

R.C.C. NO. 7

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Tuesday, June 10, 1986

OPENING OF SESSION

At 3:20 p.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 Jose F. S. Bengzon.

Everybody remained standing for the Prayer.

PRAYER

MR. BENGZON: God our Father, Jesus our Brother — Mary Your Mother-and the Holy Spirit, our guide and shining light, enlighten us. O Holy Spirit, permeate our minds, our whole being, envelop us with Your bright, white, shining light, that we may do what is right for our country and for our people. Amen.

ROLL CALL

THE PRESIDENT: The Secretary General will call the roll.

THE SECRETARY GENERAL, reading:

Abubakar Present Davide Present

Alonto Present Foz Present

Aquino Present Garcia Present

Azcuna Present Gascon Present

Bacani Present Guingona Present

Bengzon Present Jamir Present

Bennagen Present Laurel Present

Bernas Present Lerum Present

Rosario Braid Present Maambong Present

Brocka Present Monsod Present

Calderon Present Natividad Present

Castro de Present Nieva Present

Colayco Present Nollada Present

Concepcion Present Ople Present

Padilla Present Suarez Present

Quesada Present Sumulong Present

Rama Present Tadeo Present

Regalado Present Tan Present

Reyes de los Present Tingson Present

Rigos Present Trenas Present

Rodrigo Present Uka Present

Romulo Present Villacorta Present

Rosales Present Villegas Present

Sarmiento Present

The President is present.

The roll call shows 44 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of a quorum.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

APPROVAL OF JOURNAL

MR. RAMA: I move that we dispense with the reading of the Journal of yesterday's session and that we approve the same.

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

MR. RAMA: Madam President.

THE PRESIDENT: The honorable Floor Leader is recognized.

MR. RAMA: 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 Proposed Resolutions on First Reading and Committee Report, the President making the corresponding references:

PROPOSED RESOLUTIONS ON FIRST READING

Proposed Resolution No. 53, entitled:

RESOLUTION PROPOSING A CONSULTATION MECHANISM AND PROCESS FOR THE CONSTITUTIONAL COMMISSION.

Introduced by Hon. Garcia, Gascon, Bernas, Nieva, Rosario Braid, Aquino, Villacorta, Quesada, Brocka, Tadeo, Rigos, Bengzon, Sarmiento and Monsod.

To the Ad Hoc Planning Committee on Public Hearings.

Proposed Resolution No. 54, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION REQUIRING ELECTIVE OFFICIALS TO SERVE THE FULL TERM OF OFFICE FOR WHICH THEY WERE ELECTED AND PROHIBITING THEM TO SEEK IMMEDIATE REELECTION FOR SAID OFFICE OR TO BE APPOINTED TO ANY OTHER OFFICE DURING SUCH TERM AND WITHIN TWO YEARS FOLLOWING THE EXPIRATION THEREOF, AND, FURTHER, PROHIBITING WITHIN THE SAME PERIOD THE SPOUSE AND/OR RELATIVES BY CONSANGUINITY OR AFFINITY WITHIN THE THIRD CIVIL DEGREE OF SUCH ELECTIVE OFFICIAL TO SEEK ELECTION FOR THE OFFICE TO BE VACATED BY THE LATTER OR TO BE APPOINTED IN ANY MANNER TO ANY OFFICE EXCEPT TO AN OFFICE FOR WHICH HE HAS THE APPROPRIATE CIVIL SERVICE ELIGIBILITY AND IS QUALIFIED AND COMPETENT.

Introduced by Hon. Davide, Jr.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 55, entitled:

RESOLUTION PROVIDING FURTHER LIMITATIONS ON THE POWER OF THE PRESIDENT TO GRANT PARDONS.

Introduced by Hon. Davide, Jr.

To the Committee on the Executive.

Proposed Resolution No. 56, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION PROHIBITING THE PRESIDENT FROM EXTENDING APPOINTMENTS WITHIN SIX MONTHS IMMEDIATELY PRECEDING THE COMMENCEMENT OF THE TERM OF THE NEW PRESIDENT.

Introduced by Hon. Davide, Jr.

To the Committee on the Executive.

Proposed Resolution No. 57, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION WHICH REQUIRES POLITICAL PARTIES TO CONFORM THEIR INTERNAL ORGANIZATION TO DEMOCRATIC PRINCIPLES AND TO PUBLICLY ACCOUNT FOR THE SOURCES OF THEIR FUNDS.

Introduced by Hon. Davide, Jr.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 58, entitled:

RESOLUTION TO BROADEN THE SCOPE OF THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE BY PROHIBITING THE PASSAGE OF ANY LAW WHICH ESTABLISHES PRESUMPTION OF THE EXISTENCE OF PRIMA FACIE EVIDENCE.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 59, entitled:

RESOLUTION RESTRICTING FOREIGN BORROWINGS OR LOANS.

Introduced by Hon. de Castro.

To the Committee on the Executive.

Proposed Resolution No. 60, entitled:

RESOLUTION FOR THE ADOPTION OF A PROVISION IN THE PROPOSED CONSTITUTION OF THE PHILIPPINES PROHIBITING "BLOCK VOTING" IN ALL ELECTORAL EXERCISES.

Introduced by Hon. Jamir, Suarez, Tadeo and Azcuna

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 61, entitled:

RESOLUTION PROVIDING UNDER THE ARTICLE ON ACCOUNTABILITY OF PUBLIC OFFICERS THAT THE RIGHT OF THE GOVERNMENT TO PROSECUTE GOVERNMENT OFFICIALS FOR OFFENSES RELATED TO PUBLIC OFFICE AND THE RIGHT OF THE STATE TO FORFEIT ILL-GOTTEN WEALTH BY SUCH OFFICIALS, WHOEVER MAY BE IN POSSESSION THEREOF, SHALL NOT PRESCRIBE.

Introduced by Hon. Nollado.

To the Committee on Accountability of Public Officers.

Proposed Resolution No. 62, entitled:

RESOLUTION TO PROVIDE IN THE NEW CONSTITUTION THAT SERIOUS ELECTION OFFENSES, AS DEFINED BY LAW, SHALL BE PUNISHABLE BY DEATH.

Introduced by Hon. Nollado.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 63, entitled:

RESOLUTION TO PROHIBIT SALE OR TRANSFER OF OWNERSHIP OF PUBLIC LANDS TO ANY PERSON, WHETHER NATURAL OR JURIDICAL, AND TO PROVIDE THAT SAID LANDS SHALL BE AVAILABLE ONLY FOR LEASE OR CONCESSION.

Introduced by Hon. Nollado.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 64, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES, OF THE NEW CONSTITUTION A PROVISION AGAINST POLITICAL DYNASTIES.

Introduced by Hon. Nollado.

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

Proposed Resolution No. 65, entitled:

RESOLUTION TO INCLUDE IN THE BILL OF RIGHTS OF THE NEW CONSTITUTION A PROVISION THAT NO LAW SHALL BE PASSED ABRIDGING THE RIGHT OF PEACE-LOVING CITIZENS TO BEAR ARMS.

Introduced by Hon. Nollado.

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

Proposed Resolution No. 66, entitled:

RESOLUTION TO INSERT IN THE TRANSITORY PROVISIONS OF THE NEW CONSTITUTION THE PROVISION THAT THE RIGHT OF THE STATE TO PROSECUTE ERRING PUBLIC OFFICIALS AND TO FORFEIT THEIR ILL-GOTTEN WEALTH SHALL NOT PRESCRIBE BE MADE RETROACTIVE.

Introduced by Hon. Nollado.

To the Committee on Accountability of Public Officers.

Proposed Resolution No. 67, entitled:

RESOLUTION TO DELETE FROM THE NEW CONSTITUTION THE PROVISION GRANTING PRESIDENTIAL IMMUNITY FROM SUITS AND TO PROVIDE IN THE TRANSITORY PROVISIONS THAT SUCH DELETION BE MADE RETROACTIVE.

Introduced by Hon. Nollado.

To the Committee on the Executive.

Proposed -Resolution No. 68, entitled:

RESOLUTION AMENDING SECTION 10, ARTICLE XII (C) OF THE 1973 CONSTITUTION, AS AMENDED.

Introduced by Hon. Foz.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 70, entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION THE PROVISION ON THE SEPARATION OF CHURCH AND STATE.

Introduced by Hon. Tingson and Rigos.

To the Committee on General Provisions.

Proposed Resolution No. 71, entitled:

RESOLUTION TO PROVIDE IN THE CONSTITUTION OF 1986 THAT FILIPINO CULTURE, ARTS AND LETTERS SHALL BE PRESERVED, ENCOURAGED AND DEVELOPED WITHOUT ANY POLITICAL INTERFERENCE, RESTRICTIONS AND CONTROL.

Introduced by Hon. Brocka and Villacorta.

To the Committee on Human Resources.

COMMITTEE REPORT

Committee Report No. 1 on Resolution No. 72, as reported out by the Committee on Preamble, National Territory, and Declaration of Principles, entitled:

RESOLUTION PROPOSING TO ADOPT A PREAMBLE TO THE CONSTITUTION,

recommending its approval with amendments and in consolidation with Proposed Resolution Nos. 2, 24 and 73.

Sponsored by Hon. Rosales and Tingson.

To the Steering Committee.

MR. RAMA: Madam President, before we consider Committee Report No. 1 by the Committee on Preamble, National Territory, and Declaration of Principles, I ask that Commissioner Bengzon be recognized.

THE PRESIDENT: Commissioner Bengzon is recognized

MR. BENGZON: Madam President, in view of the creation of two additional committees, there have been some resolutions referred to the various committees which should now be referred to the newly created committees. For this reason, I move that the following resolutions be transferred to the following committees: Resolution No. 19, resolution on the role of farmers and workers, from the Committee on General Provisions to the Committee on Social Justice and Social Services.

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

MR. BENGZON: Resolution No. 20, resolution to provide for authentic land reform, from the Committee' on the National Economy and Patrimony to the Committee on Social Justice and Social Services.

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

MR. BENGZON: Resolution No. 25, resolution limiting ownership of private land holdings, from the Committee on the National Economy and Patrimony to the Committee on Social Justice and Social Services.

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

MR. BENGZON: And Resolution No. 37, resolution proposing genuine and broader land reform policies and for the incorporation in the new Constitution of a separate article on land reform, from the Committee on the National Economy and Patrimony to the Committee on Social Justice and Social Services.

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

MR. BENGZON: Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Last Tuesday, our Vice-President, Honorable Ambrosio Padilla, presented to Madam President draft proposals of the Philippine Constitution Association or PHILCONSA. This afternoon, I had the privilege of presenting to the President, and through her, to the honorable Members of this Commission for possible use as reference material, a draft Constitution prepared by some delegates of the 1971 Constitutional Convention who identify themselves as the Reconvened 1971 Constitutional Convention. This draft Constitution is accompanied by a transmittal letter signed by the following: Diosdado Macapagal, President; Abraham Sarmiento, Vice-President; Teofisto Guingona, Jr., Chairman, Sponsorship Council; Ramon Diaz, Chairman, Steering Council; and Ceferino B. Padua, Acting Chairman, Sponsorship Council.

