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Tuesday, September 9, 1986

OPENING OF SESSION

At 10:00 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 Francisco A. Rodrigo.

Everybody remained standing for the Prayer.

PRAYER

MR. RODRIGO: Tulungan Mo Kami, Diyos naming Ama,

Na matuklas namin ang pagkakaisa
Sa aming magusot na pagkakaiba
Sa paraang wasto't maka-demokrasya.

Sa mainit naming mga pagtatalo
At sa mahigpitang labanan sa boto,
Ang tangi po sanang tunay na manalo
Ay kung alin lamang ang tama't totoo.

Ang amin po sanang kutod na isipan
Ay pasulyapin Mo sa kinabukasan,
Upang makayari ng pampalagian
Na Saligang Batas nitong mutyang Bayan.

Ito sana'y maging talang maluningning,
Katulad ng talang sumikat sa Belen,
Na tataluntunin nitong Bayan namin
Hanggang makarating sa banal Mong piling.
Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading.

Abubakar Present[*] Aquino Present[*]

Alonto Present[*] Azcuna Present[*]

Bacani Present Nollado Present[*]

Bengzon Present[*] Ople Present[*]

Bennagen Present Padilla Present

Bernas Present Quesada Present

Rosario Braid Present Rama Present

Calderon Present Regalado Present

Castro de Present Reyes de los Present

Colayco Present Rigos Present

Concepcion Present Rodrigo Present

Davide Present Romulo Present

Foz Present Rosales Absent

Garcia Present[*] Sarmiento Present

Gascon Present Suarez Present[*]

Guingona Present Sumulong Present

Jamir Present Tadeo Present[*]

Laurel Present Tan Present

Lerum Present Tingson Present

Maambong Present[*]

Treñas

Present

Monsod Present[*] Uka Present

Natividad Present[*] Villacorta Present

Nieva Present Villegas Present[*]

The President is present.

The roll call shows 32 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

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

BISHOP BACANI: Madam President, is this the proper time to ask for a clarification on an entry in the Journal?

THE PRESIDENT: We can have it later when we take up the approval of Journal.

BISHOP BACANI: Thank you, Madam President.

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

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

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, before we approve the Journal, I just like to make a clarification for the record. On page 19, Commissioner Regalado clarified for the record that the transposition of the phrase "unless otherwise provided by law" would not mean that Congress would hereafter allow foreign religious orders or foreign citizens to establish educational institutions contemplated in the provision. May I ask Commissioner Regalado whether or not by these statements he means that unless Congress provides otherwise, then the status quo of the 1973 Constitution remains.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

I explained yesterday that because we are considering the 1973 constitutional provisions, the status quo remains until such time that Congress provides otherwise, specifically in the matter of ownership. That is exactly what it means, not that Congress will automatically allow or disallow the entry here of foreign religious orders but that it is still up to Congress to deliberate on the matter.

BISHOP BACANI: I thank Commissioner Regalado very much.

MR. RAMA: Madam President.

THE PRESIDENT: Is this a comment on the Journal?

MR. RAMA: Yes, Madam President. I took this up precisely with the chairman of the committee for it seems that there is really an error in the phraseology of this provision because it could lead to interpretations contrary to the intent of the committee and the body. Therefore, I have asked the committee to allow me to rephrase this in order that it will be very clear.

When we say "unless otherwise provided by Congress, educational institutions other than those established by religious orders, mission groups and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens," from the legal point of view or legal construction, it would allow Congress to restructure the capitalization equity even to 100 percent alien, because the phrase says "unless otherwise provided by Congress."

So there is a need to rephrase this provision, Madam President, which we will take up later during the period of amendments.

APPROVAL OF JOURNAL

THE PRESIDENT: In other words, subject to whatever reservations there may be on page 19, with particular reference to the second paragraph, we can proceed to approve the Journal of yesterday sessions.

There being no other comment or manifestations, the Journal of yesterday's session is approved subject to the reservation that has been indicated.

MR. CALDERON: 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

Communication from Mr. Philip S. Tuazon of Maritime Industry Authority, PPL Building, U.N. Avenue, Metro Manila, submitting a proposed constitutional provision on maritime industry, to wit: "The State shall encourage and promote the growth and development of its maritime industry in the interest of the national economy."

(Communication No. 783 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Panfilo J. Espina of 2480 Radium Street, Sta. Ana, Manila, suggesting that a provision on "proper ethics" be included in the new Constitution.

(Communication No. 784 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from 41 employees of the Bureau of Telecommunications, Regional Office No. I, suggesting various amendments to be incorporated in the proposed provision on civil service.

(Communication No. 785 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from former MP Jeremias U. Montemayor of the Federation of Free Farmers, 41 Highland Drive, Blue Ridge, Quezon City, transmitting a copy of an article entitled: "Charter Draft Will Worsen Judicial Backlog," hoping that it will help improve the draft of the new Constitution.

(Communication No. 786 — Constitutional Commission of 1986)

To the Committee on the Judiciary.

Communication from Mr. Benjie C. Pepito, Executive Director, Movement for the Recognition and Enrichment of Philippine Ethno-Linguistic Groups (REPEL), Narra, U.P. Diliman, Quezon City, submitting a proposal on Staggered Federalization for the consideration of the Constitutional Commission.

(Communication No. 787 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Ms. Elsie A. Corpuz of the Immaculate Conception Prayer Group, 163-E Mendiola, Manila, proposing an amendment to Section 19 of the proposed Article on Education, Science, Technology, Arts, Culture and Sports under Committee Report No. 29.

(Communication No. 788 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from 28 members of Iglesia Filipina Independiente, Norala, South Cotabato, requesting the Constitutional Commission to retain the provision of the 1973 Constitution on the separation of the Church and State.

(Communication No. 789 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from former MP Jeremias U. Montemayor of the Federation of Free Farmers, 41 Highland Drive, Blue Ridge, Quezon City, transmitting a copy of an article: "The Constitutional Commission's Slip Against Labor" which also represents the position of the Federation of Free Farmers (FFF), the National Congress of Farmers Organizations (NCFO) and the Trade Union Congress of the Philippines (TUCP).

(Communication No. 790 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Jose A. Lopez, Sr., Regional Director, Ministry of Information, Region IX, Zamboanga City, transmitting a copy of the August 21, 1986 issue of the People's Review and a copy of the resolution informing the Constitutional Commission that Zamboanga City elects to be excluded from the so-called Autonomous Muslim Mindanao for various reasons, notably the term of the Tripoli Agreement under which the granting of said autonomy is based.

(Communication No. 791 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Communication from Mr. Perfecto Tamayo, President of Church Women United, Iloilo Chapter, Iloilo City, seeking inclusion in the Constitution of a provision on equal wages for the same kind of work, equal opportunities for promotions and professional development, the nondeterrence of marriage in women's rights to own and control property, nondiscriminatory education, mutual determination of management and disposal of conjugal properties, mutual consent on major decisions affecting the family, equal responsibility in the caring for children and the home, fair maternity benefits and social services for the upbringing of children.

(Communication No. 792 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from 60 signatories from Laguna, Batangas and San Pablo City enumerating the rights and responsibilities of parents in the rearing of the youth for consideration by the Constitutional Commission.

(Communication No. 793 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Felixberto M. Serrano submitting, for the consideration of the Constitutional Commission of 1986, his "Comments on the new Constitution on Citizenship and Bill of Rights," and suggesting that social and economic rights be added as an essential complement to the civil and political rights.

(Communication No. 794 — Constitutional Commission of 1986)

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

Letter from 85 inter-denominational members of Evangelical Christian Churches, 92-A Barangay Carmen, Ozamiz City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 795 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Acting Governor Jose D. Lina, Jr. and 17 other acting city and municipal mayors of Metropolitan Manila, suggesting the retention of Metropolitan Manila as a geopolitical subdivision of the country.

(Communication No. 796 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter seeking to incorporate in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from:

- (1) One hundred three students of the University of the Philippines, Diliman, Quezon City
- (2) Thirty-five residents of Malalag, Davao del Sur
- (3) Mr. Cesar B. Cayamanda
San Pablo Council 3468
Knights of Columbus
San Pablo City

(Communication Nos. 797, 798 and 799 — Constitutional Commission of 1986)

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 29

(Article on Education, Science, Technology, Arts and Culture)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we continue the consideration on Second Reading of the proposed Article on Education, Science, Technology, Arts and Culture.

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

The honorable chairman and members of the Committee on Human Resources are requested to please occupy the front seats.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:18 a.m.

RESUMPTION OF SESSION

At 10:27 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: After conferring with the committee, we have agreed that there must be a correction on Section 4 (a) for the simple reason that as phrased now, it could yield to interpretations contrary to the intent of the committee and the body. This particular provision reads:

Unless otherwise provided by Congress, educational institutions other than those established by religious orders, mission groups and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens.

This is the particular sentence affected. In other words, since the phrase "unless otherwise provided by Congress" heads off the whole sentence, it can be interpreted or, in fact, the legal interpretation would be that Congress can disturb this phrase "shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens."

In order to avoid this misinterpretation, Madam President, we decided to be more specific and to rephrase the whole sentence in this manner: We delete the words "unless otherwise provided by Congress," so the whole sentence will now read: "Educational institutions other than those established by religious orders, mission groups and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens." After "citizens," we add the words "UNLESS CONGRESS INCREASE THE MINIMUM FILIPINO EQUITY IN EDUCATIONAL INSTITUTIONS OWNED BY CORPORATIONS." This will reflect the intent of the committee and the body which was defined very clearly that it should not decrease the Filipino equity but Congress may increase it. So this is more definitive.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: As suggested by Commissioner Bernas, perhaps instead of using the word "unless," we might use the word "UNTIL."

MR. RAMA: Yes, the word is "UNTIL."

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Will the proponent yield to some amendments in order to reverse the emphasis? Can we say "THE CONGRESS SHALL REDUCE THE FOREIGN EQUITY," so it will emphasize the importance of Filipino participation, that it could never be reduced but we can reduce the foreign equity?

MR. RAMA: I think there is no problem there, Madam President. We accept the amendment.

MR. RODRIGO: Madam President.

THE PRESIDENT: Just for a clarification. In effect, Commissioner Rama is moving for a reconsideration of the approval of this particular section.

MR. RAMA: Yes, Madam President. I am asking for a reconsideration of the approval of this particular section just to make the proper correction which is not substantial. It is not a correction of substance but of form.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, I think it is understood that Congress may not decrease but may increase the Filipino participation because of the words "at least." I was the one who proposed the insertion of the words "at least." — ". . . at least sixty per centum of the capital of which . . ." That means the sixty percent cannot be reduced, but it may be increased.

MR. RAMA: But the phrase "unless otherwise provided by Congress" opens the whole provision to revisions by legislation.

MR. RODRIGO: Precisely, Madam President.

MR. RAMA: Congress may say: "At least eight or forty percent of the capital should belong to the citizens." That is the effect of this blanket provision "unless otherwise provided by Congress."

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I agree to the deletion of the words "unless otherwise provided by Congress." But why do we add "UNLESS CONGRESS INCREASES" when it is understood that "at least" means that the sixty percent cannot be reduced but it may be increased by Congress?

MR. VILLACORTA: Madam President, the committee would like to ask for a vote now because we have many other subsections to discuss.

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

MR. RODRIGO: No, I can withdraw my objection, Madam President.

MR. RAMA: This amendment merely aligns itself to the intent of the committee.

MR. RODRIGO: So how does Section 4 (a) read now?

MR. RAMA: Madam President, I propose to delete the whole phrase "unless otherwise provided by Congress" because it opens the floodgates.

The section starts with: "Educational institutions other than those established by religious orders, mission groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens UNLESS CONGRESS INCREASES THE MINIMUM FILIPINO EQUITY IN EDUCATIONAL INSTITUTIONS OWNED BY CORPORATIONS."

MR. RODRIGO: That is what I call a surplusage, but in order to save time, I withdraw my objection.

MR. RAMA: Commissioner Bernas is asking recognition.

THE PRESIDENT: Is there any objection that we reconsider the approval of Section 4 (a)?

MR. GASCON: Madam President.

THE PRESIDENT: Does the Commissioner object to the reconsideration?

MR. GASCON: Are we changing the intent of the section, Madam President?

THE PRESIDENT: Not yet, Commissioner Gascon.

Is there any objection that we reconsider the approval of Section 4 (a)? (Silence) The Chair hears none; the motion to reconsider is approved.

With respect to the proposal of Commissioner Rama, we will ask Commissioner Regalado about it because he was the one who introduced said proposal which is now open again. Does the Commissioner have any objection?

MR. REGALADO: I have no objection, Madam President. As a matter of fact, I already suggested a mere rephrasing to make the phraseology reflect the intent and to avoid possible misinterpretations.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, I think the confusion comes from the fact that we really have a special rule for schools established by religious orders, and perhaps a recasting which clearly separates them from the rest would help clarify the intent. Let me try out this statement: "Educational institutions shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens, PROVIDED THAT THIS RULE DOES NOT APPLY TO EDUCATIONAL INSTITUTIONS ESTABLISHED BY RELIGIOUS ORDERS, RELIGIOUS GROUPS AND MISSION BOARDS, UNTIL CONGRESS PROVIDES OTHERWISE."

MR. RAMA: It does not reflect the intent of the committee, Madam President.

FR. BERNAS: It does, Madam President, because first of all, we preserve the requirement that if the school is owned by an individual, the individual must be a citizen. If the school is owned by a corporation other than a religious corporation, then the Filipino capital must be at least 60 percent. It can go up anytime. So we are only left with religious schools. We preserve the present rule until Congress provides otherwise.

SUSPENSION OF SESSION

MR. RAMA: Madam President, there is another formulation from Commissioner Monsod, I ask that we suspend the session for two minutes.

THE PRESIDENT: The session is suspended.

It was 10:38 a.m.

RESUMPTION OF SESSION

At 10:44 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. VILLACORTA: Madam President, I think Commissioner Monsod has the compromise formulation.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: We propose Madam President, that the sentence should read: "CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS." This is reformulated by this Representation, Commissioners Rama, de Castro, Guingona, Villacorta, Davide, Maambong, Bernas and Foz.

THE PRESIDENT: So how will the whole section read now?

MR. MONSOD: The whole section will read: "Educational institutions other than those established by religious orders, mission groups and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens. CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS.

The control and administration of educational institutions shall be vested in citizens of the Philippines."

MS. QUESADA: Madam President, before we approve the new formulation, could we just seek clarification from Commissioners Monsod and Regalado? This is with regard to the change of some phrases like "mission groups." The original committee recommendation was "religious orders, missionary boards, charitable organizations." Will "mission groups" also refer to "foreign mission" of foreign investors, like the Middle East wanting to set up a school in Mindanao for Muslims? Is it religious mission groups? We want a clarification because yesterday I heard Commissioner Alonto say that Muslims do not have religious orders but they have mission groups. So just for the record, what does this "mission groups" exactly refer to?

FR. BERNAS: Madam President, I think the Journal does not reflect the text that was actually approved yesterday. The text said "religious groups" precisely to accommodate Muslims, mission boards and so forth.

MS. QUESADA: I remember we approved yesterday "religious groups" instead of "mission groups" because it could have another meaning and we might open the floodgates to foreign missions to come in and set up educational institutions. So for the record, could we then delete "mission groups" and substitute it with "RELIGIOUS GROUPS"?

Madam President, this is just a correction to reflect the intent of the amendment yesterday.

THE PRESIDENT: So how will the phrase read now, Commissioner Quesada?

MS. QUESADA: It will read: "RELIGIOUS GROUPS and mission boards."

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May we clarify some points with the Honorable Monsod regarding his proposal, Madam President?

I take it that when the Commissioner provides that Congress may require increased Filipino participation in all educational institutions, he has in mind not only corporations or associations at least 60 percent of the capital of which is owned by Filipinos but also, as now amended by the Honorable Quesada, religious groups and mission boards. Is my understanding correct?

MR. MONSOD: Yes, the Commissioner is correct That is precisely the reason this clarification was sought.

MR. SUAREZ: When we speak of increased Filipino participation, that means there is already an existing interest in those educational institutions. But in the case of religious groups and mission boards, it is contemplated under

the first sentence that they may be owned 100 percent by foreigners. What for are we talking about increased Filipino participation, Madam President?

MR. MONSOD: If it is zero, then we increase it from zero to any percentage we want.

MR. SUAREZ: And the Commissioner considers that within the phrase "increased Filipino participation," notwithstanding the fact that it starts from zero participation.

MR. MONSOD: Yes, Madam President.

MR. SUAREZ. I thank the Commissioner for the clarification, Madam President.

SR. TAN: Madam President.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: We changed "religious orders" to "RELIGIOUS GROUPS," and I understand why. But I think it is rather dangerous because that would include the religious sects. What makes a group religious? Therefore it would include the suicide groups, the Tadtads, because we changed it to "RELIGIOUS GROUPS." "Religious groups" means any group of people bound together by relationship with God.

FR. BERNAS: No. We wanted to use the word "groups" in order to accommodate the Muslims. This was upon the intervention of Commissioner Alonto because he said we have religious schools in the Muslim areas, but we do not have religious orders. So it means any legitimate religious groups. But whether or not the Tadtads or the suicide groups will be allowed to set up schools, that is another question.

SR. TAN: Yes. But how can we say this now when all kinds of people are claiming that they are religious groups?

FR. BERNAS: On the other hand, how are we to deny a group that claims it is a religious group?

SR. TAN: Yes, that is the point. So "RELIGIOUS GROUPS" is rather too general.

FR. BERNAS: Does the Commissioner have another suggestion?

SR. TAN: No, I was just stunned when I heard the phrase "RELIGIOUS GROUPS." I would think more of orders and then something for the Muslims, so it is just confined to that, just plain religious groups, like the ULK.

THE PRESIDENT: How about religious orders and groups, mission boards"?

SR. TAN: Maybe we could just put it in the record because we have in Mindanao religious groups committing all kinds of massacre.

FR. BERNAS: But they do not have schools.

MR. SARMIENTO: Madam President, may I address one question to the principal author and the coauthors of the amendment? Will Commissioner Monsod yield to one question?

THE PRESIDENT: The Commissioner may, if he so desires.

MR. MONSOD: Yes, gladly.

MR. SARMIENTO: The amendment reads: "CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS." Madam President, did the Commissioner and the coauthors of this amendment contemplate the possible situations when Congress may increase Filipino equity participation? Will the Commissioner give us the instances when Congress may increase Filipino equity participation in educational institutions?

MR. MONSOD: I think Commissioner Suarez already tried to address himself to that question. This would cover the right of Congress not only to increase the 60 percent Filipino participation but also to increase said participation from zero in educational institutions owned by religious orders.

MR. SARMIENTO: For reasons of public interest and common good?

MR. MONSOD: I guess that permeates the entire Constitution — that this is for public interest, Madam President. But Congress may invoke public interest, general welfare or anything for the common good.

MR. SARMIENTO: I thank the Commissioner, Madam President.

MR. RAMA: Madam President, the body is now ready to vote on all the interpretations and clarifications.

