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Friday, August 29, 1986

OPENING OF SESSION

At 9:52 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 Ambrosio B. Padilla.

Everybody remained standing for the Prayer.

PRAYER

MR. PADILLA: Almighty God, our Creator and Lord: With infinite wisdom, You have given us Your Sermon on the Mount, which, in part, reads:

Do not judge others, so that God will not judge you, for God will judge in the same way you judge others, and he will apply to you the same rules you apply to others. Why, then, do you look at the speck in your brother's eye and pay no attention to the log in your own eye: (Matthew 7:1-5)

Dear Lord, we pray that in the arduous process of formulating the fundamental law, we invoke Your heavenly wisdom to guide us, human mortals with finite minds, in expressing our views with ample latitude for respect for contrary views.

The constitutional guarantee of the freedom of speech was explained by Justice Holmes:

When men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas — that the best test of truth is the power of the thought to get itself accepted in the competition in the market, and that truth is the only ground upon which their wishes safely can be carried out.

Let us hope that through the remaining sessions of this Constitutional Commission, we will all invoke Divine Providence in enlightening our minds in drafting the 1986 Constitution which will fulfill the ideals and aspirations of all the Filipino people as one united nation. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Natividad Present [*]

Alonto Present [*] Nieva Present

Aquino Present [*] Nollado Present[*]

Azcuna Present Ople Absent

Bacani Present Padilla Present

Bengzon Present Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present[*]

Brocka Absent Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Absent

Concepcion Present Sarmiento Present[*]

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present Tadeo Present

Gascon Present Tan Present

Guingona Present Tingson Present

Jamir Present Treñas Absent

Laurel Present [*] Uka Present

Lerum Present [*] Villacorta Present

Maambong Present [*] Villegas Present

Monsod Present

The President is present.

The roll call shows 34 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.

THE PRESIDENT: Is there any objection that we dispense with the reading of the Journal of the previous session? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

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

THE PRESIDENT: Is there any objection that we approve the Journal of yesterday's session? (Silence) The Chair hears none; the motion is approved.

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

THE PRESIDENT: Is there any objection that we proceed to the Reference of Business? (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 the Alliance Biblical Seminar, 101 Dangay St., Veterans Village, Project 7, Quezon City, signed by its President, Rodrigo D. Tano, urging the Constitutional Commission to incorporate in the new Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution.

(Communication No. 652 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from 18 signatories of the Concerned Women of the New Families Movement, suggesting that the provision in the Constitution for the protection of life be not only to protect life from the moment of conception but even up to the point of natural death.

(Communication No. 653 — Constitutional Commission of 1986)

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

Communication from 835 signatories, all from Cebu, requesting inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 654 — Constitutional Commission of 1986)

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

Letter from His Eminence, Ricardo Cardinal J. Vidal, President, Catholic Bishops' Conference of the Philippines, P.O. Box 3601, Manila, supporting the provision in the Constitution allowing the teaching of religion in the public elementary and high schools within the regular class hours by teachers designated or approved by the religious authorities of the religion to which the children belong.

(Communication No. 655 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from 581 signatories with their respective addresses, seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 656 — Constitutional Commission of 1986)

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

Communication from the Catholic Bishops' Conference of the Philippines, P.O. Box 3601, Manila, signed by its President, Ricardo Cardinal J. Vidal, extending whole-hearted support to the provision in the Constitution that upholds and promotes the unity, stability and development of marriage and the family, and the provision seeking to equally protect the life of the mother and the life of the unborn from the moment of conception.

(Communication No. 657 — Constitutional Commission of 1986)

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

Communication from the Association of Philippine Physicians in America, Inc., Norfolk, Virginia, U.S.A. urging the Constitutional Commission to include a provision that would make a natural-born citizen of the Philippines who has lost his Philippine citizenship a transferee of private lands.

(Communication No. 658 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from the Central Visayas Ecumenical Fellowship, 49 Mabini St., Cebu City, signed by 339 signatories, expressing opposition to Proposed Resolution No. 289, entitled: "Resolution providing in the new Constitution the teaching of religion in public elementary and secondary schools under certain conditions.

(Communication No. 659 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Cesar L. Legayada, National President, Federation of Unions of Rizal, Philippines (FUR)-TUCP, 247 Quirino Avenue, Baclaran, Parañaque, Metro Manila, endorsing a proposed constitutional provision on industrialization, economic protectionism and Filipinization of the economy.

(Communication No. 660 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Rustico Durante of Budeos, Quezon, expressing opposition to the retention of foreign military bases in the country.

(Communication No. 661 — Constitutional Commission of 1986)

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

Communication from the Mayors League of Zambales, Iba, Zambales, signed by its President, Porfirio F. Elamparo, and other officers, requesting for the retention of the U.S. military bases in the Philippines.

(Communication No. 662 — Constitutional Commission of 1986)

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

Communication from the Wesleyan Church of Cabanatuan City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 663 — Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, yesterday I announced that the Order of Business for today would be a continuation of the consideration of the Article on National Economy and Patrimony because we felt then that the committee meeting would be finished. We indeed finished the meeting, Madam President, but we have not yet quite completed our reconciliations. So, I would like to propose that the Article on Education, Science, Technology, Arts and Culture be considered this morning in the period of sponsorship and debate. Should we finish with the Article on National Economy and Patrimony in the committee level this afternoon, then we can go back to it.

Madam President, I move that Commissioner Villacorta be recognized, together with the rest of the members of the committee for the sponsorship of the Committee on Human Resources.

THE PRESIDENT: Have the honorable chairman and members of the committee been informed before this manifestation?

MR. BENGZON: Yes, Madam President.

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

The Chair requests the chairman, Commissioner Villacorta, Vice-Chairman Uka and the following members of the Committee on Human Resources to please occupy the front desk: Commissioners Guingona, Brocka, Quesada, Tan, Bennagen, Gascon, Rigos, Rosario Braid and Treñas.

CONSIDERATION OF COMMITTEE REPORT NO. 29

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

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: I move that we consider Committee Report No. 29 as reported out by the Committee on Human Resources.

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

Consideration of Committee Report No. 29 is now in order. With the permission of the body, the Secretary-General will read only the title of the committee report without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Committee Report No. 29, entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION AN ARTICLE ON EDUCATION,

SCIENCE, TECHNOLOGY, ARTS AND CULTURE.[**]

RESOLUTION TO INCORPORATE IN THE CONSTITUTION AN ARTICLE ON EDUCATION,
SCIENCE, TECHNOLOGY, ARTS AND CULTURE.

Be it resolved by the Constitutional Commission in session assembled, To incorporate in the Constitution the following provisions.

ARTICLE ____

EDUCATION, SCIENCE, TECHNOLOGY, ARTS AND CULTURE

SECTION 1. The State shall give priority to education, science and technology, arts and culture for the purpose of fostering national pride and identity, enhancing the quality of life of every Filipino, and expanding the frontiers of justice and freedom.

EDUCATION

SECTION 1(a) Education is the right of every citizen of the Philippines. The State recognizes its duty of providing education to all citizens

(b) The State shall establish and maintain a system of free public education at the elementary and the secondary levels and a socialized fee structure in the tertiary level of state colleges and universities. Education shall be compulsory through the elementary level.

(c) The State shall promote quality education and ensure equal access and opportunity to it by maintaining a system of scholarship grants and other incentives.

(d) The State shall provide a comprehensive approach to education by coordinating formal, non-formal and informal and indigenous learning systems, as well as self-learning, independent and out-of-school study programs particularly those that respond to community needs.

The State shall provide civics, vocational efficiency and other skills training to adult citizens, to the disabled and out-of-school youth.

SECTION 2(a) All educational institutions shall inculcate nationalism, love of fellowmen and respect for human rights, teach the rights and duties of citizenship, instill political, health and ecological consciousness and service to society, strengthen ethical and spiritual values, develop moral character and personal discipline, encourage critical and creative thinking, promote scientific, technological and work-oriented efficiency and impart liberal education.

(b) The State shall exercise reasonable supervision and regulation of all educational institutions to ensure that quality education shall be provided to all levels by them. The State shall establish, maintain and support a complete, adequate and integrated system of education relevant to the needs of the people and society. The State shall recognize and strengthen the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

(c) Private educational institutions shall be owned and administered solely by citizens of the Philippines, or corporations or associations wholly owned by such citizens. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and for other temporary residents, unless provided by law.

(d) The State shall not interfere with the right of every citizen to select a profession or courses of study, subject to admission and selection requirements.

(e) In the formulation of educational policies, the State shall take into account regional and sectoral needs and conditions and shall involve their respective representatives in policy planning.

(f) Sec. 12. All educational institutions at all levels shall be required to form multi-sectoral bodies composed of students, faculty, parents, non-teaching staff, administrators and other representatives to participate in the formulation of school policies and programs, the details of which will be provided by law.

(g) The study of the Constitution and human rights shall be part of the curricula in all schools.

(h) At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools by teachers designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the government.

(i) The State shall promote physical education and sports programs for the total development of a healthy and alert citizenry. Towards this end, 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.

SECTION 3. All institutions of higher learning as well as faculty members and students thereof, shall enjoy academic freedom. Institutions of higher learning shall enjoy fiscal autonomy.

SECTION 4. The State shall promote and protect the status and standards of the teaching profession. Teachers, researchers and non-teaching academic personnel shall enjoy the special care and protection of the State.

Academic and non-academic personnel shall have the right to form associations or organizations and to undertake concerted activities for their mutual aid and benefit. They shall enjoy security of tenure and may not be removed from office except for causes provided by law.

SECTION 5(a). The State shall encourage the establishment of educational foundations and cooperatively-owned educational institutions towards the achievement of objectives set forth herein.

(b) Non-stock, non-profit educational institutions shall be exempt from taxes and duties. Proprietary educational institutions shall likewise be entitled to these exemptions provided they limit stockholders dividends as may be provided by law.

(c) The State may subsidize educational institutions which are duly accredited for the purpose of subsidy as may be provided by law, without prejudice to other types of assistance or incentives given to all educational institutions.

LANGUAGE

SECTION 1. The national language of the Philippines is Filipino. The national language shall be further developed on the basis of Philippine and other languages. Steps shall be taken by the government to further develop, enrich and use it as a medium of communication in all branches of government and as the language of instruction at all levels of the educational system.

SECTION 2. The official languages of the Philippines are Filipino and English, until otherwise provided by law. The regional languages are the auxiliary official languages in their respective regions.

The Constitution shall be promulgated in Filipino and English and shall be translated into the regional languages.

SCIENCE AND TECHNOLOGY

SECTION 1. Science and technology are essential for economic growth and national development. The State shall give the highest priority to research, development, and utilization, invention and innovation, and science and technology education, training and services. The State shall support the development of indigenous, appropriate and independent scientific and technological capabilities and their application to the nation's productive systems for self-reliant and sustainable socio-economic progress in the service of the people.

SECTION 2. Scholarships, grants-in-aid or other forms of incentives shall be provided for scientists, technologists and specially gifted citizens.

SECTION 3. The State shall promote and support the transfer and adaptation of technology from diverse sources, where such technology is responsive and appropriate to society's needs, and obtained at equitable terms. The widest participation of the private sector and community-based organizations in the generation and utilization of science and technology will be encouraged.

ARTS AND CULTURE

SECTION 1. The State shall protect, conserve and promote the nation's historical and cultural heritage and resources, including paleontological, archeological and artistic objects.

SECTION 2. The State shall recognize, respect, protect and preserve the cultures, traditions and institutions of indigenous communities and shall consider them in the formulation of national plans and policies.

SECTION 3. The State shall support and encourage the development of a Filipino national culture which shall be non-partisan, pluralistic, liberative and democratic.

(a) The State shall guarantee freedom of expression for all those engaged in cultural work and assure their freedom from political interference, restrictions and control.

(b) The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, and scholarships, grants and other incentives.

(c) The State shall encourage and support scientific and cultural research and studies.

(d) The State shall protect and secure for a limited period the exclusive rights of inventors, artists and other intellectuals to their inventions and artistic and intellectual creations.

(e) There shall be an independent central authority to formulate, disseminate and implement the cultural policies and programs of the State.

THE PRESIDENT: Commissioner Villacorta is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER VILLACORTA

MR. VILLACORTA: Madam President, our Committee on Human Resources would like to present today its report to the Commission. First of all, we would like to acknowledge the important contribution of Commissioner Guingona in proposing the formation of a Committee on Human Resources, and Commissioner Uka whose now famous comment "What is one committee among friends?" ensured the adoption of this committee.

In rebuilding society, the significance of education, science and culture cannot be overemphasized. The Filipino nation in particular is still searching for its identity and for the appropriate educational system that will ford our people to greater self-confidence and achievement. Without a national consciousness and necessary skills that are

committed to the service of the Filipinos themselves, there will be difficulty in realizing the aspirations of other articles in this Constitution, particularly the ones on social justice and national economy.

Our draft article covers four main topics; namely, education, language, science and technology, arts and culture. I submit, Madam President, that all these are essential ingredients for human development. The Committee on Human Resources arrived at the draft article after several meetings and hearings which witnessed thorough and objective discussions covering critical analysis and consideration of the pertinent provisions of the Malolos Constitution, as well as those of the 1935 and 1973 Constitutions, together with the resolutions, position papers and communications submitted by the Members of this Commission and by the public at large. The committee availed itself of the opinion and expertise of scholars and other resource persons in the fields of education, language, science and technology and arts and culture. The committee also took into account the views expressed by the different sectors during the public hearings and consultations which enabled the committee to reflect the public pulse in the draft article.

It may be of interest to note that the Malolos Constitution devoted only one brief article to education, and in that light, the 1935 and the 1973 Constitutions contained only one section each on education, although in a slightly expanded form. In its Article XIV on General Provisions, the 1935 Constitution contained one section for language, Section 3; scientific inventions, arts and letters combined, Section 4; and education, Section 5. The same may be said of the 1973 Constitution which also provided one section each for language, education, science and technology and culture.

For the first time in our history, we are devoting one whole article to the subjects of education, language, science and technology and arts and culture. This is rightly so because these are priority areas which have long been neglected by our government. Moreover, it is about time that we set the goals and objectives of our government in these areas in the light of our problems of social development, resulting from poor quality and inaccessibility of education, the underdevelopment of science and technology, the lack of national unity, pride and identity of our people, and the debasement of our national and local cultures. The rationale of the draft article is that the State should give highest priority to education, science and technology, arts and culture for the purpose of fostering national pride and identity, enhancing the quality of life of every Filipino, and expanding the frontiers of justice and freedom.

For the convenience of the Members of this Commission, I shall state briefly the salient points of the draft article as follows:

First, education is a right and priority should be given to education, science and technology. This is to fully develop the human potentials of the individual in order to enable him to look forward to employment and enterprising opportunities that will make him a productive citizen and responsible family man.

Second, free public education up to the secondary level.

Third, regional and sectoral considerations in educational planning.

Fourth, preservation and development of cultural resources and institutions with their realization that culture can help build a democratic society.

Fifth, genuine development of the national language in order to accelerate the collective participation of the Filipino people in socioeconomic development and nation building.

Sixth, protection and enhancement of the status of teachers and the upgrading of the standards of the teaching profession.

