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Wednesday, August 6, 1986

OPENING OF SESSION

At 9:41 a.m., the President, the Honorable Cecilia Muñoz Palma, called the session to order.

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 Joaquin G. Bernas.

Everybody remained standing for the Prayer.

PRAYER

FR. BERNAS: "Hesus na aking kapatid, sa lupa nami'y bumalik:

Iyong mukha'y ibang-iba, hindi kita nakikilala.

Tulutan Mong aking mata mamulat sa katotohanan:

Ikaw, Poon, makikilala sa taong mapagkumbaba.

Hesus na aking kapatid, putikan man ang Iyong sapin,

Punit-punit ang Iyong damit, nawa Ika'y mapasaakin.

Ikaw Hesus na aking kapatid, sa bukid Ka nagtatanim,

O sa palengke rin naman, Ikaw ay naghahanapbuhay."

"Walang sinuman ang nabubuhay para sa sarili lamang;

Walang sinuman ang namamatay para sa sarili lamang.

Tayong lahat ay may pananagutan sa isa't isa.

Tayong lahat ay tinipon ng Diyos na kapiling Niya.

Sa ating pagmamahalan at paglilingkod sa kanino man,

Tayo ay nagdadala ng balita ng kaligtasan."

"Hesus na aking kapatid, tulutan Mong aking mata mamulat sa katotohanan:

Ikaw, Poon, makikilala sa taong mapagkumbaba."

Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Natividad Present

Alonto Present Nieva Present

Aquino Present [*] Nollado Present

Azcuna Present Ople Present [*]

Bacani Present Padilla Present

Bengzon Present Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present

Brocka Present [*] Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Absent

Concepcion Present Sarmiento Present [*]

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present [*] Tadeo Present

Gascon Present Tan Present

Guingona Absent Tingson Present

Jamir Present Treñas Present

Laurel Present Uka Present

Lerum Present [*] Villacorta Present

Maambong Present Villegas Present

Monsod Present

The President is present.

The roll call shows 40 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of quorum.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

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

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Communication signed by Atty. Ramon Tagle, Executive Director, Family Planning Organization of the Philippines, and nine others, proposing an amendment to Section 8 of Proposed Resolution No. 531, attaching thereto the registration list of participants in the meeting of nongovernmental organizations involved in the Philippine population program.

(Communication No. 452 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communications from the Philippine Nurses Association; Adolescent Center, Dagupan City; Philippine Association of the Deaf, Inc.; Kapatiran-Kaunlaran Foundation, Inc.; Integrated Midwives Association of the Philippines, Inc.; NORFIL Foundation, Inc.; and all Nations Women's Group signed by Ms. Florida R. Martinez and seven others, urging the Constitutional Commission to incorporate in the Constitution provisions for the protection of Filipino children, youth and mothers.

(Communication No. 453 — Constitutional Commission of 1986)

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

Letter from Atty. Leandro P. Garcia, 9th Floor, Strata 100 Building, Emerald Avenue, Pasig, Metro Manila, submitting, for the consideration of the Constitutional Commission, a summary or analysis of a personal survey of public opinion on vital issues before the Constitutional Commission.

(Communication No. 454 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Ms. Ledelina A. Cruz of 105 Evangelista Street, Santolan, Pasig, Metro Manila, and one hundred thirty-eight others with their respective addresses, urging the Constitutional Commission not to include in the Constitution the United States Military Bases issue.

(Communication No. 455 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication signed by Ms. Carol Doria of Quezon City and thirty-two others, mostly from Metropolitan Manila, seeking a constitutional provision giving the legislature the power to regulate foreign investments.

(Communication No. 456 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Ms. Isabel Oriol, c/o Oriol Marble Works, Tels. 833-7254/831-0906, and eighty-two others, urging the Constitutional Commission to favor the retention of the U.S. military bases in the Philippines after 1991 and to give President Aquino the opportunity to renegotiate for better terms and conditions favorable to the Philippines.

(Communication No. 457 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Women's Health Care Foundation, Inc., 1589 Quezon Avenue, Quezon City, signed by its Executive Director, Florence M. Tadiar, submitting, for the consideration of the Constitutional Commission, a "Statement on Women's Rights."

(Communication No. 458 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Hector L. Bisnar of 3 Kalamansi St., Matina, Davao City, transmitting his suggestions and proposals regarding a new Constitution of the Philippines.

(Communication No. 459 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Ms. Fe Samaniego of 1070 cor. Roxas-Bautista Streets, Singalong Subd., Manila, submitting, for consideration of the Constitutional Commission, proposed provisions under the Declaration of Principles and State Policies, attaching thereto some printed materials related to the attainment of world peace.

(Communication No. 460 — Constitutional Commission of 1986)

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

Letter from Mr. Elly Velez Pamatong, 131 Aurora Blvd., San Juan, Metro Manila, transmitting a resolution adopted by the Ad Hoc Committee of Filipino-Canadians for Dual Citizenship, requesting the Constitutional Commission to include in the Constitution a provision allowing Filipino emigrants to retain their citizenship upon being naturalized as citizens of another country, and restoring Filipino citizenship to former Filipino citizens who have lost it by acquiring citizenship from another country.

(Communication No. 461 — Constitutional Commission of 1986)

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

Communication from Mr. Jose Rojas and fifty-five others, urging the Constitutional Commission to leave to the legislature regulation of foreign investments and to determine the areas where foreign investments will be welcome.

(Communication No. 462 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Ms. Norhata D.M. Alonto, submitting in behalf of Abdul Khayr Alonto a position paper, entitled "Autonomy of the People."

(Communication No. 463 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Communication from Mr. Vic Felipe, Editor, Manila Hotline Magazine, Room 404, Plywood Industries Bldg., T.M. Kalaw corner Mabini Streets, Ermita, Manila, submitting a proposal re: "Edukasyong Tunay na MakaPilipino" and "Ang Populasyon at ang Pambansang Kaunlaran," requesting the revival of the real Pilipino education (ABAKADA instead of ABC), and limiting the number of children for every couple to be able to meet/provide their children's needs.

(Communication No. 464 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Ms. Marisse C. Reyes, Correspondence Secretary, Office of the President, transmitting letters from the following: Gabriel Ma. J. Lopez of 105 Kentucky Avenue, S.E., Washington D.C. 20003, proposing that Filipino citizens residing abroad be allowed to vote in national elections; Mr. Francisco L. Balingao, c/o Mr. Ely Cruz Ramirez, Radio Action, DZXL, Intramuros, Manila, proposing that the Philippine statehood issue be submitted to the people in the plebiscite for the ratification of the new Constitution; Mr. Juan L. Cabida and 75 others of Bayugan, Agusan del Sur, proposing that the Philippine statehood issue be submitted to the people in a plebiscite in the forthcoming local elections; MARILAG, proposing a change in the Agrarian Reform Code in line with capitalism and free enterprise, among others; Dumaguete Fellowship of Reconciliation, Silliman University, opposing compulsory religious instruction; and Mr. Pablo B. David of San Juan Nepomuceno, Betis, Guagua, Pampanga, proposing a Constitution that is for freedom, justice and equality, and authority of the State to put order on the first three, and saying that the power balance in this part of the world occasioned by U.S. military pressure be not disturbed at this time.

(Communication No. 465 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Mr. Fulgencio S. Factoran, Jr., Deputy Executive Secretary, Office of the President, transmitting a letter of Mr. Apolonio G. Ramos of 42 Mindanao Street, Filipinas Village, Marikina, Metro Manila, submitting the following proposals, among others: a presidential type of government with a unicameral legislature composed of elected members only; a six-year presidential term with no reelection; the President can only declare martial law for a specific period and with the concurrence of three-fourths of the legislature; the President and other officials shall not be immune from suit; the President shall not have law-making powers; political plurality rather than the two-party system shall be practised; the creation of a Commission on Appointments; the barangay system shall be abolished; municipal, city and provincial councils shall likewise be abolished; revision of the Local Government Code to provide for uniform local laws and ordinances; the Supreme Court shall have administrative control and supervision of all courts; provisions to improve the civil service and provisions providing for electoral reforms.

(Communication No. 466 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Luciano G. Benigno of San Pascual, Masbate, suggesting that in the distribution of arable lands of the public domain priority be given to landless farmers; limiting to 50 hectares pasture land grants to individuals or corporations, and the rigid reclassification of public lands.

(Communication No. 467 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Eufrazio B. Tepace of Catubig, Samar, suggesting the elimination of local elections for

provincial, municipal and barangay officials, saying that these are expensive as well as divisive in nature, and proposing that these officials undergo competitive examinations to qualify for selection.

(Communication No. 468 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Desiderio C. Villanueva of 1140 P. Villanueva Street, Butuan City, suggesting that the State shall pursue a national program to help workers establish their own small-scale industries in the countrysides and to promote the formation of cooperatives among grain farmers and millers.

(Communication No. 469 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Norberto N. Caparas for the Bayanihan Homeowners and Residents Association, No. 655 Kaunlaran Street, Barangay Commonwealth, Quezon City, proposing that government lands occupied by the squatters be donated to actual occupants, subject to certain conditions.

(Communication No. 470 — Constitutional Commission of 1986)

To the Committee on Social Justice.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

MR. RAMA: For consideration this morning is the Article on Social Justice which was amended yesterday. However, the clean copy of the Article, as amended or with the proposed amendments, has not yet been distributed.

So, the Members would like first to see the clean copy with the proposed amendments before this Article on Social Justice be taken up during the period of amendments.

In the meantime, Madam President, I move that we defer the consideration of the Article on Social Justice.

THE PRESIDENT: Is there any objection that we defer for consideration the Article on Social Justice?

The honorable Chairman, Commissioner Nieva, is recognized.

MS. NIEVA: Madam President, how long will the deferment take?

THE PRESIDENT: How long does the Committee need?

MS. NIEVA: We worked on and finalized this up until past eight last night and copies are being distributed.

THE PRESIDENT: So, it is just a question of distributing the copies.

MS. NIEVA: Yes. I think we are more or less ready, and we shall give everyone a chance to go over the amended report.

THE PRESIDENT: May we consider it an hour from now, about eleven o'clock?

MS. NIEVA: Yes, Madam President.

THE PRESIDENT: There is a motion to defer consideration of the Article on Social Justice.

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

MR. RAMA: In the meantime, Madam President, I ask that we take up for Second Reading some Articles that are ready for Second Reading. For this purpose, I ask that the Steering Committee Chairman, Commissioner Bengzon, be recognized.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Thank you very much.

Good morning, Madam President. We have finished our deliberations on the Articles on the Executive and the Legislative. Except for the wording with respect to the staggering of the term of the Senators, the Article on the Legislative is ready for approval on Second Reading.

Before I make my motion, Madam President, Commissioner Davide will make an explanation.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, the matter that is left is the staggering of the term of the Senate which will be in Section 3. It is the proposal that the first Senators elected will be divided into two groups: The first, consisting of 12, to serve for six years; and the second, consisting of 12, to serve for three years.

However, there is a need to reconcile it with dates of the first and second elections to accomplish synchronization. If the body will allow later an amendment to accomplish the objective of synchronization and the staggering of the term, we can proceed with the voting on Second Reading.

However, I invite the attention of the body that on page 2 of the amended draft, there is a space between "organizations" and "the party" on line 13 as a result of the Committee's deletion of the words "as provided by law" because these are merely a repetition of the same words on line 11 of the same page. On page 3, line 14, the original wording is "except the sectoral and the party list representatives." We failed to delete "the sectoral" to harmonize it with what has been approved under the Monsod amendment. On lines 18 to 21, we seek for the deletion of the last phrase "and every six or three years respectively." That should not appear in the final draft for Second Reading. So, we request the body to approve this motion to delete all the words on line 21, page 3, and to put a period(.) after "may" on line 20. After that, the Article on the Legislative would be ready for approval on Second Reading with the reservation made for Section 3 on page 1.

THE PRESIDENT: Is there any objection to the deletion of the words mentioned by the Chairman? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF C.R. NO. 22

ON SECOND READING

(Article on the Legislative/National Assembly)

MR. BENGZON: On the basis of the reservation made by the Chairman of the Committee on the Legislative, I move that this body vote on Second Reading on the Article on the Legislative.

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

As many as are in favor of the proposed Article on the Legislative to be incorporated in the new Constitution, please raise their hand. (Several Members raised their hand.)

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

As many as are abstaining, please raise their hand. (Two Members raised their hand.)

MR. GARCIA: I would like to register my abstention, Madam President.

THE PRESIDENT: The results show 32 votes in favor, 3 against, and 2 abstentions.

The proposed Article on the Legislative is approved on Second Reading, with the reservations made by the honorable Chairman.

CONSIDERATION OF
PROPOSED RESOLUTION NO. 517

(Article on the Executive)

Continuation

PERIOD OF AMENDMENTS

MR. BENGZON: Madam President.

THE PRESIDENT: The Chairman of the Steering Committee is recognized.

MR. BENGZON: We are also finished with the deliberations on the Article on the Executive. May I request, however, that the Vice-Chairman of the Committee on the Executive, the Honorable Florenz Regalado, be recognized for some explanations before I make my motion.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

The amended copy of Proposed Resolution No. 517, now in the possession of the Commissioners, has some omissions on the resolutions which were accepted by the Committee but which we had to defer, and which, however, were eventually ironed out in the executive caucus yesterday. I will ask the Commissioners to kindly look at their respective copies so that I can read the insertions or additions.

On page 1, line 23, we will notice that there is a blank space. That should be filled with the words "JUNE NEXT" so that the line will read: "NOON ON THE THIRTIETH DAY OF JUNE NEXT FOLLOWING THE." That was an oversight.

With respect to page 2, between lines 7 and 8, a new paragraph will have to be added. The additional paragraph, which is actually the amendment of Commissioner Jamir accepted by the Committee and taken up in the caucus yesterday, will read as follows: "NO PERSON WHO HAS SERVED AS PRESIDENT FOR MORE THAN FOUR YEARS SHALL BE QUALIFIED FOR ELECTION TO THE SAME OFFICE AT ANY OTHER TIME." This is to put it parallel with the elected President who, after his term expires, can no longer run for reelection. This contemplates also the situation where the President dies, let us say, a year or less than two years in office, and the Vice-President now becomes the President. This prohibition is intended to bar the Vice-President, who thereby becomes President under that situation, from again running for the Office of the President.

THE PRESIDENT: Just to clarify, Commissioner Regalado, this particular Jamir amendment has been approved.

MR. REGALADO: It was accepted by the Committee but not yet approved by the body.

THE PRESIDENT: Then we will have to submit it to the body.

MR. REGALADO: Yes, Madam President.

THE PRESIDENT: Is there any objection?

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Before we vote, I would like to ask a question. If I remember right, the original proposal regarding this matter of a Vice-President acting as President in case the President dies was that any person who had served as President for more than three years would no longer run for election. And three years was the period stated in that original proposal because that is one-half of the term of six years. I am not aware that the three years was changed to four years, so I would like to know when this was accomplished.

MR. REGALADO: I asked Commissioner Jamir about that yesterday, and he said he had amended his proposal. At any rate, Commissioner Jamir can explain to us. I know it was already three years. But later he said he wanted the term to be four years. That is similar to the Twenty-First Amendment to the United States Constitution. So, I think Commissioner Jamir can explain the change from three to four years.

MR. JAMIR: Madam President, I really opted for three years, but upon the suggestion of many Commissioners, among whom are Commissioners Davide and Foz, and several others, I agreed to increase the term to four years instead of three.

MR. RODRIGO: I have some questions for clarification.

So, if a President dies a day less than four years and the Vice-President serves as President one day less than four years, that Vice-President can run for reelection; is that correct?

MR. REGALADO: That is correct.

MR. RODRIGO: So, if he is elected for another six years, he would serve for ten consecutive years?

MR. REGALADO: That is correct.

MR. RODRIGO: Thank you.

MR. REGALADO: May we put that to a vote, Madam President?

THE PRESIDENT: Will the Gentleman please read once more the proposed amendment of Commissioner Jamir?

MR. REGALADO: That would be a new paragraph between lines 7 and 8 of the amended copies in the possession of the Commissioners, to read: "NO PERSON WHO HAS SERVED AS PRESIDENT FOR MORE THAN FOUR YEARS SHALL BE QUALIFIED FOR ELECTION TO THE SAME OFFICE AT ANY OTHER TIME."

VOTING

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

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

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

The results show 31 votes in favor, 5 against and 1 abstention; the proposed amendment is approved.

MR. REGALADO: Madam President, on page 4, line 8, after the word "source" there are words in parentheses because we still have to iron out the matter of salaries of the President and the Vice-President. But yesterday

during the executive caucus, it was agreed that there would also be a transitory provision with respect to their salaries. So, the proposed amendment by substitution in lieu of the words in parentheses will read as follows: THE CONGRESS SHALL PROVIDE BY LAW FOR THE ANNUAL SALARIES OF THE PRESIDENT AND THE VICE-PRESIDENT. The salaries of the incumbent President and Vice-President will be the subject of the Transitory Provisions of which I request Commissioner Suarez to please take note.

To repeat, Madam President, after the word "source" on line 8, page 4, we add this sentence: THE CONGRESS SHALL PROVIDE BY LAW FOR THE ANNUAL SALARIES OF THE PRESIDENT AND THE VICE-PRESIDENT.

MR. GASCON: Madam President, may I ask a question?

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Does this mean, therefore, that it is possible for Congress to increase or decrease the salary of the President within the six-year term every year?

MR. REGALADO: No. The preceding sentence reads as follows:

No increase in said compensation shall take effect until after the expiration of the term of the incumbent during which such increase was approved.

MR. GASCON: Thank you.

VOTING

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

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

The results show 32 votes in favor and none against; the proposed amendment is approved.

MR. REGALADO: Lastly, Madam President, on page 5, line 21, the phrase "one hundred eighty days" is proposed to be changed to EIGHTEEN MONTHS, such that the entire last sentence of Section 10 will read as follows: "No special election shall be called if the vacancy occurs within EIGHTEEN MONTHS before the date of the next presidential election."

The reason for this is that, as reported to us by Commissioner Monsod, to hold a presidential election would involve an outlay or appropriation of about P270 million. So, it would entail P270 million to elect a President within 180 days before the date of the next presidential election, meaning six months. So, in the interest of economy, it was felt that this provision will apply if the vacancy occurs within 18 months before the date of the next presidential election.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Just a point of clarification. I am afraid I did not quote that figure of P270 million for a presidential election. But it does not detract from the argument because there would still be quite a bit of expense. I just wanted to correct the figure.

THE PRESIDENT: Just to clarify, will the Gentleman restate the amendment?

MR. REGALADO: On page 5, line 21, instead of "one hundred eighty days," we change it to EIGHTEEN

MONTHS.

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

MR. REGALADO: Thank you, Madam President.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

May I make some point of clarification from the Committee? On page 2, line 23, does the phrase "vote of a majority of all the members of Congress" mean voting separately or voting jointly?

MR. REGALADO: The Chairman is of the opinion that it is "voting separately."

MR. DE CASTRO: Thank you.

