

**2005 CONSULTATIVE COMMISSION
To Propose the Revision of the 1987 Constitution**

**TRANSCRIPT OF PROCEEDINGS
Session No. 14
08 December 2005**

CALL TO ORDER

At 10:29 a.m., the Floor Leader, Commissioner Sergio A. F. Apostol, called the session to order.

COMMISSIONER APOSTOL.
I declare the session open.

NATIONAL ANTHEM AND PRAYER

COMMISSIONER APOSTOL.
Let us sing the National Anthem.

(The Commissioners sing the Philippine National Anthem.)

May we call on Commissioner Tirol to lead us in prayer.

COMMISSIONER TIROL.
Most gracious and loving Father, we, Your servants, the appointed Members of the Consultative Commission, seek Thy guidance and Thy light as once again we come together and address our intellect, our hearts and our soul, to come about for a reasoned and enlightened solution to the many problems that beset our people and our country.

We ask Thee, Oh Lord, that You guide us, and You bless us that the fruits of our labor shall be for the good of our people. All these we ask in the most Holy Name of the Lord Jesus Christ. Amen.

SUSPENSION OF SESSION

COMMISSIONER APOSTOL.
Let's have a ten-minute recess.

It was 10:35 a.m.

RESUMPTION OF SESSION

At 10:52 a.m., the session was resumed with Commissioner Alfredo E. Abueg, Jr. presiding.

COMMISSIONER ABUEG.
The session is resumed. Floor Leader.

ROLL CALL

COMMISSIONER APOSTOL.
Mr. Chair, I move that we dispense in the meantime the calling of the roll.

COMMISSIONER ABUEG.

Any objection? The Chair hears none. The calling of the roll is hereby dispensed with. Floor Leader?

BUSINESS OF THE DAY

COMMISSIONER APOSTOL.

On the Business of the Day, may I move that we will start with the National Patrimony and we will be in the stage of sponsorship.

COMMISSIONER ABUEG.

No objection? Chair hears none, motion is approved. We will proceed.

COMMISSIONER APOSTOL.

May I now move that we recognize the Honorable Ting Paterno, the Chairman of the Committee on National Patrimony, to deliver his sponsorship speech.

COMMISSIONER ABUEG.

The Honorable Vicente Paterno is recognized to start with the sponsorship of the Committee Report on National Patrimony and Economy.

COMMISSIONER PATERNO.

Thank You, Mr. Chairman. Mr. Chairman and distinguished colleagues: In behalf of the Committee on National Patrimony and Economic Reforms, and as its duly elected Chairman, I have the honor to submit the Committee's proposal for amendments on economic provisions in Articles XII, XIV, XVI and the corresponding transitory provisions.

Five weeks ago, we submitted to the Commission's plenary our first draft of a matrix of amendments to be used as our talking points at public consultations which were then just beginning. These consultations have been largely completed, and two days ago, our Committee held its second general meeting. So this matrix has already gone through two meetings for review by our Committee. We redrafted the matrix of the second meeting taking into account the public reactions and comments to the issues presented during the nationwide consultations. And we submit for your consideration and approval our resulting draft matrix of amendments.

The belief was sensed among participants in consultations on this topic that in general the country would benefit from greater participation by foreign investment in developing the national economy. It was appreciated by them that the lack of capital and an existing concentration of investible capital in the hands of just a few families and local business groups, hampered economic development and promoted oligopolies. These development handicaps should lessen with the easier entry of, and less overt protection, of Filipino vis-à-vis non-Filipino investments.

The Committee took consideration of the concerns expressed by participants in nationwide consultations, particularly from the business community and disadvantaged sectors, small farmers and fishermen, urban poor and indigenous peoples. The concerns, reservations and apprehensions surfaced most often on land and natural resource development matters. Recognizing these concerns, the Committee refrained from deleting certain provisions which may be perceived by disadvantaged sectors to promote and protect their sectors' interests vis-a-vis more affluent and better connected parties, be they Filipino or foreign.

Mr. Chairman, it is tempting for us in this Commission to delude ourselves into believing we know more what is best for the nation. It is humbling to realize we have so much to learn and unlearn from our fellow Filipinos in the countryside. We may be better schooled but we need to benefit from their wisdom, the sometimes bitter experiences in their past, and appreciate currently widespread cynicism about people in government and the past promises largely unfulfilled.

The Members of our Committee were generally gung-ho, and in my view, a little bit too gung-ho, about liberalizing foreign investment. By impeding entry of foreign capital, we know our countrymen suffer from inadequate, often inferior infrastructure and our economy lags behind neighboring countries. We are also aware that a high degree of protection accorded to Filipino vis-à-vis foreign investors had provided an often abused cocoon from which to hugely profit by rent-seeking and/or to exploit the general public. Consultations helped us to understand our countrymen's fears about allowing easier entry of foreign capital. Some of those fears may be unwarranted but they asked for safety nets, for guarantees that the foreigner using his dollar riches would not crowd Filipinos out of their land, our seas, despoil our natural resources and take undue advantage vis-à-vis the Filipino competitor.

We trust that the resulting blend in this matrix, of liberalization towards foreign investment, of retaining provisions that assure supervision by government over the conduct of foreign investors and of positive government support to various sectors of Filipino society will be acceptable to you and to a wide cross range of the citizenry.

Before starting on our section by section examination, may I point out the amendments most pertinent to liberalization of foreign investment.

In response to the suggestion of the Committee on Style, we are suggesting either two articles or two sub-articles on the National Patrimony and Economy. The sub-article or article on National Patrimony would cover Sections 2 to 8 and Section 22 of the present Article XI, I mean, Article XII. And we'll think of these first.

Section 2 asserts the Regalian Doctrine on natural resources and we amend it to allow up to full, no longer limited to 40% foreign ownership of those corporations with which the state may enter into agreements for development of its natural resources.

Section 3 which pertains to lands of the public domain, we amend to remove the nationality requirements for such leases and we remove the constitutional limits on the extent of leasable area and explicitly delegates determination of area limits to Congress. I'd like to note at this point that I would like to request your forbearance for an error in the typed matrix which I noticed only while crafting this speech. A last sentence was omitted in my typing of the amended Section 3, which should read as follows, "Citizens of the Philippines may lease or acquire alienable lands of the public domain," and we get to Section 3, I'll say that again so that you may restore that sentence in the copies with you. Section 7 of the existing 1987 Constitution, Article XII, is amended to recognize the classification by law of private lands as industrial, commercial and residential. The lands not so classified remain to be agricultural lands. The citizenship restrictions on ownership are lifted in our amendment on the lands so classified. However, we propose or we suggest that Congress should define the conditions and limitations such as area limitations on such lands. And perhaps even to the extent that Congress may delegate to local governments who are against any foreign investment the right to say that lands may be classified as residential but excluded from foreigners. That's up to them. And for another example, we also say that if and when transferred to foreign individuals and

corporations with substantial foreign ownership, then limits also should be exercised on area limitations. For example, foreign corporate ownership of industrial lands may be limited to the area required for the establishment of the industrial project. So, those major amendments, Mr. Chairman, cover the article on National Patrimony.

Now with respect to the articles which relate to the National Economy, we look at Sections 1 and 9 through 21 of the present Article XII in our Constitution. The amended Section 1 realigns some paradigms of economic development to a changed external economic environment, making it more advisable for the nation not to seek for self-sufficiency or self-reliance or total independence economically but for the nation to focus on its areas of greater competitiveness, and to expand productivity so that the nation may increase its advantages and widen those areas of competitiveness.

Sections 9 and 10 are amended to sustain the authority of Congress to declare certain areas of enterprise as restricted to their foreign participation. While we, in effect, liberalize those restrictions that now exist in the Constitution, we believe that Congress should retain the right to make such limitations as time and change situations require. But those declarations of limiting certain areas of participation to foreign participation to a certain area of enterprise and foreign participation must have sound economic rationale not just political rationale. And this rationale will be provided by an economic and planning agency.

At this point, Mr. Chairman, I just like to note that NEDA is really not a planning agency. It is a means for articulating the programs of the President. And this is given the label of Medium-Term Economic Development Plan. That plan is really not developed by NEDA. It is an articulation of what the President would like to happen during her term or his term. So there is no vision. We hope that Congress will have their vision supplied on an economic basis by a national economic and planning agency, not, hopefully not controlled by the President.

Then the last Section of Section 10 says that, "The state shall regulate and exercise authority over foreign investments." That, we believe, should be maintained to assure the nation that state monitoring and regulation of the conduct of foreign investors will be more rigorous than that exercised over corporations with majority Filipino ownership. We can never presume that foreign investors have good motives, all of them. We need to discriminate and say that the state should exercise greater control over foreign investors because we really do not know their provenience. We do not know their origins. With Filipino capital, we know the origins but with the foreign investors, they come from nowhere with some money and we have to inquire, where do they come from, where did that money come from?

Section 11 is deleted to effectively remove the citizenship restriction on franchises and thus on the ownership of public utilities. The Committee recommends, however, that Congress enact legislation to provide that franchises granted to corporations with substantial foreign ownership are limited to public utilities of large scale. The concern was expressed that they might take over bus companies which can really be done by Filipinos. And therefore, we believe that Congress should define where foreign investment is desired. Let them not engage, for example, in tricycles and so on which really do not require foreign capital. I don't want to be racist. I can think of some Members who might be hurt by such remarks.

Then, in addition to Article XII, we look at Articles XIV and XVI because Article XIV, Section 4, Paragraph 2, relates to limitations in foreign ownership of educational institutions. And the Committee is proposing that this particular paragraph be amended to allow foreign ownership of educational institutions at tertiary, in other words, college and university level, to enable Filipinos

to obtain education in specialized topics and in the latest technologies within the country rather than incur the inconveniences and added costs of such education overseas.

And lastly, Mr. Chairman, Article XVI, Section 11, which relates to mass media and advertising, is deleted to allow Congress if it desires to allow foreign ownership in advertising and in mass media and what extent to recognize the globalization of information and of the capital needed to achieve international standards for operation of such media. And may I mention also the comment of one media person in Calapan that he favors foreign ownership of mass media if only so that the reporters will get enough salaries so that they do not have to do extraneous activities. Lastly, Mr. Chairman, I see our colleague from Davao nodding, agreeing to that.

Lastly, Mr. Chairman, a transitory provision in order to avoid chaos and have some order. "Every provision liberalizing the extent of foreign ownership of corporations in certain lines of business, and of industrial, commercial and residential lands shall take effect three years after ratification of this Constitution or upon earlier passage of legislation implementing the provision." Thank you, Mr. Chairman.

COMMISSIONER ABUEG.

Your Honor, are there any other speakers who will sponsor the Committee Report? If there are, you may ask for their recognition.

COMMISSIONER PATERNO.

Well, I have some Members of the Committee who are here and we would invite anyone who is so minded to say his piece but my Co-Chairman is not here, Mr. Chairman.

COMMISSIONER ABUEG

Majority Floor Leader.

COMMISSIONER APOSTOL.

Now, Mr. Chair, we are now on the stage of debate and interpellations. May I request that we recognize Commissioner Abarico to begin the interpellation?

COMMISSIONER ABUEG.

Commissioner Abarico is recognized for his interpellation.

COMMISSIONER PATERNO.

Mr. Chairman, may I suggest that, if possible, interpellation be done on a section-by-section basis so that we can review, unless there are questions on the sponsorship speech itself.

COMMISSIONER ABARICO

Thank you very much, Mr. Chairman.

COMMISSIONER ABUEG.

The members may take note of that suggestion. Please proceed, Commissioner Abarico.

COMMISSIONER ABARICO.

Okay, thank you. First of all, I would like to congratulate Commissioner and Committee Chairman Paterno for a very well-balanced and excellent report. I joined his Committee workshop in Davao and Cebu and in fact I found that some of our opinions and suggestions are reflected in some portions of his report on foreign ownership of properties. However, I have some questions to ask and I would like to particularly focus since Mindanao has most of the

natural resources in this country aside from Palawan, of course. Have you considered the implications of foreign ownership of lands and natural resources on the constitutionally mandated ancestral lands of our indigenous people in Mindanao? Considering that we have so many, so big a population in Mindanao of the indigenous people or IP represented here by our colleague Commissioner Adamat. I am also an honorary member of the B'laan tribe and Bagobo tribe of Davao City. And I am trying to air their concerns. Recently, we had a consultation on this and there were many of them who aired this concern. I'd like to repeat my question whether this could impact foreign ownership on properties and lands and natural resources, would impact on the ancestral lands of our indigenous people, the lumads, especially in Mindanao.

COMMISSIONER PATERNO.

I thank Commissioner Abarico for the question. Mr. Chairman, Sections 5 and, well Section 5 of the 1987 Constitution has been retained except for one amendment that was, in fact, suggested by the indigenous peoples' group. That amendment is as follows: in Section 5 there appears the provision that the state shall protect the rights of indigenous, cultural communities subject to the provisions of the Constitution and national development policies and programs. Now, indigenous peoples are worried that the national development programs and priorities may forget the concerns of indigenous people and so they ask that the protection of the state shall be absolute and not subject to provisions of the Constitution or of national development programs. That comes from them. So we have retained and I think Commissioner Adamat will agree that this is in favor of the cultural, I mean, not the cultural minorities, but the indigenous peoples.

COMMISSIONER ABARICO.

Thank you for that assurance, Mr. Chairman. My last question is on the transitory provision. Would you agree to reduce the number of years from three years to two years from the approval of the proposed constitution?

COMMISSIONER PATERNO.

That was the subject of debate at the Committee, Mr. Chairman. And, in fact, the debate centered on whether it should be two years or three years. But perhaps the gentleman can raise the question at the appropriate time when we talk of the transitory provision so that we can have a debate on the subject. And we will, of course, abide by the wishes of the plenary.

COMMISSIONER ABARICO.

I suggested that so that we in the communications profession or media can avail faster of the benefits of foreign investments, considering that many of us correspondents in the provinces are more exploited, in spite of the dangers we are exposed to. Some of us are, in fact, getting killed. Again, Mr. Chairman Paterno, I strongly support the totality of your report except for those reservations.

COMMISSIONER PATERNO.

Well, I hope the reservations on the indigenous peoples have already been answered.

COMMISSIONER ABARICO.

Okay. As a humble Member of your Committee, I fully endorse and strongly endorse, I know you are not from Mindanao but your heart beats for us there. Thank you.

COMMISSIONER PATERNO.

Thank you, Sir.

(Applause)

COMMISSIONER ABUEG
Floor Leader.

COMMISSIONER APOSTOL.
Mr. Chair, I move that we recognize Commissioner Tirol to be the next interpellator.

COMMISSIONER ABUEG.
Commissioner Tirol is recognized to interpellate.

COMMISSIONER TIROL.
Thank you, Mr. Chairman. I would like to express deep appreciation for the beautiful balance in erudition and patriotism shown by the Chairman of the Committee in making these very challenging recommendations. May I be enlightened, Mr. Chairman, as to what was the philosophy which guided the Committee in making their recommendations vis-à-vis the issue of liberalization and protection of the patrimony of the country?

COMMISSIONER PATENO.
Thank you, Mr. Chairman. Actually, the provisions on National Patrimony were probably the most contentious in our consultations. And we had to take due account of the observations that were made. It was our combined judgment that while we would lift the restrictions on foreign investments, we should make Congress aware that the responsibility for making sure that those natural resources and lands were properly utilized is a Congressional responsibility. That the Constitution allows this does not mean to say that Congress should just close its eyes to what happens. Congress has the right and the responsibility to make sure that the liberalization of foreign investments is implemented to the benefit of the people. It is their job, but not of the Constitution.

COMMISSIONER TIROL.
Thank you, Mr. Chairman. In particular, we notice that the Committee recommends that foreign corporations, in order to be allowed to develop our natural resources from the limitations of 40% capitalization, it is recommended that they could have a 100% capitalization of their concern. My humble question, Mr. Chairman, is what could be the justification for the very quantum jump of 60%? Why don't we limit the increase to 50%? Or if we want to entice more foreign investment, why don't we reverse the ratio 60% for the foreigners and 40% for the Filipinos?

COMMISSIONER PATERNO.
Mr. Chair, does this Commission have a 20-20 vision for the future? Do we know exactly what will happen? Do we know what particular areas of investment should be limited to 60, 70, 30, 40, 50? Should we not let Congress be the judge of what is appropriate given the situation and given their assessment of the future? We have attempted to make the Constitution a piece of legislation. We should not arrogate unto the Constitution what is the responsibility of Congress to make decisions on what is good for the nation at a particular time. This Constitution is supposed to be engraved in stone. We cannot change it unless we go to a plebiscite. So we limit the flexibility of our legislative body to do the actions that are needed for the better interest of the nation.

COMMISSIONER TIROL.
Thank you, Mr. Chairman. For the present, I am the humble President of a university and the private universities and colleges as an organization, among them PACU, CEAP and others. May

we be informed, Mr. Chairman, that in the making of the recommendation to allow foreign ownership of educational institutions at colleges or university level was made with benefit of consultation with this organization of colleges and universities?

COMMISSIONER PATERNO.

We did not. We did not consult these organizations because we know they have vested interests. Why should we take the recommendation of a group in whose interest it may be seen to limit foreign investment? But we did consult the people. We asked consultations what they thought would be best for them and for the youth. It is necessary, Mr. Chairman, that the educational institutions of this country be able to provide the latest in technology, the latest in developments to the young people of our country so that they may be prepared to compete outside. They are not competing anymore, just within the Philippines. They have to compete abroad as well. And I'm afraid, Mr. Chairman, that our educational institutions, it's not that they do not have the capability, but they do not have the capital to provide the technology and the equipment that is necessary. My son had to go outside of the country in order to know better what Physics is all about. He was taking Engineering but he wanted to concentrate on Physics. Even the University of the Philippines does not have the equipment to provide Physics training. And so my son had to go abroad.

COMMISSIONER TIROL.

Thank you, Mr. Chairman. May I be enlightened some more whether in making this recommendation and assuming that this will be taken in the affirmative, will that be exercised in the principle of parity? Meaning to say, can Filipinos expect to be allowed to operate educational institutions in other countries?

COMMISSIONER PATERNO.

I understand that an institution like the Asian Institute of Management has been welcomed to have seminars in Malaysia, Indonesia and other places. I don't think there is a bar in most countries towards education by foreigners. We can understand the limitations at the elementary and high school level where character is formed but at the tertiary level one would assume that they are adults already who would not require this. May I give the floor?

COMMISSIONER ABUEG

Commissioner Pedrosa is recognized.

COMMISSIONER PEDROSA.

There are Filipino schools in areas where there is huge Filipino population. There's one in Saudi Arabia and one in Italy and it's growing. And, in fact, this is one where we should direct our attention—to improve the Philippine schools that are in these places because they require very high standards. Thank you.

COMMISSIONER TIROL.

I have to be educated along that line, Mr. Chairman. I hope Filipino schools and Filipino experts will be able to teach foreigners our politics. Anyway, I would like to make this on record that I consider this a red letter day in my life. I had the satisfaction of being able to interpellate my fellow Congressman when I was in Congress. This is the only time that I was able to interpellate a Senator. Thank you, Mr. Chairman. *(Laughter)*

COMMISSIONER PATERNO.

I thank the former Governor, of course.

(Applause)

COMMISSIONER APOSTOL.

I move that we recognize Commissioner Lambino to be the next interpellator.

COMMISSIONER ABUEG.

Commissioner Lambino is recognized for his interpellation.

COMMISSIONER LAMBINO.

Thank you, Mr. Chairman. At the outset, I would like to express my envy to the Chairman and the members of the Committee on National Economy and Patrimony because I am not a member of that Committee. I should have been one of the co-sponsoring members for coming out with a wonderful piece of committee report. There are only very minor points that I would like to ask the Chairman of the Committee and these are the following. In our committee hearing on the Declaration of Principles and State Policies and the Bill of Rights, which was attended by our honorable Chairman Abueva, there are several provisions in Article II that we have agreed in that committee to be transferred from the provision of Article II and be coordinated with your Committee to be incorporated. This refers to the provisions of Section 19 which is stated here and the provisions of Section 20 which, if you may, I have to read: Section 20 of Article II states, "The state recognizes the indispensable role of the private sector, encourages private enterprise and provides incentives to needed investments." And Section 22, which refers to the indigenous cultural communities, provides, "The state recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development." Would the sponsoring Committee be willing that these provisions be transferred to the provision on National Economy and Patrimony?