With your permission, Madam President, I shall read two paragraphs of this letter which consists of four pages, and I quote:

Please be informed that following the official lifting of martial law on January 17, 1981, a majority of the Delegates of the 1971 Convention reconvened on March 31, 1981 in order to frame a new draft Constitution to replace the original of the 1973 Constitution which was unratified and misused by the dictatorial government of President Ferdinand E. Marcos. The 1971 Convention could reconvene because in its last session on November 29, 1972 the Convention did not adjourn but merely recessed since it was necessary before adjourning to wait if the proposed Constitution would be ratified in a plebiscite. The Delegates who reconvened constituted a quorum after the exclusion of the Delegates who had forfeited their membership by joining the Marcos government . . . It has been agreed by the Delegates of the Reconvened 1971 Convention that its new draft Constitution be submitted to your Commission.

And now with your permission, Madam President, I shall present this draft Constitution, together with copies of the transmittal letter, for the consideration of the Commission.

Thank you, Madam President.

THE PRESIDENT: Is there any objection to the acceptance of this document being presented by Commissioner Guingona? (Silence) The Chair hears none; the said document is accepted, and the Secretary-General shall prepare copies of it and distribute the same to the Members.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Assistant Floor Leader Calderon be recognized.

THE PRESIDENT: Commissioner Calderon is recognized.

MR. CALDERON: Madam President, Ladies and Gentlemen of the Constitutional Commission:

Yesterday, a lady reporter covering this Commission handed me a handwritten note. In it, she suggested that the Commission change its plenary session schedule to mornings because the current afternoon sessions end past newspaper deadlines. If this cannot be done, she suggests that this Commission consider creating a Committee on Public Information. "After all," she says in her letter, and I quote: "how can you be accountable to the people when they do not know what to say about the Commission?"

The request is simple, but it covers the working schedule of this Commission; and because of this, I feel it is important enough to take it up in plenary session. Moreover, the reasons advanced to support the request have

something to do with the dissemination of news and information on the proceedings and workings of this body and that, to my mind, assumes national significance. It seems that many of our friends in media find our current afternoon sessions inconvenient for their deadlines, such that much as they wish to give more detailed coverage of what goes on in this Chamber, they are reduced to writing about the bare essentials of what transpires.

If this were an ordinary lawmaking body, dominated by political discussion and partisan debate, perhaps this bare essential coverage would not matter, and indeed, perhaps, an advantage. But, Madam President, this is a body tasked with the drafting of the fundamental law of the land. Therefore, it is incumbent upon us to endeavor to make the biggest number of our people know exactly what is transpiring within this Chamber so that they may, if they can, participate in the widest degree possible in the making of their Constitution, by reacting to the news of what transpires herein. The only way, the most effective way, by which our people will know what we are doing here is through the media. Unfortunately, many of our friends in media themselves claim they are hampered in doing this more effectively because of the constraints of time and distance. Our sessions usually start from 3:00 p.m., and last up to 6:00 p.m. and/or even beyond. Newspaper deadlines are usually about 7:00 p.m. for the provincial, and 9:00 p.m. for the city edition. Most of the newspaper offices are in Manila, a long distance from where we are. The newsmen covering us have no time to go back to their offices to write their stories. What they do is to write their stories in the pressroom here in the building and phone in their stories to their offices. Considering the number of media organizations today in both print and broadcast there are not enough telephones in this building to enable them all to phone in their stories at the same time. There is always a scramble and a lot of grumbling from those who are beaten by the others in the rush for telephones. These are just minor hazards of the job. The overall effect is that there is not an even coverage of what transpires in this Chamber. Thus, on any given day, one or two newspapers would have, more or less, a complete account of what happened here, but the other papers would have very short and incomplete accounts. There is a disadvantage when the Con-Com reporter phones in his story rather late, meaning, very near deadline time or after. By that time, practically all the other stories are in and the editor has, more or less, decided how big a play-up and how much space to give the stories already in his hands. This means that the Con-Com story has to compete for whatever limited space there is left. It often happens that it is relegated to the inside pages even if it is an important enough story. To help in the appreciation of the importance of stories and as a tool in determining how much space to allocate to still unsubmitted but unexpected stories, editors usually require their reporters in advance to phone-in what stories they expect to submit even if details are not yet known. In this respect, starting our sessions at 3:00 p.m. becomes a disadvantage for the Con-Com reporter. He cannot phone in at 3:00 what stories he expects to write. He must listen to the speeches for an hour or so before he can determine the shape of the story that is coming out of the session. Thus, by the time he is ready to phone in, his "advance tip" to his editor is no longer an "advance tip." Often the Con- Com reporter must already write his story even while the debates are still going on because he must catch his deadline.

I submit, Madam President, that all these inconveniences can be cured, that we can make it easier for our media friends to perform their jobs, and on top of it, enable our people to know completely what transpires in this Chamber by the simple expedient of moving our plenary sessions in the morning. All we have to do is to reverse our current schedules — hold sessions in the morning and public hearings in the afternoon. By noontime, the Con-Com reporters would know exactly what their story for the day would be. They could write their stories at leisure and they could inform the editors early enough just what sort of story they have so that adequate space could be allocated for the entire story.

Those of them who wish to cover the hearings in the afternoons can still do so. But the point is, the major story for the day, which usually comes out of the plenary session, will already have been formed. May I, therefore, request, Madam President, that this suggestion from our media friends be commended to this body in order that

the consensus may be arrived at and a decision made regarding it.

Thank you.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 3:49 p. m.

RESUMPTION OF SESSION

At 3:56 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, in view of the manifestation/explanation made by the honorable Commissioner Jose Calderon, may I respectfully request that we defer consideration of that matter? May I suggest instead that we create two ad hoc committees: one committee to study the feasibility of changing the venue of our sessions to another place, and; second, another ad hoc committee to study the feasibility of changing the time of our sessions. I respectfully submit, Madam President.

THE PRESIDENT: Yes, Commissioner Calderon.

MR. CALDERON: Madam President, I would like to make an amendment that a combined ad hoc committee be created instead of two.

MR. SARMIENTO: I have no objection to the amendment.

MR. CALDERON: Just one committee, Madam President.

THE PRESIDENT: One ad hoc committee to consider the feasibility of changing the time and venue of the sessions of the Constitutional Commission, is that right?

MR. CALDERON: Yes, Madam President.

THE PRESIDENT: So, that is the motion now before the body.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Would the movant accept an amendment? The amendment is to place a time limit to the submission of the report of the ad hoc committee, that the said committee make its report to the Commission not later than the 13th of June.

MR. SARMIENTO: I have no objection, Madam President.

THE PRESIDENT: That is Friday. What does the movant say? Is the amendment accepted?

MR. GUINGONA: Madam President, may I propose an amendment to the amendment? In view of the fact that

Thursday is a holiday, perhaps we can move the deadline to Monday, June 16, instead of to Friday.

MR. DAVIDE: But we will meet on Friday, Madam President.

THE PRESIDENT: So, is it acceptable that it be Monday, instead of Friday, to study this matter?

MR. DAVIDE: It is accepted, Madam President.

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

The Chair appoints the following to the ad hoc committee: Commissioners Romulo, Bengzon, Rama, Calderon and Jamir.

Is there any other business, honorable Floor Leader?

MR. RAMA: Madam President, I move that Committee Report No. 1 of the Committee on Preamble, National Territory, and Declaration of Principles be placed on the Calendar of Business for today.

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

CONSIDERATION OF PROPOSED RESOLUTION NO. 72

(Adopting a Preamble to the Constitution)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Madam President, I move that we consider Committee Report No. 1 on Proposed Resolution No. 72 as reported out by the Committee on Preamble, National Territory, and Declaration of Principles. *

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

Consideration of Proposed Resolution No. 72 is now in order. With the permission of the body, the Secretary General will read the title and text of the proposed resolution.

THE SECRETARY-GENERAL: Proposed Resolution No. 72, entitled:

RESOLUTION PROPOSING TO ADOPT A PREAMBLE TO THE CONSTITUTION.

WHEREAS, it is essential to identify the power that shall ordain and promulgate the constitution;

WHEREAS, it is necessary for any national constitution at the outset to enunciate the great national purposes and aims for which reason it is adopting a constitution to establish a government;

WHEREAS, by reason of the intense religious nature of the Filipino people, it is but fitting and proper that they should invoke Divine Providence, to utter a collective prayer, before essaying in a constitution the provisions of a government they are establishing: Now, therefore, be it

Resolved by this Constitutional Commission in session assembled, That the following be adopted to serve as the Preamble to the Constitution of the Republic of the Philippines:

"WE, THE SOVEREIGN FILIPINO PEOPLE, IMPLORING THE AID OF DIVINE PROVIDENCE, IN ORDER TO ESTABLISH A GOVERNMENT THAT SHALL EMBODY OUR IDEALS, PROMOTE THE GENERAL WELFARE, CONSERVE AND DEVELOP THE PATRIMONY OF OUR NATION, AND SECURE TO OURSELVES AND OUR POSTERITY THE BLESSINGS OF DEMOCRACY UNDER A REGIME OF JUSTICE, PEACE, LIBERTY, AND EQUALITY, DO ORDAIN AND PROMULGATE THIS

CONSTITUTION."

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA: May I ask for a suspension of the session?

THE PRESIDENT: The session is suspended.

It was 4:03 p.m.

RESUMPTION OF SESSION

At 4:21 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 the Chairman of the Committee on Preamble, National Territory, and Declaration of Principles, Commissioner Rosales, be recognized.

MR. ROSALES: Madam President, it is the pleasure of this Representation to inform this august body that after thorough and exhaustive study and deliberation, our Committee on Preamble, National Territory, and Declaration of Principles has finally approved the draft of the proposed Preamble of the Constitution we are writing and which we are submitting for the approval of this Chamber.

I am yielding the floor, with the permission of the Chair, to Commissioner Tingson, who will sponsor the committee report.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, we apologize to our colleagues for the delay of the draft of the proposed Preamble, but I think everyone has a copy now. The following are the members of the Committee on Preamble, National Territory, and Declaration of Principles-seven all in all. We have Commissioner Rosales, this Representation, Commissioner Villegas, Commissioner Aquino, Commissioner Rosario Braid, Commissioner Nollado and Commissioner Quesada.

May I, Madam President, ask Commissioner Rosario Braid to read to us as convincingly as she possibly could, with emotion, the proposed Preamble as submitted by our Committee.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MR. DAVIDE: Madam President, with the permission of the Gentleman on the floor, may we request that the sponsoring committee or anyone of them making the sponsorship use the rostrum at the front.

THE PRESIDENT: Commissioner Rosario Braid will please use the rostrum.

MS. ROSARIO BRAID: The proposed Preamble:

WE, THE SOVEREIGN FILIPINO PEOPLE, IMPLORING THE GUIDANCE OF DIVINE PROVIDENCE, TO ESTABLISH A GOVERNMENT THAT SHALL EMBODY OUR IDEALS AND ASPIRATIONS, PROMOTE THE COMMON GOOD, CONSERVE AND ENHANCE OUR PATRIMONY, AND SECURE TO

OURSELVES AND OUR POSTERITY THE BLESSINGS OF PARTICIPATORY DEMOCRACY UNDER A RULE OF JUSTICE, PEACE, FREEDOM, AND EQUALITY, DO ORDAIN AND PROMULGATE THIS CONSTITUTION.

MR. TINGSON: Thank you so much, Commissioner Rosario Braid.

Madam President.