On page 3, lines 16 to 19, it is provided:

The Congress shall provide by law for the case of death, permanent disability or inability of the officials mentioned in the next preceding paragraph and the manner in which one who is to act as President shall be selected until a President or a Vice-President shall have qualified.

This is the same as the provision on page 4, lines 28 to 32 and on page 5 up to line 3. Is this not a repetition of what we intend to have in the matter of succession?

MR. REGALADO: No, Section 9, lines 28 et sequentia, refers to the case of an Acting President.

MR. DE CASTRO: Yes, it is the same in the succession.

MR. REGALADO: Whereas, in the first situation that the Gentleman referred to, it refers to an elected President and Vice-President. There are three situations under this Article wherein there can be an Acting President.

MR. DE CASTRO: Section 5, page 3, lines 16 to 20, refers to the succession where the President and the Vice-President shall have been disabled or shall have been removed or died in office and the President of the Senate or the Speaker of the House of Representatives shall take his place. In the event that the two are also disqualified, then Congress shall provide by law who should act as President. Section 9, lines 28 to 32, still speaks of Congeals to provide by law who shall act as President in the case that the Senate President and the Speaker of the House of Representatives fail to qualify as such. Is this not a repetition?

MR. REGALADO: Section 5 refers to the situation where the President-elect and the Vice-President-elect become incapacitated or die before they have assumed their office or before they have qualified thereto. Section 9, on the other hand, refers to death, permanent incapacity or resignation from the office of the President or the Vice-President during the tenure or after either of them has assumed office.

MR. DE CASTRO: Thank you .

On page 8, lines 31 to 34, is this provision still necessary after we provide on lines 28 to 30 that the President is vested to appoint minor officials as called for in this Constitution?

MR. REGALADO: Yes, because while the President's power of appointment is plenary, it is subject to limitations and classifications by the Congress. That is why we provide here that the President shall appoint all other officers of the government whose appointments are not otherwise provided for by law to avoid any hiatus or any lacuna in

the matter of appointment, and those whom he may be specifically authorized by law to appoint. Then on line 31, there is a little classification there. The Congress may by law vest the appointment of other officers lower in rank either in the President alone, or in the courts, or in the heads of departments, or in the heads of agencies, commissions or boards. That would be a matter already for Congress to classify and specify.

MR. DE CASTRO: Thank you.

MR. REGALADO: Incidentally, Madam President, I will inform the body in advance that, for purposes of Third Reading, we are furnishing them with copies of the same Article, rearranged and renumbered to make them in more logical sequence but containing exactly the same substantive provisions. As prepared by Commissioners Maambong, Davide and myself, the copy being distributed is merely a realignment to make the presentation in more logical sequence.

MR. RAMA: Madam President, I ask that Commissioner Maambong be recognized for a question of clarification.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Just a very minor clarification, Madam President, regarding the approved amendment on page 5, line 21, changing 180 days to 18 months. The figure of P270 million cited as the cost of the presidential or vice-presidential election was attributed to Commissioner Monsod. I am afraid I was the one who cited that figure to Commissioner Regalado, considering the testimonies of officials of the Commission on Elections and the officials of the Budget Commission. I am sorry that it was attributed to Commissioner Monsod. It actually came from me, Madam President.

Thank you.

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

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, this is just a matter of style and for the purpose of clarity. On page 9, lines 11 to 12, it reads:

The Congress voting jointly by a vote of at least a majority of all its members in regular or special session may revoke such proclamation of suspension which revocation shall not be set aside by the President or upon the initiative of the President extend the same for the period . . .

The way it is phrased, "extend" seems to be a verb related to revocation and not to Congress. So, may I suggest to the Committee that we put a period (.) after "shall not be set aside by the President." Then start with another sentence, "Congress may, upon the initiative of the President, extend such proclamation or suspension for a period to be determined by Congress . . ." Will the Committee consider that, Madam President?

THE PRESIDENT: What page is this, please?

MR. VILLACORTA: This is on page 7 lines 29 to 32, Section 16.

MR. REGALADO: I think we are using different texts.

MR. VILLACORTA.: Am I using a different copy?

THE PRESIDENT: Maybe the Gentleman has the old one.

MR. REGALADO: The Gentleman should use the one with the words "As Amended" on the upper right-hand corner.

MR. VILLACORTA: Yes, Madam President. I will just go to the Committee to make my correction later on.

Thank you.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: With regard to the powers of the President as Commander-in-Chief of the Armed Forces and, in particular, the power to call out the Armed Forces to suppress lawless violence, the President has two other powers — the power to suspend the privilege of the writ of habeas corpus and the power to proclaim martial law. Madam President, when I interpellated the members of the Committee as to the possible distinction between these three situations, they — particularly Commissioner Regalado — said that it could be entertained during the period of amendments. When I was then proposing this distinction between the suspension of the writ and the proclamation of martial law, I was prevented from so doing on the observation of Commissioner Bernas that in the discussion of the Bill of Rights, the issue of the suspension of the privilege of the writ of habeas corpus has already been decided. But I recall that when we were discussing the Bill of Rights, particularly the suspension of the privilege of the writ of habeas corpus, Commissioner Bernas stated, and I quote from the July 17 session:

Perhaps the better place to discuss this is in the Article on the Executive because the Gentleman placed this in the total context of the Commander-in-Chief powers of the President.

When I was clarifying the distinction between the suspension of the writ and proclamation of martial law which should be discussed more thoroughly in our deliberations on the executive department, Commissioner Bernas said that could not be done unless the Rules is suspended and a motion for reconsideration is filed on the provision in the Bill of Rights or the suspension of the writ. I disagreed with that position of Commissioner Bernas as inconsistent and unfair because it was not possible at that time during the period of amendments of the Article on the Executive to ask for a suspension of the Rules and for a rediscussion of the suspension of the writ of habeas corpus in the Bill of Rights. But the Chair ruled without further arguments that I was out of order because the decision had been made regarding the suspension of the writ of habeas corpus in the Bill of Rights.

Madam President, I agree with the provisions of the Article on the Executive, except this section on the powers of the President as Commander-in-Chief of the Armed Forces, because through that technicality, we were not able to discuss fully the distinction, which I was trying to make, between the two situations — the suspension of the privilege of the writ of habeas corpus and the power to proclaim martial law.

Thank you, Madam President.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Since I was alluded to, may I say a few words?

THE PRESIDENT: The Gentleman may please proceed.

FR. BERNAS: In the discussion we had on the Bill of Rights, the only subject matter that was under consideration was the power to suspend the privilege of the writ of habeas corpus. As everyone will recall, in the provision on the Bill of Rights, while there is a limitation on the power to suspend the privilege of the writ of habeas corpus, there is no indication whatsoever as to who would suspend the privilege of the writ of habeas corpus. That is taken up in the Article on the Executive.

When the matter of making a distinction between the three powers of the President as Commander-in-Chief was brought up during the discussion on the Bill of Rights, I said that the proper place to discuss it was in the

discussion of the executive power. That, I said, was the proper place to discuss the distinction between these three powers of the suspension of the privilege of the writ of habeas corpus when we discussed the Bill of Rights.

When we were discussing the Article on the Executive, I recall very distinctly that Commissioner Padilla did try to make a distinction. I recognized the distinction, and I thought that he would offer a presentation of the Article on the Commander-in-Chief powers where there would be a division into three parts. There was an opportunity for that; it was never done. And in the course of our discussion, we discussed very thoroughly what the basis for the suspension of the privilege of the writ of habeas corpus was; we debated whether we should eliminate "insurrection and imminent danger of invasion, insurrection or rebellion." We debated that very thoroughly; we voted on that a number of times. When I made a motion on a point of order, the point of order was precisely on the fact that we had thoroughly discussed the basis for the suspension of the privilege of the writ of habeas corpus, and we had voted on that. The President upheld the point of order raised.

I just want to bring this out because the suggestion is being made that I sort of reneged on what I said while we were discussing the Bill of Rights. When we were discussing the Bill of Rights, we were not discussing the powers of the President. We were discussing the right to the privilege of the writ of habeas corpus, not the distinct rights of the President as Commander-in-Chief of the Armed Forces.

Thank you, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: The issue was the elimination of the words "or imminent danger thereof." Commissioner Bernas says I did not make any proposal for the distinction between the suspension of the writ and the proclamation of martial law. Actually, I submitted two concrete proposals to cover said two situations and I recall that I even proposed to insert among the grounds for the suspension of the writ "subversion and sedition," in addition to imminent danger of rebellion or invasion, because the declaration of martial law was then limited to actual invasion or actual rebellion. On my suggestion not only to reinsert "imminent danger thereof" but also to add "subversion or sedition," the honorable Commissioner Bernas stated that it was out of order because that matter had already been decided in the discussion on the Bill of Rights, and that under the Article on the Executive, we could no longer amend or reinsert the grounds for such suspension, particularly the phrase "or imminent danger thereof." I had beforehand warned the members of the Committee that I was going to make a distinction between the suspension of the writ and the declaration of martial law, which was welcomed during the interpellations. It is not correct for Commissioner Bernas to say that I did not make any concrete proposal. I actually did propose two sentences — one on suspension of the writ and the other on proclamation of martial law. But my proposal unfortunately was not considered and much less discussed because of that technicality that my proposal on suspension was out of order and which, unfortunately, the Chair sustained, to which I said, "I respect the decision of the Chair although I do not agree with it."

THE PRESIDENT: Thank you.

MR. BENGZON: Madam President.

THE PRESIDENT: The Chairman of the Steering Committee is recognized.

MR. BENGZON: May I bring back the discussion now to the Article on the Executive, page 7.

Commissioner Villacorta and the Vice-Chairman of the Executive Committee, Commissioner Regalado, have already finished their coordination on this. May I ask Commissioner Regalado to read lines 30 and 31.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Yes, Madam President.

On page 7, starting on line 29, the provision will read: "which revocation shall not be set aside by the President. Upon the initiative of the President, CONGRESS MAY extend SUCH PROCLAMATION OR SUSPENSION for a period to be determined by Congress . . ." It makes clearer the intention and does not involve a very long sentence and expresses the substance of what was accepted by the Committee.

THE PRESIDENT: Will the Gentleman please repeat the provision?

MR. REGALADO: After "dent" of the word "President" on line 30, put a period (.). Then insert CONGRESS MAY between "President" and "extend" and add SUCH PROCLAMATION OR SUSPENSION.

So, I will repeat from line 26: "The Congress, voting jointly, by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President. Upon the initiative of the President, CONGRESS MAY extend SUCH PROCLAMATION OR SUSPENSION for a period to be determined by Congress . . ."

MR. AZCUNA: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: May I suggest the insertion of the words CONGRESS MAY IN THE SAME MANNER, so as to emphasize that it will also be Congress voting jointly and there would also be a need of at least a majority vote of all its Members for extension.

THE PRESIDENT: Does the Committee accept the amendment to the amendment?

MR. REGALADO: Yes, the amendment is accepted; it makes the provision clearer.

THE PRESIDENT: Is there any objection?

MR. RODRIGO: Madam President.

THE PRESIDENT: Yes, Commissioner Rodrigo is recognized.

MR. RODRIGO: I just want to make a statement for the record that I am still very unhappy about the words "voting jointly." I said I think it is very much against the very basic idea of bicameralism. I still think that Congress, whenever it acts, since it is a bicameral body composed of the House of Representatives and the Senate, must vote separately.

MR. BENGZON: May we vote now, Madam President?

THE PRESIDENT: Is there any objection to this proposed amendment on lines 30 and 31 of page 7? (Silence)
The Chair hears none; the amendment is approved.

APPROVAL OF PROPOSED RESOLUTION NO. 517

ON SECOND READING

(Article on the Executive)

MR. BENGZON: Madam President, on the basis of all these arrangements and adjustments made, I move that the body vote on the Article on the Executive, as amended, on Second Reading.

THE PRESIDENT: As many as are in favor of Proposed Resolution No. 517, please raise their hand. (Several Members raised their hand.)

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

The results show 33 votes in favor and 8 against; the proposed Article on the Executive is approved on Second Reading.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: May I be allowed to explain my vote?

THE PRESIDENT: Commissioner Quesada may proceed.

MS. QUESADA: Madam President, last Wednesday, July 30. I voted no to this amendment and I still vote no on Second Reading because then we would hand on a silver platter to any power-driven Filipino President in the future the opportunity to reinstall a one-man rule in this country. So much has been said about the evil and corruption, the venality and utter disregard for human values that the Filipino people suffered these last 14 years. We at the Con-Com have conscientiously worked out provisions to ensure that such arbitrary rule and abuse of presidential power will never again be easily repeated.

This overriding concern was uppermost in the minds of the people who participated in our public hearings here in Metro Manila as elsewhere in this country. They were happy to note that we at the Con-Com would articulate their desire to eliminate every possibility that another dictator would ever rule over them again.

It was, therefore, with a heavy heart that I witnessed the 180-degree turnabout of the Committee who worked so hard to incorporate in the charter the proper mechanisms that would eliminate such possibility.

Madam President, I wish to put on record that I have opted not to grant the Office of the President such power, regardless of all the measures by Congress and the Supreme Court provided in the Article to rectify any such presidential act.

Historical precedents within living memory have demonstrated the ineffectiveness and impotency of such fiscalizing measures. A power-mad dictator, exemplified by countless historical examples from Hitler to Batista to Marcos, would simply abolish the judiciary and padlock Congress and send all the dissenters to the stockade. That is a reality that proponents of the amendment seemed to have forgotten.

Madam President, a wise man from Spain, the philosopher George Santayana, wrote once that "Those who forget the past are doomed to repeat it." In the same vein the columnist of a popular daily titled his column, "They Never Learn." The attribution is to the Constitutional Commission three days after the victorious passage of the amendment.

Unfortunately, those who learned their lessons and did not forget the past were only in the minority. It is comforting to know, however, that a great many Filipinos outside this hall share the minority opinion. Regretfully, they are not empowered to cast their vote on this issue.

Thank you, Madam President.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: The Committee has asked me to give a brief response because we might be misunderstood. As the proceedings on the floor showed and as it appears in the minutes of that particular session, it was expressly made clear that to meet a very serious danger of actual invasion or rebellion, the President is now granted the

power of immediate response by declaring martial law or suspending the writ of habeas corpus. Yet, the following day, if the Congress finds that the act of the President was not correct and not factually substantiated, the very same proclamation can immediately be revoked by Congress even on the following day. That was the reason the members of the Committee agreed to that immediate response, reflexive action of the President if the situation is really that serious because the Congress may not yet be in a position to convene and concur in the act of the President. But if they find out that the President was wrong right on the following day, the very same proclamation or suspension of the privilege of the writ of habeas corpus can be revoked by Congress.

MR. SUAREZ: Madam President, parliamentary inquiry.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

We are now in the process of voting. I was wondering why a Member of the Committee stood up for alleged justification of the Committee's action. Is this warranted under our Rules, Madam President?

THE PRESIDENT: We allowed Commissioner Quesada to explain her vote which really should come in the case of nominal voting. So, we also recognized Commissioner Regalado to answer the same.

MR. SUAREZ: Madam President, we respectfully submit that explanation of one's vote as part of the voting process, but explanation of the Committee's actions is not part of the voting process. That is why I am submitting this parliamentary inquiry because it could serve as a bad precedent in the future, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, for the benefit of the Commissioners because a lot of Commissioners have approached me making inquiries, and for other persons who may be interested, may I just announce that if we do finish the Article on Social Justice today, the next Article we shall discuss will be Committee Report Nos. 21 and 25 on the local governments. Hence, all other reports will have to be moved back, particularly, the Declaration of Principles, National Economy and Human Resources. The proposed Article on Family Rights will be discussed together with the Article on Human Resources, which was scheduled to be considered on August 14 and 15. But because of the delay in the deliberation of the Article on Social Justice, we may have to move this backwards. That is all, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: May we return first to the statement of Commissioner Suarez? The Chair has explained that Commissioner Regalado was recognized to make his own statement but we will take note of the statements made by Commissioner Suarez on this point.

MR. RAMA: Thank you.

Madam President, the Chairman of the Committee on Social Justice has informed the Floor Leader that she and her Committee are ready to present to the body the proposed amendments that the Committee has accepted and to defend its amendments.

May I ask that Commissioner Rodrigo be recognized?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: The copies of the proposed amendments were distributed only about half an hour ago. After that, we discussed the matter of the executive department and legislative department. So, we have had no time to read as yet.

THE PRESIDENT: Does the Gentleman need time?

MR. RODRIGO: Yes, I would like to ask for at least 10 minutes.

SUSPENSION OF SESSION

MR. RAMA: Madam President, may I ask for a suspension of the session?

THE PRESIDENT: The session is suspended for a few minutes.

It was 10:57 a.m.

RESUMPTION OF SESSION

At 11:23 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

May I ask everybody in the galleries to please observe silence during our proceedings? May we ask the honor able Chairman and members of the Committee on Social Justice to please occupy the front tables?

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: In view of some remarks that have been made today and on other days, I would like to request permission to explain my vote in the case of the Article on the Executive.

THE PRESIDENT: Commissioner Monsod may proceed.

MR. MONSOD: Madam President, I would like to explain my vote on the Article on the Executive with particular reference to an amendment of which I was principal author, regarding the right of the President to declare martial law for a maximum period of 60 days which can be revoked by Congress at any time and which is subject to review by the judiciary at any time.

There have been suggestions that those who voted for that amendment are victims of subjugated consciousness or cannot learn from the past, or even suffer from a lack of awareness of the people's sentiments.

Madam President, to be free means having the confidence to fight a dictator. It also means the capacity to allow freedom to defend itself against actual invasion or rebellion. The delicate balance we seek is not clear-cut But we cannot define it either in terms of black or white. Mr. Marcos relied on the Constitution to keep power. The premise of a dictator who is ready to disregard the Constitution would mean that no amount of safeguard can prevent him to make a naked assumption of power outside the Constitution. If one reads the totality of the Article we approved, the color of constitutionality that Mr. Marcos used to his advantage is no longer there. That is the difference between the 1935 and the 1986 Constitutions.

Any insinuation of subjugated consciousness, lack of patriotism, irresponsiveness of so-called people sentiment is an offensive generalization to those whose records will show that they did not allow themselves to be cowed even at the height of Mr. Marcos' power at the risk of their lives and livelihood.

I find self-righteousness offensive particularly from those who want to make sweeping conclusions on the basis of

one issue and not on the totality of one's conviction and one's record.

Patriotism is not the sudden and frenzied outburst of emotion but the tranquil and steady dedication of a lifetime.

Thank you. Madam President.

MR. RAMA: Madam President.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I also wish to exercise the right of reply as one of those who voted with the majority. May I take one minute to do this, Madam President?

THE PRESIDENT: The Gentleman may proceed.

MR. OPLE: Thank you.

I think it is important, in the interest of justice and equity, to put into the Record of this Commission that in voting for the Article on the Executive, as amended, those who did so did not infringe any standard of independence, intelligence and righteousness, and that they had the right to be accorded the courtesy of a genuine belief in their convictions.

