a small, fragile woman, Mr. Azcuna pointed out that the Philippines is among the largest countries in the world both in terms of area and population, with sufficient human as well as natural resources more than enough to allow it to stand on its own without relying perpetually on foreign powers for its defense.

Mr. Azcuna stated that the RP-US Military Bases Agreement is tied up to the RP-US Mutual Defense Agreement. However, on the statement that the country needs the Mutual Defense Agreement for its security because it is not yet ready to defend itself, Mr. Azcuna inquired as to when will the foreign power that seeks to defend it train the nation so that it will be able to defend itself. He also inquired whether it is in the interest of a foreign power to make the country perpetually dependent on it rather than train it in order that it can stand on its own.

Mr. Azcuna maintained that in drafting a new Charter that would assert Philippine sovereignty, it is the Commission's task and duty to give to the people the right to define their own destiny. He stated that much has been said of the Filipino people being free, independent and sovereign, yet, he noted that the Body does not want to address itself to this one single factor that derogates and undermines that sovereignty. He deplored the pretention that the people shape their own destiny of and are masters in their land when in fact they are not.

Mr. Azcuna urged the Members to support the Committee Report which, he said, seeks to squarely address the issue of sovereignty. He maintained that this is an option which must be exercised neither by the President nor by the Senators but by the people themselves. He warned that failure to place this in the Constitution would, in effect, deprive the people of their option to decide.

MANIFESTATION OF MR. ROMULO

At this juncture, upon request of Mr. Romulo there being no objection, the Body proceeded to the period of interpellations without prejudice to Mrs. Natividad's reservation to speak on the proposed Resolution.

SUGGESTION OF MR. SUAREZ

At this juncture, Mr. Suarez suggested that the Body adopt the same methodical and systematic procedure it adopted in discussing the proposed Article on Human Resources.

Upon inquiry of the Chair, he suggested that the interpellation be done by section.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session

It was 10:25 a.m.

RESUMPTION OF SESSION

At 10:36 a.m., the session was resumed.

MANIFESTATION OF THE CHAIR

Upon resumption of session, the Chair stated that as agreed upon, the Members may interpellate on any subject covered by the Committee Report on the Article on Declaration of Principles.

The Chair requested the Members who would wish to interpellate to first register with the acting Floor Leader.

INTERPELLATION OF MR. BERNAS

In reply to Mr. Bernas' query on the meaning of the phrase "continues only with their consent" found in Section 1 of the Committee Report but which does not appear in the 1935 and 1973 Constitutions, Mr. Azcuna affirmed that it refers to the continuation of an administration in relation to the provision on the right of the people to change its government in case of abuses. He explained that the people can temporarily change the officials administering the government who have unsatisfactory performance.

Mr. Nollado also affirmed that the authority government officials continues only with the consent of the people. He explained that the people can change the administration or terminate its authority through elections and other peaceful means in order to curb widespread injustices, graft and corruption so that it would continue to represent the sentiments of the people. When peaceful means fail, the people may even revolt especially if the government uses force to commit injustices as contained in Mr. de Castro's resolution.

On whether the said phrase was motivated by the February revolution, Mr. Tingson explained that the provision on people power in the Constitution was the Committee's direct response to various resolutions advocating such provision.

On whether the February revolution resulted in a change of government or a change of administration, Mr. Nollado opined that it was a change in both considering that there was a change in persons running the government and a change to a revolutionary form of government. He stated, however, that it was an exceptional case because of the need to change the Constitution of President Marcos because of economic turmoil and political confusion.

On the second paragraph of Section 3, Mr. Bernas inquired whether its two sentences are inseparable, to which Mr. Azcuna replied that the first sentence speaks of national sovereignty, self-determination and independence, while the second sentence refers to the specific situation that sovereignty is being derogated by the presence of foreign military bases which, therefore, calls for the removal of said military bases.

On whether foreign military bases really derogate the national sovereignty, Mr. Azcuna explained that while the U.S. military bases in England, Spain and Turkey do not derogate their sovereignty because they are either leased or rented, the Philippine situation is different in the sense that the U.S. bases in the country were brought about by colonial influence.

On whether the first sentence would allow the negotiation of a treaty agreement that would be different from the situation contemplated in the second sentence but would still derogate national sovereignty, Mr. Azcuna opined that if the negotiation is based on true sovereign equality, such as the Mutual ASEAN Defense Agreement, such treaty would not at all derogate national sovereignty.

Mr. Nollado added that if a treaty would be approved by Congress as well as by the people, it would not in any way diminish the national sovereignty, like in Turkey where the bases are under the control of its government which has the right to terminate the treaty under certain circumstances.

On whether it would still be a derogation of sovereignty if after submission to and approval by the Philippine Congress and the Filipino people, the treaty would then be submitted for approval by the U.S. Congress, Mr. Nollado stated that it would not be a derogation of sovereignty because Section 1 of the Committee Report provides that sovereignty resides in the Filipino people and the situation mentioned by Mr. Bernas presumed the approval by the Filipino people through a plebiscite.

On whether the portion to be included in the Transitory Provisions on page 5, lines 28 to 31 would still be necessary considering that it would be covered by Section 3, Mr. Nollado opined that it would not be necessary because the second paragraph of Section 3 states that the prohibition on foreign bases would be subject to existing treaties, international or executive agreements. He stated, however, that the question arises whether the RP-US Bases Agreement was really a treaty considering that it was not submitted for ratification by the U.S. Senate but merely implemented in Resolution No. 3 of the U.S. Congress under questionable circumstances. However, he added that it is possible to delete the second paragraph of Section 3 and consider the same in the Transitory Provisions.

Mr. Garcia, however, explained that the principle being incorporated in the Article on Declaration of Principles is the prohibition against foreign bases of any power under any administration because it would be a diminution of the national sovereignty, although the Filipino people could give consent to the establishment of foreign bases by ratifying treaties.

On whether it would still be necessary to consider lines 28 to 31 of page 5 in the Transitory Provisions if Section 3 would be approved, Mr. Azcuna pointed out that Section 3 would not suffice because it only provides for the prohibition of foreign bases subject to existing treaties and agreements, and, therefore, would allow renewal of treaties, while the proviso to be considered in the Transitory Provisions categorically states that there should be no renewal of the RP-US Bases Agreement.

On Mr. Bernas' observation that the two provisions are contradictory, Mr. Azcuna explained that they are not, because Section 3 provides for the options to renew or not to renew the Bases Agreement while the proviso in the Transitory Provisions exercises the option not to renew said agreement.

Mr. Nollado added that if Section 3 would be approved, the Transitory Provisions could still allow the continuation of U.S. bases but only until 1991, and thereafter, a renegotiation would be unconstitutional. He also affirmed that the second paragraph of Section 3 refers to existing treaties and agreements and, therefore, it would include the RP-US Bases Agreement which expires in 1991.

On Mr. Bernas' contention that the Transitory Provisions state the same provisions in Section 3, Mr. Nollado

stated that the declaration in Section 3 is prospective while the Transitory Provisions specifically refer to the continuation of the U.S. bases until 1991.

Mr. Azcuna reiterated that the option to renew would not be exercised under the Transitory Provisions.

On Section 4, Mr. Azcuna explained that the term "nuclear-free" only prohibits nuclear weapons as contemplated in the succeeding sentence, and it does not prohibit nuclear plants considering the recent breakthroughs in nuclear power such as the invention of a fusion reactor that is cleaner and safer because it uses water as raw material.

Mr. Nollado, however, stated that the Committee was divided on the meaning of the term "nuclear-free" because he and Mr. Garcia believe that nuclear plants should be prohibited but not nuclear medicine.

INTERPELLATION OF MR. GUINGONA

Adverting to the Committee's reply that the phrase "continues only with their consent" refers to administration, and its possible change through peaceful means without discounting the use of violence when necessary, Mr. Guingona opined that the inherent right to revolt should not be incorporated in the Constitution, just like the inherent right to kill in self-defense, because it would encourage people to exercise such right in the guise that the circumstances call for it.