THE PRESIDENT: May we have the reformulation again.

MR. MONSOD: Madam President, it would read: "Educational institutions other than those established by RELIGIOUS GROUPS and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens. CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS.

The control and administration of educational institutions shall be vested in citizens of the Philippines."

VOTING

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

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

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

The results show 33 votes in favor, none against and 1 abstention; Section 4 (a), as amended, is approved.

MR. RAMA: Madam President, I ask that Commissioner Davide be recognized to propose an amendment to Section 5 (a).

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, the amendment is to delete Section 5 (a) which involves lines 19 to 22. The reason is that this is already included, directly or indirectly, in the mandate to "establish, maintain and support a complete, adequate and integrated system of education." If it is integrated, necessarily the regional and sectoral needs and conditions would have to be taken into account. It is inherent in the concept of integration. And insofar as the involvement of the respective representatives in policy planning is concerned, that is also included in the very concept of "complete, adequate and integrated system of education."

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: We have a committee amendment for the second part, so may I read the entire section with this amendment: "In the formulation of educational policies, the State shall take into account regional and sectoral needs and conditions. AND SHALL ENCOURAGE LOCAL PLANNING IN THE DEVELOPMENT OF EDUCATIONAL POLICIES AND PROGRAMS."

The second sentence implies the encouragement of decentralized planning at the local level, especially with our thrust on decentralization or local autonomy which is not quite captured in the original phrase. So we would like to request Commissioner Davide to consider this amendment in his proposal to delete the section.

MR. DAVIDE: Madam President, in the matter of administrative decentralization, the Article on Local Government already adequately provided for that. As a matter of fact, it is on a regional basis, not only sectoral. We actually constitutionalized these regional development councils and involved not only the different sectors but also the local governments within the region. This will cover not only education but all matters pertaining to administration. So we feel that this proposed subsection is already fully covered by not only the concept of an integrated system of education but also by the provision on administrative decentralization.

MR. GASCON: Madam President, it seems that it is clear to the Commissioner and me that the intent of Section 5 (a) is to encourage decentralization and to develop schools which are responsive to regional and sectoral needs.

MR. DAVIDE: That is already covered by the proposal in the Article on Local Government.

MR. GASCON: However, Madam President, we differ in the sense that his proposal is to delete.

MR. DAVIDE: Yes, because it is already sufficiently covered.

MR. GASCON: However, the committee feels that in order to emphasize the need for greater decentralization and for the creation of schools responsive to local needs, the section should be retained. So we would like to put it to a vote, but we agree to the principles, Madam President.

MR. DAVIDE: The committee does not accept the proposal. We ask for a vote on the proposal because Section 5 (a) is already included in the concept of a complete, adequate and integrated system, and insofar as decentralization is concerned, we already have the corresponding mandate in the Article on Local Government.

THE PRESIDENT: So the proposal of Commissioner Davide is to delete Section 5 (a).

MR. DAVIDE: Yes, Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: May I speak in favor of retaining the section. In the public hearings that we attended, many of the teachers argued for participation in the planning of educational programs, including writing of textbooks because they feel that a highly centralized educational system does not respond to the regional needs. And it seems to me that Section 5 (a) will underscore that desire of the local teachers and educators to participate in planning educational programs proper for their area.

Thank you, Madam President.

MS. ROSARIO BRAID: Madam President, may I add. In our public hearings, we heard many sectors articulate the need to elect or select their own school superintendents rather than have them selected by the centralized office. This has been going on and they felt that the lack of appropriate mechanisms for listening to their complaints so that they have to go to the centralized office makes it even more necessary to give them the autonomy to select their own local officials to whom they can freely go for their problems. So among other things, it is the presence of their own elected or selected education officials; second, to ensure that the diverse needs of each region be attended to in the curriculum planning; and third, to ensure that these innovations in terms of employment and planning boards between industry and schools could be better met through more decentralized policy development.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 11:03 am.

RESUMPTION OF SESSION

At 11:09 am., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, there has been a meeting of the minds. I ask that the committee chairman be recognized regarding this particular section.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, taking into account the point raised by Commissioners Davide and Monsod, the committee has condensed its proposal which is now acceptable to the two Commissioners. Section 5 (a) would now read: ". . . the State shall take into account regional and sectoral needs and conditions AND SHALL ENCOURAGE LOCAL PLANNING IN THE DEVELOPMENT OF EDUCATIONAL POLICIES AND PROGRAMS."

This is a shortened version of the committee proposal.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: For the record, we are accepting it as a substitute amendment.

MR. VILLACORTA: May we ask for a vote on this proposal, Madam President?

VOTING

THE PRESIDENT: As many as are in favor of Section 5 (a), please raise their hand. (Several Members raised their hand.)

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

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

The results show 28 votes in favor, none against and 1 abstention; Section 5 (a) is approved.

MR. RAMA: Madam President, I ask that Commissioner Colayco be recognized to amend Section 5 (b).

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

Section 5 (b) says that it is mandatory for all educational institutions at all levels to form multisectoral bodies composed of students, faculty, parents, non-teaching staff, administrators and other representatives to participate in the formulation of school policies and programs. I propose to the committee the deletion of this section.

MR. VILLACORTA: May we know the reason of the Commissioner.

MR. COLAYCO: These are my reasons: In the first place, we have just approved the authority of the State to

decide matters involving the formulation of school policies and programs. Consequently, the State, through the Ministry of Education, can take care of all these matters mentioned in Section 5 (b). I am not against the participatory interaction among the board of trustees or the operators of the school and the students and other persons involved, like the parents. But requiring the school to consult with the sectors mentioned in the proposal in all matters referring to school policies and programs — this may involve curriculum disciplinary matters, other areas of school education, running and operation — would, in effect, throw the management to all these sectors mentioned. Besides, there may be no uniformity in policies.

Let me give the Commissioners two instances which, I believe, have shown the abdication by school authorities for fear of these pressures. I was once called, about ten years ago, to a meeting of parents of students in a certain school, where this problem was thrown to us: Shall the school allow the high school students to smoke in the school premises? I stood up and objected to the question. I said, "We sent you our children and while they are in the school premises, they are subject to your discipline, therefore, do not throw the question back to us. You know smoking is bad for the health. There should be more than sufficient reason for you to say, 'No smoking at least in school grounds.'" But, unfortunately, my objection was overridden by many students who were smoking during the meeting.

Another thing, every time graduation comes around, especially in schools for women, the problem of where they will hold the graduation party or rites arises. Always, the rich parents would stand up and say: "We want our children to have everything that we ourselves did not have." So it was only poor Mrs. Colayco and a sprinkling of others in the meeting who stood up to object to that. We said: "What is wrong with holding the school rites and the graduation program and party in the school premises? In this particular school, the grounds are pretty ample." The college auditorium was more than sufficient and yet we would always be defeated by parents who wanted to give their children everything that they wanted. It is because of these pressures that our school authorities now are afraid to act even on matters which pertain to them, like discipline and curriculum. I do not think we should allow for instance, non-teaching staff to also participate. This includes everybody and everybody would have his reasons.

I am, therefore, proposing that Section 5 (b) be deleted or, at any rate, be amended, although I am not at this time ready to submit the proper amendment in view of the fact that we have just expressly recognized the right of the State to participate in the formulation of school policies and programs. I believe that the State, through the Ministry of Education, is more competent than the various sectors or bodies mentioned in Section 5 (b)

MR. RAMA: Madam President.

THE PRESIDENT: Commissioner Rama is recognized.

MR. RAMA: We would like to hear the other comments on the same subsection before we suspend the session or proceed to a vote. Commissioner Davide requests recognition regarding this subsection.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

I am not for the entire deletion but only for a reformulation of the proposed subsection. I do not know whether after this reformulation Commissioner Colayco would decide otherwise we will not mandate the educational institutions nor require them to form multisectoral bodies. So the subsection will only read as follows: "All educational institutions shall PROVIDE CONSULTATIVE MECHANISMS for students faculty MEMBERS, parents, non-teaching staff and administrators in the formulation of school policies and programs.

MR. VILLACORTA: Madam President, the Commissioner's proposal is accepted by the Committee, but we are afraid that Commissioner Colayco did not hear Commissioner's amendment. Could he kindly repeat it?

MR. DAVIDE: It reads: "All educational institutions shall PROVIDE CONSULTATIVE MECHANISMS for students, faculty MEMBERS, parents, non-teaching staff and administrators in the formulation of school policies and programs."

MR. GASCON: Madam President, what does the Commissioner mean by "CONSULTATIVE MECHANISMS"?

MR. DAVIDE: We have consultative mechanisms in the Article on Social Justice. This is practically the same. The parents and the students may organize themselves into an association and the educational institution will consult them. We do not mandate the educational institution to establish these multisectoral bodies, but we leave the freedom to the students and the faculty members, and the educational institutions will consult them.

MR. RAMA: Madam President, Commissioner Sarmiento would like to comment on that.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, I am not for the deletion of the subsection. I see its wisdom — democracy in action in all educational institutions. My proposal is a reformulation and I would like to share this with the committee for its consideration. It reads: "All educational institutions shall be required to form CONSULTATIVE bodies composed of students, faculty, parents, non-teaching staff and administrators to participate in the formulation of school policies."

MR. GASCON: Madam President, first and foremost, I believe Commissioners Davide, Sarmiento and the committee are in a meeting of minds, in the sense that the main idea of Section 5 (b) is to democratize schools in the different levels of policy-making. In fact, I believe the Commissioners' proposal is not that far and I suggest that maybe we could suspend the session for a few minutes so that we can harmonize all of the proposals.

THE PRESIDENT: Before we do that, are there any other comments?

MR. RAMA: There are other comments, Madam President. Commissioner Suarez has registered to comment on Section 5 (b).

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

I would just like to clear up one point because there are two schools of thought emerging: that of Commissioners Davide and Sarmiento and that of the committee. The committee practically would like these multisectoral bodies to participate in the formulation of school policies; whereas, Commissioners Davide and Sarmiento are thinking of only consulting these bodies in the formulation of school policies and programs.

So may we know from the committee what is the exact thrust they have in mind? Does the committee want these multisectoral bodies to actively participate in the formulation of school programs and policies?

MR. VILLACORTA: Yes, Madam President, our intention is to involve the community. This is a new trend in education in more educationally developed countries in the world — that the learning process is not just the obligation of the school; it involves the participation of parents, teachers, employees and faculty of the school, as well as the students themselves.

So the intention of the committee is for active participation, active involvement. But as we had manifested, we are open to the suggestions of Commissioners Davide and Sarmiento.

MR. SUAREZ: What the Commissioners are practically suggesting, Madam President, is that these multisectoral bodies should only be consulted.

MR. GASCON: No, that is not the proposal of the Commissioners, Madam President. They are not saying that these bodies should only be consulted. What is established first is the basic premise of democratic consultation and participation in whatever form that may be. Perhaps, it could be consultative mechanism or other forms where they even have to vote.

I think the proposal of Commissioners Davide and Sarmiento does not preclude any situation in the future where the various sectors could even be represented, as the law may provide, in official policy-making bodies. The proposal must first provide for consultation but not necessarily only that.

MR. SUAREZ: In other words, if I get the Commissioner clear, these bodies would really take part in the formulation of the school policies?

MR. GASCON: They may or they may not. The first premise is to assure consultation and democratic participation and then to open the venue for Congress to provide a law for more direct participation in official policy-making by these sectors. The Congress may provide for that in the long run.

As I have said in the period of interpellations, at this point, there is a law passed before martial law, where the students are represented officially in the board of regents of the University of the Philippines. The students have a vote in the board of regents. At present, in the Mindanao State University, there is a move towards providing students and teachers representation in the board of regents and in other boards of trustees. So this is not foreclosed. We are not saying, at this point in time, that this shall be imposed but Congress may provide a law.

MR. SUAREZ: So it is clear that the committee will not stop at the level of democratic consultation. But will the committee even go further than that?

MR. GASCON: This statement could simply mean that a committee will be formed where there are different sectors to discuss how the curriculum could be improved. There is no need for too much red tape and voting on that, for example, in a particular department, college or institute. Or, it could also take the forms of larger multisectoral consultative committee defining thrust for the year. The whole point, Madam President, is to encourage the schools to make sure that the different sectors in the academic community are consulted and encouraged to participate. It could take more firm forms and official bodies, as in the board of trustees or board of regents, as the law may provide.

MR. SUAREZ: I thank the Commissioner, Madam President.

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

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Thank you very much, Madam President.

First, I subscribe to the ideal set down under Section 5 (b). I think it is an ideal which the schools should work for but not something to be mandated by the Constitution. For example, in the previous section, we already set down that regarding the making of policies of educational institutions in the different regions, the different regional sectors should be consulted. I think this is a matter for such consultation because in different regions in the Philippines, there are different levels of development and patterns of authority. Hence, to mandate outrightly such a thing as this in the Constitution would not make room for sufficient flexibility. If we are to adapt to the different regions, we should not prescribe something like this which the different regions themselves may not immediately want, and which may not even be implementable.

In Zambales, we have elementary schools for the Aetas. I remember the great difficulty of the teacher of these Aeta children just to keep them attending the class, especially when it rained and when it was time for planting. Under such circumstances, there was a more basic work to do. But here, we are mandating all educational institutions in all levels to form multisectoral bodies. So I am satisfied with the provision of Section 5 (b)

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Madam President, I would just like to be clarified on the intention of the committee regarding Section 5 (a). Democratization is an ideal, but since the committee seems to be very ambiguous in its notions of consultative and participatory task forces or committees, it might, when misapplied, bear upon the integrity of the leadership in any educational institution. When the committee says, for example, that it contemplates a participatory mechanism, does it mean that a task force has to be absorbed in the policy-making body of that institution?

MR. GASCON: No, not necessarily, Madam President.

MS. AQUINO: That is my problem, the absence of a definitive and decisive definition of the domain of this consultative and participatory mechanism.

MR. VILLACORTA: Madam President, the participation which the committee is contemplating ranges from mere consultation to direct participation. We would be open to amendments to make this intention of the committee clearer. Therefore, we ask for a two-minute suspension so that we can accommodate the different suggestions.

MS. AQUINO: Just one query before the suspension. On the domains of participatory and consultative mechanism, does it include, for example, the determination of tuition fee increases?

MR. GUINGONA: Madam President, this is my reaction to the question. When we use the word "consultation," we are using it in its accepted meaning. When we speak of other forms of participation which have been mentioned here and to which I agree, in my opinion, these other forms of participation should not be imposed on the school but should be encouraged and become implementable only with the acceptance and approval of the school.

MR. GASCON: Madam President, in response to the Commissioner's direct question, when it comes to the issue of determining tuition fee increases, the minimum requirement is prior consultation with the parents.

MS. AQUINO: I agree with the Commissioner. What about the increase in the salary of the academic and nonacademic personnel? What about the questions of student activism and militarization of the university?

MR. GASCON: But then, Madam President, the minimum requirement is that there should be consultation and participation among the different sectors in the academic community. Just to emphasize this, let me quote from the former Education Minister Onofre D. Corpuz in his sponsorship speech of the Education Bill:

. . . to establish and stress among our people the idea that those who constitute a community are bound by shared interest and purposes, rather than confronting each Other in adversary relationships.

The truth which this bill stresses is that the community of interest that binds schools and students together is more basic and enduring than the monetary conflicts that separate them. Mr. Corpuz' emphasis as the Education Minister is that we should encourage genuine cooperation and coordination among the sectors so that conflict is minimized.

Just to make it clear, Madam President. We do not mandate that there should be formal multisectoral bodies

which are the policy or decision-making bodies in the university or in the college, because there are charters which guide these institutions. What we are saying is that an informal situation sometimes can be encouraged and this is being done already. It could range from simply creating an informal consultative mechanism and committees. It could be the consensus of the whole community to make amendments to the charter to make it official, but that decision will be done by the academic communities themselves.

At present, there is a move to change the charter in MSU to provide for teachers and students being represented in the board of regents. In UP there is now a move not only to have one student regent, but to form student regents. These are moves but these cannot be implemented just like that by this constitutional provision. What it only says is that there should be different forms of consultation.

MS. AQUINO: Madam President, I was contemplating a formulation of an umbrella provision that would leave room for flexibility in the evolution of this kind of a system. My worry is that when we try to define it in the terms of a multisectoral body composed of students, and so forth and so on, this will actually bear upon the possibility of a full fruition of the process which will evolve into a democratization of the entire educational system.

MR. GASCON: Madam President, I think the intent is clear and we will be amenable to any amendments.

MR. VILLACORTA: Madam President, to shorten the proceedings, the committee would like to entertain proposals from Commissioners Aquino, Bernas, Bacani, Sarmiento and Davide.

MR. RAMA: Madam President.

THE PRESIDENT: Can we recognize Commissioner Bernas first?

FR. BERNAS: Yes, because I think there is an anterior amendment to delete the entire paragraph. But, I would like to say a few words in support of the deletion, because if we delete this paragraph, then we will not have to suspend the session just to discuss it.

First of all, I see this provision as a very detailed regulation of schools asking them to make "multi-sectoral bodies for purposes of consultation and formulation in order to achieve greater democracy in the running of the schools." To impose on schools a very detailed regulation affecting the day-to-day life of the school without consulting these schools on how it will affect the role of the board of trustees, or of the existing councils in schools — just to say this concept outright that they shall do these — would seem to be premature. I would rather rely much on the General Provisions we have approved which says:

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.

So, in order to allow for the evolution of a better process of regulation and for the evolution of a more effective process of democratization, I would propose that we state that "general empowerment of the State to supervise," and then allow the State to encourage the evolution of various methods of consultation or sharing in that decision-making process without imposing this obligation right off — and in the Constitution at that. For that reason, I would like to support the motion for the deletion and that we vote on this before we suspend the session.

MR. GASCON: The committee agrees that we should put this to a vote.

MR. PADILLA: Madam President.

THE PRESIDENT: Does Commissioner Padilla have any comment on this?

MR. PADILLA: I am in favor of the Colayco proposal for the deletion of this Section 5(b) and I concur with the views expressed by Commissioners Bacani and Bernas with the remark that this so-called "multisectoral bodies"

should appear in all levels of education. Does this mean that even in the elementary or even in high school, there should be the so-called democratization? I believe that in the early stages of education, there should be more discipline and obedience to the policies of the school. Hence, I urge for a vote, Madam President.

THE PRESIDENT: So we proceed to the motion of Commissioner Bacani to delete the entire paragraph. This has to be resolved first. Should that be lost, then we will proceed to revise the formulation of Section 5(b).

MR. GASCON: Madam President, may we just present the position of the committee? The committee stresses again the spirit of the provision of democratization and it is not close to any amendments to streamline the proposal.

THE PRESIDENT: I think that is clear to the body.

MR. GASCON: So, we do not accept the motion of deletion of Commissioner Colayco.

VOTING

THE PRESIDENT: As many as are in favor of the motion to delete Section 5(b), please raise their hand. (Several Members raised their hand.)

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

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

The results show 17 votes in favor of the deletion of the entire paragraph 12 against and 3 abstentions; the deletion of the entire Section 5(b) is approved.