The amendment, first by the Committee and later on by the body, of the original provision requiring the concurrence of Congress was subjected to thoroughgoing debate and not a single aspect of it had been hidden or concealed from the view of the entire Commission.

Madam President, there is a tendency to equate patriotism with rendering the executive branch of the government impotent, as though by reducing drastically the powers of the executive, we are rendering a service to human welfare. I think it is also important to understand that the extraordinary measures contemplated in the Article on the Executive pertain to a practical state of war existing in this country when national security will have become a common bond of patriotism of all Filipinos, especially if it is an actual invasion or an actual rebellion, and the President may have to be given a minimum flexibility to cope with such unprecedented threats to the survival of a nation. I think the Commission has done so but at the same time has not, in any manner, shunned the task of putting these powers under a whole system of checks and balances, including the possible revocation at any time of a proclamation of martial law by the Congress, and in any case a definite termination of these extraordinary powers, subject only to another extension to be determined by Congress in the event that it is necessary to do so because the emergency persists.

So, I think this Article on the Executive for which I voted is completely responsible; it is attuned to the freedom and the rights of the citizenry. It does not render the presidency impotent and, at the same time, it allows for a vigorous representation of the people through their Congress when an emergency measure is in force and effect.

Thank you very much.

MR. RAMA: Madam President, I move that we now proceed to the period of amendments on the Article on Social Justice.

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

MR. RAMA: May I ask that the Committee Chairman, Commissioner Teresa Nieva, be recognized.

THE PRESIDENT: The Chairman, Commissioner Nieva, is recognized.

MS. NIEVA: Madam President, yesterday the Committee met up to almost nine o'clock in the evening to synthesize and incorporate all the various amendments that were proposed the whole day of yesterday and Saturday. So, we have distributed copies of the proposed amendments to the Article on Social Justice. Unfortunately, there were a few mistakes on pages 3 and 4, so corrected copies will be distributed. Minor corrections on the other pages will be made as we go along.

Section 1 rephrases the original Section 1. We have removed the words "inequitably redistribute wealth" and replaced these with DIFFUSING WEALTH. This was in response to the probable misunderstanding of the word "redistribute" that was raised by several of those who had proposed their amendments.

MR. ROMULO: If the Commissioner is discussing Section 1, that is my amendment. So, Madam President, may I be recognized.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: After discussing with my cosponsors, Commissioners Azcuna and Davide, we believe that the introduction of the phrase "primary imperative" makes the phrase "give highest priority" redundant. We are, therefore, asking that the phrase be deleted so that the section will now read: THE STATE SHALL PROMOTE SOCIAL JUSTICE AS A PRIMARY IMPERATIVE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL ENACT MEASURES THAT PROTECT AND ENHANCE THE RIGHT OF EVERY CITIZEN TO HUMAN DIGNITY, REDUCE SOCIAL, CULTURAL, ECONOMIC AND POLITICAL INEQUITIES, AND EQUITABLY DIFFUSE WEALTH AND POLITICAL POWER FOR THE COMMON GOOD.

MS. NIEVA: Yes, but the Bernas amendment says: "CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES."

MR. ROMULO: Yes, but we are suggesting its deletion after second thought because it seems redundant in the face of the term "primary imperative."

MS. NIEVA: So now, that will be out.

THE PRESIDENT: Is that accepted by the Committee?

FR. BERNAS: The phrase "primary imperative" was not in the original.

MR. ROMULO: That is correct.

FR. BERNAS: So, it is correct that "giving highest priority" gives a certain amount of redundancy to the phrase. I hesitate to take it away because I think the matter is so important that we can afford to be redundant.

MS. NIEVA: So, what is now the final decision?

MR. ROMULO: Can we depend on the Record as indicating that "primary imperative" includes the command to the legislature to give this the highest priority?

FR. BERNAS: Provided that that is understood in the Record. I just want to make that very clear because I think it is very important. As I said, we can afford to be redundant.

MR. SUAREZ: So, how will we treat this now?

MR. ROMULO: With the agreement of Commissioner Bernas and my explanation thereto, Section 1 shall read: THE STATE SHALL PROMOTE SOCIAL JUSTICE AS A PRIMARY IMPERATIVE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL ENACT MEASURES THAT

PROTECT AND ENHANCE THE RIGHT OF EVERY CITIZEN TO HUMAN DIGNITY, REDUCE SOCIAL, CULTURAL, ECONOMIC AND POLITICAL INEQUITIES, AND EQUITABLY DIFFUSE WEALTH AND POLITICAL POWER FOR THE COMMON GOOD.

MS. NIEVA: Commissioner Garcia would like to make some remarks.

MR. GARCIA: I believe that we can retain the same sense and at the same time underscore the urgency that Congress must take urgent action by, perhaps, paraphrasing it in this manner: "THE STATE SHALL PROMOTE SOCIAL JUSTICE AS AN IMPERATIVE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES." In other words, we retain the phrase on Congress giving highest priority to the enactment of social justice measures because I do not think the word "imperative" needs an adjective.

MR. ROMULO: I have tried to save some words but I will leave it up to the Committee.

MR. OPLE: Madam President, concerning this subject of the word "imperative," I want to take counsel with the Committee and other experts in the English language whether one can say "imperative" without the qualification of a territorial imperative, a moral imperative or a political imperative. The word "imperative" will have to be given a context before it can stand alone. Will the proponent consider the qualification of MORAL IMPERATIVE?

MR. ROMULO: That is the phrase of Commissioner Azcuna, so I would rather that he reply.

MR. OPLE: I suggest A MORAL or AN ETHICAL IMPERATIVE, because the basis for this IMPERATIVE, if it is a MORAL IMPERATIVE or AN ETHICAL IMPERATIVE, is also political, according to the Aristotelian definition of politics. But I doubt if the word "imperative" in good English usage can stand alone.

MS. NIEVA: The original read: "social, economic, political and moral imperative," but we said that was redundant.

MR. OPLE: Can we just settle with MORAL because moral in the Aristotelian sense is also "ethics" and "politics"?

MR. BENNAGEN: May I answer that? In the deliberations of the Committee, I pointed out specifically in this particular section that it is primarily a moral imperative, in the sense that historically the national development has worried itself with issues of growth and development and equity without considering the moral imperative of development in favor of the underprivileged. This is why in the original statements we did include "moral" as the underscoring adjective for "imperative." I suggest that we retain that.

MR. OPLE: Yes, once again put the Bible and the Quran behind it.

MR. BENNAGEN: Yes, that is right. That one makes a decision in favor of the poor moral.

MR. OPLE: Social justice is also advancing social morality.

MR. BENNAGEN: Yes, that is right.

MR. MONSOD: May we hear from Commissioner Azcuna.

MR. AZCUNA: Madam President, my only difficulty with that is we will be delving into the grounds of legal enforcement of morals here and, offhand, I would like to emphasize that social justice is not merely a moral command or a command of natural law unenforceable in the legal field. What is legally enforceable is a requirement of the legal system, not merely of moral theology.

If we say, "shall promote social justice as a moral imperative," it might be construed merely as a dictate addressed to the conscience rather than a legally enforceable and demandable claim. It would be all right if we say, "social, political, economic and moral," but not "moral" alone.

I am searching for a word that would embrace all. Originally, I put "national imperative" — it was an imperative for the nation which is based on social, economic, political and cultural ideals. It is moral as well, but not merely moral, because it might be objected to as merely a moral ideal, and not enforceable in the realm of law.

MR. OPLE: Is Commissioner Azcuna asking for a moment to reflect upon this so that we will find the right word?

MR. AZCUNA: Yes.

MR. OPLE: My point is that "imperative" without being moral, territorial or political would be a clumsy word in this all-important section, unless it is modified in some way or given a context.

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: With due respect, the dilemma can be removed if we delete the phrase "primary imperative" and go back to Fr. Bernas' amendment of "giving highest priority." That was my original phrasing.

THE PRESIDENT: That also occurred to the Chair. So, the section shall read: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY . . ."

MR. OPLE: That will be acceptable to me, speaking for myself alone, Madam President.

THE PRESIDENT: What does the Committee say?

MS. NIEVA: Madam President, we are still discussing this among the members.

MR. AZCUNA: Madam President, I would like to retain but I will leave it to the Committee.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: While they are still discussing and reflecting on this words we would like to Proceed. I ask that Commissioner Bernas, who has an agreement to Section 1, be recognized.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Before I give my amendment I would say that I support the proposal of Commissioner Garcia by just removing "primary" and leaving "imperative" standing alone. I would disagree that "imperative" cannot stand alone in the English language, but I leave that to other authorities to judge.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: The Committee is prepared to accept this wording: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES . . ." The first statement would be a general statement, and urgency is given in the enactment of measures.

THE PRESIDENT: Is that all right, Commissioner Romulo?

MR. ROMULO: I would accept that.

THE PRESIDENT: What is the other proposed amendment of Commissioner Bernas?

FR. BERNAS: My proposed amendment comes after line 5 of Section 1 which says: "reduce social, cultural, economic and political inequities." My proposed amendment involves both a transposition and an addition. First of all, transpose "cultural" then add ERADICATE so that the phrase will read: "reduce social, economic and political INEQUALITIES, ERADICATE cultural inequities," and so on.

Let me explain why I prefer the use of the word "inequality." When I use the word "inequality," there is no necessary moral judgment involved in that. It is merely a description of what obtains in the national — that there are gross social, economic and political inequalities. Implicitly these inequalities, although not morally wrong by themselves, can lead to various evils. Then I say "cultural inequities" because the problem of culture is not so much of an inequality in culture. We do not want to equalize all cultures. We do not want to level all Filipinos to the same culture, but rather we want to protect the various cultures against inequities. So, the phrase now will read: "reduce social, economic and political INEQUALITIES, ERADICATE cultural inequities, and equitably diffuse wealth and political power for the common good."

MS. NIEVA: I think the Committee accepts.

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Will Commissioner Bernas accept an amendment to his amendment by substituting the word "reduce" with the word "ERADICATE"?

FR. BERNAS: I think the Commissioner is asking the State to try to attain the unattainable goal.

MR. DE LOS REYES: No, no, that is not the point. We know that "ERADICATE" may not be attainable in the immediate near future, but we are speaking here of goals. When we say, for example, that graft and corruption is unattainable, do we say that we should reduce graft and corruption simply because we know that people being what they are will always remain grafters and corrupt? We say we eradicate graft and corruption. We do not say reduce graft and corruption because when we say "reduce," we are practically admitting in our subconscious that we shall tolerate inequities no matter how.

FR. BERNAS: That is why I have changed the word "inequities" to INEQUALITIES. We eradicate graft and corruption because graft and corruption is evil. But inequality by itself is not evil. Perhaps the Commissioner could say: "reduce social, economic and political INEQUALITIES, ERADICATE cultural INEQUITIES" because "inequities" are evil.

MR. DE LOS REYES: I will accept that amendment inasmuch as the Gentleman has changed the word "inequities" to "INEQUALITIES."

MS. NIEVA: So, how will the amendment now read?

FR. BERNAS: "Reduce social, economic and political INEQUALITIES, ERADICATE cultural INEQUITIES and equitably diffuse wealth . . ."

THE PRESIDENT: Is that accepted by the Committee?

MR. MONSOD: Madam President, we have a little problem with the word "eradicate" because we are not trying

to eradicate termites or rats. So, can we use another word?

MR. DE LOS REYES: I suggest ELIMINATE.

MR. MONSOD: It is acceptable.

THE PRESIDENT: Without prejudice to looking for a better word.

MR. ROMULO: I thought we had voted down capital punishment. Now we will "eliminate."

MR. MONSOD: We have a problem with the word "eliminate" or "eradicate" in absolute terms. We prefer to use the word REDUCE. But if the proponent insists, we would like to present it to the body.

MR. DE LOS REYES: I would like to put it to a vote. "MINIMIZE" is also "REDUCE."

FR. BERNAS: Yes, Madam President. As far as "inequities" are concerned, these are wrong; these are evil. So, we try to ask the State not just to reduce them, but where possible, remove them. Perhaps we can use the word REMOVE.

MS. NIEVA: Yes, "REMOVE" seems much more acceptable.

MR. DE LOS REYES: It carries the same sense as my intention. I agree with the use of the word "REMOVE."

MS. NIEVA: So, if the Committee accepts that, we shall accept the use of the word "REMOVE."

MR. MONSOD: Madam President, the Committee accepts the word "REMOVE."

MR. PADILLA: Madam President, I am in favor of the present language: "reduce social, economic, political and cultural inequities."

I do not seem to fully realize, although Commissioner Bernas says so, that one is not necessarily evil and the other is evil. The word "inequities," I think, is broad enough but to some, these might be "inequalities." By insisting on the word "inequalities," as distinguished from "inequities," we may be leading to the utopia of equality. And it is not humanly possible to equalize.

The other point is that I was in favor of "MORAL IMPERATIVE" and this will be the moving factor for Congress to enact legal measures. The observation of Commissioner Azcuna is that if MORAL is inserted, it may not lead to legal rights. Precisely, the word "IMPERATIVE" is used which would justify and impel Congress to enact measures. So that will give legal rights after the enactment of Congress.

I would also object to the word "HIGHEST" to qualify "priority" because while social justice is very important, we cannot compel the next or future Congress to give it the first or the highest priority because in my belief, social justice can be best achieved by more productivity, by economic advancement. And, social justice may result from an improvement of our economic situation, that would lead to the social well-being of all the people. But why should this Commission of 48 Members now dare or even say: "control the legislative discretion of Congress in the future years," when conditions may affect not only the economic situation, the national development program, but likewise, the resultant effect of an improved economy? My idea, Madam President, is that we cannot realize social justice unless we really improve our job opportunities.

MS. NIEVA: May we get the Commissioner's amendments one by one so that we can put these to a vote?

THE PRESIDENT: Is Commissioner Padilla proposing an amendment or just making some comments?

BISHOP BACANI: Madam President, may I speak for the Committee in this case? I remember Commissioner Bernas explaining quite clearly that "HIGHEST" does not mean number one, but among the first.

MS. NIEVA: Yes, that is why we are asking now if there is a specific amendment which we can vote on so that we can submit this to a vote.

MR. PADILLA: My amendment is, instead of the word "primary," just say "imperative."

MS. NIEVA: We have the phrase "as a primary imperative" removed.

MR. PADILLA: Has that been removed?

MS. NIEVA: We have removed that entirely.

MR. PADILLA: Then, eliminate the word "HIGHEST."

MS. NIEVA: May we vote on whether we should retain "Congress shall give highest priority" or just "Congress shall give priority to the enactment of measures"?

FR. BERNAS: Madam President, may I just say a word?

THE PRESIDENT: Commissioner Bernas is recognized .

FR. BERNAS: I would like to emphasize the fact that the language says "give highest priority." It does not say "give the highest priority," but rather, it means give very high priority, not necessarily the highest but very high priority.

THE PRESIDENT: So, what is before us now is the Romulo amendment which has been accepted by the Committee.

MS. NIEVA: Yes, it has been accepted.

THE PRESIDENT: With the deletion of the words "as a primary imperative" and preserving the phrase "give highest priority."

MS. NIEVA: Yes, Madam President.

THE PRESIDENT: So, for the record, this is a joint amendment of Commissioners Romulo, Bernas, Davide, Nollado, Azcuna, Rosario Braid and de los Reyes. Those who will vote for the use of the word "HIGHEST" would be giving a negative vote to the proposed amendment of Commissioner Padilla which seeks to eliminate the word "HIGHEST."

Those in favor of Section 1 as already worded now, please raise their hand. (Several Members raised their hand.)

MR. PADILLA: Madam President, it seems that the body is not clear as to what we are voting on.

THE PRESIDENT: We are voting on Section 1, and this has been read by the Chairman.

MS. NIEVA: Shall we repeat it? This is now Section 1 as approved by the Committee: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES THAT PROTECT AND ENHANCE THE RIGHT OF EVERY CITIZEN TO HUMAN DIGNITY, REDUCE SOCIAL, ECONOMIC AND POLITICAL INEQUALITIES, REMOVE CULTURAL INEQUITIES, AND EQUITABLY DIFFUSE WEALTH AND POLITICAL POWER FOR THE COMMON GOOD."

MR. RODRIGO: Madam President, parliamentary inquiry.

MR. DE CASTRO: Madam President, parliamentary inquiry.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Madam President, if I like to vote for the whole of Section 1 except the word "HIGHEST," how shall I vote?

THE PRESIDENT: The Commissioner will vote "no."

MR. RODRIGO: That is the object of my parliamentary inquiry, Madam President.

THE PRESIDENT: The amendment of Commissioner Padilla should be voted upon, first, according to the Rules. But I believe that we should first vote on the whole, as accepted by the Committee. And then, afterwards, if Commissioner Padilla insists on the elimination of the word "HIGHEST," then we shall vote on whether or not the word "HIGHEST" should be eliminated as already approved by the Committee.

MR. RODRIGO: I am glad because I also have a particular amendment to this whole section. So, we are now voting on the Romulo amendment without prejudice to other amendments to that section.

THE PRESIDENT: Let us put it that way.

MR. RODRIGO: Thank you.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: May I recommend or suggest a simplification; of the voting? Let us first vote on whether or not we shall put the word "HIGHEST." Then, we can vote on the whole section.

VOTING

THE PRESIDENT: Yes, but we do not know if the body will even approve the whole section, as worded. So, let us vote first, in principle, on Section 1, as worded now. Afterwards, other changes in the wordings can come in.

As many as are in favor of Section 1 as read by the honorable Chairman of the Committee, please raise their hand. (Several Members raised their hand.)

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

The results show 37 votes in favor and 1 against; the amendment is approved.

Let us now take up the proposed amendment of Commissioner Padilla to eliminate the word "HIGHEST" on line 3.

Those in favor of deleting the word "HIGHEST" on line 3 of Section 1, please raise their hand. (Few Members raised their hand.)

Those against, please raise their hand. (Several Members raised their hand.)

The results show 10 votes in favor and 27 against; the proposed amendment is lost.

What is the pleasure of Commissioner Rodrigo? Does he have a proposed amendment?

MR. RODRIGO: Yes, Madam President.

Before propounding my amendment, may I ask some questions of the Committee on the use of the word "citizen" in the phrase "and enhance the right of every citizen" in Section 1. It seems that the benefits of this section are reserved for Filipino citizens. I would like to state that in both the 1973 and 1935 Constitutions, the benefits of

similar provisions are not limited to Filipino citizens. Article II, Section 6 of the 1973 Constitution reads:

The State shall promote social justice to ensure the dignity, welfare, and security of all the people.

Article II, Section 7 of the 1973 Constitution reads:

The State shall establish, maintain, and ensure adequate social services in the field of education, health, housing, employment, welfare, and social security to guarantee the enjoyment by the people of a decent standard of living.

In the 1935 Constitution, Article II, Section 5 reads:

The promotion of social justice to ensure the well-being and economic security of all the people should be the concern of the State.

Now my question is: Do we want to limit the benefits of social justice to just Filipino citizens, to the exclusion of other persons or noncitizens who might be residing in the Philippines?