COMMISSIONER PATERNO.

We could not interpose any objection but I think the Committee would not want any change except on Section 19.

COMMISSIONER LAMBINO

Yes, yes, Mr. Chairman.

COMMISSIONER PATERNO

Which has already been...

COMMISSIONER LAMBINO.

Yes, I'm very happy with the proposed change for Section 19. Second, the title as being proposed is National Patrimony but the original title of this is National Economy and Patrimony. Would you be willing to revert to the original title?

COMMISSIONER PATERNO.

Well, it's merely a transposition of words. Actually, I believe that really the national economy article or sub-article should come ahead because it establishes the framework on how the nation should develop, the role of foreign investment and then the national patrimony while we maintain the Regalian Doctrine allows participation by foreign investment in the development of the natural resources.

COMMISSIONER LAMBINO.

Thank you, Mr. Chairman. On page 2, the first sentence, the first line of the proposal states that, "Congress shall be notified of every contract." Would the sponsor be agreeable that during the

period of amendment, the word “contract” be changed into “agreement” because the word “contract” connotes an undertaking of parties not exercising sovereign powers or one of them is not a sovereign power? But the word “agreement” is the more formal and legal term, most especially so in cases when the Philippines can enter into an executive agreement with another country.

COMMISSIONER PATERNO

Not being a lawyer, Mr. Chairman, I always defer to legal luminaries

COMMISSIONER LAMBINO

Although the word “contract” was used in the Constitution but we are just trying to put it in the proper...

COMMISSIONER PATERNO

That’s right.

COMMISSIONER LAMBINO

Thank you, Mr. Chairman. On page 5, Mr. Chairman, Section 10, you have included the word “public,” “When the national or public interest dictates.” The word “public” connotes something popular though not necessarily of national interest. Sometimes national interest is very unpopular but we have to act because it is for national interest. Would you agree with me that we should go back to the original text when the national interest dictates and just delete the word “public,” Mr. Chairman?

COMMISSIONER PATERNO.

Of course, Mr. Chairman, we are going to look at this more in detail when we get to the proper section and I would like to reserve the answer to that time when that section comes up to a debate.

COMMISSIONER LAMBINO.

Thank you, Mr. Chairman. Then we move to page 6, Mr. Chairman, Section 14, the practice of all professions in the Philippines. The legal profession, Mr. Chairman, is being administered and under the exclusive jurisdiction of the Supreme Court. This cannot be the subject of a provision of law enacted by the legislature. Will that also cover the legal profession here?

COMMISSIONER PATERNO.

When the regulating institution is assigned the function or created by law specifically to fulfill that function, then we consider as within that term of “regulated by law.”

COMMISSIONER LAMBINO.

Thank you, Mr. Chairman. Now, you mention here that the practice of all professions in the Philippines by non-Filipinos shall be regulated by law. How about the practice of profession by Filipinos, will that be regulated by law?

COMMISSIONER PATERNO.

Yes, but we do not need a Constitution for that purpose. We need the Constitution to specify that in this case the regulation of profession by non-Filipinos shall be regulated by law.

COMMISSIONER LAMBINO.

But would you agree with me that whether it is a Filipino or non-Filipino, both are when they exercise their profession, both should be regulated by law?

COMMISSIONER PATERNO.

The exercise of Filipinos of their profession is by virtue of having complied with the requirements imposed by the Department of Education, the regulatory commission involved.

COMMISSIONER LAMBINO

Yes, Mr. Chairman.

COMMISSIONER PATERNO

But the regulation of non-Filipinos may have additional impositions. And this is why we have to specify that in this case, there should actually be some discrimination against non-Filipinos for the practice of their profession. They should be subject to additional requirements over and above those who are Filipinos.

COMMISSIONER LAMBINO.

My concern is that the import of this is that if you're going to specify here the words of "non-Filipino citizens." Wouldn't it be better to just delete this during the period of amendment and the section would just read, "The practice of all professions in the Philippines shall be regulated by law"?

COMMISSIONER PATERNO.

If the legal luminaries believe that that is better; however, as somebody who has been involved with professional applications in registered enterprises with the Board of Investments, we have been very strict on that and I believe that its presence in the Constitution should call attention to that fact.

COMMISSIONER LAMBINO.

Thank you, Mr. Chairman. Section 18, page 7, third line, you are proposing to insert the word "timely" as an adverb qualifying the payment of just compensation. What is the period in your mind that can be considered as a timely payment?

COMMISSIONER PATERNO.

Mr. Chairman, I don't believe the Constitution should specify timely and so on. The interpretation of what is timely should be left up to the Constitution, if for example a 20-year agreed period of repayment, then that's fine. But should the Constitution say, should be paid in cash, should be paid over 10 years? I believe that is a matter for legislation rather than the Constitution.

COMMISSIONER LAMBINO.

Thank you. On page 8, about educational institution, I don't know if this was an oversight on the part of the Committee, but it would seem that you have omitted or forgotten the pre-school. How about the pre-school?

COMMISSIONER PATERNO.

Well, Mr. Chairman, if the gentleman feels that pre-school is necessary...

COMMISSIONER LAMBINO.

I strongly feel, Mr. Chairman, because the molding of character of our young starts actually from the most tender years and pre-schooling is...

COMMISSIONER PATERNO.

Perhaps, Mr. Chairman, instead of the sponsor yielding at this point, other people should be allowed to get aim on that particular debate. So the period of interpellation, section by section. I hope the gentleman...

COMMISSIONER LAMBINO.

Yeah. The last question, Mr. Chairman, is a reminder of, if you remember the time when we first discussed this provision, the provision of the present Section 1 of Article XII, which is a very, very long provision. I have read that maybe 20 times and still I cannot understand its meaning and I am happy that you have not included the present Section 1 of Article XII here. Would that mean that you are proposing this Section 1 to be totally deleted from the Constitution? Section 1 of Article XII, Mr. Chairman.

COMMISSIONER PATERNO.

May I call attention to the gentleman that Section 1 of Article XII is actually treated in Article XII-B, page 4, on the basis that that belongs within the sub-article on National Economy rather than National Patrimony.

COMMISSIONER LAMBINO.

Article II.

COMMISSIONER PATERNO.

Article XII-B, page 4, Section 1.

COMMISSIONER LAMBINO.

Is that on page...?

COMMISSIONER PATERNO

Page 4, Mr. Chairman.

COMMISSIONER LAMBINO

So the rest of Section 1 is proposed to be deleted?

COMMISSIONER PATERNO.

As provided in the matrix.

COMMISSIONER LAMBINO.

So you are just retaining this one sentence, Mr. Chairman?

COMMISSIONER PATERNO.

As provided in the matrix.

COMMISSIONER LAMBINO.

Thank you, Mr. Chairman. With that, I'm very happy and would like to congratulate the Committee on National Economy and Patrimony.

COMMISSIONER PATERNO.

I thank the gentleman.

COMMISSIONER ABUEG
The Floor Leader.

COMMISSIONER APOSTOL.
Mr. Chair, I move that we recognize the Honorable Sarmiento to be the next interpellator.

COMMISSIONER ABUEG.
Commissioner Sarmiento is recognized to interpellate.

COMMISSIONER SARMIENTO.
Thank you. I'm not a member of this Committee but I was designated to take charge of this Committee in the consultations in Naga and Legazpi City. Most of the questions I wanted to ask have already been answered but I would just like to comment on what the good Commissioner cited earlier about NEDA's Medium-Term Development Plan coming up with basically a plan, because we in the League of Cities in the Philippines has been promoting the city development strategies. It's a participatory form of governance coming with a vision not of the Mayor, but the vision of the community involving all the stakeholders, in coming up with a vision and the good model for that is the City of San Fernando of Mayor Mary Jane Ortega.

I'm also a product of that strategy that we have been using now and we have been sharing that in the ASEAN countries and I do hope the government can also come up with a system wherein we can come up with a vision, not the vision of the President but the vision of the stakeholders of this country and I do hope that the proposal can somewhat allow the local government units in identifying what is pioneering and non-pioneering because an investment might not be a non-pioneering investment in the central government, but is a pioneering investment in the locality. I hope that the proposal can also address that.

Very common is the sharing, as we all know, as of today, based on the Local Government Code, Section 290 and 292, we're supposed to get 40% of what the government collects from the excise tax of Republic Act 7729, amending Section 151A of the National Internal National Revenue Code. We're supposed to get 40% of the income tax, the excise tax, special allowances, toll in taxes, etc. It goes to the central government and doesn't come back to the local government unit. I do hope we can come up with a mechanism wherein four checks will be issued; increase it to 50% instead of 40%. 50% goes to the central government, the other 50% using the codal formula in Section 292 of the Republic Act 7160, one check for the province; one check for the municipality or city; and one check for the barangays. Put that in trust account with a menu of expenses that the local government unit can utilize in boosting the economy of that particular area. I think this will greatly help lessen the opposition, and in fact would greatly encourage the people to support any activity related to the utilization of our natural resources because this is the basic comment. It's the what-is-in-it-for-us thing. Everything goes to the central government nothing comes back. Samar, for example, during the 1950s and 60s, 600,000 hectares was logged. Central government was not even, you know, able to pave the roads in those areas; Bagacay mines ceased to operate in the late 1980s, was not even able to pave the road from Buray in Western Samar to Eastern Samar. I hope this can be done so that it can be used to upgrade hospitals, support the educational system, and anything that can help the economy. I hope you can probably do something about it and help us.

COMMISSIONER PATERNO.
Mr. Chairman, I believe that the report of the Committee, and indeed of the Commission, is entitled to raise certain concerns to Congress which the Commission decided do not belong in the Constitution but could make strong recommendations to Congress to give attention to.

COMMISSIONER ABUEG
Majority Floor Leader.

COMMISSIONER APOSTOL.
Mr. Chairman, I move that we recognize Commissioner Espina to be the next interpellator.

COMMISSIONER ESPINA.
Thank you, Mr. Chairman. I'm a part of the Committee and I agree fully to the recommendations of the Committee. I actively participated in its drafting except on the transitory which I was not able to attend, and therefore, let me just be clarified on this. The transitory provision says that during the first three years, Congress or Parliament shall pass laws needed to implement, especially on the ownership and participation of foreign investments. The question is supposing in that three years, because of their consideration of what is of national interest to the Filipino people, they do not pass any implementing legislation so that these substantial amendments to which I agree, what happens? I just want to have clarification because this happened in several provisions of the Constitution, which were never implemented because...

COMMISSIONER PATERNO.
Mr. Chairman, the provision as now worded by amendment by the Committee says that provision shall take effect three years after ratification of this Constitution or upon earlier passage of legislation implementing the provision.

COMMISSIONER ESPINA.
So if there is no legislation, 'pag tatlong taon, self-executory.

COMMISSIONER PATERNO
Self-executory.

COMMISSIONER ESPINA
Another question, supposing within a year or six months after, there are investments willing to come in already, what happens? I just want to be clarified for purposes of future interpretations later in case our recommendation will be adopted.

COMMISSIONER PATERNO.
Then we would propose that the parties involved, not necessarily the investor. They should not intervene with Congress. But the local counterparts or lawyers or accountants thereof should be the ones to press Congress to enact legislation so that investment, which is desirable, can be materialized.

COMMISSIONER ESPINA.
In other words, to lobby.

COMMISSIONER PATERNO.
Well, if you would like to use that word, Mr. Chairman.

COMMISSIONER ESPINA.
Okay, I just wanted that, thank you. I support the recommendations.

COMMISSIONER PATERNO.
Thank you, gentleman from Biliran.

COMMISSIONER ABUEG
Floor Leader.

COMMISSIONER APOSTOL.
Mr. Chair, I move that we recognize Commissioner Tabanda to be the next interpellator.

COMMISSIONER ABUEG.
Commissioner Tabanda is recognized for her interpellation.

COMMISSIONER TABANDA.
Thank you, Mr. Chair. First, I would like to thank the Committee for its openness and its receptivity to the suggestions of the people. If you recall when the report of the Committee was first presented on plenary, we vehemently objected particularly to the liberalization of ownership of agricultural lands. Now, we have a report which truly depicts, I think, what the people want. So I think that the process which the Committee underwent and the subsequent report it made should be the best evidence the Commission should have that we took into consideration the views of the people that we consult, that we do not impose our will on the people. This is the best evidence, so I would like to thank the very kind indulgence of the Chair and the Members in coming up with this kind of report. Now my question. National Patrimony would involve utilization, the development, and the exploration of natural resources. I would like to find out if the Committee ever considered an environmental policy or something to do with the conservation, the utilization and the encouragement of the use of alternative sources of energy and something to do with an environmental policy. Because if you look at the present Constitution, it seems like an environmental policy is only indicated in Article II, Section 16, which simply states, "The state shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature." In line with the modern trends in renewable energy and sustainable development and all these, may we ask the Committee if they considered sustainable development in the natural resources in the consideration of its policies and if there were any specific provisions which we can avail of to probably advice or encourage Congress to come up with stronger policies on environmental conservation and sustainable development?

COMMISSIONER PATERNO.
I thank Commissioner Tabanda for the question. When the Chair redrafted the first draft of the matrix, I had inserted a small provision that the agreements for exploration, development and utilization of natural resources should include conservation of the environment; however, the Committee decided to delete that and being the Chairman only, I had to conform to the wishes of the Committee but if the Commissioner, if the Lady from Baguio, would want to propose insertion of that, I would welcome it very, very much.

COMMISSIONER TABANDA.
If I may say Mr. Chair, probably not merely conservation but something stronger to be able to make a statement in this Constitution that this Commission is truly concerned about the environment. An environmental policy should be in place and probably I should also recommend this in Article II, State Policies, then the specific application of this for National Patrimony in the period of amendment. If I may suggest that this be put in because we all realize what is happening to the environment, and if we do not put a strong statement about this in the Constitution, and I think that it should come from this Commission, that we put a statement such as this.

COMMISSIONER PATERNO.

Well, as I said Mr. Chairman, I personally would welcome such an amendment, and I hope Commissioner Tabanda will take the trouble already to craft that amendment. But in the meantime, I should like to recognize one of the opponents or one of those who wanted deletion of that particular provision, Commissioner Peña.

COMMISSIONER ABUEG.

Commissioner Pena is recognized to answer for the sponsoring Committee.

COMMISSIONER PEÑA.

On behalf of the Committee, when these areas came out, it isn't that environmental policies were not taken as important but we felt that legislation should be given a freer hand because technology, as it is, is ever evolving. Today, fossil fuel, tomorrow other forms of the developing areas so we felt that these areas should not be included to lessen a wordy constitutional document. Legislation should take into effect. So these were the reasons why the Committee then proposed some of these areas be deleted because we were aware that there would be legislation that already takes into consideration many of these environmental policies and the document would just be overly wordy when it's already mentioned in other forms of legislation. So the Committee just took a vote and members took a vote and our Chairman, so...

COMMISSIONER PATERNO.

Well, I hope that explains the division within the Committee of the idea in including conservation as a policy within Article XII.

COMMISSIONER APOSTOL.

Commissioner Tabanda may proceed.

COMMISSIONER TABANDA.

I have another point because Commissioner Ortega was whispering to me that we will put it in later. But I have another point. The other point I have here is there was a question raised on how these policies would impact on ancestral lands, and I would like to find out, did the Committee consider the difference between an ancestral land and ancestral domain? Section 5 in the 1st paragraph speaks of ancestral land but the 2nd paragraph speaks of ancestral domain. So the first question is, did the Committee consider the difference between an ancestral land in the first paragraph and ancestral domain in the second paragraph?

And then on the question on how the exploration, development of natural resources will impact on ancestral domains. We would like to find out from the Committee if this was ever discussed because if this was discussed, I would like to find out, and I'll propose during the period of amendment if it is possible to put the need for prior informed consent before any exploration, development of natural resources within an ancestral domain. So I'd like to find out if the Committee considered this.

COMMISSIONER PATERNO.

Mr. Chairman, Commissioner Adamat was kind enough to invite this representation to a meeting of the indigenous peoples' organization at which I remember Commissioner Tabanda said that it is up to the indigenous peoples' organization to determine and to suggest whether the terminology of Article V of the Constitution should be altered in order to harmonize domain and lands in that particular section. I also remember Commissioner Tabanda saying that it was up to them to make that decision and not up to us. They did not come forward with anything so we

should not presume that we know the sentiments of indigenous peoples if they refuse to make a statement.

COMMISSIONER TABANDA.

Thank you, Commissioner, we shall make the necessary proposals during the period of amendment. Thank you very much. Those are just my few concerns and questions about the report, but I think it's very well written. Thank you.

COMMISSIONER PATERNO

Thank you.

COMMISSIONER ABUEG

The Floor Leader.

COMMISSIONER APOSTOL.

Mr. Chair, the next interpellator should be Commissioner Catan but he stepped out. I would request Commissioner Jurado should be the one to interpellate.

COMMISSIONER ABUEG

Commissioner Jurado is recognized for this interpellation.

COMMISSIONER APOSTOL

No more. You have given up?

COMMISSIONER ABUEG

Next interpellator, please.

COMMISSIONER APOSTOL

I move that we recognize Commissioner Calisin to interpellate.

COMMISSIONER ABUEG.

Commissioner Calisin is recognized for his interpellation.

COMMISSIONER CALISIN.

Thank you, Mr. Chairman, Mr. Floor Leader. I have few concerns to be addressed to the Committee particularly on environment, education, and production. Okay, I have these few concerns particularly on environment, education and production. One, I would like to align these concerns with that one of Commissioner Tabanda because I myself am the author of the Environment Code of my province occasioned by the presence of the jackpot gold mine in the Philippines situated in our province and that's the Lafayette Mining in the island province, island municipality of Rapu-Rapu. That's guided by the Constitution on the proportion of 60-40 proportion in investment. Well, I don't have objections to allow up to 100% but because of the experience which right now, there were incidents that happened in that island resulting to fish kill. So I would like that, with the indulgence of this Commission, if really we can put a policy on environment in the Constitution so that legislation be guided by the provision in the Constitution on environmental policy because situations in some areas may not be true or maybe true in other areas. In order that there is what you call uniformity of application as a guide to the legislation of whatever legislative departments there may be. There must be an application that is universal to the Philippine archipelago rather than just apply this one, very specific and particular to just one territory of the archipelago. So I strongly suggest that the Committee

please, if you can consider and study further that the environmental policy be enshrined in the Constitution.

Second, I don't have any objection to liberalization on issue of education, specific to tertiary level. However, with that news, I think, that was in the late '70s or is it in the early '80s of that phenomenon of the invasion of the, or the sell of one of the universities in the Philippines was that the University of the East, good enough during that time, I was thankful, because on the issue of cultural invasion by a foreign investment of 100% investment into education. We are open and I am more liberal on it. But let us try to, rather put some wise regulation as to not invading the culture of the Filipinos by a foreign investor into education. I myself belong to the academe also. So like the progressive territories in Asia, their culture is insulated by foreign invasion of entry of another culture. Because I am afraid or apprehensive that time will come, we cannot identify anymore genuine Filipino culture. Even up to now, we have no concocted different cultures into the Philippine culture. So with the entry of this 100% liberalized investment into education even in the tertiary level, I am a little bit apprehensive that Filipino culture will be invaded by foreign culture.

And third, this is particular to sites of, this is the location of the production. We have the Producers Tax approved. In our province, in my monitoring of our legislation, I came to know that those companies or investors in our province having their investment or production in the place, in the territory, have two vehicles, 'yong vehicles, aside from production. Pardon me for confusing them but this is just an introduction further getting into production. The vehicles are registered in Metro Manila while they are operating in the province. As to the computation of the producer's tax, that affects the collection and the share of that LGU because the production is from that place while the company operation in their place, their vehicles are registered in other territories in the main office. So that is LGU experience.