MR. RAMA: Madam President, Commissioner Monsod would like to present an amendment to Section 5(c).

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Before we voted, there was this clarification that the deletion of this formulation would not prevent the committee from proposing alternative formulations. The chairman already asked that the proponents, such as Commissioners Davide, Sarmiento and Aquino, harmonize their proposed amendments.

MR. COLAYCO: Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: I would like to react to that.

When the body asked for the deletion of Section 5(b), in effect, it preempted any attempt to introduce any of the matters included therein, otherwise, it would be an indirect reconsideration without going through the body's voting. I, therefore, object to the manifestation of Commissioner Quesada.

MS. QUESADA: I submit, Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: There has been a motion to delete and that has been approved. So, Section 5(b) as worded now, is deleted. The Chair stated that should the motion to delete be lost, then the section would be open for amendments. But it won; therefore, the whole paragraph is deleted, but we do not foreclose any rephrasing of any other section here in the committee report.

MR. GASCON: Madam President, the basis for the motion for deletion, as I understood from Commissioners Bacani and Bernas, is that it is sufficiently covered in other provisions.

THE PRESIDENT: Yes, that is right.

MR. GASCON: So, therefore, this does not preclude Congress from making laws or the MECS itself from providing regulations for consultation and democratization.

That is all. Thank you.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, may I just indicate that I have served some 15 to 20 years in a university council of the University of the Visayas in Cebu, and even with the deletion of this provision, this procedure has been adopted a long time ago in that particular university. We have such a thing as a university council composed of administrators and the deans of all the colleges. We have representatives in that university council — the president of the Supreme Student Council, the president of the Faculty Club and the president of the Parent-Teacher Association. This has been implemented a long time ago, Madam President. So, I do not think we should quibble over this provision.

Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: So, let us proceed to subsection (c).

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

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I just want to propose two deletions. The first one is the phrase "as well as faculty members and students thereof," and the second one is the second sentence which talks about "fiscal autonomy" for public and private educational institutions. When we say "All institutions of higher learning shall enjoy academic freedom," that is a very encompassing sentence. It already includes all the aspects of faculty members, students and so on at the institute of higher learning.

With respect to public and private educational institutions of higher learning that enjoy fiscal autonomy, I believe that in the period of interpellations, we already said that the COA had been limited to a postaudit of educational institutions of the government and that fiscal autonomy would put too much discretion and authority in the educational institutions. So, we are proposing that that section be deleted because of the presence of that provision in the COA section.

Secondly, I do not understand what "fiscal autonomy in private educational institutions" means because fiscal autonomy normally refers to government institutions. Hence, my amendment is to delete the whole line.

THE PRESIDENT: May we have the comments of the committee?

MR. GASCON: There are two motions for deletion; one is for the deletion of the phrase "as well as faculty members and students thereof." It should be deleted since it is already covered by all institutions of higher learning. Then the second one is to delete lines 31 and 32, starting from "public" up to "autonomy."

May we recommend that we discuss these separately?

MR. MONSOD: Yes.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I speak briefly in favor of the committee proposal? I think there is a need to place the words "faculty members and students" in the proposed section. By including the words "faculty members and students" we will be giving emphasis to these aspects of academic freedom. Madam President, during martial law, this freedom was enriched when it was understood to mean academic freedom of educational institutions. However, with the filing of so many students' cases with the Supreme Court, the latter enriched the jurisprudence on the students' academic freedom.

As I stated during the period of interpellations, about three or four cases were acted upon by the Supreme Court thereby enriching the jurisprudence on students' academic freedom. There is need to retain the word "students" here to show to the students who constitute a big portion of our population that we, the Members of the Constitutional Commission, love and protect them. So, I suggest that we maintain the academic freedom of students and also that of the faculty. By stressing the faculty academic freedom, we show to these teachers that we patronize, protect and love the teaching profession which is an oppressed sector of our society.

So, with due respect to Commissioner Monsod, I will object to his amendment by deletion.

MR. RAMA: Madam President, Commissioner Bengzon would like to reserve his comments.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, under the Rules, in the matter of amendment, there will be three who will speak in favor of the proponent and two against. I will speak in favor of the proponent by agreeing to the deletion of the phrases stated by Commissioner Monsod. Since the Supreme Court has enriched the jurisprudence, then we should leave this concept to develop by itself through the cases that may be filed in the proper courts. This is a field of law that is currently developing. There is no question that the Members of this Commission care for the students and the faculty members. There is no question that the Members of this Commission are concerned with the welfare, not only of the physical well-being, but also of the mental well-being of our students, as well as the affairs of the faculty members. But again, if we do not state this here, it does not mean that we do not care for them. Precisely, we do care for them so much that we allow society in the Philippines to develop this concept by itself in the course of the development and the life of the Filipino people. Let it flourish by itself and let the Supreme Court enrich the jurisprudence, so that law will evolve through the interpretation of the various laws that will be created by Congress.

Thank you.

MR. RAMA: Madam President, Commissioner Padilla would like to make his comments.

MR. PADILLA: Madam President, I wish to invite attention that Section 5 of the 1935 Constitution states the following: "Universities established by the State shall enjoy academic freedom." This provision was expanded in the 1973 Constitution under Section 8 (2), which reads: "All institutions of higher learning shall enjoy academic freedom." I believe that the 1973 Constitution which expanded the 1935 Constitution is more than sufficient to assure academic freedom in educational institutions of higher learning. And so, I support the proposed amendment of Commissioner Monsod, as well as the comments of Commissioner Bengzon.

Thank you, Madam President.

MR. NOLLEDO: Point of information, Madam President.

THE PRESIDENT: Commissioner Nolledo is recognized.

MR. NOLLEDO: Thank you, Madam President.

With regard to the cases cited by Commissioner Sarmiento where the Supreme Court ruled that students enjoy academic freedom, it was stated by the Supreme Court that academic freedom is enjoyed by students in the form of an obiter dictum. The statement was not decisive of the cases mentioned. I have read the cases in their original copies and I am very sure of this. That is why the committee is justified in providing that academic freedom is likewise enjoyed by students because the pronouncement of the Philippine Supreme Court is only in the form of an obiter dictum. So, with due respect to Commissioner Monsod, I recommend very strongly that we should be emphatic by saying that academic freedom is also enjoyed by students.

In my interpellations of the members of the committee, I suggested that academic freedom as defined by many authorities, including the late Dr. Carlos P. Romulo, be enjoyed only teachers. In view of this opinion, the Supreme Court made an obiter. So there is no established rule that academic freedom is enjoyed by students, and this Commission will be justified in making it a categorical statement that students also enjoy academic freedom. If we really love the students, then let us manifest by overt act our love for them not by mere omission. Let us manifest it by an express statement that academic freedom is likewise enjoyed by them. I think the students will be grateful to the Members of the Commission for making that statement emphatic.

Thank you, Madam President.

MR. RAMA: Thank you.

Commissioner Aquino would like to be recognized.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I would concede to the fact that the principle of academic freedom belonging to the institution, to the parents and to the students as well, is not yet well established. It is not well established in law neither in jurisprudence. Precisely, there is the historical imperative now to define it decisively in the Constitution. However, there is one thing that is very definite. Academic freedom when defined to mean the freedom of intellectual inquiry is basic to intellectual growth and development. However, we should likewise be aware that academic freedom is subject to manipulation. It can be used and disguised by institutions to peddle an ideology, a sectarian thought or a professed dogma. Likewise, educators or professors could use and abuse academic freedom for their own ends. They occupy such a persuasive position in the classroom that the impressionable minds of the students when stunted effectively could amount to no less than dwarfed thoughts. Dwarfism is hardly productive for growth. I would rather that we be very definitive in protecting the academic freedom of the students. There is only a hairline difference between learning and persuasion, between indoctrination and assimilation and it is necessary for us to develop in the students the consciousness and the use of their critical faculties to avoid the possibility of orthodoxy or standardized thought in education.

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

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, I have just a few questions to be addressed to the committee. Is it the intention of the committee to fix the meaning of academic freedom, whether it is for institutions or for faculty members or

for students?

MR. GASCON: The intention is to clarify what is already understood. According to jurisprudence, when we speak of academic freedom for educational institutions, it includes the academic freedom of teachers and students. That was made clear during our period of interpellations.

FR. BERNAS: What I would like to know is that when we assert, it is fairly clear on what the contents of academic freedom for educational institutions are or there is an abundant literature on the content of academic freedom for faculty. When the Commissioner asserts the academic freedom of students, what precisely are the contents of this concept?

MR. GASCON: If the Commissioner would recall, we reasserted that when we speak of academic freedom which is accrued to scholars, we first make the assertion that students should also be acknowledged as scholars in the educational institution in search for knowledge and truth. Hence, they should be accorded this basic right to academic freedom which is, first, the basic right to inquire; second, it is their right to search and publish whatever they have researched. However, what happened during the dictatorship of Mr. Marcos was that this constitutional provision on academic freedom to educational institutions was also made good use of but the right of students to form organizations and student councils, to run publications and to express their views and opinions was repressed. When we speak of students' academic freedom, this basic right of the student to organize student councils, to run a publication and to express their views and opinions should also be reasserted because this freedom was repressed during the dictatorship of Mr. Marcos.

So, we would like to assert and make it clear that the basic right of the citizen outside the school is not lost when he enters the gate of the university.

FR. BERNAS: Therefore, do I take it right that when the Commissioner says that students have academic freedom, all he is saying is that their constitutional rights as found in the Bill of Rights should be respected even if they are in school?

MR. GASCON: Yes.

FR. BERNAS: That means no new concepts are being followed?

MR. GASCON: When we were in conference, the Commissioner was asking if academic freedom meant that the student has the right not to attend his classes when he is so required. That is not what it means. It is very clear that what we want is to reassert the position that there is genuinely student academic freedom. For example, when we speak of the right to organize, we say that it is already in the Bill of Rights and this is also further mentioned in the Labor Code. We also reasserted that in our Article on Social Justice. We have reasserted the basic right of workers to organization although it is already in the Bill of Rights, just as much as we provide that in the Article on Social Justice.

I think we should also give much to the students who, up to this point in time, do not even have genuine campus organizations or student councils so that they will be provided and accorded their basic constitutional rights.

FR. BERNAS: In other words, as with other rights, when we assert the academic freedom of students or faculty members, this allows for a weighing of values whenever there is conflict?

MR. GASCON: Yes.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I would volunteer to assist the committee in streamlining the concept because there might be a confusion of ends and means here. We are not talking of vague concepts of academic freedom. Essentially, academic freedom is defined as the freedom of intellectual inquiry. That is first and foremost. All the other rights that are appurtenant thereto are supportive of such freedom, like the right to organize and participate in the policy-making bodies of the institution. But the thrust of academic freedom, as it is fundamentally understood, is the right of the student to learn, and the freedom of the student to be protected from conversion or indoctrination.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Because of the consensus reached in the Subcommittee on Education, the members have agreed that academic freedom should be extended to students. But I would like to make a manifestation that I do not share the sense of student academic freedom as expressed by Commissioner Gascon. We are aware that under the provision of the 1973 Constitution and pursuant to the decisions of cases in the Philippines, including the cases of *Garcia vs. Loyola School of Theology* and *Montemayor vs. GAUF*, that concept is already, more or less, settled, if not completely; so, this academic freedom is extended to educational institutions and to faculty members. In other words, we have two kinds of academic freedom here — one is institutional, referring to educational institutions as juridical persons, and the concept is well expressed in the leading case of *Sweezy v. State of New Hampshire*. With respect to the individual freedom of faculty members, we have this accepted definition of academic freedom of teachers by Arthur Lovejoy, and I would like to quote:

The freedom of the teacher in higher institutions of learning to investigate and discuss the problems of science and to express his conclusions, whether through publication or in the instruction of students, without interference from political or ecclesiastical authority or from administrative officials of the institution in which he is employed, unless his methods are found by qualified bodies of his own profession to be clearly incompetent or contrary to professional ethics.

My stand is that the student academic freedom that we speak of here would refer only to academic matters, because in an educational institution, there could be both academic and nonacademic activities. Therefore, I agree with Commissioner Gascon that this would include the right to inquire and the right to publish. But I would not go so far as to include the right to form association, which is not, in effect, denying the students the right to form association because, as he said, when they enter the school they do not lose their citizenship. They still have that right under the provisions of the Bill of Rights and under the Article on Social Justice. But the formation of associations is no longer an academic matter; it does not pertain to it. So, paraphrasing Lovejoy, as far as student academic freedom is concerned, I would say that this is the freedom of the student in higher institutions of learning to investigate and discuss the problems of his discipline and to express his conclusions, whether through publication or through expression of his views, without interference from political or ecclesiastical authority or from the administrative officials of the institution in which he is a student unless his methods are found by qualified bodies to be clearly incompetent or unethical. In other words, if a student talks about matters of science of which he has done research, that would fall under academic freedom. But suppose he talks about who should be Miss Universe, Miss Finland or Miss Spain, that would no longer fall under academic freedom. It would fall under the right to free expression.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: May I propound just one question.

"Institutions of higher learning" in this provision refers to both public and private institutions of higher learning. It refers even to sectarian institutions of higher learning. It was stated by the committee that one of the rights they want to grant to students is the right to publish college papers. Let us say, in the Ateneo University, a group of students publishes a college paper of their own to be circulated among the students within the Ateneo premises and, in that paper, they state that they do not believe in the Divinity of Christ, in the Immaculate Conception and in the Virgin Birth. Can the Ateneo authorities interfere to prevent this?

MR. VILLACORTA: Madam President, it depends on whether Commissioner Rodrigo is referring to Ateneo de Manila University, because this academic freedom is reserved to institutions of higher learning.

MR. RODRIGO: Yes, I am referring to the university.

MR. VILLACORTA: When the committee included the academic freedom of students, it was contemplating on the students' right to freedom of inquiry which includes the right not only to accurate information but also to hear any opinion on any subject of public or general concern, whether or not related to any subject they may be currently studying, which they believe worthy of consideration. For this purpose, the students have the right to invite outside speakers and school authorities who may not veto their invitation solely on the basis of the credentials of the speaker.

This academic freedom of students also includes the right not to be subjected to indoctrination leading to imposed ideological homogeneity. And, therefore, in answer to the question of the Commissioner, the interpretation would be that Ateneo University would not have the right to suppress that material.

MR. RODRIGO: It cannot.

MR. GASCON: The Ateneo University can intervene when there is a clear violation of regulations because the academic freedom accorded to faculty or students is still balanced off by the basic academic requirements of the basic regulations of the school. This does not give the students or the faculty the right to violate rules and regulations of that particular educational institution. Therefore, if there is a clear violation of regulations, then perhaps, the university can intervene. In the Commissioner's hypothetical situation, he did not present any violation. Hence, if there is a violation, then perhaps, Ateneo can intervene.

MR. RODRIGO: It is known that the Ateneo, La Salle and University of Santo Tomas are Catholic universities. It is known that the following are matters of dogma with Catholics: the Immaculate Conception, the Virgin Birth, the Divinity of Christ, and the Blessed Trinity. Let us say a group of students enrolled at La Salle published their own La Salle gazette and distributed this among all the La Salle students within the university premises. The gazette says: "The Holy Trinity is not true . . . It cannot be true; that is contrary to reason." Can the La Salle authorities say, "Hey, stop that paper or we will expel you from school"?

MR. VILLACORTA: Madam President, even a Catholic university has a responsibility, precisely because it is an institution of higher learning. It must respect academic freedom. For example, in our university, we have Marxists and atheists even among our faculty and they are free to manifest their beliefs even inside the classroom, yet they are left untouched. In the student organ of De La Salle, The La Sallite, some of them come up with leftist views or atheist views and they are not suppressed because it is a part of the academic freedom that must prevail in every university.

MR. RODRIGO: So, in the case I cited, let us say that the authorities of La Salle tell their students, "No, you cannot do that because this is a Catholic school. When you enrolled here, you knew that this is a Catholic school," would the authorities of that university be violating this provision?

MR. VILLACORTA: Is the Commissioner speaking only of De La Salle?

MR. RODRIGO: No, not just La Salle, because this is a constitutional provision that we are talking about.

MR. VILLACORTA: With this provision, yes. For that matter, in any university all over the world, whether Catholic or non-Catholic, whether this provision is adopted or not, academic freedom is a universally accepted tradition.

MR. RODRIGO: Yes. But the definition is not very clear; and that is why I am applying it to a specific case of a group of students. They organize themselves, put up a college paper and attack Catholic dogmas. Or, it can happen also in an Islamic university. Let us say that in an Islamic university, some students publish a paper questioning the belief that Mohammed is a prophet. Cannot the university authorities interfere?

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen desires to respond to that question.

MR. BENNAGEN: Within the spirit of academic freedom as free inquiry, I think a student who goes into the kind of exercise cited by Commissioner Rodrigo should be protected as long as the activities fall within the canons of scholarship and subjected, as it were, to the forces of the market place of ideas. Eventually, it is in this market place of ideas that the academic freedom as a provision will be tested. Incidentally, in the flagship provision of the article, we did say that the State shall foster or promote human liberation and development. In Section 3(b), we did say that the State shall encourage creative and critical thinking. I think the provision on academic freedom in higher institutions for faculty members and for students provides a measure of protection for this kind of pushing, as it were, the frontiers of knowledge. And so far as this is allowed full play in the academic institutions or in the institutions of higher learning, I think we will end up the better as a people.

MR. GASCON: As I have already expressed and as it is written here in the "Legal Rights of Students," a primer published by the Civil Liberties Union, school authorities may subject to reasonable regulations the exercise of students' rights to freedom of movement, to speech, to peaceful assembly and privacy inside school premises. As I said, academic freedom of students does not give the mandate to the students to violate existing school regulations. So, that should be clear.

What we are reasserting here is that the student, being a member of the educational institution which is a sector of the academic community, has and enjoys academic freedom. As Commissioner Aquino and Commissioner Guingona have expressed very well, students have the basic right to intellectual inquiry and other rights which are already provided in the Bill of Rights and which may not be taken away from them simply because they have entered the university. This should be seen as supportive of their basic right to intellectual inquiry as members of the academic community.

THE PRESIDENT: Commissioner de los Reyes is recognized first and then to be followed by Commissioner Azcuna.

MR. DE LOS REYES: I would like to be guided in voting. I heard that academic freedom is defined as the freedom of intellectual inquiry and the freedom not to be subject to indoctrination. In Section 3(b), we approved the phrase "encourage critical and creative thinking." Is that not already included within the concept of academic freedom? Or, is academic freedom entirely a different concept from critical and creative thinking?

MR. BENNAGEN: Madam President, I think the provision on academic freedom gives a measure of protection. In very concrete terms, let me say that in many institutions of higher learning, baccalaureate students and graduate students are now tasked with writing term papers, seminar papers, theses and dissertations. I think this provision

will promote the capability of students to pursue the limits of ideas without being pressured by existing orthodoxy on the specializations that students pursue.