Seventh, greater assistance to schools in order to enhance their social service.

And eighth, promotion of indigenous and appropriate technology in the service of the people.

May I quote what two of our leading constitutionalists, Messrs. Tañada and Fernando, said on the right of education, to wit:

The right to education affords to every citizen access to such values as enlightenment and skill. Such right is essential to avoid a caste society and to afford the real equality of opportunity which a regime of freedom and democracy demands. Democracy as an ideal approaches reality when positions of leadership are open to all, irrespective of one's financial condition at birth, whether in the public service or in private business or in the professions. Unless appropriate training though is undergone by those who have aptitude and talent, they will not acquire the skills that will fit them into such positions of leadership. To others who may not be in the front rank of whatever endeavors they may pursue, instruction is likewise indispensable because skill, in whatever form, is essential to enable everyone to express his opinion and make his opinion felt on matters of public concern.

This is cited in Gonzales' Philippine Constitutional Law. For the sake of our people, especially the disinherited, and for national pride and identity, as well as for expanding the frontiers of freedom and justice in our beloved land, we, the members of this committee, look forward to the consideration and approval of our committee report and draft article.

Thank you very much, Madam President.

The chairman of the Subcommittee on Education, Commissioner Guingona, would like to give some presentations.

THE PRESIDENT: Commissioner Guingona is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER GUINGONA

MR. GUINGONA: Thank you, Madam President.

I would like to start with the first section under "Education," which is actually Section 1(a), and with the permission of the honorable President, I would offer to give comments on other provisions which have been assigned to me by our chairman, the Honorable Villacorta. Section 1(a) says that education is the right of every citizen of the Philippines and the State recognizes its duty of providing education to all citizens. The right to education is one of the human rights to which man is entitled. It is not only a natural and positive right, but it is now a universal right.

In providing for this right, specifically in the Constitution, we are in effect translating the moral right to which man is entitled to a positive right, which may be enforceable under the law. The right to education is recognized under Article 26, Section 1, of the Universal Declaration of Human Rights, which says that everyone has the right to education. It is also recognized in Article 13, Section 1, of the International Covenant on Economic, Social and Cultural Rights. Legal or positive rights are rights which men actually have under the law, while natural rights are those which they ought to have. Notwithstanding the view of philosophers like Jeremy Bentham and Edmund Burke, who contend that man is in no sense entitled to natural rights because they are rights that cannot be enforced, the fact of the matter is that the right to education is now recognized as a universal right. World opinion has been so strong about matters of human rights, including the right to education, that there seems to be no question about the fact that they exist. And it is the view of the Subcommittee on Education that the right to education is enforceable, not only under the law but under equity.

In other words, Madam President, the word "right" need not only mean lawful entitlement but may also refer to just entitlement. But we would like to mention that the right to education is not given primacy by the State over the rearing of the youth, because the rearing of the youth is the primary role of parents and guardians. Unlike in totalitarian states, the role of a State should be supportive but at the same time complete and adequate. In totalitarian states, it is only the societal needs of the students that are considered without regard to their individual needs. Hitler has been quoted as saying:

The most corroding and disintegrating poison that liberalism has ever invented for its destruction is education.

On the other hand, H.G. Wells has said, and I quote: "Human history becomes more and more a race between education and catastrophe." May I conclude, Madam President, by quoting Justice Earl Warren in the case of *Brown v. Board of Education of Topeka*, 347 US 483, 493, when he said:

Today, education is perhaps the most important function of State and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.

Thank you, Madam President.

MR. VILLACORTA: Unless the other subcommittee chairmen would like to say something, Madam President, we are ready for interpellations.

THE PRESIDENT: Is there any other speaker from the committee?

MR. GUINGONA: Madam President, may I add something which I missed in my remarks.

In our proposal, we have attempted to expand the mandate of the right to education because in previous Constitutions — in the 1935 and 1973 Constitutions — we do have provisions on the right to education. For example, under the 1935 Constitution, the State is mandated to provide at least free public primary instruction and citizenship training to adult citizens, while the 1973 Constitution under Article XV, Section 8(5), requires that:

The State shall maintain a system of free public elementary education and, in areas where finances permit, establish and maintain a system of free public education at least up to the secondary level.

Section 8(6), on the other hand, provides citizenship and vocational training to adult citizens and out-of-school youth. In other words, there is already a recognition of this right to education but we in the Subcommittee on Education have attempted to expand this mandate by specifically saying that education is the right of every citizen of the Philippines and correspondingly that the State recognizes its duty of providing education to all citizens. With this proviso, we have in effect widened the scope of the constitutional mandate. However, the enforceable rights — in the sense that they are constitutionally or legally mandated under this draft Constitution and are, therefore, subject within the context or framework of the Constitution — would only be those specifically contained therein, such as:

- (1) Free public education at the elementary and secondary levels;
- (2) Socialized fee structure in the tertiary level of state colleges and universities;
- (3) Maintenance of a system of scholarship grants and other incentives; and
- (4) The provision of civic, vocational efficiency and other skills training to adult citizens, the disabled and

out-of-school youth.

The provision of the right to education in our opinion could expand the scope of this right so that the State would be under obligation whenever finances permit to offer a wider variety of formal, as well as nonformal education, to Filipino citizens, including free tertiary education. The inclusion of this right will also serve as a mandate to the State to give top priority to education insofar as government expenditures are concerned, a mandate for the State to look for sources of revenue, such as the one suggested by Commissioner Davide, in order to be able to comply with this obligation to provide education to the citizens. Former 1970 Constitutional Convention Delegate Ceferino Padua has, in a letter to the Commission, called our attention to the fact that the allocation for education had dropped from a high of 38 percent of the total budget to a low of 8 percent during the latter years of the Marcos administration.

The previous administration attempted to deceive the people by presenting figures that would show that more money was appropriated for education every year, conveniently ignoring the fact that in the 1960s the peso value was high (P4 to \$1) compared to the peso value during the latter part of 1985 which became considerably low at P20 to \$1. Our thinking is that if we could gradually go back to the 38 percent allocation that Delegate Padua has talked about, coupled with the much awaited economic recovery, it should not be too long before the government, if not this present administration, will be able to provide fully not only the education specified within the context or framework of this draft Constitution but other types of education as well, both formal and nonformal.

Parenthetically, the provision regarding the State providing free secondary education is more an expression of an objective or priority rather than a mandate that would be immediately and fully executory. We are aware that as early as 1935, our Constitution had specifically mandated that the government shall establish and maintain a complete and adequate system of public education and shall provide at least free public primary instruction, and in the 1973 Constitution, that the State shall maintain a system of free public elementary education. The fact is that in school year 1967-1968 as observed by Dr. Pedro Orata in his book *Contemporary Issues in Philippine Education*, page 83, more than 200,000 seven-year olds or 20.46 percent of the total seven-year olds were not accommodated in Grade I. Thirty-two years after the enactment of the 1935 Constitution, more than a decade after the enactment of the 1973 Constitution, the dropout rate in the elementary level is still alarmingly high. For school year 1984-1985, out of 100 students who entered first grade, only 67 percent finished elementary.

I spoke about conventions. There is also the Declaration of Rights of Children adopted by the United Nations, which says that the child is entitled to education. This responsibility lies, in the first place, with the parents. That is why I spoke earlier of the subsidiary or supportive role of the State in relation to this natural right of parents, which is an inherent and inalienable right. As held in the case of *Pierce v. Society of Sisters of Holy Name* (268 U.S. 510), the State cannot prohibit children from attending private schools in order that they should go to public schools. Justice James Clark McReynolds in that leading case says, and I quote:

The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only.

Article 13, Section 3 of the International Covenant on Economic, Social and Cultural Rights provides that:

The States Parties to the present covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities.

Thank you, Madam President.

MR. VILLACORTA: Madam President, Commissioner Gascon who helped very much in revising these

provisions on education wishes to be recognized.

SPONSORSHIP REMARKS OF COMMISSIONER GASCON

MR. GASCON: Thank you, Madam President.

As a student, I feel very strongly for education and I really believe that there must be a lot of changes to be made in our present educational system. This is why I believe that education is a right and not a privilege. I believe that education is a basic right of all, accessible even to the poorest among us, and not simply an exclusive privilege of the moneyed few who can continually avail of it by virtue of their superior purchasing power.

Now, there arise, when we speak of education, essentially two complex and urgent questions. First, is Philippine education relevant to the Filipino people? And second, are the Filipino people relevant to Philippine education? We feel that education as a right and not as a privilege should not merely be a constitutional provision, but a concrete policy and a comprehensive program of action. This means understanding a full review and systematically implementing changes involving both teacher and student in terms of greater number of schools, classrooms, laboratories and other physical facilities, in terms of higher budget allocation towards more scholarships for the financially poor but academically deserving students, and also so that teachers can have decent salaries and are of equal importance in terms of reorienting and redirecting the entire Philippine educational system. We feel that education should stand for the truth, the truth about the entire range of problems — poverty, human rights violations, political strife and so on — which permeate and persist throughout all levels of our society; also the truth concerning the options we, as a nation, have, limited as they may seem to be towards realistic approaches in these difficulties.

Education must also promote freedom — freedom to teach, freedom to learn, freedom from exploitation by Filipinos themselves and from neocolonization by others, freedom from domination and from dehumanization, freedom from hunger, freedom from fear, freedom from illiteracy; and above all, the freedom to be a nation. Education should also finally work towards justice and peace. We should encourage an education encouraging economic justice where workers are treated as costewards of our economy rather than as objects of corporate exploitation. It should encourage political justice where ordinary citizens are given as much participation as possible in the decision-making processes so urgently required by our people. Education should promote social justice where the poorest among us are served first because they suffer most, not only in terms of income, but also in matters of health and social services. It should also promote cultural justice and respect for our different ethnic communities who are allowed to preserve their identity and continue their heritage over and above any efforts towards technocratization and modernization.

Education — authentic and meaningful education — is, therefore, a continuing process of being a person and being a nation. It is working towards the free development of each so that we may attain the full development of all. It is the readiness to teach and the willingness to learn. This is why when we speak of education as a right, it means very clearly that education should be accessible to all, regardless of social and economic differences, meaning, educational opportunities should be provided through a system of free education, at least, up to the secondary level. And recognizing the limits of our financial resources, tertiary education should still be afforded and provided availability to those who are poor and deserving. That is why when we say that education is a right, it imposes a correlative duty on the part of the State to provide it to the citizens. Making it a right shows that education is recognized as an important function of the State. Education is not merely a social service to be provided by the State. The proposed provision recognizes that a right to education is a right to acquire a decent standard of living, and that, therefore, the State cannot deprive anyone of this right in the same manner that the right to life, the right to liberty and property cannot be taken away without due process of law.

However, the public duty of the State in providing education is limited to the financial aspect. They cannot compel parents to enroll their children in a specified school. This duty belongs to the parents. The argument that needy parents' choice is limited only to public schools and not to private schools does not hold water. Parents' choice in schools must depend on the quality of education provided by the schools. If both public and private schools offer the same kind of education which is not the case at present, then the choice of the parents is merely moot and academic. The primary end-all is that we should give proper and quality education to the youth.

Thank you.

MR. VILLACORTA: Madam President, Commissioner Rosario Braid would like to be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, I would like to briefly focus on the process of education, the methodology of education. The concern of our committee provision is based on the observation that planning thus far has been centralized with little participation from the various sectors; there has also been a mismatch in terms of the content and processes of education with the employment sector. Thus far, there has been too much focus on schooling, on formal education, with little attention to the nonformal or informal schooling that happens outside of the classroom. This concern acknowledges the important role that the family, the mass media, the Church, and other nonformal sectors in society play in terms of the formation of values and attitudes. This concern acknowledges the universal concern expressed by philosophers like Illich in his "Deschooling Society," or Faure in his "Learning to be and learning to do" where he proposes a balance between attitudinal and skills training.

If we examine the educational philosophy of our country since 1800, we find that there has been so much concern either with skills development or on humanities. There is a lack of integration of arts or science, or to quote our philosopher, Snow, "the challenge to be able to integrate culture and science." This concern is expressed in some of our provisions where we have tried to provide a comprehensive approach to education — that which integrates the learning to be, with learning to do, the arts and science and humanities, the need to have a comprehensive and coordinated approach to the formal, nonformal and informal, and the need to let as many sectors in the population — the farmers, the fishermen, the parents and other sectors — participate in planning. It is this attempt to forge horizontal, bottom-up links in planning that will truly contribute to a humane, relevant educational system. Perhaps, with this vision, there might be less brain drain; there would be less rural-urban migration in terms of students seeking jobs in central and urban places because education is linked to employment, because education is planned by regions which are able to adapt education to the needs of the community.

True enough, there are experiments going on in the system. The bayanihan school and a number of others are breaking away from the too formal, rigid curricular top-down planning, and relating education to the needs of the economic, social, cultural conditions of the community. But there are not enough of them. And so we would like to see the use of as many delivery systems, the new communication technology, the community organizations as appropriate delivery systems for education.

So it is in this spirit of wanting to break away from the too formal schooling that I have focused on, because my colleagues have amply discussed the problems, the opportunities, the resources of the formal educational system.

Thank you, Madam President.

MR. SARMIENTO: Madam President, Commissioner Quesada would like to be recognized.

THE PRESIDENT: Commissioner Quesada is recognized

SPONSORSHIP REMARKS OF COMMISSIONER QUESADA

MS. QUESADA: Madam President and distinguished Members of this Commission: I would like to pose the following statements which we hope will guide the body in the deliberation on the subject of science and technology. I do not think that there will be any disagreement about the following statements:

1. That science and technology, more than any resource, have enabled mankind to control and dominate nature;
2. That in mastering the forces of nature, science and technology have opened up staggering opportunities for the development of productive forces;
3. That science and technology have raised economic productivity to unprecedented levels, especially in the advanced industrial countries of the world where technology has been described as quantitatively the single most important factor for growth;
4. That ascribable to science and technology is the comparatively recent phenomena of newly industrializing countries that have achieved remarkably high economic growth rates. These high achievers include our Asian neighbors; namely, South Korea, Taiwan, Hongkong and Singapore; Brazil, Mexico, Argentina and Uruguay in Latin America; and Yugoslavia, Hungary and Romania in Eastern Europe; and
5. That to the degree that these countries and the industrial countries of the North have progressed in the sphere of science and technology, they have strengthened their economic and military security; hence, their national sovereignty and independence.

These propositions have been discussed with the science and technology community wherein the following questions were taken up.

1. Why have not then science and technology provided the essential goods and services for the great majority of the Filipino people, for the 70 percent, perhaps 80 percent by now, of Filipino families who have sunk below the poverty line?
2. Why, in spite of extensive researches conducted by our scientists and research and development workers, can we not adequately feed, clothe and house, as well as provide education and health services for the majority of our citizenry who are malnourished, scantily clothed, ill-housed, undereducated and physically unfit?
3. Why, indeed, are our scientific and technological researches not utilized by the productive sector of our society?
4. Why does our economy have to be so dependent on and be so dominated by foreign technology?
5. Why have we lagged behind in industrialization, in technology-based industries, such as capital goods, steel mills and chemicals, and in the processing of our primary products, like coconut, sugar, minerals, and forestry and marine products?