MS. NIEVA: I think our primary concern is really the Filipino people.

MR. RODRIGO: So, this is a change from the concept of similar provisions in the 1935 and 1973 Constitutions.

MS. NIEVA: We do not mean to prejudice anybody here; we just wanted to focus on the Filipino people's rights to social justice.

MR. RODRIGO: Will the Committee accept an amendment that instead of "every citizen" we say: "enactment of measures that protect and enhance the right of THE PEOPLE to human dignity . . ."?

MS. NIEVA: Would the Gentleman accept THE FILIPINO PEOPLE? The suggestion was made here.

MR. RODRIGO: But that would amount to the same thing, that we are limiting this only to Filipino citizens.

MS. NIEVA: Madam President, the Committee accepts.

MR. RODRIGO: So, my amendment would be, instead of "every citizen," insert THE PEOPLE.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Madam President, will the distinguished sponsor of this amendment agree to an amendment that instead of saying "of THE PEOPLE," we say ALL THE PEOPLE because those are the words in the 1935 and 1973 Constitutions?

MR. RODRIGO: I have no objection to that if the Committee would accept it.

MS. NIEVA: Would EVERY PERSON mean the same thing as "ALL THE PEOPLE"?

MR. RODRIGO: Yes, I think so.

MS. NIEVA: So, perhaps, EVERY PERSON reads much better.

MR. RODRIGO: But that would be a departure from the wordings of the 1935 and 1973 Constitutions. And when a provision has been in existence for so many years, for decades, the words already assume a meaning, especially in jurisprudence.

MR. GARCIA: Madam President, as far as I understand, we have retained that exact paragraph on social justice in the Declaration of Principles. So, here, we simply amplify, make more specific the rights given to the citizens,

especially the poor sectors of society.

MR. RODRIGO: The situation now is, my proposed amendment to use THE PEOPLE is now sought to be amended by Commissioner Padilla by adding "ALL." My proposed amendment has already been accepted. I have no objection to adding "ALL," if the Committee would accept it.

MS. NIEVA: The Committee accepts, Madam President.

MR. RODRIGO: Thank you.

MR. MAAMBONG: Madam President.

MR. PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Forgive me, but I am a little bit uneasy about the word "reduce," considering the statement of Commissioner de los Reyes.

THE PRESIDENT: May we first vote on the phrase "ALL THE PEOPLE"?

Is there any objection to use the phrase "ALL THE PEOPLE" instead of "every citizen," which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

Commissioner Maambong is recognized.

MR. MAAMBONG: As I was saying, Madam President, I am a little bit uneasy about the word "reduce," considering the statement of Commissioner de los Reyes. I think when we use the word "reduce," we are actually saying that we are only trying to minimize the social, economic and political inequalities. And since we are setting goals, it is a very sad commentary on the goals we are setting. I was thinking if we could probably use the word PREVENT because if we just say "reduce," we are just minimizing inequalities. What goal are we setting anyway?

MS. NIEVA: I think the Committee does not accept the use of the word "PREVENT" which refers to the future. We are referring to present existing inequalities. So, may we put that to a vote if the Gentleman insists on such a word.

MR. MAAMBONG: We do not have to, Madam President. I am just pointing out that when we are trying to set goals, we should at least go all the way. But to say "reduce," we only minimize — we are actually admitting that we cannot do anything about it — and we are up to that extent only.

But I leave that to the Committee; I will not press for a vote.

MR. VILLEGAS: Madam President, may I respond to that?

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Thank you, Madam President.

As already emphasized by Commissioner Bernas, there is nothing inherently immoral or wrong in inequalities as has been repeated many times by Commissioner Padilla. In this world, there are inequalities because people have different talents and different efforts; some people are more industrious than others; some people are more interested in specific efforts. So, let us, for the record, state that there is nothing inherently immoral about inequalities.

And for the sake of logical substance, I find the last phrase redundant if we are going to adopt the following. Bernas amendment which I accept: "reduce social, economic and political INEQUALITIES." If we have that, I

find the last phrase "equitably diffusing wealth AND POLITICAL POWER" redundant because there is no way that we can reduce social, economic and political inequalities without diffusing wealth and political power equitably. So, just for the sake of brevity, although Commissioner Bernas has already said this, we can be redundant when we want to emphasize, but I do not see how we can reduce economic, political and social inequalities without equitably diffusing wealth and political power.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, may I speak not as a member of the Committee, but may I respond to that. Though it is true that there is nothing morally wrong about inequalities as such, there is something morally wrong about great inequalities. That is why it is imperative to reduce inequalities. So, it will not simply be correct to say that there is nothing wrong about inequalities, if by that the Gentleman means even great economic inequalities.

MR. BENGZON: May we request Commissioner Bernas to respond to the comments of Commissioner Villegas as to that redundant phrase?

FR. BERNAS: I have just conferred with Commissioner Villegas and he will probably join me in an amendment by recasting the final phrase, so that instead of saying "and equitably diffuse," say BY EQUITABLY DIFFUSING.

MR. BENGZON: What does Commissioner Villegas say?

MR. VILLEGAS: I accept the amendment to the amendment.

MR. BENGZON: Madam President, the Committee accepts the amendment of Commissioners Bernas and Villegas.

THE PRESIDENT: Is there any objection to this last proposed amendment which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: As a consequence of the amendment of Commissioners Bernas and Villegas, I propose to delete the comma (,) between the words "inequities" and "and."

MS. NIEVA: Yes, we accept.

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

MR. BENGZON: Madam President, may we now read the entire Section I, as amended, thus far: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT. IN PURSUIT THEREOF, CONGRESS SHALL GIVE HIGHEST PRIORITY TO THE ENACTMENT OF MEASURES THAT PROTECT AND ENHANCE THE RIGHT OF ALL THE PEOPLE TO HUMAN DIGNITY, REDUCE SOCIAL, ECONOMIC AND POLITICAL INEQUALITIES AND REMOVE CULTURAL INEQUITIES BY EQUITABLY DIFFUSING WEALTH AND POLITICAL POWER FOR THE COMMON GOOD."

Do we have any other amendments on Section 1?

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Commissioner Rosales and I feel that some may vote against this section simply because of the

word "HIGHEST." In the light of the explanation of Commissioner Bernas, and the fact that there are other provisos in our Constitution which have the same category of priority, Commissioner Rosales and I were wondering if we could not change the word "HIGHEST" to just HIGH, so that the statement will read "CONGRESS SHALL GIVE HIGH PRIORITY." Probably by changing that we could be unanimous in voting for such a very important section as Section 1.

MR. BENGZON: Madam President, we raise a point of order because Section 1 has been voted upon already.

MR. TINGSON: I see. I am sorry.

MR. BENGZON: Besides, the amendment of Commissioner Padilla removing the word "HIGHEST" has also been voted upon.

MR. TINGSON: I submit.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: If there are no more amendments to Section 1, I would like to propose amendments to Section 2. I propose to delete the words "section" and the figure "2" and the period (.) after it. And then, instead of "increments," I propose to restore the word "fruits " and to delete the word "thereof." So this part will no longer read as a section but will immediately follow the first paragraph of Section 1: "Towards these ends, the State shall regulate the acquisition, ownership, use, and disposition of property and its FRUITS, and promote . . ."

I recommend that it should not be a separate section because this is irretrievably linked with the first paragraph of Section 1.

MR. BENGZON: So, apart from the fact that the Gentleman wants to make this part of Section 1, he also desires to remove the words "increments thereof" and retain the word "fruits."

MR. DAVIDE: Yes.

MR. BENGZON: Is there any other amendment the Gentleman would like to propose?

MR. DAVIDE: Of course, as a consequence, the word AND must be inserted before "promote."

MR. BENGZON: Yes. With respect to the Gentleman's desire to remove the word "increment," may I suggest that he get together with Commissioner Sarmiento because this is his amendment which we accepted yesterday.

MR. SARMIENTO: Madam President, may I just make a brief comment.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I explain why I suggested the word "increments." I checked the meaning of "increment" and the word covers fruits, profit and gains. So to have a term that would cover fruits, gains and profits, I suggested the word "increments" as an all-embracing term.

MR. DAVIDE: In other words, in effect we will be restoring the original concept of social justice as provided in the 1973 Constitution which includes the right of the State to regulate acquisition, ownership, use, enjoyment, disposition of property, its fruits, as well as profits therefrom.

MS. NIEVA: That is the way we understand this.

MR. DAVIDE: If that is the understanding, then I would have no objection to retaining the word "increments."

So, my proposals will be three: Delete Section 2, make the provision as the second paragraph to Section 1; delete the word "thereof" after "increments"; then add the word AND before "promote."

MR. COLAYCO: Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Will Commissioner Davide accept an additional amendment? I am not too comfortable with the phrase "Towards these ends." I would propose the collective phrase TO THIS END.

MR. DAVIDE: It should be singular?

MR. COLAYCO: Yes, but I am leaving it to the Committee.

MR. DAVIDE: The "ends" are enumerated in the first paragraph. I think this is the sense of the Committee.

MS. NIEVA: Perhaps we can leave this to the Committee on Style.

MR. ROMULO: Will Commissioner Davide consider another amendment?

MR. DAVIDE: I would like to hear it.

MR. ROMULO: The amendment is to delete the phrase "promote the establishment of independent and self-reliant socio-political and economic structures," because I think that is a redundant phrase. That is part of the State's program or measures to regulate ownership, and this should be left to Congress to decide.

MR. DAVIDE: I am willing to agree, with the understanding that Sections 19 and 20 be approved by the body because if we approve Sections 19 and 20, I really would agree with the Commissioner that the phrase "promote the establishment of independent and self-reliant socio-political and economic structures" is a redundancy.

MR. ROMULO: I agree, subject to that reservation.

MR. DAVIDE: Then I would agree.

THE PRESIDENT: How then will this second paragraph read with the amendment of Commissioner Davide?

MR. DAVIDE: Madam President, it will now read as follows: "TOWARDS THESE ENDS, THE STATE SHALL REGULATE THE ACQUISITION, OWNERSHIP, USE, AND DISPOSITION OF PROPERTY AND ITS INCREMENTS."

THE PRESIDENT: What does the Committee say?

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Will the distinguished sponsor consider an amendment to his amendment? If this is a part of Section 1, would not the words "Towards these ends" be unnecessary or redundant because Section 1 says "in pursuit thereof"? And then, should not the words "the State" be "the Congress" because in Section 1 we say "Congress shall give the highest priority"?

MR. DAVIDE: Madam President, these are the original words of the Committee. I would like to understand that the sense here is that the phrase "Towards these ends" refers to the ends or objectives enumerated in the first paragraph, and that is why it is still necessary to state this. But as the Chairman has stated earlier, the Committee on Style may reformulate the wording, but I do believe that these are essential statements to give proper emphasis to the objectives or ends enumerated in the first paragraph, and to emphasize what the State should do to achieve

said objectives.

MR. PADILLA: Does the Gentleman not agree to change the word "State" to CONGRESS?

MR. DAVIDE: No, Madam President, because even in the 1973 Constitution, that particular duty at the same time a right was given to the State because we do not need to repeat what Congress shall do in the first sentence or the first paragraph.

MR. PADILLA: The first section already says "the State" and then it mentions through the instrumentality of the Congress.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: The Committee has accepted the amendment proposed by Commissioner Davide, so it now belongs to the Committee. May we react?

THE PRESIDENT: Please proceed.

MR. VILLEGAS: May I just make some comments, Madam President.

THE PRESIDENT: Commissioner Villegas desires to make some comments.

MR. VILLEGAS: This is an information to the Committee in support of the deletion of the last phrase. The very first section of the Article on the National Economy and Patrimony says that: "The State shall promote a self-reliant and independent national economy." That means that all the structures shall be independent and self-reliant.

MR. BENGZON: May we request Commissioner Davide to read the entire paragraph.

MR. DAVIDE: Madam President, it will now read as follows: "TOWARDS THESE ENDS, THE STATE SHALL REGULATE THE ACQUISITION, OWNERSHIP, USE, AND DISPOSITION OF PROPERTY AND ITS INCREMENTS."

MS. NIEVA: The Committee is divided as to whether we should remove the last two lines which say: "promote the establishment of independent and self-reliant socio-political and economic structures." We would, therefore, put the matter to a vote.

MR. DAVIDE: With the explanation that the deletion is due to the fact that, as stated by Commissioner Villegas, there is an almost similar and perhaps broader provision in the proposed Article on the National Economy and Patrimony and we also have Sections 19 and 20 in this very same proposed Article on Social Justice.

MR. BENNAGEN: Madam President, before we vote may I say something?

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: During the deliberations on the Article on Social Justice the other day, I mentioned that there are two major actors in the attainment of social justice. On the one hand, we have the State and on the other, the people. We thought that to include this concept, these two lines should be included in Section 1 which is really the statement of principle that encompasses all those specific provisions that follow all the way from Section 3 in the amended version up to Section 20. We feel that this is important.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Before we vote on the issue whether to include or exclude the last three lines, may I know from the members of the Committee the meaning of "self-reliant socio-political and economic structures"? What are these socio-political and economic structures?

MR. GARCIA: To bring about social justice, it is not simply sufficient to try to reduce and to try to diffuse wealth and power. It is also important to create the structures that in themselves will enable and encourage people to create wealth to be able to make decisions. So this is what is in a sense the objective of this section, to create structures or political processes that will enable people to bring about changes by themselves or through their communal or collective efforts. The word "independent" here refers to the nation — the nation to be independent as much as possible, and not to be subservient or not to be dependent on any other power, but on its efforts as a nation.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Since I think a number of Commissioners share my concern on this abstract concept, will Commissioner Garcia please give us a more concrete, simple and specific example so that we can consider it in that light?

THE PRESIDENT: An example of a structure?

MR. REGALADO: Any structure.

MR. GARCIA: On Sections 19 and 20 where we have people's organizations, one of the mechanisms envisioned or suggested is a mechanism of popular consultation. For example, whenever decisions affecting the lives of fishermen are made, like the problem of Laguna Lake, the fishermen are consulted, not only in the planning but also in the implementation program. Regarding land reform, farmers and even landowners later on are also consulted on these questions.

MR. REGALADO: In other words, that is an institutionalized consultative structure.

MR. GARCIA: Yes. We try to institutionalize the participation of people in political decisions, in political processes. So that the structures in a sense are moved by the efforts of people, together with government.

MR. REGALADO: In other words, a consultative process which is supposed to be institutionalized for this purpose resulting in a social structure?

MR. GARCIA: It results in socio-political and economic structures. That is why the system of initiative and referendum refers to the diffusion of political power. The system of sectoral representation is also along these lines. The system of cooperatives, of consultative assemblies could also be along these lines.

MR. REGALADO: Are these not already covered by Sections 19 and 20 of the same Article, or are they different? Are they complementary or supplementary?

MR. BENNAGEN: May I add to the statements of Commissioner Garcia, Madam President?

MR. NOLLEDO: Madam President, before we vote, I would like to make just one statement.

THE PRESIDENT: Commissioner Nolleddo is recognized.

MR. NOLLEDO: Thank you, Madam President.

I would like the body to take note that if we delete the last three sentences in Section 2, the expression or the words "political power" in the last line of Section 1 will be out of place.

Thank you, Madam President.

MR. BENNAGEN: Madam President, may I add to the comments of Commissioner Garcia? Commissioner Garcia has dealt lengthily on independent political organizations as consultative mechanisms. Let us also add the possibility of independent economic organizations, like those belonging to small-scale enterprises or entrepreneurs, as well as cooperatives. I think all of these are considered and contemplated in the concept of independent and self-reliant socio-political and economic structures. In a way, they parallel the existing formal organizations of government. But we must, as a matter of encouraging the people's initiative and people's enterprise, include this as a complementary effort in the attainment of social justice.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: As the proponent who accepted that particular amendment, may I just make a rejoinder to the statement of Commissioner Nollado? The effect is not so, as stated by him, because we have clear provisions under Sections 19 and 20 which read as follows:

SECTION 19. In the pursuit of the ends of social justice, the State shall respect the independence and the role of people's organizations as a principal means of empowering the people to pursue and protect through peaceful means their legitimate and collective interests and aspirations.

SECTION 20. The State shall respect the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making, and shall MAKE POSSIBLE adequate consultation mechanisms.

So, the effect of the deletion is not that contemplated by Commissioner Nollado because of Sections 19 and 20.

MR. NOLLEDO: Madam President, may I reply very briefly?

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Because of the use of the words "Towards these ends," I think the statements of Commissioner Davide are gratuitous in the sense that we are concentrating merely on disposition, ownership, acquisition of property, which are very restrictive. So, Section 2 will not reflect what is contained in Section 1. I am asking for legal craftsmanship, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: The issue has been amply debated. I move that we take a vote on this particular issue.

THE PRESIDENT: The proposed amendment of Commissioner Davide, which is to include this as a second paragraph of Section 1, has not been accepted because of the division within the membership of the Committee. Is that correct?

MS. NIEVA: Madam President, the first part of the Commissioner's amendment was to remove the words "SECTION 2." The Committee accepts the amendment.

THE PRESIDENT: That is accepted.

MS. NIEVA: Do we have to vote on that?

THE PRESIDENT: Yes, we will have to vote on that.

MS. NIEVA: Then we shall have a vote on the first part of the amendment.

MR. REGALADO: Madam President, if we vote on that first part, does that foreclose us from making further amendments should it be approved, or shall we follow the same procedure that we had where a section was first approved, and then subjected to further refining amendments?

VOTING

THE PRESIDENT: Yes, we will follow the same procedure.

Those in favor of placing the first sentence of Section 2 as a second paragraph of Section 1, as proposed by Commissioner Davide and which has been accepted by the Committee, please raise their hand. (Several Members raised their hand.)

Those against, please raise their hand. (Few Members raised their hand.)

The results show 36 votes in favor and 2 against; the amendment is approved.

Now, let us vote on the second portion of the proposed amendment of Commissioner Davide to delete the last two lines of the original Section 2.

MR. BENNAGEN: May I just have one sentence, Madam President, before we vote?

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Since we are already condensing into one section the two sentences. I feel that this is necessary to maintain some conceptual symmetry in relation to the State and the people as instruments of social justice.

Thank you, Madam President.

VOTING

THE PRESIDENT: Those in favor of the second part of the amendment of Commissioner Davide, please raise their hand. (Several Members raise their hand.)

Those against, please raise their hand. (Few Members raised their hand.)

The results show 23 votes in favor, and 18 against; the amendment is approved.

So we do not have any Section 2 right now.

MR. RAMA: Just one more speaker, Madam President. May I ask that Commissioner Romulo be recognized.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: I would propose a new section to this Article we are now discussing by transposing what appears to be Section 10 in the draft of the Committee to what will now become Section 2. Inasmuch as Section 10 deals with the promotion of social justice which includes the commitment to create economic opportunities based on the freedom of initiative, especially for small- and medium-scale entrepreneurs, I do not believe that belongs to the section under agrarian and land reform. It is a general section which more properly belongs to the first part.

THE PRESIDENT: So, the Gentleman proposes to transpose.