Like, for example, going back to production and relating this one to mining. The La Fayette Mining is mining gold, silver, copper, bronze from our province but the taxation, the generation of tax and the payment of tax, is not to our province but to the national government because it was declared by PEZA as economic zone. So how can we safeguard now that local autonomy and tax empowerment of the Local Government Code, Republic Act 7160, to the local government, while it is still being grabbed by the national government in the guise of PEZA. At least, granting that we are not yet in the federal system, but at least we have a draft, good if that would be implemented or we can shift to that. What if not. So the local government units, as to the site of the production, are affected negatively by this kind of situation as the laws of the national government and maybe some government agencies, are grabbing what is supposed to be the share of the local government. So these are few concerns affecting our sector in the local government. I think some of the local government officials represented here...

COMMISSIONER APOSTOL

Question, question.

COMMISSIONER CALISIN.

Those are things to be considered. And later on, maybe, if that will not be considered in the amendment portion, I will introduce an amendment. Thank you.

COMMISSIONER PATERNO.

Thank you for the extensive questioning, Mr. Chairman. (*Laughter*) There were really three questions that were provided and I would like to request the Chair to eventually recognize the

gentleman from Biliran to answer one of those questions, or would you like to answer that question?

COMMISSIONER ABUEG.

The gentleman from Biliran, Commissioner Espina, is recognized to answer for the Committee.

COMMISSIONER ESPINA.

In behalf of the Committee, as a Member of the Committee and as a proponent, one of the proponents of allowing 100% ownership to foreigners on education, it does not necessarily mean that when you give 100% ownership that they can introduce whatever course in their school. We still have the Department of Education, or a Ministry of Education if we will shift to the parliamentary system, which will regulate the establishment of such educational institutions even if they are 100% owned by foreigners. Thank you.

COMMISSIONER PATERNO.

In addition, Mr. Chairman, I should like to invite the attention of the gentleman from Bicol that there are at least two statements in Article XII which say that, number one, "The state shall exercise supervision and control over foreign investments," whether they be in education or wherever; number two, there is also the statement that, well, I'd like to remind also that there is a Commission on Higher Education which should be mandated by Congress, I hope, to exercise supervision and control over schools, particularly those with majority foreign ownership.

My point, Mr. Chairman, is that we do not need to enshrine these safeguards all in the Constitution. We only need to provide, perhaps, some guidance. And I hope that that guidance about supervision and control over foreign investments is taken seriously by Congress because it is only logical and reasonable that foreign investors should be subject to greater supervision than Filipinos. As I said in my sponsorship speech, we do not know the provenience of the foreigner. If somebody had not found out that this was a Maharishi, in effect, proposal, then it needed a public furor before some action was taken. But the Commission on Higher Education really should have investigated first the provenience of the foreigner. Mr. Chairman, I only would like to suggest that Commissioner Calisin and Commissioner Tabanda try to get together and draft the amendment rather than ventilate their differences, if there be any, in the public debate so we can save a little time.

COMMISSIONER ABUEG.

May the lady and the gentleman take note of the suggestion?

COMMISSIONER APOSTOL.

Mr. Chair, I move that we recognize Commissioner Catan as the next interpellator.

COMMISSIONER ABUEG.

Commissioner Catan is recognized for his interpellation.

COMMISSIONER CATAN.

Mr. Chairman, may I transfer to the other mike. I would like to face you but I find it uncomfortable with my back facing the one I am asking question.

COMMISSIONER ABUEG

At your pleasure.

COMMISSIONER CATAN.

Thank you, Mr. Chairman. The very able Chairman of our Committee, right away, even before I read the complete sentence, because of his really good knowledge of technology, economy, right away approved when I asked for amendment during the Committee hearing. You remember, when I said, "Can I add the word inventor?" and you said, "Approved." So I did not have anymore the time to explain some more, a little, why it is important to add the word "inventors" and also to introduce the necessary amendment later on during the period of amendment.

Now, Mr. Chairman, I am sure you also took note of both the 1973 and the provisions of 1987 Constitution on Science and Technology. I am sure you noted that. There is in the 1973 already a provision of giving incentives to inventions. And in 1987, as a matter of fact, there are three sections on giving recognition to inventions, which I will not read anymore to shorten the time. However, I would like to, Mr. Chairman, give you this information because this has something to do with economics. I would like to speak here as representative of the inventors of the land. I am Chairman of the Filipino Inventors Federation of which there are 19 inventor members throughout the land. And I'd like to also inform this August Body that it took me almost two decades to fight in the courts to be able to have the right to market my own inventions in our own country. And that is supposed to be under our so-called nationalist Constitution. And in spite of that, I had to fight with the courts to have the right. I could not even understand, Mr. Chairman. And that is why, with our liberalization of our economic policies including ownership of land, we have to balance all these things.

Now, Mr. Chairman of the Committee, and of course our Chairman here during the plenary, I just like to lay the basis and ask whether it is still alright because I am a Member of the Committee, to add still an amendment especially on the giving of incentives which we already earned through Constitution in 1973 and 1987. As you know, in the, before even the '73 we had already the so-called Filipino, Philippine Inventors Commission and we had laws giving us incentives. And then come '73, there was this Philippine Inventions Development Institute also giving us incentives. In 1992, a new law also was passed which was called the Technology Application Promotion Institute, RA 7457.

So, Mr. Chairman, there is, I know you will agree that the provision here is already good but it is promotion, to promote. And I read, please refer to Section 14, page 6, and I just stress my point by reading quickly this one, "The sustained development of a reservoir of national talents consisting of Filipino scientists," and now this, "inventors, entrepreneurs, professionals managers, high-level technical manpower and skilled workers and craftsmen in all fields shall be promoted by the state." So please take note of the word "promoted." Whereas in the 1987 Constitution, which is also found in the matrix, on Section 11 of the 1987 Constitution, Article XIV, it reads, "The Congress may provide for incentives." I do not want to read all to save time. So, Mr. Chairman, I hope that during the period of amendment, you'll allow me to propose an amendment to maybe have another section regarding incentives to inventions.

COMMISSIONER PATERNO.

I'd like to make two observations. Pardon my eating while speaking. *(Laughter)* I'd like to make two observations. Number one, we should be aware that the Constitution is different from legislation and I wonder whether the question of providing incentives to inventors is something that belongs in the Constitution. The second point, Mr. Chairman, is if a provision already exists in Article XIV, according to our legal luminary, Commissioner Lambino, it should appear only in one part of the Constitution. So I don't know whether this particular provision belongs in Article

XIV or in Article XII. I will be guided by the legal luminaries as I said, I am not a lawyer. Thank you, Mr. Chairman.

COMMISSIONER CATAN

Thank you very much. It is just, I think it is tiring but the idea is there. By the way, the one that I read is not a law, it is a constitutional provision. So probably we can just include in the same Section 14 and just to add the word there later on, not just promote but also incentives. I'm sure the Committee on Style can take care of that.

So, Mr. Chairman, I totally support about opening our educational system to foreign investors. I am also a member of the Board of Agriculture of the Philippine Regulatory Commission. And so we have the privilege to visit several agricultural schools of the country. And during the last three examinations, many really of the so-called educational schools, especially in the far-flung provinces, really cannot have the chance to pass. Many of them zero. Of course we only have a 29% passing average. Of course, the UP topped it all, not because I am from UP, but it is because of lack of equipment, as was mentioned by our Chairman. And however, I would like, Mr. Chairman, to suggest, as stated earlier by our very able Commissioner Calisin, to see to it that there is what we call reciprocity. I am not talking only of education but also all other aspects of the business. For instance, not only school, for instance, if it is in my field, invention or pest control, if they are allowed here, I believe that we should be allowed also to practice in their own countries. Now my point is...

COMMISSIONER APOSTOL.

What is your question?

COMMISSIONER CATAN.

It is a follow-up question. How can we really inculcate, especially the so-called putting love of our country, of our culture, when there are already many, many foreign operators of our schools? So, how can that be legislated, if you don't mind to answer that question? That there will be a safeguard of seeing to it as brought up earlier, that our culture, our love of country, can be maintained because it is really serious, Mr. Chairman, that we will lose this. This is the very essence of why our country probably is not progressing.

COMMISSIONER APOSTOL (*off mic*)

Question.

COMMISSIONER CATAN

Yes, that is the question. How can we...?

COMMISSIONER APOSTOL (*off mic*)

You have only one minute more.

COMMISSIONER LORENZANA

Wala na.

COMMISSIONER PATERNO.

That does not apply to me anymore. Mr. Chairman, I would like to say that perhaps we must make a clear distinction between legislation and the Constitution. And I am afraid that the suggestion of Commissioner Catan asks us to guide legislation, which is not the problem of this Constitution. Thank you, Mr. Chairman.

COMMISSIONER ABUEG.
Noted.

SUSPENSION OF SESSION

COMMISSIONER PATERNO
Mr. Chairman, may I ask for a five-minute recess so I can finish my meal?

COMMISSIONER APOSTOL
Five-minute recess.

COMMISSIONER PATERNO
Thank you.

COMMISSIONER ABUEG
Session is suspended for five minutes.

RESUMPTION OF SESSION

COMMISSIONER ABUEG
Floor Leader.

COMMISSIONER APOSTOL
Mr. Chair, I move that we recognize the Honorable Pablo Garcia as the next interpellator.

COMMISSIONER ABUEG.
The Gentleman from Cebu, Commissioner Garcia, is recognized for his interpellation.

COMMISSIONER GARCIA.
Thank you, Mr. Chairman. I would like to clarify some questions on Section 7 which reads: "Save in cases on hereditary succession, no private lands, other than those classified in accordance with law as industrial, commercial or residential, shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain." I believe that the intention of the Committee is to allow the sale or transfer of private lands classified as industrial, commercial or residential to foreigners. Is that correct?

COMMISSIONER PATERNO. *(off mic)*
That is the intention.

COMMISSIONER GARCIA.
Now, if that is the intention, I doubt if that intention can be served or implemented by Section 7 as amended because the language or phraseology seems too involved or convoluted. So I will ask this question: the foreigners, would you include them in the phrase, "except to individuals, corporations or associations qualified to acquire or hold lands of the public domain" with the exceptions already mentioned above? Because there is no direct statement here that lands classified as industrial, commercial or residential can be conveyed to foreigners.

COMMISSIONER PATERNO.
As I've said, I'm not a lawyer, Mr. Chairman. So, at the proper time, I think some amendment to make it clearer would not be only accepted but welcome.

COMMISSIONER GARCIA.

Yes, because Section 7 as originally worded in the 1935 or the 1987 Constitution would refer to lands held by aliens and may be acquired by aliens by hereditary succession. Other than that, private lands may not be transferred or conveyed. And also, the language would be, I would say, confusing because with the exception of industrial, commercial or residential, what would be left is agricultural.

COMMISSIONER PATERNO.

Correct.

COMMISSIONER GARCIA.

Then, in that case, there is no need for the qualification, "save in cases of hereditary succession" because Filipino citizens can already acquire agricultural lands.

COMMISSIONER PATERNO.

That's correct.

COMMISSIONER GARCIA.

So even by transfer or conveyance because after that exception, what would be left would be agricultural lands.

COMMISSIONER PATERNO.

That's correct, Mr. Chairman.

COMMISSIONER GARCIA.

And there is no need for the phrase, "except by hereditary succession" because Filipinos can acquire agricultural lands even not through hereditary succession.

COMMISSIONER PATERNO.

If I may explain my layman's view of the problem, Mr. Chairman, my understanding is that the 1935 Constitution really exempted agricultural lands. However, in a decision of the Supreme Court, it was the interpretation that all lands, all private lands, were initially agricultural lands. And therefore the Supreme Court decision extended the prohibition on foreign ownership to all lands and not just agricultural lands. The purpose of this section, Mr. Chairman, is to make it clear to the Supreme Court that the intention is to refer only to agricultural lands and those lands already classified should not be subject to the restriction and that is the reason for the wording. But if in his legal judgment, better wording could be supplied, the Committee would greatly welcome the amendment at the proper time.

COMMISSIONER GARCIA.

Ah, yes, thank you, Mr. Chairman. Now, with respect to education, foreign ownership of schools is prohibited at the elementary and high school levels.

COMMISSIONER PATERNO.

That's correct.

COMMISSIONER GARCIA.

There are schools owned by foreigners, like the International School, I suppose. And they have elementary- and high school-level education. Would they be now prohibited from operating this school after this...?

COMMISSIONER PATERNO.

The exception was provided or continues to be provided by the same paragraph, by the same subsection, in the third paragraph thereof, which says that the provisions of the subsection shall not apply to schools as established for foreign diplomatic personnel and their dependents and unless otherwise provided by law for other temporary residents.

COMMISSIONER GARCIA.

But then, these schools—the International School in Cebu, and I understand in Manila—are also accepting Filipino students. And in fact, in terms of content, there are more Filipino students in these schools than foreigners. So that they would be excluded and I understand there are many Filipino parents sending their children to these schools because they believe that these schools are giving quality education. And in fact, the curriculum of these schools is patterned after American schools. They have eight grade in the elementary. So, my question is: under this section, these schools would be prohibited from foreigners operating in the Philippines?

COMMISSIONER PATERNO.

In effect, the distinguished gentleman from Cebu would like to have a further amendment of this subsection?

COMMISSIONER GARCIA.

Oh, yes, there is a line here, which would seem to exclude other schools already established here. But these schools are limited to those schools already...

COMMISSIONER PATERNO.

Already established by religious groups...

COMMISSIONER GARCIA.

Yes, by religious missions.

COMMISSIONER PATERNO.

Yes, Mr. Chairman.

COMMISSIONER GARCIA.

But these are not religious schools?

COMMISSIONER PATERNO.

Yes, Mr. Chairman, the idea was the Committee believed that schools by religious groups should not be further expanded. And that we should be content with those schools of religious groups already established. That is the intent.

COMMISSIONER GARCIA.

Yes, but there is here reality of schools, foreign schools, established long before the Commonwealth period. And they are now still in operation. And we would exempt schools established by religious groups and mission boards? This would seem discriminatory.

COMMISSIONER PATERNO.

Mr. Chairman, could we tackle this at the proper time for the amendment of this sub-section?

COMMISSIONER GARCIA.

Yes. Thank you, Mr. Chairman.

COMMISSIONER PATERNO.

Thank you, Sir.

COMMISSIONER ABUEG.

The Floor Leader.

COMMISSIONER APOSTOL.

Mr. Chair, I move that we recognize Commissioner Andy Bautista as the next interpellator.

COMMISSIONER ABUEG.

Commissioner Bautista is recognized for his interpellation.

COMMISSIONER BAUTISTA.

Thank you, Mr. Chairman. At the outset, I wish to join the other Members of the Commission in congratulating the Chairman and the Members of the Committee for a simplified yet well-researched and well-written article. Well, I also agree with the way that the Committee tackled the issue regarding foreign ownership restrictions. I do not think that these restrictions should be in the Constitution but should rather be left to the best judgment of Congress. Mr. Chairman, I just have two clarificatory questions.

And the first one deals with the provision on the practice of professions, Section 14, Paragraph 2. You have stated here that the practice of all professions in the Philippines by non-Filipino citizens shall be regulated by law. Was it the intention of the Committee, Mr. Chairman, to make this amendment in order to clarify the existing rules with respect to the practice of professions by non-Filipinos? I say this because if you look at the old provisions, it said that the practice of all professions in the Philippines shall be limited to Filipino citizens save in cases prescribed by law. It was not clear whether or not, for example, an accountant that is admitted to, say, a foreign jurisdiction—say, for example, New York—can practice accounting here in the Philippines but only subject to, say, New York rules, New York practice. And the reason you placed this amendment is in order to clarify that, yes, these accountants can be allowed but subject to such regulations as may be prescribed by law.

COMMISSIONER PATERNO.

At a proper time, Mr. Chairman, and place, the Committee would welcome any amendments to the amendments that the gentleman would like to suggest on this topic.

COMMISSIONER BAUTISTA.

Actually, Mr. Chairman, I think that the provision is correct.

COMMISSIONER PATERNO.

Yeah.

COMMISSIONER BAUTISTA.

And I just wanted to find out what the intention of the Committee was. Essentially, I think, what the Committee recognized was that there are foreign professionals practicing, say, their foreign law, or say their foreign accounting rules that need to be regulated by the state, and that you're not trying to prohibit them from practicing their foreign professions. But actually, what you're just saying is that the state should regulate the practice of their profession.

COMMISSIONER PATERNO.

That is the intention of the Committee, Mr. Chairman. It was not the intention of the Committee that the exercise of professions by Filipinos shall not be subject to regulation. It is the intention of the Committee that the practice of professions by non-Filipino citizens shall have special and specific regulation.

COMMISSIONER BAUTISTA.

Thank you, Mr. Chair.

COMMISSIONER PATERNO.

Madame Pedrosa wants to articulate the opinions of CNN.

COMMISSIONER ABUEG.

The lady commissioner, Commissioner Pedrosa, is recognized to answer for the sponsoring Committee.

COMMISSIONER PEDROSA.

I would like to direct this question to the Chairman, if during the debates on proceedings of your group...Is it correct, can I ask it? Oh, no? Okay. To whom do I ask? Who will I ask? You see, I lived abroad for 20 years and one of the concerns of the communities where I lived is, Filipinos want to practice their professions abroad. That's why my question is, can we have some kind of provision where that reciprocity can be allowed in the law? Alright. Good. That's what I wanted. Thank you.

COMMISSIONER ABUEG.

Any further question, Commissioner Bautista?

COMMISSIONER BAUTISTA.

Yes, one further question on Article XIV, Section 14, this is on the provision on educational institutions. And I just draw the attention of the Chairman to the second paragraph which states that, "The control and administration of educational institutions shall be vested in citizens of the Philippines." With the suggested amendment in the first paragraph, of limiting the foreign ownership prohibition to elementary and high school levels, does that mean that for institutions of higher learning, it will now become possible that the control and administration of such educational institutions of higher learning can be now vested in foreigners?

COMMISSIONER PATERNO.

The "liberalization" in the first paragraph really refers to ownership. And in the second paragraph, refers to the control and administration of the institution. In other words, the owners may be foreign. But the control of the institution and their administration should be in the hands of citizens.

COMMISSIONER BAUTISTA.

Well, I guess my question is why, as you know, when foreigners invest money, a lot of money, they would like some, say, in the control and management of these institutions. So, why is it that we are opening ownership but not giving the requisite control and management to the owner?

COMMISSIONER PATERNO.

Mr. Chairman, the control, the appointment of the administrators will necessarily come from somebody, or some organization in which the owners are represented. What we are talking about is the citizenship of the administrator and the control of the educational institution vested

in citizens. But we are not saying that we shall appoint who will be there. It is still the ownership, through the board, that will make the appointments.

COMMISSIONER BAUTISTA.

But, Mr. Chairman, the owners are constrained in appointing Filipino citizens. They cannot appoint foreigners.

COMMISSIONER PATERNO.

That is correct, Mr. Chairman. That is the intention. And the intention really is what was mentioned before, about having foreign cultures which intentionally, or not, necessarily will be imparted because the mindset of the foreigner is different. And therefore, you know, you may teach a topic or a subject, but the way you teach it would be examples you provide and so on. Maybe different depending on the culture from which you come.

COMMISSIONER BAUTISTA.

Although will this restriction be sort of a disincentive to foreign institutions from plucking in their money and that they will not be able to control their investment? I would think that what they would like to do is once they put in the investment that their key officials, be it foreigner or Filipino, should be placed in the positions.

COMMISSIONER PATERNO.

Well, it may disincentivize. But should we allow foreigners to have entire administration and control of any of our schools? That is the other question. Which is more important? Is it the investment, or the infusion of technology, etc.?

COMMISSIONER BAUTISTA.

Okay, thank you very much, Mr. Chairman.

COMMISSIONER ABUEG.

Floor Leader.

COMMISSIONER APOSTOL.

I move that we recognize the Chairman of this Consultative Commission to interpellate.