After interactive exchanges of ideas, debates, proposals and counterproposals participated in by a broad spectrum of representatives from the science community and even by some very articulate high school students, we were able to come up with the following approximation of our situation:

1. Science and technology cannot be a factor in national development unless parallel changes take place in other areas, some of them seemingly unrelated to science and technology. An example is genuine agrarian reform which raises farm productivity and farmers' income, enabling them to contribute to the government's coffers and send their children to school.
2. High literacy and a high level education are prerequisites to the build-up of scientific and technological manpower, the sine qua non of an indigenous capability in science and technology.

3. All efforts must be made at the State level to develop indigenous, self-reliant and independent science and technology which must be systematically planned in coordination, in harmony with our economic and industrial policies.

Hitherto, our economic planners and policy-makers conjured up grandiose industrial schemes without giving any thought to the development of our own science and technology, thus isolating our science and technology activities from the mainstream of economic enterprises. This is one aspect of the problem why the results of our researches are not utilized by our productive system. The other aspect is that our economy is so dominated by foreign technology that no room is left for Filipino inventions and innovations. This is not to say that we should ban foreign technologies, but this inward transfer of technology should be regulated by the State. And only those that are appropriate or relevant for our social needs should be imported. Moreover, the terms and conditions of such transfer should be fair, reasonable and equitable.

A proposal to emphasize technology delivery by way of accelerating industrial development in the countryside always provokes animated discussions since their position is that it might deemphasize the other elements of a well balanced S and T development program — institution building, build-up of S and T infrastructures, feasibility studies, et cetera. The same is true of appropriate technology, emphasis on which might result in deemphasizing technologies associated with the modern sector.

Protection should be given to Filipino businessmen, entrepreneurs, especially those who utilize local inventions and innovations. Fiscal and nonfiscal incentives should be given to research and development organizations and to technologists, suppliers and users.

So, these are some of the thoughts that should help us look into the provisions that we have now placed in our Article on Education, Science and Technology, Arts, Culture and Sports.

Thank you, Madam President.

MR. VILLACORTA.: Madam President, Commissioner Bennagen would like to be recognize.

THE PRESIDENT: Commissioner Bennagen is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER BENNAGEN

MR. BENNAGEN: Thank you, Madam President.

I would like to situate what I have to say in the context of the Article on National Economy and Patrimony which argues for a self-reliant and independent economy, as well as for full industrialization. The process of industrialization requires a change in world view, from something that is passive, personalistic and authoritarian, to something more scientific, more issue-oriented, more problem-oriented. This requires not only just changes in science and technology but also in the arts and culture, as well as in the restructuring of the Filipino society. What I will say, however, will be limited to or focused primarily on the provisions on language, partly on science and technology and the provisions on art and culture.

Let me read from a paper I prepared for an argument for "Free Filipino Mind and Heart." This proceeds from the euphoria of the February revolution when everybody was saying "I am proud to be a Filipino." For a long, long while, this was not spoken by Filipinos except, perhaps, in school plays. But after the people's uprising of February 1986, there was some talk of being proud to be a Filipino, a justified feeling, no doubt. Still, as the economic, political and cultural realities of our everyday world unfold and erode the euphoria of February, one asks a number of questions: Have we finally become Filipinized? Which is to say, have we finally internalized a feeling for and commitment to our nation beyond our commitment to our individual selves, to our families, to our

ethno-linguistic groups or to some other narrowly defined groups? Have we begun to translate this newly found sense of being a Filipino into policies and programs that truly serve our fundamental interest as a nation?

These questions do not lend themselves to easy answers. But the answers that readily come to mind tend to be negative. Happily, there are also positive undercurrents. For example, despite efforts of various groups in propagating Filipino, we have not seriously implemented official pronouncements about our Wikang Pambansa, unquestionably, a significant cultural marker for national identity. But more than simply a cultural marker, a national language serving as a communication system across diverse ethno-linguistic groups and classes could facilitate the unification and empowerment of our people. This is, of course, without prejudice to the use of English and other languages as international languages and the development of regional languages such as Ilokano for the Ilocos Region, Cebuano for the Visayas and Mindanao, and Tagalog for the National Capital Region.

Incidentally, history tells us that unless science is internalized in the local languages, we can never develop a scientific attitude. If this is true with language, it is also true with the arts and the sciences. While there are efforts towards people's arts and people's science, we have not put our act together towards a systematic and sustained development of the arts and the sciences as instruments of national liberation from foreign control of our economy, our political life and our national psyche. On the seemingly trivial side, advertisements continue to sell foreign-owned products featuring mestizas and mestizos, if not Caucasian models, in some cases complete with snow and cowboys. The so-called Philippine basketball leagues are dominated by tall American imports who lord it over their Filipino counterparts. Some of the imports are awarded instant Filipino citizenship. If a basketball conference is reenforced, it is reenforced by American players. Caucasian beauties with foreign-sounding names continue to win beauty contests. A few of them come back from the United States and Canada to win over homegrown contestants. Even in our universities, a local scholar who goes abroad, mostly to the United States for further studies, goes under an "enrichment" program. Indeed the "Stateside-yata-'yan" mode of thought is very much a part of Filipino consciousness.

Such consciousness, uncritically beholden to things foreign, facilitates the acceptance of western domination. Its persistence helps to prevent us from galvanizing ourselves into a people truly committed to the completion of the political revolution of February 1986. This is not to say that we should reject all things foreign for in an interdependent world, independence, whether economic, political or cultural or all, is relative independence. But borrowing must be critical, so as to support the needs and legitimate interest of our people.

What then should we do? For now, let us continue waging the struggle for nationhood, not only in the economic and political spheres but also in the cultural sphere. Cultural struggle at the very best entails the followings:

1. Critical investigation of our existing patterns of values, so that we could eradicate those that serve foreign interests and the internal forces of domination;
2. Identification of aspects of our culture that support our people's struggle for a better life, among which would be democratic values, as well as those of social justice which are still very much alive among indigenous groups in the lowlands and in the uplands; and
3. The development of our dignity and self-respect as a people, not only psychologically but also in terms of economic and political self-determination.

Marami pong salamat.

MR. VILLACORTA.: Madam President, the vice-chairman of our committee, Commissioner Uka, would like to be the last speaker.

THE PRESIDENT: Commissioner Uka is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER UKA

MR. UKA: Madam President, I have only a few statements with many words, of course. Our committee has provided in Section 4 of our draft that:

The State shall promote and protect the status and standards of the teaching profession. Teachers, researchers and non-teaching academic personnel shall enjoy the special care and protection of the State.

It is high time that we should take good care of our teachers. They have waited too long for that. We should raise the standard of the teaching profession. Many of them have resigned and have gone abroad in search of greener pastures. Can we blame them? How much is the average salary of a teacher? Some of them receive less than P1,000 and we know what P1,000 will buy nowadays. That is their basic salary. They say the government has added the so-called cost of living allowance (COLA) to their salary but it is not even enough to buy Coca-Cola. (Laughter) No wonder my good friend, Commissioner Calderon, heard one of the teachers say, "I now resignate because the works are very many and the pay is few." (Laughter) Indeed, teachers work very hard. I know this because I have been a teacher for the last 54 years. We teachers work at night writing lesson plans, doing homework till the wee hours of the morning.

I started teaching when I was seventeen. What do we do? Even now, we have plenty of lesson-planning, seatwork and homework which seem to have no end. Many of us do not realize the importance of the teacher — the humble teacher. But we know in our hearts that the humble teacher is a nation-builder. The greatest men of the world were called teachers; they were not called lawyers or engineers. Moses was a teacher. So were the great messengers of God like Buddha and the Prophet Mohammed. We call Jesus the Great Teacher. Do we realize that you and I would not be here right now were it not for the humble teacher who has taught us our lessons from grade school up to college?

Indeed, the progress of a nation depends upon the quality of its teachers. Let us protect our teachers. Let us make teaching attractive to them. Let us try to attract them to the teaching profession. Many of them now feel that they belong to the endangered species. If we ask some of them what their profession is, they would answer, "maestro lang." That word "lang" should not be used by them because they are the moulders of the character of our youth, the fair hope of our native land. Teaching is a noble profession and we should make teachers realize that by raising the standard of the teaching profession.

Thank you.

MR. VILLACORTA: Commissioner Guingona wants to say something, Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA.: Madam President, I have requested our distinguished chairman to be allowed to speak on one more section, because I believe we have introduced some significant changes in this section vis-a-vis the provisions of the 1973 Constitution. I refer to Section 2(b) which reads:

The State shall exercise reasonable supervision and regulation of all educational institutions to ensure that quality education shall be provided at all levels by them. The State shall establish, maintain and support a complete, adequate and integrated system of education relevant to the needs of the people and society. The State shall recognize and strengthen the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

Madam President, Section 2(b) introduces four changes: one, the addition of the word "reasonable" before the phrase "supervision and regulation"; two, the addition of the word "quality" before the word "education"; three,

the change of the wordings in the 1973 Constitution referring to a system of education, requiring the same to be relevant to the goals of national development, to the present expression of "relevant to the needs of the people and society"; and four, the explanation of the meaning of the expression "integrated system of education" by defining the same as the recognition and strengthening of the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

When we speak of State supervision and regulation, we refer to the external governance of educational institutions, particularly private educational institutions as distinguished from the internal governance by their respective boards of directors or trustees and their administrative officials. Even without a provision on external governance, the State would still have the inherent right to regulate educational institutions through the exercise of its police power. We have thought it advisable to restate the supervisory and regulatory functions of the State provided in the 1935 and 1973 Constitutions with the addition of the word "reasonable." We found it necessary to add the word "reasonable" because of an obiter dictum of our Supreme Court in a decision in the case of *Philippine Association of Colleges and Universities vs. The Secretary of Education and the Board of Textbooks* in 1955. In that case, the court said, and I quote:

It is enough to point out that local educators and writers think the Constitution provides for control of education by the State.

The Solicitor General cites many authorities to show that the power to regulate means power to control, and quotes from the proceedings of the Constitutional Convention to prove that State control of private education was intended by organic law.

The addition, therefore, of the word "reasonable" is meant to underscore the sense of the committee, that when the Constitution speaks of State supervision and regulation, it does not in any way mean control. We refer only to the power of the State to provide regulations and to see to it that these regulations are duly followed and implemented. It does not include the right to manage, dictate, overrule and prohibit. Therefore, it does not include the right to dominate.

Delegate Ernesto S. Amatong of the lone district of Zamboanga del Norte, in his sponsorship speech in Report No. 1 of the Committee on Education during the 1971 Constitutional Convention (Session No. 143, March 28, 1972), made the following remarks, and I quote:

We may disagree on the nature and scope of institutional autonomy, but we shall never disagree on the matter of its importance and necessity in a democratic society. The present status of government supervision of the private educational institutions leaves much to be desired. Although we agree that the State must be in a position to direct and guide the teaching of the youth, as well as regulate the operation of the educational institutions within its natural borders, it must not create in its centers of higher learning an atmosphere of fear and restriction.

Delegate Clemente, chairman of the 1973 Constitutional Convention's Committee on Education, has this to say about supervision and regulation, and I quote:

While we are agreed that we need some kind of supervision and regulation by the State, there seems to be a prevailing notion among some sectors in education that there is too much interference of the State in the management of private education. If that is true, we need some kind of re-examination of this function of the State to supervise and regulate education because we are all agreed that there must be some kind of diversity, as well as flexibility, in the management of private education. (Minutes of the November 27, 1971 meeting of the Committee on Education of the 1971 Constitutional Convention, pages 10 and 11.)

There are, of course, areas where the government should supervise and regulate. Even, for example, in the matter

of the provision in our Constitution regarding the teaching of the Constitution and human rights, we have made this very general and we would allow both the ministry and educational institutions to provide the details — whether the subjects Constitution and Human Rights should be integrated; whether they should be offered in the secondary or tertiary level or both; whether they should be a one- or two-subject in high school, a one-, two- or three-unit subject in college — because we feel that it would be best to make this particular provision flexible. Right now, the Constitution is being offered in college, and I think it is in college where the students would be able to best appreciate the spirit and the meaning of the Constitution. But, Madam President, statistics show that only 67 percent finish elementary and 33 percent finish high school. Out of the 33 percent who finish high school, 17 percent go to college and only 13 percent actually graduate, which means that if we concentrate the teaching of the Constitution in college, we will be only reaching between 13 to 17 percent of the student population, as against 33 percent if we offer this in high school.

Now, Madam President, we have added the word "quality" before "education" to send appropriate signals to the government that, in the exercise of its supervisory and regulatory powers, it should first set satisfactory minimum requirements in all areas: curriculum, faculty, internal administration, library, laboratory class and other facilities, et cetera, and it should see to it that satisfactory minimum requirements are met by all educational institutions, both public and private.

When we speak of quality education we have in mind such matters, among others, as curriculum development, development of learning resources and instructional materials, upgrading of library and laboratory facilities, innovations in educational technology and teaching methodologies, improvement of research quality, and others. Here and in many other provisions on education, the principal focus of attention and concern is the students. I would like to say that in my view there is a slogan when we speak of quality of education that I feel we should be aware of, which is, "Better than ever is not enough." In other words, even if the quality of education is good now, we should attempt to keep on improving it.

The third change is from "relevant to the goals of national development" to "relevant to the needs of the people and society" because we want to emphasize that, aside from the societal needs, there are also the individual needs of the students. That is why we are providing in the aims of education the matter of the need for educational institutions to provide liberal education. I think it is not appropriate to simply attach peso and centavo value to education which we often would do if we only consider the matter of national development insofar as this matter is concerned. I will stop here because I think the honorable Commissioners may want already to proceed to the period of interpellation and debate but I would say that I would like to emphasize the fact that throughout this article, the focus of attention of the members of the subcommittee and the members of the Committee on Human Resources, headed by Chairman Villacorta has been the students as well as the teachers.

Thank you.

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

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President. Before I ask questions directed to the chairman and members of the committee, I would like to warmly congratulate them for a job well-done. The committee report to my mind, Madam President, is excellent and I hope it will not, in the course of amendments, suffer from adulteration. With respect to page 1, lines 12-13: "Education is the right of every citizen of the Philippines," I agree with this statement, but when we talk of the right, I understand from the chairman that it is compellable and from Commissioner Guingona, that it is enforceable in court. Suppose a student of a private school is not allowed to enroll by reason of misconduct or that his stay in the school is considered by the administration of that school to

be undesirable, does he have a right to enforce his right to education under this situation?

MR. GUINGONA: Madam President, the right to education, like any other right, is not absolute. As a matter of fact, Article XXVI of the Universal Declaration of Human Rights, when it acknowledges the right to education, also qualifies it when at the end of the provision, it says "on the basis of merit." Therefore, the student may be subject to certain reasonable requirements regarding admission and retention and this is so provided in the draft Constitution. We admit even of discrimination. We have accepted this in the Philippines, and I suppose in the United States there are schools that can refuse admission to boys because they are supposed to be exclusively for girls. And there are schools that may refuse admission to girls because they are exclusively for boys. There may even be discrimination to accept a student who has a contagious disease on the ground that it would affect the welfare of the other students. What I mean is that there could be reasonable qualifications, limitations or restrictions to this right, Madam President

MR. GASCON: May I add, Madam President.

