

[VOL. IV, September 17, 1986]

R.C.C. NO. 85

Wednesday, September 17, 1986

OPENING OF SESSION

At 10:01 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Wilfrido V. Villacorta.

Everybody remained standing for the Prayer.

PRAYER

MR. VILLACORTA: Almighty God, our only Master and Savior, early this year we implored You to give us Your help in overthrowing the dictatorship. In return, You gave us a miracle. This time we are once more asking Your help in realizing a pro-God, pro-people and pro-Filipino Constitution. We beg You to give us another miracle. In this supplication, we shall recite the same prayer that we sang throughout the campaign and the revolution.

Mga kasama ko sa Constitutional Commission, ating awitin ang Ama Namin.

Everybody sang the Ama Namin.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Concepcion	Present
Alonto	Present*	Davide	Present
Aquino	Present*	Foz	Present*
Azcuna	Present*	Garcia	Present*
Bacani	Present	Gascon	Present
Bengzon	Present*	Guingona	Present
Bennagen	present	Jamir	Present
Bernas	Present*	Laurel	Present
Rosario Braid	Present	Lerum	Present*
Calderon	Present*	Maambong	Present*
Castro de	Present	Monsod	Present

Colayco	Present	Natividad	Present
Nieva	Present	Sarmiento	Present*
Nolledo	Present	Suarez	Present
Ople	Present*	Sumulong	Present
Padilla	Present	Tadeo	Present*
Quesada	Present	Tan	Present
Rama	Present	Tingson	Present
Rigos	Present	Uka	Present
Rodrigo	Present	Villacorta	Present
Romulo	Present	Villegas	Present
Rosales	Absent		

The Secretariat is in receipt of official advice of absence of Commissioner de los Reyes.

The President is present.

The roll call shows 31 Members responded to the call.

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from Ms. Ma. Persevera Razon, College of Social Sciences and Philosophy, University of the Philippines, Diliman, Quezon City, expressing belief that the U.S.

bases issue is a major item that should be included in the deliberations of the Constitutional Commission, at the same time pointing out the disadvantages of retaining the U.S. military bases in the Philippines.

(Communication No. 920 — Constitutional Commission of 1986)

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

Letter from Mr. Vicente Sumbillo, Sr., President, Small Landowner's Association, Dumingag, Zamboanga del Sur, submitting a petition signed by fourteen officers of said association, seeking exemption from the application of "Operation Land Transfer" of small landowners having only one to twenty-four hectares and that the Certificate of Land Transfer issued to tenant-farmers working on landholdings of not more than twenty-four hectares be cancelled and returned to the landowner.

(Communication No. 921 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. David E. Phillippe, President of the Management Trend Company, 18321 Ventura Blvd., Suite 740 Tarzana, California, submitting a statement — "The Essence of the Constitution, The Rule of Law and Code of Conduct Between Human Beings" — which contains the universal law of acceptable human conduct and behavior in the exercise of the right to life, liberty and the pursuit of happiness.

(Communication No. 992 — Constitutional Commission of 1986)

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

CONSIDERATION OF PROPOSED RESOLUTION NO. 537
(Article on Declaration of Principles)
Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Madam President, I move that we continue the consideration on Second Reading of the Article on Declaration of Principles.

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

The honorable chairman and members of the Committee on Preamble, National Territory, and Declaration of Principles will please occupy the front table.

The Chair understands that we are still in the period of sponsorship and debate.

MR. RAMA: Yes, Madam President.

Madam President, I ask that Commissioner Natividad be recognized to interpellate.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Thank you, Madam President.

I have only a few questions which I would like to clear up inasmuch as most of these sections had already been the subject of extended interpellations. Section 9 on page 3 states that:

The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

The State, therefore, is committed to protect the life of a fetus from the beginning of conception. Is that right?

MR. VILLEGAS: Yes.

MR. NATIVIDAD: There is no quibbling about how many months old the fetus is, but for as long as conception has started, is the fetus entitled to protection?

MR. VILLEGAS: That is precisely the reason we have to say "from the moment of conception" because if we do not protect life at its beginning, there is no reason why we have to protect it at any other period.

MR. NATIVIDAD: Madam President, I rose to ask these questions because I had the impression that this provision of the Constitution would prevent future Congresses from enacting laws legalizing abortion. Is my perception correct, Madam President?