In reply, Mr. Nollado pointed out that the inherent right to resort to people power would not mean encouraging people to kill, but to use force against the government when it no longer serves their purpose, when it becomes dictatorial or when it virtually ignores the rights of people. He affirmed however, that even without such provision, the people still have an inherent right to revolt against the government as recognized in all civilized countries.

Mr. Tingson underscored that there is a similar provision in the Universal Declaration of Human Rights, and enshrining it in the Constitution is an acknowledgment of the importance of such declaration.

Mr. Guingona maintained that said declaration should not be constitutionalized, and stated that he is only against its inclusion in the Constitution.

At this juncture, Mr. de Castro explained that Section 26 seeks to constitutionalize the concept that the people have the right to change an abusive government through peaceful means similar to that which occurred at EDSA in February, 1986.

Mr. Guingona stated that he would not pursue the point but might present an amendment at the proper time.

On whether "laws of the land" in Section 2 refers to statutory laws or constitutional law, Mr. Nollado replied that it refers to both. He opined that in case of conflict, for example, with a treaty which stipulates less than 60% Filipino equity in corporations operating public utilities, the Constitution Would prevail if the generally accepted principles of international law are only deemed adopted as part of municipal law, a mere declaration which must yield to a definite mandate that at least 60% of the capita of corporations must be owned by Filipino citizens.

But this would not be necessarily so if treaty provisions are adopted as part of our constitutional law.

On whether the clause "The State shall pursue an independent course in sovereign relations" in Section 3 prohibits the State from entering into any agreement concerning the installation or operation of military bases in the country, Mr. Nollado stated that if the provision against "foreign military bases, troops or facilities" were approved, the Philippines would only have to respect the present RP-US Bases Agreement up to 1991 but no other agreement of similar or identical nature may ever be entered into. He explained that if the provision is not approved but the provision on neutrality and non-alignment is approved, this provision would then be the basis for

any other military bases agreement pursuant to treaties which may be entered into and ratified by the appropriate body since nonalignment would not prohibit temporary alliances.

Mr. Guingona manifested agreement with the clause "strive to promote and establish together with other States a zone of peace, freedom and neutrality in this part of the world" provided that it is understood as a policy statement which would not be immediately implementable.

On the provision which seeks to make the Philippines a nuclear-free country, he stated that the Body should not foreclose the use of nuclear energy for peaceful means.

On whether the phrase "required by law" in Section 6 also contemplates Executive Orders issued by the President, Mr. Nollado replied that they are included if they are not contrary to law because they also have the force of law. He also pointed out that the President may issue Executive Orders to make more meaningful his position as Commander-in-Chief of the Armed Forces of the Philippines provided they are not inconsistent with the laws.

On the meaning of the phrase "with due regard to objections of conscience" in Section 6, Mr. Azcuna explained that a person, whose conscience sincerely tells him that he should not kill people under any circumstance, could still be drafted for the defense of the State but he would be given noncombatant duties such as serving in the hospital or kitchen.

On whether "civil service" could be substituted with "civic service" so as to avoid confusion, Mr. Azcuna explained that the Committee merely adopted the phrase used in the 1935 and 1973 Constitutions.

Mr. Guingona stated that at the proper time he would propose the deletion of Section 10 which states "For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation" on the ground that it is already included as one of the aims of education; and also the second sentence of Section 19 which reads "Towards the end, it shall promote the development of an indigenous, socially responsive and nationalist-oriented scientific and technological capability" because it is already included under the section on science and technology.

On whether the phrase "and they shall not be extradited" in Section 24 relative to the grant of asylum could be better left to Congress, Mr. Nollado stated that the provision is in line with the objective to defend human rights. He explained that if a person who seeks asylum would be extradited upon request of his country of origin, the first part of the provision which seeks to grant such asylum would be rendered meaningless.

On Mr. Guingona's contention that Congress should be allowed to determine the conditions under which a person who seeks asylum in the country should or should not be extradited, Mr. Nollado stated that the Committee would be willing to consider an amendment at the proper time.

Finally, responding to Mr. Guingona's observation that Section 26 should not institutionalize violent revolution since the Constitution is supposed to enshrine the rule of law, Mr. Nollado informed that Messrs. Ople, Natividad and Maambong have filed a similar resolution known as the de Castro Resolution.

INTERPELLATION OF MR. RIGOS

In reply to Mr. Rigos' query whether in Section 4 the Committee has made a distinction between "nuclear-free" and "nuclear-weapons-free", Mr. Azcuna stated that majority of the Committee Members wanted to adopt "nuclear-weapons-free" but "nuclear-free" as finally adopted by the Committee also means free from nuclear weapons as clarified in the second sentence of the provision.

On whether it is the intention of the Committee to include Section 9 which speaks of the family as a basic social

institution and also the protection of the mother and the unborn child both in the Declaration of Principles and in the Article of Family Rights, Mr. Villegas explained that the Article on Declaration of Principles mentions in general specific rights without prejudice to their being provided in more detail in the other articles.

On Mr. Rigos' observation that the Committee failed to mention anything on the accountability of public officials, the legislative, executive and judiciary in the Declaration of Principles but repeated provisions found in the Articles on Social Justice, and- Education, Science and Technology, Arts and Culture, Mr. Tingson explained that although the Committee realized that many of the provisions in the Declaration of Principles are repetitious, it also wanted to be brief and affirmative. However, he added that the Committee would welcome amendments at the proper time in order to accommodate some other important points which may have been overlooked during its deliberations.

As to what is the "moment of conception" referred to in Section 9, Mr. Villegas explained that it is when the ovum is fertilized with the sperm.

Ms. Aquino, however, who is also a Member of the Committee, manifested disagreement to the position taken by Mr. Villegas, adding that the Committee was divided on the proper interpretation of the phrase and such question as to whether a mere biological existence as a potential for human life is qualifiable as a human being, remained unresolved during its deliberations.

Mr. Bacani noted that there is no conflict between the opinions of Mr. Villegas and that of Ms. Aquino because when the former said that there is human life when an egg is fertilized by a sperm, he did not make an assertion that the fertilized ovum is a human personality in the philosophical sense.

Mr. Tingson informed that the Committee substituted "fertilized ovum" with "from the moment of conception" to make the provision more intelligible.

INTERPELLATION OF MRS. NIEVA

In reply to Mrs. Nieva's query whether the phrase "zone of peace, freedom and neutrality" in Section 3 means that the country cannot unilaterally declare itself neutral, Ms. Aquino explained that the section merely attempts to constitutionalize a desire for neutrality to be adopted in the region, adding that neutrality is perceived as a process over time which cannot be legislated on and that the Constitution is independent of the recognition accorded by other countries within the region.

Ms. Aquino further explained that neutrality may be attained legally in two ways, namely, 1) in the form of a unilateral declaration by way of a law or decree, like what Austria and Switzerland did, and the recognition of such country would concomitantly and in effect mean the recognition of the law or decree on neutrality; and 2) a multilateral treaty recognized by the great powers the way it was done in Belgium and Luxembourg.

In reply to Mrs. Nieva's query on the advantages of a unilateral declaration of neutrality, Ms. Aquino stated that the advantages or disadvantages cannot be identified because the Constitution, as a charter of an essentially sovereign nation, merely breaks the ground for neutrality.

She confirmed the fact that the State shall be mandated to take all steps and efforts to ensure neutrality such as the solicitation of the big powers' consent so that the country's neutrality shall not be infringed but perceived in the regional context to give more meaning to it.

She also confirmed the fact that the Philippines shall pursue its no-bases stand at the same time that the USSR would be working to eliminate its Cam Ranh Bay Base in pursuit of the concept of regional neutralization.

REMARKS OF MR. ABUBAKAR

Mr. Abubakar suggested nonincorporation of the issue in the Constitution and leaving the matter free so as not to betray the country's position to any group or force considering the fact that flexibility is the rule of foreign policy.

Reacting thereto, Mr. Nollado stressed that the provision on neutrality provides for flexibility because of the inclusion of nonalignment liberating the country from dependence on any particular power bloc. He pointed out that the Philippines is too dependent on the United States and a clear declaration of nonalignment, which is now known as "neutralism", would make the country free to deal with any foreign country, may it be Russia, the United States or any country in Europe.