MR. NOLLEDO: Yes, the Commissioner may.

MR. GASCON: When we speak of education as a right, what we would like to emphasize is that education should be equally accessible to all regardless of social and economic differences. So we go into the issue of providing opportunities to such an education, recognizing that there are limitations imposed on those who come from the poorer social classes because of their inability to continue education.

However, in the same light, this right to education is subject to the right of educational institutions to admit students upon certain conditions such as ability to pay the required entrance examination fee and maintaining a respectable school record. When we speak of this right of schools as far as maintaining a certain degree or quality of students, these conditions must be reasonable and should not be used just to impose certain unfair situations on the students.

MR. GUINGONA: Madam President, may I add.

There is already established jurisprudence about this

In the United States, in the case of *Lasser v. Board of Education of New York City*, 239, NYS 2d 776, the court held that the refusal of a school to admit a student who had an average of less than 85 percent which is the requirement for that school was lawful.

In the Philippines, we have the case of *Padriguilan vs. Manila Central University* where refusal to retain the student was because of the alleged deficiency in a major subject and this was upheld by our Supreme Court. There is also the case of *Garcia vs. Loyola School of Theology*, wherein Garcia, a woman, tried to continue studying in this school of theology.

MR. NOLLEDO: Madam President, when the committee talks of the duty of the State to afford education to all citizens, does the word "citizens" include any citizen regardless of age and, therefore, we should include adult education, formal and informal education?

MR. GUINGONA: Yes, Madam President.

MR. NOLLEDO: What does the committee mean by the phrase "socialized fee structure" on line 18, page 2? Does it indicate partial scholarship or full scholarship?

MR. GUINGONA: Madam President, may I call attention to the fact that there is a provision in the draft Constitution on civic, vocational efficiency and other skills training for adult citizens, the disabled and out-of-school youth. So, this is specifically provided for, Madam President.

MR. NOLLEDO: Thank you, Madam President.

The third question is whether the phrase "socialized fee structure" indicates partial scholarship or full scholarship.

MR. GASCON: When we speak of socialized fee structure, what it really means is this: First, we are speaking of socialized fee structure in state colleges and universities. This pertains to tertiary education. The first premise is that income and wealth are in-equitably distributed in our country.

Second, education is a right. Therefore, we must equalize and democratize access to quality tertiary education.

So, political and economic inequality is manifested in the access to education. Those with more political and economic are able to get into schools that give quality education because they can afford it and they have been exposed to a background which makes them more suitable to the standards of such quality schools.

The socialized fee structure is an attempt to partially redress this problem by providing concrete and alternative systems in the allocation of scarce resources of the State. So the inequality that exists in Philippine society can be partly resolved by granting greater subsidy to those who have less income. Varying levels of subsidy should be granted to different income levels, based on an estimate of the actual cost of education. Charging equivalent fees to a wide range of income brackets should not be done. Socialization must be applied to all income levels, not just to a few. So the whole attempt in socializing tuition fees on tertiary level for state colleges is so that the poor, who normally cannot continue tertiary education, could be provided with all the opportunities to pursue such education. So, in state colleges and universities, the issue is to democratize access for the poor so that they may pursue their education. So this is over and beyond the issue of scholarship. It is actually a new scheme to encourage greater subsidy for the poorer, as opposed to the richer, in tertiary education.

MR. NOLLEDO: On page 2, lines 1 and 2, it is stated that education shall be compulsory through the elementary level. Does this sentence contemplate exceptions? What I mean is that there are cases where children could not go to school because of extreme poverty. We do not talk only of tuition fee expenses but also of transportation expenses. If there should be any violation of this provision, what sanction or sanctions does the Commissioner contemplate, and who will be responsible? Will it be the child or the parent?

MR. GASCON: The first reason why we included the words "compulsory education" is: First, the highest frequency of dropouts occurs in the fourth grade level. This corresponds to the fact that throughout the Philippines, there are large numbers of barrios where the schooling available extends only up to Grade IV. Four out of every five dropouts left school between the third and fifth grades, which are the elementary level. What occurs is retrogression. One out of every five among those who dropped out of school reverted to literacy level below Grade I. Second, the percentage of those retrogressing below Grade I literacy level decreases as the grade level completed increases. Thus, Grade VI is the level where very little retrogression to below Grade I level takes place. Retrogression happens quite soon after a person drops out of the elementary grades. Therefore, the issue of compulsory education is to assure, at least, a level of literacy among the Filipino people because at this point in time, as far as literacy is concerned, the literacy percentage in the Philippines from 1980 to 1985 increased by only 10 percent, while in China, it is by 65 percent and in Indonesia, by 56 percent. So if we do not step up our process of encouraging education, at least, up to the primary level, we may come to a point where a large majority of our population would be essentially illiterate.

MR. GUINGONA: May we know the question about sanctions, Madam President.

MR. NOLLEDO: If this is really compulsory based on the wordings of the sentence, then the word "compulsory" is important because some parents do not like to send their children to school. Does the committee contemplate any sanction?

MR. GUINGONA: The committee itself does not. But there is jurisprudence on this matter. Even in the United States where it has very strict attendance laws, there are students who do not go to schools. And if the Commissioner is talking of sanctions which are criminal in nature, I do not believe there are such sanctions imposed. Perhaps, under the truancy law, they would just be compelled to attend, but nothing beyond that. In the Philippines, we have the words "compulsory education," but this is not directed principally to the students or the parents. In our view, it could also be a mandate to the State that it is its duty to provide free public education up to the secondary level.

MR. NOLLEDO: Madam President, with respect to page 2, line 22, I am intrigued by the phrase "impart liberal education." As a teacher, the phrase "liberal education" would seem to cover two important aspects, curriculum and administration of the school. I notice from the report that the committee is, in effect, Filipinizing Philippine schools and, therefore, it does away with highly competent foreigners who may have a hand in the management of the school. So what does the committee specifically mean by "liberal education"? Is it concentrating the term to the curriculum, as well as to the management of the school?

MR. GUINGONA: Madam President, the answer is that we have considered this from the standpoint of curriculum, although the Commissioner is correct that we have considered the matter of Filipinization. But this is a matter which is divorced from the concept of liberal education as cited by him. This liberal education would not only mean perhaps the return to the basics in the lower levels nor education as is accepted by academe, but the need for value or moral education, which is a reiteration of earlier statements in the section.

In my view, one of the causes of failure in the educational policy is the overemphasis that planners give to the economic factor, the tendency to always attach a corresponding peso and centavo value to plans. Although cost consideration would inevitably be an integral part of formulation and implementation, the fact is that there are also nontangible factors that decision-makers would do well to consider. This is especially true with regard to policies affecting education where the humane and cultural considerations have to be looked into.

There is an ongoing debate whether manpower planning takes into account only the economic demands of the labor market or also those of the student for satisfaction or self-fulfillment. To express it in another way, should the emphasis be on education and that education be on professional and technical growth only or those on the development of the so-called humane person?

MR. NOLLEDO: Madam President, on page 3, lines 12 to 14 state:

The State shall not interfere with the right of every citizen to select a profession or courses of study, subject to admission and selection requirements.

I am sure that this provision is based on the resolution that Commissioner Rene Sarmiento and I filed with the Commission. But in our original resolution, we did not include "subject to admission and selection requirements."

I would like to know whether the committee feels the way we feel that there is no need for the National College Entrance Examination, because this kind of examination might unduly infringe upon the right of every citizen to select a profession or course of study.

MR. GUINGONA: Madam President, as I have mentioned earlier, Commissioner Rosario Braid would like to comment, and I will also support her comments.

MS. ROSARIO BRAID: I think many of us are aware that the present National College Entrance Examination (NCEE), as an evaluation tool, leaves much to be desired. The criticisms are that it has not been able to develop appropriate tools in relating to the cultural environment, the logic and the needs of children of very deprived communities. In other words, because of the fact that it has not been able to develop these tools, those who have

access to more information or media, those who are above average in terms of socioeconomic class have more advantages in getting into college. This is the assumption. However, it acknowledges this problem of adopting these tools.

We need evaluation tools because without these we cannot possibly aspire for quality education. So the problem really lies in developing appropriate tools that would enable a student from a very distant barrio, say in Samar, to be evaluated appropriately, so that the tool should have to be developed according to his cultural environment. We believe that it should be continued. Regarding the Commissioner's question, I think this refers to the problem of limiting certain professions that are overcrowded. So the State should have to exercise some prerogatives in limiting entry to some professions. Madam President, on page 2, lines 27 and 28 say: "integrated system of education relevant to the needs of the people and society." Let us look at the overcrowded professions now: computer education, business and engineering. Our society is not able to absorb the graduates of these professions. There is a great deal of frustration and brain drain or a movement to other professions that do not have any bearing on their training. So this provision is an attempt to make sure that only the suitable ones that the economy can absorb will have entry.

MR. GASCON: Madam President, may I add. First, there is no question that there is a need for some sort of evaluation, especially when we speak of entry to tertiary education. However, it is also the consensus of the committee that as far as the present NCEE is concerned, there should be a thorough review and reassessment and, perhaps, even a reorientation of its implementation and direction. We do not contemplate categorically the abolition of the NCEE. In fact, there is clamor at present from high school students and teachers as well for such a review. Second, that is the purpose of line 14, which states: "subject to admission and selection requirements." We feel that at this point in time, this provision is unfair to students and their parents. Aside from the NCEE, they are oftentimes given other entrance examinations. Therefore, these put into question why there is such an evaluation process or system when in the long run it is not even respected by schools because there are other evaluation systems employed by them. So aside from reorientation and the NCEE, there must be also a rationalization of the whole evaluation program being implemented now by schools and by the State. However, we feel that although the State should encourage different courses in the educational system, it has no right to tell a particular student what he should take because this would be limiting his freedom of choice. So it is still up to the student to choose his profession, but this does not necessarily mean that the State cannot encourage certain degree courses based on its economic developmental needs and goals.

MR. GUINGONA: May I add, Madam President. I presume that as far as private educational institutions are concerned, the matter has already been clarified earlier when we spoke about restrictions and limitations — standards imposed by the schools themselves or physical limitations which will also affect standards. If a school can only accommodate 1,000 students and there are 1,500 of them, there can be a selection process.

I think what the Commissioner probably has in mind is the relationship of the State and the students. It is doubtful whether or not the State would directly prohibit a student from selecting his or her course of study, but this violation of the right can be accomplished through indirect means; for example, nonoffering of courses which are requested or in demand by the students or by the state colleges and universities.

Also, unreasonable governance relative to admission requirements — such as passing the NCEE or other government examinations where these examinations, as pointed out by Commissioner Gascon, may be unreliable and not scientifically validated — could even be discriminatory. For example, they could require those who are going to take Architecture to get a percentile of 60 percent to pass the examination. All others could enter any other course or professional offering with a 30 percent percentile. Or they could prohibit the offering of courses or set very low quotas for admission in certain courses as far as private educational institutions are concerned, not

based on standards of facilities but on what the State feels that certain professions or courses of studies should be discouraged.

The action of the State oftentimes is related to decision brought about by bureaucratic planning or to decision on the needs of the country for professionals, skilled workers and others, especially if the State focuses its attention only on the societal need and not on the individual need of the student, as I mentioned earlier. I, of course, support very strongly educational planning, but Dr. Chia Siouw Yue of the National University of Singapore has pointed out, and I quote:

Manpower planning, as part of overall economic planning, came into vogue in the late 1950's and early 1960's just a couple of decades ago. And as far as underdeveloped and developing countries are concerned, there is a lack of detailed and accurate data. This has resulted in erroneous and unreliable forecast.

For example, the projection by the report entitled, "Higher Education and Labor Market in the Philippines," a UNESCO-sponsored study which was jointly done by MECS, NEDA, EDPITAF, FAPE, et cetera, referring to the formal educational system, stated:

The greatest projected growth is expected to be in the field of agriculture which will be 20 percent for the period 1978-1982. According to the MECS statistical bulletin, the enrolment in agriculture, in both government and private tertiary institutions, decreased by more than 20 percent, from 56,242 in school year 1979-1980 to 38,651 in school year 1982-1983.

What is important to note here, Madam President, is that in the matter of training of architects or whatever, there is what we call a gestation period. According to Dr. Peter G. Warr of the Australian National University, a delegate to an ASAIHL Conference in the Philippines, this is what happened in Australia: They tried to restrict, so much so that they were able to reduce the number of engineers. Then they found they were in need of engineers, so they again wanted to encourage the study of engineering. But then these people who needed the engineers had to wait because the gestation period would be about six years. In other words, though we need the engineers now, we would have to wait for six years to be able to reap our harvest.

MR. NOLLEDO: Thank you, Madam President. My next question is on page 3, line 27, on religious instruction. I commend the committee for adopting a provision of this kind because when we walk with God, we walk everywhere with Him, whether in or out of school. I was one of the authors of the similar provision in the 1973 Constitution. I know Commissioner Cirilo Rigos must have a hand in the formulation of this provision. I do not know if he objected to or favored this kind of provision, but I am concerned about line 30, specifically the words "teachers designated or approved by the religious authorities of the religion."

Madam President, does the word "teachers" include public school teachers?

REV. RIGOS: We hope it does not, Madam President.

MR. NOLLEDO: The Commissioner hopes, but the words do not prohibit, Madam President.

REV. RIGOS: I am sure the intention of the committee here is not to include the regular teachers in a particular school, Madam President.

MR. NOLLEDO: With respect to page 4, line 1, the word "additional" before the word "cost" did not appear in the 1973 Constitution.

REV. RIGOS: In the 1973 Constitution, the wording is "without cost to the parents or the government."

MR. NOLLEDO: Does this mean, Madam President, that in the exercise of the optional religious instruction pursuant to the committee report there is a cost to the government?

REV. RIGOS: Presumably, the use of electricity and water would be some kind of a cost, but the intention of the committee here is not a major cost. For instance, the salary of the religious teachers will have to be paid by the religious authorities or groups that hire them to teach religion.

MR. NOLLEDO: Thank you, Madam President. I would like to proceed to the same page 4, lines 10 to 12, which states:

All institutions of higher learning, as well as faculty members and students thereof, shall enjoy academic freedom.

I am glad that the committee included the word "students" because I would like to make it of record with the kind indulgence of the Members of this Commission, that before this proposed provision the concerned of academic freedom seemed to be concentrated on teachers. According to Professor Arthur Lovejoy, and quote:

Academic freedom is the freedom of the teacher or research worker in higher institutions of learning to investigate and discuss the problems of sciences and to express his conclusion whether through publication or in the instruction of students without interference from political or ecclesiastical authorities 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.

According to Dr. Carlos P. Romulo, and I quote:

Academic freedom refers to the right of the teacher to teach the subject of his specialization according to his best lights.

And according to Professor Sidney Hawk of New York University, and I quote:

Academic freedom is the freedom of professionally qualified persons to inquire, discover, publish and teach the truth as they see fit in the field of their competence.