THE PRESIDENT: Yes, Commissioner Tingson is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER TINGSON

MR. TINGSON: Esteemed colleagues of this Constitutional Commission:

Madam President, some 87 years ago, we were questing to establish a government based upon our national ideals and aspirations as we perceived them at that time. We adopted a constitution for that purpose, as we did a few more times, as the years rolled by, and everytime that we did so, there was always a preface — what we call the "Preamble," a foreword in the entire document that we call the "Constitution."

In 1899, the Filipino people adopted the Malolos Constitution. This is how its Preamble reads:

We, the Representatives of the Filipino people, lawfully convened, in order to establish justice, provide for common defense, promote the general welfare, and insure the benefits of liberty, imploring the aid of the Sovereign Legislator of the Universe for the attainment of these ends, have voted, decreed, and sanctioned the following . . .

In 1935, we were a nation expectant of national independence. We drafted a constitution for our self-government, preparatory to our attainment of full sovereignty and independence before we had gained our full stature in the world community of free people.

In the inimitable style of the late Claro M. Recto, who was the President of the 1934 Constitutional Convention, the Preamble to the 1935 Basic Law reads:

The Filipino people, imploring the aid of Divine Providence, in order to establish a government that shall embody their ideals, conserve and develop the patrimony of the nation, promote the general welfare, and secure to themselves and their posterity the blessings of independence under a regime of justice, liberty, and democracy, do ordain and promulgate this Constitution.

In the 1960s, we began to perceive an inadequacy, real or imagined, in the Constitution of our country, our failure to attain the great aims and purposes for which we have established a government, which we did not measure against ourselves as a people, substantially washing our hands from the blame. Rather, we suspected a deficiency in the basic law, being a product of a bygone American era, for our continuing inability to attain the dignified sovereignty under a regime that produced material success in an atmosphere of moral rectitude. It was argued again and again that the fault did not lie in our Constitution but in ourselves. The proliferation of statutes and laws did not assure us that we had the legal and constitutional means by which we could pursue our aims and purposes, for, after all, nothing is politically right that is morally wrong.

Instead, we went headlong to still another Constitutional Convention that produced in 1973 a new Constitution for the Philippines. The Preamble to that Constitution, which follows, did not materially differ from the one of the 1935 document, to wit:

We, the Sovereign Filipino people, imploring the aid of Divine Providence, in order to establish a government that shall embody our ideals, promote the general welfare, conserve and develop the patrimony of our nation, and

secure to ourselves and our posterity the blessings of democracy under a regime of justice, peace, liberty and equality, do ordain and promulgate this Constitution.

I am proud to say that I was a member of that Preamble Committee, headed by our own colleague now —I am referring to Commissioner Domocao Alonto — although in 1971 to 1973, it took us three weeks to hammer out this Preamble. But this morning, instead of three weeks it took us three hours to be able to produce a proposed preamble.

We were not hasty about it or carelessly so, no. After all, we already had prepared ourselves for this, some of us who participated in the 1971 Constitutional Convention. Therefore, I believe that after three hours this is a product of something that is good and commendable for we believe that prior prayerful preparation prevents poor performance.

And so this morning, Madam President, before we even started deliberation, we started with a word of prayer because we believe that the preamble of a constitution is the collective prayer of a people, aspiring to be free; aspiring to be prosperous; and aspiring to live up to the prayerful expectations of those who died in the night that we might live and live abundantly.

Therefore, Madam President, to the Committee on Preamble, National Territory, and Declaration of Principles we are now referring the proposed Resolution No. 72, the resolution that we have worked on as our working draft.

Resolution No. 72, authored by this Commissioner, entitled: RESOLUTION PROPOSING TO ADOPT A PREAMBLE TO THE CONSTITUTION, has been considered by the Committee and the same has the honor to report it back to the Constitutional Commission of 1986, with a recommendation that the resolution be approved, in consolidation with Proposed Resolution No. 2 which was proposed by Honorable Davide, Jr. and which is entitled: RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PREAMBLE; Proposed Resolution No. 24, authored by the Honorable Nollado: RESOLUTION MAKING THE PREAMBLE MORE CONCISE AND EMPHATIC; and Resolution No. 73, authored by the Honorable Villegas: RESOLUTION TO INCLUDE IN THE PREAMBLE OF THE NEW CONSTITUTION THE CONCEPT TERMED 'COMMON GOOD' AND TO COMPOSE THE SAME ACCORDING TO THE IDEAS COMPREHENDED BY THE SAID CONCEPT.

Madam President, the proposed Preamble which your Committee joyfully submits now to this august body contains only 58 words, compared to the draft of the 1973 Preamble which contains 60 words. So, we shortened it a little bit.

So, we have in our hands, of course, a comparative picture of the two preambles. May I read it, with your permission, for emphasis:

WE, THE SOVEREIGN FILIPINO PEOPLE, IMPLORING THE GUIDANCE OF DIVINE PROVIDENCE, TO ESTABLISH A GOVERNMENT THAT SHALL EMBODY OUR IDEALS AND ASPIRATIONS, PROMOTE THE COMMON GOOD, CONSERVE AND ENHANCE OUR PATRIMONY, AND SECURE TO OURSELVES AND OUR POSTERITY THE BLESSINGS OF PARTICIPATORY DEMOCRACY UNDER A RULE OF JUSTICE, PEACE, FREEDOM AND EQUALITY, DO ORDAIN AND PROMULGATE THIS CONSTITUTION.

The phrase "COMMON GOOD" there would, of course, include such subjects as the health of the people, which is the priority interest of those we refer to as doctors, also "COMMON GOOD" referring to education, employment, shelter, economic needs and food. Those are the categories under the phrase "COMMON GOOD. "

On the phrase "PARTICIPATORY DEMOCRACY," the Committee did have in mind the recent peaceful revolution, prayer power that generated the people power. That is all within the concept of participatory democracy.

Madam President, we are very pleased with this, and we hope and pray that our colleagues would consider this very seriously, of course, as we always want to do to every provision of our proposed Constitution, but we commend this to the approval of the body.

MR. DE CASTRO: Madam President, will the Gentleman yield to a minor amendment?

THE PRESIDENT: Commissioner de Castro is recognized.

Will Commissioner Tingson yield?

MR. TINGSON: Gladly, Madam President.

MR. DE CASTRO: To me this is about the best Preamble I have read so far. However, there is still something in my mind which I cannot forget — that there have been a lot of lies and so much untruthfulness recently, that perhaps on the second to the last line the word TRUTH should be inserted between "freedom" and "and equality." Hence, the line will read: "We, the sovereign Filipino people, imploring the guidance of Divine Providence, to establish a government that shall embody our ideals and aspirations, promote the common good, conserve and enhance our patrimony and secure to ourselves and our posterity the blessings of participatory democracy under a rule of justice, peace, freedom, TRUTH and equality, do ordain and promulgate this Constitution."

MR. TINGSON: Madam President, the Committee appreciates these concerns, but I was informed by the Floor Leader that there will be a time for amendments later on. Inasmuch as we feel that the Preamble is a prayer, and is something that should have good style of phraseology, we could probably leave it to the President to propose her own amendments or interpolate the Committee members. Of course, we will be happy to answer and contribute. The period of amendments will come later.

MR. DE CASTRO: I am sorry; I thought we were already in the period of amendments.

MR. TINGSON: Not yet, Commissioner de Castro.

Thank you.

THE PRESIDENT: In other words, we are now in the period of interpellations.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: With due respect to the members of the Committee on Preamble, National Territory, and Declaration of Principles, of which I am a member, it is very unfortunate that I was not notified of the schedule of the committee meeting yesterday. If I were, I would have interposed my objection to the precipitate haste with which this Commission is deliberating on the Preamble. It is my humble submission that a Preamble is like the bedrock, the showcase of any fundamental law. A Preamble is the distillation of the spirit, the aspirations, the deepest yearnings of the people whom we claim to represent in this distinguished task of drafting a Constitution. It is my submission that it is our sacred duty to first address the task of consulting adequately and sufficiently the people whom we claim to represent in drafting the Constitution, as when we speak of a Preamble that is the distillation of the spirit. And conformably with this task, the Preamble should articulate the spirit of the body-the skeleton and the muscle which comprise the corpus of the Constitution. How could we be so presumptuous as to arrogate upon ourselves now and prematurely the determination of the Preamble, when, in fact, we have not even

begun the process of consulting the people in public hearings and public fora.

MR. TINGSON: Madam President, may I explain by way of clarifying a point?

THE PRESIDENT: Commissioner Tingson may proceed.

MR. TINGSON: Our committee simply obeyed the mandate of the leadership of our Commission when we were asked yesterday to meet after we had unanimously agreed with the Vice-President, Commissioner Padilla, that we begin deliberations in the Committee on Preamble, National Territory, and Declaration of Principles. Inasmuch as we also felt that there ought to be goals and purposes set before us so that those of us who have proposals on the different provisions of the Constitution could align our thinking with the goals and general purposes set forth in the Preamble, we thought that this was the right procedure. I do remember that in 1971, that was exactly what we did — we began with the discussion on the Preamble, Madam President.

MS. AQUINO: Madam President, I would concede to the requirements of urgency; however, it is my humble submission that we cannot afford to wax romantic on lofty ideals and the motherhood concepts of democracy without being able to feel the substance of what we speak about. My point is, we cannot sacrifice in the altar of expediency the matter of substance.

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: Madam President, in the drafting of the Preamble of our original Constitution, the best minds, the best language, the best literature were availed of by the Members of the Convention that drafted it. The statement of the Preamble should not only embrace all the expectations of the people in the general provisions that we are going to adopt, but a preamble should, like a prayer, be inspiring. It must not only contain supplications to the Almighty but also a general direction to the people and what they expect of the government that is to be established. The phrases must be carefully selected so that in the recitation and prayer of the Preamble, our children will find it beautiful and inspiring.

I have only two comments on the original, as well as on the proposed Preamble, as amended. The first is on the words: "general welfare" and "common good." Practically, in concept, both embrace about the same purpose, the same purview of what we implore Divine Providence to grant us. But of the two, which sounds more of a prayer or a supplication for Heaven to grant us, the "general welfare" or the "common good"? I believe it is more beautiful to say "promote the general welfare" because it embraces everything that the government and the people are supplicating. "Common good" and "general welfare" are about the same. As I said, it was only in the phraseology that the Convention differed: "promote the common good" or "promote the general welfare."

Like a song, it could have the same meaning. Let our Preamble be not only all-embracing but also beautiful when we recite and read it. I am referring to the beauty of the words—the "general welfare" or the "common good." I leave it to my colleagues which of the two phrases, which mean the same and all-inclusive of the same objective, we shall apply to the Preamble of our Constitution.

My other comment is on the use of democracy in the original. Must we classify democracy by inserting the word "participatory" in the proposed Preamble? Participation is already implied in the Preamble of the Constitution and by qualifying democracy as participatory gives the effect of democracy being diluted.

And I submit that the Chairman delivered a very enlightening and exhaustive explanation. My attempt is only to make the Preamble beautifully written, beautifully read, as beautiful as it sounds. I believe that the blessings of democracy are generalized and that "participatory" cannot qualify the word "democracy." However, the body can decide on what they want, but I think the general tone would be about the same.