Mr. Abubakar argued that the explanation of Mr. Nollado adopts a position in itself and that foreign relation is merely temporary which calls for flexibility, to which Mr. Nollado replied that neutrality does not preclude shifting from right to left as the country could enter into temporary alliances, making it completely free to conduct its own foreign relations. He stressed that the existence of the American bases requires the adoption and declaration of neutrality.

On whether it is possible to declare neutrality with the presence of foreign troops and bases in the country, Ms. Aquino stated that it is the inherent and sovereign right of the State to have its own foreign policy such as the declaration of neutrality, and that a country as small as the Philippines should have a definitive position on its foreign policy trend.

Expressing disagreement thereto, Mr. Abubakar stated that history shows that such stand was not respected in the past such as Germany's invasion of Belgium.

Ms. Aquino stated that the geographic and strategic configuration of the Philippines makes the country a strategic site for all the geopolitical powers within the area such that America would want to exert every possible influence on the country's foreign policy to make it drift towards its aggressive foreign policy in the Indian Ocean, East Asia and the Pacific. She stressed that Russia's posture is a defense on American geostrategic interest in the country for which the Philippines should adopt a policy of neutrality for survival.

Mr. Abubakar reiterated his stand that a powerful state may take the Philippines for the furtherance of its interest despite the country's adoption and declaration of neutrality.

On Ms. Aquino's query whether the people should just lay prostrate without protecting them selves by incorporating an aggressive policy in the Constitution while foreigners are claiming certain areas of their territory, Mr. Abubakar stated that flexibility would give the country more advantages since the mere definition of neutrality in the Constitution would not protect it from any power whose interests, military strategy or otherwise, calls for expansion. He stressed that if no advantage is generated by the policy, then it is not a guarantee that it would favor the country.

Ms. Aquino conceded that there are no eternal guarantees of security in foreign policy but that a position of neutrality is a giant breakthrough towards the preservation of national integrity.

Mr. Abubakar stressed that he objects to the constitutionalization of the issue and that the matter should be left to legislation.

Ms. Aquino observed that the misunderstanding lies in the concept of neutrality which she said 1) advocates peace; 2) opposes a policy of war and aggression; 3) refuses to align itself with military blocs; and 4) is a policy that is dedicated to the relaxation of peace. She pointed out that flexibility could be read into this kind of foreign policy.

Additionally, Mr. Garcia stated that historically, the Philippines had already conceptualized perpetual neutrality in the 1935 Constitution, however, Section 11 of the Tydings-McDuffie Law violated the Constitution because it established the military bases. He stressed that the country is now part of a nuclear strategy of power blocs because of the bases, for which reason the Philippines should strive towards a declaration of a zone of peace and neutrality as its contribution to nuclear disarmament and world peace.

Replying thereto, Mr. Abubakar stated that he is not in disagreement with Mr. Garcia's assessment of the situation but merely suggested not to incorporate the issue into the Constitution because of the changing times.

At this juncture, the Chair stated that the Committee had sufficiently explained its stand and that Mr. Abubakar could submit his points on the matter during the period of amendments.

REMARKS OF MR. NATIVIDAD

Mr. Natividad stated that the issue on the military bases could be traced back to Commodore Dewey's coming to Manila in 1899 which, because of its strategic location; attracted many countries. He stated that the country's forefathers could not be said to have no love for the country or were used as tools by the Americans but that the matter must not be decided by the 47 Members of the Constitutional Commission.

He stated that the fate of the 42,265 Filipino employees and 900 contractors from whom 500,000 Filipinos benefit should be taken into account, considering the fact that the country is in a bankrupt state.

He observed that the country's forefathers had years to contemplate on the problem and the two-week period within which the Body should decide, could leave loopholes which would lead to more complicated problems.

He stated that according to Ambassador Emmanuel Pelaez, it would take at least five years for even the best minds to prepare for negotiations on the matter, hence he advised the Body not to rush on the matter.

He expressed support for Mr. Rodrigo's stand to leave the matter to the government which, he said, could form a body composed of members from the Ministries of National Defense, Foreign Affairs, Finance and Justice to study the same up to 1991, and to prepare the panel for the negotiations.

He stressed that the results of the negotiations should be submitted to the Filipino people who shall ultimately decide and determine their own fate.

REITERATION OF MR. GASCON'S MOTION

At this juncture, Mr. Gascon reiterated his motion which he made in the previous session for the Body to observe a minute of silent prayer and reflection at 12:00 noon in observance of the United Nations' celebration of the International Day of Peace as a tribute to those who struggled for peace and as a reminder that Jesus Christ himself offered His peace for all men, which motion Mr. Tingson seconded on behalf of the Committee.

Thereupon, there being no objection, and it being 12:00 noon, the Chair requested everybody to observe a minute of silent prayer.

THE PRESIDENT'S PRAYER

The President of the Constitutional Commission led the prayer, thus:

Let us pray to the Lord, that He may grant peace to the whole world, to all mankind, but most especially, to the Filipino people and to our country.

Amen.

PRAYER OF MR. GASCON

Mr. Gascon offered this prayer of St. Francis:

Lord, make us all Your instruments of peace;

Where there is hatred, let us bring love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light;
Where there is sadness, joy;
Lord, make us all Your instruments of peace.

INTERPELLATION OF MR. SARMIENTO

Mr. Sarmiento prefaced his interpellation with an enumeration of the four types of sovereignty, to wit: legal, political, internal and external sovereignty.

On political sovereignty, he stated that it refers to the supremacy of the law of the State within its territory, the basis of which is physical control of the people and the territory, emanating from physical power. He stated that it is also understood to mean as the supreme coercive power exercised by a determinate body of persons possessing a monopoly of certain instruments of coercion.

In reply to his query whether the existence of the military bases is a derogation of this kind of sovereignty Mr. Nollado affirmed that the one-sided provisions of the RP US Bases Agreement derogates the same.

Adverting to Articles II and R;I of the Agreement, Mr. Sarmiento inquired whether they are the articles referred to, reply to which Mr. Nollado affirmed that he was referring to Article VI (Military and Other Areas) of the documents which states, to wit:

"The United States can use land and coastal areas for periodic maneuver or additional staging areas, bombing and gunnery ranges and other intermediate airfields."

Moreover, Mr. Nollado stated that the United States has an untrammelled right, under this Article, to exercise jurisdiction in all parts of the country. He noted the disparity of rights under the RP-US Bases Agreement, between Americans and Filipinos, pointing out that while a Filipino may not enter a U.S. military base, a member of the U.S. Armed Forces may enter any Philippine military installation. He stressed that this is a complete derogation of Philippine political sovereignty.

On whether renunciation of war or adherence to peace, which principles are embodied in Section 2, would mean the country's non-participation in any form of hostility as well as nonallowance of the use of foreign bases in Philippine territory as staging areas for attacks on other countries, Mr. Nollado concurred that this would be the meaning. Further, he opined that even if there is no provision that foreign military bases should not exist in the country, the existence of foreign military bases would, in itself, infringe upon the principle and spirit behind Section 2.

Mr. Sarmiento recalled that in many past incidents, the U.S. bases in the Philippines had been used as staging areas for attacks on other countries such as during the Korean War when they were used as maintenance stations for U.S. ships and aircrafts; during the Indonesian rightists' coup against Sukarno when they were used as supply depots; and during the Vietnam War when Clark Air Base was used as a staging area for aerial attacks against Vietnamese cities and villages.

In reply, Mr. Nollado maintained that such acts violated the 1935 Constitution and should they persist, would also violate the 1986 Constitution. He added that any President who cooperates in such acts would also violate the Constitution.

Mr. Tingson interposed to state that some Members of the Committee feel that sometimes to preserve peace one must go to war. He noted that World Wars I and II were waged by the United States and other nations to end wars and hopefully bring about a permanent peace. He stated that there are times when democratic, peaceful-loving nations are forced to go to war in order to preserve their integrity.