So based on these definitions which are cited in many textbooks, academic freedom would seem to cover only freedom on the part of teachers and research workers. Now the committee included students of institutions of higher learning to be given the right to enjoy academic freedom. May we ask any member of the committee to explain how these students may enjoy academic freedom. I specifically refer to the scope of academic freedom as enjoyed by students in institutions of higher learning.

MR. VILLACORTA: Madam President, Commissioner Gascon would like to be recognized.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: First, let us define "academic freedom."

Academic freedom is that aspect of intellectual liberty concerned with a peculiar institutional need of the academic community. The claim that scholars are entitled to particular immunity from ideological coercion is premised on a conception of the university as a community of scholars engaged in the pursuit of knowledge, collectively and individually, both within and without the classroom, and on the pragmatic conviction that the invaluable service rendered by the university to society can be performed only in an atmosphere entirely free from administrative, political or ecclesiastical constraints on thought and expression. Recent comprehensive formulations of student academic freedom have evinced a range of concerns that parallel those expressed by proponents of teachers' freedom; for example, freedom of inquiry and expression in curricular activities, in extracurricular student affairs and off-campus, procedural fairness in disciplinary proceeding and participation in the governments of the institution.

The foundations of academic freedom in the United States are the following: 1) the philosophy of intellectual freedom, 2) the idea of autonomy for communities of scholars and 3) the freedoms guaranteed by the Bill of Rights in the American Constitution as interpreted by the courts. Why must students enjoy academic freedom? It is necessary to define a university and its purposes: First, literally, the word "university" comes from the word *universitas*, which means an association, community or corporation considered in its collective aspect. It was used to denote diverse groups ranging from municipal corporations to an association of captives in war. Later, it signified an association in the world of learning, which corresponded to a guild in the world of commerce, a union among men living in a *studium generale* and possessing some common interest — to protect and advance their interest. Later on, the *studium generale* was the center of learning. Students and teachers within the *studia* organized themselves into *universitates* in order to secure the mutual protection of their members. By the 14th century, the importance of the scholarly guilds had so increased that the word "university" became the equivalent of *studium generale*.

Now what are the components of such university? The university is made up of the institution itself, including the administrative authorities; the faculty which is composed of teachers and professors; and the students. As members of the university, students must also enjoy academic freedom in order that the purpose of the university may be effectively achieved. According to Justice Makasiar in his dissenting opinion in *Garcia vs. Faculty Admission Committee, Loyola School of Theology*, 68 SCRA, 277 and I quote:

It should be stressed that the academic freedom thus guaranteed is not limited to the members of the faculty nor to the administrative authorities of the educational institution. It should also be deemed granted in favor of the student body; because all three — the administrative authorities of the college or university, its faculty and its student population — constitute the educational institution, without anyone of which the educational institution can neither exist nor operate. The educational institution is permitted by the State to exist and operate, not for the benefit of its administrative authorities or faculty members, but for the benefit of its studentry.

Denial of student academic freedom constitutes a violation of the equal protection clause of the Constitution. Only scholars, it is claimed, are entitled to that privilege — the freedom to inquire on one's own. As Sir Erick Ashby has pointed out, the meaning of the word "scholars" certainly includes those whom we now call undergraduate students, the *de jure* status of whom is that of members of a corporation devoted to higher learning. In the course of the discussions concerning academic freedom in the 1971 Constitutional Convention, Delegate Ledesma admitted that the term "scholar" must also include students. Both teachers and students assume the role of learners. Although they vary in the degree of information they have already acquired, there is no pressing reason, therefore, why an individual should be curtailed in his attempt to attain adequate knowledge on the poor excuse that he has much more to learn. The difference between academic freedom and other freedoms of expression; for example, freedom of assembly or speech, is that there is a necessary distinction to be asserted to academic freedom as a separate freedom or right. The problem to be contended with is the enjoyment by students within the university of the same freedom enjoyed by other citizens outside of the university.

There are three theories, none of which favors academic freedom for students:

1) Privilege Theory. It maintained that school attendance is a privilege. Under this theory, students are deemed to have abandoned some rights once they have entered the university.

2) *En Loco Parentis* (in place of the parents). This theory is based on the assumption that the school is a surrogate parent. However, the courts and too often the schools have interpreted that *en loco parentis* doctrine confers upon the school the powers of the parent without accompanying responsibilities except for the protection of the student from physical injuries.

3) Contract Theory. By this act of registration, the student could be deemed to accept the regulations of the university. In return for tuition and the observance of the regulations by the student, the latter enjoys the right to continued attendance subject to the breach of the contract. The burden, however, of proving breach of contract is upon the student. Ambiguous terms in the contract are decided against him and the institution may negate any implied right of the student. However, in the Philippines, none of these theories is controlling.

In the case of *Malabanan vs. Ramento*, 129 SCRA, 359, 367 to 368, 372 — regarding the right of petitioners who were officers of the Supreme Student Council of Gregorio Araneta University Foundation to peaceable assembly and free speech — the court said:

Petitioners invoke their rights to peaceable assembly and free speech. They are entitled to do so. They enjoy like the rest of the citizens the freedom to express their views and communicate their thoughts to those disposed to listen in gatherings such as was held in this case. They do not, to borrow from the opinion of Justice Fortase in *Tinker v. Des Moines Community School District*, "shed their constitutional rights of freedom of speech or expression at the schoolhouse gate."

So the freedoms enjoyed by these citizens outside of the university continue within the walls of the university. The right to peaceable assembly and free speech are guaranteed to students of educational institutions. Necessarily, their exercise to discuss matters affecting their welfare or involving public interest is not to be subjected to previous restraint or subsequent punishment, unless there is a showing of a clear and present danger to a substantive evil that the State has the right to prevent.

MR. NOLLEDO: So, am I right if I say that academic freedom is enjoyed only by colleges and universities, but not by high schools?

MR. VILLACORTA: Yes, the Commissioner is right, Madam President.

MR. NOLLEDO: Thank you.

My last set of questions, Madam President, is with respect to page 4, lines 28 to 32. I direct my questions specifically to Commissioner Guingona who is a lawyer. Under the Article on the Legislative, all lands, buildings and improvements, et cetera, directly used by educational institutions shall be exempt from taxes, and the exemption, as already ruled by the Supreme Court, shall refer only to realty tax. There is no qualification on whether the institution is stock or nonstock. Am I right, Madam President?

MR. GUINGONA: Yes, the Commissioner is right.

MR. NOLLEDO: In the committee report, it is stated that nonstock, nonprofit educational institutions shall be exempt from taxes and duties. Am I right if I say that the "taxes and duties" here are not limited only to realty taxes?

MR. GUINGONA: Yes, the Commissioner is right.

MR. NOLLEDO: It is also stated in the report that proprietary educational institutions shall likewise be entitled to these exemptions provided they limit stockholders' dividends as may be provided by law. Therefore, the exemption of proprietary educational institutions shall be dependent upon the existence of law. Am I right, Madam President?

MR. GUINGONA: Yes, the Commissioner is right.

MR. NOLLEDO: And that the exemption that may be granted to proprietary educational institutions shall not also be limited only to realty taxes?

MR. GUINGONA: Yes, subject to the qualification of limitation of stockholders' dividends.

MR. NOLLEDO: And that these provisions will not alter the first statement that all lands, buildings, et cetera directly used for educational purposes shall be exempt from realty taxes.

MR. GUINGONA: Yes, Madam President.

MR. NOLLEDO: Thank you very much.

MR. GUINGONA: Thank you, Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I ask that the well-dressed Commissioner, Commissioner Tingson, be recognized.

MR. SUAREZ: May I be recognized for a parliamentary inquiry, Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President. I notice that the article now being discussed is divided into five substantial topics: education, science, language, technology and arts and culture.

MR. GASCON: It is divided this way: education, language, science and technology and arts and culture. So there are four basic parts.

MR. SUAREZ: Thank you. Be that as it may, Madam President, there may be confusion in connection with the effective interpellation by the Commissioners. So it is respectfully suggested that interpellations be made on a methodical basis.

I suggest, therefore, that interpellations at the moment be concentrated on education before we proceed to the other subjects, Madam President. In other words, let us get through first with the subject on education before we move on to the other subject.

THE PRESIDENT: What does the chairman say?

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

MR. SUAREZ: Thank you, Madam President. Therefore, may we respectfully request the Floor Leader to take up the necessary arrangements.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: I would be very happy to limit my questions on the subject "education," but I would like to reserve my right to also ask questions on the other subjects later.

THE PRESIDENT: The Commissioner will please proceed.

MR. TINGSON: Madam President, I am impressed by the fact that the committee takes into consideration the wholeness of man. On page 2, lines 7 to 8, the committee speaks of formal, nonformal, informal and indigenous learning system. On Section 2, lines 18 to 20, it speaks of strengthening the ethical and spiritual values; encouraging critical and creative thinking; promoting scientific, technological and work-oriented efficiency; and imparting liberal education.

I wonder if, in describing the intention of Section 1, it is right to say something like the following: "Education, which is the harmonious development of the mental, physical, moral and spiritual faculties of the individual, is the right of every citizen of the Philippines." Would this be describing, more or less, the intent of the committee, Madam President?

MR. VILLACORTA: Madam President, we are open to suggestions, but I think Commissioner Gascon has something to say.

MR. GASCON: I believe the attempt is to give a general definition of education. In fact, we had been debating among ourselves the definition of education and generally, it would be along the same line. However, for record purposes, perhaps, it would be best that we define this harmonious development of the mental, physical, moral and spiritual faculties. At the proper time, we may perhaps consider it.

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

MR. GASCON: Madam President, we feel that the term "education" as it stands may, in a sense, be open to varying definitions and perspectives as we go along history. But we believe that education is a continuing process. It does not end in the school.

MR. GUINGONA: Madam President, I agree with the Commissioner, and I suppose the members of the committee also agree that education is something that covers many aspects — social, moral, intellectual, physical and so forth. As mentioned by Commissioner Gascon, perhaps, it would be better just to mention this as a sense of the committee rather than include it in the report.

MR. TINGSON: That is what I am trying to do, Madam President. I am impressed by the fact that the report covers the whole gamut of education, that is why I am suggesting the phrase "harmonious development of the mental, physical, moral and spiritual faculties of them individual," which, obviously, is the thrust of the committee report.

MR. VILLACORTA: Madam President, may we ask the Commissioner to elaborate on the concept of harmonious development.

MR. TINGSON: I would like to do that during the period of amendments, because I do not want to take too much time now since there are other interpellators.

MR. VILLACORTA: It is all right with us, Madam President.

MR. TINGSON: Madam President, page 3, lines 2 to 11 states:

Private educational institutions shall be owned and administered solely by citizens of the Philippines, or corporations or associations wholly owned by such citizens. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrolment in any school. The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and for other temporary residents, unless provided by law.

I have been asked by some friends to ask clarification from the committee about this. Madam President, we have the International School here in Manila, the Brent School in Baguio and the Faith Academy in Cainta, which are owned or run mostly by American teachers and missionaries. The purpose of these schools is to give secondary education to their children in the same category the American schools are giving so that when they go back to their country they will be eligible right away to enter college. Does the provision on lines 8 to 11 apply to these schools?

MR. VILLACORTA: Madam President, the last sentence, which says that this provision shall not apply to schools established for foreign diplomatic personnel and their dependents and for other temporary residents, will apply to those schools mentioned by the Commissioner; namely, IS, Brent School and Faith Academy. I think I speak for the committee when I say that that is the contemplation and sense of this sentence.

Commissioner Gascon would like to elaborate on the philosophy behind this particular provision.

MR. GASCON: The basic principle that we would like to assure in this Section 2(c) is that educational institutions play a role in instilling values and, consequently, the molding of public opinion. It is especially easier to do in educational institutions than in mass media because while the audience of the latter is the public regardless of age and education, the majority of students especially in the elementary and secondary levels are children who are still in the process of formulating their own values, and, therefore, have none of their own by which they may compare with the ones that are presented to them by their educators. Children are more impressionable and more susceptible to the unconditional acceptance of moral, ethical and national values. Furthermore, it seems absurd that the State protect those children who do not attend school by placing restrictions on the ownership of mass media, but mass media does not afford the same kind of protection to those children who are supposed to benefit from education. So basically, the intent, when we speak of educational institutions being wholly owned by Filipinos, is that in the rearing of Filipino citizens, Filipino values are encouraged which are elaborated in Section 2(a). However, this does not mean that foreign citizens living in our country cannot avail of specialized education for their particular nationalities, which is the case at present in IS (International School) and Brent. We have to safeguard the interest of our future generations by assuring that education be directed to serve Filipino interests.

MR. TINGSON: Thank you, Madam President; that has been very helpful. Lines 25 and 26, page 3, state:

The study of the Constitution and human rights shall be part of the curricula in all schools.

That is very good because that is one of my resolutions also, Madam President. I am glad the committee took cognizance of my resolution about studying the Constitution and human rights. I wonder if the committee will not be willing to go further than that. This is what I would probably suggest by way of an amendment: "The study of the Constitution, human rights, the life and works of our national hero, Jose Rizal, shall be part of the curricula in all schools." The reason for this, Madam, President is that our national hero is the very embodiment of what is inspiring and uplifting in our draft Constitution. The life and works of Jose Rizal is precisely a very specific study of what is humanizing and uplifting in the so-called subject human rights. We study the corrective as well as the instructive portions of the declaration of human rights. I, then, would very strongly urge the committee to please consider the life and works of Jose Rizal, being our revered national hero, as part of the curricula of the schools because after all this is already taken up as a subject in English classes of Grade V and VI pupils, but for only one semester. In secondary schools, the life and works of Rizal is not taken up as a formal subject, not even as an elective, save in some instances when the textbooks on literature contain some stories about the hero. The tertiary curriculum offers a three-unit course on Rizal; which is being the subject of a discussion for its optional offering. Of course, there is no debate about the idealism and heroism of Jose Rizal. That is precisely why in all plazas in every city, we have statues of the hero. We even change the word "barrio" to "barangay." How can we speak of Jose Rizal as a hero, if we do not even know him as a person and how can we know him as a person unless our children are at least encouraged or required to study the life and works of our national hero? Monuments, parks and schools named after the hero hardly speak of the supreme tribute expressing the collective sentiments of the Filipino people.

If we provide a three-unit course for his life and works in college, we assume that only the college students or a group of society know about him. Does not his status as a national hero render him the honor and privilege to be

known by all people in a country that accepts him as such? As a matter of fact, what a joy and an honor it is to know that the life and works of Jose Rizal is being studied in the Soviet Union, in Spain and in Indonesia.

If I am not mistaken, the works of Jose Rizal exude masterful lyricism of his supreme protest against injustice, dazzling and fascinating with literary genius in the *Noli Me Tangere* and *El Filibusterismo*. These works verily relive the very culture and values of our people. If I remember right, when the late Don Claro M. Recto and Jose P. Laurel, the late father of our own esteemed colleague here, were Senators, they succeeded in putting into law the requirements that the life and works of Jose Rizal be studied in our schools. If we can study Shakespeare and the works of Palanca awardees, do the works of Rizal not hold ground and elicit the same esteem and status? Pardon the analogy, Madam President.