Thank you.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: I think it will be best if our Committee member, Commissioner Villegas, who authored the resolution in which we incorporated the phrase "common good," be allowed to explain what he meant by that.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, in a way, I am glad it was Commissioner Abubakar who asked the question because it will make specific reference to cultural and other specific minorities in the Philippines.

"General welfare" has been misconstrued by some people as "the greatest good for the greatest number," and that phrase is rather dangerous. Even assuming that the majority of the Germans, for example, agreed with Hitler that the Jews had to be obliterated, that would have not morally justified the murder of a single Jew. Even if the majority of the Filipinos, because mob rule can unfortunately, from time to time, exist, should decide that certain traditions of cultural minorities should be obliterated, that does not make such an act morally justified.

I would like to assure the body that the phrase "common good" has been the result of at least two years of consultations with the people all over the Philippines which Commissioner Rosario Braid and I conducted in coming out with the document that was distributed to all the honorable Commissioners. The phrase "common good" is the only phrase in modern parlance that is defined as "a social order that enables every single individual in society to attain his or her fullest development, economically, politically, culturally and spiritually." The phrase "common good" is the only phrase which guarantees that mob rule is not going to prevail; that a so-called enlightened majority is not going to persecute a minority. And that is why we are proposing that this phrase be used because it precisely guarantees individual rights.

Thank you.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, since our Committee believes that it would be best for the Committee members who were present and who participated to be given a chance to explain some portions of this proposed Preamble, may I request that Commissioner Rosario Braid be called upon to say a word especially on the phrase "participatory democracy."

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Thank you, Madam President. We discussed this at length because the word "democracy" has been enshrined in all the past Constitutions, yet in practice would be one thing. And so, we wondered if by adding the qualifying adjective "participatory" we can instill in the minds of our people, particularly the children, that they have a right to participate actively, that democracy is not just sharing or benefiting from a resource pie, that democracy need not be the passive recipient of the benefits of development, but that the people actively participate in our dynamic society.

Therefore, this word, this adjective, best describes "people power," which is really a movement, the spirit of the people actively participating with no one at the top coordinating their actions but that out of their own feeling that they are participants of our society, they took the initiative. And so, we thought that this phrase is important and we hope our colleagues would see the importance of including it.

Thank you.

THE PRESIDENT: Commissioner Garcia is recognized .

MR. GARCIA: Madam President, with all due respect to the members of the Committee on Preamble, I would like to request deferment of decision on the resolution precisely because of the importance of the Preamble. It is a very important part of the Constitution and I feel, just as in writing a book, that we do not write the introduction until we know the substance, the main lines of the story. So, too, in this Constitution. We have not undertaken the task of public hearings yet. We have not undertaken the task of substantial debate and the fair struggle of ideas in these halls and, therefore, I would suggest that we defer the resolution on such an important matter until after we have known the main lines of ideas.

Secondly, I also want to remind ourselves that we have gone through nearly two decades of dictatorial rule and foreign intervention. It is very important that we try to reach one mind, one spirit as we draft this Preamble so that we can truly understand the importance of why we are actually trying to zero in and focus on freedom and popular democracy, on equality and social justice, and on peace and national sovereignty. These are very important concepts but I think only after substantial debate and struggle of ideas, not just in these halls but throughout the country, can we finally formulate the Preamble which this Constitution deserves.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, I understand that the majority of political scientists and legal minds maintain that the Preamble is not strictly a legal — is that correct — or an integral part of the Constitution, although we appreciate the presence of that part of our Constitution. And as our Committee discussed this morning, it is really a prayer of our people and in a general term it sets goals and purposes and petitions before the Almighty of what we would like to have in our country.

MR. DAVIDE: Parliamentary inquiry, Madam President.

THE PRESIDENT: Yes, Commissioner Davide is recognized.

MR. DAVIDE: Madam President, what is the status of the motion of Commissioner Garcia? Was it duly seconded or was it a motion to defer consideration of this report?

THE PRESIDENT: Was Commissioner Garcia's motion duly seconded?

FR. BERNAS: I second the motion.

MR. DAVIDE: If it is duly seconded, may I rise to oppose the motion.

THE PRESIDENT: Will Commissioner Davide please state his reasons for opposing the motion to defer.

MR. DAVIDE: Madam President, we are taking up this report of the Committee on Preamble, National Territory, and Declaration of Principles pursuant to and by virtue of the urgent motion approved by the Commission yesterday, and I refer to the motion of Commissioner Padilla to take up the report today. The motion to defer would partake of the nature of a motion to reconsider the motion of Commissioner Padilla, duly approved yesterday.

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

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May we address a few clarificatory questions to Commissioner Garcia.

THE PRESIDENT: Is Commissioner Garcia willing to answer the questions?

MR. GARCIA: Yes, willingly, Madam President.

MR. SUAREZ: Madam President, we would like to clarify the parliamentary situation.

I agree, for one, that the Preamble strikes a note, makes an impact on the kind of Constitution we are going to formulate-and is very crucial and very vital. Upon the other hand, there are practical considerations. We, in the Commission, somehow have to start our discussions on constitutional provisions. Fortunately or unfortunately, the Preamble happens to be the number one item in any Constitution because it serves as the introduction.

Madam President, assuming that we will proceed with the preliminary discussion on the Preamble, without prejudice to an open-ended discussion, even after Second Reading, which would not deny the right of any delegate after consultations with the people and the masses to submit supplementary resolutions embodying the highest ideals and aspirations of our people, will the Chair have any objection to that?

MR. GARCIA: Simply because the Preamble is the first thing that comes in the Constitution does not mean that it is also the first thing that we tackle in this body. In other words, I contend that just as when we write a book, when we write an article, very often we begin with substantial ideas, and only after we know what we are going to draft, what we are going to formulate do we go back to the introduction and give it that spirit, give it that beginning that I think it deserves. I believe it is the same thing in the creation of this Preamble. We could begin, as we had already started, on the form of government, and that is the kind of discussion that could take place. The Preamble does not have to be the very first thing that we have to work on.

MR. SUAREZ: Thank you.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Will the distinguished Commissioner yield to interpellations?

MR. GARCIA: Willingly.

MR. NOLLEDO: Before I ask the question, I understand that the term "Preamble" is derived from the Latin term *preambulare* which means walking before it. In proceeding to the consideration of other proposals, there is nothing that "walks" before us. Would the Commissioner agree with me if I say that in approving the Preamble, we are setting out directions that should be followed by us in the consideration of the various proposals submitted to the Constitutional Commission?

MR. GARCIA: Exactly. Spanish poet Antonio Machado once said: "Caminando no hay camino se hace camino al andar." I agree that right now there is no path that is forged until we start walking, but that does not mean that a committee can arrogate upon itself, or, in a sense, forge in one direction, stating the entire vision until such time when serious discussion, debate, and plenty of consultations have taken place.

MR. NOLLEDO: Reading the words of the Preamble, would Commissioner Garcia agree with me that the words are broad enough to cover practically anything that we will do?

MR. GARCIA: That is exactly my objection. It is so broad. How can we not object to something so broad when it does not truly incorporate the concrete desires of our people? After twenty years of dictatorial rule and foreign intervention in this country, we must be able to state in far stronger terms our objectives as a people.

MR. NOLLEDO: It is an established precedent that the Preamble is not actually a part of the Constitution. It is just a decorative part in the Constitution.

MR. GARCIA: Nevertheless, like in a melody, an orchestra or a play, there is a melody which runs as a refrain that somehow comes across in many other parts. We can only know that once we know the theme of the story, we do not even know what story we will be able to tell.

MR. NOLLEDO: Am I correct, if I say that the honorable Commissioner apparently labors under the impression that the substance of the Constitution is found in the Preamble?

MR. GARCIA: Of course not, Commissioner Nollado. I do not say that the substance is there, but basically the major theme, the direction, the spirit is there. I think the Preamble is important enough for us to defer its final formulation until such a time when we are truly ready.

MR. NOLLEDO: As between spirit and form, we are providing the spirit and the form, the body itself will follow later on.

MR. GARCIA: I do not believe so. I think we must have the body and only once the body is there, can we then give it form, spirit and flesh, and let it "walk."

MR. NOLLEDO: Thank you, Madam President.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I rise to reinforce the position of my colleague, Professor Garcia, who took up the note that I raised earlier. And as a comment to the position of Commissioner Nollado, it is my position that the Preamble, although not essentially a part of the Constitution, is, however, the distillation of the collective spirit of the people for whom and whereof it speaks. When Commissioner Nollado spoke of walking ahead, I feel, however, that we cannot walk ahead too far; we cannot afford to be vanguards without looking back. Today, we have the most unique and the unedited opportunity to be in deep consultations and conference with the people to determine how they feel and what they feel. Let us not betray the hope and desire of the people to be co-authors in this task. It is almost like our duty to listen to them before we speak.

Thank you, Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, with due respect to Commissioners Garcia and Aquino, I think if the Committee examines the Minutes of our meeting this morning, we said that we needed some preliminary statement that would set directions, and that we will be open to the desires, the aspirations of the people. I am sure my fellow Committee members remember that we said we will present this in all our consultations so that the people could give us suggestions, and we could improve on the phraseology and provide the spirit in which the final draft would be developed, Madam President.

This is the spirit in which we drafted the Preamble because we feel that in any endeavors such as ours, we need a unifying philosophy that would set the stage for all the other committees and that the Preamble could offer such. It could evolve into what the seventeen committees and the public consultations would finally provide during the next few months. I think it is in this spirit that we have come up with a preliminary draft.

Thank you, Madam President.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani, we are still on the motion to defer.

BISHOP BACANI: I am glad to say that I am in sympathy with Commissioners Aquino and Garcia. But I would like to proffer some questions to Commissioner Tingson.

THE PRESIDENT: Commissioner Bacani, there is still a motion to defer consideration. In other words, we have to act on that motion before interpellations can be made. That is why the Chair would like to be clarified by Commissioner Garcia if his motion includes or, rather, covers the fact that there would be no interpellations at all during this particular period. In other words, would Commissioner Garcia object to any interpellation being made?

MR. GARCIA: Madam President, I am not very sure about the actual parliamentary procedure. I was simply stating what I thought was a very important fact, that before we consider style or spirit, we should consider, I think, the substance for it is crucial. That is why I was thinking that at this very moment, before we go on and consider the resolution, we must defer, for the sake of gathering more substantial ideas, before we can actually write such a preamble. That was the spirit of my intervention

SUSPENSION OF SESSION

THE PRESIDENT: The Chair suspends the session.

It was 5:05 p.m.

RESUMPTION OF SESSION

At 5:14 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Commissioner Garcia is recognized.

MR. GARCIA: In the spirit of a fair debate of ideas, I would like to withdraw my motion on the condition that we hold a freewheeling discussion on the Preamble, without any amendments nor any voting.

THE PRESIDENT: Is Commissioner Garcia withdrawing his motion on that condition?

MR. GARCIA: Yes, under the condition that we will have a freewheeling discussion on the Preamble.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: This is just a reply: That is precisely what our Committee wants to do, and we are happy that Commissioner Garcia withdrew his motion.

THE PRESIDENT: Thank you.

Commissioner Bacani is recognized.

BISHOP BACANI: I would like to ask Commissioner Tingson a few questions.