MR. DE LOS REYES: But Section 3(b) does not only protect, it even encourages critical and creative thinking which is a higher right given to students. Certainly, when the State encourages critical and creative thinking, it will naturally protect it. This is based on the definition read by the committee as already covered in Section 3(b).

Thank you, Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Madam President, I would like to propose a wording that might embrace all types of academic freedom. Instead of saying: "Academic freedom shall be enjoyed by students, by teachers, by researchers," why do we not just say: "ACADEMIC FREEDOM SHALL BE ENJOYED IN ALL INSTITUTIONS OF HIGHER LEARNING." That way, we do not have to specify the different components who enjoy it.

In the 1973 Constitution, this freedom is given to the institution itself. All institutions of higher learning shall enjoy academic freedom. So, with this proposal we will provide academic freedom in the institutions — enjoyed by the students, by the teachers, by the researchers and we will not freeze the meaning and the limits of this freedom. Since academic freedom is a dynamic concept and we want to expand the frontiers of freedom, specially in education, therefore, we will leave it to the courts to develop further the parameters of academic freedom. We just say that it shall be enjoyed in all institutions of higher learning.

THE PRESIDENT: Before the committee reacts, may we hear Commissioner Ople.

MR. OPLE: Thank you, Madam President.

I just want to put a few quick questions to the committee. I have to Confess my very limited knowledge of academic freedom in universities, specially in concrete practice. But does the committee, by and large, share the definition of academic freedom as already put forward by Commissioners Aquino and Guingona in terms of the pursuit of knowledge and no boundaries to critical inquiry with respect to certain academic disciplines?

MS. ROSARIO BRAID: Yes.

MR. VILLACORTA: Yes.

MR. OPLE: On the other hand, in the quotation attributed to Mr. Arthur Lovejoy in what Commissioner Guingona just shared with the Commission, specially in terms of associating academic freedom with certain responsible modes of testing academic freedom, is that a Supreme Court decision or just a learned treatise? As an example, the Commissioner also said that the modes of research could be evaluated by the academic peers or by the instructor or professor exercising academic freedom to determine whether this freedom has been exercised responsibly.

MR. GUINGONA: This concept has been advanced by Arthur Lovejoy, but it has been accepted jurisprudentially not only in the United States, but also in the Philippines.

MR. OPLE: Having in mind this distinction of academic freedom as the pursuit of truth, may I quote this saying: "Ascertain the truth from facts." Is there any significant difference between advocacy and the pursuit of truth in the academic sense?

MR. MONSOD: Madam President.

MR. VILLACORTA: Advocacy is part of the pursuit of truth, although it is not the only means towards the

pursuit of truth. Because in the process of pursuing truth, some individuals have discovered certain manifestations of the truth and it is their duty to advocate or to spread what they have discovered. This is particularly applicable to research findings.

MR. OPLE: Yes. I see that that follows because there is also a saying that thought without action is a disease. But I do recall in contemporary history the brave proclamation of Mao Tse Tung in China about "a hundred flowers blooming and letting a hundred schools of thought contend." When this was put to the test of reality, people did paste up a lot of contrary political thoughts on the wall near Tien An Men Square. Eventually some of these people were arrested. But what I mean is, can academic freedom be invoked by a group of students in order to espouse what in the eyes of the authorities could be a seditious propaganda in the name of the pursuit and advocacy of truth?

MR. VILLACORTA: I think this was very vividly manifested during the regime of Mr. Marcos when what was considered seditious and subversive by the existent government had to be asserted within the walls of the university. This was when many universities were very effective in defending the freedoms and rights of the people. That is why it is imperative that academic freedom be guaranteed in the Constitution, if only for this purpose.

MR. OPLE: Yes. Of course, any government, regardless of its form, has a cardinal principle that it follows — that the State must preserve itself. Therefore, whether in the Soviet Union, in China, in the United States or in the Philippines, there are sedition laws and laws protecting national security in order to balance the exercise of the freedom and liberties of citizens. I assume that such sedition laws stay on the statute books now under a more liberal government. The question is still valid: Can a group of students organize and espouse what the authorities consider seditious propaganda in the name of academic freedom?

MR. VILLACORTA: By the word "authorities," does the Commissioner mean school authorities?

MR. OPLE: The school authorities and state authorities, whoever they may be. I am not sure where this power and responsibility are lodged now. I suppose that the courts pass upon such charters.

MR. VILLACORTA: The reason why the committee proposes that we identify the beneficiaries of academic freedom, including faculty members and students, is precisely because of the situation that the Commissioner has just described in which we would like to protect both the faculty member and the students from certain state suppressive activities that might be exercised by a future dictatorial government. Not only that, there might be certain school authorities that would wittingly or unwittingly collaborate with this dictatorial state authority in suppressing thought and freedom of expression.

MR. OPLE: In the definition offered by Commissioner Aquino which I thought was most excellent, she also talked of the need to protect the students and the faculty from what she called the danger of ideological indoctrination. I wonder what she meant by that. She is not here now, but the committee, having assumed jurisdiction, can explain what that meant, if that is a valid content of academic freedom.

MR. GUINGONA: May we invite the attention of Commissioner Ople that Commissioner Aquino is in the session hall.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: To abbreviate the proceedings, I can assist the committee in answering some of the questions of Commissioner Ople. We handled several students' cases during martial law. Academic freedom does not mean

license. The students are still subject to reasonable school regulations. So if they espouse seditious views or if they distribute the so-called subversive materials, the schools would find appropriate charges against them. This was done during martial law.

My submission is that the exercise of students' rights as freedom of movement, speech, peaceful assembly and privacy inside school premises is subject to reasonable regulations. This is also true of publications which are official organs of the school or student body as well as of the circulation of other publications within school premises. However, it is our submission that to be reasonable, the school regulations must comply with three requirements: (1) it was adopted by the board or officers of the school having authority to do so; (2) it must be made known to the student body; and (3) it must be designed to prevent disruption of school functions or to protect the health, morals, property or rights of students.

MR. OPLE: Yes, that eliminates some of the doubts in my mind. Of course, in an atmosphere of political and social stability, the meaning of academic freedom is probably more easily and quickly understood. However, we now live in a volatile time when polarizations take place both inside and outside the campuses and that is why I have a valid concern to ask these questions so that we can determine the implications of academic freedom for students in our own specific times.

Thank you, Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, if it will make the committee any happier, I would like to indicate that I am all for the statement of academic freedom in the Constitution depending on the formulation. I would also like to associate myself with the statement of Commissioner Azcuna that academic freedom is a very dynamic concept and so even if we turn ourselves blue, quoting Arthur Lovejoy, or the American Association of University Professors, or the case of *Keyishian v. Board of Regents* (385 U.S. 589), a U.S. case on academic freedom, we will never get anywhere. So, I would like this concept to be open-ended. However, I would like to ask the committee that perhaps we could concretize the problem by saying that there is some sort of required harmonization between the constitutional provision on supervision and regulation and academic freedom, on the other hand. Is that not the problem? It is actually the kind of harmonization between supervision and regulations and academic freedom on the other hand.

MS. ROSARIO BRAID: Yes, I think it is the harmonization of the two concepts — regulation and freedom.

MR. VILLACORTA: Is the fact that there is a conflict between supervision and regulation and academic freedom the premise of this Commissioner?

MR. MAAMBONG: Yes, that is actually one part of the problem. When a student or a professor or the institution itself exercises academic freedom, he could get into conflict with the other constitutional provision on supervision and regulation of the school itself and that becomes a part of the conflict. I am just asking the committee if we agree on that.

MR. VILLACORTA: Madam President, the analogy seems to be the relationship between the State and the individual. The State regulates to a certain extent the behavior and actions of an individual citizen, but that citizen has inherent and inalienable rights which the State cannot take away from him.

So there is no conflict in such a relationship, in the same manner that state regulation of schools does not conflict with the academic freedom of universities and colleges.

MR. MAAMBONG: That is precisely my point of reference, because we have to establish a concept wherein the State has supervision and regulation of institutions of learning; whereas, we are trying to put in the concept of academic freedom inside the institutions of learning. These two concepts could get into trouble with each other, and that is just the point I am trying to ask the committee.

MS. ROSARIO BRAID: Yes. If the Commissioner means some degree of state regulation or school regulation in terms of prescribed curricula, still we encourage the freedom to search or to go beyond them. Hence, these are the kinds of concepts that have to be harnessed.

I would like to follow up Commissioner Azcuna's concept of dynamic definition of freedom, because we have been defining it as individual freedom of inquiry to search. This freedom, however, has to be matched with social responsibility and has to be seen also in terms of the students' freedom to demand even a restructuring of orientations and of existing curricula which may be orientations of institutions of faculty that are not appropriate. Thus, even the orientation towards overacademization and towards too much emphasis on open education with unlimited opportunities may give the student a false notion of the society in which he finds himself.

These are exactly some of the rights that should be guaranteed to the student beyond the individual right of inquiry. So by broadening this, we make it more relevant to the social realities of the times.

MR. MAAMBONG: What I am trying to say is that we have bogged down in this discussion because we do not see how we can reconcile a concept of state regulation and supervision with the concept of academic freedom.

MR. GASCON: When we speak of state regulation and supervision, that does not mean dictation, because we have already defined what education is. Hence, in the pursuit of knowledge in schools we should provide the educational institution as much academic freedom as it needs. When we speak of regulation, we speak of guidelines and others. We do not believe that the State has any right to impose its ideas on the educational institution because that would already be a violation of their constitutional rights.

There is no conflict between our perspectives. When we speak of regulations, we speak of providing guidelines and cooperation in as far as defining curricula, et cetera, but that does not give any mandate to the State to impose its ideas on the educational institution. That is what academic freedom is all about.

MR. ROMULO: Madam President, what is the parliamentary situation?

THE PRESIDENT: Commissioner Treñas has to be recognized. Shall we hear him first before we proceed further?

MR. TREÑAS: Insofar as academic freedom is concerned, I believe that it is not absolute. It is subject to reasonable regulations of the school and to our laws. So there seems to be no conflict in this matter, because while it is true that the school, the institution, the faculty, as well as the students on one hand, enjoy academic freedom, we still recognize that that freedom is not absolute, since it is always subject to reasonable regulation of the school.

Furthermore, while it may be constitutionally recognized that schools, institutions, faculty, as well as students, enjoy academic freedom, this is subject to all laws on the matter. So, that is my simple interpretation of academic freedom without going into these details, and there should be no conflict whatsoever.

MR. MAAMBONG: We agree with that.

THE PRESIDENT: I think Commissioner Maambong has been given sufficient time. May we now hear from Commissioner Monsod?

MR. MAAMBONG: May I just put in one sentence so that I can sit down, Madam President.

Precisely, the cases of Garcia and Montemayor came about because there seemed to be some conflict. However, let me just point out that there seems to be some problem also between the concept of academic freedom and the freedom of expression. So, maybe some other speakers can talk about it later on.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, the parliamentary situation is that I have moved to delete the phrase "as well as faculty members and students thereof" but Commissioner Azcuna has modified that proposal to eliminate the same phrase and he proposed to restate the sentence in another way. I would like to say that I accept the amendment of Commissioner Azcuna.

THE PRESIDENT: So, it is no longer a motion to delete but just a motion to modify or amend.

MR. MONSOD: Yes, because there would also be a deletion in Commissioner Azcuna's motion.

MR. GASCON: May we hear the amendment again?

THE PRESIDENT: Will Commissioner Azcuna please restate his amendment?

MR. AZCUNA: The amendment will be: "ACADEMIC FREEDOM SHALL BE ENJOYED IN ALL INSTITUTIONS OF HIGHER LEARNING."

MR. GASCON: In order that the committee may act accordingly, when we speak of the sentence "ACADEMIC FREEDOM SHALL BE ENJOYED IN ALL INSTITUTIONS OF HIGHER LEARNING," do we mean that academic freedom shall be enjoyed by the institution itself?

MR. AZCUNA: Not only that, it also includes . . .

MR. GASCON: The faculty and the students.

MR. AZCUNA: Yes.

MR. GASCON: So, is academic freedom ensured to all these three sectors in the academic community?

MR. AZCUNA: Yes, as it exists under existing jurisprudence without prejudice to the development of that idea of freedom in the future.

MR. TREÑAS: Madam President, we accept the amendment on behalf of the committee.

MR. AZCUNA: Thank you.

VOTING

THE PRESIDENT: The committee accepts.

As many as are in favor of the proposed amendment of Commissioner Azcuna, please raise their hand. (Several Members raised their hand.)

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

The results show 35 votes in favor and none against; the Azcuna amendment is approved.

MR. BENGZON: Parliamentary inquiry, Madam President.

THE PRESIDENT: The Commissioner may proceed.

MR. BENGZON: With the approval of the amendment of Commissioner Azcuna, does that mean that all the rest of the phrases in that paragraph and also the second sentence should be deleted?

THE PRESIDENT: No, that only refers to academic freedom, because there was an understanding that this will be taken separately.

MR. BENGZON: Thank you.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: With respect to the fiscal autonomy, I have a second motion to delete the entire sentence on lines 31 to 32 — beginning with "Public and private educational institutions."

THE PRESIDENT: What does the committee say?

MR. TREÑAS: On behalf of the committee, we accept the deletion.

MR. MONSOD: Thank you.

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

SUSPENSION OF SESSION

MR. ROMULO: Madam President, I move that we suspend the session until two-thirty in the afternoon.

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

It was 12:39 p.m.

RESUMPTION OF SESSION

At 2:59 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: We are now in Section 5(d).

THE PRESIDENT: Is there any proposed amendment to Section 5(d)?

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

My proposed amendment to subsection 5(d) on page 4 of the committee draft is to reformulate the subsection to read simply as follows: "THE STATE SHALL ENHANCE THE RIGHT OF TEACHERS TO JUST AND ADEQUATE COMPENSATION AND TO PROFESSIONAL ADVANCEMENT. RESEARCHERS AND NON-TEACHING ACADEMIC PERSONNEL SHALL ENJOY PROTECTION OF THE STATE."

MR. VILLACORTA: Will the Commissioner give us a few seconds so I can consult the other Members?

MS. ROSARIO BRAID: Madam President, Commissioner Ople has a new amendment at the end of this section that might blend with this one.

MR. DAVIDE: Is it the pleasure of the committee to integrate the two amendments?

MS. ROSARIO BRAID: Yes, we accept the Commissioner's amendment, but we would rather integrate his provision with the proposed amendment submitted by Commissioner Ople.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: It was about a week ago when I submitted a set of proposed amendments to the committee which was circulated to all the Members of the Commission. In that list is a proposed section which reads as follows: "THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO ENSURE THAT TEACHING WILL ATTRACT AND RETAIN THE BEST TALENTS AVAILABLE THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB FULFILLMENT." The other proponents of this amendment are Commissioners Rama, Guingona and Calderon.

The committee is right in the sense that there is a great resemblance between this proposed section and that one put forward just now by Commissioner Davide. Does the committee desire that we compare notes?

SUSPENSION OF SESSION

MR. VILLACORTA: Madam President, we would like to request for a suspension of the session so that we can harmonize these two proposals.

THE PRESIDENT: The session is suspended.

MR. OPLE: Thank you very much.

It was 3:04 p.m.

RESUMPTION OF SESSION

At 3:10 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Before we go to the agenda, the Chair would like to announce the presence of a big delegation from San Pablo City, the students of the Canossa College. They are here to witness our deliberations on the Article on Education.

May we ask the Acting Floor Leader whom the Chair shall recognize.

MR. ROMULO: Commissioner Davide, Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, I am modifying my proposed amendment to be followed by the Ople amendment. This will only be the opening sentence to read as follows: "THE STATE SHALL ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT." Then, it will be followed by the Ople amendment

THE PRESIDENT: What is the Ople amendment?

MR. OPLE: Madam President, after our conference with Commissioner Davide and the chairman and members of the committee, I think we have arrived at a common formulation of the next section. It reads as follows: "THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO ENSURE THAT TEACHING WILL ATTRACT AND RETAIN ITS RIGHTFUL SHARE OF THE BEST AVAILABLE TALENTS THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB SATISFACTION AND FULFILLMENT."

May I just say a word concerning this amendments?

THE PRESIDENT: The Gentleman has three minutes.

MR. OPLE: All the great and sincere piety professed by every President and every Congress of the Philippines since the end of World War II for the economic welfare of public schoolteachers has always ended up in failure. That our public schoolteachers, now numbering 350,000, are long past the threshold of endurance — is dramatically demonstrated by the mass defection of the best and the brightest teachers to other careers, including menial jobs in overseas employment. Concerted mass actions by them to project their grievances over low pay and abject working conditions have become their common place. The high expectations generated by the events of February are now exacerbating these long frustrated goals.

Granted the sincerity of the oldish administration that tried vainly to respond to the needs of the teachers, the central problem that always defeated their pious intention was really the one of budgetary priority. The situation in every budgetary debate in which I participated in the past was such that any proposed increase for public schoolteachers had to be multiplied several times by the number of government workers in general and their own equitable claims to any pay standardization. The result is that the pay rate of teachers is hopelessly pegged to the rate of government workers in general, totalling about P1.7 million. This foredooms the prospect of a significant increase for teachers. The recognition by the Constitution of the highest budgetary priority for public schoolteachers and by implication for all teachers will ensure that the President and the Congress will be strongly armed by a constitutional mandate to grant to them such a level of remuneration and other incentives that will make teaching competitive again and attractive to the best available talents in the nation.

Madam President, at any time, there is a talent allocation principle and process that work in a society. There are times when the profession of law or business or the military as career choices is favored. Before World War II, teaching competed most successfully against all other career choices for the best and the brightest of the younger generation. This provision, if adopted, will ensure that teaching will be restored to its lost glory as the career of choice for the most talented and most public-spirited of our younger people. It is a countervailing measure against the continued decline of teaching and the wholesale desertion of this noble profession now taking place. It ensures that the future and the quality of our population in the days to come will be asserted as a top priority against many importunate, but less important, claims of the present. I submit, Madam President.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Will Commissioner Ople yield to some questions?

MR. OPLE: Very gladly, Madam President.

THE PRESIDENT: Please proceed.

MR. NOLLEDO: Because of the use of the words "HIGHEST BUDGETARY PRIORITY," it seems that the Gentleman is referring only to teachers in public schools. Am I right?

MR. OPLE: Yes, Madam President, because they are the ones accessible to the budget of the government

MR. NOLLEDO: How about teachers in private schools, does not the Gentleman think that there is also a need to provide for their adequate compensation in the Constitution?

MR. OPLE: There is a labor market view of this, Madam President. Considering the bellwether character of the public school teachers, the most numerous in the whole constellation of teachers in the Philippines, then any budgetary priority assigned to improve the pay scale of public school teachers will necessarily have a feedback effect, a positive one on the salaries of private school teachers.

MR. NOLLEDO: Considering the preference that Commissioner Ople's amendment accords public school teachers, will there not be discrimination against other employees of the government, like the health workers of Mrs. Quesada, the street workers or the ordinary employees of any government office? Can they not say that they are also being discriminated against, as they are also doing service to the nation?