MR. ROMULO: It is an amendment by transposition of Section 10, Madam President.

THE PRESIDENT: And mark it as Section 2.

MR. ROMULO: As a new section, Madam President.

MS. NIEVA: Madam President, when we discussed this last night, we did not intend this section to be one under agrarian reform because we certainly realized that this has nothing to do with agrarian reform. So, we thought it would be a separate section just like Agrarian Reform and Labor and this one would deal with the entrepreneurs. We thought this would be a separate section with a subsection entitled "Entrepreneurs."

MR. ROMULO: So, this would precede "Labor."

MS. NIEVA: We thought it would come after "Agrarian Land Reform."

MR. ROMULO: No, that does not make sense. At the very least, it should follow "Labor."

It the Committee asks me, it should actually precede "Labor." This is a general statement.

MR. BENGZON: Would the Gentleman insist on his motion to transpose?

MR. ROMULO: Yes, because it provides balance to the first section. and that was precisely the point of Commissioner Villegas. To place it in Section 10 or under some heading would make it lose its whole effect.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I think there are two concepts that are embodied in Section 10 — one, the commitment to create economic opportunities based on the freedom of initiative; and two, its special attention or concern for small- and medium-scale entrepreneurs. I think the commitment to create economic opportunities based on the freedom of initiative applies to all, not only to small- and medium-scale entrepreneurs. But maybe that sector of small- and medium-scale entrepreneurs deserves a separate section which will attend to particularities.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: There are differences within the Committee on this matter. There are those of us who feel it should be right after Section 1 because Section 1 talks about what the State should do. In other words, these are acts of the State; whereas, we also need to balance these with the promotion of private initiative. So, we are really talking about private initiative all throughout the economy. But we are making only a special mention of small- and medium-scale entrepreneurs and this would balance State action with private initiative.

MR. SARMIENTO: Madam President, one brief comment on Section 10.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: With due respect to the proponents, I humbly submit that this Section 10 is not necessary because we have Section 1 which provides that Congress shall give highest priority to the enactment of measures that will protect and enhance the right of all the people to human dignity; reduce social, economic, political, inequalities, etc. So here, we are specifying a particular sector. I humbly submit that Section 10 is already covered by Section 1.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, I would like to support the proposal of Commissioner Romulo. Section 1 deals with the diffusion of wealth: Section 10 deals with the creation of wealth. If we put the two together, we create and diffuse wealth. So the two of them are basic principles running through this.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended until two-thirty this afternoon.

It was 12:45 p.m.

RESUMPTION OF SESSION

At 2:44 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

When we suspended the session, Commissioner Romulo had the floor.

MR. ROMULO: Madam President, my amendment is to transpose Section 10. I propose that it be made a new Section 2.

THE PRESIDENT: What is the reaction of the Committee?

MS. NIEVA: Will it have the same wording?

MR. ROMULO: Yes.

MS. NIEVA: The view of the Committee is that if we mention "small- and medium-scale entrepreneurs," specifically singling out that sector and putting this in the definition, it would look like we are giving singular attention and privilege to that sector. We have discussed this in our Committee and we are wondering if the Gentleman is agreeable to this phraseology as Section 2: THE PROMOTION OF SOCIAL JUSTICE SHALL INCLUDE THE COMMITMENT TO CREATE ECONOMIC OPPORTUNITIES BASED ON THE FREEDOM OF INITIATIVE AND THE PRINCIPLE OF SELF-RELIANCE. Could that be Section 2?

MR. ROMULO: May I just consult my cosponsor, Commissioner Villegas, if that is acceptable.

MR. SARMIENTO: Madam President, with due respect to Commissioner Romulo, I have a prejudicial motion before we suspended the session this morning. I moved for the deletion of this section on the ground that the provisions of Section 1, particularly the words "give highest priority to the enactment of measures that protect and enhance the right of every citizen to human dignity," would cover that of Section 10. And secondly, my argument was that here we are giving importance to one sector.

MR. MONSOD: Madam President, that is why the amendment is to eliminate the phrase "especially through small- and medium-scale entrepreneurs." Precisely, we want to get away from the idea that they are a privileged sector when they were mentioned in the general statement. But we want to focus on the need for freedom of initiative and principle of self-reliance to counterbalance the mandate for State action.

MR. SARMIENTO: May I request the reformulation of Section 10, as amended by the Committee itself.

MS. NIEVA: Yes. This was the way we formulated it: THE PROMOTION OF SOCIAL JUSTICE SHALL INCLUDE THE COMMITMENT TO CREATE ECONOMIC OPPORTUNITIES BASED ON THE FREEDOM OF INITIATIVE AND THE PRINCIPLE OF SELF-RELIANCE. Basically, the first part is entirely the Villegas amendment but we felt that it was important to include the principle of self-reliance because we wanted to stress that social justice is not only the State's responsibility but the citizens' also.

MR. SARMIENTO: Then, with that explanation and amendment by deletion, I withdraw my amendment.

MS. NIEVA: Thank you, Madam President.

MR. ROMULO: I accept the Committee's amendment.

MS. NIEVA: Thank you.

MR. BENNAGEN: Also, may I add another comment. It also restores what was, in effect, lost in the deletion of the three sentences, essentially the principle of self-reliance because, as was explained earlier this morning, we feel that we should not simply mandate the State to do everything for the people, including the so-called private sector but should encourage also the other side, which is to say, the nongovernmental organizations.

MR. ROMULO: So, Madam President, with the amendment now of the Committee, the provision shall read: THE PROMOTION OF SOCIAL JUSTICE SHALL INCLUDE THE COMMITMENT TO CREATE ECONOMIC OPPORTUNITIES BASED ON THE FREEDOM OF INITIATIVE AND THE PRINCIPLE OF SELF-RELIANCE.

THE PRESIDENT: And this will be Section 2?

MR. ROMULO: Yes, Madam President.

Thank you.

THE PRESIDENT: Is there any objection to this proposed amendment of Commissioner Romulo, which has been accepted by the Committee, to transpose Section 2 with the wordings that have been recited by Commissioner Romulo and the Chairman of the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: To amend Section 3, Madam President, I ask that Commissioner Foz be recognized.

MR. FOZ: Madam President, my proposed amendment has to do with Section 3(b) under the title of Labor. But, first of all, I would like to ask the Chairman if it is true that the phrase "of any class or kind" has been deleted.

MR. SUAREZ: Yes, the phrase has been deleted. We would like to confirm that.

MS. NIEVA: It was a mistake to insert that. So, in the corrected pages that we gave, that was deleted.

MR. FOZ: The amendment would consist of the following: Insert the words INCLUDING THOSE IN THE PUBLIC SECTOR between the words "workers" and "to," so that the clause will now read: "Guarantee the rights of workers INCLUDING THOSE IN THE PUBLIC SECTOR to self-organization."

That is only in consonance with the response of the Committee to a previous interpellation on the scope of the term "workers." The Committee said that it would include those in the public, as well as private, sector. So, to clarify, to put emphasis and to stress that these rights shall also pertain to those in the public sector, the amendment would include that phrase INCLUDING THOSE IN THE PUBLIC SECTOR.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: This proposed Section 3 was taken from my proposed amendment and I would like to state that the intention of Commissioner Foz is already included in the words "of any class or kind."

MR. FOZ: But it has been removed.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: The Committee would like to react.

We deleted the phrase "of any class or kind" on lines 20 and 21 of the draft because we would like to avoid any formulation that would constitutionalize a distinction. And if we put that in the insertion being proposed by Commissioner Foz, it might unjustly and without proper basis lay the basis for a distinction, which precisely we want to avoid.

MR. DAVIDE: If this particular phrase has been deleted earlier, I would conform to the deletion, but would object to the proposal of Commissioner Foz.

MS. AQUINO: The Committee is of the same position, Madam President.

MR. FOZ: I cannot see why there should be any objection to the inclusion of such phrase, since the Committee itself responded before to a question that the term "workers" would include both workers in the public, as well as private, sector.

MS. AQUINO: Are we in agreement with Commissioner Foz that the term "workers" contemplates all classes and kinds of employees and laborers? We are confused about his intention in inserting a particular reference, an expressed reference to the public sector. In other words, we think it is an unnecessary surplusage.

MR. FOZ: In the first place, why was the phrase "of any class or kind" dropped from the provision, if it was ever proposed at all?

MS. AQUINO: Precisely because we do not want to distinguish anymore. Essentially, our reference to workers here refers to any class or kind, and we are of the feeling that if we explicitly provide for that, we just might unnecessarily open the interpretation to some unwanted distinction.

Madam President, we would like to submit this to the floor for decision.

MR. FOZ: In view of the explanation, Madam President, I am willing to withdraw the amendment, but I have other amendments concerning the same provision if the Committee will just allow me to proceed.

THE PRESIDENT: Is it on the same section?

MR. FOZ: Yes, Madam President.

MR. RODRIGO: Madam President.

MR. ROMULO: May I propound some questions to the members of the Committee?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I was about to propound a question to Commissioner Foz regarding the phrase that he wants to insert. The response by the members of the Committee seems to imply that that is not necessary because this paragraph already includes those in the public sector. Do I get it right?

MS. NIEVA: Yes, that is right.

MR. ROMULO: These rights guaranteed by this paragraph include the right to strike in accordance with law. So, even the policemen, the nurses in our Department of Health or at the Philippine General Hospital, and maybe even the members of the army, are included in that guarantee — the right to strike in accordance with law.

MS. NIEVA: That is precisely why we placed that phrase "in accordance with law." We know that there are

exceptions, and these include the armed forces and the civil defense workers that the Gentleman has mentioned. And so, these would not have that right to strike if it is not in accordance with law.

MR. RODRIGO: So, Congress then has the power to enact a law stating that there is that right to strike except for the members of the armed forces, police forces and civil service employees. Is that correct?

MS. NIEVA: That is right.

MR. RODRIGO: Before Congress enacts such a law, what would be the situation?

MS. NIEVA: We understand there are existing laws that would govern that.

MR. RODRIGO: Existing laws?

MS. NIEVA: Yes.

MR. RODRIGO: Thank you very much.

MR. FOZ: Madam President, in connection with the same question of Commissioner Rodrigo, I would like to ask a question. Does the phrase "in accordance with law" refer to all the rights enumerated in this provision, such as self-organization, collective bargaining and negotiations, peaceful concerted activities and also the right to strike? Does the phrase have reference to the listing of the rights of workers?

MR. SUAREZ: No, Madam President, because one will notice that there is no comma between the words "strike" and "in," so the phrase "in accordance with law" is limited to the phrase "including the right to strike."

MR. FOZ: But does not the Committee think or believe that these rights listed here — self-organization, collective bargaining and negotiations, peaceful concerted activities — are merely being guaranteed but the workers have these rights? They exist even without being mentioned here in this provision.

MR. SUAREZ: That may be true, but the Gentleman was asking whether or not the phrase "in accordance with law" qualifies the other antecedent phrases.

MR. FOZ: That is right.

MR. SUAREZ: It does not. In this particular regard, it only qualifies the phrase "right to strike."

MR. FOZ: Does that mean that the law that may be passed on this matter will have to deal only with the right to strike but not with the rights to self-organization, collective bargaining and negotiations and peaceful and concerted activities?

MR. SUAREZ: That is the thrust of this particular provision, Madam President.

MR. FOZ: Does that also mean that while Congress may regulate the right to strike, it may not regulate activities as far as self-organization, collective bargaining and negotiations and peaceful and concerted activities are concerned?

MR. SUAREZ: I think Congress can, in an implied way. But in the case of the right to strike, we made it quite clear that this should be done strictly in accordance with what Congress may provide in the future. But it does not certainly preclude Congress from enacting laws that will guarantee the rights of workers to, say, self-organization, collective bargaining and negotiations and peaceful and concerted activities.

MR. FOZ: But we can say that these rights exist, that the workers have these rights. And by mentioning these in this provision, we are only saying that the State is under a mandate to guarantee these rights.

MR. SUAREZ: The Gentleman is right.

MR. FOZ: I would like to proceed to the amendment, Madam President. Still on the same section, between the words "humane" and "conditions," insert the words TERMS AND. So that the phrase will now read: "just and humane TERMS AND conditions of work."

MS. NIEVA: We accept that amendment, Madam President.

MR. FOZ: And the next amendment will be, after the word "work" on the same line, insert ADEQUATE EDUCATIONAL OR TRAINING PROGRAM. So that the phrase will read: "just and humane TERMS AND conditions of work, ADEQUATE EDUCATIONAL OR TRAINING PROGRAMS . . ."

Let me explain the amendment. There is a convention of the International Labor Organization recognizing or providing that workers, in general, should be given adequate opportunity to have a continuing education and training not only for their self-improvement but also to keep up with the technological changes going on in the industry and in society.

MS. QUESADA: Madam President, could I just respond to the explanation of Commissioner Foz?

THE PRESIDENT: Please proceed.

MS. QUESADA: Does not the Gentleman think that such a proposal is already covered in the terms and conditions of work that workers or trade unions would negotiate with management for them to be allowed to undertake continuing education as part of their manpower development program?

MR. FOZ: But the terms and conditions of work may not adequately encompass the concept of a continuing education training of the workers. There is a need, I think, to specifically express this as a right of the workers to adequately prepare them for their work and also to keep up with changing technologies in their respective areas.

MR. SUAREZ: Madam President, may we volunteer the information that in most collective bargaining agreements, there is a specific provision calling for promotional and educational campaigns on the rights of the laborers. In other words, they are even given union leaves in order to attend to labor seminars that are being conducted by the mother chapter organizations among the labor unions.

MR. FOZ: That is in the case of the organized labor, and we know very well that the organized labor constitutes but a very small fragment of the total employed labor force. And we have in mind, as Section 3(b) itself says, that it shall be the duty of the State to afford full protection to labor, organized and unorganized.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Will Commissioner Foz entertain an amendment to his amendment? Since this is a component that is still important not only in terms of organized labor but also for farmers, would the Committee be willing to include this concept when we go to Section 19 or Section 20 where we incorporate the concept of human resources development and non-formal education in the provisions on people's organizations?

THE PRESIDENT: Is Commissioner Rosario Braid referring to Section 3(b)?

MS. ROSARIO BRAID: Yes. The amendment of Commissioner Foz is to include "ADEQUATE EDUCATIONAL OR TRAINING PROGRAMS" as an additional phrase in Section 3(b), but the Committee feels that this is a component of every collective negotiation.

MS. NIEVA: May we know what Commissioner Foz thinks about this amendment to his amendment?

MR. FOZ: As long as the concept is there, I would agree to a deferment so that the proposed additional amendment will be taken up in connection with Section 20.

MR. ROMULO: Will Commissioner Foz entertain a question, Madam President?

THE PRESIDENT: Please proceed.

MR. ROMULO: I think he is in agreement that when there is a CBA, the CBA will provide for what he is seeking to include. Is that correct?

MR. FOZ: Usually, yes.

MR. ROMULO: When there is no CBA, this provision would mean that it is the duty of the State to guarantee what he is suggesting and, therefore, it will be the State that will pay for what he is suggesting. Is that correct?

MR. FOZ: Not necessarily, Madam President.

MR. ROMULO: Who else will pay?

MR. FOZ: There could be a provision of law, let us say in the Labor Code, that would provide for such opportunity for the workers to obtain education or training at any level, general social or civic education or trade union education.

MR. ROMULO: He will, therefore, make it mandatory on the part of every employer to provide such a training and so on.

MR. FOZ: Generally, it is management who will have to provide for the wherewithal of such a . . .

MR. ROMULO: I think it cannot be meant generally if we will command the legislature to pass a law which will mandate the employer to provide these things.

MR. FOZ: Because the improvement in the education of the workers will redound to the benefit of management.

MR. ROMULO: There is no doubt about that, but we are talking of feasibility and the cost of making such a thing compulsory.

MR. FOZ: One requirement would be that management would allow the workers to study, for instance, on management's time or company's time. That is one of the provisions that are envisioned.

MR. ROMULO: Yes, that is precisely my point. So, it will not only cost the company the time, but the wages of the individual.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: On behalf of the Committee, this might obviate the need to vote on the amendment of Commissioner Foz. Would it satisfy Commissioner Foz if the Committee gives him the assurance that from the proposed provisions in Section 3(b), there is sufficient mandate to the Congress to give impetus to a statutory implementation in the context of his proposal of educational training programs? Would it satisfy him if we give him that assurance now so that we do not have to vote on his proposed amendment?

MR. FOZ: Without expressing it in so many words?

MS. AQUINO: Yes.

MR. FOZ: I would agree, Madam President.

MS. AQUINO: Thank you.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: In connection with Section 3(b), may I put a question to the Committee for clarification purposes, which may not lead to an amendment at all.

Under the existing law, there are two grounds for declaring a strike, and these are unfair labor practice which may impinge on the . . .

MR. FOZ: Madam President, before Commissioner Ople proceeds, may I ask if my previous amendment has been accepted by the Committee regarding the inclusion of the words "TERMS AND"?

MS. NIEVA: Yes, we have included that; we have accepted that.

THE PRESIDENT: That is after the word "humane"?

MS. NIEVA: Yes.

MR. FOZ: After the word "humane" and before the word "conditions."

THE PRESIDENT: If that is all that we have there, then we will have to put that to a vote. Is Commissioner Foz through already with his proposed amendment?

MR. FOZ: Yes, Madam President.

THE PRESIDENT: What was the desire of Commissioner Ople? Did he have a proposed amendment to the amendment of Commissioner Foz?

MR. OPLE: No, an amendment may not be necessary if the Committee can answer just one very simple question concerning Section 3(b), Madam President. If I stand in the way of a vote on the proposed amendment of Commissioner Foz, I will resume my seat and come back later.

Thank you, Madam President.

MR. COLAYCO: Madam President.

THE PRESIDENT: Does the Gentleman's comment have something to do with the amendment of Commissioner Foz?

MR. COLAYCO: Yes, Madam President.

THE PRESIDENT: Please proceed.

MR. COLAYCO: All the paragraphs in Section 3 merely reflect the rights of labor which are already provided in existing laws. I am afraid that we are cluttering our Constitution unnecessarily.

Repeatedly, I have received during our public conferences and by letter comments about the style and that the language used in framing our Constitution is too long. I have here before me a collection of writings and recommendations of constitutional writers which I would like to read.

Generally, a constitution should be brief and should limit itself to fundamentals, avoiding all legislative matter. It should affirm general principles leaving details to legislation.

The constitution should be as short as possible which is little more than an enumeration of the powers of the various branches of the government to which is added the Bill of Rights.

There are many other comments in the same tenor. What I would like to propose is that if the intent of the Committee is to elevate to the constitutional level the plethora of laws that have been enacted to date, including the Labor Code of the Philippines, I believe that with the statements in Sections 1, 2 and even a portion of Section 3 to the effect that it shall be the duty of the State to afford full protection to labor, we will have accomplished the purpose of the Committee without the long paragraphs that have been submitted to us for approval. And I believe that, without in any way diminishing or reducing the importance of preserving the rights of labor, we can do that by simply making a short statement as suggested.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: On behalf of the Committee, it is our humble submission that the rights enumerated herein, most of which are just repetitions of the provisions in the 1973 and 1935 Constitutions, rightfully elevate to the constitutional level basic and fundamental rights pertaining to the workers and to the labor force which we think are immutable and unyielding to the protestations of brevity. These are something that are basic and which cannot be compromised because of briefer expediency.