COMMISSIONER ABUEG.

The Honorable Jose Abueva is recognized for his interpellation.

CHAIRMAN ABUEVA.

Mr. Chairman, I fully agree with the principle here on the policy of allowing foreign institutions of higher learning to be established in the country. This would have the effect of raising standards of higher education, on the one hand, and enabling more Filipinos to avail themselves of world-class higher education. However, given our experience for some 30 years I have been with the University of the Philippines that has enjoyed full academic freedom according to the Constitution, and according to its charter, that guarantee of academic freedom to all institutions of higher learning is already in our Constitution. Moreover, we have an article, we have a Section 4 of the article on education and science and technology which states that, "The state recognizes the complementary roles of public and private institutions in the educational system, and shall exercise reasonable supervision and regulation of all educational institutions."

It's only been in the last five years, now as the head of a small private college, that I have realized and experienced that the supervision and regulation of educational institutions are not

reasonable at all. It is excessive, and those who have private institutions will, I think, bear me that check.

First of all, there is a violation of the provision here guaranteeing that all institutions of higher learning shall enjoy academic freedom. The way CHED regulates private institutions of higher education is like governing grade school or elementary school. They prescribe the curricula. Now, the essence of academic freedom is freedom to determine what should be taught and how the subject should be taught. So, I'm afraid that despite these beautiful principles or policies in the Constitution regarding academic freedom, and the reasonable supervision of institutions of higher learning or educational institutions, if CHED would still be the regulatory agency, and there's no other, I suppose, over the incoming new institutions of higher learning, it will really be a great problem.

This is the difference between a constitutional provision and the actual management and administration of the constitutional policy. Now, however, you have a provision, let me see, somewhere in this proposed provisions. It says here, Section 22, it applies only to national patrimony cases. But I wish a comparable provision in Section 22 would also apply to institutions of higher learning, especially foreign institutions of higher learning. "Acts which circumvent or negate any of the provisions of this article shall be considered inimical to the national interest and subject to criminal and civil sanctions as may be provided by law." It may not be that severe, but a comparable sanction on violation by the national regulatory agency on higher education would alert them, and challenge them to really live by the constitutional policy of academic freedom, on the one hand, and reasonable supervision, on the other. Would that be possible, Mr. Chairman?

COMMISSIONER PATERNO.

Mr. Chairman, we felt that that section properly belongs under the sub-article on National Patrimony.

CHAIRMAN ABUEVA.

Yeah, I understand. But I'm saying, it is possible, in light of hard experience, so as not to discourage foreign institutions of higher learning. They come here, they don't realize they'd be up against the wall of a very...

COMMISSIONER PATERNO.

So, we said that this belonged only to that sub-article.

CHAIRMAN ABUEVA.

I know. My question is, is it possible to devise a comparable sanction?

COMMISSIONER PATERNO.

I hope, Mr. Chairman, but it should be probably on the basis of a less severe penalty...

CHAIRMAN ABUEVA.

Yes, I know, I said...

COMMISSIONER PATERNO.

But also not in this particular article, which refers to National Economy and Patrimony. Education and other topics, other areas of activity, then perhaps, they might belong in General Provisions or somewhere else.

CHAIRMAN ABUEVA.
Yes.

COMMISSIONER PATERNO.
But I believe that this article is not the proper place for it.

CHAIRMAN ABUEVA.
Well maybe, Mr. Chairman, the article I have in mind might more be appropriate for the article on Education, Science and Technology.

COMMISSIONER APOSTOL
Thank you, Mr. Chairman.

CHAIRMAN ABUEVA
Thank you.

COMMISSIONER ABUEG.
Floor Leader.

COMMISSIONER APOSTOL.
Our next interpellator is Commissioner Matula. He said he has only two questions. Then after that, Commissioner Bondoc would be the last. After that, we will not admit any more interpellators.

COMMISSIONER ABUEG.
Commissioner Matula is recognized. Second to the last interpellator.

COMMISSIONER MATULA
Thank you, Mr. Chairman.

COMMISSIONER ABUEG
The time allotted is almost to expire.

COMMISSIONER MATULA
Mr. Sponsor, we would like to ask some questions concerning the 100% opening of our economy particularly the mining industry. This was brought to me by some workers that would like to present their views on the matter. It is understood, Mr. Chairman, that large-scale mining is seen by some as a lucrative source of jobs. But the experience, Mr. Chairman, for the past years was that the jobs that these mining companies had created were only minimal but there were job losses on the part of small-scale miners. In fact, Mr. Chairman, there was a study that as corporate mining declined in the 1980s and 1990s, a number of small-scale, often indigenous, miners rose. Thus, Mr. Chairman, the conclusion of some workers is that the loss of small-scale mining to give way to large-scale miners can hit their jobs and even their communities who are involved in small-scale mining. And the conclusion, rather than creating jobs, the adoption of large-scale mining led to job losses.

CHAIRMAN ABUEG.
What is your question?

COMMISSIONER MATULA.

The question, Mr. Chairman, is that the presumption that large-scale mining will increase job, it will lead to losses of jobs. The number two question, Mr. Chairman, is concerning the deletion of Section 8. The deletion of Section 8, Mr. Chairman, might prejudice the natural born citizens who might not avail of the Dual Citizenship Law. Thank you, Mr. Chairman.

COMMISSIONER PATERNO.

If I may answer the second question first, Mr. Chairman, dual citizenship is now allowed. If someone who has taken up a foreign citizenship, UK, Germany, Austria, whatever, does not believe that he wants to continue to be a Filipino citizen under the dual citizenship law, shall we automatically extend him the right of this citizen? I do not know whether we should be so prodigal with our citizenship rights. Somebody who says I am a Filipino born, therefore I should have this land but I am not willing to be a Filipino citizen. Mr. Chair, should we extend that to him?

COMMISSIONER MATULA.

Mr. Chairman, before availing of the dual citizenship, he must first comply with some requirements. If that citizen did not yet comply with some requirements, he might be prejudiced, Mr. Chairman.

COMMISSIONER PATERNO.

Well, all he has to do is to comply with the requirements and then he would be a citizen.

COMMISSIONER LORENZANA.

The first question, he hasn't answered the first question yet.

COMMISSIONER APOSTOL.

There was no first question. There was just discourse for so long without any question. So, Mr. Chair, may I move that we recognize Commissioner Bondoc? He will be the last interpellator.

COMMISSIONER ABUEG.

Commissioner Bondoc is recognized.

COMMISSIONER BONDOC.

Salamat po, Mr. Chairman. Mr. Sponsor, just on point on page 8, Article XIV, Section 4, the last paragraph which reads, "No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school." May we know the reason behind the retention of this one-third limit from the present Constitution?

COMMISSIONER PATERNO.

I have a feeling, Mr. Chairman, I have a feeling. I have not done any statistical research on this but I have a feeling that this was really directed to Chinese schools. But of course, we cannot say in the Constitution that this refers to Chinese schools only.

COMMISSIONER BONDOC.

When we say, Mr. Sponsor, that no group of aliens shall comprise more than one-third of the enrollment in any school, are we referring to all aliens in that particular school?

COMMISSIONER PATERNO.

I do not believe so, Mr. Chairman. This is subject to interpretation. But my own understanding was that no group of aliens of the same citizenship.

COMMISSIONER BONDOC.

In other words, Mr. Sponsor, we can have in one school, a group of Chinese, a group of Australians, a group of Americans, a group of Swiss and they in totality may comprise more than one-third.

COMMISSIONER PATERNO

No.

COMMISSIONER BONDOC

Taken altogether, they may comprise more than one-third.

COMMISSIONER PATERNO.

That is my understanding, Mr. Chairman.

COMMISSIONER BONDOC.

So long as no particular group, no group of Chinese, no group of Americans will be more than one-third.

COMMISSIONER PATERNO.

That is my understanding, Mr. Chairman.

COMMISSIONER BONDOC.

So what is the point of this limit?

COMMISSIONER PATERNO.

The point really when this was done, I think, and I say I have not done any research on it. I am referring to my balita from other people that the intention was not to allow an exclusively Chinese or whatever nationality school to be established and operated.

COMMISSIONER BONDOC.

Salamat po.

COMMISSIONER PATERNO.

Thank you, Mr. Chairman.

COMMISSIONER ABUEG.

The Chair is now ready to entertain a motion to close the Period of Sponsorship. Floor Leader.

COMMISSIONER APOSTOL.

Mr. Chair, I move that the Period of Debate and Interpellation be closed.

CHAIRMAN ABUEG.

Any objection? There being none, same is approved. Floor Leader.

COMMISSIONER APOSTOL.

Mr. Chair, I move that we recognize the sponsor or the Committee Chairman to make a committee amendment if there are or there is any.

COMMISSIONER ABUEG.

The Chair declares that the Period of Amendment is open. Committee amendment.

COMMISSIONER PATERNO.

With the permission of the Chair, may we go on a section-by-section basis.

COMMISSIONER ABUEG.

Declaration of Principles and State Policies, Section 19. Committee amendment, any amendment?

COMMISSIONER PATERNO.

Sorry, may I first invite members of the Committee to propose their amendments, if any.

SUSPENSION OF SESSION

COMMISSIONER APOSTOL.

Mr. Chair, I move that we have a two-minute recess.

COMMISSIONER ABUEG.

Session is suspended.

It was 1:06 pm.

RESUMPTION OF SESSION

COMMISSIONER ABUEG.

Session resumed.

It was 1:15 p.m.

COMMISSIONER ABUEG.

The consideration of the report of the Committee of Economy and Patrimony is now resumed, Floor Leader.

COMMISSIONER APOSTOL.

Mr. Chair, may I move that we recognize the Chairman of the Committee on National Patrimony to introduce some amendments.

COMMISSIONER ABUEG.

The Chairman of the Committee for committee amendment.

COMMISSIONER PATERNO.

Thank you, Mr. Chairman. I withdraw the invitation to members of the Committee to propose amendments since I understand that our procedures will not agree on that because the Committee members have already agreed to the amendments of the Committee. The Committee only would like to make one correction in the matrix. It is not really an amendment. It is an omission in typing.

COMMISSIONER LORENZANA.

Anong page?

COMMISSIONER PATERNO.

The page is or the section involved is Section 3 which appears on page 2. And this was already mentioned in my sponsorship speech. The omitted phrase is the last sentence of the amended

Section 3 which should have read as follows: "Citizens of the Philippines may lease or acquire alienable lands of the public domain." That is the only sentence that should be inserted as the last sentence of Section 3 as it appears on page 3.

COMMISSIONER ABUEG.
No objection?

COMMISSIONER LORENZANA.
That is after the word "devoted"?

COMMISSIONER PATERNO.
May be devoted.

COMMISSIONER LORENZANA.
...or after domain by lease?

COMMISSIONER PATERNO.
As the last sentence, the last paragraph of page 3 or Section 3, appears on page 3, Mr. Chairman. And that last sentence reads, "and the conditions therefore..."

COMMISSIONER LORENZANA.
Ah, okay. Before Section 4.

COMMISSIONER PATERNO.
Before Section 4 since it is the last sentence of Section 3.

COMMISSIONER ABUEG.
No objection to the correction?

COMMISSIONER PATERNO.
The last sentence reads again, to be the last sentence of Section 3, before Section 4, as follows: "Citizens of the Philippines may lease or acquire alienable lands of the public domain."

COMMISSIONER ABUEG.
No objection? There being none, the same is admitted. Floor Leader.

COMMISSIONER APOSTOL.
I move that we approve the Committee amendment or correction.

COMMISSIONER ABUEG.
Any objection? There being none, the motion of the Floor Leader is approved.

COMMISSIONER APOSTOL.
I move, Mr. Chair, that we close the period of Committee amendments.

COMMISSIONER ABUEG.
No objection? There being none, there is no further Committee amendment, the motion is approved. Floor Leader.

COMMISSIONER APOSTOL.

I move that we go into now individual amendments but I also suggest that we do it article per article, chronologically, I mean, section by section.

COMMISSIONER ABUEG.

First proponent for amendment, Mr. Floor Leader? Section 19 on Declaration of Principles.

COMMISSIONER PATERNO

Section 19 of Article II.

COMMISSIONER ABUEG

The first proponent.

COMMISSIONER APOSTOL.

The Chairman himself. Ah, Section 19, Article II.

COMMISSIONER ABUEG.

Individual amendments. No amendment? National Patrimony, Section 2? Floor Leader.

COMMISSIONER APOSTOL.

Commissioner Tabanda.

COMMISSIONER ABUEG.

Commissioner Tabanda is recognized to introduce amendment to National Patrimony, Section 2.

COMMISSIONER TABANDA.

After consultation with the Committee, may we propose the amendment of the second paragraph of Section 2, "The exploration, development and utilization of natural resources towards sustainable development shall be under the full control and supervision of the State." We insert the word "toward sustainable development". Then it will continue to read, "The State may directly undertake such activities, or it may enter into co-production agreements, under such terms and conditions as may be provided by law, including conservation, protection and enhancement of the environment."

COMMISSIONER ABUEG.

What does the sponsoring Committee say?

COMMISSIONER PATERNO.

I understand that this is already a combined thinking of the environmental group here and on that basis, I accept the amendment.

COMMISSIONER ABUEG.

No objection? There being none, the amendment is approved. Any other amendment, Section 2?

COMMISSIONER APOSTOL.

There is an objection.

COMMISSIONER BAUTISTA.

I have an objection, Mr. Chairman, not on the principle of putting in words that would protect the environment but putting it in that particular phrase, I think, is misplaced. So, it has to be styled properly.

COMMISSIONER TABANDA.

Subject to style.

COMMISSIONER BAUTISTA.

Subject to style.

COMMISSIONER PATERNO.

May we then approve the amendment subject to style which will be determined by the Committee on Style?

COMMISSIONER ABUEG.

So, it is not an objection but mere observation, subject to style. Section 3?

COMMISSIONER ROMUALDO.

Mr. Chairman, I think that was really indeed an objection, I am sorry, because it militates against each other, utilization and protection. It collides. It is very contradictory. At any rate, the proponent said, subject to style, but I hope there will be no fighting or crushing each other, utilization versus that last phrase of the amendment.

COMMISSIONER PATERNO.

May the sponsor make some observations at this point?

COMMISSIONER ABUEG.

Please proceed.

COMMISSIONER PATERNO.

It is already a current corporate view that the exploration, development, utilization of natural resources must give due regard to the conservation and protection of the environment because any degradation of the environment will not only affect the locality involved but indeed the global situation. Therefore, it seems the interest, I think, there may be some United Nations Conventions on this point already because it is a matter of world concern. So, the statement that exploration and conservation are...

COMMISSIONER ABUEG.

Noted. Section 3?

COMMISSIONER APOSTOL.

Mr. Chair, amendment on Section 2, Commissioner Soriano...

COMMISSIONER PATERNO.

Sorry, Commissioner Bengzon wishes to introduce some comments with respect to that point.

COMMISSIONER APOSTOL.

Commissioner Soriano first.

COMMISSIONER BENGZON.
Just comments.

COMMISSIONER APOSTOL.
Commissioner Soriano because she raised her hands.

COMMISSIONER BENGZON.
I am part of the Committee.

COMMISSIONER ABUEG.
Will that be a Committee amendment or an individual amendment?

COMMISSIONER APOSTOL.
Are you introducing an amendment?

COMMISSIONER BENGZON.
No. Because he is introducing an amendment here subject to style, I just would like to comment or clarify for the guidance of style why conservation of environment originally was put in by the Committee in that particular provision because we want it to be really incorporated in the agreements like MPSA's and co-production venture agreements instead of just one liner that is a motherhood statement. That is actually the meaning there because in practice when it is there incorporated together with the agreements, then you can construe that it has to be part of the agreement.

COMMISSIONER ABUEG.
Noted.

COMMISSIONER APOSTOL.
Apparently, Commissioner Bautista is not convinced so he will respond.

COMMISSIONER BAUTISTA.
My suggestion is to place the comment of Commissioner Tabanda in the first sentence rather than in the second sentence. I think that is all that I wanted. Thank you.

COMMISSIONER PATERNO.
That is a matter of style, Mr. Chairman. Throw it to the Committee on Style.

COMMISSIONER ABUEG.
Floor Leader.

COMMISSIONER APOSTOL.
Commissioner Soriano would like to say something. She was raising her hand.

COMMISSIONER ABUEG.
Floor Leader.

COMMISSIONER APOSTOL.
May I move that we recognize Commissioner Soriano.

COMMISSIONER ABUEG.
Commissioner Soriano is recognized.

COMMISSIONER SORIANO.

It is just a comment. I just wanted to say that there is no contradiction between utilization and development of natural resources and sustainability because we can develop and utilize our natural resources in a sustainable way without destroying our natural resources.

COMMISSIONER ABUEG.

The remark is duly noted.

COMMISSIONER LAMBINO.

Mr. Chairman, amendment to Section 2.

COMMISSIONER ABUEG.

Please wait, Floor Leader.

COMMISSIONER APOSTOL.

I now recognize Mr. Lambino.

COMMISSIONER ABUEG.

Commissioner Lambino is recognized.

COMMISSIONER LAMBINO.

Section 2, Mr. Chairman, of page 2. The first sentence, the word "contract" should be substituted with the word "agreement". "Congress shall be notified of every agreement."

COMMISSIONER ABUEG.

What does the sponsor say?

COMMISSIONER PATERNO.

Accept.

COMMISSIONER ABUEG.

No objection?

COMMISSIONER LAMBINO.

No, no, no. That should be Parliament. Parliament shall be notified.

COMMISSIONER PATERNO.

May we say written agreement? The agreement should be in writing because there may be some agreements during negotiations, etc.

COMMISSIONER LAMBINO.

I agree with that, Mr. Chairman.

COMMISSIONER BONDOC.

Will it become a contract if it is not written?

COMMISSIONER LAMBINO.

A contract can be oral or written.

COMMISSIONER ABUEG.

What does the sponsor say now? Will it be contract or agreement?

COMMISSIONER PATERNO.

I will accept the word "agreement" in lieu of "contract" provided it is a written agreement.

COMMISSIONER LAMBINO.

Yes, that is the understanding, Mr. Chairman.

COMMISSIONER ABUEG.

No objection? There being none, the same is approved.

COMMISSIONER LAMBINO.

Mr. Chairman, this was explained a while ago during the interpellation that the word "contract" connotes only a situation whereby the parties to it do not exercise sovereign powers. But when we talk of an agreement or an undertaking wherein one sovereign power is involved, the proper term is "agreement" because we have executive agreements. Those are not executive contracts but executive agreements. That is the legal term.

COMMISSIONER ABUEG.

That has been sufficiently explained. Floor Leader for next amendment.

COMMISSIONER APOSTOL.

Commissioner Bondoc is objecting. I move that we recognize Commissioner Bondoc.

COMMISSIONER PATERNO

Excuse me, may I say that the Committee accepts subject to style.

SUSPENSION OF SESSION

COMMISSIONER ABUEG

Session is suspended.

RESUMPTION OF SESSION

COMMISSIONER ABUEG

Session is resumed. Floor Leader.

COMMISSIONER APOSTOL.

Mr. Chair, I move that we approve Section 2, as amended.

COMMISSIONER ABUEG.

No objection? There being none, Section 2 is approved. Section 3?

COMMISSIONER LAMBINO.

Amendment, Mr. Chairman.

COMMISSIONER ABUEG.

Please proceed.

COMMISSIONER LAMBINO.

On Section 3. Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. I propose that reclaimed lands be included. This is going to

answer the Supreme Court decision in the PEA-Amari case that reclaimed lands are part of the public domain.

COMMISSIONER ABUEG.
What does the sponsor say?

COMMISSIONER PATERNO.
I, we have not discussed this in the Committee, Mr. Chairman. I would like some members of the Committee, perhaps the legal members of the Committee, to enlighten us on this point.

COMMISSIONER ABUEG.
In that case we will...

COMMISSIONER PATERNO.
I mean, Attorney Bengzon, if the Chairman would agree.

SUSPENSION OF SESSION

COMMISSIONER ABUEG
Session is suspended for one minute.