First, why did Commissioner Tingson use the words "Divine Providence" which is simply repeating what has been used before? The phrase does not sound Filipino. We, Filipinos, often use "Makapangyarihang Diyos" which

is a more personal way of denoting God. Why do we not use "Almighty God" instead of "Divine Providence" for easy translation?

The second question is: In the order or sequence of nouns on the last line -justice, peace, freedom and equality- is there any reason for that particular order or is it simply because we do not want to deviate from the order of the former Constitution? I ask that question because it is commonly accepted in Catholic circles today that there are four pillars of peace: truth, justice, love and liberty. Peace is the consequence of all of these. It would seem better to put all of those four ahead of peace — peace being the result of all of them. So, I would like to ask whether or not there is any particular logic to this arrangement.

MR. TINGSON: First of all, the Committee on Preamble, National Territory, and Declaration of Principles is conscious of the fact that we have the Committee on Style which later on would work on this Preamble. However, we want to include the generally accepted concepts in this proposed Preamble and then give them to the Committee on Style to put finesse to it.

Secondly, on the question about the phrase "imploring the aid of Divine Providence," may I ask Commissioner Nolleto, a member of the Committee, to comment on this by saying that we did not repeat the whole phrase. Instead of the word "aid," we decided to use the word "guidance" followed by the phrase "of Divine Providence."

THE PRESIDENT.: Commissioner Nolleto is recognized.

MR. NOLLEDO: Madam President, the purpose is purely for style. We have no objection if we revert to the phrase "the aid of." But I think it is more emphatic if we use "guidance," because we are manifesting some sort of humility. We are subjecting ourselves to the guidance of Almighty God.

BISHOP BACANI: It is not so much on the word "guidance" but on the phrase "Divine Providence." I am wondering whether it is really the more appropriate, the more Filipino way of addressing our Almighty God.

MR. NOLLEDO: I have no objection, if we change "Divine Providence" to "Almighty God." I do not know what the sense of the Committee as a whole is.

MR. TINGSON: Madam President, similarly, this Representation would like to say we will be very happy to see and consider the amendment of Commissioner Bacani later on.

BISHOP BACANI: Thank you.

THE PRESIDENT: Yes, when the period of amendments comes.

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Madam President, I have only one point of inquiry.

In view of our recent experience, did the Committee consider enhancement of human rights or human dignity?

MR. TINGSON: If I remember right in our discussion this morning, we did consider human rights under the phrase "rule of justice, peace, freedom, equality."

MR. ROMULO: Will the Committee take that under advisement? If the last 12 or 14 years proved anything, we ought to be concerned with human rights.

MR. TINGSON: The Committee will be happy to consider Commissioner Romulo's request.

MR. GUINGONA: Madam President, I have a couple of questions to ask, if I may.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: I notice that in this proposal, the Committee changed the word "liberty" to FREEDOM. The word "liberty" is found in both the 1935 and 1973 Constitutions. I wish to advance the statement that I have no objection to this, but I would like to know the reason for this change.

MR. TINGSON: Madam President, since we decided at our Committee meeting this morning that we share the participation among the Committee members, may I ask that Commissioner Nollado be permitted to answer?

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President. This change was suggested by Commissioner Rosario Braid and her reason is that the term "freedom" is broad enough to cover freedom from want. "Liberty" could not possibly cover freedom from want, so we used a broader term.

Thank you for the good question, Madam President.

MR. GUINGONA: Thank you.

Madam President, as I said earlier, I have no objection to the change. As a matter of fact, there could be another reason for changing the word "liberty" to FREEDOM. Although some say that the word "liberty" is broader, and, therefore, would embrace the word "freedom" in its concept, in the Webster's Dictionary the main definition of both is the same—a quality or state of being free. The reason I favor the change is that this word "liberty" was copied from the United States Constitution, and at the time the Constitution of the United States was drafted, the word "liberty" was a very popular term as exemplified by Patrick Henry's immortal expression: "Give me liberty or give me death."

Now, I recall the comments of Justice Owen Roberts of the United States Supreme Court in the case of U.S. vs. Sprague where he said that the United States Constitution was written to be understood by the voters. Paraphrasing the learned jurist, I would say: The Constitution that we are attempting to draft should be written to be understood best by our people. My observation is that between the words "liberty" and "freedom," the latter is the more accepted term; it is the one that is more used by our people. That is why we do not talk about liberty of the press, liberty of speech, or liberty of religion. Instead, we say freedom of the press freedom of religion and so forth.

My second question is regarding the use of the word "patrimony," which, in the previous Constitutions, was referred to as the patrimony of the nation.

I ask this question because I noticed in several books on the Constitution of the Philippines that the authors, in attempting to explain this particular expression, related it to natural resources alone. I would like to find out from the members of the Committee whether they share that view or whether they are more in favor of the concept, as expressed by President Sinco in his book on Philippine government, that the phrase "patrimony of the nation" refers to everything that belongs to the Filipino people. It embraces material property, as well as intangible possessions. Under the first class of patrimony, we have the land and the natural resources of the country which include our waters, forests, minerals and all sources of potential energy. The intangible assets are the ideals, the customs and the traditions of the race, as well as the manpower supplied by the individual constituents of the Filipino nation. I would like to find out from Commissioner Tingson which of the two interpretations or concepts the Committee has adopted.

MR. TINGSON: Madam President, Commissioner

Guingona will be happy to know that we have discussed with the Committee on Human Resources that the word

"patrimony" embraces precisely not only natural resources but also human resources, believing that life in this world consists not only in the abundance of the things that man possesses, for man does not live by bread alone. So, we are happy to let Commissioner Guingona know that that is precisely what we meant there. We did not want to put "material and human resources" because that would add more words to the Preamble.

MR. GUINGONA: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Thank you.

With respect to changing the word "liberty" to "FREEDOM," if the intent is to include the concept of freedom from want, I think, in addition to liberty, we should add the desideratum of freedom from want. I think we should be very explicit in this because for almost 90 years of constitution-making and constitutional implementation in our country the plight of the masses has not improved. This could be because the constitutions that we have had so far did not adequately and seriously stress the people's need for freedom from want. So, may I recommend to the Committee that we include "freedom from want" in addition to "liberty."

MR. TINGSON: Madam President, the Committee will be very happy to receive, in written form, the suggestion of Commissioner Villacorta.

MR. ALONTO: Madam President.

THE PRESIDENT: Commissioner Alonto is recognized first; then followed by Commissioner Suarez.

MR. ALONTO: Madam President, will the distinguished Gentleman yield to some clarificatory questions?

MR. TINGSON: Willingly, to the Honorable Alonto.

MR. ALONTO: In the first place, I would like to congratulate the Committee for its beautiful proposal. However, I have one question for clarification. Does not the sponsor believe that the phrase "imploping the guidance of Divine Providence," which is well taken, contradicts the first phrase "sovereign Filipino people? " I ask so because "sovereign people" do not ask the guidance of anybody. But if we recognize that the guidance of God Almighty or the Divine Providence is needed by us as a people, then we have to admit that the word "sovereign" which defines the characteristic of the Filipino people, does not exactly lie in our hands but in the hands of the Divine Providence from which we seek guidance.

REV. RIGOS: May I comment on that, Madam President?

MR. TINGSON: Madam President, may I yield the floor to Commissioner Rigos, who is a noted Minister of the Gospel and a theologian.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: I think the sovereignty of the Filipino people precisely rests upon the grace of Almighty God. In other words, it is a kind of sovereignty that does not pretend to usurp the place of God. I think the use of the word "sovereign" there is very fitting. We, on the one hand, declare that the Filipino people are sovereign people; but on the other hand, we still acknowledge that there is One to whom we owe allegiance.

MR. ALONTO: Why do we not clarify it? Why assume something we do not have? If we recognize the sovereignty of God Almighty, then let us make it plain. That is the reason we are seeking His guidance. And so I think, if we follow the thoughts of the framers of the Malolos Constitution, it would be better, merely stating that

we are a people, and that we have to live and create an institution derived from the guidance and aid of the Supreme Legislator.

MR. SUAREZ: Madam President.

THE PRESIDENT: Is Commissioner Alonto through with his questions?

Commissioner Suarez is now recognized; then to be followed by Commissioner de los Reyes.

MR. SUAREZ: Thank you, Madam President.

Will the sponsor yield to some questions?

MR. TINGSON: Gladly, Madam President.

MR. SUAREZ: I wish to thank Commissioner Tingson for the report which he has submitted to the body.

MR. TINGSON: Thank you.

MR. SUAREZ: After Commissioner Tingson was interrupted in his joyful presentation of Committee Report No. 1, will he join me in a brief but emotional constitutional journey involving the Preamble of our Constitution?

As I understand it, we are working on the basis of three working drafts: the Malolos Constitution of 1899, the 1935 Constitution and the 1973 Constitution without the amendments. That is quite clear, is it not?

MR. TINGSON: Yes, it is.

MR. SUAREZ: Is the sponsor aware that all of these three Constitutions contain a preamble?

MR. TINGSON: Yes, as a matter of fact, we recited them a while ago.

MR. SUAREZ: Would the Commissioner agree with me that in formulating a preamble, it must be a preamble without a stigma of colonialism and authentically Filipino in character, in identity and in consciousness?

MR. TINGSON: We cannot agree more.

MR. SUAREZ: Does the sponsor also agree with me that since the Preamble is symbolic of the highest ideals and aspirations of the Filipino people, such must be so stated in our Preamble?

MR. TINGSON: Yes, I agree with Commissioner Suarez.

MR. SUAREZ: Now we go to the Preamble of the 1935 Constitution. Would the sponsor agree with me that it contains colonial vestiges which we must rid ourselves of?

MR. TINGSON: The Preamble of the 1935 Constitution does not necessarily tell that we were under oppressive colonial rule. Unfortunately, we know that we were under colonial rule when the 1935 Constitution was written.

MR. SUAREZ: I am only referring to the 1935 Preamble appearing in the 1935 Constitution. Since it was practically an American-imposed charter, it was then amended in the 1973 Constitution in order to reflect the circumstances obtaining during that time, so much so that the 1973 Constitution reflected the waves of turbulence that became prevalent in the early 1970 and that induced the 1971 Constitutional Convention to introduce two other blessings enjoyed by the Filipino people — the blessings of peace and equality. Is the sponsor aware of that situation?

MR. TINGSON: Yes, that is true; thank you for that observation, Madam President.

MR. SUAREZ: Does the sponsor also agree with me that the other major change that was effected between the

1935 Preamble and the 1971 Preamble had reference to the substitution of the word "independence" with "democracy"?

MR. TINGSON: Yes.

MR. SUAREZ: In the 1935 Constitution we were still aspiring for independence, but in the 1973 Constitution we supposedly already enjoyed independence; that is why we were enjoying the blessings of democracy. That was the one reflected in the Preamble of the 1973 Constitution. Is that also correct?

MR. TINGSON: That is correct, MR. SUAREZ. We come now to Commissioner Tingson's proposal retaining the words "justice, peace, freedom and equality." There are suggestions here to include other phrases reflective of the sentiments of our people. Would the Commissioner have any objection to that at the proper time?

MR. TINGSON: The only trouble about adding more words is that our Preamble might be so inordinately long that it will not jibe with the beauty of this document that we are trying to come up with. We believe, as we discussed this morning, that those words would best describe the Filipino people.

At this juncture, the President relinquished the Chair to the Vice-President, the Honorable Ambrosio B. Padilla.