On whether the phrase "general" accepted principles of international law as part of the laws of the land" would cover the right to self-determination; the maintenance of international peace and security and for that end, to take effective collective measures for the preservation and removal of threats to peace; as well as the principle enshrined in the Charter of Economic Rights and Duties of States to individually and collectively eliminate neo-colonialism and all forms of foreign domination", Mr. Nollado replied that all these principles would be covered.

Mr. Nollado agreed with Mr. Sarmiento that the principles are contradictory to the existence of foreign military bases in the Philippines. Additionally, Mr. Nollado stated that even without a provision to the effect that foreign military bases should not exist in the country, the very existence of U.S. bases contradicts the principles of international law which Mr. Sarmiento just cited and which have been adopted as part of the law of the land.

Mr. Nollado also agreed with Mr. Sarmiento's contention that Section 9, on the obligation of the State to protect the life of the mother and the life of the unborn from the moment of conception, would be a companion provision to Sections 1, 2 and 3 of the Article inasmuch as one cannot speak of the right to life of the unborn in the face of nuclear annihilation and that it would be useless to approve Section 9 without approving Sections 1, 2 and 3.

INTERPELLATION OF MR. DAVIDE

Mr. Davide, seeking clarification on certain answers given by Mr. Nollado in the interpellation of Mr. Sarmiento, queried whether the totality of sovereignty in Section 1, the principle of renunciation of war as an instrument of national policy and acceptance of the principles of international law as part of the law of the land would be sufficient reasons against the retention of Section 3, to which Mr. Nollado replied that this is not the intention. He pointed out that even without the provision, the existence of the American bases in the Philippines would be illegal. He noted that one cannot readily conclude from the provisions that the existence of foreign military bases in the country is illegal, for which reason the Committee is making it clear that the Philippines would like to prohibit foreign military bases in the country.

In view thereof, Mr. Davide maintained that there would still be a need to put in writing the principle against the maintenance of foreign military bases even if the following were conceded: 1) the totality of sovereignty in the sense stated by Mr. Sarmiento; 2) the full meaning of renunciation of war as an instrument of national policy; and 3) the meaning of the adoption of the generally accepted principles of international law.

Mr. Davide noted that there is a contention that the issue on the bases should be left to the President and Congress on the ground that the Members of the Commission are merely appointed and that they do not have the necessary materials on which to base their decision. Upon his inquiry, Mr. Nollado affirmed that the Filipino people had been fighting against the establishment of the bases even before World War II. Mr. Nollado added that even past Presidents were against the bases but could not openly state so inasmuch as they were afraid of the United States.

With respect to the Hare-Hawes-Cutting Act, Mr. Nollado affirmed Mr. Davide's contention that the Filipino people rejected the Act because it contained a provision on the maintenance of U.S. military reservations in the

Philippines which violated the national dignity of the Filipino people. Furthermore, he affirmed Mr. Davide's point that the Tydings-McDuffie Law expressed the fullest intention of the United States to place the Philippines under perpetual neutrality. Additionally, Mr. Nollado stated that there was a provision in the law authorizing the U.S. President to negotiate for perpetual neutrality of the Philippines.

Mr. Davide stressed that this was a solemn and sacred obligation as well as a commitment and a promise to the Filipino people under colonial rule which was not fulfilled. Mr. Nollado agreed with the observation.

Additionally, Mr. Garcia informed that all the features of the Tydings-McDuffie Law and the Philippine Independence Act were made part of the 1935 Constitution.

Mr. Davide underscored that it was an obligation and a sacred and solemn duty of the United States to the Filipino people, hence, it became the right of the Filipino people to attain the status of neutrality.

On whether the 1947 RP-US Bases Agreement would be considered a treaty, Mr. Nollado noted that some maintain the agreement is an Executive Agreement, to which he disagrees, on the ground that an Executive Agreement is transitory in character, whereas the RP-US Bases Agreement concerns Philippine sovereignty and jurisdiction. He added that although he does not consider it as a treaty, but assuming that it is, it was never ratified by the US Senate. He stressed that the US Senate did not believe in the validity of the Treaty while the Philippine Government, which could not muster enough will to oppose the agreement, ratified it.

Mr. Davide opined that legally the Agreement was in the nature of a treaty inasmuch as it affected the sovereignty and the national integrity of the Philippines. Mr. Nollado concurred.

Mr. Davide recalled that the First Philippine Congress after the war decreed a resolution authorizing the President to enter into the treaty and after the resolution was complied with by the President, the Agreement was never submitted to the people in a plebiscite. In view thereof, he maintained that the 1947 RP-US Bases Agreement was void from the very beginning, not only because of the absence of a ratification because it was in fact a treaty, but also because of the open rejection on the part of the United States to comply with its solemn and sacred duty.

Mr. Nollado agreed with the points raised by Mr. Davide and noted, moreover, that the Agreement violated the 1935 Constitution which contains as an ordinance thereof, the Tydings-McDuffie Law. Being null and void, he observed that the agreement does not exist at all and cannot even be ratified.

Mr. Nollado agreed that further renegotiations of the Agreement would have no legal effect because the source or the basis was void from the very beginning.

Mr. Davide pointed out that, granting for the sake of argument that the previous agreement was valid, its renegotiation in 1983 was undertaken under the 1973 Constitution, which Constitution has been declared not validly ratified by the Freedom Constitution. He noted that the President of the Philippines in 1983 entered into the renegotiation under a void constitution and that consequently his act did not attain any valid and legal effects. He contended that there is more reason to strike out the illegal and void agreement and that it is therefore the duty of the Commission to perform this distinct duty to decide the matter once and for all so as not to perpetuate what Mr. Garcia called a "historical aberration". Moreover, Mr. Davide reasoned that even if the Members were merely appointive, inasmuch as the Commission's work would still be submitted to the people, the Members would have to act now and it is up to the people to decide this issue once and for all.

Mr. Nollado concurred with the arguments of Mr. Davide.

REMARKS OF MR. TINGSON

At this juncture, Mr. Tingson, upon inquiry of Mr. Davide, affirmed that his answer apropos the interpellation would be a minority opinion.

The Chair allowed Mr. Davide's interpellation to be answered by Mr. Tingson who represents one of two dissenting views in the Committee.

Mr. Tingson conceded that the Tydings-McDuffie Law did contain a suggestion from the U.S. Government that the Philippines would become neutral. He noted that after the acceptance of the Tydings-McDuffie Law, the Philippines became a Commonwealth in 1935. He opined that it was fortunate that the Filipino people did not opt for neutrality.

He noted that had the Philippines been neutral when the Japanese attacked Pearl Harbor and the Philippines, the Filipinos would not have been able to help its ally, the United States, and that it would have been embarrassing if only American blood had been shed in defense of the country. He maintained that the neutrality clause was a suggestion to the Filipinos to take up arms, to which it responded later on by siding with democracy. He observed that while it may be true that American soldiers fought for the U.S., they fought on Philippine soil beside the Filipinos.

INTERPELLATION OF MR. DE CASTRO

Mr. de Castro sought to interpellate Mr. Nollado as a Member of the Committee in support of the minority view.

On the view that the RP-US Bases Agreement was void ab initio, Mr. Nollado affirmed that this was the view of Senator Diokno and Mr. Davide.

Thereupon, Mr. de Castro inquired what would be the relevance of the provision which reads:

Upon the expiration of the RP-US Bases Agreement in 1991, foreign military bases, troops and facilities, shall no longer be allowed in any part of the Philippine territory.

He inquired whether the Committee is accepting the validity of the RP-US Bases Agreement up to 1991, in reply to which Mr. Nollado remarked that it was not necessarily so, inasmuch as the Agreement exists in fact although not valid. He noted that it is a de facto agreement which cannot be denied. He stated that there was an agreement which, although null and void, has been implemented for a considerable length of time and that it cannot be denied that it has been respected by past Presidents.

Mr. de Castro then pointed out that if it is not valid, the provision cited would have no relevance.

Mr. Nollado stressed that the Body is recognizing the existence of the treaty inasmuch as it can not go against reality. He noted that there must be some provisions to facilitate the passing away of the agreement.