RESUMPTION OF SESSION

COMMISSIONER ABUEG.
The session is resumed. Commissioner Lambino, your proposed amendment is not acceptable to the sponsoring Committee. You have one, two minutes to explain the reason for your...

COMMISSIONER LAMBINO.
Yes, Mr. Chairman. The reason why we are now categorically stating that reclaimed lands should be included part of public domain so that we can answer the situation whereby it is the Supreme Court again who is going to decide what is the status of this reclaimed land. Because the Constitution and existing laws do not classify them whether they are agricultural lands, forest land, etc. But the Supreme Court has identified in the PEA-Amari deal that these reclaimed lands are inalienable. They cannot be sold. If you are going to reclaim it, you cannot sell however. What we are trying to do is to correct that situation to make these reclaimed lands alienable lands just like agricultural lands. They can be sold by the state. That is the intention why we are putting here to make it clear. Yes, the Supreme Court decision would only be based on the provision of the Constitution. If you do not have a provision of the Constitution that will allow the selling of reclaimed lands then the PEA-Amari deal decision will stand and we cannot do anything with reclamation projects, Mr. Chairman.

COMMISSIONER ABUEG.
Any rebuttal from the sponsor?

COMMISSIONER PATERNO.
Mr. Chairman, as a matter of principle, I do not think that this Commission should make an amendment of the Constitution which is designed to favor a specific private project or the proponents thereof. I think we would be subject to charges of conflicts of interest, all the members, especially those who proposed it. We will be subject to conflict of interest if they have any interest whatsoever in the PEA-Amari case.

COMMISSIONER LAMBINO.

I do not understand why the sponsor is acting like that, Mr. Chairman, because we are here to write a fundamental law.

COMMISSIONER ABUEG.

Wait, wait, wait, please. Wait please. Is the sponsor through with his rebuttal?

COMMISSIONER PATERNO.

I yield the floor, if you may permit, to a member of the Committee.

COMMISSIONER ABUEG.

Commissioner Bengzon is recognized to continue on the answer for the Committee.

COMMISSIONER BENGZON

Thank you, Mr. Chairman. Just to give a backgrounder on the PEA-Amari case. The Supreme Court actually based the fact of the reclaimed area as public domain on the Regalian Theory that part of that is still part of the seabed and all those things. So it's not as if it's reclassifying something. It's just stating that reclaimed land, because it is originally part of the seabed, which forms part of the national patrimony, therefore it's public domain. We believe in the Committee, we do not have to go on further and state that one of the reclassification should really be reclaimed area. Kasi kasama na ho iyon sa seabed and everything. Plus, I think it would be so revolutionary for us, and it's really a what, we will have to go against the Supreme Court jurisprudence that says that reclaimed lands, being part of the public domain, will now be alienable, because right now, it being a part, a public domain, is not alienable. So, that's...

COMMISSIONER LAMBINO

What's wrong? What's wrong with that? May I reply, Mr. Chairman?

COMMISSIONER ABUEG

Wait, wait, please.

COMMISSIONER BENGZON

Because of the fact of the Regalian Theory that public domains are really not alienable.

COMMISSIONER LAMBINO

Correct.

COMMISSIONER BENGZON

We are not making a further,

COMMISSIONER ABUEG

Session is suspended

COMMISSIONER BENGZON

So what you are trying to say is that...

SUSPENSION OF SESSION

COMMISSIONER ABUEG.

Session suspended.

COMMISSIONER BENGZON
Sorry.

It was 1:38 p.m.

RESUMPTION OF SESSION

The Session resumed at 1:42 p.m.

COMMISSIONER ABUEG.

May we request the members to take their respective seats already. We will vote on the issue. Floor Leader, there is a pending motion for voting consideration.

COMMISSIONER APOSTOL.

There being a pending motion and there is an objection, I move that we vote on the matter.

COMMISSIONER ABUEG.

Alright. Let's vote. There has been a move that the word "reclaimed" be included in Section 2. Those who are in favor inserting the word "reclaimed," please raise their right hand. Secretariat...

COMMISSIONER LAMBINO

Section 3, Section 3, Mr. Chairman.

COMMISSIONER ABUEG

Section 3. Secretariat, please count.

COMMISSIONER PATERNO

Mr. Chairman.

COMMISSIONER ABUEG

We are in the process of voting.

COMMISSIONER ROMUALDO.

Mr. Chairman, please. There is no proper clarification. Where does the reclaimed land belong?

COMMISSIONER ABUEG.

Section 3.

Commissioner Romualdo

No. What I mean is, will it be, once reclaimed, will it be industrial land? Will it be residential land? Will it be commercial land?

COMMISSIONER ABUEG.

That has already been discussed earlier.

COMMISSIONER ROMUALDO.

Yeah, but public land is classified into those that are enumerated. You cannot just classify and say reclaimed land. What will you do with the reclaimed land?

COMMISSIONER GARCIA *(off mic)*
Timber, and mineral.

COMMISSIONER ROMUALDO
Timber and mineral land? Or what?

COMMISSIONER TABANDA
Point of order, point of order, Mr. Chair.

COMMISSIONER ROMUALDO
That is why you give a definition.

COMMISSIONER ABUEG.
Wait, wait, wait, please we are in the process of voting.

COMMISSIONER APOSTOL.
Mr. Chair, I move that in the meantime, we suspend the process of voting so that they can all argue and talk.

SUSPENSION OF SESSION

COMMISSIONER ABUEG.
Session is suspended.

It was 1:44 p.m.

RESUMPTION OF SESSION

The session resumed at 1:47 p.m.

COMMISSIONER ABUEG.
Commissioner Lambino. Will you please restate your amendment?

COMMISSIONER LAMBINO.
My amendment, Mr. Chairman, would be on Section 3, second line and it will be also on Section 3, second paragraph, second line and then this section will now be read as follows: "Lands of the public domain are classified into agricultural, reclaimed, forest or timber, mineral lands, and national parks." And then the succeeding paragraph will now be read, "Alienable lands of the public domain shall be limited to agricultural and reclaimed lands."

COMMISSIONER ABUEG.
What does the sponsor say?

COMMISSIONER PATERNO.
I am not willing, Mr. Chairman, to accept an amendment which includes the alienation of reclaimed lands.

COMMISSIONER ABUEG.
Then we have to vote.

COMMISSIONER PATERNO.

But, Mr. Chairman, as sponsor, I would be willing to accept reclaimed lands as one of the classifications of lands of the public domain under the first paragraph.

COMMISSIONER ABUEG.

Partial acceptance.

COMMISSIONER PATERNO.

But not on the second.

COMMISSIONER ABUEG.

Reclaimed land to be part of the public domain but not as alienable.

COMMISSIONER LAMBINO.

So if that is the case Mr. Chairman, we can dispose of the first paragraph. So there is no more voting on the first¹ paragraph.

COMMISSIONER PATERNO.

Mr. Chairman, I am sorry but the gentleman is so persistent that I am afraid that we will not settle this question and we will be put in a more difficult position if we accept the classification of reclaimed land on the basis that, as the gentleman has said, he intends to make it alienable land.

COMMISSIONER ABUEG.

Let's then vote. Those who are in favor...

COMMISSIONER APOSTOL.

Mr. Chair, before we go on voting, I understand that on the classification of lands of public domain, there is no issue because the Chairman I think would agree that one of those lands which was classified as land of public domain is reclaimed land.

COMMISSIONER ABUEG.

The first portion is acceptable.

COMMISSIONER APOSTOL.

Acceptable. So the vote should only be on the second portion.

COMMISSIONER ABUEG.

But the proponent wants a package, for the two, the classification and the alienation.

COMMISSIONER RODRIGUEZ.

Mr. Chairman.

COMMISSIONER ABUEG.

Commissioner Rodriguez.

COMMISSIONER RODRIGUEZ

May I suggest...?

COMMISSIONER LAMBINO.

Mr. Chairman, it's like this. We cannot talk of alienable lands of public domain...

COMMISSIONER ABUEG.

Sandali lang, may we listen to Commissioner Rodriguez who has been earlier recognized.

COMMISSIONER RODRIGUEZ.

Mr. Chairman, thank you. May I suggest that we dispose these two paragraphs separately. We go first to the first paragraph, then to the second paragraph later.

COMMISSIONER ABUEG.

What does the sponsor say? First paragraph muna. All lands, so and so until devoted period, 'yon muna.

COMMISSIONER PATERNO.

Okay, Mr. Chairman. On the basis that I have rejected the two, therefore it has to come to a vote. In other words, I have to object to both in order that both may come to a vote.

COMMISSIONER RODRIGUEZ.

No problem about that, Mr. Chairman.

COMMISSIONER ABUEG.

Now, since the sponsor refuses to accept the two propositions, we will now vote. Those who are in favor of inserting the word "reclaimed land," please raise their, for the two.

COMMISSIONER LAMBINO

First paragraph muna.

COMMISSIONER ABUEG

For the two, please raise your right hand, for the two paragraphs. The Secretariat...

COMMISSIONER RODRIGUEZ.

Point of order, Mr. Chairman.

COMMISSIONER ABUEG.

The voting cannot be interrupted.

COMMISSIONER RODRIGUEZ.

But the voting is based on a wrong premise, that is why, because the Chairman already agreed earlier that we will be voting separately on the two paragraphs.

COMMISSIONER ABUEG.

But eventually the sponsor refused to accept both.

COMMISSIONER RODRIGUEZ.

The sponsor will not be prevailing because the Chairman already decided. The sponsor can reject, can oppose in every voting on the two paragraphs. But the Chairman cannot, the sponsoring chairman cannot prevail over the Chairman.

SUSPENSION OF SESSION

COMMISSIONER ABUEG.

Session is suspended.

It was 1:52 p.m.

RESUMPTION OF SESSION

The session resumed at 1:55 p.m.

COMMISSIONER ABUEG.

Will the Members please take their respective seats so that we can proceed. We are in the process of voting. We will now again vote on the insertion of the word "reclaimed" in the first paragraph of Section 3. Mr. Sponsor, we will now vote. Those who are in favor of inserting the word "reclaimed" in paragraph 1 of Section 3, please raise their right hand, only paragraph 1. The Secretariat please count. How many? Ilan? 25. Those who are against may please do likewise. Those who abstain may please raise their right hand also. The amendment is carried: 25 affirmative, no negative, no abstention.

Now let us vote on the insertion of the word "reclaimed" in paragraph 2 of Section 3. Those who are in favor of the amendment, may please raise their right hand. Count please. Ilan? One five? Fifteen? Those who are against may please do likewise. Please count, Secretariat. 10? One zero? Affirmative, 15. Negative, 10. No abstention. The amendment is approved.

COMMISSIONER PATERNO.

Mr. Chairman, may I merely request that the records of the voting explicitly mention my name as one of the objectors of the second paragraph inclusion.

COMMISSIONER ABUEG.

The Secretariat may please take note the negative vote of Commissioner Vicente Paterno. Floor Leader.

COMMISSIONER APOSTOL.

I move that...

COMMISSIONER ABUEG.

Section 4.

COMMISSIONER APOSTOL.

I move that we approve Section 3, as amended.

COMMISSIONER ABUEG.

No objection?

COMMISSIONER TABANDA (*off mic*)

Section 3, Mr. Chair. Section 3.

COMMISSIONER ABUEG

Floor Leader.

COMMISSIONER APOSTOL

Section 3? Ah, sisingit ka pa. O sige.

COMMISSIONER TABANDA.

Yes, pagbigyan mo naman akong magsingit. I do not know if this is the intention but I don't see it. May I ask that this paragraph number 2 be amended such that only citizens of the Philippines may acquire by purchase agricultural lands.

COMMISSIONER ABUEG.

Wait please. We are already on, sige, sige, go ahead.

COMMISSIONER TABANDA.

Section 3, paragraph 2. After the amendment, may I ask that this be further amended, "Alienable lands of the public domain shall be limited to agricultural and reclaimed lands." My proposed amendment is, "Only Filipino citizens may acquire by purchase agricultural lands."

COMMISSIONER ABUEG.

What does the sponsor say? "Only Filipino citizens may acquire agricultural land"?

COMMISSIONER PATERNO.

I would accept that amendment, Mr. Chairman.

COMMISSIONER ABUEG.

The amendment is accepted. No objection?

COMMISSIONER LAMBINO

Let's clap to that. *(Applause)*

COMMISSIONER ABUEG.

Objection? Commissioner Peña.

COMMISSIONER PEÑA.

In line with my Committee Chair, it's not an objection, it's...

COMMISSIONER ABUEG.

Alright, alright. We'll dispose of this issue first. Any objection? There being none, the amendment is...

COMMISSIONER BAUTISTA

I object.

COMMISSIONER ABUEG

There being an objection, Commissioner Tabanda, will you please explain your amendment. The reason behind your amendment.

COMMISSIONER TABANDA.

Thank you, Mr. Chair. Our consultations show that people are really very, very adamant about opening up agricultural lands to 100% liberalization. These are the only lands which most people in the rural areas, in the countryside have. And I thought that it was the understanding in the Committee that agricultural lands were not supposed to be subject to the liberalization policy. Instead, they will be part of lease, lease only. This is why... but I do not see any specific statement in the second paragraph that says, "Only citizens of the Philippines may acquire by purchase agricultural lands." This is why I only want to make it a categorical statement that this shall be limited only to Filipino citizens. Lease, there is no problem.

COMMISSIONER ABUEG.

Commissioner Bautista, your explanation on your opposition.

COMMISSIONER BAUTISTA.

No, I just wanted to clarify with the proponent, does she mean therefore that reclaimed lands can be purchased by foreigners?

COMMISSIONER TABANDA.

I did not mention reclaims, Sir, it is simply agricultural lands.

COMMISSIONER BAUTISTA.

So, so by saying that, you are saying reclaimed lands can be purchased by foreigners, is that right?

COMMISSIONER TABANDA.

I did not mention that, unless you would like to make...

COMMISSIONER BAUTISTA.

That is the implication, right?

COMMISSIONER TABANDA.

The implication is that only agricultural lands may be acquired...only Filipinos may acquire agricultural lands by purchase.

COMMISSIONER BAUTISTA.

And therefore, foreigners may purchase reclaimed lands. That is the implication, and I would just like to clarify.

COMMISSIONER TABANDA.

Not necessarily, because when I thought of my proposed amendment, the amendment of Commissioner Lambino was not yet in. Because lease, I would think that the second paragraph would cover reclaimed lands, as private corporations or associations may hold such alienable lands of the public domain by lease. That will now cover both reclaimed lands and agricultural lands.

COMMISSIONER BAUTISTA.

Yes, but only for purposes of leasing because now it is unclear whether foreigners can purchase reclaimed lands. So, my point is whether we should include in your amendment...

COMMISSIONER TABANDA.

No, I am not in favor of allowing foreigners to purchase reclaimed lands.

COMMISSIONER BAUTISTA.

Also, then why don't you include that...

COMMISSIONER TABANDA.

Then you can make the amendment.

COMMISSIONER BAUTISTA.

No, in fact, I'm sort of like ambivalent towards that position. Maybe we should allow foreigners to purchase reclaimed land because that would be further investment in the country, but I just wanted to clarify.

COMMISSIONER TABANDA.

Maybe it will be taken up in a subsequent amendment. My only concern here is agricultural lands. So, Mr. Chair, if I may suggest, can we just limit it to my proposed amendment on agricultural lands without prejudice to any further amendment regarding reclaimed lands?

COMMISSIONER ABUEG.

The sponsor? The sponsor?

COMMISSIONER PATERNO.

I'd just like to call attention to the fact that we have already inserted into Section 3 as the last sentence thereof, the sentence that "Citizens of the Philippines may lease or acquire alienable lands of the public domain."

COMMISSIONER TABANDA.

Where is that, Mr. Chairman?

COMMISSIONER PATERNO.

Well, it's an insertion.

COMMISSIONER TABANDA.

It's not here.

COMMISSIONER PATERNO.

It's not there, and precisely it was omitted and that is why I requested for that to be made part...

COMMISSIONER TABANDA.

Ah, ah, okay.

COMMISSIONER APOSTOL.

Will Commissioner Tabanda still pursue her amendment?

COMMISSIONER TABANDA.

May I just ask that the Committee amendment be read for the record and for our consideration.

COMMISSIONER ABUEG.

The sponsor may please do so.

COMMISSIONER PATERNO.

Mr. Chairman, the addition, or the re-introduction...

COMMISSIONER ABUEG.

In what paragraph would that be?

COMMISSIONER PATERNO.

In the last, as the last sentence of Section 3. In other words, the sentence before Section 4 is the following, and this is what we wanted to insert. "Citizens of the Philippines may lease or acquire alienable lands of the public domain."

COMMISSIONER TABANDA.

Ah, okay.

COMMISSIONER PATERNO.

Now, I would like to, perhaps in view of this discussion, propose that the amendment read: "Citizens of the Philippines may acquire..." may, no, "Citizens of the Philippines may lease alienable lands of the public domain, but," and the purchase, "but the purchase of alienable lands of the public domain shall be limited to Filipino citizens."

COMMISSIONER ABUEG.

We'll first dispose, we'll first dispose of the ...

COMMISSIONER TABANDA.

In view of the clarification, Mr. Chair...

COMMISSIONER ABUEG.

Are you withdrawing?

COMMISSIONER TABANDA.

...that there is a provision that only Filipino citizens may purchase agricultural lands, I am withdrawing.

COMMISSIONER ABUEG.

No objection to the withdrawal? The withdrawal is granted.

COMMISSIONER ESPINA.

Mr. Chairman, may I request the Chairman of the Committee to read the Committee amendment, the first part, which says, "Filipino citizens may..."

COMMISSIONER PATERNO.

The first part would read Filipino citizens, "Citizens of the Philippines may lease alienable lands of the public domain and only Filipino citizens may acquire such alienable lands."

COMMISSIONER ESPINA.

'Yong, "and only" maybe, is necessary. 'Yong first part di na kailangan, we are...

COMMISSIONER PATERNO.

No, the problem was that in our, in our amendments, the lease of public lands was permitted to corporations only and now, I would like to make sure that Filipino citizens will not be denied from leasing by virtue of the absence of Filipino citizens in that, this portion. It is a little bit awkward but, it's trying to remedy...

COMMISSIONER ESPINA.

Yeah, you're correct. It's really awkward that a Filipino, may, para sa akin, inherent na 'yon, kumbaga sa gamut, generic. A Filipino can always lease, can always use...

COMMISSIONER PATERNO.

But if we said public, if we said corporations, but did not include citizens...

COMMISSIONER ESPINA.

Yeah, anyway, as you said, it sounds awkward, considering that...

COMMISSIONER PATERNO.

It is awkward. So subject to style, perhaps we can approve this.

COMMISSIONER ABUEG.

Okay.

COMMISSIONER TABANDA.

Mr. Chair, just a clarification. Do I take it to mean from the Chair that the intent is that Filipino citizens...

COMMISSIONER PATERNO.

Only Filipino citizens.

COMMISSIONER TABANDA.

Only Filipino citizens may purchase agricultural lands.

COMMISSIONER PATERNO.

May purchase alienable lands.

COMMISSIONER TABANDA.

Only Filipino citizens may purchase...

COMMISSIONER PATERNO

May acquire.

COMMISSIONER TABANDA

May acquire alienable lands. Period.

COMMISSIONER ABUEG.

Alienable lands, regardless whether it is agricultural, residential or commercial.

COMMISSIONER TABANDA.

As long as it is stated only Filipino. Approved.

COMMISSIONER ROMUALDO.

Not approved. Mr. Chairman, I rose because I've read and followed the sponsorship speech of the Honorable Commissioner Paterno. There was no word "only" in his amendment. He's amending again his own amendment, which was already approved. Now, it is worded this way: "Citizens of the Philippines may lease or acquire alienable lands of the public domain." Period. That was your Committee amendment.

COMMISSIONER PATERNO.

That is correct, Mr. Chairman.

COMMISSIONER ABUEG.

Okay, there's no more issue to that.

COMMISSIONER PATERNO

That did not include alienable lands, only included agricultural lands. Now we are, you are saying, the plenary is saying that now, alienable lands will also include reclaimed lands.