MR. OPLE: The constitutional option is whether to help transform the lives of our teachers now, even if they are set apart from the rest, or to keep the whole scale of remuneration for all public employees virtually undisturbed. But I would like to invite Commissioner Nolleto to watch with me for an opportunity during the rest of our deliberations to see that a similarly high budgetary priority — although we say the highest priority must be for teachers — elsewhere in this Constitution should be given also to the entire work force of the government.

MR. NOLLEDO: And when the Gentleman talks of "highest budgetary priority," he does not talk only of compensation or other incentives to be given to public school teachers but he also contemplates raising the standard of teaching in public schools by appropriate equipment facilities, et cetera?

MR. OPLE: Yes, Madam President, and I thank Commissioner Nolleto for making that part very explicit.

MR. NOLLEDO: Thank you.

THE PRESIDENT: Is there any other comment? What does the committee say with respect to this amendment?

MR. VILLACORTA: Madam President, we are accepting the Davide and Ople amendments, so we would like to request the Chair to call for a vote, first on the Davide amendment and then on the Ople amendment.

MR. OPLE: Thank you.

MR. GUINGONA: Madam President, I would just like to ask Commissioner Davide some clarifications in connection with his proposed amendment.

THE PRESIDENT: Commissioner Guingona may proceed.

MR. GUINGONA: Commissioner Davide speaks of the right of teachers, referring to the academic staff. Then he talks about the nonteaching academic personnel as understood in education circles and confirmed or defined under Section 6 of the Education Act to pertain to such officials as registrars, librarians, counselors, et cetera. But there is still another group of nonacademic personnel in an academic community made up of clerks, janitors and so forth. Would the Gentleman include them also or would he exclude them?

MR. DAVIDE: They are included under nonteaching academic personnel.

MR. GUINGONA: Madam President, in educational circles, when we talk of nonteaching academic personnel, we refer only to registrars, et cetera. So perhaps we could add the words "AND NON-ACADEMIC PERSONNEL."

MR. DAVIDE: I accept.

MR. GUINGONA: Thank you.

THE PRESIDENT: How would the whole subsection (d) or the first portion thereof now read?

MR. DAVIDE: It will merely read as follows: "The State shall ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT. Researchers, NON-ACADEMIC PERSONNEL and non-teaching academic personnel shall enjoy protection of the State."

THE PRESIDENT: Is this accepted by the committee?

MR. GUINGONA: Excuse me, Madam President. "Non-teaching academic personnel" as defined in the Education Act, already includes researchers. So perhaps we could drop the word "Researchers" because it is already embraced under the term "non-teaching academic."

THE PRESIDENT: Does Commissioner Davide accept that?

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: Will Commissioner Davide restate the latter portion of his amendment?

MR. DAVIDE: It will read: "The State shall ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT. Non-teaching academic personnel and NON-ACADEMIC PERSONNEL shall enjoy protection of the State."

THE PRESIDENT: Is this accepted now by the committee?

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Just for the record. Commissioner Davide's formulation would actually refer to all teachers in both private and public schools?

MR. DAVIDE: Yes, Madam President.

MS. QUESADA: But the second amendment, which is Commissioner Ople's, would refer actually to public school teachers?

MR. DAVIDE: Yes, because it is on budgetary priority and, therefore, it would involve national expenditures. However, since the teachers have the right to professional advancement, the State may also contribute to teachers in private educational institutions for their professional advancement.

MS. QUESADA: So this particular provision does not inhibit the teachers in the private sector to seek parity with government or public school teachers?

MR. DAVIDE: They are allowed to organize themselves and to bargain for better terms and conditions of their employment.

MS. QUESADA: Thank you.

THE PRESIDENT: Are we now ready to vote on the proposed Davide amendment?

Does Commissioner Padilla have any comments on that?

MR. PADILLA.: May I propound a question to Commissioner Davide?

MR. DAVIDE: Gladly, Madam President.

MR. PADILLA: What does this term "professional advancement" mean?

MR. DAVIDE: This is rather a very broad term. It simply means that teachers will now be afforded seminars for their advancement. They would be allowed certain time to obtain, for instance, sabbaticals to pursue further studies, among others. So it simply means the advancement of their profession.

MR. PADILLA: This has reference to teachers?

MR. DAVIDE: Yes.

MR. PADILLA: Does that mean that the Gentleman wants them to be supervisors and then superintendents or bureau chiefs or to pursue masteral or doctorate degrees? Are these covered by this term "professional advancement"?

MR. DAVIDE: These are generally covered, but the State would have to consider also the financial position of the government in encouraging teachers to attain professional advancement. As I said, the government, through the Ministry of Education and Culture, may provide for seminars so that teachers can uplift their professional standing in the community and even among themselves.

MR. PADILLA: That is self-improvement?

MR. DAVIDE: Partly. There is the incentive provided by the State and, of course, it would require the necessary response or reaction on the part of the teachers whether to avail of a particular procedure granting them the opportunity to advance professionally.

MR. PADILLA: It is rather vague to me and does not clearly protect, promote or enhance the right of teachers.

MR. DAVIDE: That is why we only say "ENHANCE." This is encouragement and promotion — all the possible ways that the government can think of in order that the teaching profession will not stagnate or vegetate.

MR. PADILLA: The second sentence says: "Non-teaching academic personnel and NON-ACADEMIC PERSONNEL shall enjoy the protection of the State." What is the protection intended here? I think the State has to protect all the people, not just any particular sector.

MR. DAVIDE: It means better wages, better compensation. Under the original proposal of the committee, special care and attention to all of them is provided. We provided it this way because it might cover better terms and conditions of employment. They belong to the government sector, so necessarily the section regarding labor in the Article on Social Justice may not be fully applicable to them. They belong to a special class and somehow their compensation must be upgraded to afford them decent wages and, of course, better conditions of employment, such as shorter hours of work in a given week.

MR. PADILLA: But these nonteaching and nonacademic personnel in public schools, as employees of the State, are covered by the general term "public officers." Why should there be a particular privilege given to this sector when we have so many other public officers employed in the government service — whatever rank they have — such as the court stenographers and clerks?

MR. DAVIDE: The special attention is by reason of the very special nature of the work; they are in the educational system; they are practically in a very delicate and critical function of government. Many of them would be directly attached to a particular group; directly connected with young people, with children. And, therefore, they should be given special attention by the government because of the very nature of the work in the educational system. Education is not just the centerpiece of the Constitution. I would even consider this as the matrix of the Constitution because it is here that we can infuse and foster nationalism, patriotism, the duties of citizenship. So, it is the very inherent nature of the work.

MR. PADILLA: But these nonteaching and nonacademic personnel such as the janitors in the public schools are provided special protection by the State under this second sentence. What about the janitors of other government offices?

MR. DAVIDE: Yes, because they are part of the educational institution itself. So we cannot really categorize their functions as similar to those of janitors in other areas, such as those in the Bureau of Soils or the Bureau of Lands. To my mind, the functions of these janitors will be entirely different from the functions of janitors in educational institutions.

MR. PADILLA: This special protection may even undermine the basic principles of the civil service.

MR. DAVIDE: No, I do not think so, because since it is a mandate on the State and it could only be implemented by Congress, Congress will have to consider everything and establish a balancing of interests.

MR. PADILLA: That is why I am against this Constitution mandating this special privilege or protection to a particular group of government employees, even if they are connected with the public schools.

MR. DAVIDE: We have protection afforded by the State in various sections already.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Just for the record, Madam President. Regarding the terminology used by Commissioner Davide, the committee referred to the concept thereof under the Education Act of 1982. And since in the past the definition of the terminology has not actually been uniform, may I be allowed to put on record the definition thereof under Section 6 of the Education Act of 1982 so we will know the personnel involved in the phrases "academic non-teaching personnel" and "non-academic personnel." It says:

Academic non-teaching personnel are those persons holding some academic qualifications and performing academic functions directly supportive of teaching, such as registrars, librarians, guidance counselors, researchers, research assistants, research aides, and similar staff; whereas, non-academic personnel are all other school personnel not falling under the definition and coverage of teaching and academic staff, school administrators, and academic non-teaching personnel.

Now we know the intendment and the coverage of the Davide amendment.

Thank you.

THE PRESIDENT: Are we now ready to vote?

MR. MAAMBONG: Madam President, before we vote, may we ask a final reading of the proposed amendment because we did not get the formulation very well.

THE PRESIDENT: Commissioner Davide will please read the amendment.

MR. DAVIDE: It reads as follows, Madam President:

"Subsection (d). The State shall ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT. Non-teaching academic personnel and NON-ACADEMIC PERSONNEL shall enjoy protection of the State."

MR. GUINGONA: "NON-TEACHING ACADEMIC."

MR. DAVIDE: "NON-TEACHING ACADEMIC and NON-ACADEMIC PERSONNEL shall enjoy protection of the State."

VOTING

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

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

The results show 28 votes in favor and 2 against; the amendment is approved.

We will now proceed to the proposed amendment of Commissioner Ople. I suppose this will be a paragraph.

MR. VILLACORTA: Yes, Madam President.

THE PRESIDENT: Will Commissioner Ople please read his proposal.

MR. OPLE: Thank you, Madam President.

In the same section, add a second paragraph to read as follows: "THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO EDUCATION AND ENSURE THAT TEACHING WILL ATTRACT AND RETAIN ITS RIGHTFUL SHARE OF THE BEST AVAILABLE TALENTS THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB SATISFACTION AND FULFILLMENT."

The other proponents of this amendment are Commissioners Guingona, Aquino, de los Reyes, Natividad, Maambong and Calderon.

VOTING

THE PRESIDENT: This has been discussed.

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

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

The results show 25 votes in favor and none against; the amendment is approved.

May we know whether Vice-President Padilla abstained or voted against?

MR. PADILLA: Before the voting, I was going to express some suggestions for the elimination of the words "THE HIGHEST."

MR. VILLACORTA: Madam President, may we request that we now focus our attention on Section 5, paragraph (e).

THE PRESIDENT: Is there any proposed amendment to this paragraph?

MR. ROMULO: Yes, Madam President. I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, this is an amendment by deletion, the reason being that the right considered here is already included in the Articles on Civil Service and on Social Justice, and even in the Article on the Bill of Rights. So we propose for its deletion.

THE PRESIDENT: Is the committee ready to react?.

MR. VILLACORTA: The committee is divided, Madam President, so may we ask the body to decide on this issue.

THE PRESIDENT: Is there any comment on the amendment of Commissioner Davide to delete? (Silence) Are we ready to vote on this?

MR. ROMULO: We are ready to vote, Madam President.

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment by deletion submitted by Commissioner Davide, please raise their hand. (Several Members raised their hand.)

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

The results show 25 votes in favor and 7 against; the amendment by deletion is approved.

MR. ROMULO: I ask that Commissioner Ople be recognized for an amendment.

MR. VILLACORTA: With the indulgence of the Acting Floor Leader and the Chair, Commissioner Quesada would like to raise a question with respect to the just approved deletion.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Madam President, we would like to put on record that the sense of this particular provision which has just been voted to be deleted is already expressed in both the Social Justice and the Bill of Rights provisions.

MR. OPLE: May I make it clear, Madam President, and I think I speak for many of the Commissioners who voted for the deletion, that the only ground for voting for the deletion was that the same principle is already expressed very categorically in the Articles on Social Justice and on the Bill of Rights.

MR. VILLACORTA: Thank you, Madam President.

MR. ROMULO: I ask that Commissioner Ople be recognized.

THE PRESIDENT: Is this still on education?

MR. OPLE: Yes, Madam President.

THE PRESIDENT: Please proceed.

MR. OPLE: This is the final amendment, I hope.

As agreed upon before, I think the committee is empowered to relocate this proposed amendment in any other appropriate place of the Article on Education. It reads: "TO DEMOCRATIZE ACCESS TO EDUCATION ESPECIALLY TO COURSES DEEMED CRITICAL TO NATIONAL DEVELOPMENT, CONCESSIONAL LOANS BASED ON THE STUDY-NOW-PAY-LATER PRINCIPLE SHALL BE MADE AVAILABLE TO DESERVING STUDENTS IN BOTH PUBLIC AND PRIVATE SCHOOLS. TO THIS END, THE STATE MAY ESTABLISH A COMMON FUND DRAWN FROM THE EARNINGS OF GOVERNMENT FINANCIAL INSTITUTIONS."

May I explain briefly, Madam President.

THE PRESIDENT: Please proceed.

MR. OPLE: The proposed provision has been demonstrated by experience to be completely feasible. There is actually in existence a "Study now, pay later" portfolio in the amount of about P65 million, contributed by the SSS, GSIS, DBP, PNB and the Land Bank of the Philippines, which is under the administration of the Ministry of Education, Culture and Sports. Some 20,000 underprivileged students have obtained access to college education, with emphasis on technical and engineering courses, since this was established at my initiative and that of Education Minister Juan Manuel in 1977.

About P65 million has been utilized to make this program available to various educational institutions, especially at the tertiary level. The students pay back upon being employed following graduation. None of the five financial institutions have ever complained about the inadequacy of the returns.

This, however, is still a very limited program and has not touched as many lives of the poor and deserving young as we had hoped for. The late Senator Benigno Aquino, author of a "Study now, pay later" bill in the Senate which was never passed into law, considered that proposal of his the most outstanding social and educational idea he had ever filed in his legislative career.

Once this is adopted as a constitutional provision, there shall be no reason whatever why a deserving but underprivileged student should not be able to go to college, his talent captured, developed and utilized in a new and pervasive network of concern for talented young Filipinos, especially those disadvantaged by the accident of birth. It is said truthfully that talent is the scarcest resource of any society, especially a developing society. The loan program proposed here will be a safety net of the State so that no matter how humble the birth and regardless of place in the Philippines, no talent will ever be wasted because of poverty.

Thank you, Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I speak against this amendment.

Although there is beauty and wisdom in this amendment, to me, this is a surplusage. Madam President, we have this approved section on education saying that the State shall make quality education accessible to all. And then we have another provision which states that the State shall maintain a system of scholarship grants, student loan programs, subsidies and other incentives which shall be available to deserving students in both public and private schools, especially the underprivileged.

Madam President, I humbly submit that this amendment is covered by the sections we have already approved and that this section, the Ople amendment, will be a good subject of legislation. As a matter of fact, the late Senator Benigno Aquino authored a "Study now, pay later," bill in the Senate.

MR. OPLE: Madam President, I thank Commissioner Sarmiento for his vigilance in pointing to a previous section where loans were mentioned in a series of proposed forms of assistance to students. I wanted, however, to assert the fact that there is no inconsistency and incompatibility between that previous mention of State assistance and this proposed section. It does introduce a realistic and concrete dimension to a vague pledge of loans as merely one of the forms of State assistance to students. It is capable of generating concrete results that may amaze some of us when this is adopted as a separate provision of the Constitution.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: May I ask one or two questions of Commissioner Ople?

MR. OPLE: Very gladly, Madam President.

MR. TINGSON: Would the Gentleman kindly explain how the "Study now, pay later" scheme would be put into implementation?

MR. OPLE: As I said, we start not from a vacuum of experience but from a foundation of genuine feasibility. This has worked on a modest scale in the past several years and which we now hope to transform into a very central kind of State assistance to students in this manner: The GSIS, SSS, PNB, Land Bank and the Development Bank of the Philippines has a loan portfolio for the "Study now, pay later" program. The university or the college makes an application on behalf of the students who had been selected by that university or college for the "Study now, pay later" principle. Then the government banks release this amount.

How do they pay back? After finishing engineering — and may I point out that the Ministry of Education, Culture and Sports has selected the courses, the emphasis which are on engineering and technical skills, but this does not mean that we are ratifying that; I am merely citing an example — and upon being employed, they start amortizing the student loans that had been granted to them.

MR. TINGSON: The loan that a student gets from this scheme cannot naturally be used for any other purpose but for his studies.

MR. OPLE: It is exclusively for his studies, in accordance with the undertaking that he signs with the university and with the Ministry of Education, Culture and Sports.

MR. TINGSON: Therefore, the term "STUDY-NOW-PAY-LATER" may not be necessary anymore in this amendment because it is understood that when he gets the loan, it would be for this "Study now, pay later" scheme.

MR. OPLE: Yes, it is included there because it helps sharpen the focus on the practice of studying now and paying later after one graduates. But I have no vested interest in that phrase.

MR. TINGSON: I remember Commissioner Natividad telling us here of his experience as a working student, that many of these working students could not get the grades that the professional students could easily get because they are working. And yet, would they be under the category of deserving students, if they come up to a certain level of grades?

MR. OPLE: Many of the 20,000 who graduated from colleges under this program were actually night students. And incidentally, Commissioner Natividad is one of the coauthors of this amendment.

MR. TINGSON: Madam President, may I just say that I support this amendment. I am just wondering, however, if that term "STUDY-NOW-PAY-LATER" could be eliminated from this particular amendment.

MR. OPLE: If the Commissioner feels strongly about that, I will have no difficulty in deleting it.

MR. TINGSON: I would propose that then, Madam President.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: In support of the position taken by Commissioner Sarmiento, may I draw attention to the fact

that Section 2(c) of this article, as we have already approved it, provides:

The State shall . . . maintain a system of scholarship grants, student loan programs, subsidies and other incentives which shall be available to deserving students in both public and private schools, especially the underprivileged.

It is our position that the proposed amendment of Commissioner Ople is not only envisaged in, but is actually covered by, the very provision of Section 2(c). I wonder if Commissioner Ople would be willing to have his proposed amendment placed in the record, especially the matter of the concessional loans on a so-called "Study now, pay later" plan as one of, if not among, those specific programs which are contemplated by Section 2(c) for enforcement and, perhaps, possible implementation in the future by legislative enactment.

MR. OPLE: Madam President, I feel that there is no real redundancy here, and if there is a burden in the minds of some regarding that, I will have no objection to its being relocated so that it follows the section concerning State assistance, including scholarship grants, loan programs and subsidies. In fact, it develops the previous sections rather than replicates them.

THE PRESIDENT: The session is suspended so that that Gentleman can confer with the committee.

MR. VILLACORTA: Madam President, the committee feels that we do not need to suspend the session and prolong the discussion. We would like to call for a vote because the committee feels that the amendment is too detailed and specific, and is covered anyway by Sections 1 and 2(c). If the honorable Commissioner is willing to withdraw his amendment, we could incorporate the sense of his laudable proposal in the interpretation of Section 2(c).

MR. OPLE: If the committee feels strongly that this should be reflected as part of the intent in the form it has been presented, I will gladly comply, Madam President.

MR. VILLACORTA: Thank you very much.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: As one of the proponents of that amendment which, I understand, has been withdrawn, may I just ask if it is the thinking of the committee that the Educational Assistance Act of 1976 which we talk of as the "Study now, pay later" plan under P.D No. 932, is still being instituted at present and should be continued?

MS. ROSARIO BRAID: Yes.

MR. MAAMBONG: Thank you very much.

MR. VILLACORTA: Yes, Madam President, but not all the parts of the Education Act; only that part which pertains to the "Study now, pay later" scheme.

MR. MAAMBONG: Yes, I am referring to that, Madam President.

Thank you very much.