MR. VILLEGAS: Exactly. Congress cannot legalize abortion. It would be unconstitutional.

MR. NATIVIDAD: In what way will it collide with this provision?

MR. VILLEGAS: Any direct killing of the unborn from the moment of conception would be going against the Constitution and, therefore, that law would be, if Congress attempts to make it legal, unconstitutional.

MR. NATIVIDAD: As written here in the draft, the right of the mother is written in the same sentence as the right of the unborn. What is the legal significance of this?

MR. VILLEGAS: Madam President, as I said in response to the question yesterday of Commissioner Suarez, 99 percent of the cases related to protection of the mother's health, making sure that she is in the right working conditions and that she is not subjected to stress, show that there are so many things that can endanger the life of the unborn because the health of the mother is not sufficiently cared for. This is really a prolife provision which emphasizes the fact that in most instances, protecting the life of the mother is also protecting the life of the unborn.

MR. NATIVIDAD: I am not really certain if these questions had already been asked, but I promised the groups in the public hearings and those who came here to see us that I would do so.

The lawyers who came here say that husbands also have the right to participate in the discussion of this provision. They cited the case of a mother who started to bleed and was brought to the hospital. The hospital tried to stop the bleeding but this could not be stopped; the doctor said that the only way to save the life of the mother was to terminate the pregnancy. The husbands told me that in such a case and considering the provision of this draft Constitution, the doctors would hesitate to terminate the pregnancy for fear of colliding with or violating this provision, and of being criminally charged according to our Penal Code.

Is this a correct view of those who fear this probable happening?

MR. VILLEGAS: That is not exactly correct, as we reiterated in the sponsorship speech yesterday.

In a situation where the mother needs medical operation to treat a certain illness but where indirectly the life of the unborn is sacrificed, that is not in any way considered part of this provision because there is no direct intention to kill the unborn. This is covered by the moral principle called the principle of double effect. The intention here is to save the mother and therefore a medical operation has to be performed; and if indirectly, the baby's life is sacrificed, that is not abortion. What is abortion would be a direct intent on the life of the unborn because it is unwanted — either it is the result of rape, in very, very few cases, or the result of incest, or because the baby might come out malformed. In all of these instances, there is absolutely no moral justification for killing the child.

MR. NATIVIDAD: I am trying to draw from my own experiences in the CIS when, during my time, we investigated cases of criminal abortions. Invariably in many of these cases, the records of the clinics dealing with abortion showed that the mothers were brought there already bleeding. The doctors claimed that they only performed a "D & C" — dilatation and curettage — on the patient which in effect terminated the pregnancy. The treatment had to be given because the mother was already bleeding, or the father was not available, because in many instances, she is an unwed mother. But if we investigate the case and look at the records of the clinic, it is exactly as the Commissioner has said: The woman was brought to the clinic bleeding; there was no way to stop the bleeding, so the doctor terminated the pregnancy to save the life of the woman. This in effect was made an excuse for criminal abortion.

We cannot file any case because there are no witnesses. The subject of the case, the woman herself, would be the last person to testify because she would be a coprincipal in the crime of criminal abortion. Another instance in the records of the doctors state that they removed a growth — I do not remember the exact medical term — but invariably it says removal of the growth inside, which could not be removed except by terminating the pregnancy.

So, in fine, would not the Gentleman's statement as to the exceptions to this protection of the life of the unborn from the moment of conception open the floodgates to the insidious practice of criminal abortion in this country? I am basing my question on the response of Commissioner Villegas that the exception to the rule is when the mother's life is endangered and therefore the Pregnancy can be terminated.

MR. VILLEGAS: Yes, if there is no direct killing of the baby or if the intention is to operate. The cases enumerated by the Gentleman are instances where either the law has to be perfected, and these are very good examples of how imperfect laws are, and therefore should not be the bases for our writing the Constitution, or that the implementation of the law has to be perfected. I think all of these are precisely instances which we have to work on in perfecting the law and perfecting its implementation.

MR. NATIVIDAD: I subscribe to Commissioner Villegas' view and I was merely testing the validity of his statement. My question, I believe, becomes a question of evidence because it is really hard to convict in a case of abortion when the woman herself would not testify, neither would the boyfriend nor the husband, because they are all coprincipals to the crime just committed. So, based on my own experiences in the actual criminal investigation of these offenses, the fact that the woman would not testify is a loophole in the campaign against criminal abortion. In fact, under the