COMMISSIONER ROMUALDO.

You have to introduce another amendment precisely.

COMMISSIONER PATERNO.

This is the reason that we are saying an amendment of that addition is being proposed.

COMMISSIONER ROMUALDO.

Mr. Chairman, sometimes, remember that our Public Land Law is really outdated. It has been enacted when Jose Rizal was still a Boy Scout. Let's face realities. Now, we opened up our economy, especially on patrimony, we liberalize it, for what purpose? And then we go again to some restrictions. Mr. Chairman, you know this Filipino thing, it has been abused. How many foreigners, who are even tourists, throughout the country, owning now residential lands, like in my island province, and it's true to all parts of the country. Bringing along a girl that they met in Metro Manila, without the benefit of marriage, then buy a piece of land, and prime lands at that, in the name of the woman they brought along with him and she is a Filipina, without the benefit of marriage. And this is abused by the foreigners. That is one way of going around the bush. Let's be realistic on all of this. We liberalized and then we put again restrictions. So, where are we? Are we to liberalize or...? Now, anybody who will buy land, they cannot bring that to, wherever, if they are Chinese, if they are from Hong Kong, they cannot bring this land to Hong Kong.

COMMISSIONER ABUEG.

Thank you, thank you.

COMMISSIONER ROMUALDO.

If we want development, really, then there should be no restrictions. Thank you very much.

COMMISSIONER ABUEG.

Thank you, the period of sponsorship and debate has been closed and we are in period of amendments. Floor Leader, any disposition on paragraph 2 of Section 3.

COMMISSIONER APOSTOL.

I move that we approve Section 3.

COMMISSIONER ABUEG.

No objection? There being none, the same is approved. We go to Section 4.

COMMISSIONER APOSTOL.

As amended, as amended and subject to style.

COMMISSIONER ABUEG.

Section 4. Any amendment to Section 4?

COMMISSIONER LAMBINO.
Amendment to Section 4, Mr. Chairman.

COMMISSIONER ABUEG.
Floor leader.

COMMISSIONER LAMBINO.
Maybe this is just only an oversight on the part of the Committee.

COMMISSIONER ABUEG.
Are you asking for the recognition of Commissioner Lambino, Floor Leader?

COMMISSIONER APOSTOL.
I move that we recognize Commissioner Lambino.

COMMISSIONER ABUEG.
Commissioner Lambino is recognized to introduce amendment to Section 4.

COMMISSIONER LAMBINO.
The word "President" should be substituted with the word "Parliament."

COMMISSIONER ABUEG.
What does the sponsor say? The word "President" be...

COMMISSIONER LAMBINO
Or the Prime Minister.

COMMISSIONER ABUEG.
...deleted and substituted with the word Prime Minister.

COMMISSIONER PATERNO.
Mr. Chairman, I think that should be subject to style, otherwise we'll be making amendments on all these...

COMMISSIONER LAMBINO.
Mr. Chairman, why I cannot agree on Prime Minister.

COMMISSIONER ABUEG.
Yes, yes, please. But the Committee on Style will take care of that. The Chairman on the Committee on Style is...

COMMISSIONER LAMBINO.
That's why we are substituting it to "Parliament," not...

SUSPENSION OF SESSION

COMMISSIONER ABUEG
Teka, teka. Excuse me, session suspended.

RESUMPTION OF SESSION

COMMISSIONER ABUEG.

What does the sponsoring Committee say that the word "President" be substituted with the word "Parliament"?

COMMISSIONER PATERNO.

Mr. Chairman, the amendment from "Congress" to "President" was made because of the complaint, and the gentleman could have looked at that, that the LGUs say that Congress is extremely slow in liberalizing, in defining the limits of forestlands, which are now denuded and are now suitable for agriculture. And this is why, they recommended that this be done by executive action rather than by congressional action.

COMMISSIONER ABUEG.

Will the proponent explain his reason?

COMMISSIONER LAMBINO.

I cannot accept that, Mr. Chairman.

COMMISSIONER ABUEG.

Please, please state your reason for...

COMMISSIONER LAMBINO.

Under the present law, the Public Land Act, the President is already authorized by law to determine the specific limits of forestlands. That is very clear in the provision of the law, the Public Land Act. So it is the Parliament or the Congress that will provide a vehicle for the Prime Minister to exercise the power to delimit, determine the specific limit of forestlands. The Prime Minister cannot by himself, just add on limiting such powers, because there are certain standards and policies that must be spelled out in the statute giving authority upon the Prime Minister, so it should be the Parliament. In a unitary government and a parliamentary government, it is the Parliament that exercises both the executive and legislative powers, as already discussed yesterday, Mr. Chairman. And so the proper agency that can exercise this power is the Parliament, Mr. Chairman.

COMMISSIONER ABUEG.

Rebuttal, rebuttal from sponsoring Committee. Please give a chance to the sponsoring Committee.

COMMISSIONER PATERNO.

I would like to yield to a former LGU executive. First, the gentleman from Biliran, and then the gentleman from Cebu.

COMMISSIONER ABUEG.

The gentleman from Biliran is recognized to answer for the Committee.

COMMISSIONER ESPINA.

Mr. Chairman, I would like to support, as a member of the Committee, the decision of the Committee that it be the President or one person. The reason is in Biliran, we have 132 barangays. Out of these 132 barangays, about 18 are already no longer, are actually forestlands, but still are classified as forestlands. These 18 barangays are already producing

rice, abaca, walang kahoy ni isa, mga bahay na ito, mga thickly populated barangays na ito. And we have been introducing bills to convert these already into alienable pero hindi magawa because you have to pass the bill, introduce the bill, it goes to the committee, it stays in the committee for long, then it goes to the Senate, it goes to the committee. In the meantime, the municipalities are not earning a centavo because we cannot charge real estate taxes, because 'yong nakasementong bahay, foreigner, asawa foreigner, maganda ang bahay, is not paying real estate tax. Then sabi nila, forestland naman ito eh. So, we want to facilitate the conversion of these areas, similarly in the other areas of the Philippines. Marami niyan. So that is why we would like to facilitate the conversion through this proposal of the Committee, Mr. Chairman.

COMMISSIONER LAMBINO.

Mr. Chairman, may I rebut on that?

COMMISSIONER ABUEG.

Please, please wait. Another member of the Committee will speak for the Committee.

COMMISSIONER APOSTOL.

Let's vote already. We are delaying...

COMMISSIONER LAMBINO.

Mr. Chairman, it's very important that I have to rebut that allegation of Commissioner Espina, because that is wrong.

COMMISSIONER ABUEG.

Yes, yes, yes, please. Yes, please. Another reply from the Committee, and then you'll have your turn. Commissioner Garcia, please proceed.

COMMISSIONER GARCIA.

Yes, the same situation obtaining in the island kingdom of Commissioner Espina is obtaining in Cebu. Bantayan Island, with three municipalities, population of over 200,000 is classified as wilderness. *(Laughter)* And they are not wilderness. Even the Congresswoman filed a bill, but until now, the bill has not been acted upon or passed into law. And there are other islands, municipalities in Cebu. Malapascua is also forestlands. Now, it is not correct to say that there is already a law. Yes, it is true the Public Land Law before. It was the President upon recommendation of the Bureau of Forestry, and later on DENR, that could issue a proclamation, alienable and disposable. But not anymore, since the Constitution was passed because it is Congress now that can classify or reclassify lands of the public domain.

COMMISSIONER ABUEG.

Commissioner Lambino for his rebuttal.

COMMISSIONER LAMBINO.

That is totally false, Mr. Chairman. The 1935 Constitution contains the same similar provision. That was the basis for the enactment of the Public Land Act. That was the basis for Congress to give the President the power to reclassify these lands, upon the recommendation of the Department of Agriculture and Natural Resources at that time, now it is the Department of Environment and Natural Resources. That is now the present law and that is still a good law. It has not been repealed or amended by the 1987 Constitution. That is a law. Maybe there was a mistake on the part of the local government officials in asking their congressmen to sponsor a law in Congress that will reclassify lands. All they have to do is just go to the President and ask for a presidential executive order or proclamation.

COMMISSIONER ABUEG.
Floor Leader.

COMMISSIONER LAMBINO.
No, it can't be. That is the provision of the law now.

COMMISSIONER ABUEG.
Floor Leader. Floor Leader.

COMMISSIONER APOSTOL.
Mr. Chair, the debate has already been exhausted. So, let's vote on it. The issue is very simple, to change the word "President" to "Parliament" or "Congress."

COMMISSIONER ABUEG.
The issue has been sufficiently discussed. We will now proceed to vote. Those who are in favor of substituting the word "President" to "Parliament" in Section 4, please raise your right hand. Those who are in favor, please raise your right hand. Four. And those who are against, may please do the same. Ilan? 21. Four in affirmative votes, 21 negative votes. The amendment is lost. Floor leader, Floor leader.

COMMISSIONER APOSTOL.
I move that we recognize Commissioner Calisin. He wants to introduce another amendment.

COMMISSIONER ABUEG.
Section 4?

COMMISSIONER APOSTOL.
Section 4.

COMMISSIONER CALISIN.
Since, Your Honor, we are shifting from the presidential to parliamentary, although we still have the President, but in the Parliament, we limit the powers of the President and specified powers. So, I move that this be amended by substituting "President" by "Prime Minister". So moved.

COMMISSIONER ABUEG.
No objection?

COMMISSIONER LAMBINO.
Objection, Mr. Chairman.

COMMISSIONER ABUEG.
Sponsoring Committee. The Committee on Style, whenever they see the word "President" they will substitute it to the word "Prime Minister." So, no objection from the sponsoring Committee?

COMMISSIONER PATERNO
Yes, Mr. Chairman, I fully agree.

COMMISSIONER APOSTOL.
I move that we approve Section 5, I mean, Section 4.

COMMISSIONER ABUEG
No objection? Section 4 is approved.

COMMISSIONER TABANDA.
Mr. Chair, may I have another amendment for Section 4.

COMMISSIONER APOSTOL
Pasa na 'yan eh.

COMMISSIONER TABANDA
It's a very simple amendment.

COMMISSIONER APOSTOL.
In the meantime, I withdraw my motion to approve.

COMMISSIONER TABANDA.
Mr. Chair, may I be recognized?

COMMISSIONER ABUEG.
And then, what would you like to do?

COMMISSIONER TABANDA
Section 4.

COMMISSIONER APOSTOL.
I move that we recognize Commissioner Tabanda.

COMMISSIONER TABANDA.
Section 4, Mr. Chair, may I move that...

COMMISSIONER ABUEG.
Wait please, Section Tabanda is recognized.

COMMISSIONER TABANDA.
Thank you, Mr. Chair. May I move that Section 4 be amended to read: "The Prime Minister shall as soon as possible, determine the specific limits of forestlands, and other protected areas."

COMMISSIONER ABUEG.
What does the sponsor say? Sponsoring Committee?

COMMISSIONER TABANDA.
May I just explain for a while, Mr. Chair?

COMMISSIONER ABUEG.
Wait please. If it is acceptable, there will be no need for explanation.

COMMISSIONER PATERNO.
I take it that, well the Committee deleted the phrase, "and national parks," precisely because we wanted prior attention given to the forestlands. But if the, if the group will agree, then we would be willing to consider an amendment to include other protected areas.

COMMISSIONER ABUEG.

No objection for the acceptance of “other protected areas”?

COMMISSIONER BAUTISTA.

Objection.

COMMISSIONER ABUEG.

Commissioner Bautista.

COMMISSIONER BAUTISTA.

Again, we want our constitution...

COMMISSIONER ABUEG.

Wait, wait, please. You have an objection?

COMMISSIONER TABANDA.

May I please explain?

COMMISSIONER ABUEG.

Please explain your amendment.

COMMISSIONER TABANDA.

Mr. Chair, there are other protected areas not classified as forestlands. These, for example, include parks. These include watersheds and other areas under the NIPAS Law, the National Integrated Protected Areas; there are other classifications. For example, you have, like I said, watersheds, you have parks and others. If you are giving this to the President, ay, giving it to the Prime Minister, giving her the authority to be able to delineate and cause the conversion of this possible conversion of these lands, then I think that the use of the word forestlands would be very restrictive. If it will not be classified as forestlands, then it will not be able to fall under this provision, because “forestlands” is not a generic term under the NIPAS law. It is a specific category of, it is a specific category of lands. So, I would suggest that if you put forestlands and other protected areas, parks are part of the protected areas under the NIPAS Law, it will be more encompassing rather than the very restrictive classification of forestlands.

COMMISSIONER ABUEG.

What is accepted was merely forestland. The objector, the oppositor.

COMMISSIONER BAUTISTA.

Thank you, Mr. Chairman. Again, my objection just flows from a question of precision. When we say, “and other protected areas,” what are we referring to? Section 4 flows from Section 3. And it’s already stated there what the lands of the public domain are. I will have no objection if we bring back the parks because that is correct. But again, when we talk about watersheds, these are not lands of the public domain in accordance with the Constitution. So as I said, with respect to the principle, I am not objecting, but we have to be precise as to what these other protected areas are. Perhaps what we should do is bring back “national parks.”

COMMISSIONER TABANDA.

But perhaps, Mr. Chair, there are other kinds of lands, like for example marshes, they are considered as protected areas.

COMMISSIONER BAUTISTA. *(off mic)*
Under a law, but not under the Constitution.

COMMISSIONER TABANDA.
But it's going to be very restrictive.

COMMISSIONER ABUEG.
Alright, we will vote. Those who are in favor of inserting the word "parks and other protected areas"...Wait, please. What Commissioner Tabanda has introduced is, "parks and other protected areas." "Protected areas" was accepted by the sponsor, but not "parks." So let's vote. Those who are in favor of inserting the amendment of Commissioner Tabanda, the words, "parks and other protected areas", please raise your right hand. "Parks and other protected areas." 10. Those who are against, may please do likewise. 10. 10 also? Tama ba? Let's count again. Those who are against, may please do likewise. Please raise your right hand. Against the amendment, including "park and other protected areas." 10?10? .

Okay, let's vote again. Those who are in favor, may please rise. Please stand. Those who are in favor of the amendment of Commissioner Tabanda, those who are in favor of the amendment of Commissioner Tabanda, please...

Ilan? 14? One-Four. Those who are against, may please rise. Against the amendment. Against the amendment by including "parks and other protected areas." Please count. 10. Affirmative 14, negative 10. The amendment is carried. It is accepted. Floor Leader? No objection?

COMMISSIONER APOSTOL.
I move that we approve Section 4.

COMMISSIONER ABUEG.
No objection? There being none, Section 4 is approved, as amended. We go to Section 5.

COMMISSIONER APOSTOL.
We are now on Section 5. I move that we recognize Commissioner Adamat. Indigenous. This is for the indigenous only.

COMMISSIONER ABUEG.
Commissioner Adamat is recognized to introduce the amendments to the indigenous Section 5.

COMMISSIONER ADAMAT.
Thank you, Mr. Chairman. May I invite the attention of the Committee on line one, if I may read: "The state shall protect the rights of indigenous cultural communities." May I introduce an amendment by substitution on the phrase "cultural communities" into "peoples," which will be read, "indigenous peoples."

Commissioner Paterno
Accepted, Mr. Chairman.

COMMISSIONER ABUEG.
What does the sponsor say?

COMMISSIONER PATERNO
Accepted, Mr. Chairman.

COMMISSIONER ABUEG.

No objection? There being none, the amendment is accepted by substituting “cultural communities” to people, “indigenous people.”

COMMISSIONER CALISIN (*off mic*)

Tanggalin mo ‘yong “S” because “people” is considered as plural noun, so subject to style.

COMMISSIONER ABUEG

Another amendment?

COMMISSIONER ADAMAT.

No, I can explain that later with you. May I go further, Mr. Chairman, to read after indigenous peoples, “to their ancestral lands/domains.”

COMMISSIONER PATERNO.

Mr. Chairman, my understanding from that group of indigenous peoples’ organizations is that domain is more inclusive than lands. So if you put lands and domains, you are changing the definition of domains.

COMMISSIONER ADAMAT.

No, Mr. Chairman, if I may explain. Ancestral domain is, if I may read the definition, Mr. Chairman.

COMMISSIONER APOSTOL (*off mic*)

That’s your own definition and your own word.

COMMISSIONER ADAMAT

No, no. This is the IPRA Law. (*Laughter*)

SUSPENSION OF SESSION

COMMISSIONER ABUEG.

Session is suspended.

It was 2:32 p.m.

RESUMPTION OF SESSION

At: 2:33 p.m., the session was resumed.

COMMISSIONER ADAMAT.

May I amend my amendment, Mr. Chairman?

COMMISSIONER ABUEG.

Proceed.

COMMISSIONER ADAMAT.

Which is to read, “to their ancestral domain,” to ensure, ancestral domains.

COMMISSIONER PATERNO.

I understand that some members of my Committee may have objections to this. And I'd like to invite Commissioner Laus.

COMMISSIONER LAUS.

Yes, Mr. Chairman. The way I understand "domain" is far larger than "land"

COMMISSIONER ABUEG

Correct.

COMMISSIONER LAUS

And even the definition could be so stretching that we don't know if even Metro Manila could be part of it already. I do not know if there is an illegal definition about domain.

COMMISSIONER ABUEG.

So the Committee objects to the substitution of the word "lands" to "domain"?

COMMISSIONER ADAMAT

If I may explain, Mr. Chairman.

COMMISSIONER ABUEG.

Please proceed with your reason for proposing such amendment. Proceed please.

COMMISSIONER ADAMAT.

One moment, Mr. Chairman, I am just looking for the...One minute suspension, Mr. Chairman.

SUSPENSION OF SESSION

COMMISSIONER ABUEG

Session is suspended for one minute.

RESUMPTION OF SESSION

COMMISSIONER ABUEG

Commissioner Adamat.

COMMISSIONER ADAMAT

Mr. Chairman, we will settle for the word "lands."

COMMISSIONER PATERNO

Thank you. (*Applause*)

COMMISSIONER ABUEG.

So you withdraw your proposed amendment?

COMMISSIONER ADAMAT.

And if I may continue, Mr. Chairman, before the word "economic," as it was suggested by the group in which you were slated as one of the speakers, has to be preceded by the word "sustainable," to read: "sustainable economic, social and cultural well-being."

COMMISSIONER ABUEG.

What does the sponsor say?

COMMISSIONER PATERNO.

I think, sustainable here. What does this mean? Does this mean that the state shall continue to provide subsidies in order to ensure their sustainable well-being? I'm afraid the gentleman is asking for too much.

COMMISSIONER ADAMAT.

I'm just proposing what a group where you attended, Mr. Chairman, has been clamoring to be incorporated in this provision. If the Committee will not agree...

COMMISSIONER ABUEG.

Let's vote. Let's vote. The Committee does not accept your...

COMMISSIONER PATERNO.

I regret not to accept but to reject the amendment.

COMMISSIONER ABUEG.

So let's vote.

(Commissioners speak off mic.)

COMMISSIONER ADAMAT.

Okay, I withdraw, Mr. Chairman.

COMMISSIONER ABUEG.

The withdrawal is granted. *(Applause)* No more amendments? Mr. Floor Leader.

COMMISSIONER ADAMAT.

Mr. Chairman, can I make an omnibus amendment to...

COMMISSIONER ABUEG.

What section?

COMMISSIONER ADAMAT.

No. All "indigenous cultural communities" in the Constitution, as we are proposing, will be changed into "indigenous peoples."

COMMISSIONER ABUEG.

What does the Floor Leader say?

COMMISSIONER APOSTOL.

When the words "cultural community" appears, it will be changed to "indigenous peoples." Okay, subject to the decision of the Committee on Style.

COMMISSIONER ABUEG.

No objection? There being none, the motion is approved. Section 6.

COMMISSIONER LAMBINO.

Amendment, Mr. Chairman.

CHAIRMAN ABUEG

What section?

COMMISSIONER LAMBINO
Section 5.

COMMISSIONER APOSTOL (*off mic*)
Wala na 'yon.