MR. SUAREZ: Thank you.

Let us not sacrifice substance for aesthetics especially in the Constitution. But I agree with the sponsor that it is a matter of style, but without prejudice to substance, of course. Is the sponsor in agreement with us that we must make our Preamble warm and humanized since it deals with the masses, the common people?

MR. TINGSON: Hearing Commissioner Rosario Braid read the proposed Preamble, I cannot make it any warmer than what it is. It would be nice if we could all agree and just approve this Preamble today. But, of course, I do not propose that.

MR. SUAREZ: I ask that question because in the 1935 Constitution the Preamble was expressed in the third person. It was coldly impersonal and there was no warmth in it. But in the 1973 Constitution we used the first person plural. We used the pronoun "We" followed by the phrase "the sovereign Filipino people," making it more warm and human. Is that not what was supposed to have been the motivation behind the amendment?

MR. TINGSON: Listening to Commissioner Suarez reminds me of what was said on the floor of our 1971 Constitutional Convention of which he was an honorable member, and I appreciate his recalling of what we had decided then but which is still valid for this proposal.

MR. SUAREZ: Thank you.

My last question is: Should we not make the people closer to the Constitution, particularly in the formulation of the Preamble?

MR. TINGSON: We believe that it should be so; that is why I personally insist that the records in our Committee meetings should show that the Preamble is the collective prayer of the people. Nothing could make a man closer to God and to his people than praying, because praying would not make a man tell a lie. He is speaking not to man whom he could deceive but to God who looks with an X-ray penetrating pair of eyes, and to his own heart.

MR. SUAREZ: So, may we get the assurance of the Committee that we formulate the Preamble reflective of the highest ideals, aspirations, culture and tradition of our Filipino people?

MR. TINGSON: We give Commissioner Suarez the assurance, with the cooperation and approval of this honorable body.

MR. SUAREZ: Thank you.

MR. DE LOS REYES: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Will Commissioner Tingson yield to a few interpellations?

MR. TINGSON: Willingly.

MR. DE LOS REYES: The Commissioner used the word "enhance" instead of the word "develop." To my understanding, when we say "enhance," we mean that we add something more to something that already exists, for example, we enhance one's beauty. She is already beautiful but we enhance or accentuate her beauty. Is that correct?

MR. TINGSON: The Commissioner has precisely expressed the sentiments of the Committee

MR. DE LOS REYES: So, is it not better to retain the word "develop," instead of saying "conserve and enhance our patrimony," for there is nothing to enhance in our patrimony? We should only conserve our patrimony and develop it, which means that we should discover this patrimony and utilize its untapped resources for our development, because we are a developing country. Is that not the more appropriate term? Of course, "enhance" sounds more literary, but I think the more accurate phrase to describe what should be done with our patrimony is "conserve and develop."

MR. TINGSON: Mr. Vice-President, may I call on Commissioner Quesada because I recall that she participated well on this particular phrase this morning.

THE VICE-PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Mr. Vice-President, when we chose the word "enhance," we were actually thinking of a word that will really improve the word "develop" because we said we are in the process of development, but we would like to improve the phase of development of our patrimony. So, that was the word we thought appropriate to improve the term "develop."

MR. DE LOS REYES: Thank you.

THE VICE-PRESIDENT: Is Commissioner de los Reyes through?

MR. DE LOS REYES: Not yet, Mr. Vice-President. I have two more questions.

The use of the descriptive word "participatory," I understand from the explanation of the distinguished sponsor, is to institutionalize people power, is that correct?

MR. TINGSON: That was in the mind of the Committee members inasmuch as we are conscious of the fact that there are quite a number of our colleagues here who would like precisely not to constitutionalize in a sense, but never to forget the virtue and the power of the people as demonstrated recently.

MR. DE LOS REYES: Before Commissioner Rosario Braid answers the question, I would like to state the following so that she could complete her answer, taking into account what I will say, Mr. Vice-President.

When we describe democracy as participatory, it seems to imply that there is such a thing as nonparticipatory democracy. Democracy by its very essence means government of the people, by the people and for the people, which already connotes participation of the people. And, therefore, there is no need to put the unnecessary description "participatory." As a matter of fact, Mr. Vice-President, this people revolution or people power came

about despite the absence of the word "participatory" in the 1973 Constitution, meaning, that there is no need to insert the word "participatory" in order to plant into the consciousness of the people active participation in a democracy.

MS. ROSARIO BRAID: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: I explained earlier that this word "democracy" has been in the past constitutions and yet, over the past decades our people have been relatively passive. And so we thought that by including this qualifying adjective we could instill this need to participate — mass participation rather than participation by a few — because we all agree that democracy by itself has not really worked, so we want active participation. Call it whatever, we will agree to a phrase as long as it qualifies the word "democracy."

MR. TINGSON: Mr. Vice-President.

MR. DE LOS REYES: Mr. Vice-President, just a minute. My apprehension is that when we place the descriptive word "participatory," it tends to limit the meaning of democracy when we all know very well there is such a thing as "representative democracy." So, we limit actually our choice when we say "participatory democracy," and somehow exclude the essence of representative democracy.

My next question is regarding the words "guidance of Divine Providence." I recall very vividly that the Vice-President was one of those delegates to the 1971 Constitutional Convention who proposed to change the words "Divine Providence" to "ALMIGHTY GOD." Unfortunately, there were those in the 1971 Constitutional Convention who did not believe in God — they were atheists — and they objected vehemently to the use of the words "Almighty God" as a Supreme Being. They would rather refer to "divinity" as some sort of a divine faith, a divine destiny. And so, the use of the words "Almighty God" did not prosper, and as a compromise we stuck to the use of the word "Divine Providence" as used in the 1935 Constitution.

MR. TINGSON: Mr. Vice-President, is the Commissioner willing to use "Almighty God" instead of "Divine Providence"?

MR. DE LOS REYES: I have not made up my mind yet.

Thank you, Mr. Vice-President.

MR. CALDERON: Mr. Vice-President.

THE VICE-PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: Will the sponsor yield to some questions?

MR. TINGSON: Gladly, Mr. Vice-President.

MR. CALDERON: Is the sponsor aware that this term "participatory democracy" was first used by President Marcos to justify the creation of the barangays?

MR. TINGSON: I have not read that, and so I am not sure.

MR. CALDERON: No, my question is: Is the Commissioner aware that this term was first used by President Marcos to justify the creation of the barangays?

MR. TINGSON: I am aware now because the Gentleman has mentioned it.

MR. CALDERON: If President Marcos was the first to use this term "participatory democracy," could it not be

said that we are trying to immortalize the words of President Marcos into our Constitution? He was the first one to use this.

MR. TINGSON: Mr. Vice-President, the Committee never mentioned that name this morning. And we do not intend to mention that name in our future meetings.

MR. CALDERON: Of course, Mr. Vice-President. But I just want to bring out the fact that this term was first used officially.

MR. TINGSON: I thank the Commissioner for the information.

MR. CALDERON: Thank you, Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May I ask just a few questions. Apropos of what has been spoken about participatory democracy, which we will find in P.D. No. 1508 creating the barangay, mention was made by one Commissioner here who is a member of the Committee that one of the reasons it decided to change the word "regime" to "RULE" was that "regime" appears like a "regimented population" and that we often referred to the past dispensation as the Marcos regime. Why do we still speak of "participatory" when this was first enshrined officially by President Marcos in P.D. No. 1508?

MR. TINGSON: Mr. Vice-President, as we said, the Committee would be very glad to receive and consider amendments in writing.

REV. RIGOS: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Mr. Vice-President, I am sure the Committee is taking note of all these comments for its consideration in the next meeting. I would like to suggest the possibility of constituting the Preamble of at least two sentences instead of just one long sentence. For instance, we just say: "We, the sovereign Filipino people, implore the guidance of Almighty God: To this end, we do ordain and promulgate this Constitution." This is just a suggestion, I will put in writing.

MR. TINGSON: Mr. Vice-President, usually preambles are so stated in only one sentence, but there is no reason we cannot change it.

REV. RIGOS: I want to be different, Mr. Vice-President.

MR. TINGSON: Yes.

MR. MONSOD: Mr. Vice-President.

MR. ABUBAKAR: There is only one word I would like to take into consideration.

THE VICE-PRESIDENT: Commissioner Monsod is recognized.

MR. ABUBAKAR: Mr. Vice-President, this is only one word so this body could decide because this is important.

THE VICE-PRESIDENT: Commissioner Abubakar, the Honorable Monsod was recognized first.

MR. MONSOD: Will the sponsor yield to a question?

MR. TINGSON: Gladly, Mr. Vice-President.

MR. MONSOD: May I ask the Committee if it drafted this Preamble in Pilipino?

MR. TINGSON: I must confess I am not in a position to do that because I speak one of the noblest dialects in the world, Ilongo, but not Pilipino. But the other Committee members, I suppose, could do that, Mr. Vice-President.

MR. MONSOD: May I suggest that the Committee consider drafting the Preamble in Pilipino so as not to preempt any decision of this body with respect to the language or languages that may be used in the Constitution.

Also, may I ask Commissioner Tingson whether the Committee considered highlighting the dignity of the individual in drafting the Preamble. I notice that most of the phrases of the Preamble referred to body politic or collective bodies that embody our aspirations, our ideals, our common good, our patrimony, and so on.

MR. TINGSON: Mr. Vice-President, the Committee thought that that is included within the purview of this Preamble we are proposing.

MR. MONSOD: Will the Committee consider at the appropriate time such phrase RESPECT THE DIGNITY OF THE HUMAN BEING?

MR. TINGSON: At the appropriate time, we will be glad to consider that, Mr. Vice-President.

MR. MONSOD: Thank you.

THE VICE-PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: The amendment "guidance" will make a difference in what we are asking from Divine Providence. "Guidance" is a good word, but others may not be convinced that they need guidance and they may disregard it. Could we not use the original concept of the Constitution "imploring the aid"? "Aid" is more appropriate because we are imploring help from Divine Providence. It is stronger; it is positive; it does not limit the choice of what we are imploring from Divine Providence. I think that is more positive and is more in consonance with the religious belief of the people that one can supplicate aid from Divine Providence. So, I suggest that instead of "guidance," substitute IMPLORING which is one simple word but makes a lot of difference, Mr. Vice-President.

MR. OPLE: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you very much, Mr. Vice-President.

Will the Gentleman yield to just a few questions?

MR. TINGSON: Gladly, Mr. Vice-President.

MR. OPLE: The procedure so far has been analytical, which means the proposed Preamble has been broken down into components which previous speakers have submitted to analysis. At the same time, Commissioner Tingson agrees that in the end it is the total impact or lack of it of the whole text of the Preamble that will matter to the average Filipino reader.

MR. TINGSON: Yes, Mr. Vice-President.

MR. OPLE: Does Commissioner Tingson hold the view that in terms of the total impact on the average Filipino reader, this proposed text is superior to the previous Preambles that have been presented? Let us say, in terms of the ability to resonate in the heart and mind of the Filipino reader, to strike a chord of response, to derive inspiration as a Filipino, a patriotic Filipino who subscribes to democracy. Does the sponsor think that by this

standard of the whole text rather than the specific parts thereof a greater impact is realized from this proposed Preamble as distinguished, let us say, from the Preamble of the 1973 Constitution?