MR. COLAYCO: I agree with the reasoning behind the statement. What I am saying is, all these rights that we are now being asked to approve are already in our law books and it is not likely that our legislature may turn around next time and say that all these laws are hereby annulled. What I am saying is: What is the use of repeating what is already in our law books? If all we want is to elevate to constitutional level the protective laws that we already have, a general statement that we have already approved in the first and second sections could be more than sufficient, I think. Anyway, I am addressing this proposal or this suggestion so that the Committee would bear in mind the accepted norms of constitutional writing.

Thank you, Madam President.

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

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: I agree with the statement that the Constitution should be as short as possible. But a short Constitution is liable to misinterpretation. I am going to cite this example. In the Bill of Rights of the 1935 and 1973 Constitutions, there is a provision that the right to form associations whose purpose is not contrary to law may not be abridged. And yet, in the Labor Code, there is such a provision which prohibits government employees from forming unions; another provision which says that managerial employees and security guards cannot form unions. And so, it becomes necessary that we make a detailed provision on these so that what is very clear in the Constitution will be clearly interpreted also. This is the reason why there seems to be a repetition of what has already been provided. That is only one example. We can cite other examples, but I think that should be enough.

MR. COLAYCO: In our Bill of Rights which was already approved by this body, we have in Section 7 the same provision which says:

The right of the people including those employed in the public and private sectors to form associations, unions, or societies for purposes not contrary to law shall not be abridged.

And we find the same statement in this Article.

I am suggesting that the Committee be more parsimonious in the use of words. Frankly, this has been repeatedly mentioned during our public hearings, and as I said, even in private communications. Probably, some of us must have received similar letters. I think we should take note of these suggestions.

MS. NIEVA: We appreciate those observations, Madam President, and we are very conscious really that we should not usurp the role of the legislature here.

MR. FOZ: Madam President.

MR. MONSOD: Does Commissioner Colayco have any suggestion on how we can be less enumerative? We would be happy to receive his suggestions because his point is well taken.

MR. COLAYCO: Yes. This occurred to me because I notice that during the period of amendments, the provisions are getting longer. We will never end with this. It took us more than one hour and a half just to approve one section, and already we are eight days behind. So, this suggestion is made not only to the Committee but to my colleagues. And I do not want to contribute to what I am trying to avoid.

Thank you.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I have one last amendment in response to previous statements, but I would like to ask the question first. Is the concept of a decent living wage not subsumed in the concept of just and humane terms and conditions of work?

MS. NIEVA: Yes, the Gentleman may be right. So, is he suggesting that that be deleted?

MR. FOZ: In that case, I so move that the phrase "and to a decent living wage" be deleted on the ground that it is already covered by the phrase "just and humane TERMS AND conditions of work."

MR. RODRIGO: Madam President, for a parliamentary inquiry. Before going into that next amendment by Commissioner Foz, I would like to ask: Have we voted already on his first amendment inserting the words "TERMS AND" between "humane" and "conditions" which was accepted by the Committee?

THE PRESIDENT: Not yet.

MR. RODRIGO: So, I think we should vote on that first.

THE PRESIDENT: We have not yet voted on that; that is why we would like to get the other amendments which may be accepted by the Committee on this particular line. If there are more amendments then we will proceed to vote. What is the suggestion of Commissioner Foz?

MR. FOZ: I suggest, Madam President, that we vote first on my first amendment.

THE PRESIDENT: This has been accepted by the Committee.

Is there any objection to this particular amendment?

SR. TAN: Madam President, I object.

THE PRESIDENT: Is this correct? Has this been accepted by the Committee?

SR. TAN: Has it been accepted by the Committee?

MS. NIEVA: Yes, we have accepted that.

MR. MONSOD: Yes, that has been accepted.

SR. TAN: But I would still like to object because we have been fighting for a living wage.

MS. NIEVA: No, we are not there yet.

THE PRESIDENT: We are still on the phrase "TERMS AND conditions of work."

MS. NIEVA: We are just talking about the phrase "just and humane TERMS AND conditions."

SR. TAN: I am sorry.

MR. DAVIDE: Madam President.

THE PRESIDENT: Is there any objection to this particular proposed amendment of Commissioner Foz which has been accepted by the Committee?

MR. FOZ: Madam President, may I change my amendment?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I object.

THE PRESIDENT: To the inclusion of the word "TERMS"?

MR. DAVIDE: I object to the inclusion of the words "TERMS AND" because these would be necessarily included in "living wage," and I do not want "living wage" to be deleted later. The word "conditions" refers to the conditions of labor, like a better place, a habitat for the employees. These are the "conditions" referred to. We cannot speak of "just and humane TERMS" if we refer to the compensation or the wage which would be taken care of by the succeeding phrase. It could be "just TERMS and humane conditions," but not both "TERMS AND conditions."

MR. FOZ: I agree, but "TERMS" would be a more encompassing word.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended for a few minutes.

It was 3:28 p.m.

RESUMPTION OF SESSION

At 3:43 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

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

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Upon the suggestion of some members of the Committee since I am not quite ready to give my proposals at this moment. I am reserving the right to do so at the latest, if necessary, tomorrow morning.

THE PRESIDENT: Thank you.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Before we suspended the session, I proposed the insertion of the words TERMS AND after the word "humane" and before the word "conditions," but it appears that although the Committee at first accepted the amendment, the Committee, I understand, has second thoughts about accepting the amendment, considering the opposition of Commissioner Davide.

THE PRESIDENT: So, is Commissioner Foz insisting on his amendment?

MR. FOZ: And also, in connection with that amendment, I would have suggested the deletion of the phrase "and to a decent living wage." But I would like to hear the comments of the Committee at this point, Madam President.

THE PRESIDENT: What does the Committee say?

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

The Committee has gone over the various proposals involving this particular provision, and the Committee has come up with a simplified version. I would like to read this new proposal. We will delete the words "just and" and it will be: "humane conditions of work, and to a living wage," on the understanding that the definition of the word "wage" would include total package which would mean allowances, bonuses, fringe benefits or whatever.

So, as proposed, this particular portion will read: "security of tenure, humane conditions of work, and to a living wage, and to participation in policy . . ."

MR. FOZ: Madam President, with the understanding that the term "wage" would refer not only to basic wage but to all other monetary emoluments to be given to the workers, I am willing to withdraw my amendment.

MS. NIEVA: Thank you, Madam President.

MR. SARMIENTO: Madam President.

MR. OPLE: Madam President.

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

MR. OPLE: I do recall, Madam President, that I yielded voluntarily and graciously to Commissioners Foz and Colayco. I said I would resume my seat so that I would not stand in the way of the resolution of the Foz amendment.

THE PRESIDENT: So, Commissioner Ople is recognized.

MR. OPLE: Thank you very much.

I am looking at a vital clarification of Section 3(b). The intent of the Committee, I think, is critical and, as to whether or not I would propose an amendment later on, I would like it to conform with the contour of their own wish and intent. There is in this paragraph the guarantee of the right of workers to self-organization, collective bargaining and negotiations, peaceful concerted activities, including the right to strike as may be provided by law, for their mutual benefit, welfare or aid, security of tenure, just and humane conditions of work, a decent living wage, and to participate in policy- and decision-making processes affecting their interests. And, of course, I consider this a commendable paragraph, even if it may fall short of the expectations of Commissioner Colayco as to his standards of constitutional brevity.

But the vital question to ask — and I hope the Committee will respond to this — is whether or not in the contemplation of this paragraph, mutual benefit, welfare or aid, security of tenure, just and humane conditions of work, decent living wage and also participation at the level of the undertaking by the workers constitute new grounds for declaring a strike in addition to what the existing law provides; namely, unfair labor practice or economic deadlocks. Is it the intention of the Committee to expand the strikeable grounds in economic disputes by adding this new series of situations in the place of work?

MS. AQUINO: Madam President, on behalf of the Committee, there is no intention to expand the axiom in law and jurisprudence that the right to strike pertains only to collective bargaining deadlocks and unfair labor practice.

MR. OPLE: Thank you very much.

MS. AQUINO: Amendments might be in order to clarify that intention.

MR. OPLE: Yes. In conformity with that desire just expressed, may I ask the Committee, therefore, to consider a minor amendment, which is more for purposes of syntax and clarity. Could we delete the first sentence of Section 3(b)? Could we put a period (.) after the words "mutual benefit, welfare or aid" and then begin a new sentence which will read: "THEY SHALL BE ENTITLED TO security of tenure, just and humane conditions of work, and to a decent living wage, and to PARTICIPATE in policy and decision-making processes affecting their interests."

In addition, I move to strike out the word "mutual" describing "benefit" because I think this refers to internal benefits of the organizations of workers, rather than to any mutuality between workers and employers.

Is this amendment acceptable to the Committee, Madam President?

MS. NIEVA: Yes. Madam President, the Committee accepts.

MR. OPLE: Thank you very much.

THE PRESIDENT: May we have this again?

MR. OPLE: It will read: "for their benefit, welfare or aid. THEY SHALL BE ENTITLED TO security of tenure.

MR. LERUM: Madam President.

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: Will Commissioner Ople please restate his amendment?

MR. OPLE: Madam President, the amendment consists of the deletion of the word "mutual," then put a period (.) after "welfare or aid," and then start all over again with a new sentence: "THEY SHALL BE ENTITLED TO security of tenure, just and humane conditions of work, and to a decent living wage, and to PARTICIPATE in policy and decision-making processes affecting their interests."

MR. LERUM: Does this amendment mean that unions cannot strike even if an employer has committed an unfair labor practice by dismissing somebody?

MR. OPLE: No, it does not follow. I think that is covered by the provisions on unfair labor practice.

MR. LERUM: That is what I am asking.

MR. OPLE: Yes.

MR. LERUM: It is not covered.

MR. OPLE: No.

MR. LERUM: In other words, the workers can still strike if the cause of the strike is an act of unfair labor practice.

MR. OPLE: Yes.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: In connection with my proposed amendment for which I was recognized, but I notice now that . . .

MR. OPLE: Do I understand, Madam President, that this amendment has been approved?

MR. REGALADO: No. That is why I intend to propose an amendment to the amendment Commissioner Ople was for the elimination of the word "mutual" from the phrase "for their mutual benefit, welfare or aid." My proposal is to eliminate the entire phrase for the simple reason that it will necessarily refer to the workers as its antecedent. For whom else is the aid, welfare or benefit intended but for the workers, which is the very antecedent at the start of Section 3 (b)? So, it will not even be necessary because it has its course intended, that it will be for the benefit, aid and welfare of the very workers which is the subject matter in the particular paragraph.

MR. OPLE: Yes. I think it will strengthen the first sentence if we put a period (.) after the phrase "to strike in accordance with law." All the rest is greatly superfluous.

THE PRESIDENT: So, Commissioner Ople accepts the proposed amendment of Commissioner Regalado.

MR. OPLE.: Yes, Madam President.

THE PRESIDENT: What does the Committee say now?

MR. OPLE: I hope the Committee accepts it.

THE PRESIDENT: In other words, put a period (.) after "with law," then start a new sentence to read: "THEY SHALL BE ENTITLED TO security of tenure, humane conditions of work, living wage . . ." Did we eliminate the word "decent"?

MS. NIEVA: Yes, "living wage" instead of "decent" is what we have accepted. So, with that understanding, the Committee accepts the elimination of that entire phrase "for their mutual benefit, welfare or aid."

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

MS. NIEVA: So that the entire Section 3 (b) will read: "Guarantee the rights of workers to self-organization, collective bargaining and negotiations, peaceful concerted activities, including the right to strike in accordance with law. THEY SHALL BE ENTITLED TO security of tenure, humane conditions of work, and to a living wage, and to PARTICIPATE in policy and decision-making processes affecting their interests."

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: In the light of the question asked by Commissioner Ople and the response of the Committee, I would like to point out that there is nothing here but the basis of a conclusion that Congress cannot expand the grounds for declaring a strike. Why are we preventing Congress from exercising its plenary powers? Why are we preventing Congress from stating the grounds for declaring a strike? Why are we saying that strikes may only be declared on grounds of collective bargaining deadlocks on economic grounds?

MR. MONSOD: I think if we read the sentence, it thus says, "including the right to strike in accordance with law." So, Congress may provide for the limitations.

MR. FOZ: Yes. But I heard the answer of the Committee that strikes will only be declared on the ground of collective bargaining deadlocks on economic grounds.

MR. OPLE: That is under the existing law, Madam President, but there is nothing in this provision that will curtail the ability of Congress to expand the grounds for declaring a strike.

MR. FOZ: But I heard the Committee say that that is not the intention. The intention is not to expand the grounds for strikeable issues.

THE PRESIDENT: Will Commissioner Aquino enlighten Commissioner Foz?

MS. AQUINO: Yes. There was no intention. The Committee may have been misinterpreted by Commissioner Foz. In fact, if he will read the provision as proposed, it grants plenary rights pertaining to the right to strike in accordance with law. We were just referring to the action in labor law and the jurisprudence in labor and management relations that recognize that the right to strike pertains to deadlocks in collective bargaining agreements and unfair labor practices. If there is anything more encompassing than that, I could not fathom it at the moment.

MR. FOZ: Yes. But Congress, under this provision, may provide for any strikeable issues.

MS. AQUINO: Yes.

MR. FOZ: Thank you.

MR. REGALADO: Madam President, may I proceed with the proposed amendment for which I was recognized?

THE PRESIDENT: Yes. Was the amendment not accepted by Commissioner Ople?

MR. REGALADO: It was amended, Madam President. But I still have a few minor amendments.

THE PRESIDENT: Is it on the same topic, because we will have to put the other amendment to a vote?

MR. REGALADO: Then, I can defer in the meantime.

MR. DAVIDE.: Madam President.

THE PRESIDENT: In fact, we have not yet voted on Section 5 (a).

MR. DAVIDE: Yes. Before it is voted, may I introduce a very minor amendment?

THE PRESIDENT: Which one?

MR. DAVIDE: On the proposal which was the subject of the Ople-Regalado amendment.

THE PRESIDENT: Please proceed.

MR. DAVIDE: It is just an insertion of the word AND before "peaceful."

MS. NIEVA: We accept the amendment.

THE PRESIDENT: That has been accepted.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Before we vote, we would like to reiterate what was already stated in the Record so it will be very clear. In this portion of Section 3 (b), with a respect to the right to strike, that also carries with it the right to declare a lockout.

THE PRESIDENT: May the Chair inquire from the Committee: Are we ready to approve Section 3 (a)?

MR. LERUM: Madam President, before we vote, may I be allowed to state my opinion on this?

My opinion is that this provision does not empower nor give any right to the employer to declare a lockout. There is nothing in the provision which says that the employer can declare a lockout.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I would attempt to clarify the position of Commissioner Bengzon.

There is no intention to elevate the employer's right to declare a lockout whenever provided by law. There is no intention to elevate it to the level of a constitutional mandate. If the intention of Commissioner Bengzon is just to recognize the employer's right to declare a lockout in situations warranted and defined by law, it was just a matter of balancing interests and concerns both for the workers and the employers.

MR. BENGZON: Can we vote now, Madam President?

MS. NIEVA: On Section 3 (a)?

MR. BENGZON: We can vote on Section 3(a) Madam President, and then after that we can vote on Section 3 (b).

MR. SARMIENTO: Madam President, before we vote On Section 3 (a), I have a minor amendment that I have discussed with some members of the Committee.

THE PRESIDENT: On Section 3 (a)?

MR. SARMIENTO: Yes, Madam President.

THE PRESIDENT: Please proceed.

MR. SARMIENTO: My amendment is just to replace the word "domestic" with the word LOCAL because the word "domestic" to me, Madam President, is associated with household help. So, some of the members of the Committee have agreed to replace the word "domestic" with LOCAL.

MS. NIEVA: Madam President, we accept.

THE PRESIDENT: The Committee has accepted the amendment.

MR. SARMIENTO: Thank you, Madam President.

So, may I move, Madam President, that we vote on Section 3(a) before we vote on Section 3(b), as amended?

THE PRESIDENT: Is there any objection to Section 3 (a), as amended?

MR. PADILLA: Madam President, I suppose it should be without prejudice to the reservation made by Commissioner Colayco.

THE PRESIDENT: Yes.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

Let us proceed to Section 3 (b), as amended.

MR. REGALADO: Madam President, may I proceed with my proposed amendment? A part of this has been taken up when I was recognized.

THE PRESIDENT: Please proceed.

MR. REGALADO: Madam President, before I do so, may I ask the Committee just what is meant by that last phrase which reads: "participation in policy and decision-making processes affecting their interests"? I am particularly concerned with the situation where the employer is a corporation, and policy- and decision-making processes are, of course, handled by a board of directors. Does it mean to say that the employees must also have a seat in the board of directors so that they can participate, or is there a grievance mechanism whereby they can also participate in the deliberations of the board of directors which happens to be their employer?

MR. OPLE: Madam President, if authorized by the Committee, I would like to shed some light on the principle of workers' participation at the level of the enterprise which is, more or less, the official jargon used in the International Labor Organization and other labor-related international bodies.

MS. AQUINO: Madam President, we will reserve our right to agree or disagree depending on what Commissioner Ople will say.

MR. OPLE: Yes.

In most European jurisdictions, especially in northern Europe, they have established highly successful work councils at the level of the enterprise where largely non-adversarial issues are taken up so that before they can mature into adversarial issues, labor and management, in that atmosphere of cooperation through a work council, are able to come to an early agreement, which both sides consider helpful not only for industrial peace but also for productivity. And so, when I look at this and when I cast my vote in favor of Section 3 (b), that is what I would have in mind, that such fora within companies or work councils will precisely give both workers and employers the opportunity to consider matters of mutual interest. This is also a recognition that the productivity and profitability of a company are a vital concern of the workers and if that is so, then the expectation is not given a forum, like a work council. They have something to contribute and that they can participate in policies that redound to the mutual benefit and to the common good of the enterprise.

That is how I view this particular phrase concerning workers' participation, Madam President.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Could I just add to what Commissioner Ople already explained about workers' participation in the light of the questions of Commissioner Regalado? Perhaps, it would be good for him to know that there are three levels in which employees could influence management in their decision-making, and one would be at the corporate level. This would refer to strategic policies pertaining to the mergers, acquisitions, pricing and marketing policies, disposition of profits and the like. The second level would be the plan on department level. It is here where administrative decisions are made. Decisions made in this level may refer to hiring, firing and promotion of employees, cost and quality control, resource allocations, achievement of target quotas, et cetera. And the third will be the shop-floor level. It is here where the so-called operating decisions are made. Decisions made in this level usually refer to scheduling of work, safety regulations, work methods, training of new employees. So, these are the different levels in which we hope there would be this democratic participation of workers in vital issues that affect both management and the workers.