COMMISSIONER LAMBINO
No. This is very important, Mr. Chairman, because...

SUSPENSION OF SESSION

COMMISSIONER ABUEG
Teka, sandali lang. Session suspended.

COMMISSIONER LAMBINO.
I am now withdrawing my desire to propose amendments.

COMMISSIONER APOSTOL
Just a minute, we have no presiding officer. (*Laughter*)

RESUMPTION OF SESSION

COMMISSIONER ABUEG
Session is resumed. The Floor Leader.

COMMISSIONER APOSTOL.
Mr. Chair, we are on Section 6. We have no problem anymore with the indigenous peoples.

COMMISSIONER ABUEG.
Any amendment to Section 6? Section 7, page 4.

COMMISSIONER GARCIA.
I propose to amend the section as follows: "Save in cases of hereditary succession, no private agricultural land shall be transferred or conveyed except to individuals, corporations or associations, qualified to acquire or hold lands of the public domain." And then, after that, "Lands classified in accordance with law as industrial, commercial or residential, may be transferred or conveyed to foreign individuals and corporations of foreign ownership. Congress shall define the conditions for ownership of allowable lands by foreign individuals and by corporation with foreign ownership." I think this can be subject to style.

COMMISSIONER ABUEG.
What does the sponsoring Committee say?

COMMISSIONER GARCIA.
As it is, may I explain?

COMMISSIONER ABUEG.
Wait, please. Let us hear.

COMMISSIONER PATERNO.
It's not necessary to explain. I accept the amendment subject to style.

COMMISSIONER ABUEG.

Floor leader. No objection, same is approved. Mr. Floor Leader, Section 22.

COMMISSIONER APOSTOL

Section 22.

COMMISSIONER ABUEG

No amendment? Article XII-B, Section 1, no amendment. We go to Section 9, page 15.

COMMISSIONER APOSTOL

Page 5.

COMMISSIONER ABUEG

Section 9.

COMMISSIONER BAUTISTA.

Mr. Chairman.

COMMISSIONER ABUEG.

Floor Leader, Floor Leader. Commissioner Bautista.

COMMISSIONER APOSTOL.

Ah yes, Commissioner Bautista.

COMMISSIONER ABUEG.

Section 9.

COMMISSIONER BAUTISTA.

Thank you, Mr. Chairman. I propose to delete the section because there is already an independent economic and planning agency. In fact, I would later amend Section 10 to provide for that. But I am proposing the deletion of Section 9.

COMMISSIONER ABUEG.

What does the sponsor say?

COMMISSIONER PATERNO.

I agree that there is an existing NEDA. But NEDA is subject to the President. And Mr. Chairman, as I explained earlier, the President's six-year term prevents NEDA from looking beyond the six years. Therefore, the suggestion is that there is Congress to establish an independent economic and planning agency. It does not say that it is headed by the President. As a matter of fact, I would not, well, implicit that is, should not be headed by the President.

COMMISSIONER ABUEG.

Commissioner Bautista, do you insist on your amendment?

COMMISSIONER BAUTISTA.

Again, it would change because if we are going to a parliamentary system then...

COMMISSIONER ABUEG

"Parliament may establish an independent economic and planning body."

COMMISSIONER BAUTISTA.
Okay. I withdraw.

COMMISSIONER ABUEG.
Amendment withdrawn. Section 10.

COMMISSIONER APOSTOL.
Section 10.

COMMISSIONER ABUEG.
Section 10. No amendment?

COMMISSIONER LAMBINO (*off mic*)
Just one, one little word.

COMMISSIONER APOSTOL.
Section 10? What paragraph?

COMMISSIONER LAMBINO.
In line with my interpellation a while ago, Mr. Chairman, I propose that the words, "or public," should be deleted because national interest is more than enough to justify Congress to provide for limitations on foreign ownership in certain areas of investment.

COMMISSIONER ABUEG.
What does the sponsor say?

COMMISSIONER PATERNO.
With due respect, Mr. Chairman, the question of public interest may not be as large as the national interest. And when we talk of national interest, we are really referring more to matters of security. Public interest may have other reasons for being.

COMMISSIONER LAMBINO.
With that explanation, Mr. Chairman, I withdraw my proposal.

COMMISSIONER ABUEG.
Withdrawal is granted. Now we proceed to Section 12.

COMMISSIONER BAUTISTA.
Amendment, Mr. Chairman, still on Section 10.

COMMISSIONER ABUEG.
Floor Leader.

COMMISSIONER APOSTOL.
You ask for antecedent amendment.

COMMISSIONER BAUTISTA.
No. Section 10. We are still on Section 10?

COMMISSIONER APOSTOL.
Okay. Section 10. May I move that we recognize Commissioner Bautista.

COMMISSIONER ABUEG.

Commissioner Bautista is recognized to introduce amendment.

COMMISSIONER BAUTISTA.

Thank you, Mr. Chairman. Again, I propose that we delete the third paragraph because I think that that is already covered by the first paragraph wherein Congress is given the authority to provide for limitations on foreign ownership in certain areas of investments.

COMMISSIONER ABUEG.

What does the sponsor say, "The state shall regulate so and so..." Delete.

COMMISSIONER PATERNO.

With due respect, Mr. Chairman, the subject of the first paragraph is different, sorry, the object of the first paragraph is different from the object of the third. The first paragraph says that limitations on foreign ownership may be provided by Congress. The third paragraph says that the state shall regulate and excise authority over foreign investments that are now existing.

COMMISSIONER BAUTISTA.

Well again, maybe not really proposing the deletion. Maybe the Committee on Style can just place that paragraph in the first sentence so that they would be...

COMMISSIONER PATERNO.

Sorry. Not in the first sentence, Mr. Chairman. Because the public interest or the national interest may be involved in the determination of what areas of investment will be allowed. But the question of regulation and exercising authority over foreign investments is a different matter. As we said in the sponsoring speech...

COMMISSIONER ABUEG.

Will Commissioner Bautista...

COMMISSIONER PATERNO.

...foreign investment need not be treated pari passu with Filipino investment.

COMMISSIONER ABUEG.

Will Commissioner Bautista insist?

COMMISSIONER PATERNO

"Should exercise authority and supervision."

COMMISSIONER BAUTISTA.

I withdraw, Mr. Chairman.

COMMISSIONER ABUEG.

Withdrawal granted. Section 12, no amendment? Section 14.

COMMISSIONER APOSTOL.

There is no 13.

COMMISSIONER ABUEG.

Section 13 is deleted. Section 14.

COMMISSIONER APOSTOL
Ayan, inventor, ayan. *(Laughter)*

COMMISSIONER CATAN.
I have been appealing to our Chairman for the...

COMMISSIONER APOSTOL.
What is your amendment, Commissioner Catan?

COMMISSIONER CATAN.
The amendment is on the last sentence of the first paragraph of Section 14. The amendment is to add the phrase, "by providing incentives." And now it will read like this: "The state shall encourage," and then add the phrase, "by providing incentives for appropriate technologies, innovations and inventions and regulate its transfer for the national benefit."

COMMISSIONER ABUEG.
What does the sponsor say?

COMMISSIONER PATERNO.
I would say, Mr. Chairman, that this does not belong in the Constitution.

COMMISSIONER ABUEG
It's more of an ordinary statute law. The amendment is not accepted.

COMMISSIONER CATAN.
So may I now defend the amendment?

COMMISSIONER ABUEG.
Please proceed. State your reason for proposing such amendment.

COMMISSIONER APOSTOL *(off mic)*
Just a minute. Nobody seconded it.

(A commissioner seconds. Laughter)

COMMISSIONER CATAN
Thank you very much.

COMMISSIONER ABUEG
Proceed. You have two minutes. Please proceed. You have two minutes.

COMMISSIONER CATAN.
May I add? May I now continue? I disagree, Mr. Chairman, that it is just provided by law. The one that I read, which is here, if you refer to page 151, this is all about the Constitution of 1935, of 1973, of 1987. These are not just...

COMMISSIONER PATERNO *(off mic)*
Where does it appear in the '87?

COMMISSIONER CATAN

In '87, it appeared in Section 10, 11, 12 of Article XIV. As a matter of fact, I did not read all because mahaba. I just want to save time but there is the word, and I will just read one section, Section 11. "The Congress," this is our instruction to Congress, "The Congress may provide for incentives," so nando'n na, "may provide incentives," what, "to scientific research, science students, researchers, scientists, inventors, technologies and specially-gifted citizens." So nandoon 'yong "inventors." So my amendment, Mr. Chairman, is simply to add because of the following reasons: It is a constitutional provision; it is giving the instruction to our future Parliament to be sure not to forget the incentives that was already given to our Filipino inventors. We are very few in number. What is very few should be given a little more of the law. As a matter of fact, I mentioned yesterday that I was almost deprived of doing my business, but because of this word "incentive", the court ruling saved me. And that is why I believe that the other Filipino inventors look forward also. I like to add another reason, Mr. Chairman. Three-fourths of the wealth of nations, if you study wealth of nation, comes from innovations and inventions. Where the words, two words, innovation and invention, that is established already by the International Proprietary Organization. Innovations are those that are only given seven years and inventions are those given 20 years.

COMMISSIONER ROMUALDO *(off mic)*

I will vote for Mapecon. *(Laughter)*

COMMISSIONER CATAN

And so, for those reasons, Mr. Chairman, that we will be able to promote and harness innovations and inventions in our country because if we will not be able to harness then our country will not really go far. That is our only hope, and speaking for all, that even those who are not inventors yet, but to encourage many of our young people to go into research.

So with that, Mr. Chairman, I think that our colleagues here will already understand the importance of this. And of course, final note, if only I become a ConCom only for one week, and if you see to it that this is amended, I'll be very happy if I am the last of this convention to be part of.

COMMISSIONER ABUEG.

Any reply from the sponsor?

COMMISSIONER PATERNO.

Mr. Chairman, the provision referred to by the gentleman does not appear on the article in the National Economy. It appears in the article which refers to Science and Technology. I do not believe that it is appropriate to put this in the section on National Economy because this is in effect, something that is supposed to develop science and technology, which is a somewhat different section or article from this.

COMMISSIONER CATAN *(off mic)*

Wherever you want to insert...

COMMISSIONER PATERNO

So while I do not disagree with the gentleman, what I am only suggesting is that he tries to get it included or retained in the appropriate article. It is not in this article.

COMMISSIONER ABUEG.

Commissioner Catan, are you willing to withdraw for the time being your amendment and reintroduce it in the appropriate time?

COMMISSIONER CATAN.

Yes, I am willing to withdraw so that it may be inserted somewhere else.

COMMISSIONER ABUEG.

The withdrawal is approved and the reservation is noted. Section 14, Section 16, no amendment? Section 17? No amendment? 18? 19?

COMMISSIONER LAMBINO

18, Mr. Chairman.

COMMISSIONER ABUEG.

18.

COMMISSIONER LAMBINO.

Mr. Chairman, under Section 18, last line, the statement, "may in the interest of national welfare or defense, establish and operate vital industries and, upon timely payment of just compensation, transfer to public ownership utilities and other private enterprises" Delete the phrase, "to be operated by the government."

COMMISSIONER ABUEG.

What does the sponsor say?

COMMISSIONER PATERNO.

Mr. Chairman, I would respectfully propose that that be retained because we would not want the state to expropriate in effect, vital industries and then transfer their operation to another private enterprise, to be operated by the government because it is in the interest of national welfare or defense.

COMMISSIONER ABUEG.

Is Commissioner Lambino pursuing his amendment or withdrawing it?

COMMISSIONER LAMBINO.

With the advice of my good mentor, Mr. Chairman, I'm withdrawing.

COMMISSIONER ABUEG.

Withdrawal granted. Section 19? 20.

COMMISSIONER APOSTOL.

May I move to recognize Commissioner Bautista.

COMMISSIONER ABUEG.

Commissioner Bautista is recognized to introduce an amendment on Section 20.

COMMISSIONER BAUTISTA.

On Section 20, again, since the Bangko Sentral ng Pilipinas is considered to be the independent central monetary authority which was created pursuant to the provision in the 1987 Constitution,

may I propose that we place there that, “the Bangko Sentral ng Pilipinas is an independent central monetary authority, the members of whose must be...” etc.

COMMISSIONER ABUEG.

What does the sponsor say? Creating Bangko Sentral.

COMMISSIONER PATERNO.

Well, I think this is a question of style. So how would that read then? That first sentence.

COMMISSIONER BAUTISTA.

“The Bangko Sentral ng Pilipinas is an independent central money authority, the members of whose governing Board must be natural-born Filipino citizens...” So I’m just already saying that it seems under this current section, the Congress is still commanded to establish an independent when they already have. So what I would like to do is to recognize that it is the BSP which is the central monetary authority.

COMMISSIONER PATERNO.

Mr. Chairman, it will be recalled that the former Governor of the Central Bank appeared before us with a request that the provision or the section be maintained as is. Now, I would accept subject to consultation with Governor Singson because the bankers may have their own interpretation of this, which I am not willing to take responsibility for.

COMMISSIONER ABUEG

Commissioner Bautista.

COMMISSIONER PATERNO

Well, we don’t know...

COMMISSIONER ABUEG

Commissioner Bautista.

COMMISSIONER APOSTOL

Before Commissioner Bautista answers, I move that we recognize Commissioner Ortiz.

COMMISSIONER ABUEG

Commissioner Ortiz is recognized to speak for the Committee.

COMMISSIONER ORTIZ-LUIS.

If you will remember, the Bangko Sentral was formerly the Central Bank and that is a completely different entity from Bangko Sentral. So if we put here Bangko Sentral, it means that if there is a time that that entity will have to be changed, then you are limited by the Constitution. So that is why it’s practical just to define that kind of institution and say that it is a creation that’s mandated. We cannot identify a particular name here, it might create problems later on.

COMMISSIONER ABUEG.

Commissioner Bautista, will you insist on your amendment?

COMMISSIONER BAUTISTA

Can the Floor Leader recognize Lambino?

COMMISSIONER APOSTOL
No let him...

COMMISSIONER BAUTISTA
He wants to say something on it.

COMMISSIONER APOSTOL
He's not talking eh.

COMMISSIONER LAMBINO.
Well, Mr. Chairman, actually this is in support of the Committee because the succeeding paragraph says that until the Parliament or Congress otherwise provides, the Central Bank now Bangko Sentral operating under existing laws shall function as the central monetary authority. So the first paragraph therefore gives only the general guidelines for Parliament in regard to the establishment of an independent central monetary board.

COMMISSIONER BAUTISTA
No, but Mr. Chairman, again, that is where in fact the fallacy lies because that second paragraph is no longer true currently because it is already the BSP, the BSP has already been created. Congress has already followed the mandate of the 1987 Constitution and they have already created an entity that will replace the Central Bank of the Philippines. So legally, the Central Bank of the Philippines no longer exists and that's why we have to delete this. Otherwise, we are not, you know, sort of like, taking reality into account.

COMMISSIONER ABUEG.
The sponsor?

COMMISSIONER PATERNO.
Mr. Chairman, I have to submit to the higher knowledge of the former Governor of the Central Bank on this matter. He asked that the provision be retained as it is and I hesitate to go against his advice on the basis of style change.

SUSPENSION OF SESSION

COMMISSIONER ABUEG.
The session is suspended.

It was 3:06 p.m.

RESUMPTION OF SESSION

The session resumed at 3:11 p.m.

COMMISSIONER ABUEG.
Floor Leader. Floor leader, will you please state the parliamentary situation?

COMMISSIONER APOSTOL.
The parliamentary situation is there is a motion to amend Section 20, which I understand the movant is withdrawing on condition that this will be submitted to the Committee on Style for change of sentences.

COMMISSIONER ABUEG.
The withdrawal is approved. Next section.

COMMISSIONER LAMBINO.
No, Mr. Chairman, amendment by addition to Section 20.

COMMISSIONER APOSTOL
Hindi ka naman movant eh.

COMMISSIONER LAMBINO
No, this is a new amendment, Mr. Chairman.

COMMISSIONER APOSTOL
O sige.

COMMISSIONER ABUEG
Mr. Floor Leader?

COMMISSIONER APOSTOL
Well, I move that we recognize the new movant, Commissioner Lambino.

COMMISSIONER ABUEG
Commissioner Lambino is recognized to propose an amendment to Section 20.

COMMISSIONER LAMBINO
After the word "sector" in the first sentence, the following phrase should be added, "to be appointed by the Prime Minister subject to the confirmation by the Commission on Appointments."

COMMISSIONER ABUEG.
What does the sponsor say? Private sector, "to be appointed by Prime Minister subject to confirmation by the Commission on Appointments."

COMMISSIONER PATERNO.
Mr. Chairman, I think that provision would really go against the idea of an independent central monetary authority.

COMMISSIONER LAMBINO.
Mr. Chairman, may I explain why.

COMMISSIONER ABUEG
Please proceed.

COMMISSIONER LAMBINO
The law that created the Bangko Sentral ng Pilipinas specifically provides that the members in the central monetary authority or the governing board of the Bangko Sentral ng Pilipinas should be subject to confirmation by the Commission on Appointments. That was so provided in the law. However, the matter reached the Supreme Court in the case of Singson versus Tarroza. And the Supreme Court said that since the Constitution did not specifically mention under the provision of Article VII that their appointment is not subject to among those enumerated under the provision of Article VII, then they should not be subjected to the confirmation of Commission

of Appointments just like the appointments of the Generals of the PNP which under the PNP law, it's also provided that their appointments should be subject to confirmation by the Commission on Appointments. On that note alone, that the Supreme Court said that they should not be subjected to confirmation but the law that created the BSP, even the members of the monetary board who were invited during those confirmation hearings, including Governor Singson, had commented on this issue and the Congress passed that law. That's why we are trying to correct a situation whereby even the provision does not mention who shall appoint the members of the governing board. By whom? By the Prime Minister now? Subject to confirmation by the Commission on Appointments, because if they are appointed and they are confirmed, then they can be independent as independent as they are now.

COMMISSIONER ABUEG.
Any reply from the sponsor?

COMMISSIONER PATERNO
Mr. Chairman, the reality is that when one appears before the Commission on Appointments, he is confirmed subject to certain negotiations. Mr. Chairman, I'd like to point out that the former Governor of the Central Bank is an adviser of this Commission and it is an insult to him to make any change in this section without consultation in view of the fact that when he appeared before us, he requested that there be no change in this section. And I, being Chairman of the Committee, said I wanted to understand your stand on this one. I think it would be an insult, Mr. Chairman, to change any part of this section without prior consultation with the adviser who really is elected adviser because of his experience and knowledge about monetary matters. I cannot accept the superior knowledge of a person who has not been in the Central Bank.

COMMISSIONER ABUEG.
So let's vote. Now, those who are in favor of the amendment to add...

(Commissioners simultaneously ask Commissioner Lambino to withdraw.)

COMMISSIONER ABUEG
Wait, wait please.

COMMISSIONER LAMBINO.
Mr. Chairman, Mr. Chairman, with that statement of the Chairman that he is going to consult with our adviser then I will withdraw my proposal. *(Applause)*

COMMISSIONER ABUEG.
The withdrawal is granted. Section 21, Foreign Loans. Article XIV, Section 4, for educational institutions.

COMMISSIONER BAUTISTA
Mr. Chairman.

COMMISSIONER ABUEG
Floor Leader, Floor Leader.

COMMISSIONER APOSTOL
Commissioner Bautista.

COMMISSIONER ABUEG
Commissioner Bautista is recognized to...

COMMISSIONER BAUTISTA.
Upon consultation with other Members of the Commission who want to remain unnamed, may we propose that in the second paragraph, that the words, "control and" be deleted.

COMMISSIONER ABUEG.
What does the sponsor say? The words, "control and administration."

COMMISSIONER PATERNO.
In view of the fact that foreign ownership has been liberalized above the elementary and high school levels, I would accept the amendment.

COMMISSIONER ABUEG.
No objection? The amendment is approved. Floor leader, for approval of Section 4, Article XIV.

COMMISSIONER APOSTOL.
I move to approve Section 4-2.