MR. ROMULO: May I ask that Commissioner Villegas be recognized for a new amendment?

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, this may be either a new section or an incorporation in an existing approved section, depending on the decision of the committee.

The Philippine educational system, because of our colonial history, has overemphasized general education. The majority of the graduates of the tertiary schools aspire for white-collar jobs. Although unemployment rates are high, there are some technical skills that are scarce in both industry and agriculture. For example, at present there are electro-mechanic skills that are actually begging for workers but there are not enough of these trained skills. In agriculture, there is a shortage of experienced agricultural extension workers. The government has insufficient funds even for elementary education as we have already seen, and it will be further burdened with the mandate to provide free secondary education. Private institutions and foundations, on the other hand, have been effective in securing funds from the business sector in the establishment of vocational or technical schools such as the very famous Don Bosco system of technical education. These institutes have also been more successful in linking their training programs to the actual needs of industry and agriculture. So, it is not just a matter of having more vocational and technical schools, but of making sure that the ones being trained would actually be suited to the existing needs of either industry or agriculture. It is, therefore, suggested that we include a provision requiring the State to provide an atmosphere conducive to the establishment of more vocational or technical schools by private individual and groups, including cooperatives organized by workers. So the text of the proposed amendment is as follows: "THE STATE SHALL PROMOTE THE ESTABLISHMENT OF TECHNICAL AND VOCATIONAL SCHOOLS AT THE SECONDARY AND TERTIARY LEVELS ESPECIALLY THROUGH THE INITIATIVE OF PRIVATE EDUCATIONAL INSTITUTIONS IN PARTNERSHIP WITH THE BUSINESS SECTOR AS A MEANS TOWARDS INCREASING THE PRODUCTIVITY OF BOTH INDUSTRY AND AGRICULTURE."

Thank you, Madam President.

THE PRESIDENT: Is the committee ready to react?

MR. VILLACORTA: May we request a suspension, Madam President?

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 3:56 p.m.

RESUMPTION OF SESSION

At 3:58 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. VILLACORTA: Madam President, the committee regrets that it cannot accept the amendment of Commissioner Villegas because we feel that the sense of his amendment is already included in Section 3(b). And with respect to partnership with business corporations, we could include that in the sense of Section 3(b) by emphasizing in the record that we would like to encourage business corporations to assist vocational schools. Would that be all right with the Commissioner?

MR. VILLEGAS: Yes, as long as it is in the record, I withdraw the amendment.

I thank the Commissioner. Thank you very much, Madam President.

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

MR. ROMULO: Madam President, I ask that Commissioner Davide be recognized to introduce his amendment.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The proposed amendment would be item no. 4 of the proposed new sections incorporated in the committee revised draft on education alone. It will be placed anywhere as may be determined by the committee. It reads: "NO CONTRIBUTION OR EXACTION OF ANY KIND SHALL BE IMPOSED ON STUDENTS AND THEIR PARENTS OR GUARDIANS EXCEPT THOSE VOLUNTARILY IMPOSED BY THEIR ORGANIZATIONS."

MR. VILLACORTA: Madam President, the committee feels that this is a very specific amendment. However, we would like to incorporate this in the record as an aspiration, goal or desideratum shared by the committee.

MR. DAVIDE: I understand that we have this provision in the Education Act of 1982. My only point is that we have to provide this ever-continuing mantle of protection to the students and to their parents or guardians against imposition of contributions or other kinds of exaction. In the rural areas, the students or parents cannot refuse a demand for contribution, especially by the teachers. They sell tickets which is a form of exaction. So, necessarily, because of the pressure or undue influence or for fear that probably a pupil may not pass a particular subject handled by a demanding teacher, they are compelled to contribute. So I feel it is necessary that we should not allow exaction of contributions from them, but only contributions that are voluntarily agreed upon by organizations of students or parents.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: I think the consultative councils at the regional level for parents and other community members will participate in contributing to policy-making and other programs, so we do not have to constitutionalize this.

MR. DAVIDE: With the assurance that the consultative mechanisms would necessarily include the rejection of any contribution except those agreed upon by their respective organizations, I will not insist. I withdraw my amendment, Madam President, but I insist on my second proposal, which reads: "ALL EXPENSES FOR EDUCATION, AND ALL GRANTS, DONATIONS OR CONTRIBUTIONS FOR SCHOLARSHIP OR FOR ANY EDUCATIONAL PURPOSES SHALL BE DEDUCTIBLE EXPENSES FOR INCOME TAX PURPOSES, AND ANY DONATION, DEVISE OR LEGACY FOR ANY SUCH PURPOSE SHALL BE EXEMPT FROM ANY FORM OF TAX."

MR. VILLACORTA: The committee accepts the amendment, Madam President.

MR. DAVIDE: I thank the Commissioner, Madam President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I would like to express my reservations about this proposal because it is a very encompassing and absolute right of deduction, and I do not know whether or not we fully realize the implications of this provision. For example, it says: "ALL EXPENSES FOR EDUCATION." This means that anybody who claims to be spending for education can deduct the expenses for income tax purposes, and any donation, devise or legacy — I think the word "DEVISE" there is very apt because I think that is what it is going to be used for — shall be exempt from any form of tax. Does this not belong, Madam President, to tax legislation in education policy because this mandate is very general? I really do not know whether or not we fully realize all the implications of this proposal.

MR. DAVIDE: May I be allowed to respond, Madam President?

THE PRESIDENT: The Commissioner will please proceed.

MR. DAVIDE: If the fear of Commissioner Monsod is centered on the phrase "ALL EXPENSES FOR EDUCATION," probably we can reach a compromise. I might not insist on that. However, I would insist on the phrases "ALL GRANTS, DONATIONS OR CONTRIBUTIONS FOR SCHOLARSHIP OR FOR ANY EDUCATIONAL PURPOSES" and "DONATION, DEVISE OR LEGACY FOR ANY SUCH PURPOSE."

Madam President, yesterday we just approved a proposal granting exemptions from any form of taxes to revenues and all assets of educational institutions used exclusively, directly or actually for educational purposes. This is a very good encouragement to educational establishments, but we have to balance this also with a similar exemption granted to those who will voluntarily grant or donate properties or money exclusively for educational purposes. There are also devises or legacies in wills of persons, and these devises or legacies exclusively for educational purposes must also be allowed exemptions. These may be for scholarships or for the education of a particular group of citizens in a given community. For example, we may have a very rich individual in one barangay. In his last will and testament, he provides that a part of his property shall be given to a particular group of students in his barangay, so we should allow exemptions. It is not that it could be left entirely to the legislature. We know that under the Article on the Legislative, such exemptions could only be granted by a vote of a majority of all the Members of Congress. We have now two chambers of Congress, so it might be very difficult.

MR. OPLE: Madam President, will Commissioner Davide yield to a question?

MR. DAVIDE: Gladly, Madam President.

MR. OPLE: Tax donations, also called devises, in the hands of skillful lawyers can be converted into first-rate tax shelters. Therefore, will the Commissioner agree to a stipulation in that sentence which will eliminate this risk by saying that no pecuniary gains shall accrue to the source of the donation or legacy?

MR. DAVIDE: No pecuniary gains can be had. Even without that stipulation, it is obvious because a devise or a legacy becomes effective only upon the death of the testator. So by the time that it is effective, he is already dead.

MR. OPLE: And speaking of the grantor of a donation to, let us say, a school, can the chief stockholder of that college donate some property that will be indirectly still enjoyed by himself and his family after the act of donation is consummated, but without the obligation to pay any taxes because the property has been donated ostensibly?

MR. DAVIDE: In that particular case, the property actually belongs to the educational institution.

MR. OPLE: Of which the grantor is the major stock holder.

MR. DAVIDE: The only benefit that he will enjoy may be indirect in the sense that he is a stockholder. And that indirect enjoyment would, of course, not be much in the sense that the devise may be used by him to circumvent the possibility of paying a tax on the property.

MR. OPLE: There are many school corporations that are closed family corporations, Madam President, so that the degree of enjoyment can be considerably higher than what Commissioner Davide now contemplates.

MR. DAVIDE: If that is a strategy adopted by the owner of the particular property, if he donated his property to the corporation which is operating an educational institution, it is already converted as a property of the educational institution. I believe any pecuniary benefit which he may acquire would be very negligible, and besides, tax on this would not really be as much as that for income tax purposes.

MR. OPLE: This is the only form of circumvention that comes to my mind right now. I wonder if subsequent speakers will be able to offer concrete examples, but I am asking Commissioner Davide to ease the burden on our minds that this will not be a blanket loophole for cheating the government of taxes in the name of education.

THE PRESIDENT: May we hear Commissioner Bernas first so that there can be only one response from Commissioner Davide.

FR. BERNAS: Madam President, will Commissioner Davide yield to a few questions?

MR. DAVIDE: Willingly, Madam President.

FR. BERNAS: If donations and bequests are made to nonstock or nonprofit educational institutions, these are already exemptions under the provision we approved yesterday. Is that correct, Madam President?

MR. DAVIDE: No, Madam President, only that particular property already owned by the nonstock corporation. But for the transfer itself, it would be liable to an estate tax.

FR. BERNAS: But according to the amendment we approved yesterday, any revenue shall be exempt from tax.

MR. DAVIDE: But if it is by a devise or a legacy, the tax is imposed against the estate by way of an estate tax. It is not really imposed on the beneficiary.

FR. BERNAS: Precisely, the intention of the approved amendment yesterday was to exempt such things from tax.

MR. DAVIDE: I do not think the approved amendment yesterday would cover exemption from estate tax. It is only the exemption from any tax liability that is given to the nonstock corporation; such that that particular property, when already in the possession and ownership of the nonstock corporation from the time of the death of a testator, would no longer be subject to tax imposable against the nonstock corporation.

FR. BERNAS: So I take it, therefore, Madam President, that as far as the provision approved yesterday is concerned, the exemption covers only donee's tax, if there is such.

MR. DAVIDE: Right now, I do not think there is still a donee's tax.

FR. BERNAS: So there is none.

MR. DAVIDE: There is none anymore; it is the donor's tax. So it is precisely the donor's tax that we want exempted because it is a contribution to the cause of education. Why penalize somebody who is willing to part with his property for an educational purpose?

MR. NATIVIDAD: Madam President.

THE PRESIDENT: Is Commissioner Bernas through?

FR. BERNAS: Yes, that is all, Madam President.

THE PRESIDENT: Commissioner Monsod was seeking to be recognized earlier.

MR. MONSOD: Madam President, when somebody donates everything that he has to educational institutions and it is used directly and exclusively for educational purposes, what actually happens is that the donee pays the donor's tax. If the intent of the proponent is merely to give exemption to the donor's tax in such situations, then we can make the appropriate amendment by adding "INCLUDING DONOR'S TAX."

MR. DAVIDE: I welcome the proposal, Madam President. But it should also include estate tax.

MR. MONSOD: Madam President, the problem I think has been stated by Commissioner Ople — that this can be

used to circumvent taxes. Unless we have fully studied this kind of exemption, I do not think we should put it in the Constitution.

MR. DAVIDE: We have the BIR that can reach out to inquire whether there has been a violation or circumvention.

THE PRESIDENT: Commissioner Natividad is recognized, followed by Commissioner Maambong.

MR. NATIVIDAD: Madam President, will the Commissioner yield to just a few questions?

MR. DAVIDE: Gladly.

MR. NATIVIDAD: Madam President, I was just thinking of an occasion that I attended and I would like to ask the Commissioner whether his proposal will have the same result if we approve it.

Last year, I attended a UP alumni meeting in Houston, Texas during which the president of the University of the Philippines appealed for donation from their alumni there. In that one night, he was able to collect \$150,000 by simply appealing for donations for their alma mater. I asked the alumni why they could donate such a magnanimous amount and they said that rather than give it to Uncle Sam, they would give it to UP because of the tax exemption they enjoy in the United States. The alma maters we have in the United States have huge buildings, and in most of them there is a placard which says: "This building was built exclusively from alumni donations."

Speaking of professorial chairs and other forms of scholarships available in most of these universities, we can feel that they are based on very magnanimous donations from the alumni. So, if the Commissioner's proposal is approved, would it result to the same situation?

MR. DAVIDE: Certainly. As a matter of fact, it would encourage many of our people to contribute for scholarships, for the construction of school facilities, for professorial chairs, and these would no longer be subject to any particular transfer tax.

MR. NATIVIDAD: The problem then would be what? Commissioner Ople said that it is possible to use these as tax shelters and so on.

MR. DAVIDE: I would say that the fear is unfounded, because the BIR has the necessary means and facilities to determine whether or not a particular donation or grant is actually used for the purpose for which it was intended.

So, if there is a questioned donation or a questioned grant, the BIR can easily determine whether it was indeed used for the purpose.

MR. NATIVIDAD: Would this stir up objections from the Minister of Finance, since it will constitute less revenue for the government?

MR. DAVIDE: There may be a possible objection from the Minister of Finance. But I see no reason why we have to inquire into that, since we already approved yesterday the exemptions of all revenues and all properties or assets of nonstock and nonprofit corporations from any form of tax. So, the idea is just to have some form of symmetry. When an educational institution is allowed exemptions for all its properties and revenues, we must also give exemptions to those who would voluntarily give their property for educational purposes or for scholarships.

Today, we have many alumni associations annually campaigning for donations and forms of assistance for the students, for professorial chairs or for facilities. They do not get anywhere because they donate and they pay taxes for the donations.

So, based on the Commissioner's explanation, I agree with him that this might constitute a solution to this

problem of getting more help for academic activities in universities and colleges.

Thank you, Madam President; I also thank the Commissioner for his support.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, may I ask the proponent whether he will insist on his proposed amendment if I will tell him now that under the present law, the exemption he seeks is already provided for. Let me quote:

Presidential Decree No. 69, Section 30: — Deductions from gross income. — In computing net income there should be allowed as deduction — 1. any donation made to any school, college or university recognized by the government either for general or special purposes: provided, that said donation is not for the payment or granting of a salary increase, bonus or personal benefits to any or all of the school officials, faculty, and personnel in case of a public school or to any of its stockholders, school officials, faculty, and personnel in case of private schools.

Such contribution or gift shall be allowable as deductions only if verified under the rules and regulations prescribed by the Secretary of Finance.

Incidentally, the deduction is in full; it is not given by percentage. It is a full deduction in the computation of net income. In other words, is the Commissioner saying that he is only constitutionalizing this provision which I am now relating to him?

MR. DAVIDE: For one, yes.

MR. MAAMBONG: Then if that is the Commissioner's purpose, I would rather say that we will just have to rely on the law; we do not have to constitutionalize it.

Thank you.

MR. DE LOS REYES: Madam President.

MR. NOLLEDO: Point of information, Madam President.

THE PRESIDENT: We hear from Commissioner de los Reyes first, and then Commissioner Nollado.

MR. NOLLEDO: Thank you.

MR. DE LOS REYES: Will Commissioner Davide accept an amendment to his amendment?

MR. DAVIDE: I would be willing to, if I am given a chance to hear the amendment first.

MR. DE LOS REYES: I am with the Commissioner in his proposal but then we have to allay the fears of some of our colleagues who think that this could be used as a tax shelter. Therefore, my amendment will be to preface Commissioner Davide's amendment with the words "SUBJECT TO CONDITIONS AS MAY BE PROVIDED BY LAW."

MR. DAVIDE: It is accepted.

MR. DE LOS REYES: Thank you.

MR. NOLLEDO: Point of information, Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: (. . . Deleted by order of the Chair.)

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: (. . . Deleted by order of the Chair.)

THE PRESIDENT: So this matter can be subject of legislation, is that correct?

MR. DAVIDE: It is subject to the conditions.

SUSPENSION OF SESSION

MR. MONSOD: Madam President, may we be given a few minutes to see whether we can work out a resolution here?

THE PRESIDENT: The session is suspended.

It was 4:23 p.m.

RESUMPTION OF SESSION

At 5:02 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. VILLACORTA: Madam President, Commissioner Davide will present his revised amendment.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, after consultations, we are now happy to submit the following modified amendment and the principal coauthors of this are Commissioners de los Reyes, Monsod, Natividad, Ople, Maambong and Guingona.

It will be inserted in the Article on Education, or in any appropriate place by the Committee on Style or the Committee on Sponsorship. It will read: "SUBJECT TO CONDITIONS PRESCRIBED BY LAW, ALL GRANTS, DONATIONS OR CONTRIBUTIONS USED ACTUALLY, DIRECTLY, AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES SHALL BE EXEMPT FROM TAX."

MR. VILLACORTA: The committee accepts the amendment, Madam President.

MS. ROSARIO BRAID: Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MS. ROSARIO BRAID: Madam President.

MR. SUAREZ: I yield to the Lady, Madam President. I heard a Lady speaking.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Will Commissioner Davide entertain a few clarificatory questions?

MR. DAVIDE: Gladly.

THE PRESIDENT: The Commissioner may proceed.

MS. ROSARIO BRAID: Will these donations also refer to contributions to projects on nonformal education, such as the development of a program base for distance learning systems, establishment of community learning centers and other projects on nonformal education?

MR. DAVIDE: The nonformal and formal educational systems fall within the same educational technique. Hence, donations for educational purposes, whether formal or informal education, would be covered.

MS. ROSARIO BRAID: Thank you. I just want that in the record so that it is not only meant for schooling on formal education.

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: May we also place it on record that the word "donation" is used in the generic sense to include legacies and devises.

MR. DAVIDE: Yes, mortis causa and inter vivos donations are included.

MR. DE LOS REYES: And that educational purposes would include scholarship?

MR. DAVIDE: Yes.

MR. DE LOS REYES: Thank you, Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President. This is only to clear up some points. Does the exemption fall on the part of the grant, donation or the legacy itself?

MR. DAVIDE: Grants, donations or contributions.

MR. SUAREZ: Yes. In other words, the ones making the contributions and the ones making the grants are not entitled to tax exemption.

MR. DAVIDE: The donors are the ones entitled because we still have the donors' taxes, and if it would be legacies, devises or inter vivos donations, we still have the estate tax and, therefore, the State will be exempt from the payment of the estate tax.

MR. SUAREZ: So, in other words, if for example, I donate P10 to educational institutions to be used directly and exclusively for educational purposes, I would be exempt from the payment of taxes.

MR. DAVIDE: From the donor's tax, but I do not think the Commissioner will donate only P10.

MR. SUAREZ: That is only an example. However, the meaning is clear that the donor, the grantor or the contributor would be exempt from payment of taxes.

MR. DAVIDE: That is correct.

MR. SUAREZ: Thank you.

MR. TINGSON: Madam President, may I ask a few questions?

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: The Commissioner used the words "DIRECTLY, EXCLUSIVELY AND ACTUALLY."

MR. DAVIDE: Yes.

MR. TINGSON: Would the word "EXCLUSIVELY" not take care of the two others?

MR. DAVIDE: No, this is to align also to the exemption granted to nonstock and nonprofit educational institutions, as well as to the particular subsection in Section 29 of the Article on the Legislative. When we granted these exemptions, we had the qualifications that the same words "DIRECTLY, ACTUALLY AND EXCLUSIVELY" shall be used.