The life and works of Jose Rizal should be offered in the elementary and secondary school curriculums, preferably in the English classes. The three-unit course on Rizal in the tertiary level, taking into account the academic offerings provided for in the elementary and secondary levels, should now deal in his works for literary appreciation and discussion with reference to the current perspectives and directions of the present society.

And finally, Madam President, I feel that the Textbook Board could easily prepare and publish books designed for individual use on the three levels.

Would the chairman consider during the period of amendments the inclusion on line 25 of not only the study of the Constitution and human rights as pieces of paper containing truth but also the life of somebody who is the living embodiment of the two, so that we could produce citizens that will live up to the visions, patriotism and nationalism of our national hero?

MR. VILLACORTA: I think Commissioner Quesada, Madam President, would like to respond to that, followed by Commissioner Rosario Braid.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: The problem of enumerating all the areas that should be included in the Constitution would possibly open the floodgates to many other proposals. As a matter of fact, there has already been the consideration that we just limit it to the study of the Constitution and exclude human rights since human rights is already included in the Constitution. I am one of the proponents of the inclusion of the study of human rights, but if this is going to be the entry point for the inclusion of many other topics, such as the one the Commissioner is proposing, then we would not want to really extend this to that possibility. However, the committee will look into the Commissioner's proposal.

MR. TINGSON: I would propose then, at the appropriate time, Madam President, just the study of the Constitution and the life and works of Jose Rizal. I would appreciate it very much if the committee could consider such a proposal.

MR. VILLACORTA: We will seriously consider the Commissioner's proposal.

MR. TINGSON: Thank you very much.

MR. VILLACORTA: Commissioner Rosario Braid, Madam President, would like to be recognized.

MS. ROSARIO BRAID: I think in our consideration, we noted that the lives of our heroes, including Jose Rizal, are adequately covered in social studies subjects in both elementary, secondary, and even the tertiary education. I think the fact that in our aims we have focused on nationalism places a mandate to the Textbook Board and other instructional material agencies to produce more materials on national heroes. If the Commissioner wishes we could take it up later, but I think with all two or three provisions here, these would lead to more new curriculum

development that would focus on national identity of heroes and institutions.

MR. TINGSON: Thank you.

Madam President, if we are about to suspend the session, it is all right with me. However, I would like to reserve about two or three more questions after the suspension of the session.

SUSPENSION OF SESSION

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

It was 12:15 p.m.

RESUMPTION OF SESSION

At 2:53 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: May I move that we continue the consideration on the Article on Education.

THE PRESIDENT: May we request the honorable chairman and members of the committee to please occupy the front desk.

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

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Thank you, Madam President.

I have only two or three more questions on the heading "Education."

At the time that we suspended the session this noon, Madam President, I was mentioning to the committee that at the proper time I would propose an amendment to Section 1 2(g) regarding the study of the Constitution and human rights to be part of the curricula in all schools. My proposed amendment consists in adding the study of the life and works of our national hero, Jose Rizal. Perhaps, I should restate that because I do not want to be misconstrued or misunderstood that I am, in any way, denigrating the importance and the historical contribution of the lives of our other national heroes whether in the past or in the recent past. My amendment will read this way: "The study of the Constitution and human rights AND THE LIVES OF OUR NATIONAL HEROES shall be part of the curricula in all schools." I had asked the committee about this amendment and I was told to formulate it and the committee members will consider it later on. Am I right, Mr. Chairman?

MR. VILLACORTA: That is right.

MR. TINGSON: Thank you very much.

My next question is on page 4, Section 5(b) which states:

Nonstock, nonprofit educational institutions shall be exempt from taxes and duties. Proprietary educational institutions shall likewise be entitled to these exemptions provided they limit stockholders' dividends as may be provided by law.

It seems to me that the latter sentence of that paragraph could be a way whereby private educational institutions

could evade the payment of taxes and duties. My question really is: Why do we not just go ahead and mention something like: "All educational institutions shall be exempt from taxes and duties." We did state this provision in the 1935 Constitution.

Section 5 of Committee Report No. 29 is amended in fairness to private schools which perform for the government what the government has to do and, that is, to educate the youth. I agree with that naturally, because I believe in the contribution of private schools towards the overall adequate education of our young people. And as I suggested in the opening of my interpellations this morning, education, in the light of what the chairman intends to say in this very good report, is the harmonious development of the mental, physical, moral and spiritual faculties of an individual.

I am sorry to say that some of our public schools do not seem to give much importance to the moral and spiritual development of the faculties of the individual, but practically all private schools do, especially the ones owned and run by the religious sectors of our country. I do believe in the work of private schools. In other words, tax exemption is just one form of government subsidy for students in private schools. Private schools are contributing towards the good of our country by helping the government educate our children which performance must be done if we expect a country that would truly be progressive and would deserve its place among the concert of free, independent, educated and democratic nations of the world. This subsidy is a partial reimbursement of the taxes that some parents pay to support state schools. We are referring to parents who do not send their children to public schools because they believe that it is better to send their children to private schools and at the same time help the government support public or state schools.

I understand that the latest FAPE (Fund for Assistance to Private Education) statistics placed 90 percent of tertiary students in the care of private schools. Again, my question is why do we not just simplify that Section 12(b) state the same provision as in the 1935 Constitution which says: "All private educational institutions shall be exempt from taxes and duties.

MR. VILLACORTA: We are open to different proposals on this section. Actually, there are some Commissioners who feel that the second sentence of this paragraph should not even be included, and that tax exemption should be confined to nonstock, nonprofit educational institutions. The Commissioner seems to espouse the opposite view, that even proprietary educational institutions should be entitled to tax exemption. So, at the appropriate time, the Commissioner may propose his amendment and we shall throw it to the body.

MR. TINGSON: I would agree with that; but I would make exceptions, although I would say that generally. But some of our knowledgeable fellow Commissioners who are lawyers could probably put some kind of a control. Hence, an educational institution which is obviously nothing but a money-making institution should not enjoy such privilege of being exempted from taxes and duties. How it should be done is not yet clear in my mind as of now. But in due time, I would try and present that amendment.

MR. VILLACORTA: Thank you, Madam President. Commissioner Rigos would like to be recognized.

REV. RIGOS: Madam President, the second sentence was placed here because the committee received information that there are a number of private institutions that are making a lot of profits. The committee felt that we will encourage schools to engage in education not primarily for the sake of profit. Therefore, the inclusion of this second sentence here will encourage these private schools to limit the dividends that go to the stockholders. Hence, that will partly achieve the aim of this paragraph.

MR. TINGSON: Madam President, while Commissioner Rigos has the floor, may I ask him my last question.

Section 12(h) on page 3 states:

At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools by teachers designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the government.

Do I understand that that latter phrase "without additional cost to the government" means that public school teachers will not be allowed to teach religion in their classes? Should religion be optional?

REV. RIGOS: That is the thinking of the committee.

MR. TINGSON: Thank you very much.

MR. VILLACORTA: Commissioner Rosario Braid would like to say something.

MS. ROSARIO BRAID: May I go back to the Commissioner's question on page 4, lines 28 to 32, about proprietary institutions. His question is: Why are we encouraging nonstock, nonprofit educational institutions? I will also go back to Section 5(a) which shows the intent of this committee report to promote educational foundations and cooperatively owned educational institutions.

Let me cite some facts here which state that 92 percent of higher education is in the hands of private schools. Also, there is no evidence which shows that distributing schooling, largely on the basis of parents' social position and income, equalizes the distribution of income and wealth. Why is this so? It is because those who go to private institutions requiring high tuition fees are the ones who perpetuate social inequality.

So, the findings of the study is that education does not perpetuate social equality even if we expand. In other words, democratization of education does not contribute to social equality simply because what happens is that the privatization of higher education has maintained the existing income disparities as a result of high rates of returns accruing to graduates of private institutions requiring high tuition fees. So, what is shown here is that there is a positive correlation between education and income.

It suggests, therefore, that private financing of higher education tends to enhance inequality from one generation to another. So this study clearly indicates that tertiary education in most proprietary institutions, especially those that charge very high tuition rates, has contributed to social inequality.

So, that is why we encourage nonstock rather than proprietary institutions.

MR. GASCON: Another point that we would like to emphasize when we speak of encouraging nonstock and nonprofit institutions is that education is primarily a public function. Therefore, since it is primarily a public function, the State has the primary responsibility to provide for such. Thus, encouraging unnecessarily proprietary schools is veering away from that basic principle because we are making education a profit-making business instead of being a public function. That is what we are trying to avoid. We are hoping that through these provisions in the Constitution, the present educational system will not be commercialized, and to encourage the State to perform its public function which is to provide all the citizens education. That is the basic theme. So, we feel that we should discourage profit-making schools and encourage nonprofit, nonstock schools in accordance with the theme that this is primarily a service and not a business.

MR. TINGSON: There are private schools that are fortunately making good profits and yet at the same time, they are doing commendable work by way of helping educate our young people in all levels. How would the Commissioner feel towards schools that are not primarily for profit-making and yet, fortunately, are making good profits?

MS. ROSARIO BRAID: May I answer that? I think there has been a considerable discussion in the committee on the need to suggest to Congress, as well as the various aggrupations of educational institutions, to add other

criteria for the accreditation of schools that are existing. In other words, those schools whose graduates go out to the countryside to serve the people and have contributed to national development will be one indicator by which an institution gets positive accreditation. Hence, on the basis of this, they will be given preferential treatment in terms of tax exemption that we have indicated in this section.

MR. TINGSON: Thank you very much.

Madam President, my last question still has to do with the last paragraph of page 3, and that is the optional religious instruction in public schools. Yesterday, we received a communication from His Eminence, Ricardo J. Cardinal Vidal, Archbishop of Cebu, and 26 other signatories. I do like what they say and I read:

There is a growing consensus between believers and non-believers that spiritual deprivation lies at the root of most problems, whether personal or social, and it is the child more than anyone who suffers the devastating consequences. Denouncing the spiritual void confronting the child is important; providing the child with the opportunity for harmonious development and spiritual growth is valued as highly physical, and intellectual growth is more important still for that child's spiritual rights and it is up for the adult to promote them. We, representing various regions, provinces and sectors of the nation, realizing that value formation is the primary task of education today, make the following proposal to the Constitutional Commission: Moral and religious values being constitutive of integral human formation should be made curricular in our education system.

I am impressed with this proposal because I feel that our optional religious instruction is really tolerated by us and that is why it is made optional as was provided in the 1935 and 1973 Constitutions. I have always felt that somehow we are not succeeding very much in the avowed purpose in allowing optional religious instruction. The avowed official reason is to help develop good, law-abiding, morally upright citizens of our country. The fact is that they can become good citizens of our respective churches. My understanding is incidental to it: That the primary purpose of the optional religious instruction is to produce good, taxpaying, honest citizens of our country.

In the light of the proposal of the good Cardinal and 26 other outstanding religious leaders which states that moral and religious values, being constitutive of integral human formation, should be made curricular in our education system, I have been trying to crack my mind on how this proposal can be implemented. It is a big order but it could be implemented. I am wondering if we could somehow attach the implementation of this advice, or this particular value formation that they desire to include in our Constitution through our optional religious instruction by having one common textbook and one common subject. We cannot expect children of other religions to attend the optional religious classes that are being taught by Roman Catholics. Moreover, we cannot expect children of the Catholic families to attend similar classes that are being attended by non-Roman Catholics simply because we are not sure of what is taught there, which we may not agree with. I am just wondering if we can come up with the idea of having a common textbook. I suggest the Holy Scriptures for the Christian community and the Qur'an for the Muslims of Mindanao. The subject matter would also be common to all — the life and teachings of Jesus Christ Who is the common Lord to both the Roman Catholics and the others; and we can have the life and teachings of Mohammad for all the Muslims of Mindanao. With this suggestion we make the so-called optional religious instruction much more relevant and more acceptable to our people.

I am just wondering if it is not a crazy idea. If one would tell me outright that it is a crazy idea, I would not waste the time of the committee even in trying to study that provision. But I do not think it is so because I admire Pope John XXIII. If I am not mistaken, it was Pope John XXIII who accented ecumenism about 23 years ago. It was not Pope John XXIII who originated ecumenism but it was our Lord when He said in the Gospel of John: "By this shall all may know that you are my disciples if you love one another." Why, if we 48 Commissioners in this Concom truly love one another, there would be no walkouts! There would be no petty family feuds and quarrellings among us. In major things, let us have unity; in minor things, let us have liberty. However, in all

things we certainly can practice honesty and charity. What can bring all these things about? Probably it is not only our sectarian doctrinal teachings which may not be easily understood by our elementary and high school pupils but it may be through the common textbook as I suggested a while ago. This common textbook, the Holy Scriptures or the Qur'an and the life and teachings of Jesus Christ, can be the basis of our optional religious instruction.

Members of the committee, there is no greater sermon in the entire world than the sermon on the Mount. There is no greater thing for our young people to read and study than the Beatitudes. What Commissioner Nieva read just three days ago was a beautiful scriptural literature, and I quote:

The Lord is my Shepherd, I shall not want; He maketh me lie down in green pastures. He leadeth me beside still waters; He restoreth my soul. He leadeth me in the paths of righteousness for His name's sake. Even though I walk through the valley of the shadow of death, I will fear no evil.

Throughout the Holy Scriptures from Genesis to Revelation, the words "Fear not" are found 365 times. Does everybody know that? What a beautiful thing for our young people to realize that there are 365 days in the year; that every day of the year, we can say this prayer as quoted by Commissioner Monsod, "Lord, help us to realize that today is the first day of the rest of our lives." Then all of us would take to heart one "Fear not" for that particular day. In war or in peace, in famine or in abundance, we can take hold of one "Fear not." What I was trying to say is, this is something that may be simple, and yet easily understood by our young people in the implementation of this optional religious instruction. This will help more than anything else not to divide us, but to unite us and truly make an ecumenical country like our country. Masyadong relihiyoso tayo rito sa Pilipinas; relihiyoso sa salita, ngunit hindi sa puso; relihiyoso sa pangalan, ngunit hindi sa katotohanan. In my sweet Ilonggo, "Masinimbahon apang indi matarom."

We are the most religious and the only Christian nation in the Far East; and yet according to the report of the United Nations Organization, we have more smugglers unlike in many countries surrounding us. Yet these neighboring countries are not even pretending to be Christians. I think we are missing something important somewhere. I wonder if I could make that amendment later on.

THE PRESIDENT: I am sorry, but Commissioner Tingson has already consumed more than 20 minutes.

REV. RIGOS: I thank the Commissioner for his sermon, but if he is connecting the proposal of His Eminence, Ricardo Cardinal Vidal, to optional religious instruction, that is taken care of on page 3, Section 12(h) which we discussed a while ago. But if the Commissioner wants to go over the proposal of the good Cardinal, the latter wants it included in the curricula of our schools. However, the Committee has to study that proposal.

Section 2(a), on page 2, states:

All educational institutions shall inculcate nationalism, love of fellowmen and respect for human rights, teach the rights and duties of citizenship, instill political, health and ecological consciousness and service to society, strengthen ethical and spiritual values, develop moral character and personal discipline . . .