COMMISSIONER ABUEG.
No objection? The same is approved. Transitory provisions. Floor leader.

COMMISSIONER APOSTOL
There is no motion to amend...May I move to recognize Commissioner Garcia.

COMMISSIONER ABUEG
Section 4, Article XIV?

COMMISSIONER GARCIA
Yes, Article XIV.

COMMISSIONER ABUEG
Are you asking for a reconsideration of the approval?

COMMISSIONER GARCIA
Yes, very important.

COMMISSIONER ABUEG
Floor Leader, no objection? There being none, please proceed.

COMMISSIONER GARCIA.
I propose to amend line 3.

COMMISSIONER ABUEG
Religious.

COMMISSIONER GARCIA
"Other than those already established by religious groups and mission boards and other foreign entities existing at the time of the ratification of the revision of this Constitution."

COMMISSIONER ABUEG.
What does the sponsor say?

COMMISSIONER PATERNO.
Mr. Chairman, if any such exist, they exist ultra vires because the only exception to this requirement of this 60-40 provided by this Constitution is those established by the religious groups.

COMMISSIONER GARCIA.
There is an American school in Cebu established in the 1920s.

COMMISSIONER PATERNO
That is in the succeeding section, I mean, succeeding paragraph of that section.

COMMISSIONER GARCIA
This American school caters to not only children of American nationals but also to Filipino students. There is also a similar school in Manila. As a matter of fact, there was a case against them filed by the teachers and they were made to pay millions and they have an existing added pay because the Filipino teachers were not receiving the same salary grade. So they have been existing already at the time of the ratification because if we exclude these established by religious, then we are given a new preference in class legislation.

COMMISSIONER PATERNO.
May I propose to the distinguished gentleman from Cebu that perhaps that amendment may more properly belong to the third paragraph where, "No educational institution other than those already established" or something to that effect.

COMMISSIONER GARCIA.
Well, yeah, if this can be accommodated wherever, first or third paragraph, I would not mind.

COMMISSIONER PATERNO.
Well we can say that the provisions of the sub-section shall not apply to schools already established for foreign diplomats, etc.

COMMISSIONER GARCIA.
No because they are not really for...

COMMISSIONER ABUEG
With that understanding...

COMMISSIONER APOSTOL
I think..."No education institution other than those..."

COMMISSIONER ABUEG
"Already existing upon the ratification of this Constitution."

COMMISSIONER GARCIA
"Upon ratification of this Constitution." Also the last sentence of the third paragraph, "The provisions of this sub-section shall not apply to schools established for foreign diplomats, personnel and their dependents and for other temporary residents." Because in Cebu right now,

there is a school, 400 Korean nationals learning English, in Cebu. They are temporary residents, to study English.

COMMISSIONER ABUEG
The sponsor? Accepted?

COMMISSIONER PATERNO
I'm not sure what the amendment...

COMMISSIONER ABUEG
For children of diplomats and other temporary, transients...

COMMISSIONER PATERNO.
May we clarify the amendment so that we can accept as worded?

COMMISSIONER ABUEG.
Sa'n mo ilalagay?

COMMISSIONER GARCIA.
"And other temporary residents."

COMMISSIONER ABUEG
Kaya nga, sa'n mo, what provision para maituro...?

COMMISSIONER GARCIA
The last, the last line.

COMMISSIONER PATERNO
The last sentence?

COMMISSIONER GARCIA
Last sentence.

COMMISSIONER PATERNO
Can you read how it will go?

COMMISSIONER APOSTOL (*off mic*)
What you want, Pabling, is to remove...?

COMMISSIONER GARCIA
To remove, "unless otherwise provided by law" because this is vague.

COMMISSIONER ABUEG.
Kung acceptable, i-reconcile na lang ninyo. Aprubahan na natin. Acceptable, Mr. Sponsor?

COMMISSIONER PATERNO
May I make clear what is the amendment, Mr. Chairman?

COMMISSIONER ABUEG
Please restate the amendment, Commissioner Garcia.

COMMISSIONER GARCIA

I propose to delete, "unless otherwise provided by law." Add "their dependents and other temporary foreign residents

COMMISSIONER ABUEG

The sponsor?

COMMISSIONER PATERNO

Oh, so the gentleman is...

COMMISSIONER GARCIA

The elimination of, the deletion of, "unless otherwise provided by law."

COMMISSIONER PATERNO

I accept.

SUSPENSION OF SESSION

COMMISSIONER ABUEG

The session is suspended.

COMMISSIONER APOSTOL (*off mic*)

Accept na raw, accept na.

RESUMPTION OF SESSION

COMMISSIONER ABUEG

Session is resumed. Any objections? There being none, the amendment is approved. The Chair is now ready to entertain any motion to approve the report of the Committee of National Patrimony and Economic...

COMMISSIONER LAMBINO.

Amendment, Mr. Chairman. Section 4, there is still an amendment, Mr. Chairman.

COMMISSIONER ABUEG

Floor Leader.

COMMISSIONER APOSTOL (*off mic*)

Anong amendment mo?

COMMISSIONER LAMBINO

Section 4, to insert the word "pre-school" before the word "elementary."

COMMISSIONER ABUEG.

The sponsor?

COMMISSIONER PATERNO.

I thought that was already accepted, Mr. Chairman.

COMMISSIONER LAMBINO

Yeah, thank you, Mr. Chairman.

COMMISSIONER ABUEG.

The Chair is now ready to entertain a motion to approve the report.

COMMISSIONER APOSTOL.

I move to approve Section 4-2 and the transitory provision.

COMMISSIONER ROMUALDO

Second the motion.

COMMISSIONER ABUEG.

No objection?

COMMISSIONER APOSTOL.

I move to approve now the report submitted by the Committee on the National Patrimony and Economy.

COMMISSIONER ROMUALDO

Second the motion.

SUSPENSION OF SESSION

COMMISSIONER ABUEG.

Any objections? There being none, the said Report is approved. Session is suspended.

(Applause)

RESUMPTION OF SESSION

COMMISSIONER ABUEG

Session is resumed. The Floor Leader.

COMMISSIONER APOSTOL.

Mr. Chair, I move that we suspend the Rules, so that we can go on third reading on the National Patrimony.

COMMISSIONER ABUEG

Any objection? There being none, the motion is approved. Floor Leader.

COMMISSIONER APOSTOL

I move now that we go on third reading on the National Patrimony and Economy.

COMMISSIONER ABUEG.

Will you please read the title of the same?

COMMISSIONER APOSTOL.

The title is, "The National Patrimony and Economy, Amending Articles XII, XIV and XVI of the 1987 Constitution."

COMMISSIONER ABUEG.

Is there no objection to the approval on third reading of the National Patrimony, of the Committee Report as amended? There being none, the same is approved. Floor Leader?

(Applause)

SUSPENSION OF SESSION

COMMISSIONER APOSTOL.
I move for a five-minute recess.

COMMISSIONER ABUEG.
Session is suspended.

It was 3:47 p.m.

RESUMPTION OF SESSION

At 4:50 p.m., the session was resumed with Chairman Abueva presiding.

COMMISSIONER ADAMAT.
Mr. Chair, I move for the consideration of the committee report of the Committee on Preamble on Articles I to V of the Philippine Constitution and this is to be reported by the Committee Chair, no less than Commissioner Francis Chua.

COMMISSIONER VILLANUEVA.
Parliamentary inquiry, Mr. President. May I know when the Committee report was given because I still don't have a copy of it? When was it given and distributed? Because that's precisely why I asked what the rule of the House is. The rule of the House is that you distribute the committee reports 24 hours before so we can study it and have an intelligent discussion. That is the rule.

CHAIRMAN ABUEVA.
Mr. Chua, when was this distributed?

COMMISSIONER ADAMAT.
Mr. Chairman, for purposes of clarification, this was distributed early on but there was a revision made by the committee and it was finally distributed just this afternoon.

CHAIRMAN ABUEVA.
What do you mean by distributed early on? When was that?

COMMISSIONER CHUA.
At 12:00 noon today, the report was distributed, Mr. Chairman. The reason why we made a revision was in recognition of a certain request for a last minute in session but that does not in any way change the report itself, Sir.

COMMISSIONER VILLANUEVA.
Mr. Chairman, I would like to make a manifestation. I was told that Mr. Chua, Commissioner Chua, would just deliver a sponsorship so I have no objection so as long we do not...

CHAIRMAN ABUEVA.
Is that a correct statement?

COMMISSIONER CHUA.
Yes, Mr. Chairman.

COMMISSIONER ADAMAT.
Yes, Mr. Chairman, so I move for the recognition of Commissioner Chua for the sponsorship of the committee report.

COMMISSIONER LORENZANA.
Can we ask all the Commissioners to sit down, please. We are all on record here.

CHAIRMAN ABUEVA.
Commissioner Chua is recognized.

COMMISSIONER CHUA.
Thank you, Mr. Chairman. Good afternoon, fellow Commissioners. Our Committee on Preamble has been working on this for the past several weeks and in fact we even worked on holidays. For those Commissioners who have been working with us even during the holidays, I would like to express my gratitude. In fact, a while ago during our executive session, I was quite worried that all our efforts on this study might be thrown into water but I am now very much encouraged because all of us believe in what we have been doing, and with this I am submitting our proposal, a copy of it has been attached, and I hope the Committee of the Whole could go through it and give us your proper recommendation. Thank you, Mr. Chairman.

CHAIRMAN ABUEVA.
Thank you, Chairman Chua.

COMMISSIONER ADAMAT.
I move for the suspension of the deliberation on the subject matter.

CHAIRMAN ABUEVA.
This is just a sponsorship, no? Okay. Read it tonight and continue discussion tomorrow. Commissioner Villanueva, would that satisfy you? Thank you.

COMMISSIONER ADAMAT.
Mr. Chairman, we will now go to other matters. If there are no other matters to be discussed...

COMMISSIONER ESPINA (*off mic*)
Move to adjourn.

COMMISSIONER ADAMAT
Then I move to adjourn until 10:00 tomorrow.

COMMISSIONER ROMUALDO
For a while, for a while.

COMMISSIONER ABUEVA
Commissioner Romualdo.

COMMISSIONER ROMUALDO.
If the Chairman of the Committee on Form is here, I wonder if I can request for the creation of the Committee on Appointments.

COMMISSIONER VILLANUEVA.

Point of order Mr. Chairman. I think we have scheduled the Committee on Suffrage and I think the material, the Committee Report, has been distributed yesterday or even two days ago, so I hope we can follow the Business of the Day as scheduled.

COMMISSIONER ROMUALDO.

We will follow but this is just a, we be allowed to request for reconsideration on the creation of the Commission on Appointments.

COMMISSIONER ANGELES

Noted.

CHAIRMAN ABUEVA

Mr. Floor Leader?

SUSPENSION OF SESSION

COMMISSIONER ADAMAT.

I move for a one-minute suspension, Mr. Chairman.

It was 4:58 p.m.

RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

CHAIRMAN ABUEVA

Our session is resumed. Mr. Floor Leader?

COMMISSIONER ADAMAT.

Mr. Chairman, I move for the recognition of Commissioner Romualdo.

CHAIRMAN ABUEVA.

Commissioner Romualdo is recognized.

COMMISSIONER ROMUALDO.

Thank you, Your Honor. May the Chairman accept my motion to delete in the Form of Government the Commission on Appointments?

COMMISSIONER LORENZANA

Manny.

COMMISSIONER ANGELES.

Is this a motion for reconsideration?

COMMISSIONER ROMUALDO

It was already granted, only on that particular subject.

COMMISSIONER ANGELES

Your proposal is to remove the provision creating a Commission on Appointments in the proposal for the form of government, correct.

COMMISSIONER ROMUALDO

Thank you, Sir.

COMMISSIONER ANGELES

My problem is this, I have to take it up with the members of my small committee. Are you in favor?

CHAIRMAN ABUEVA.

For reconsideration, there's one final chance for that.

COMMISSIONER ANGELES.

Okay, we agree with the proposal in principle.

COMMISSIONER ROMUALDO.

Thank you so much, sir.

COMMISSIONER ADAMAT.

Mr. Chairman, there being no other matter for discussion, I move for, no, it was already approved in principle, Mr. Chairman. Commissioner Tabanda wishes to be recognized, Mr. Chairman.

CHAIRMAN ABUEVA

Commissioner Tabanda.

COMMISSIONER TABANDA.

Mr. Chair, yesterday there was a very serious discussion on the Commission on Appointments. We would like to know what section is being amended in our draft yesterday because there were categories of persons who were supposed to be subject to Commission on Appointments confirmation. Does it mean that if we say, remove the Commission on Appointments, that means that there will be no more officials subjected to confirmation? That is the implication. I think it is a very, very serious matter that needs serious consideration and it seems that everybody is just walking around here.

COMMISSIONER ROMULADO.

You know, because we are talking or thinking of presidential system. We seem to forget that there is now a fusion of the head of government and Parliament, see? Now supposing I am the Prime Minister and I nominate you for a certain position and then that goes to the Members of the Commission on Appointments who are, let's call it lower than my rank, what happens if the members of the Commission on Appointments will not agree to the nomination of the Prime Minister? Will that not be a ground for no confidence? My God, for every appointment you can raise no confidence to the, look at that situation. It is different from a presidential system. The reason for Commission on Appointments is to control or check, again the word check, the powers of the President's in appointment.

COMMISSIONER TABANDA.

Point of order, Mr. Chair. Mine is a point of order. Yesterday, the matter on the Commission on Appointments was subjected to a vote because there were objections. Are we just going now to allow the Chair, by himself, to obliterate the decision of the majority? Mine is a matter of procedure. It was subjected to a vote yesterday. Wouldn't the more prudent procedure be to subject it to a vote again, rather than simply asking, with no offense to the Chair, but would we just ask the Chair if he agrees to the suggestion, with the proposal to do away, to abolish the

Commission on Appointments? It was voted upon yesterday because there was an objection. Shouldn't it also be voted upon today instead of asking the Chair if he is amenable or not? That's my only point. It's a matter of procedure.

CHAIRMAN ABUEVA.

Commissioner, the idea is to hear Commissioner Romualdo so a decision can be made by the Body on the issue.

COMMISSIONER ROMUALDO.

Now I asked earlier. They were noisy, they were talking, they were not listening so perhaps they failed to hear my request for reconsideration on that particular subject, and the Chair has ruled, yes, after consultation. So in short there was a reconsideration. And now I ask for the reiteration of the amendment, the amendment. That's it.

COMMISSIONER ESPINA

Mr. Chairman.

COMMISSIONER ROMUALDO

So the procedure was properly done, Your Honor.

COMMISSIONER ADAMAT.

Commissioner Espina wishes to be recognized.

CHAIRMAN ABUEVA

Commissioner Espina.

COMMISSIONER ESPINA.

I will not be technical, Mr. Chairman, because if I were to be technical, a motion for reconsideration can only be made by one who voted with the prevailing side and on that issue, my good friend, Commissioner Romualdo, was against the decision of the prevailing side. But anyway, his concern of course is understood, and that is in a parliamentary system the appointing power of the Prime Minister, according to him, need not be subjected to a review by a group within the bigger group of Parliament. The concept of the Commission on Appointments is two: one, as a process of review but the most important is to guarantee a voice to the opposition because the Commission is organized based on party proportional representation. If we abolish entirely a Commission, then as we know the majority is the one who dictates who is the Prime Minister. So there will no longer be any system of check or review whatsoever and I believe, Mr. Chairman, we should retain this, at least as a review mechanism. Anyway, the Prime Minister will not appoint without consulting his party members. He does not recommend or appoint in isolation of the other Members of the Commission. So with that, Mr. Chairman, we should sustain the decision yesterday and retain the Commission on Appointments even under a unicameral legislative body even under a parliamentary system, if only to guarantee that the minority in Parliament will have some seat in a body that will have the authority to review the appointments of the Prime Minister.

COMMISSIONER ROMUALDO

Your Honor.

CHAIRMAN ABUEVA

Mr. Floor Leader.

COMMISSIONER ADAMAT

Mr. Chairman, before Commissioner Romualdo, can we just recognize Commissioner Tendero, Mr. Chairman?

CHAIRMAN ABUEVA.

Commissioner Tendero is recognized.

COMMISSIONER TENDERO.

This is more of a question about the order that we have here because for any motion for reconsideration, I think we have to vote on it as a Body rather than just making the Chairman, making the decision whether to accept it or not.

COMMISSIONER ABUEVA

Mr. Floor leader, should we do that?

COMMISSIONER ADAMAT.

Yes, Commissioner Romualdo.

COMMISSIONER ROMUALDO.

Your Honor, the statement of Commissioner, His Honor Espina, that is more on theory. You know, I have been a member of the Commission on Appointments and believe it or not, all the Members of the Commission on Appointments are using their power as such member to exploit those that are on the seat. Worse, when I was a Member of the Commission on Appointments in the Eight Congress, I knew I'm sorry to say, there were those Members who wanted military to produce an amount before he will be confirmed. And that's the reason, that was prevailing even before Martial Law and that was the reason why the Commission on Appointments was removed in the 1971 Constitution because of that bad practice. Don't tell me that the opposition is given a chance to do something against those, to those who might be appointed by the Prime Minister. In the history of the Commission on Appointments, all Members of the House, including the minority, they always will vote as one. So there is no practically minority representation in the Commission on Appointments. And that's the reality. Commissioner Espina is full of theories because he is very learned but what can you do with the theories yet in actual practice it is what is happening.

You know the problem there, we are a parliamentary and may I reiterate that. I am a Prime Minister, I hope I will not be, and then I nominate Gerry Espina to be one of the officers, the members of the family, let's call it. My peers, my colleagues in the Parliament will be checking on my nominee and I am the Prime Minister and if because Commissioner Espina talks in any subject so many will not like him. Do you think that will not be taken against me for being the one who nominated him? Will that not be taken into account as a loss of confidence for nominating one who always talks in all the subjects? See? My God, please, I hope you are seeing the light. Never mind this so-called check because there is no more, practically, check. except the opposition that will be sitting in the Parliament. They have to form the so-called shadow government and they must do all the checking within the Parliament itself. That's parliamentary system. You add something because we are worried with the checks and balances. Forget about checks and balances. There are so many balance but no checks. There are checks but there are no balances. Oh see?

COMMISSIONER ESPINA.

Point of order, Mr. Chairman. First, as I said earlier, I did not want to be technical but then the arguments were becoming personal and so, personal in the sense that he is already accusing Members of the Commission on Appointments perhaps now and before not to decide on

anything before it without material consideration and that is what I would not want to be in record of this Commission. The Chairman of the Commission on Appointments is the Senate President and to take that statement without any comment from any one of us would make all the Members of the Commission on Appointments in the past including the Chairman because he votes when there is a tie in a very unpleasant position. So because of that, I invoke rules and procedures that only those who voted on the prevailing side can move for reconsideration.

CHAIRMAN ABUEVA
Mr. Floor Leader?

COMMISSIONER ESPINA
I move to adjourn.

COMMISSIONER ADAMAT.
Mr. Chairman, I move that we settle this issue. We have heard...

COMMISSIONER ESPINA.
Mr. Chairman, there is a motion to adjourn.

SUSPENSION OF SESSION

COMMISSIONER RODRIGUEZ
Mr. Chairman, two-minute recess.

COMMISSIONER ADAMAT
One-minute suspension, Mr. Chairman.

CHAIRMAN ABUEVA
One-minute suspension.

COMMISSIONER ESPINA
We are breaking all rules if we do not recognize the motion to adjourn.

RESUMPTION OF SESSION

CHAIRMAN ABUEVA
The session is resumed. Mr. Floor Leader.

COMMISSIONER ADAMAT

ADJOURNMENT OF SESSION

COMMISSIONER ADAMAT.
Mr. Chairman, there being no other business for discussion, I move to adjourn until 10:00 tomorrow.

CHAIRMAN ABUEVA.
We are adjourned until 10:00 in the morning. May I remind you, on behalf of Sister Luz, today is the feast of the Immaculate Conception. We have our last chance to go to mass at 6:00.

It was 5:20 p.m.