MR. TINGSON: Thank you. The Commissioner admits that there are big institutions of learning in this country that are making fairly good profits. Is this true?

MR. DAVIDE: There may be. I cannot be very positive in my answer now because I really have not inquired into the financial standing of these educational institutions.

MR. TINGSON: Does the Commissioner presume that those who donate are doing this for altruistic motives and purposes and not for trying to go around the tax laws?

MR. DAVIDE: Good faith is always presumed.

MR. TINGSON: So, when one donates to a university that is making good profits, then, would he also be entitled to some returns for this money he donates?

MR. DAVIDE: I am not in a position to answer categorically that question. It all depends on the particular arrangement between the donor and the donee. The one exempted here is the donor. In that particular case, he is exempted from paying the donor's tax.

MR. TINGSON: I see, but then he will not be prohibited from receiving in return whatever profits there might be. In other words, he becomes as if he were a stockholder.

MR. DAVIDE: If he receives profits from that particular institution, it means that he belongs to that institution, probably as a stockholder. Any dividend which he may receive would be subject to the income tax.

MR. TINGSON: I see. Only the dividends that he receives. But the actual money or amount of money, say, P2 million, that he donates there would be exempted from tax.

MR. DAVIDE: It is not really the amount that is exempted. It is the act of donation, that is why there is a donor's tax for the transfer of the particular property by donation.

MR. TINGSON: Thank you.

MR. DAVIDE: The tax is not to the extent of P2 million. There are graduated scales of imposing the donor's tax.

MR. TINGSON: Thank you.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: The way I understand it, this constitutional provision is not self-implementing. In other words, after the Constitution is ratified and takes effect, an implementing legislation setting the conditions will have to be enacted before this provision takes effect.

MR. DAVIDE: That is correct. But I understand from Commissioner Maambong that there are already certain

laws allowing such exemptions. So, these laws may be rendered still operative until Congress may provide for some other conditions.

MR. RODRIGO: Although Commissioner Nolleto said that these presidential decrees have been repealed. So, in case these PD's have been repealed, we will have to wait for another implementing legislation setting up the conditions before this provision is implemented.

MR. DAVIDE: If it is true that the decrees had been repealed, then Congress shall have to prescribe the conditions.

MR. RODRIGO: Thank you.

SR. TAN: Madam President.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Take it for what it is worth. But during the break, I was curious to find out who was correct, Commissioner Nolleto or Commissioner Maambong. And so I called up the BIR and asked if there was any tax for donors who donate to educational institutions. The BIR asked me why and I told them we are discussing the matter. The BIR asked, "Why are you going to put that in the Constitution? We have been doing this." It is already in the Code and the BIR has been giving tax exemptions automatically.

MR. RAMA: As the last speaker, I ask that Commissioner Suarez be recognized.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Actually, this is only a suggestion by way of amendment, Madam President. It could be either substitution or addition. In most educational institutions in the United States, they do not speak of grants but of endowments, let us say, a scholarship grant from the university to the students.

MR. DAVIDE: Can we have it as an addition and not a substitution?

MR. SUAREZ: I have no objection to that. Would the Gentleman entertain the idea of including the word "ENDOWMENTS"?

MR. DAVIDE: I am willing to accept.

MR. SUAREZ: "Donations or contributions."

MR. DAVIDE: Yes.

MR. SUAREZ: Thank you.

MR. RAMA: The body is ready to vote, Madam President.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: I did not hear what Commissioner Tan said. She said that she consulted her brother, but as far as I am concerned, the exemption refers only to the first P1,000 as provided in the National Internal Revenue Code, unless the President has amended the Code. I am referring to P.D. No. 69 that was cited by Commissioner Maambong and that provision was really repealed by a subsequent decree.

With due respect to the BIR Commissioner, unless there is a new executive order by the President, I beg to disagree because there is an exemption, Madam President, on donor's tax up to only P1,000. That is why in order

to avail of this exemption, they create a lot of donations from different persons not exceeding P1,000 each. That is going around the law.

There is no specific provision in the National Internal Revenue Code granting exemption to endowments given to educational institutions. I am not aware of any such provision. Besides, I am talking of the particular provision that Commissioner Maambong was citing. I am not citing any other provision. He is talking of deduction from gross income, not of exemption from the donor's tax. That is why Commissioner Tan should have clarified this matter with her brother who is an incumbent commissioner of the BIR. I am teaching the subject — pardon me for the braggadocio — and I have written some books on this subject, Madam President. (Laughter)

MR. GUINGONA: Madam President, I think the committee is ready to call for a vote. We are asking that the matter be placed to a vote.

THE PRESIDENT: Yes. Was that accepted by the committee?

MR. GUINGONA: Yes, by our chairman, Madam President.

VOTING

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

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

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

The results show 27 votes in favor, 3 against and 2 abstentions; the Davide amendment is approved.

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

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Thank you, Madam President.

Based on the interpellations and the committee's approving the proposed amendment on sports in principle, I propose the following under the subsection on sports: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY. ALL SCHOOLS, COLLEGES AND UNIVERSITIES, PUBLIC AND PRIVATE, SHALL UNDERTAKE REGULAR SPORTS ACTIVITIES, ATHLETIC COMPETITIONS IN ORGANIZED LEAGUES, FROM BARRIO, MUNICIPAL, PROVINCIAL, REGIONAL TO NATIONAL SPORTS PROGRAMS," and then as suggested by the committee, I am adding "IN COOPERATION WITH ATHLETIC CLUBS AND OTHER SECTORS.

THE PROMOTION OF AMATEUR SPORTS, AS DISTINGUISHED FROM PROFESSIONAL PLAYERS, SHALL BE PROVIDED BY LAW, INCLUDING THE TRAINING OF NATIONAL ATHLETES FOR OLYMPIC GAMES." we eliminated the words "Asian and World" as suggested by the committee.

That is all, Madam President. I hope there will be no further discussion on this.

THE PRESIDENT: What does the committee say?

MR. VILLACORTA: Madam President, we have already distributed the committee proposal which is almost identical with the amendment of Commissioner Padilla.

MR. PADILLA: Yes. I noticed that the committee suggested the phrase "throughout the country." I believe that my original proposal specifying the sports program in all the schools, public and private, mentioning the different levels — barrio, municipal, provincial, regional and national — will be more clear and more specific than the phrase "throughout the country." I also inserted, as suggested by the committee, the phrase "IN COOPERATION WITH ATHLETIC CLUBS AND OTHER SECTORS."

MR. VILLACORTA: Madam President, the committee accepts the amendment.

MS. NIEVA: Madam President.

THE PRESIDENT: Commissioner Nieva is recognized.

MS. NIEVA: I am all for the promotion of sports as a very valuable aid to the total formation of our youth; but since we have always been told that the Constitution should not go into detail on matters that are properly more in the domain of legislative action, I was wondering whether or not the first paragraph already says it all — that it would include all of these sports activities, leagues and the training of national athletes for Olympic competitions. I was always under the impression that details like these do not belong to the Constitution. I do not know whether we are making some kind of an exemption now.

THE PRESIDENT: Is the Commissioner proposing to delete the two paragraphs?

MS. NIEVA: Personally, my opinion, if it is worth taking, is that the first paragraph states it all and it is all-encompassing.

THE PRESIDENT: What does Vice-President Padilla say?

MR. PADILLA: Madam President, the original committee report included this under Section 2(i) and after that first sentence in this committee report, it says:

The State shall provide opportunities for participation involving all sectors and assure the teaching and practice of physical education and sports in the curricula of the national educational system.

I suggested that the sentence be deleted during the period of interpellations. And with regard to words, there is hardly any difference between the original provision and my two paragraphs, except that my suggestion is more specific and clear.

Madam President, I have answered that one observation of Commissioner Suarez that my language in the Constitution is always an attempt to be short, clear and concise. I have adhered to that. In fact, I have objected to many provisions where there are too many details that should be left to the legislature. But in this particular case, Madam President, the development of sports cannot be undertaken by just a course in the curricula of the national educational system. The development of sports will require, in addition, competition through organized leagues as much as possible from the lowest level to the highest, because then student athletes who show some potentials for further development may rise above municipal, provincial, regional to national qualification. And the ultimate goal of an amateur student athlete is to qualify in the national team for Olympic games.

I believe that this proposal is short enough, concise and specifies the steps necessary to realize the promotion and development of sports.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Padilla yield to just a question?

MR. PADILLA: Gladly.

MR. OPLE: Depending on his answer, I may decide on whether to propose an amendment or not.

Madam President, does this section now before the body state forthrightly the values of sports, including individual discipline, excellence and cooperation — especially team cooperation? What I have in mind, Madam President, is the saying that at the apogee of the British empire, their success in arms and in colonial administration was previously decided in the playing fields of Eton which, I think, was one way of saying that sports fosters initiative, individual discipline, teamwork and excellence. That is the reason we should allocate the highest priority to sports and physical education.

Without having to bother for the moment about the conciseness of this first paragraph, will Commissioner Padilla consider an amendment, more or less, as follows: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF INDIVIDUAL DISCIPLINE, COOPERATION AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY"?

MR. PADILLA: Madam President, if I accept the amendment, I could be accused of adding or making it more lengthy. But it is true, as Commissioner Ople says, that in the development of sports, one must have self-discipline; one must have continuous training; one must follow instructions and have cooperative teamwork, always leading to excellence as a result of systematic and consistent training. A student athlete cannot be a university athlete unless he has those qualities of self-sacrifice, of submission to discipline and rigorous training. The objective which I always wish to inculcate, is that the greatest goal of an amateur student athlete is not only to represent the university in the national league but also to qualify as a member of the national team to compete in Asian and, if possible, Olympic games.

MR. OPLE: Therefore, Commissioner Padilla might also agree that the emphasis given to sports in the old Greek confederacy, at the time of the birth of what we now call democracy, was compatible with the spirit of freedom, tempered by the spirit of discipline and performance, so that we never heard of the Olympics before the Greeks. They were the first to systematically organize sports in aid of the over-all human development for excellence.

MR. PADILLA: That is correct, for excellence especially. But physical excellence, in particular sports events, must be the result of years of training, self-discipline, self-sacrifice and all these virtues that would make a student athlete a better man who will aspire for physical excellence, otherwise, he cannot reach the status of a varsity athlete and much less, a member of a national team.

MR. OPLE: Yes. In that case, may I invite Commissioner Padilla, the author of this section, to join me in taking the risk that in inserting the values of sports in this already concise first paragraph, we may actually be able to convince the committee and the Commission that it certainly does not add to the bulk of the sentence and it does not detract from the strength of the sentence, but it does contribute a new spiritual and moral dimension and a democratic dimension to the definition of the objectives of sports in that sentence.

So that the amendment, Madam President, reads as follows: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF SELF-DISCIPLINE, TEAMWORK AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY."

MR. PADILLA: I have no objection; I accept. However, I wish to say that this first sentence is a verbatim reproduction of the committee report.

MR. OPLE: Yes, I also invited the committee to consider it.

THE PRESIDENT: What does the committee say?

MS. ROSARIO BRAID: The committee accepts; but may I just ask one clarificatory question. Firstly, may I say that the committee also has its alternative, edited version based on the Commissioner's provisions which I hope we can harmonize.

Secondly, would the Commissioner's concept of sports include indigenous sports like sipa, yo-yo and that these provisions also include the encouragement of indigenous sports?

MR. PADILLA: It does not exclude; we can cultivate and promote native sports. But when I mentioned "Olympic games," we have to give emphasis on athletics, that is, track and field, swimming and other individual events, as well as other group or team events which are recognized throughout the world as parts of the program of the Olympic games.

MR. OPLE: I thank the Commissioner and the committee for accepting the proposed amendment.

Thank you, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: With the acceptance of the proposal of Commissioner Ople, would we now in effect constitutionalize the objectives of P.D. No. 604, which created the Department of Youth and Sports Development on December 10, 1974? The decree enjoins all schools to implement a vitalized physical development program that shall purposely aim to develop in students greater stamina, physical strength and endurance and habits of discipline requisite in the New Society. It is no new society but the thrust is practically the same as that of P.D. No. 604.

MR. OPLE: Madam President, I would like to insist on the text of my proposed amendment to Commissioner Padilla's amendment which has been accepted.

THE PRESIDENT: What does Commissioner Padilla say?

MR. OPLE: I refer to a spiritual and moral dimension to sports.

MR. PADILLA: For the information of the body, will Commissioner Ople restate the additional words?

Madam President, those words that were suggested by Commissioner Ople are not the words in P.D. No. 604.

MR. OPLE: No, I borrowed words from Commissioner Padilla, "SELF-DISCIPLINE" for example.

MR. PADILLA: "SELF-DISCIPLINE" is very good.

MR. OPLE: Yes. So, it will now read: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF SELF-DISCIPLINE, COOPERATION AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZEN."

MR. PADILLA: Accepted.

MR. OPLE: Thank you.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Inspired by the usual Padilla formula of constitutional brevity and conciseness, may I respectfully join Commissioner Nieva in her proposed amendment to delete paragraphs 2 and 3. I humbly submit, Madam President, that paragraph 1 covers comprehensively paragraphs 2 and 3, with due respect to our Vice-President.

THE PRESIDENT: Are there any other comments? Are we now ready to vote?

MR. RAMA: The body is ready to vote on the anterior amendment of Commissioner Nieva, if she insists.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: I think Commissioner Nieva's amendment is a prejudicial issue which we have to resolve before voting on the Ople amendment and other amendments.

THE PRESIDENT: Commissioner Ople's amendment is only with respect to the first paragraph.

MR. RAMA: We can vote on the first sentence, Madam President.

THE PRESIDENT: But there is an amendment to delete the second and third paragraphs.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: In case the Nieva amendment is lost, may we still present amendments to the Padilla amendment?

THE PRESIDENT: Yes. In other words, the draft stays as is because the second and third paragraphs have not been deleted. All right, are we now ready?

MR. PADILLA: Madam President, I think it is better, if there are proposed amendments to paragraphs 2 and 3, that we hear these amendments.

VOTING

THE PRESIDENT: We shall take those up later on.

As many as are in favor of the proposed amendment of Commissioners Nieva and Sarmiento to delete the second and third paragraphs of the Padilla amendments; which by the way have been accepted by the committee, please raise their hand. (Several Members raised their hand.)

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

The results show 20 votes in favor and 13 against; the proposed amendment is approved.

Now, we can proceed to vote on the first paragraph, the opening sentence of Commissioner Padilla's proposed amendment which has been amended by Commissioner Ople and which I suppose is still open for any other amendments.

Are there any amendments? (Silence) The Chair hears none; will Commissioner Ople read the first paragraph?

MR. OPLE: May I, in behalf of Commissioner Padilla and the committee, read the first and only paragraph now: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO

FOSTER THE VALUES OF SELF-DISCIPLINE, TEAMWORK AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY."

VOTING

THE PRESIDENT: This has been accepted by the committee.

As many as are in favor of the amendment, please raise their hand. (Several Members raised their hand.)

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

The results show 32 votes in favor and 1 against; the amendment is approved.

MR. SARMIENTO: Madam President, upon insistent and urgent request of a colleague, Commissioner Nollado, may I respectfully move for the deletion of statements, remarks or manifestations connected with P.D. Nos. 69 and 1459 which were started by Commissioner Maambong.

MR. SUAREZ: May I have the honor of seconding the motion, Madam President?

THE PRESIDENT: Is there any objection? Are there any comments?

MR. OPLE: Madam President, may we seek some light concerning the rationale behind this request?

MR. NOLLEDO: Madam President, I hope the body will understand our situation because there were some embarrassing statements made. I think it is within the power of this body to grant the motion.

I ask Commissioner Ople, being my personal friend, to kindly not object to the motion.

MR. OPLE: I am withdrawing my objection. I did not intend to object, but I think we are trained in this body to ask for reasons, and that is all. But since my friend, Commissioner Nollado, has spoken, and I could divine the reason without his telling me, I withdraw any objection to the motion.

MR. NOLLEDO: Thank you very much.

MR. VILLACORTA: Madam President.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: May we request the Chair to authorize the body to propose and discuss amendments to Section 1 of the subsection on language.

MR. RAMA: There is a pending motion, Madam President.

MR. NOLLEDO: Madam President, there is a pending motion, with due respect to Commissioner Villacorta.

MR. OPLE: May I support Commissioner Nollado's request.

MR. NOLLEDO: There is a pending motion on the part of Commissioner Sarmiento upon my request. May we ask the body?

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: The understanding, of course, Madam President, is that what is supposed to be deleted are the statements of Commissioner Nollado and myself after my statements interpellating Commissioner Davide. Those are the only statements which we would like to be deleted.

SUSPENSION OF SESSION

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

It was 5:42 p.m.

RESUMPTION OF SESSION

At 5:47 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

We have before us the motion of Commissioner Sarmiento. Will Commissioner Sarmiento please restate his motion for the guidance of everybody?

MR. SARMIENTO: Madam President, may I move that we delete all discussions pertaining to P.D. Nos. 69 and 1459 which were started by Commissioner Maambong?

THE PRESIDENT: Is there any objection?

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: May I know the reason for the motion, Madam President.

THE PRESIDENT: Will Commissioner Sarmiento give the reason.

MR. SARMIENTO: Madam President, Commissioner Nollado stated a while ago that to prevent embarrassment and shame, those remarks should be deleted from the record.

MR. DE CASTRO: Madam President, there have been many citations on the floor, and I have been keeping track of all of these numbers to determine whether they are truthfully the number of the presidential decree, the republic act, or of the commonwealth act mentioned. And so, if we are withdrawing these, I will go home and check because I want a truthful discussion on the floor. Since my colleague here is requesting that those remarks be deleted, I asked for the reason.

Thank you, Madam President.

THE PRESIDENT: Thank you.

Is there any objection to the motion of Commissioner Sarmiento?

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: If there should be a motion for deletion for some reason or another, I believe it should be done by the Commissioners concerned, not by any other Commissioner who has not been involved in that interchange. If Commissioner Nollado or Commissioner Maambong agreed to delete their exchange of words, I would have no objection but I believe the motion for deletion should not be presented by any other Commissioner who has not been involved in that exchange of remarks.

THE PRESIDENT: So it would appear that the motion has the conformity of the Commissioners concerned, Commissioners Maambong and Nollado.

MR. NOLLEDO: In that case, to obviate the objection of Commissioner Padilla, Madam President, I am reproducing the motion of Commissioner Sarmiento in order to avoid any misunderstanding for purposes of posterity.

THE PRESIDENT: Does Commissioner Maambong agree?

MR. MAAMBONG: Yes, Madam President, but I have been talking with Commissioner Davide and what we have agreed upon is that my exchange of interpellation with Commissioner Davide should remain because that has nothing to do with our exchange of remarks with Commissioner Nolleddo. When Commissioner Nolleddo made his intervention and then I made a statement, those are the words which are supposed to be deleted because Commissioner Davide does not also agree that his reply to my intervention would be deleted. That is my understanding.

MR. NOLLEDO: I have no objection to that, Madam President.