MR. VILLEGAS: Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Just some supplementary remarks to the example cited by Commissioner Ople.

In the local scene, there are two outstanding although admittedly exceptional, examples of corporations that do not have labor unions but precisely have created over the years what they call employer employee councils where a lot of issues affecting the welfare of the workers are discussed regularly by workers and employers in a completely nonconfrontational manner. I am referring to the United Laboratories and Timex, a multinational corporation. These have managed not to have labor unions, although I am saying that they are exceptional cases. They are models of corporations that can work and protect in a very exemplary way the welfare of the workers without the need for confrontation.

MR. REGALADO: Madam President, with those explanations. . .

THE PRESIDENT: I thought Commissioner Romulo has something to say.

MR. ROMULO: Yes.

THE PRESIDENT: Is Commissioner Regalado satisfied?

MR. REGALADO: Madam President, just one more amendment by transposition because of those explanations which reveal the deliberative intendment of this phrase. It will be noted that under Section 3 (b), the State does not only recognize but it guarantees the seven rights mentioned herein: namely, self-organization, collective bargaining and negotiations, peaceful concerted activities, including the right to strike, security of tenure, humane conditions of work, living wage and participation in policy- and decision-making processes as has been explained here. Since the State has to guarantee, of course, it can guarantee only through law. And Commissioner Suarez has stated that while the phrase "in accordance with law" here refers to the right to strike, but since all these other rights mentioned can only be guaranteed by the State through provisions of law that will be enacted for that purpose, aside from other rights supplementary to those that may already be existing, then I would like to propose a transposition of the phrase "in accordance with law," which comes after the phrase "the right to strike" to the first sentence, such that it will read: "Guarantee, IN ACCORDANCE WITH LAW, the rights of workers to self-organization, collective bargaining and negotiations, peaceful concerted activities including THE RIGHT TO STRIKE. They shall be entitled to security . . ."

In other words, all these are in accordance with law and the enumeration of rights there is in a consecutive process, since we have already eliminated the phrase "for their mutual benefit, welfare or aid," which in the first place was not necessary because of the necessity referred to them.

MR. FOZ: Madam President.

MR. ROMULO: Madam President, before we vote on that proposal, I would like to ask the Committee exactly what it means by that phrase. The very cogent explanation of Commissioner Aquino is now out of context because the linkages provided before no longer exist.

So, first, I would like to ask: What is exactly the intention of the Committee with regard to the phrase "AND TO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR INTERESTS"? In other words, how does the Committee envision this to take place? What Commissioners Villegas and Ople are talking about is voluntary, if it exists in the Philippines. If that is the interpretation given to this phrase here, that it is guaranteed by the State, therefore, it will become compulsory

THE PRESIDENT: Commissioner Aquino is recognized.

MR. ROMULO: So, may I ask Commissioner Aquino who is speaking on behalf of the Committee.

MS. AQUINO: Madam President, let me define and reiterate the parameters covered by the phrase "TO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR INTERESTS."

We begin from the basic premise that at the barest basic minimum, the workers are consulted on matters pertaining to their interests, and the parameters would be references to the negotiations in the collective bargaining agreement and its terms. These would cover the processes of grievance machineries; likewise, these would pertain to the voluntary modes of settling labor disputes and the conciliation proceedings which can be initiated and mediated by the Ministry of Labor.

MR. ROMULO: Thank you.

MS. AQUINO: Does that satisfy the Commissioner?

MR. ROMULO: Yes, because that is the same answer which the Commissioner gave me the first time.

Thank you.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

SUSPENSION OF SESSION

MR. MONSOD: May we have a suspension, Madam President?

THE PRESIDENT: The session is suspended.

It was 4:13 p.m.

RESUMPTION OF SESSION

At 4:59 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: The Committee has reformulated Section 3 (b). May I ask that the Chairman of the Committee, Commissioner Monsod, be recognized for the reformulation of Section 3(b).

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May I ask Commissioner Aquino to restate the Article and to make an explanation of the issue we had discussed before the Chair suspended the session?

MS. AQUINO: First, we shall address the clarification of the position of the Committee on the matter of participation in policy- and decision-making. Some of the Commissioners may have perceived a measure of difference and conflict in the interpretation of the Committee, so this now will be our submission in interpreting the phrase "participation in policy and decision- making processes affecting their interests." What is it? What it is in terms of processes has been previously defined in response to the query of Commissioner Romulo. We were referring to the grievance procedures, conciliation proceedings, voluntary modes of settling labor disputes and negotiations in free collective bargaining agreement. What it is, pertaining to the scope and substance, would now

be the rights and benefits of workers. In other words, the focus of participation is now introverted to the rights and benefits of the workers. What it is not refers to the practice in the industrialized nations in Europe and in Japan referring to codetermination which pertains to charting of corporate programs and policies.

However, the other matters mentioned by Commissioner Quesada which she just read for purposes of informing the Commission are already rightfully covered in the negotiations of the collective bargaining agreement. So just to eliminate the confusion, these are the parameters contemplated by "participation in policy and decision-making processes."

The Committee is proposing an amendment to delete the word "interest" on the first page and substitute the words RIGHTS AND BENEFITS if only to clarify the intention of the Committee on this matter.

MR. FOZ: Madam President, may we ask a question in connection with what was said by Commissioner Aquino?

MS. AQUINO: Yes.

THE PRESIDENT: The Commissioner may proceed.

MR. FOZ: Is the Commissioner saying that codetermination is covered by this provision?

MS. AQUINO: Precisely we were saying it is not.

MR. FOZ: Then what is the use of this provision? It does not advance any labor's position. It is just a statement of what is already provided for under existing structures or practices.

MS. AQUINO: That was the reason why we defined codetermination in the context of the practice in Japan and the industrialized nations in Europe. The term "codetermination" pertains to participation of the workers in corporate planning, the charting of corporate business, modes and procedures of corporate management and acquisition of property.

MR. FOZ: The Commissioner does not foresee the passage of a law under this provision which would allow workers to be represented in the board insofar as certain matters are involved?

MS. AQUINO: We envision that as the evolution of a process but not arising from a compulsory mandate from the Constitution.

MR. FOZ: But a law may be passed?

MS. AQUINO: Congress has the inherent right to pass legislation.

MR. FOZ: Thank you.

MS. AQUINO: Madam President, on behalf of the Committee, may we be allowed to read the paragraph.

Section 3(b) reads: "guarantee the rights of workers to self-organization, collective bargaining and negotiations and peaceful and concerted activities including the right to strike as may be provided by law. They shall be entitled to security of tenure, just and humane conditions of work and to a living wage, and to participate in policy and decision-making processes affecting their rights and benefits."

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, may I request that we defer our voting on this section because of the reservation made by Commissioner Colayco. I talked to him and he told me that he will submit his proposal

integrating paragraphs (a), (b), (c) and (d) of Section 3 tomorrow morning.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: I was on the floor just before the Chair suspended the session. I share the same view that considering the reservations made by Commissioners Colayco and Padilla, I will also defer any further proposals on this point so that they could all be integrated instead of being repeated.

MR. OPLE: Madam President, I propose a vote on this issue because there are some Members here, including myself, who feel that the very exhaustive and strenuous debates that have already taken place could end up as a highly futile undertaking unless we now take a vote on these amendments. Although I would like to agree with the others, without prejudice to the amendment that Commissioner Colayco may bring up tomorrow in accordance with the original agreement, I suggest .

THE PRESIDENT: In other words, Commissioner Ople is suggesting that the body proceed to vote on principle on this point?

MR. OPLE: Yes, without prejudice to any amendments that Commissioner Colayco will bring up tomorrow in accordance with the original agreement to which all of us subscribed.

MR. COLAYCO: I disagree with the thinking of Commissioner Ople. The discussion of the various rights, programs and principles which are embodied in Section 3 and the very illuminating comments given by Commissioner Ople himself, Commissioners Aquino, Quesada and will not go to waste because these are of record and whether these provisions which we have now discussed will be approved or not by tomorrow, or whether my own ideas are approved, surely they will constitute a point of reference for future Congress when it tackles the improvements which we are proposing in this Article. So it is not correct to say that they will go to waste; definitely not because Congress will surely consult the beautiful and very elaborate discussions that took place this afternoon when Congress tackles this section.

So, I move that further discussions be postponed until tomorrow morning.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Before the session was suspended, the body had earlier agreed that we would proceed on discussing and amending Section 3 and all the other sections.

With respect to Section 3, we have approved paragraph (a) without prejudice to incoming amendments. However, after its approval, there were amendments that were attempted to be introduced. This was also true in Section 3 (b).

So, we can proceed and approve Section 3 (a), (b), (c) and (d), together with all the amendments thereto without prejudice to Commissioner Colayco's amendment tomorrow. He will either rise or fall with his amendment.

MR. OPLE: Madam President, I shall now resume my seat. But before I do so, I just want to say that I am addressing myself to a question of proportion, and I am talking about debates that have taken place the whole day on these highly controverted sections. I just want to point out that in accordance with the original agreement, we could act on these amendments now without prejudice to Commissioner Colayco's proposals to be given tomorrow morning.

Thank you.

MR. BENGZON: The Committee agrees with the points raised by Commissioner Ople, Madam President. If the Floor Leader, together with Commissioner Colayco, would insist on the motion to defer, the Committee would request a vote on it.

MR. COLAYCO: I will not insist; I leave it to the Committee.

MR. BROCKA: Madam President, may I be recognized, just for a moment.

THE PRESIDENT: Commissioner Brocka is recognized.

MR. BROCKA: When Commissioner Colayco stood up and mentioned about letters that he had received questioning the way we are making the Constitution, making allusions to the fact that what we are doing is legislating by including all these details, I cannot help but wonder how the past Articles were approved without this particular question being brought up. Some of those Articles that we approved on Second Reading and Third Reading are full of details also.

I felt that since this particular Article on Social Justice is a new one, it is only the consensus of the members of the Committee that some of these things be spelled out. Precisely, we have been very careful in the meetings because we are very conscious about the problems of legislation. It is always cropping up. If the body is going to insist on that and vote on this part, then I would suggest that we be consistent from beginning to end in order to be fair to others because there will be other Articles that will still be submitted. I just cannot understand why this is being brought up now. Labor is such a delicate and a very important item in the Article on Social Justice. This is why it is necessary to come up with these details. If they are going to insist on that and if the body is going to vote on it, then I would suggest that, for the remaining articles, by all means, let us stick to that and come up with a noncontroversial article. I just find it a bit unfair.

THE PRESIDENT: Are we ready to vote now?

MR. BENGZON: If there are no more amendments to Section 3(b), we can now proceed to vote, Madam President.

MR. PADILLA: Madam President, may I say a few words?

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: With regard to the remarks of Commissioner Brocka, there is a great deal of difference between, for example, the executive, the legislative and the judiciary departments because both the 1935 and 1973 Constitutions have many sections which are absolutely necessary. On the other hand, the provision on Social Justice under the 1935 Constitution is only expressed in one sentence; and under the 1973 Constitution, in two sentences, only consisting of one section.

On another point, I would like to inquire, before we undertake to vote on this Section 3(b) which consists of two paragraphs. After the phrase "the right to strike," it says, "in accordance with law." I think that has been changed to "as may be provided by law." Is that correct?

MR. MONSOD: Yes.

MR. PADILLA: Can we not also end the second sentence with the same phrase AS MAY BE PROVIDED BY LAW?

MR. SUAREZ: I think that is substantially acceptable in principle to the Committee.

MR. PADILLA: Thank you.

I am making this observation because in our discussions, Commissioner Lerum made reference to the Labor Code, which is a presidential decree; then Commissioner Foz spoke not only of salary but also cost of living allowance and other benefits. If these are provided in a collective bargaining agreement, well and good. But under the Marcos regime, through the exercise of Amendment No. 6, the Ministry of Labor issued Wage Order Nos. 1, 2, 3, 4, 5, and 6 which are all impositions on the private sector. The benefits in those wage orders are not even applicable to the employees of government. I am glad that the proposed Section 3(b) says "as may be provided by law" so that it will be clear that we are not recognizing, and much less, constitutionalizing the provisions of the Labor Code by presidential decree or the wage orders issued by the ministry. It has been the complaint of many in the private sector that there are impositions on wages, COLA, benefits and so forth which are not made applicable even to the employees of government. We should realize that sometimes in our efforts to grant more rights and benefits to labor, they may result in discouragement to capital and management; and instead of protecting labor by giving more opportunities for work, they may result in detriment to labor. Some private firms, especially those on the marginal level and which barely make sufficient profits, have sometimes been induced, if not compelled, to close. So instead of having more industries and more opportunities for work, we might be reducing these same opportunities for work which will benefit labor.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I do not know whether I should address this question to Commissioner Padilla or to the Committee. But certainly, the Committee is silent; it would be acquiescing to a strange theory that minimum wage fixing is by nature abhorrent to the State or to this Commission.

Earlier, I had the privilege to put a question to the Committee and Commissioner Aquino graciously obliged with an answer to the effect that when we speak of modalities, referring to voluntary modes of dispute settlement and strengthening collective bargaining and negotiations, there is no implication that the government is thereby abandoning minimum wage fixing as a national policy. The Minimum Wage Law was started in 1951 with the Minimum Wage Act of Congress of 1951. It was reasserted in 1965 when the minimum wage went up from P4 to P6. Then it was reasserted again in 1970, when the minimum wage became P8 and, of course, it was continued later on because of intermittent economic crisis beginning with the first energy crisis. Whenever the OPEC decided to raise the prices of oil by quantum leaps, then it became necessary to mitigate the plight of the workers here by enacting minimum wage orders. I think those wage orders benefited most of the workers, especially the unorganized workers without unions and without collective bargaining agreement. I just want to make sure that Commissioner Padilla's views on minimum wage fixing do not go unchallenged and that the Committee, by its acquiescence, gives its own imprimatur to these views for purposes of determining the intent of the Committee and of the Constitutional Commission in paragraph (b) of Section 3.

Thank you, Madam President.

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

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: The statement of Commissioner Padilla that the Ministry of Labor and Employment issued these minimum wage orders is not correct. These minimum wage orders and cost of living allowances were issued by then President Marcos in accordance with Amendment No. 6 and with the concurrence of the Batasang Pambansa.

I remember that during a caucus wherein the labor sector was invited, it was agreed that as far as wage fixing and cost of living allowances were concerned, these would be done through decrees on the ground that the Batasang Pambansa would find it very difficult to enact such measures. So, it is not correct to say that these issuances were made by the MOLE; these were done by the President. Of course, it was possible that under Amendment No. 6 itself, the Batasang Pambansa could overrule the President. I think that is something that may have been forgotten by others. Under that decree, the President could be overruled by the Batasang Pambansa through a bill filed and approved by it.

We are very insistent that this provision on the living wage should be included here to emphasize to the legislature that wage fixing should not be forgotten and that whenever necessary, Congress should exercise its power so that the workers will not suffer.

MR. PADILLA: Madam President, if these Wage Order Nos. 1 to 6 were not issued by the Ministry of Labor and Employment but by President Marcos in the exercise of Amendment No. 6, then I stand corrected.

But the fact is that there were so many wage orders, like Wage Order Nos. 1 to 6, which were only made applicable to the private sector. The government employees did not receive some of the benefits in those wage orders. I should not be misunderstood as against living or even decent, reasonable wage, but I believe that wages should be more the agreement between labor and management, as what we say, through self-organization, collective bargaining and negotiations, and peaceful concerted activities. Wages must be living wages; they must be decent wages, and if possible, profitable wages. What I am saying is that under the martial law regime Wage Order Nos. 1 to 6 were successively imposed by the government on the private sector which was not in full conformity with them because they were imposed regardless of the financial condition of the private firms. And so some private firms who barely made marginal profits and could not comply with these wage orders were forced to close. That is a fact that cannot be denied. So, Madam President, when wage orders lead to the closure of some business enterprises, it affects the economy. It is not only bad for the employers in the exercise of the controversial right to lock out but it is also bad for labor.

Thank you.

THE PRESIDENT: Is Commissioner Padilla proposing an amendment on the last sentence?

MR. PADILLA: I propose to add to the last sentence the phrase AS MAY BE PROVIDED BY LAW.

THE PRESIDENT: Is this accepted by the Committee?

MR. SUAREZ: That has already been accepted by the Committee.

MR. BENGZON: It has been accepted by the Committee, Madam President.

MR. LERUM: Madam President, may I reply?

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: In reply to the wrong statement made by the distinguished Commissioner Padilla, may I say that in every decree issued regarding minimum wage and cost of living allowance, there is always a provision that those who cannot afford can apply for exemptions. In other words, there is a saving clause so that nobody is forced to pay if he cannot pay. I know that as far as management is concerned, most of these firms do not want to pay even if they can afford to do so. It is really good that the labor unions can bargain with management and so they are able to obtain higher wages than those who are not organized. And the reason we have these decrees on minimum wage and these allowances here is to help those workers who are not members of unions and who have no collective bargaining agreement so that they can afford the high prices of commodities. There is always a safety

clause there that those who cannot afford to pay are exempted, provided that they so prove that they cannot afford to do so.

I have seen several applications for exemptions claiming that they cannot pay, but in between the figures in the financial reports, I found that some expenses were not really warranted. Instead of showing a profit, some showed an even proposition in which case the National Wages Council will decide to grant or not the exemption. But what we want to emphasize is this: That in these wage orders issued, there is always that provision that those who cannot pay may file for exemption. So it cannot be said that these are unjust impositions on management.

MR. SARMIENTO: Madam President, with the manifestation of Commissioner Colayco and the explanation of Commissioner Bengzon, I think the body is now ready to vote on Section 3(b).

THE PRESIDENT: Will Commissioner Aquino read once more the reformulated Section 3(b) with Commissioner Padilla's amendment which was accepted by the Committee.

MS. AQUINO: The amended Section 3(b) will read as follows: "Guarantee the rights of workers to self-organization, collective bargaining and negotiations and peaceful and concerted activities, including the right to strike as may be provided by law. They shall be entitled to security of tenure, humane conditions of work, and to a living wage and to participate in policy and decision-making processes affecting their rights and benefits, AS MAY BE PROVIDED BY LAW."

MR. FOZ: Madam President, I have a question to ask before we vote.

Is there a comma between the word "benefits" and the phrase "AS MAY BE PROVIDED BY LAW"?

MS. AQUINO: Yes.

MR. FOZ: Therefore, the phrase "AS MAY BE PROVIDED BY LAW" would refer not only to participation in policy- and decision-making processes, but also to security of tenure and humane conditions of work and living wage, is that correct?

MS. AQUINO: Yes.

MR. FOZ: This is different now from the phrase "in accordance with law" in the provision containing the phrase "including the right to strike." Is there no difference?

MS. AQUINO: Yes, there is a difference.

MR. FOZ: What is the difference?

MS. AQUINO: As the Commissioner may have noticed, the qualifier "as may be provided by law" in the first part of Section 3(b) pertains only to the right to strike but it does not have any reference to the right to self-organization, collective bargaining and so on and so forth.