CONTINUATION OF MR. DAVIDE'S INTERPELLATION

Apropos the statement of Mr. Tingson, Mr. Davide opined that insofar as the Philippines was concerned, World War II was a war of the United States in which Filipino lives were lost in its defense and that the Americans died not to save the Philippines but to protect U.S. interest. Thereupon, he adverted to the article of Ambassador Emmanuel Pelaez contained in the Foreign Relations Journal, to wit:

"Unfortunately for the Philippines, the ambiance in which the negotiations for the military bases agreement took place worked against her. She had just been devastated by over three years of Japanese occupation in war, her cities and towns were in shambles, her people hungry. She was totally dependent on the United States for

her rehabilitation. On the other hand, America had emerged from the conflict as the strongest nation in the world, champion of the free world. This disparity in situations reflected itself in the terms of the Military Bases Agreement. It was not so much a treaty between two sovereign nations as it was the extension of American sovereignty in the Philippines through the establishment of U.S. enclaves of extraterritoriality on her soil. The terms of the Military Bases Agreement were of prewar colonial vintage. Filipinos accepted the bases as a necessary evil."

He noted that even if there is such a provision in the Article recognizing the Agreement up to its expiration, this would be more of an accommodation and not a recognition of its validity.

Mr. Davide observed that in the sponsorship speech of Mr. de Castro, the main thesis was that the American bases would be for the protection of the Philippines. Mr. de Castro suggested that Mr. Davide reread the speech as this was not the main issue.

Anent the line, "As I said before, about 92% of Japan's oil supply passes through these Choke points to the China Sea. If these choke points are closed and controlled by a superpower, Japanese oil supply will have to travel halfway around the world. Eventually, Japan's economy has to fall to its knees to the power that controls said choke points." Mr. Davide inquired whether one of the principal arguments cited by Mr. de Castro was the protection of the Philippines and Japan. Mr. de Castro replied that he was talking of the strategic value of the Philippines and not of the U.S. bases protecting the Philippines or the benefits that shall go to Japan.

Mr. Davide argued that it is strategic in the sense that it would, among others, protect the choke points which would benefit Japan.

Mr. de Castro stressed that these choke points would benefit not only Japan but the whole Asian region because more than 90% of the strategic materials for Asia pass through these choke points.

On Mr. Davide's contention that the purpose of maintaining the bases in the Philippines is precisely to protect these choke points so that Japan would not be deprived of 92% of its oil supply, Mr. de Castro referred Mr. Davide to his sponsorship speech captioned "The Strategic Importance of the Philippines."

Mr. Davide informed Mr. de Castro that he had gone over the speech referred to and he noted that the conclusion, among others, is about Japan, to which Mr. de Castro replied that "strategic value" would not refer to the benefits derived by a particular nation but to its value to the entire region and that it is just incidental that Japan is importing 92% of its oil from the Middle East.

Mr. Davide contended that strategic value does not depend on the perception of the Philippines since it is not the salvador del mundo of the area, to which Mr. de Castro replied that strategic value is not based on perception but on facts and figures.

Mr. Davide stated that he was speaking of perception based on facts. He pointed out that the perception that the Philippines is of strategic value is a perception of the United States. He then called Mr. de Castro's attention to U.S. Defense Minister Casper Weinberger's statement in an article "The Five Pillars of Our Defense Policy" published in the Asia-Pacific Forum, to wit:

"The foundation stones underlining our Asia-Pacific policy include:

- the key importance of our security relationship with Japan;
- our commitment to stability in the Korean Peninsula;
- our efforts to build an enduring relationship with the People's Republic of China;

- our support for the political and economic vitality of the Association of Southeast Asian Nations; and
- our long standing partnership with Australia and New Zealand."

Mr. Davide inquired whether from those statements of defense policy, the Philippines would only be used as the strategic point to protect the interests of these areas.

Replying thereto, Mr. de Castro pointed out that those statements of defense policy reflect the strategic and tactical wisdom of Mr. Weinberger whereas the issue at hand is of strategic importance to the Philippines.

Mr. Davide stressed that whatever was strategic or tactical — the fact is that the maintenance of the bases in the Philippines is not for the Filipinos but for the Americans.

On Mr. de Castro's inquiry regarding the landing of Japanese forces in the Philippines, Mr. Davide stated that he was too young to recall but that history points to the fact that the Japanese invaded the Philippines because of the presence of Americans and their bases in the country.

On whether the landing of Japanese forces in Lingayen, Pangasinan and in Quezon Province violated the country's sovereignty, Mr. Davide stated that at that time there was such violation in like manner that there was from the Americans.

On whether he would fight the Japanese invaders even if it was a war of the United States, Mr. Davide stated that there was no question that the Filipinos had to fight but he stressed that what-should be considered is the cause and effect because whatever was the cause, the country would shoulder the effect.

Mr. de Castro pointed out that when these enemy forces landed in Philippine shores, there was no time to think of the cause because the Filipinos had to fight and repel them. It was for this reason, he stated, that the country went to war against Japan. Mr. Davide agreed that at that time there was no time to think of the cause.

REMINDER BY THE CHAIR

At this juncture, the Chair stated that the matter had already been sufficiently discussed.

MANIFESTATION OF MR. GUINGONA

Mr. Guingona sought to interpellate Mr. Davide, but the latter replied that he was interpellating the members of the Committee and he would not know if the Rules would an interpellator to be interpellated.

The Chair agreed with Mr. Davide's observation.

SUSPENSION OF SESSION

On motion of Mr. Romulo, the Chair suspended the session.

It was 12:42 p.m.

RESUMPTION OF SESSION

At 4:39 p.m., the session was resumed.

PRAYER FOR THE SPEEDY RECOVERY OF THE FATHER OF MS. AQUINO

Upon resumption of session, on request of Mr. Rama, the Body offered a prayer led by Mr. (Gregorio J. Tingson, for the speedy recovery of the father of Ms. Aquino, to wit:

Our Dear Loving Heavenly Father, You are the Source of every good and perfect gift. You are the One who

gives us life, health, happiness, joy. You give life, You take life, and we rejoice in that. We know that You are the Greatest Physician who made the blind see, the lame walk. You touched the leper, he was made good. You are able to do the same today because You are the same yesterday, today and forever.

Father, across the vast expanse of the Pacific, ten thousand miles from here, we project our thoughts and our prayers towards Mr. Aquino, who has just been operated on in Houston, Texas. He is all alone there away from his country, from his family. We join our hearts, the Commissioners of the Constitutional Commission and the public joining us today, and in unison we beg of You, touch him, Dear Lord, heal him and be very near to him, console him with Thy Divine and healing presence.

This we believe You will do, for we exercise our faith which is seeing the invisible and believing the impossible. Thank You, Lord. We all pray all these in the Loving and Matchless Name of Jesus Christ our Lord.

Amen.

INTERPELLATION OF MR. SUAREZ

On Section 1, in reply to Mr. Suarez' query on the rationale for providing the word "democratic" in addition to "republican", Mr. Nollado explained that republicanism includes the existence of the Bill of Rights and periodic elections, which are also manifested in a democratic state, therefore, although it may be redundant, the word "democratic" would emphasize that the Philippines is both republican and democratic. He stated, however, that "democratic" should not be interpreted in the language of socialist and communist states.

On Section 2, Mr. Suarez observed that the objective name "Philippines" was changed to a more subjective term "Filipino people". He inquired as to the reason for eliminating the words "justice, cooperation and amity with all nations" as found in the 1973 Constitution, in reply to which, Mr. Nollado pointed out that "justice" is already covered by "equality", while cooperation and amity with all nations is presumed if there is "peace". He stated, however, that any amendment to revive said terms would be considered in the period of amendments.

On Section 3, Mr. Nollado affirmed Mr. Suarez' observation that the State is not mandated to establish a zone of neutrality but rather to promote a zone of peace, freedom and neutrality as a desired objective in order that the country may contribute to world peace. He underscored that it is not a unilateral declaration of neutrality but a declaration of an objective.