THE PRESIDENT: Are there any other comments? (Silence) Chair hears none.

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

Let the proper deletion be made.

MR. NOLLEDO: Thank you, Madam President.

MR. VILLACORTA: Madam President, may we now request amendments to the proposal of the Committee on Language? And may we request the committee to read the proposed Section 1?

THE PRESIDENT: Please proceed.

REV. RIGOS: Madam President, copies of the proposals have been distributed.

THE PRESIDENT: Was there any change made?

REV. RIGOS: As far as this new sheet is concerned, there is no change, Madam President. And so, the committee is now ready to accept any proposed amendments.

MR. VILLACORTA: Just for the record, Madam President. The chairman of the Subcommittee on Language is Commissioner Cirilo Rigos.

MR. FOZ: Madam President, may we be recognized?

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: May we make the reservation that we would like to submit a further amendment to that provision regarding sports? May we be given a chance to present it tomorrow or later?

MR. VILLACORTA: Surely, if the Chair allows it.

MR. FOZ: Madam President, I have an amendment to that provision which we have approved earlier.

THE PRESIDENT: Which one?

MR. FOZ: The provision regarding the promotion of physical education and the encouragement of sports programs. I have a further amendment to submit and I would like to make the reservation that I be allowed to make that presentation later.

THE PRESIDENT: Can we not take that up now?

MR. FOZ: I am having the amendment typed so that the words can be presented in a better light.

THE PRESIDENT: In other words, Commissioner Foz is making a reservation to submit a motion for reconsideration of the approval of that particular section on sports in order to introduce certain amendments.

MR. FOZ: Yes, Madam President.

THE PRESIDENT: All right.

MR. FOZ: Thank you.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, before doing that, I would like to find out what should be the basis for our proposed amendments. When the committee submitted its committee report, I introduced an omnibus amendment including language, arts and culture, science and technology. This afternoon, however, the committee submitted to us recommended provisions on language consisting now of four sections.

REV. RIGOS: May I answer that, Madam President? The committee had a meeting last night after our session and that one-paper document submitted to the Chair is the result of our meeting last night. That now takes the place of the two sections in the old draft. So, for the purpose of our discussion tonight, we are using that one-page document with four sections, Madam President.

MR. DAVIDE: So, the committee is now submitting that document as its own revised report on language.

REV. RIGOS: Yes.

MS. AQUINO: Madam President, prejudicial question.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I think that the section on language presents a vague question which might trigger a long-winded debate.

Considering the lateness of the hour, I would like to suggest to the committee that we address ourselves to the less controversial provisions, for example, on science and technology, and reserve the debate on language for tomorrow.

MR. DAVIDE: I second that particular suggestion precisely because earlier the committee, without leave of the Commission, submitted its own amended report on language. We were already prepared with the set of amendments to the original committee report on language. So it would be rather unfair to us if we will now begin immediately on amendments on the basis of the new committee version.

So, may I propose that we take up the provisions on language tomorrow in the interest of justice and fairness.

THE PRESIDENT: Yes. But may we, at least, hear the committee on what are the salient provisions in this new committee report on language? May we have some remarks on this?

MR. VILLACORTA: Madam President, actually this revised proposal sought to incorporate the different amendments either written or verbally articulated by the different Commissioners, and we have accommodated their suggestions. Hence, we would like to insist that we start discussing Section 1 at least of this section on language to save time. We are being accused of dragging on in our work in the Commission. The committee is ready with these four sections on language and we do not see any reason why we should defer the discussion on

this section.

THE PRESIDENT: May we have the salient points in Section 1, Mr. Chairman?

MR. VILLACORTA: The salient points, Madam President, include the name of the national language which is identified as Filipino with an F; the steps to be taken by the government in using it as a medium of communication and instruction are also stipulated. Another salient point is the use of the regional language as auxiliary medium of instruction. Lastly, English is stipulated as a second language and as an alternative medium of instruction.

We feel, Madam President, that these are not very controversial, and since the body has a copy of our proposal, we can straight away come up with amendments. And if there are further questions or there is need for clarification, we could provide that clarification tonight, Madam President.

THE PRESIDENT: Are there any comments for instance on lines 1, 2 and 3 — the national language of the Filipinos? Is there anyone who would like to speak for or against this particular sentence?

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I briefly speak against this amendment?

THE PRESIDENT: Please proceed.

MR. SARMIENTO: I am against the committee's amendment that the national language of the Philippines is Filipino. I am for the retention of the phrase or the words in the 1973 Constitution, which says that the national language of the Philippines shall be Filipino. From the interpellations made by Commissioner Davide, it was shown that no efforts were made by the Philippine government towards making Filipino our national language. An article was written by Professor Leopoldo Yabes, a well-known linguist and UP professor in Linguistics, that indeed no efforts were made by the government in order that Filipino, with emphasis on F, should be our national language. Therefore, "shall be," not "is," should be used in this first sentence.

MR. VILLACORTA: The position of the committee, Madam President, is that there is a living lingua franca which can be called Filipino. It is that lingua franca that is used by citizens of the Philippines who use different native languages or dialects. So, if a Cebuano and an Ilocano meet each other in any place of the Philippines, they would use this lingua franca, which we call Filipino. We call it Filipino and not Pilipino because it is not exactly Tagalog, because Tagalog is a pure form. In fact, Pilipino, according to linguists who attended our hearings, is even purer than Tagalog because it tries to coin words which are not really used. Therefore, it is not true that despite the fact that the government has not really taken resolute steps to develop the national language known as Filipino, there is no such language to speak of. It is a living lingua franca, according to the resource persons whom we invited to our public hearings.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I would like to speak briefly in support of the committee formulation on Section 1.

THE PRESIDENT: The Gentleman has three minutes.

MR. OPLE: The national language of the Philippines is Filipino, which shall be further developed on the basis of Philippine and other languages. For political reasons, Madam President, we have temporized as a nation with the

issue of the national language since the 1935 Constitution. As a matter of fact, at the onset of the American occupation of the Philippines, I believe it was the Taft regime, the first civilian government in 1903, that prescribed in effect the use of English as the principal medium of communication in the Philippines. And for understandable reasons prior to that, some of the historical scholars in this hall will remember the argument against Philippine independence emanating from American scholars themselves, including the infamous Dean C. Worcester who wrote two volumes of *The Philippines' Past and Present* just to denigrate the Philippine Revolution of 1896 and the Philippine Republic of 1899. What did Worcester say about the Aguinaldo Republic, the Malolos Republic? He said that this was a Tagalog military oligarchy with some help from the Pampango and the Ilocano oligarchy, and the intention was very clear — to divide the people of Luzon and the people of the Visayas and Mindanao. And yet, who can gainsay the fact that the Visayas and Mindanao took their own leading roles in the Philippine revolution? There may be fewer monuments in the Visayas, but Gen. Leon Kilat of Cebu ought to deserve a monument there because he fought the American army in Cebu. There was a Negros Democratic Republic existing simultaneously with the Malolos Republic, at the same time acknowledging the primacy of the republic in Malolos at that time. They refused to be dissuaded by the Americans from believing that we had a central revolutionary government at that time. Gen. Juan Araneta, I think, was the leader of that republic in Negros.

The only reason I am bringing this up, Madam President, is that the languages had gone through a tortuous course. In 1898 and 1899, the language of the Malolos Republic was bilingual; it was both in Tagalog and in Spanish. But with the loss of the republic, it was inevitable that the Americans with their superior paraphernalia of culture and arms or arms and culture, had to insist on supplanting the native languages with their own tongue if only to symbolize most effectively the triumph of their colonial conquest, and perhaps to demean the Filipino people in their own eyes. There is a saying that, first, one has to believe in the superiority of an alien culture before he can be truly subjugated. And the outright suppression of the Philippine languages at that time was part of that scheme in order to demonstrate the overwhelming cultural superiority of the newcomer, the new colonial power, over the native inhabitants. But in 1935, our ancestors did take that singular step of providing a national language in the Constitution. In the Constitutional Convention of 1971, there were charges articulated to the effect that Quezon, Laurel and Recto confabulated in the Style Committee in order to change the formulation of the national language. Instead of saying it should be based on the existing native languages, according to those accusers, Quezon, Laurel and Recto changed this by saying that it is based on one of the existing native languages. We do not have the proof of this accusation, Madam President.

At any rate, acting on the constitutional principle on a national language developed in 1935, the Institute of National Language was established in 1940. Please bear in mind that the majority of the people who sat in the board of the Institute of National Language, including the first director, Jaime de Vera from Leyte, were preponderantly non-Tagalogs. Beginning in 1940, we have had this national language based on one of the existing native languages and later on a Visayan minister of education changed this word "Tagalog" into "Filipino." I think he was from Negros Occidental.

THE PRESIDENT: I am sorry to interrupt, but the time, I believe, has expired.

MR. OPLE May I wind up then. I was trying to request assistance to remember. . . yes, Minister Romero, the Secretary of Education, changed the word "Tagalog" into "Filipino," and since that time this language has evolved. We are not happy about the restrictive manner, according to some, in which this has developed, but "Filipino" here is just a proclamation of an already existing fact. "Pilipino" has been transformed into "Filipino" with a capital F. It is a code word for a highly liberalized Filipino, open-ended, not only ready but eager to accept contributions from Cebuano, Pampango, Ilocano, Hiligaynon, Tausog and all the other languages of this country.

And, therefore, it is to be distinguished from Pilipino as a more static, already finished product. This is a growing, living product, as I said, eager to embrace and assimilate all possible authentic contributions from the other languages of the Philippines.

And so, I support the committee in acknowledging now this reality. It is about time that we settle this. This is a rare opportunity when there is an upsurge of nationalism in our own land and a cry for unity, solidarity and peace based on justice. Therefore, I strongly urge, Madam President, that we support Section 1 as formulated by the committee.

Thank you.

MR. RAMA: Madam President, I ask that Commissioner Davide be recognized to speak en contra.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The question here is not whether or not we have a language known as Filipino. The question is the formulation because we easily notice in the formulation of the committee, Madam President, that what it describes now as Filipino with an F is actually "Pilipino" which is based on Tagalog. Section 2 now has deleted "Pilipino" as an official language. In the 1973 Constitution, the official languages are Pilipino with a P and English; the national language shall be known as "Filipino," and the Batasang Pambansa was mandated to evolve that common national language to be known as Filipino.

THE PRESIDENT: So where does the Gentleman differ really from the committee?

MR. DAVIDE: The committee now in effect would want to enshrine Pilipino as the Filipino. That is why Section 1 now is written in such a way that the Pilipino before would now be called Filipino which is the common national language. This is the fact: The lingua franca in the Philippines is not Filipino, and I can challenge anyone on this. How could it be the lingua franca when only the University of the Philippines has offered the subject known as Filipino? In the entire educational system — I am referring to public and private educational systems — other than the University of the Philippines, the subject taught is Pilipino, not Filipino. And it would really be a deception to consider now the official language known as Pilipino as the Filipino.

And so, Madam President, all the statements to the effect that when a Cebuano meets a Tagalog, they speak in the lingua franca, is not true. I am a Cebuano. For instance, when I talk to a Tagalog, I always talk in English because I cannot talk in Tagalog. And English, therefore, between the Tagalog and myself would be the lingua franca. Mention was made that when Filipinos meet abroad, they speak in the lingua franca known as Filipino. That is a very sweeping conclusion. None of us here ever observed Filipinos abroad talking in a lingua franca. Has any of the members of the committee gone to Saudi Arabia or to the Middle East and listened to a Cebuano and a Tagalog talking together? And for them now to conclude that in Saudi Arabia or the Middle East the language spoken between a Cebuano or a Waray or an Ilonggo and a Tagalog would be a lingua franca, would be a sweeping conclusion. Even right here in Metro Manila, right here in the Commission itself, are we talking in a lingua franca other than English? We debate in English. That is the lingua franca in the Commission.

And now, why mandate such a language known as Filipino to be the official language? It would be unfair to the other regions. I am not speaking as a Cebuano, I am speaking for all others who have not been heard by the committee in the course of their public hearings. Has any expert on Cebuano, on Waray or on Ilonggo been invited to the committee? None. In the public hearings in Mindanao and in the Visayas, what do they want as a national language? They even opted for Cebuano because 24 percent of the entire population speak Cebuano.

Many more can understand Cebuano. So, even if we review the results of the public hearings in the Visayas and Mindanao, it can easily be shown that the people opted for a language not even known as Filipino, as the national language.

I only wish that we either adopt the proposal of Commissioner Sarmiento to reformulate the first sentence in the manner this similar provision is stated in the 1973 Constitution or mandate Congress to fully develop and enrich this common national language to be known as Filipino on the basis of native languages and any other language for that matter. And to implement that particular mandate, there shall be established a Commission on National Language. It is only then that we can formally adopt Filipino as the national language, but we can call it now Filipino.

We have no objection, but please do not state that the national language of the Philippines is Filipino, because that is not the lingua franca for the moment.

MR. VILLACORTA: Madam President.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, before we resumed the session, I asked Commissioner Davide what his proposed amendment is, just to confirm what we believed we heard from him when we had an agreement in the last caucus. He said that in his formulation, the national language of the Philippines is Filipino, based on existing Philippine and other languages. I do not understand why he is vehemently against the committee formulation, Madam President.

MR. DAVIDE: The Gentleman should better tell the Commission what we have agreed upon in the caucus. We did not want the other portions. We are willing to concede to that if the last two sentences will have to be deleted because the committee now mandates that the language of instruction, the medium of communication, shall be in Filipino.

MR. VILLACORTA: I do not want to put any Commissioner on the spot. But lest we be accused, and indeed we are being accused of being deceptive, is it not correct that just a while ago in the presence of Commissioner Monsod and others, the Gentleman said that his proposed formulation is that the national language of the Philippines is Filipino?

MR. DAVIDE: Although that is true, we wanted the deletion of the remaining portion. I ask that the Commissioner complete his statement. It seems he is charging me now of being deceptive.

MR. VILLACORTA: No, I am not charging the Gentleman of being deceptive. I am just saying that our formulation is the same as his.

MR. DAVIDE: It is not. It is not the same. Please read entirely what my proposal to the committee was.

SUSPENSION OF SESSION

MR. VILLACORTA: Madam President, may I request a two-minute suspension to cool our heads.

THE PRESIDENT: The session is suspended.

It was 6:19 p.m.

RESUMPTION OF SESSION

At 6:34 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

REV. RIGOS: Madam President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: The committee, after consultation with some people who wish to propose amendments, has reached a consensus on at least two instances. We will request Commissioner Davide to read those two sentences.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: The first two sentences on Section 1 will read as follows: "The national language of the Philippines is Filipino, BASED ON THE EXISTING Philippine and other languages. CONGRESS SHALL TAKE STEPS to further develop AND enrich it ON SUCH BASIS AND FOR THAT PURPOSE SHALL ESTABLISH A COMMISSION ON NATIONAL LANGUAGE."

The phrase "THE EXISTING Philippine and other languages" refers to the existing regional and native languages and other foreign languages, the words of which may be assimilated into the Filipino common national language.

THE PRESIDENT: Do we understand that Section 1 will be composed now of these two sentences?

MR. DAVIDE: The first sentence will actually be substituted by two sentences, Madam President.

THE PRESIDENT: I see.

MR. DAVIDE: It will not yet affect the other three sentences. So the first two sentences will be read again as follows: "The national language of the Philippines is Filipino, BASED ON THE EXISTING Philippine and other languages. CONGRESS SHALL TAKE STEPS to further develop AND enrich it ON SUCH BASIS AND FOR THAT PURPOSE SHALL ESTABLISH A COMMISSION ON NATIONAL LANGUAGE."

THE PRESIDENT: And is this accepted by the committee?

REV. RIGOS: Madam President, these two sentences are acceptable to the committee but it does not mean that these are the only sentences we would like to put in Section 1. The committee reserves the right to put additional sentences.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I am sorry that this formulation is causing serious misgivings both to me and to some other Members of the Commission with whom I have just conferred. The formulation of the sentence allows for future interpretations that may not be in accordance with the expectations of both the committee and the Commission. It defines Filipino as a language based on the existing Philippine and other languages. I think it loses sight of the fact, as we said before in the debate and in the interpellation period, that there has been evolving since the beginning of this century a national language that was finally adopted through the 1935 Constitution and which was formally proclaimed in 1940. It actually disregards, if we read the text very closely, this evolution of a national language which, until we met today, bears the name "Pilipino" with a capital P, and which is based on one of the existing languages as determined in the 1935 Constitution.

Today, we say that the language is "Filipino" which is based on Philippine and other languages. And, therefore,

this formulation from the standpoint of some of us is far from satisfactory. I wonder whether the Chair wishes a rather prolonged deliberation on this point tonight or it might consider giving the Commission the opportunity to look into this very vital matter more closely so that by tomorrow, we can be in a position to compose our differences.

THE PRESIDENT: I would just like to be clarified, just for my own personal satisfaction. What is actually the difference between the first sentence as stated by Commissioner Davide and the first sentence of the committee report? It says: "The national language of the Philippines is Filipino, BASED ON THE EXISTING Philippine and other languages."

MR. DAVIDE: Madam President, the difference is rather big for the reason that we really fear that what is to be known as "Filipino" may only be based on one language, one Philippine native language.

We contemplate, as claimed by the Filipinologists or those who claim that there is such a Filipino language, that the same is actually the lingua franca understood by the Filipinos. This means it is a language that has assimilated words from the other native or regional dialects. So, it is common. We maintain that that is based on Philippine languages and other languages, like Spanish, as in the proposal of Professor Constantino which was submitted here and where we have several Spanish words incorporated in it. But it should be further developed and enriched on that particular basis. So, there is no danger of a possible misapprehension, misunderstanding or a misconstruction.

MR. OPLE: Madam President, may I insist that as now formulated, this opening sentence disregards the gains that have clearly been accumulated and amassed in the development of a common bond of unity through a national language for the Filipino people since the turn of the century.

MR. DAVIDE: It will not disregard. May I state for the record that it will not disregard.

MR. OPLE: It will, because it reopens the whole question of the national language on the basis of what some people have called proportionate contributions — a language which is not recognizable now; a language which I suppose Commissioner Davide imagines will exist in the future after a Language Commission has fully developed such a language, based not on historical gains but on a new amalgam of a language whose shape and character right now we are unable to recognize. And, Madam President, that means a lot of difference and, therefore, as now amended, I submit that the sentence is not satisfactory.

REV. RIGOS: Madam President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: The committee agrees with Commissioner Ople that we sleep over this tonight and talk about this tomorrow. In effect, we are moving that we adjourn.

MR. OPLE: The Floor Leader, of course, has the privilege of making the motion.

THE PRESIDENT: What does the Floor Leader say?

ADJOURNMENT OF SESSION

MR. RAMA: Madam President, I move that we adjourn until tomorrow at nine-thirty in the morning.

MR. OPLE: Thank you very much.

THE PRESIDENT: The session is adjourned until tomorrow at nine-thirty in the morning. I request everybody to be punctual so we can start at nine-thirty.

It was 6:43 p.m.

[*] Appeared after the roll call.

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