So even here, the committee has not forgotten to encourage all educational institutions to strengthen ethical and spiritual values, but this is not self-executing. We will probably need some kind of a law to be passed by Congress on how to make this more concrete. And so, perhaps the proposal to make ethical and spiritual values a part of the curriculum will be better discussed in the Congress rather than in this Commission.

MR. TINGSON: Thank you.

I was speaking about optional religious instruction and I believe that what I said was apropos of that particular subject.

Madam President, may I categorize what I said a while ago; it is not a sermon, but a speech from a Commissioner. There are other speeches much longer than what I delivered. I do not want our fellow Commissioners to think that I was trying to sermonize them. In my speech, I was wondering whether or not my amendment on that score would be later on entertained by the committee. However, whether the committee will consider it or not, may I still have the privilege to formulate that amendment and present it to the body?

REV. RIGOS: Yes, thank you very much.

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

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Speaker Laurel here is very naughty. He said, "Not another sermon." (Laughter)

I would really like to ask a few questions. First of all, I congratulate the committee for the very fine work. Also, may I second what Commissioner Tingson proposed that we have a brief definition of education because we are trying to point out that the State shall give priority to education. But if that is nowhere defined, then we will not know really what we will be giving priorities to. I understand that we have some elements in Section 2 for such a definition, but I will support also the definition which Commissioner Tingson proposed this morning.

Let us start with Section 1. There is a listing here of the purposes of education. At an appropriate time, would the committee be willing to add one more purpose to this in view of our present situation which might be a prolonged one and in view also of the constitutional provision later on on the autonomous regions? I would like to bring this to the committee's consideration. Instead of simply saying "for the purpose of fostering national pride and identity, enhancing the quality of life of every Filipino, and expanding the frontiers of justice and freedom," all of which are very laudable, will the committee consider at a particular time the phrase "ACHIEVING NATIONAL UNITY" as one of the purposes of education in these Philippines?

MR. GASCON: Yes, we will consider such proposal at the proper time.

MR. VILLACORTA: Yes.

BISHOP BACANI: Second, the Commissioner opened up a very broad and daring distance when he speaks of education as the right of every citizen of the Philippines. I think that is very broad. In fact, Commissioner Gascon said this morning that education should be accessible to all in spite of social and economic differences.

When one speaks of the right to education, may I ask: Does this include the right to choose where and how I am to be educated?

At this juncture, the President relinquished the Chair to the Honorable Francisco A. Rodrigo.

MR. VILLACORTA: Does Commissioner Gascon wish to answer that?

MR. GASCON: When we speak of education as a right, the primary concern is the issue of providing access to education.

BISHOP BACANI: Yes.

MR. GASCON: As far as the choice of where and how one is to be educated is concerned, as a principle, that would hold. However, for practical purposes, the choice of a certain student residing in a particular area on where to study is limited by the schools that are available in that particular area. However, one can go to another school which he prefers outside if given greater opportunity, let us say, the means of transportation. That is a possibility. Our hope is, when we consider education as a right there is also a correlative duty of the State to provide for such.

So, as far as the State is concerned, it should equalize access to all so that the exercise of that right will be accorded to every citizen.

BISHOP BACANI: Therefore, the inequities actually to be found in the present system of education should somehow be corrected.

MR. GASCON: That is right.

BISHOP BACANI: This is not meant to belittle the public schools. I think the instruction that is given in most public schools is really of a lower quality than that given in a comparative number of private schools. That is why some parents would rather choose to enroll their children in private schools.

MR. GASCON: Actually, this committee report is a critique of that particular situation. We envision a situation where there is no longer any difference between what is taught in public schools and those that are taught in private schools. So, the choice will be real.

MR. VILLACORTA: I would also like to point out that Section I (c) on education says that the State shall promote quality education, not just education but quality education. The Commissioner mentioned the difference in the quality of education between the public schools and the private schools. For all we know, it could be the other way around in the future as it is in countries like England where public schools generally have a higher standard of education than the private schools.

BISHOP BACANI: Yes.

MR. VILLACORTA: But I am curious why the Commissioner asked that question.

BISHOP BACANI: My presupposition is this: The parents are the primary educators of their children; the role of the State here is only subsidiary; it is auxiliary to them. But the main help to the parents regarding this matter comes really from the State, and, of course, from the Church also. What I am trying to drive at is this: At present, the situation is really that most parents usually prefer the private schools to the public schools if the parents really have the wherewithal or the money to spend. What I would like to ask may seem to be a bold idea. In view of this right that the Commissioner vindicates for the children and for the parents, would he also advocate a subsidy to parents so that they can send their children to whichever school they wish?

MR. VILLACORTA: That is indeed a bold idea and we have to give consideration to the serious financial constraints of our government, not only in the immediate present but in the future. Those within this Commission and in the educational sector are skeptical about the ability of the government to meet the cost of free public education up to the tertiary level. How much more the idea of giving subsidy to parents to be able to send their children to better school?

MR. GASCON: I would like to ask a question. When we speak of the State giving subsidy to parents so that they can send their children to school, this implies that we wish to provide the parents the opportunity to send their children to private schools, let us say, through scholarships, because they feel that the education given in public schools is of low quality and is inadequate. Is that correct?

BISHOP BACANI: Yes.

MR. GASCON: Our attitude on what has to be done is not to direct the parents or to encourage the parents to send their children to private schools but rather for the State to improve public education. So, when the State really gives priority to education, it necessarily follows that it must improve its public elementary, secondary and even tertiary education which provide greater access to the poor. Therefore, the issue of opposing private schools to public schools will become moot and academic if the State is vigilant enough in improving the quality of

education in public schools. So, there would be no necessity to subsidize parents sending their children to private schools because the education given them in public schools would be sufficient. That is the idea.

BISHOP BACANI: Yes. In President Aquino's recent speech in Cagayan de Oro when she was conferred a doctorate in Xavier University, she mentioned a move which the government has already taken. This step has already been done. Instead of building schools, they are going to send the students to Catholic schools paid by the government because the move is less expensive. Because of that, I see the purpose of Section 1 (b), the provisions on education. I want to suggest at the proper time that the State shall establish and maintain a system of free public education at the elementary and secondary levels and provide such other measures that will render education at the elementary and secondary levels accessible to all and at the tertiary level to those who are qualified.

MS. ROSARIO BRAID: When the Commissioner referred to the speech of President Aquino, he is referring to an experiment that has been started in the elementary and secondary schools called "service contracting." It is a practice in communities where the enrolment in the public schools has exceeded the capacity of the schools to respond to the problems of enrolment, like lack of classrooms, lack of teachers and others. Hence they contract these quality private educational institutions within the community to service these students and they found out that the cost per student is almost the same as the cost of hiring new teachers or building new classrooms. The "service contracting," although starting on the primary and secondary level, could extend to tertiary education. This is a complementary scheme, but the attitude of the committee is to strengthen public education through various ways — manpower development, strengthening of curriculum materials, et cetera.

Thank you.

BISHOP BACANI: So, the bias of this is towards the strengthening of public education rather than facilitating the free choice of the parents and the children to enter into schools of their choice.

MR. GASCON: No. The point is we should reemphasize the responsibility of the State to provide for education. At this point in time, as has been mentioned already, prior to the Marcos regime, the government was allocating as much as 35 percent of its national budget to education but it went as low as 8 percent during the Marcos regime. What we would like to do is see a situation where education really receives the highest priority by the State. The State exercises one of its major functions by providing a system of public education to all without necessarily neglecting private education.

BISHOP BACANI: And may I also add, without necessarily foreclosing the possibility later on of subsidizing if they want to, that there is a provision almost similar to that in Section 1 (c) but it seems to be in view of quality education.

MR. VILLACORTA: Mr. Presiding Officer, Commissioner Guingona would like to be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Guingona is recognized.

MR. GUINGONA: Mr. Presiding Officer, the scheme that Commissioner Rosario Braid referred to earlier is known as the Educational Service Contracting and in this pamphlet, it is explained as follows:

Private schools are contracted by government to provide education to students who cannot be accommodated in public schools for such reasons as lack of space, facilities and teachers.

The cost of contracting is comparable to or, in most cases, cheaper than admitting the excess students in public schools. Since schoolyear 1982-1983, experiments have been conducted in Regions VIII and XII. According to the FAPE report, if a student were to study in a public school being operated in Region VIII, the operating cost

would have been P667. Whereas, in the private school, the cost was P368, and the survival rate of those who studied in the private schools was 77 percent as against 38 percent for those in public schools. In Region XII, the comparative costing is P632 for private as against P714 for public, and the survival rate difference is 67 percent for private and 33 percent for public. This will be, even granting for the sake of argument that the amount paid by the government to private educational institutions might be the same, it will result in big savings to the government because, although the operating expenses will be the same, there will be a huge amount of savings insofar as capital outlay is concerned and that is a very big amount.

However, I agree fully with the view expressed by Commissioner Gascon that our thinking is that it is the state schools that should be strengthened. In other words, this scheme should be a stopgap measure at a time when we find ourselves with an indebtedness of \$26 billion which we are servicing, when we find ourselves in economic crisis. This is something that we should do at the moment — to give more access to education. But I do not think that this is the scheme that we, in the committee, would favor in the future. What we want to see are educational institutions, not only private educational institutions but also state colleges and universities which provide quality education. When I talk of "quality education," I mean quality which is not only better than ever, but very much better than ever. As a matter of fact, there has been a report in September 1975, "Towards Integration of Higher Education in the Philippines," with regard to state colleges and universities and may I be allowed to quote the Presidential Study Committee on State Higher Education:

The number of state colleges and universities has more than doubled over the past ten years. This growth, however, does not necessarily reflect an expansion or strengthening of the State's role in higher education since the numerical expansion of the system stems largely from the conversion of existing trade, teacher training and agricultural schools, which are generally secondary in orientation, into chartered colleges or universities. None of these converted schools has so far been able to reorient itself to its new role as a college or university primarily due to resource constraints.

This Member had the privilege of serving as a member of the panel on education, science and technology of 1970 Presidential Reorganization Commission. In our public hearings, we had presidents of state colleges who, in their testimonies, more or less admitted that their schools which were substandard were created because of political motivations. They appealed to us for help to get appropriations and in the process, they gave us a disturbing picture of their colleges, as far as faculty and facilities are concerned, showing that a number of them were no better than glorified high schools. That is why we feel that this is the area which we should like to strengthen. We should avoid a proliferation of substandard state colleges and universities. Hence, we should improve.

But in the meanwhile that we do not have the capacity to improve, we should enter into this kind of scheme to allow a wider access to education. Even from the standpoint of the private educational institutions, why are they able to enter into this kind of scheme? This is because of the drop in enrolment. Eventually, because of population growth, enrolment would increase in the private educational institutions. They may not have the facilities to allow this kind of scheme; that is why we should look forward to the strengthening of the public educational system and not just look into this temporary measure.

BISHOP BACANI: May I reply to that? I am bothered by this stress on the public school system. Not that I do not like the public school system, but it seems that behind that is the thought that the State is the educator itself. The State enters badly into business. I think the State enters badly, and very often, into education. And just as in business, the work of the State is best done when it supervises, regulates and helps when it is necessary.

This is true in the matter of education. The best role of the State is that of a supporter or a regulator. Hence, when the Commissioner presented that as sort of an underlying philosophy, I was a little bit bothered because that is not the only alternative. I know that in Hongkong the government has a very viable private school system and it pays

the salaries of all the staff members.

Believe it or not, the State builds the schools but it does not pay the salaries of the teachers. Yet it gets very good education for its citizens.

So, may we not perhaps revise our focus so that the stress will not be on supporting public education and expanding it but seeing how state-supported education will largely remain as a private enterprise with the State playing a subsidiary and an auxiliary role.

MR. GUINGONA: By desiring to have a strong public educational system, we are not necessarily giving stress or focus only on the system. That is why in the earlier provision that I explained this morning we talked about the complementary role in Section 2 (b), as our honorable chairman has pointed out. We said that the State shall recognize and strengthen the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

In other words, we give due recognition to both systems. We should underscore the fact that both public as well as private educational institutions should not be allowed to install themselves in adversarial positions running along parallel lines that would never meet. Rather, they should be viewed as subsystems of an integrated whole which would work in coordination and cooperation with each other for the benefit of the youth of our country. The State must ensure that educational institutions, whether they be public or private, should provide quality education.

BISHOP BACANI: Anyway, I have stated my position, I will not counter that anymore.

MR. VILLACORTA: We will consider the amendment at the proper time. May we also invite our fellow Commissioners to start formulating their proposed amendments and to submit them to us as soon as they are ready in order that we can save time in our deliberations during the period of amendments.

BISHOP BACANI: I would like to ask for a clarification regarding Section 2 (c) on page 3.

Shall private educational institutions be owned and administered solely by citizens of the Philippines or corporations or associations wholly owned by such citizens? The questions of Commissioner Tingson were already answered this morning. I have a slightly different case here of the Italian Missionary Sisters. They have arrived recently in the Philippines. After one year of stay in the Philippines, they set up a school. I do not know the exact detail whether or not they owned the school. Under this provision, will they not be able to own or administer that school? Will they have to sell it and have it administered by other people?

MR. VILLACORTA: Usually, these religious orders have local counterparts or local members.

BISHOP BACANI: This particular school is completely new, they have no local counterpart here.

MR. VILLACORTA: In that case, once this proposed provision is adopted, these Italian sisters will not be able to set up the school. They would have to probably link up with the archdiocese of the particular community.

BISHOP BACANI: Thank you very much for that.

We go to Section 2 (f), line 19 on page 3.

MR. VILLACORTA: May I just point out, Mr. Presiding Officer, that Section 12 was put in by mistake. That should be deleted.

BISHOP BACANI: So, Section 2 (f) says.

All educational institutions at all levels shall be required to form multisectoral bodies composed of students, faculty, parents, nonteaching staff, administrators and other representatives to participate in the formulation of

school policies and programs, the details of which will be provided by law.

My first question is: Will this section — as it stands immediately now according to what it mandates — not go against Section 2 (e)? In other words, it will be providing a very important policy and planning decision by constitutional fiat, something which they are supposed to be consulted about previously.

MR. VILLACORTA: Offhand, I cannot see the contradiction between Section 2 (e) and (f). The Commissioner is pointing out to Section 2 (e) which is the previous paragraph.

BISHOP BACANI: Yes, Section 2 (e) says:

In the formulation of educational policies, the State shall take into account regional and sectoral needs and conditions and shall involve their respective representatives in policy planning.

MR. VILLACORTA: Yes

BISHOP BACANI: It may be that in a given region there may be a more authoritarian way and that people usually differ in their mores, in their modes of acting and in their ways of looking at authority. So, in a particular region there would be more decisions by simple fiats by authorities given that societal structure. What is mandated here in Section 2 (f) may not be advisable to a particular region and yet the Commissioner is saying that the representatives from the different regions should, first of all, be consulted before conducting a policy planning.