On Section 4, on the rationale for the use of the words "storing or stockpiling", Mr. Azcuna explained that they are technical terms used in treaties and agreements to denote the manner of placing nuclear weapons in a territory.

On Section 6, on whether religious beliefs could be included in the interpretation of "objections of conscience", Mr. Tingson affirmed that religion would involve conscience, and there are religious sects that specifically prohibit in their doctrines the taking up of arms, therefore, it could be one of the objections of conscience. He explained, however, that a citizen who may have objections of conscience to military training may be required to render civil service or civil work.

On Section 9, Mr. Suarez inquired how the State could give equal protection to the life of the mother and the life of the child. Mr. Villegas explained that 99% of the cases indicated that taking care of the mother would be taking care of the child and vice versa, and it is only in exceptional cases of ectopic pregnancy that the moral dilemma arises. He underscored that the primary purpose of Section 9 is to give protection to both the mother and the child, but if one of them dies in the operation, no one would be morally and legally liable because the moral principle of double effect permits such operation to save both, even if it would indirectly sacrifice the life of one of them.

On Mr. Suarez' observation that laws against abortion, whether willful, deliberate or induced, would already cover the protection of the life of the child from the moment of conception, Mr. Villegas affirmed that the Committee would like to provide for a more fundamental law, considering that in other countries, like the United States, the courts were able to legalize abortion under certain conditions because of the absence of a provision in the Constitution prohibiting it. He stated that such basic law would prevent contradictions in inferior laws which at times are imperfect.

Mr. Suarez pointed out that under the Civil Code, and pursuant to the Constitution, all persons, including born children, have the right to life, liberty, property and the pursuit of happiness. He inquired if the proposal would give the unborn children proprietary rights, like the right to inherit, in reply to which, Mr. Villegas explained that such legal question would only be secondary, and that what Section 9 provides is the protection of the right to life from the moment of conception which is the beginning of all other rights.

On Mr. Suarez' contention that the right to life of the unborn child would be in conflict with the right to life of the mother, especially in cases of miscarriage or induced abortion, Mr. Villegas explained that the real thrust of Section 9 is to declare that abortion is illegal. He stated, however, that abortion could not be specified in the Constitution because it is already a proper subject of legislation.

INTERPELLATION OF MR. TADEO

On Mr. Tadeo's query on the meaning of the word "democratic", Mr. Nollado explained that although some of the manifestations of a democratic state are already found in republicanism, the Committee opted to use "democratic" in view of the many provisions wherein people's power in the form of people's organizations, referendum, initiative and recall through which the people participate even in legislation and removal of public officials are given due recognition. He added that "democratic" also includes the concepts of continuous consultations to be made by elective officials regarding the welfare of their constituents and for the elective officials to strive to attain the ideals and aspirations of the majority.

On whether "democratic" also means that Mr. Mitra should have consulted the farmers first before decreasing the cost of palay from ₱3.50 per kilo to ₱3.00 per kilo, Mr. Nollado stated that he had personal reservations regarding the matter. He opined that under existing laws, Mr. Mitra acted within his powers. He added, however, that Mr. Mitra should have consulted the farmers before he made that decision.

Mr. Nollado agreed with Mr. Tadeo's observations that the word "democratic" is also used in response to the Committee's resolve to make people power a foundation of the government structure; to give to the people the right to organize for effective and reasonable participation at all levels of social, political and economic decision-making; and for the State to respect the role of independent people's organizations to enable the people to pursue and protect within the democratic framework their legitimate and collective interests and aspirations through peaceful and lawful means.

On whether he would agree with Dr. Edelina de la Paz' statement that the true killer of the country's children is, in the final analysis, foreign control of the economy, Mr. Villegas replied that Dr. de la Paz is entitled to her own opinion and the Body is not the forum for him to dispute the contention.

INTERPELLATION OF MS. TAN

In reply to Ms. Tan's query whether "existing treaties" in Section 3 refers to those treaties existing at the time of the ratification of the proposed 1986 Constitution, Mr. Azcuna replied in the affirmative.

On whether the phrase "zone of peace, freedom and neutrality" would, in effect, prevent the country from

participating in joint military, air and naval exercises with other Asian countries as part of mutual defense treaties, Mr. Azcuna explained that the phrase would not prevent the participants within the zone to be militarily prepared to protect that neutrality. He pointed out that the modern concept of neutrality according to Mr. de Castro includes the neutral country's power to defend itself.

In addition thereto, Ms. Aquino stated that neutrality has now been commonly accepted to cover the concept of armed neutrality. She added that a country that advocates a position of neutrality should also be ready to defend such position and therefore under this concept, the context of Mr. Azcuna's answer is correct. She pointed out, however, that if the military exercise would be concomitant to a military pact with NATO or any other military alliance that pertains to a superpower, then it is not allowed, for it would be violative of the essence of neutrality.

On whether Section 11 would automatically nullify all existing laws which deny women equality with men once the new Constitution is ratified, Ms. Aquino stated that the intent of the Section, as differentiated from the social justice provision on women, is to provide for a self-implementing constitutional mandate that would repeal all the discriminatory and anti-feminist clauses in the New Civil Code and in the Revised Penal Code which the Committee has already listed.

On whether it is the intention of the Committee to make labor subservient to capital with the use of the phrase "subject to" in Section 12, Ms. Aquino stated that at the proper time the Committee would present its amendment deleting the phrase "subject to the corresponding claims of capital to reasonable growth and returns" because the intention is to make a declarative pronouncement of the primacy of the rights of labor in the Article on the Declaration of Principles. She added that this is actually based on the Resolution filed by Mr. Bacani.

On the query as to what the Committee's opinion is on the statement that the Body is not in a position to make any decision about the bases, nuclear arms and neutrality because the Members are not equipped to do so, Mr. Azcuna stated that the Committee's opinion is that the Members have sufficient knowledge to make decisions regarding the matters because they really revolve around sovereignty and how foreign military bases affect it. He added that the Committee has also consulted experts, read materials and reviewed the whole history of Philippine experience on these bases and nuclear weapons.

Additionally, Ms. Aquino stated that it is the Committee's position that the best springboard for knowledge is not really technical expertise but a sense of history. She added that in Asia, there is a common drift towards resistance to imperialist pretensions of the superpowers.

On Ms. Tan's observation that if some Members are not equipped to make the decision, they are also not equipped to propose the deletion of the provisions regarding the bases and nuclear weapons, Mr. Azcuna opined that both sides of the debate have shown remarkable understanding and wealth of information which show that the Members are equipped to deal with the matter.

In addition thereto, Mr. Garcia stated that those who believe that the Body is not capable of making any decision on the matter because its Members are only appointed should not lose their political will and constitutional confidence to draft a truly sovereign charter especially with regard to the issue which touches on the violation of the country's territorial integrity and the colonial vestige of extraterritoriality. On the contention that the Body should not touch this issue because its Members are not politicians, Mr. Garcia stressed that it is precisely necessary to act on the matter because the Commission is independent and its Members are guided by considerations which are beyond partisan politics and beyond the lifetime of just one administration. He stressed that now is the time and the Body is the forum to decide on the bases issue.

REMARKS OF MR. TINGSON

Mr. Tingson opined that the Body should not make the final decision regarding the bases issue because its Members are only appointed and that it is best to leave to the Executive the decision on the matter. He stated that the public hearings conducted by the Body were so limited and the discussions held therein were merely perfunctory that the Body does not really know the stand of the people regarding the issue.

Mr. Garcia, however, maintained that the Body should decide on the bases and nuclear weapons issues now because there have been so much studies conducted on nuclear weapons, particularly the number and devastating power of the United States and Russian nuclear arms. He also stated that so much data and evidence show that nuclear arms are deposited in the bases and this is an urgent issue which has to be addressed immediately. He pointed out that there is nuclear-capable carrier with 12,000 men presently docked in Subic Naval Base and this is a threat to the country because according to General Laroque, if a ship is nuclear-capable, then it normally has nuclear weapons. He added that every year there are more than 100 nuclear weapons-related accidents and that the country should not be a part of this nuclear madness and be annihilated either by being involved in a war not of its own making or by being destroyed because of a nuclear accident.