MR. TINGSON: Mr. Vice-President, we appreciate hearing from Commissioner Ople that this is better in a sense, and Commissioner Rosario Braid was very happy of this product of our Committee's deliberation this morning. She said that perhaps it was so because we opened our Committee meeting with a prayer and we were really given extraordinary direction by the Almighty. Since this was the first committee to hold a meeting, we decided precisely to seek Divine guidance this morning. We would, therefore, suggest that all other committees do the same.

MR. OPLE: Mr. President, I do not trust my poetic ear. I think this is one part of the Constitution where by tradition there is a license to be poetic rather than merely to be precise. I do not agree that the Preamble is not an integral part of the Constitution. Only by strictly legal standards can we say that the Preamble is not an integral part of the Constitution in the sense that it is not likely that it will be used as a controlling rule in the development of jurisprudence that eventually adds up to a perpetually growing dynamic Constitution. I do not want to disparage the role of a preamble in a constitution.

Mr. Vice-President, some reservations have already been expressed here on the floor concerning "participatory democracy." I confirm what has been disclosed that this phrase was first invented during a previous era in connection with the principle of propagating participatory democracy at the barangay level. But I see nothing wrong in building into the Preamble some concepts about, let us say, people power in a manner that will not limit the beautiful time, timeless world of democracy, in the sense that we are dealing here with genera and species. I think most of us would prefer the generic name of democracy. The minute we modify it into participatory democracy, it becomes self-limiting; it becomes a species or a subspecies of the genus. Now, I said I have no objection to reflecting people power. I would go beyond that in the Declaration of Principles. I trust Commissioner Tingson will agree with me that the right of a people to revolt should be written right there in the Declaration of Principles as a warning to all future rulers who may abuse this Constitution. If they depart from it, the people should rise in revolt and that right must be enshrined in the Constitution. But I am not dealing with the Preamble just to anticipate one of the resolutions to be filed later.

There is a sense in which the Committee was very preoccupied with the stylistic changes in the hope of improving upon the original Preambles of the 1973 1935 and the 1899 Constitutions. And I suppose this is laudable because we would like posterity to know that we put the stamp of our own perceptions living at this time on this watershed of a declaration, the Preamble of the Constitution. But apart from certain changes of style, there is no manifest difference unless we take at face value the statements earlier made by Commissioner Villegas that there is a real distinction between the general welfare and the common good, or unless we take literally the statements of Commissioner Rosario Braid to the effect that "enhance" as distinguished from "develop" is an improvement on the term "develop." I think it can be an improvement in the sense of style but it changes the substance of the original word "develop" and this has already been the subject of a previous intervention by Commissioner de los Reyes. I think I will ask the Committee to review this very important word "enhance," if the sponsor agrees. In this high-technology era "enhancements" are generally used in terms of computers. And what does it mean? It means that if we raise an Apple MacIntosh 128K to 256K, that is an enhancement. It is the same computer. All the microchips inside are unchanged. A little bit of the power is enhanced, including the power supply and, therefore, this probably cannot meet the general desire that the patrimony of the nation be conserved, as well as be developed. And I think somewhere there, the distribution of the fruits of development of our national patrimony ought to be inserted and not merely under the general rubric of equality. These are some of my observations, Mr. Vice-President, and I hope the Committee on Preamble will take them into account.

MR. CONCEPCION: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Thank you, Mr. Vice-President.

I would add only a few thoughts for consideration of the Committee on Preamble. In the first place, there was a substitution of the word "develop" to "enhance." One may say that most of these things are a matter of taste, but if we consider human resources as part of the patrimony of the nation, we do not enhance the human resources. Generally, we develop them and enhance human dignity or enrich the quality of life. I would suggest that the use of the word "enhance" in lieu of "develop" be studied carefully. As Commissioner Ople has wisely suggested, we might use the two words one after the other.

Then, there is the matter of "participatory democracy." Apart from its historical flavor or connotation, the term suggests that there is a democracy which is not participatory. I appreciate the good intention of the Committee in using the word "participatory." And, lastly, there is the substitution of the word "rule" in lieu of "regime." We speak of the rule of law, but not the regime of law; again we use the word "regime" in connection with justice — like regime of justice. Insofar as freedom is concerned, the word "liberty" has a historical significance. It is the French Revolution which popularized the phrase "egalite, fraternite, liberte." So, I suggest that we consider the restoration of the word "regime," which is broader in scope, instead of "rule" because if we say "rule," it should be the rule of law. The problem is not so much what the law is, but how the law is enforced. Therefore, it is not enough for us to draft a legally excellent constitution, but to take appropriate measures to insure that persons duly suited by temperament, by training, by their school of thought or way of life, are chosen to carry out the spirit of the Constitution.

I thank you, Mr. Vice-President.

MR. NOLLEDO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Nolleddo is recognized.

MR. NOLLEDO: Will Commissioner Concepcion yield to a few questions?

MR. CONCEPCION: Yes, Mr. Vice-President.

MR. NOLLEDO: It is about the use of the word "participatory" to describe democracy. I would like to give the honor to Commissioner Rosario Braid for adding that word to describe democracy. For many years, Mr. Vice-President, we have stuck to the term "democracy" alone. And for many years also under the Marcos regime .

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MR. MAAMBONG: Mr. Vice-President, may I raise a point of order?

MR. NOLLEDO: Mr. Vice-President, I am prefacing my question with some preliminary statements.

THE VICE-PRESIDENT: What is the point of order of Commissioner Maambong?

MR. MAAMBONG: We are in a period of sponsorship, Mr. Vice-President, and the rule states that during this period there can be no interpellation.

MR. NOLLEDO: Mr. Vice-President, I am a member of the Committee and interpellating the distinguished Member is one way of explaining our stand, one way of explaining the report of the Committee. Instead of talking in defense of the committee report, I am raising questions to clarify our stand.

MR. MAAMBONG: May I seek a ruling on the Gentleman's point of order, Mr. Vice-President?

THE VICE-PRESIDENT: What is the point of order of the Gentleman?

MR. MAAMBONG: The point of order, Mr. President, is that there can be no interpellation during the period of sponsorship. May I now seek a ruling on that point of order, Mr. Vice-President?

RULING OF THE CHAIR

THE VICE-PRESIDENT: Sometimes, our sponsor makes reference to other members of the Committee to answer or clarify certain points. And I believe that Commissioner Nollado is probably trying to clarify certain points that have been raised by Commissioner Concepcion. On that point, we will allow Commissioner Nollado to answer and clarify matters, being a member of the Committee, but really there should be no further interpellation.

MR. NOLLEDO: Thank you, Mr. Vice-President. I would like to remind my distinguished colleague, Commissioner Maambong, that we agreed in caucus that the Rules shall be interpreted liberally.

MR. MAAMBONG: Mr. Vice-President, in order to keep things in order, as ruled by the Presiding Officer, may I, for the record, ask the distinguished sponsor to yield the floor to Commissioner Nollado for the purpose of this interpellation.

THE VICE-PRESIDENT: The sponsor may do so.

MR. TINGSON: The sponsor would like to yield the floor to a member of our Committee, Commissioner Nollado.

MR. NOLLEDO: Thank you, Commissioner Tingson.

For many years, we have stuck to the word "democracy" alone without any description, and for many years under the Marcos regime, we had what we call the "silent majority." Many people lost their interest in participating in the affairs of the state, of government, and of society, because perhaps their freedoms were curtailed. But because of people power, which reminded us all that we practice what we call vibrant democracy, then democracy will be more meaningful. And I know that was the basic reason we added the expression "participatory democracy" which means vibrant and living democracy. We wanted the Filipino people to know that and to keep on practicing a living democracy rather than a democracy with few people speaking and with the majority remaining in stolid silence.

Would Commissioner Concepcion agree with me if I say that the meaning of participatory democracy is vibrant democracy?

MR. CONCEPCION: I stated in my remarks that I appreciate the intent of the Committee on Style. But I thought the Preamble should be something that one could read without coming across something that would provoke debate. In addition, I have in mind the observation made, I think, by Minister Ople that, perhaps, the matter of participatory democracy could be stressed better in the Declaration of Principles or some other appropriate part of the Constitution. This is a thought I felt should be conveyed to the Committee. There are words which generally form part of common phrases.

MR. NOLLEDO: For my last question, would the Commissioner agree with me that the fact that Mr. Marcos used the term "participatory democracy" should not deter us from using the term too? Mr. Marcos used that term but he did not practice it. He used to talk about freedom but he did not implement it also.

MR. CONCEPCION: Mr. Vice-President, the problem with the term is its notorious history in the Philippines. There is nothing wrong with it but it injects a point that may raise issues. Is there a democracy that is not participatory? My impression, like that of the others, is that democracy —the essence of it — is people's

participation in government, people's power. Unfortunately in the past, our "democracy" has not been truly participatory. In other words, one of the greatest sources of criticism against democracy in the Philippines, as well as everywhere else in the world, is not really that democracy is wrong, but that there has not been enough participation by the people. That there is democracy on paper, but none in practice. I suppose the term "participatory," as used by the Committee, tends to stress that we are trying to establish a democratic system not only on paper but in fact, in reality.

MR. NOLLEDO: The last statements of Commissioner Concepcion seem to support the need for the descriptive word "participatory."

MR. CONCEPCION: Yes, precisely I am for that. MR. NOLLEDO. I agree that there is no participatory democracy in our country. Thus, it is the sense of the Committee that we would like to impress on our people the need for participatory democracy. That is why we urgently urge our colleagues in this Commission to kindly support our stand.

Thank you.

MR. SARMIENTO: Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: I have a few questions to the Chairman of the Committee, Mr. Vice-President.

THE VICE-PRESIDENT: Commissioner Tingson may yield if he so desires.

MR. TINGSON: I will be very glad to, Mr. Vice-President.

MR. SARMIENTO: Would Commissioner Tingson agree with me that the word "democracy" was enshrined in the 1935 and 1973 Constitutions?

MR. TINGSON: Yes.

MR. SARMIENTO: Would the Commissioner agree with me that a preamble reflects — to borrow the word of Commissioner Nolleddo — the vibrant and alive sentiments, yearnings, sufferings and tribulations of our people?

MR. TINGSON: It is beautifully said.

MR. SARMIENTO: Would it not be better if, instead of using the controversial phrase "participatory democracy," we use a vibrant, alive and contemporaneous phrase, the "blessings of people's power"?

MR. TINGSON: Instead of "participatory democracy.

MR. SARMIENTO: "Participatory democracy" is too restrictive and it reminds us of a past era of darkness. Can we not say "blessings of people's power," since it reflects the contemporaneous needs, yearnings and aspirations of our people?

MR. TINGSON: We did not have in mind merely the political aspect of participatory democracy; economic participation is needed too to make freedom alive.

MR. SARMIENTO: But does not the Commissioner think that the phrase "people's power" is too embracing to cover economic participatory democracy?

MR. TINGSON: "People's power" is more of a political connotation than otherwise.

MR. SARMIENTO: I beg to disagree with Commissioner Tingson because the phrase "people's power" would

cover even economic, social and political power. Not only does it connote political power.

MR. TINGSON: The trouble with using words that are of current usage simply because it caught the headlines of the newspapers recently would make our Constitution something transitory in nature. We want a constitution that would endure until two hundred, three hundred years from now, and the phrase "people's power" may be passé at that particular time, but "participatory democracy" probably would endure longer.