MR. FOZ: There is a degree of difference then between the right to self-organization and the right to security of tenure?

MS. AQUINO: Yes, there is.

MR. FOZ: In the case of security of tenure, Congress, through enactment of a law, may deprive certain groups of workers from enjoying the right to security of tenure?

MS. AQUINO: Congress can only legislate to the extent that it is not inconsistent with the constitutional mandate.

MR. FOZ: So Congress can do anything?

MS. AQUINO: Therefore, when the constitutional mandate says that the security of tenure is guaranteed, that cannot be withdrawn by a statute from Congress.

MR. FOZ: Is the Commissioner saying that with regard to security of tenure, Congress can withdraw it but in the case of self-organization, it cannot?

MS. AQUINO: Precisely, that is what I am saying.

I said previously that Congress can legislate only to the extent that it is consistent with the constitutional mandate. Therefore, when the Constitution says that workers shall be entitled to security of tenure, Congress cannot withdraw that right.

MR. FOZ: Then what other things can Congress do with regard to security of tenure?

MS. AQUINO: It can amplify. It can reenforce.

MR. FOZ: It can also restrict?

MS. AQUINO: It can regulate; but it cannot withdraw and deny.

MR. FOZ: It cannot restrict?

MS. AQUINO: It can regulate and, therefore, necessarily this contemplates that Congress can restrict according to the tenor and mandate of the Constitution.

MR. FOZ: Thank you.

SUSPENSION OF SESSION

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May we suspend the session for two minutes?

THE PRESIDENT: The session is suspended.

It was 5:33 p.m.

RESUMPTION OF SESSION

At 5:51 p.m., the session was resumed.

THE PRESIDENT: The session is resumed. The Acting Floor Leader is recognized.

MR. SARMIENTO: Madam President, may I ask that Commissioner Colayco be recognized for his motion to defer our voting on Section 3(b).

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

My main reason for asking that the provisions of Section 3 be reduced to a minimum length is that most of the rights and policies enumerated in Section 3 (a), (b), (c) and (d) are already in our statute books as well as recognized by our Supreme Court. For the sake of brevity, I am planning to capsulize all these four paragraphs and mention the two rights — the right to participate in policy-making and the right to a just share — which are not otherwise adequately or clearly established in our statute books.

If we vote now, the opinion of this body might be formed and influence its thinking against my proposal because

when I make my proposal tomorrow the body might say, "Pinaghirapan na natin ito kahapon; bakit ba natin bubungkalin pa?" Second, I do not like to be rushed into submitting a proposal or amendment which has not received adequate thinking on my part. The least I would like to ask is to give me a chance to think this over tonight, and I promise that first thing when we meet tomorrow, I will submit it to the body.

THE PRESIDENT: What does the Committee say to this motion of Commissioner Colayco?

MS. NIEVA: With due respect to Justice Colayco's opinion on this section on labor, we think that it is most unfair to defer this because the Committee of 17 has worked on this for over a month now, and we have taken into consideration all the views and the so-called guidelines as to how constitutions should be made. We believe that the issue here is so important that we cannot simply capsulize the safeguard that we want to constitutionalize into one or two sentences or even into one paragraph.

We tried our very best. If the Commissioner has sat down with us from the very beginning he would have known that our whole Article on Social Justice consisted of several long pages which had undergone about five or six exhaustive redrafting precisely because we wanted to do justice to what we hoped would be the centerpiece of the 1986 Constitution.

I think I speak for the rest of the members when I say that we plead to our fellow Commissioners not to emasculate the section on labor which we had all worked for so long and so painfully for.

MR. SARMIENTO: Madam President, the body is now ready to vote on the motion.

THE PRESIDENT: In other words the Committee is objecting to the motion of Commissioner Colayco for deferment of the voting on Section 3(b). Is that correct?

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I propose a compromise. We have already voted on Section 3(a), have we not?

We are now ready to vote on Section 3(b) which has been discussed thoroughly.

My compromise is: Let us vote on Section 3(b), and then defer discussion of Section 3 (c) and (d). Would that not be acceptable?

MR. COLAYCO: Madam President, it is acceptable. Also, I would like to erase from the minds of some of our Members here that I have been unfair to the Committee. I think the President knows that.

MR. RODRIGO: Is my proposal acceptable to the Committee?

MS. NIEVA: Yes, the Committee accepts that proposal.

MR. RODRIGO: Thank you.

MR. FOZ: Madam President, we have a pending matter.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I am objecting to the amendment of Commissioner Padilla adding the words "AS MAY BE PROVIDED BY LAW" after the word "benefits" at the end of the sentence.

MR. BENGZON: Point of order, Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: There is a pending motion to defer voting on this matter. Let us dispose of that first before we take up the objection of Commissioner Foz.

MR. RODRIGO: Madam President, I would like to say that there is already a compromise acceptable to both.

THE PRESIDENT: Yes.

MR. BENGZON: So we are now discussing Commissioner Padilla's amendment "AS MAY BE PROVIDED BY LAW"?

THE PRESIDENT: Yes, and Commissioner Foz is objecting to it.

Are there any other comments?

Commissioner Foz is recognized.

MR. FOZ: I am objecting to the addition of the words "AS MAY BE PROVIDED BY LAW" on the basis of the explanation of the Committee on the effect of such an amendment on the rest of the sentence, including the phrase "security of tenure and humane conditions of work," etc.

If the amendment would only affect the last clause of the sentence, then I would withdraw my objection. But it seems that the intention of the proponent, as explained by the Committee, is that the amendment would affect all the rest of the provision.

I maintain that this would be a drawback to what is now contained in the 1973 Constitution, particularly the right of the workers to security of tenure. We do not find such a proviso or such a clause "AS MAY BE PROVIDED BY LAW" with regard to security of tenure in the present Constitution. It will weaken the workers' right to security of tenure to say that it will be there "AS MAY BE PROVIDED BY LAW."

MR. RODRIGO: Madam President.

THE PRESIDENT: Is Commissioner Foz through?

Commissioner Rodrigo is recognized.

MR. RODRIGO: I think the solution is very simple. The only issue here is about the comma. So, if we are willing to remove that comma after "benefits," I think MR. FOZ. I am objecting to the amendment of Commissioner Foz would be satisfied. I asked Commissioner Padilla, the proponent of the amendment, of "AS MAY BE PROVIDED BY LAW," and he said he did not place a comma there.

So, I would like to ask Commissioner Foz if he would be satisfied if that comma were removed.

THE PRESIDENT: What does the Commissioner say?

MR. DAVIDE: Madam President.

MR. FOZ: May I give way to Commissioner Davide? I think he has a proposal, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: If the intention is to limit the phrase "AS MAY BE PROVIDED BY LAW" to the last part of the paragraph; that is, "to participate in policy and decision-making processes affecting the rights and benefits," as a happy compromise I would propose the following: Between the words "and" and "to" insert a comma (,) and the following: AS PROVIDED BY LAW and another comma (,) so it will read: "and, AS MAY BE PROVIDED BY

LAW, to participate in policy and decision-making processes affecting the rights and benefits." I propose this amendment if the intention really is to contain that particular proviso to this last clause.

MS. QUESADA: Madam President, may I have some clarification from Commissioner Davide?

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: When the Commissioner says, "AS MAY BE PROVIDED BY LAW," is the intention for the law to implement this particular provision on the participation in policy- and decision-making processes?

MR. DAVIDE: Yes.

MS. QUESADA: Is it possible also that legislation may not provide for such participation?

MR. DAVIDE: No, because the opening sentence of Section 3 is, "IT SHALL BE THE DUTY OF THE STATE TO:"

MS. QUESADA: So, legislation may not.

MR. DAVIDE: This is just to avoid the misconstruction, if the words "AS MAY BE PROVIDED BY LAW" will be after "benefits."

MS. QUESADA: The reason why some of us object to putting this clause "AS MAY BE PROVIDED BY LAW" is the possibility that the law may not provide such an implementation.

MR. DAVIDE: What may be provided by law is the mechanics, but it is the duty of the State to provide for it. That is my interpretation.

MS. QUESADA: Thank you.

MR. RODRIGO: Madam President, I made a suggestion but I think the suggestion of Commissioner Davide is an improvement to my suggestion. So I yield to his suggestion if it is acceptable.

THE PRESIDENT: Is the Commissioner withdrawing?

MR. PADILLA: Madam President, as the proponent, I am sorry, I cannot accept the amendment to the amendment.

THE PRESIDENT: Commissioner Padilla is the original proponent.

MR. FOZ: Madam President, if the amendment of Commissioner Padilla has been accepted by the Committee, it is for the Committee now to accept or to reject.

MR. PADILLA: In fact, I believe that my proposal was already accepted by the Committee.

MS. AQUINO: Yes.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: To clarify the position of the Committee, I think there may be a difference in terms of appreciating whereof we come and whereof Commissioner Foz comes.

When we say "AS MAY BE PROVIDED BY LAW," it does not necessarily mean that the law will restrict, delimit, withdraw, eliminate or subtract. In fact, this phrase can be looked at in the context of the law defining, reenforcing, giving specific mechanics, amplifying all in the positive aspect.

MR. FOZ: But it can also be in the negative aspect.

MS. AQUINO: In the same way that we recognize that Congress will always have the inherent valid right to provide for the statutory implementation of the constitutional provision.

MR. FOZ: The impression being created by the addition of the words "AS MAY BE PROVIDED BY LAW" is precisely to restrict the concept of security of tenure of the workers. We do not find the same provision or the addition of the words "AS MAY BE PROVIDED BY LAW" in the 1973 Constitution. Why should we put it here now?

FR BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I think the problem is not just legal but also political. By political, I refer to the effect this would have on the workers because it would be read as a retrogression. Let me read the sentence in Section 9 of Article II of the 1973 Constitution. It says:

The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work

If we give now any impression that we are limiting these, it could be demoralizing to workers, even if the reaction of workers is a result of a misunderstanding by them of our intention. The only novel thing we have in Section 3(b) is really the last clause "and to participate in policy and decision-making processes affecting their rights and benefits." My recommendation would be that we put a period (.) after the phrase after "living wage," and treat this novel provision here as a separate sentence.

MR. MONSOD: So it reads: "THEY SHALL PARTICIPATE . . ."?

FR. BERNAS: Yes, "THEY SHALL participate in policy and decision-making processes affecting their rights and benefits AS MAY BE PROVIDED BY LAW." I think if we put this phrase "AS MAY BE PROVIDED BY LAW" at the end of one continuous sentence, then the working class can easily misunderstand this as stepping back, as being retrogressive. So my proposal would be to put a period (.) after "living wage" and start a new sentence to read: "THEY SHALL participate in policy and decision-making processes affecting their rights and benefits AS MAY BE PROVIDED BY LAW."

MS. NIEVA: Can we say "THEY SHALL ALSO PARTICIPATE," because there is the sentence starting with "They shall be entitled"?

FR. BERNAS: It is a matter of style; I accept that.

MS. NIEVA: Yes.

THE PRESIDENT: How does Commissioner Padilla react to this amendment?

MR. PADILLA: Madam President, I regret I cannot accept that proposed amendment to my amendment. It is the same as the previous one.

MR. SARMIENTO: Madam President, I move that we now vote on Commissioner Padilla's amendment. I think the matter has been sufficiently discussed.

THE PRESIDENT: With all the interpretation that the phrase "AS MAY BE PROVIDED BY LAW" affects all the rights, security of tenure, et cetera, of the workers?

MR. SARMIENTO: Yes, Madam President.

MR. ROMULO: Madam President, this is just a comment. I think labor will misunderstand if the Commission will make them misunderstand. But the Committee is very clear that the phrase "AS MAY BE PROVIDED BY LAW" is meant to implement what in this provision is guaranteed by the State. So the law may not eliminate but it can only implement and execute that right. Since this provision is not self-executory indeed, how will we implement "security of tenure," if not by law? How will the details for a living wage be provided if not by law? So, since we are going to do these all by law, what is the harm in saying "AS MAY BE PROVIDED BY LAW," as long as we understand that it is not in derogation of their rights, but rather in implementation and enhancement thereof?

THE PRESIDENT: Which is the intent, as stated by the Committee.

MR. ROMULO: Yes.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I support the amendment of Commissioner Bernas because it establishes very clearly the intent of the Committee as the members have conveyed it. Besides, it is also expressed in better English than what we have heard. Also, it has a better syntax.

Thank you, Madam President.

THE PRESIDENT: Commissioner Padilla does not accept it.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I just add something. I would say that it is not just a question of our trying to make the workers understand this correctly, but by phrasing it the way it is phrased now, we are giving ammunition or fuel to those who will be willing to mislead the workers.

THE PRESIDENT: Is that clear?

MR. SARMIENTO: Madam President, the body is now ready to vote on the amendment of Commissioner Padilla.

THE PRESIDENT: So, will the Chairman of the Committee please read the amendment of Commissioner Padilla.

The body is now voting on the whole Section 3(b), so may we request the Commissioner to please start from the beginning.

MS. NIEVA: Referring to the Padilla amendment, the last sentence reads as follows: "They shall be entitled to security of tenure, humane conditions of work, and to a decent living wage and to participate in policy and decision-making processes affecting their rights and benefits, AS MAY BE PROVIDED BY LAW."

VOTING

THE PRESIDENT: Those in favor of the proposed amendment of Commissioner Padilla will please raise their hand. (Few Members raised their hand.)

Those against the amendment will please raise their hand. (Several Members raised their hand.)

MR. COLAYCO: Madam President, I am abstaining from voting.

THE PRESIDENT: The results show 7 votes in favor, 27 against, and 1 abstention; the amendment is lost.

MR. SARMIENTO: Madam President.

THE PRESIDENT: What is the next amendment?

MR. SARMIENTO: I move that we vote on the amendment of Commissioner Bernas.

THE PRESIDENT: Will the Chairman of the Committee please read it.

MS. NIEVA: The Bernas amendment reads like this: "They shall be entitled to security of tenure, humane conditions of work, and to a living wage. THEY SHALL ALSO participate in policy and decision-making processes affecting their rights and benefits AS MAY BE PROVIDED BY LAW."

VOTING

THE PRESIDENT: Those in favor of this particular amendment will please raise their hand. (Several Members raised their hand.)

Those against will please raise their hand. (Few Members raised their hand.)

MR. COLAYCO: I abstain, Madam President.

THE PRESIDENT: The results show 35 votes in favor, 2 against and 1 abstention; the amendment is approved.

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

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: In view of the restructuring of the sentence, I must now ask Commissioner Aquino whether or not the previous interpretation she gave me as to the modes of participation still stands.

MS. AQUINO: Yes, the interpretation still stands.

MR. ROMULO: Thank you.

MS. NIEVA: Madam President, may we vote on Section 3(b)?

THE PRESIDENT: Yes, we have not yet voted on Section 3(b) as a whole. We voted only on the proposed amendments.

So, the body is requested to vote on subparagraph (b) of Section 3, as finally worded. Will the honorable Chairman of the Committee please read the whole section?

MS. NIEVA: Section 3(b) reads: "Guarantee the rights of workers to self-organization, collective bargaining and negotiations, and peaceful and concerted activities, including the right to strike as may be provided by law. They shall be entitled to security of tenure, humane conditions of work, and to a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law."

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: So I can vote intelligently, even as I am a member of the Committee, I would like to seek the counsel of Commissioner Foz in his capacity as a reviewer on labor laws for the Philippine Bar. Is the present formulation an advance over the 1973 provision? Does the present formulation advance the cause of social justice for workers?

MR. FOZ: Offhand, I really do not know, but I am a little frustrated by the last sentence of the provision in subparagraph (b) about participation in policy- and decision-making processes affecting the rights and benefits of workers. At the beginning, I thought that that was the maximum that we would allow them, that the intention of the Committee was to enable representatives of labor to sit on the Board of Corporations, even as a minority group, to be able to voice their concern over issues affecting their rights and benefits in the corporation. But, as explained by the Committee, the intention was just to refer to matters provided for by existing laws and practices in labor-management relation, which in effect would relegate labor not exactly to the level of the usual servant-master relationship.

But this provision does not provide for anything new, so if I would have the chance, which I do not have, I would move for the deletion of this last sentence because we are providing for something that we do not intend to give to the labor sector.

Thank you.

MR. MONSOD: Madam President, may I ask the Commissioner a question?

THE PRESIDENT: The Commissioner may proceed.

MR. MONSOD: May I ask the honorable Commissioner if his interpretation of this section is that the relationship between labor and management should be a master-servant relationship?

MR. FOZ: May I have the question again?

MR. MONSOD: The Commissioner mentioned that he is unhappy because this section is merely a reiteration of a master-servant relationship. Is that his interpretation of the meaning of this Section 3(b)?

MR. FOZ: No; I just said that because I thought we are ready to make provisions like this to advance the cause of labor. This is a provision on labor. We have to go beyond what is happening now. If we do not provide for anything new, we might as well forget it.

MR. MONSOD: The Committee believes that this last sentence is something new. So, it is only a matter of interpretation. That is why I was asking the Commissioner if his interpretation is that this sentence is not new because it merely retains a master-servant relationship.

MR. FOZ: It does not mean what it says.

MR. MONSOD: Madam President, may we just ask for a vote because apparently there is a difference in perception?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like to raise a point of order, if there is a call for a vote. The body has just voted on the provision. It was just a personal view of Commissioner Foz when he was asked a comment.

MS. NIEVA: We have not voted yet on the entire Section 3(b).

THE PRESIDENT: We are voting on the entire section now.

MR. DAVIDE: I object to that. That would be out of order. In effect, it is asking for a reconsideration of the previous action of the Committee.

THE PRESIDENT: The Chair does not take it that way. We are not recognizing the statement of Commissioner

Foz as a motion to reconsider.

MR. DAVIDE: So, will we take it as a motion to reconsider?

THE PRESIDENT: No, we are not accepting it as a motion to reconsider. What was to be voted upon was the entire Section 3(b) as read by the Chairman.

Is that clear now? Do we need to repeat because of these interruptions?

BISHOP BACANI: Madam President, maybe we should be reminded of what Commissioner Felicitas Aquino said that even as it is worded now, this will allow for evolution later. It does not close avenues for future development.

MR. BENGZON: Can we vote now on the entire subparagraph (b)?

VOTING

THE PRESIDENT: Those in favor of Section 3(b) will please raise their hand. (Several Members raised their hand.)

Those against will please raise their hand. (No Member raised his hand.)

MR. COLAYCO: I abstain.

THE PRESIDENT: Those who abstain will please raise their hand. (Few Members raised their hand.)

The results show 36 votes in favor, none against, and 5 abstentions; the section is approved.

ADJOURNMENT OF SESSION

MR. SARMIENTO: Madam President, Commissioner Rodrigo made a compromise proposal which was adopted by the Committee and the body that we defer discussions on Section 3(c) and (d).

Madam President, in view thereof may I move for the adjournment of the session until tomorrow at nine-thirty in the morning?

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

The session is adjourned until nine-thirty tomorrow morning.

It was 6:23 p.m.

[*] Appeared after the roll call.

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