INQUIRY OF MR. DAVIDE

Mr. Davide observed that Mr. Tingson spoke against the Committee Report which he had signed without any reservation on Sections 3 and 4. He inquired whether under such circumstances a Member should not be precluded from speaking against the Committee Report, taking into account the Rules of the Batasang Pambansa which supplements the Rules of the Commission.

In reply, Mr. Azcuna stated that there was an inadvertent omission of the fact that Mr. Tingson voted against Sections 3 and 4 which were the subject of his opposition on the floor.

At this juncture, Mr. Tingson made an appeal to his colleagues to set aside legal technicalities to ensure the Members' full participation. He stated that no one stood to speak for the other side, for which reason, he expressed his opinion on the matter.

The Chair stated that she had in fact been liberal in applying the Rules although she requested that the Members limit the discussions on matters which were already expounded on.

INTERPELLATION OF MR. BENNAGEN

In reply to Mr. Bennagen's query on the relationship between "zone of peace, freedom and neutrality" and "self-determination, national independence and sovereignty", Mr. Azcuna stated that the whole section has to do with the assertion of sovereign independence in foreign relations, with the lead sentence specifically providing for the promotion of peace, freedom and neutrality in this part of the world, and the next paragraph providing for the inherent right of the State to self-determination, national independence and sovereignty, the second sentence thereof being more specific in providing that foreign military bases, troops or facilities should be forbidden in any part of Philippine territory.

He confirmed Mr. Bennagen's observation that "self-determination, independence and sovereignty" include other categories aside from foreign military bases and that it does not exhaust the range of possibilities under the first sentence or under the concept of sovereignty.

On whether the other categories should be included in other provisions, Mr. Azcuna stated that it would not be necessary as the Committee felt that the category is wide enough to allow its being specified together with the

principle. He gave the assurance that it would not, in effect, preclude other categories.

On whether the listing in Section 5 refers to the person or to the social context of the human person Mr. Nollado stated that the phrase "social, economic and political condition" refers to man's position as a human being while "political condition" speaks of his participation as a member of the community as a voter or as a candidate, all of which taken together refers to human dignity and honor.

On whether there should be a conscious effort on the part of the State to enhance social, economic and political conditions in order that human rights may be protected, Mr. Nollado expressed agreement stating, however, that human rights refer to the whole gamut of rights pertaining to the existence of the human person while civil and political rights include social and economic rights.

On the Committee's contemplation on the nature and characteristics of "socio-political and economic systems" in Section 7, Mr. Azcuna stated that it refers to a system that not only ensures national independence but also secure for the people economic benefits for a better quality of life, full employment, high standard of living, equality of economic opportunities, security in old age and other basic human rights. He confirmed that it would include full industrialization, full employment and agrarian reform.

On the effort to single out "security in old age" in the article, Mr. Azcuna stated that the Member have expressed concern for the protection of senior citizens because they are at a disadvantage.

Mr. Bennagen expressed apprehension that enumerating the options would actually limit it, to which Mrs. Rosario Braid replied that security for other sectors have been provided in other provisions such as those on youth, women and labor.

On Section 10, Mr. Azcuna confirmed Mr. Bennagen's observation that "nationalism" includes the idea of service to society and the distinctions existing among classes and ethnic groups, invoking awareness of existing contradictions in the building of a nation.

Mr. Bennagen noted the need to amend Section 12 to harmonize the contradictory tendency in the use of "primacy of labor" and "subject to" which do not belong together.

On whether "cooperativism" is the only organizing principle in the phrase, "The State shall promote rural development and agrarian reform as priorities with cooperativism as its organizing principles", Mrs. Rosario Braid stated that "cooperativism" was emphasized to provide a mechanism that will support rural development and agrarian reform. She stressed that rural development was not mentioned in the other provisions, for which reason it was placed in the Article on the Declaration of Principles. She also adverted to a news report in the Evening News which pointed out the government's lack of a policy on rural development to which, she said, the provision could appropriately respond.

On Mr. Bennagen's observation that there is no provision on rural development, Mrs. Rosario Braid stated that the Committee had to respond to the resolutions sent to it and that the other articles like those on the Executive, Legislative, and Accountability of Public Officers deal with procedures rather than with principles. She expressed the Committee's willingness to welcome amendments at the proper time.

On whether rural development would include agrarian reform and industrial development as part thereof, Mrs. Rosario Braid answered in the affirmative.

On the relationship of "the singular demand of nature to allow its own rhythm and harmony" to "The State shall therefore maintain ecological balance even as it harnesses our natural resources for the common good and the sustenance of future generations", Mr. Garcia explained that it is an effort to respect nature's rhyme and rhythm —

the purity of the rivers and ecological life of the lakes; etc. — against pollution in the same way that human life is respected.

On whether in saying "respect for nature", "nature" would include human beings, Mr. Garcia stated that it is in fact for man that the environment is being protected. Mr. Bennagen observed, however, that there is a tendency to separate man from the ecosystem but Mr. Garcia stressed that protection to nature is extended so it could be harnessed for man's good and benefit.

Mr. Bennagen stated that he would like to restore the principle to promote ecological consciousness which was deleted from the Article on Human Resources. He manifested that he would propose an amendment to this effect on Section 18.

On whether Section 19 would include support for basic research on the natural and social sciences, Mrs. Rosario Braid pointed out the importance of linking science and technology to the political and social environment and added that the need to come up with a multi-disciplinary approach to science and technology was duly noted during the discussions on science and technology. She confirmed the fact that the concept includes basic and applied science research, to which Mr. Bennagen agreed by pointing out that research is the problem of developing countries.

Mr. Bennagen observed that Section 21 mentions only "social and political" unlike the other provisions where "social" and sometimes "cultural" are mentioned. He inquired whether economic information should be regarded as important, it being a way of making the people aware and generating their greater participation. In reply, Ms. Rosario Braid explained that "political" was underscored to stress the need of awakening the people, making them able to identify their needs and requirements, and enabling them to participate in their own development.

REMARKS OF MR. GUINGONA

At this juncture, Mr. Guingona stated that he felt alluded to by Mr. Tingson's remark that no one wanted to speak. He stated that his silence could be attributed to the Chair's ruling that the interpellators are not subject to interpellation.

INTERPELLATION OF MR. PADILLA

Mr. Padilla invited attention to Section 6 which he said refers to Section 2, Article II of both the 1935 and 1973 Constitutions, which reads:

"The defense of the State is a prime duty of Government and the people, and in the fulfillment of this duty, all citizens may be required by law to render personal military or civil service."

In reply to his query whether the insertion of the qualification "with due regard to objections of conscience" would mean that a student may not be required to render personal military or civil service on the ground that his faith prohibits him from doing so, Mr. Azcuna explained that the phrase refers to situations of sincere, real and honest objection of conscience and not a pretended or fictitious one, but the distinctions could be left to Congress, the courts or other authorities and that the intent is not to exempt from service a conscientious objector but to assign him to noncombatant duties.

Mr. Padilla observed that there is no such distinction in the assignment of combat duty as one's faith may dictate that killing is bad even if it would be for the defense of the country. He stated that Commonwealth Act No. 1, otherwise known as the National Defense Act, requires military training such as ROTC in schools which he said may not be sufficient.

On the constitutionality of the Act, he stated that the same was questioned but the Supreme Court upheld its validity.

Mr. Padilla recalled that in the case of *Gerona vs. Secretary of Education*, 106 Phil. 2, some students who were Jehovah's Witnesses refused to salute the Philippine flag on the ground that it was against their religious faith to do so. He stated that the case involved a Constitutional issue wherein the freedom of religious belief of a citizen cannot prevail over the police power of the State, which in this case, is the school regulation requiring students to salute the flag. The Supreme Court, he informed, upheld the validity of the school regulation and that in its decision, the Supreme Court stated:

"In requiring the school pupils to participate in the flag salute, the State through the Secretary of Education, is not imposing a religion or religious belief or a religious test on said students. It is merely enforcing a non-discriminatory school regulation applicable to all alike, whether Christians, Muslims, Protestants or Jehovah's Witnesses.