MR. SARMIENTO: Does not the Commissioner think that the term "people's power" would be enduring and lasting since it reflects the collective will and collective power of our people? Not only "democracy," which is Greek in origin, *demos kratos* — the power of the people, by the people and for the people — would last, but also "people's power" although it is very contemporaneous. It reflects the very present yearnings and longings of our people as actualized during the February 25, 1986 revolution.

MR. TINGSON: That is why our Committee wanted to accommodate those among us here, including Commissioner Sarmiento, who are so geared up, so to speak, to protect people's democracy by using the phrase "participatory democracy," meaning "people's power" also.

MR. SARMIENTO: I have one last question to Commissioner Tingson. May I know if the words "ideals" and "aspirations" cover the term "heritage"? Because I would like to amend so the phrase would read: "to establish a government that shall embody our HERITAGE, ideals and aspirations" in the Preamble. I think "heritage" refers to our tradition of struggle for freedom and liberty, so it should not only be "ideals and aspirations."

MR. TINGSON: We would be glad to accept and consider the written amendment of Commissioner Sarmiento.

MR. SARMIENTO: Thank you very much.

THE VICE-PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Mr. Vice-President, I have a different approach to this issue on the use of the word "participatory." Of all the parts of the Constitution, the Preamble is the one that is memorized even by grade school and high school students. So, unless absolutely necessary, we should not use multisyllabic words which are not easy to pronounce. The word "par-ti-ci-pa-to-ry" has six syllables. A grade school student will find it hard to pronounce.

Another approach is this: I suppose this Constitution will have a Pilipino version, so I was thinking, how do I translate "participatory" in Pilipino? All I can say is *demokrasyang nilalahukan ng taong bayan*, but that is redundant because *talagang nilalahukan ng taong bayan ang demokrasya*. And everybody knows the definition of democracy given by Lincoln — a government of the people, for the people, and by the people. And "by the people" connotes participation. So, those are my only comments.

MR. TADEO: Mr. Vice-President, hindi na po makatiis ang magbubukid sa talakayan tungkol sa tunay na kahulugan ng salitang demokrasya. Subalit bago ako dumako sa salitang demokrasya na pinag-uusapan, gusto ko munang linawin na maaari sigurong tanggalin na ang salitang "peace" na sinasabi ni Commissioner Bacani sapagkat naroon naman ang salitang katarungan. Kung nasaan ang katarungan, naroon ang kapayapaan. Ilagay natin sa kanayunan. Kapag ipinairal mo ang tunay na reporma sa lupa sa kanayunan, mawawala ang kaguluhan at magkakaroon ng kapayapaan. Ang unang pinakamahalaga'y katarungan.

Pangalawa, maaari na ring tanggalin iyong "respect and dignity of human being or human rights." Habang naroroon ang katarungan, iginagalang muna ang dignidad ng tao at kanyang mga karapatan. Kamukha sa kanayunan, bakit naroon ang paglabag sa karapatan ng tao? Walang katarungan dahil naroroon ang feudalismo. Iyon ang mitsa ng paglabag sa karapatan ng tao. Pero kapag pinairal mo ang tunay na reporma sa lupa sa

kanayunan, naroon na ang paggalang sa karapatan ng tao. Wala nang lalabag pa. Kaya maaaring tanggalin na ang nasabing mga salita para mapaikli pa natin ang ating Preamble.

Tungkol naman dito sa gasgas na gasgas na salitang demokrasya, bakit nilagyan ng "participatory"? Sapagkat ang demokrasya natin noon ay elitist and feudal. Ngunit ayaw din ng magbubukid ng salitang "participatory" sapagkat iyon ay nagiging dekorasyon lamang. Ang tinatawag na elitist democracy ay nabuo ng two-party system. Ang two-party system ang humubog sa elitist democracy na sinabi ni Commissioner Concepcion, kaya't nawala ang katarungan sa ating bansa. Ano ang mga salitang tama sa pananaw ng magbubukid na bumubuo sa 75 porsiyento ng mamamayan? Ang mga salitang tama ay "popular democracy." Iyon ang magwawasak sa elitist democracy na hinubog ng ating sistemang pampulitika ayon sa interes ng mga dayuhan. Habang naroroon ang two-party system, mga kasama sa Kagalangalang na Kapulungang ito, hindi natin mawawasak ang elitist democracy. Ang magwawasak lamang diyan, upang makamit natin ang tunay na demokrasya para sa mga tao, ay ang "popular democracy." Ano ang ibig sabihin nito? Ang lahat ay maaari nang makilahok o makisali pati na ang "elite." Ngunit kung pananatilihin pa rin natin ang two-party system, sasabihin ko sa inyo na hindi tayo makaaalis, hindi tayo makahuhulagpos sa elite democracy. (Applause)

MR. RAMA: Mr. Vice-President, I ask that Commissioner Maambong be recognized.

THE VICE-PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Will the distinguished sponsor yield to a few questions?

MR. TINGSON: Yes, Commissioner Maambong.

MR. MAAMBONG: I am sorry if I have to make reference again to the overused words "participatory democracy." I seem to recall that in our study of Political Science, there seem to be two general types of democracy: One is direct democracy, where the people themselves perform functions of government; and the other is indirect or representative democracy, where the people themselves do not directly perform functions of government, but delegate these functions to the representatives of their own choice. This representative democracy has been mentioned by some authors as "popular democracy," as used by Commissioner Tadeo.

When the Committee uses the phrase "participatory democracy," what type of democracy is the sponsor referring to? Is he referring to direct democracy or indirect democracy?

I ask this question because there has been some allusions to "people's power" in relation to the use of the phrase "participatory democracy."

I would like to believe that "people's power" is not representative democracy. That is direct democracy.

So, what does "participatory" mean, direct democracy or indirect democracy?

MR. TINGSON: To begin with, we did agree to use the word "participatory" before "democracy" to accommodate the thinking of many of the Commissioners here, so that in a freewheeling discussion like what we are obviously enjoying now, they will be able to express themselves. But the Committee will be very happy to eliminate that phrase later on if that is the sense of this Commission. We are happy to be able to elicit participation from the membership, which obviously we are succeeding this afternoon. We were thinking more of a direct, simple and readily understood kind of a democracy by our people, because the majority of our people have never studied Political Science. And speaking of "participatory," they do not understand it. They also do not understand habeas corpus, and yet we write it in our Constitution. There has to be some kind of a balance here. We are not writing a constitution so simple that it can be mangled later on. We want a constitution that would encompass all the segments of, say, democracy. But we agree with the Commissioner that we would like to have

direct participation by our people as they yearn to do and as they understand democracy to be.

MR. MAAMBONG: We may be talking in legal terms, but it seems to me that the answer of Commissioner Tingson is that "participatory democracy" is direct democracy. I just want to clarify that because then we are changing the whole nature of our governmental system because under the Declaration of Principles in both the 1935 and 1973 Constitutions, we had a republican form of government, which is understood to be indirect democracy. There is no such thing as direct democracy in our country. It only happened a long time ago during-the Grecian era.

So, I would like to repeat my question: Did I hear the Commissioner correctly when he said that "participatory democracy," per the interpretation of the Committee, refers to a direct form of democracy where people themselves govern the functions of government?

MR. TINGSON: We thought we were trying to accommodate the thinking of some of our fellow Commissioners here; but then, I would say that this implies both direct and indirect democracy.

MR. MAAMBONG: That brings us to another problem because in the framing of the Constitution, we have to decide whether we are going to use direct democracy or representative democracy. We cannot have both. So, may I ask the Commissioner to clarify his answer, because he said that "participatory democracy," according to the Committee, refers to both direct and indirect democracy.

MR. TINGSON: To me, in my own thinking, when the barangay people meet to consider proposals on how they could be relevant to the government, that is direct participation. That is direct participatory democracy. When we elect our senators and congressmen, that is representative democracy. So, it seems to me that "participatory democracy" here would carry both.

MR. MAAMBONG: May I just beg to disagree. Mention has been made of "participatory democracy" as used by former President Ferdinand Marcos, who said that there was "participatory democracy" in our country during his time because he broadened the base of participation in government through representatives of the people. Under his concept, when barangay people meet, that is direct democracy. But that is indirect democracy. And the reason why he used the phrase "participatory democracy," if I remember correctly, was that he broadened the base of participation of the people through their own representatives, which means that when he institutionalized the barangay system (which was previously known as the barrio) then the participation of the people in governmental function was increased. How was that done? It was done through the barangay captain and the barangay council. That was the meaning of the phrase, as used by Mr. Marcos, but there was no allusion at all to direct democracy when the barangay was instituted.

Anyway, I would like to proceed to another point. There is mention here in the proposed Preamble of the word "equality." I recall that in the 1935 Constitution, the word "equality" was never mentioned in its Preamble. It was only mentioned in the 1973 Constitution. So I would like to commend the Committee for using again the word "equality" in the present proposed Preamble. However, the word "equality" has several connotations to the people in the barangay. I come from a very small barangay of Asturias, Cebu, and over there, when we talk of equality, people think that this means everybody is equal. Considering the difficulty of explaining terms in the Constitution because we have to be very brief, I just would like to ask this clarification: When the Committee uses the word "equality," does it refer to natural equality among people, meaning, that equality given to them by nature which people enjoy in reference to other people? Is that covered by the word "equality"?

MR. TINGSON: To begin with, Commissioner Maambong, not all men are created equal. We have agreed on that. We are thinking more of giving everybody an equal chance at decent livelihood and in their participation in

the economic and in the political aspects of developing our country.

MR. MAAMBONG: Do I take it to mean that when the Committee uses the word "equality," it does not mean natural equality? I would like to qualify that because the Commissioner mentioned that not all men are created equal. I would like to recall Abraham Lincoln's Gettysburg address of 1863 where he said, in part, "dedicated to the proposition that all men are created equal;" he never said that all men are created equal. In other words, by nature, men are created but they are of varying intelligence and ability. Would the Committee consider that when we say equality, by nature people are created with varying intelligence and ability?

MR. TINGSON: Actually, I must confess that we did not discuss this at length. We would be very happy to take note of the Commissioner's remarks on this.

MR. MAAMBONG: But definitely, by common sense alone, when we use the word "equality" in the Constitution, we really do not mean natural equality considering that people have varying intelligence and ability. Is my understanding correct?

MR. TINGSON: I agree with Commissioner Maambong.

MR. MAAMBONG: In other words, since we eliminate natural equality in the interpretation of the word "equality," I would suppose that the Committee refers to political equality. Would that be a more correct interpretation?

MR. TINGSON: Not only political equality but equality in economic opportunities.

MR. MAAMBONG: Is that what they call equality in opportunity?

MR. TINGSON: Yes.

MR. MAAMBONG: That would be all.

Thank you very much.

MR. TINGSON: Thank you so much.

MR. RAMA: Mr. Vice-President.

THE VICE-PRESIDENT: The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA: Mr. Vice-President, I move for the adjournment of the session until tomorrow at three o'clock in the afternoon.

THE VICE-PRESIDENT: Is there any objection? (Silence) The Chair hears none; the session is adjourned until tomorrow at three o'clock in the afternoon.

It was 6:43 p.m.

[*] Appeared after the Roll Call.

[*] See appendix.

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