"The State is merely carrying out the duty imposed by the Constitution which charges with supervision over a regulation to all educational institutions, . . .

"The children of Jehovah's Witnesses cannot be exempted from participation in the flag ceremony. They have no valid right to such exemption. Moreover, exemption from the requirement will disrupt school discipline and demoralize the rest of the school population which by far constitutes the great majority. The freedom of religious belief guaranteed by the Constitution does not and cannot mean exemption from non-compliance with such reasonable and non-discriminatory law, rule and regulation by the proper authority."

Mr. Padilla observed that the police power of the State prevails over the individual's conscience or religious objection. Otherwise, he stated, there may be citizens who may claim privileges from State duties such as the defense of the country. He suggested deleting the phrase "with due regard to objections of conscience".

In reply, Mr. Nollado pointed out that if it is possible to reconcile the conflict of conscience and police power of the State, such possibility should be given reality. He noted that a citizen who refuses to join the Army because he is prohibited by his religion to kill can be assigned to noncombatant functions. On the other hand, he opined that if the conflict is irreconcilable inasmuch as the individual merely says that his conscience does not permit him to join the Army for the simple reason that he does not want to join it, the police power of the State in this particular instance may still prevail.

Mr. Padilla noted that in such circumstances, an exemption or a privilege would be granted to a few which would be denied to others merely on the basis of religious beliefs. He warned that this would pose a danger inasmuch as a religious sect may be set up which will have as one of its cardinal principles ship or to "render personal military or civil service".

He noted that the provision does not explicitly provide that conscientious objectors would not be assigned to combat duties but merely states "objections of conscience".

In reply, Mr. Nollado stated that details cannot be placed in the provision and that several freedoms are guaranteed in the Bill of Rights which if they come into conflict, would have to be reconciled. He adverted to the Quakers who are pacifists being assigned to noncombat duties or to the medical corps in the Army. He stressed the importance of religious freedom as well as other freedoms guaranteed by the Bill of Rights.

Reacting thereto, Mr. Padilla stressed that granting exemptions based on "objections of conscience or religious belief would be undue discrimination to the others. He underscored that the duties of citizen- ship must apply to all and that religious freedom should not prevail over such duties He opined that the insertion of the phrase has

made the provision more controversial, more doubtful and less effective.

On Sections 3 and 4, Mr. Padilla observed that in the discussions on these provisions, there was a contention that World War II in the Pacific was a war between the U.S. and Japan and not a war of the Philippines since, as a country, we did not want to engage in war with an economically and militarily powerful Japan. He called attention to the Japanese slogan "Greater Asia Co-Prosperity Sphere" and contended that Japan did not bomb Pearl Harbor to engage the U.S. in a war nor to invade and occupy the U.S. mainland. He stressed that it was a move to cripple U.S. naval and military forces so that Japan might pursue and implement its grand design of Co-Prosperity with less interference and intervention from the United States.

He also recalled that after invading Manchuria, Japan directed its war efforts to other Asian countries, invading Taiwan, French Indochina, British Malaysia, Dutch Indonesia, the Philippines, Hongkong, Singapore, Burma, New Guinea, Thailand and even attempted to invade Australia. He pointed out that perhaps with the exception of the Philippines, the countries invaded and occupied by Japan did not have U.S. military bases.

At this juncture, Mr. Nollado interposed to state that technically, the war was between the United States and Japan, and that the Filipinos, because the country was under U.S. control, were considered American nationals.

Mr. Padilla went further to say that the U.S. consequently entered into an alliance with the Free World and fought the war in the European and Pacific theaters. He informed that in Europe, Hitler with Mussolini as an ally, invaded Poland, France and even wanted to invade England and attempted to invade fought expansionist Japan not only in the Philippines but all over Asia.

At this juncture, Mr. Nollado inquired whether Mr. Padilla would agree that at that time, there was an impression created by the Americans in Filipino minds that with the existence of American bases in the Philippines, the country would be protected against external aggression. He pointed out that the Japanese bombed the Philippines extensively and that the American bases did not serve its purpose to secure the country from external aggression. He stressed that the Americans failed to defend the Philippines at that time.

Reacting thereto, Mr. Padilla contended that with or without the U.S. military bases, Japan would have invaded all the Asian countries included in its plan. He maintained that the contention that the Philippines was bombed and occupied because of the presence of U.S. military bases in the country is not supported by facts.

On Mr. Nollado's remark that Manila was the most devastated city after Poland in World War II, Mr. Padilla replied that Manila was made an open city upon the entry of the Japanese Forces and that General Homma issued a military decree to the effect that the Philippine Constitution and laws were no longer applicable, only his military decrees. Mr. Padilla also stressed that it was not during the invasion of the Philippines that the other portion of Manila was destroyed but during the Japanese retreat when General MacArthur's liberation forces had landed successfully in the Philippines.

Mr. Nollado argued that when the Japanese came to the Philippines, they were looking for Americans and not for Filipinos.

Replying thereto, Mr. Padilla stated that the Japanese were not interested in few Americans or few Filipinos but in their expansionist plan to dominate the whole of Asia. Moreover, Mr. Padilla stated that Filipinos from 1942 to 1945 suffered immensely, which fact could be personally verified by the elder Members of the Commission. He noted that those born after 1945 have not experienced the difficulties, tribulations and the enormous exactions made by the Japanese Imperial Forces in the Philippines. He stressed that Corregidor and Bataan delayed the timetable of the Japanese expansion plan.

Mr. Nollado noted that the U.S. imposed Resolution No. 93 in the Philippines inasmuch as the Philippines is strategically located for the protection of U.S. allies such as New Zealand and Australia. He informed that said Resolution was the basis of the RP-US Bases Agreement: Furthermore, he noted that inasmuch as the Philippines was able to delay the movement of the Japanese forces, the country became a necessity to the defense of the United States. Mr. Padilla stated that he was referring to the war years of 1942 to 1945.

At this juncture, the President stated that her husband fought in Bataan, participated in the Death March and was imprisoned in Capas, Tarlac for the Filipino people and not necessarily for the Americans.

Mr. Padilla recounted that General MacArthur had to abandon Bataan and Corregidor because the US-Philippine Forces could no longer defend the country which had been occupied by the Japanese. Mr. Padilla observed that the heroism of Filipino and American soldiers in Bataan and Corregidor delayed the timetable of the Japanese Forces and it took three years before General MacArthur was able to fulfill his promise to return to the country.

Moreover, Mr. Padilla observed that the Asians and the Filipinos could not have prevented and removed Japanese domination were it not for the liberation forces of the U.S., for which reason, the Filipinos have always been grateful to General MacArthur.

POINT OF INFORMATION OF MR. DE CASTRO

Apropos Mr. Padilla's account of the war in the Philippines, Mr. de Castro who served as a Division Commander of a guerilla unit of 12,000 men in Bukidnon, recalled that when his men asked him why they were fighting a war for the U.S., he answered that they were fighting the war because the Japanese violated Philippine sovereignty and the dignity of the Filipino people.

On the strategic importance of the Philippines, he informed that the Japanese committed a tactical and strategic error in sticking to the plan of conquering the whole country before proceeding to other Asian countries. He noted that the resistance in Bataan and Corregidor threw off the Japanese time-table.

Mr. de Castro stated that it was not accurate to say that the United States was the only one with the most powerful weapon in the world, because at that time, Germany was already perfecting its missiles ready to be dropped in England. It was for this reason, he stated, that Generals Patton and Montgomery rushed towards Berlin to get the German scientists and put to a halt, through destruction, the production of these missiles. He pointed out that despite General Eisenhower's advice for them not to proceed with their plan because of the agreement that the Russians would first enter Berlin, General Patton disobeyed and, courageously, he got the German scientists, transported them to the United States and with their help, the atomic bomb was perfected.

Finally, Mr. de Castro agreed with President Muñoz Palma when she said that her husband fought the war not for the Americans but to preserve the country's sovereignty and protect the dignity of the Filipino people.

ADJOURNMENT OF SESSION

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

It was 6:37 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA

President

Approved on September 17, 1986

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