MR. GASCON: The intents of Section 2 (e) and (f) are as follows: First, in formulating educational policies, the State must take into account regional and sectoral needs and conditions. This means that we should have a more rationalized and systematic program of developing the system of education in the country. At this point in time, there is overconcentration of schools in the urban areas, particularly in Metro Manila. Second, state colleges and universities are sometimes created because of political influence, and not really to respond to the needs of a particular region. So the intent is that, as the State goes into further emphasis into the development of education, it shall develop schools in those particular regions responsive to the sectoral needs of the region. So, it is actually rationalizing the development of education and decentralization of the educational system towards educational systems which are tributaries to the immediate community. For example, in a particular community which is primary agricultural, let us say riceland, it is perhaps appropriate that there will be schools created which would be of direct service to students and to the farmers that will guide themselves in developing further their systems of agriculture, fisheries, et cetera. Then, it will also be in accordance with the basic regional development plans of the whole region. As far as Section 2 (f) is concerned, this encourages democratization of schools, because at this point in time, there is very little participation of the other sectors in the educational system as far as policymaking is concerned. This goes from the school level up to the Ministry of Education level.

So, what is encouraged is that there will be greater opportunities for students, teachers, parents, administrators to work together in formulating policies and programs for the whole educational system, whether this be from the school level up to the Ministry of Education level.

So, Section 2 (f) is an attempt at democratization of the educational system, while Section 2 (e) is an attempt at rationalizing and decentralization.

MS. ROSARIO BRAID: May I comment a little?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Like in economic development, our educational philosophy must have a thrust towards involvement of many sectors in planning. We also recognize the fact that there are differences among various

regions. Some will be more participative than others, so that we recognize that this is evolutionary while others could involve as many sectors, say, ten sectors at a time. Some would start with two or three, but that the goal is to broaden the planning process, since we do recognize, and research has substantiated this, that the lack of involvement of the employers and the lack of appropriate boards for planning between the school systems and the representatives of employment agencies or employers, as well as other sectors, have led to the lack of perception that the educational system is not relevant to their needs.

Thank you.

MR. GUINGONA: Mr. Presiding Officer, may I be allowed to add my perception to the elaboration made by Commissioner Gascon in connection with the rationale regarding Section 2 (e). There is the need for adequate and effective communication between the policy makers and the people who are to be affected by the policies decided on.

A fundamental rule of management is that communication should flow not only from top to bottom of the hierarchical pyramid but also from bottom to top. The decision-maker should not be isolated from the experiences and the felt needs of those who would ultimately be affected by the policies. Not infrequently, the citizen who is the consumer of policy outputs is often ignored or given minimal role in the process of policy formulation and implementation.

Thank you.

BISHOP BACANI: May I now proceed to Section 2 (f)? There is a mandate here that all educational institutions shall be required to form multisectoral bodies. Suppose they do not do this, will there be sanctions?

MR. VILLACORTA: It says here, "shall be required." We are implying that every requirement would entail certain sanctions.

BISHOP BACANI: Yes, to enforce it. Would there be sanctions? I think this whole section belongs more properly to the legislature. Precisely, it is taking into account the different conditions of the different schools, as well as of the different regions.

MR. VILLACORTA: If I may express the intention of the committee, this is precisely to democratize policy-making in all schools, and in a way enshrining or embodying people's power even in schools. But at the same time, we would be open to suggestion from our fellow Commissioners on how to improve this particular provision.

BISHOP BACANI: Will this provision be applicable even if we have only an elementary school?

MR. VILLACORTA: Yes, as a matter of fact, it is at that level that more involvement on the part of parents, as well as students and teachers, is necessary.

BISHOP BACANI: Thank you very much.

Let me go to page 4, lines 10 to 13. Apparently here, the phrase "Institutions of higher learning" referred to is not simply public institutions of higher learning, but also private institutions of higher learning. When we say that "Institutions of higher learning shall enjoy fiscal autonomy," is this an attempt of the State to help them obtain fiscal autonomy or give fiscal autonomy? Suppose they are losing and they cannot survive, does this sentence "Institutions of higher learning shall enjoy fiscal autonomy" mean that the State will support them so that they will enjoy that fiscal autonomy?

MR. VILLACORTA: That is not the sense of this provision. The idea is to give them independence and enough

elbow room to determine the direction and the future of their fiscal viability as applied to state colleges and universities. This would give them the freedom to manage their financial concerns. As it is now, the state colleges and universities are tied to the Ministry of the Budget and they would always have to ask for funds from the central government. So, this is by way of decentralizing the fiscal concerns of state colleges and universities.

BISHOP BACANI: So, this refers to state colleges and universities?

MR. VILLACORTA: With respect to the private schools, this would also grant them this necessary autonomy so that they would be able to have the freedom to determine their fiscal policies, et cetera. Does the Commissioner have any particular reservations?

BISHOP BACANI: None. I am afraid I misconstrued the meaning.

MR. VILLACORTA: The State will guarantee fiscal autonomy. With respect to that, there is the very last provision on education which is Section 5 (c) on page 5, lines 1 to 5, and it says:

The State may subsidize educational institutions which are duly accredited for the purpose of subsidy as may be provided by law, without prejudice to other types of assistance or incentives given to all educational institutions.

So it says here "may," so it is just directory or it gives the State that option to subsidize educational institutions.

BISHOP BACANI: Thank you.

Finally, I suppose Section 4, lines 18 to 23, is to be understood within the context of the existing labor laws at present and that this is not an indiscriminate assertion that they enjoy security of tenure no matter how long they have been working there. Is this within the context of existing labor laws?

MR. VILLACORTA: It says here:

They shall enjoy security of tenure and may not be removed from office except for causes provided by law.

So this would refer to existing laws. However, if those laws are amended by future Congresses, then the most immediate law will apply.

BISHOP BACANI: Thank you very much, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Acting Floor Leader is recognized.

MR. SARMIENTO: Mr. Presiding Officer, may I ask that Commissioner Bernas be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bernas is recognized.

FR. BERNAS: Mr. Presiding Officer, just a few questions. I seem to be hearing different signals from the Commissioners. During the sponsorship speeches this morning, the emphasis was on the primary right of parents. And then, this afternoon I hear from Commissioner Gascon that education is primarily a public responsibility. Thirdly, while the assertion was that education is a primary right and duty of parents, the section in the 1935 and 1973 Constitutions, which recognizes the natural right and duty of parents in the rearing of the youth, has disappeared. So what is it now? Where do parents stand as far as the philosophy of education is concerned?

MR. VILLACORTA: We recognize the role of parents as partners of the State in educating the youth of our country. I wish the Honorable Bernas would be more specific as to provisions which probably do not adequately reflect that article.

FR. BERNAS: First, I am referring to the deletion of the old provision which mentions the right and duty of

parents.

MR. VILLACORTA: That is right.

FR. BERNAS: And second, the reference of the statement of Commissioner Gascon that education is primarily a public responsibility.

MR. VILLACORTA: That is right.

FR. BERNAS: And yet, the statements this morning also said that education is primarily a parental responsibility; so where is it?

MR. GASCON: May I answer that? On the first question as to where the provision on the role of parents in the rearing of the youth is, this has been transferred and made part of the Article on Family Rights.

FR. BERNAS: So, does the committee still recognize that the role of the State in education is subsidiary?

MR. GASCON: Yes, that is correct.

FR. BERNAS: Thank you.

MR. GASCON: May I continue? Let us clarify the second part. It is true we said that the duty to provide education belongs to the parents, but just as much as it belongs to the parents, it is also a public duty of the State.

FR. BERNAS: No, I am not denying that. I am just trying to find out . . .

MR. GASCON: It is very clear to us that the parents have the primary role and responsibility. However, that does not mean that the State does not have a correlative duty to provide and support parents in providing education.

MR. GUINGONA: Mr. Presiding Officer, if the Chair will allow me, we stressed this morning, and again Commissioner Gascon reiterated the view of the committee, that the role of the State vis-a-vis the parents is subsidiary or supportive.

The reason we did not include the provision that the Commissioner had cited is that we have been informed that it is already included in a separate article. But we do recognize the supportive role of the parents.

FR. BERNAS: Mr. Presiding Officer, that is very clear to me now.

MR. GUINGONA: Yes. But there is only one point. When we speak of the primary duty of the State, not in relation with the parents, we mean that the State has that principal duty (because of the corresponding right that we have vested in the citizens), which is to provide education first within the context or framework of our draft Constitution and, later on, to all kinds of education that the State could afford.

FR. BERNAS: If it is true that the primary right belongs to the parents, I do not see how it follows that the emphasis of the State should be on public schools. Commissioner Gascon said that in response to the questions posed by Commissioner Bacani. Commissioner Bacani asked about the possibility of giving subsidy to parents and for the parents to choose the school where to send their children. The response was negative, because the primary emphasis should be on public schools.

MR. VILLACORTA: Probably, the intention of Commissioner Gascon was not really to say that the State has no responsibility to private schools. It is just that the government would be more concerned with the development of government schools. That is precisely why we are saying that public education will be free up to the secondary level because that is the sector of education that the government is most concerned with and should concern itself with. But it is not to imply that private schools are outside the purview of the concern of the State.

FR. BERNAS: In other words, Commissioner Gascon was not saying that the State will help the parents only if they send their children to public schools.

MR. VILLACORTA: That was not the intention of Commissioner Gascon.

FR. BERNAS: Thank you, Mr. Presiding Officer.

Now, I would like to move on to academic freedom. The draft mentions three kinds of academic freedom — institutional academic freedom, faculty academic freedom and student academic freedom.

I would like to begin with institutional academic freedom. Do I take it that the committee accepts what is found in decisions of our Supreme Court, particularly *Garcia vs. Loyola School of Theology*, where the components of institutional academic freedom are: (1) the right of the institution to decide on academic grounds what should be taught; (2) how it should be taught; (3) who should teach; and (4) who should be taught? Does the committee accept that?

MR. VILLACORTA: Yes, Mr. Presiding Officer.

FR. BERNAS: And yet it seems to me that throughout the report, there are statements saying that the State shall require this, shall require that, and so forth, so that there seems to be an empowerment of the State to dictate what should be taught.

MR. VILLACORTA: Is the Commissioner referring to Section 2 which defines the content of the curriculum?

FR. BERNAS: Yes, Mr. Presiding Officer. I find it a little constrictive.

MR. VILLACORTA: It is part of the plenipotentiary duty, if not the right of the State, to provide certain thrusts in the development of society, and that includes education. We are not talking here about the fascistic prerogative of the State which we are denying in this Constitution. But at the same time, we realize that we are a developing country and there are certain priorities that we should give to the development of the human person. That is why we named nationalism as the first thrust here, although this should not imply that it is the most important, followed by love of fellowmen, respect for human rights, rights and duties of citizens, political, health and ecological consciousness, service to society, ethical and spiritual values, moral character and personal discipline, critical and creative thinking, scientific, technological and work-oriented efficiency and liberal education. Most of these were drawn from the 1973 Constitution. Am I right, Mr. Presiding Officer?

FR. BERNAS: These are guidelines for the State.

MR. VILLACORTA: That is right.

FR. BERNAS: What I am concerned about, and I am sure the committee is concerned about also, is the danger always of the State prescribing subjects. I recall that when the sponsor was the dean of Arts and Sciences in La Salle, his association of private school deans was precisely fighting the various prescriptions imposed by the State — that the schools must teach this, must teach that. Are we opening that up here?

MR. VILLACORTA: The Commissioner is right in describing these as guidelines. This is not to say that there will be specific subjects that will embody these principles on a one-to-one correspondence. In other words, we are not saying that there should be a subject called nationalism or ecology. That was what we were fighting against in the Association of Philippine Colleges of Arts and Sciences. The government always came up with what they called thrusts, and therefore the corresponding subjects imposed on schools that are supposed to embody these thrusts. So, we had current issues. It was a course that was required on the tertiary level. Then there was a time when they required subjects that dealt with green revolution; and then agrarian reform. Taxation is in fact still a

required course. We are not thinking in those terms. These are merely guidelines.

FR. BERNAS: In other words, while the State will give the goals and guidelines, as it were, how these are to be attained is to be determined by the institution by virtue of its academic freedom.

MR. VILLACORTA: That is right, Mr. Presiding Officer. I invite, of course, my fellow members in the committee who might have some reservations on the points I raised.

FR. BERNAS: But I guess what I am trying to point out is: Are we really serious about academic freedom?

MR. VILLACORTA: Definitely, we are. Would the Commissioner have certain misgivings about the way we defined it?

FR. BERNAS: I would, if the committee goes beyond mere guidelines, because if we allow the State to start dictating what subjects should be taught and how these would be taught, I think it would be very harmful for the educational system. Usually, legislation is done by legislators who are not educators and who know very little about education. Perhaps education should be left largely to educators, with certain supervision, and so forth.

MR. VILLACORTA: Excuse me, Mr. Presiding Officer, if I may interject. I am sure the Honorable Bernas, being very much experienced in education, is aware of the fact that there is this great need to develop certain priority concerns in the molding of our youths' mind and behavior. For example, love of country is something that is very lacking in our society and I wonder if the Honorable Bernas would have any reservation against giving emphasis to nationalism.

FR. BERNAS: I have nothing against motherhood concepts, Mr. Presiding Officer.

MR. VILLACORTA: But this is always the dilemma of educators. To what extent do we give freedom as to the subject matter and manner of teaching versus certain imperatives of national development? In the last dispensation, we found a lopsided importance given to so-called national development which turned out to be just serving the interest of the leadership. The other members of the committee are fully aware of the dangers inherent in the State spelling out the priorities in education, but at the same time, we cannot overlook the fact that there are certain areas which must be emphasized in a developing society. Of course, we would wish that we shall not always be a developing society bereft of economic development as well as national unity. But we like the advise of the Honorable Bernas, as well as our colleagues in the Commission, on how we can constitutionalize certain priorities in educational development as well as curricular development without infringing necessarily on the goals of academic freedom. Moreover, jurisprudence accords academic freedom only to institutions of higher learning.

FR. BERNAS: So, I am quite satisfied that these are guidelines.

Still on academic freedom of educational institutions in relation to security of tenure, would this leave educational institutions the freedom to determine when a faculty member acquires tenure quite distinct from the rules of permanency for labor in general? I think in established universities tenure usually is not acquired until one reaches a certain rank and he reaches that rank after adjudgment of his peers in the educational field that in fact he has the academic qualification.

MR. VILLACORTA: I know that the term "tenure" has a different meaning in academic institutions. Tenure, as we understand it in the universities, refers to a certain level of recognition and that recognition is supposed to assure one's permanency in his position because he has achieved much in terms of publications, research, et cetera. However, I would like to request Commissioner Guingona and Treñas who are lawyers to explain this matter too. But my understanding is that "tenure" here is used in the context of permanency as understood in labor

law.

FR. BERNAS: As understood in labor law?

MR. VILLACORTA: Yes, because it says here: "Provided by law." This phrase would not refer to certain principles of academic institutions but would most likely pertain to existing laws.

FR. BERNAS: That is where I have difficulty, Mr. Presiding Officer. Perhaps we can go back to this later on. Because if we recognize as an aspect of academic freedom the right of the institution to decide on academic grounds who should teach, then our concept of tenure in academic institutions of higher learning should, it would seem to me, be different from the concept of tenure in labor in general.

MR. GUINGONA: Mr. Presiding Officer, when we speak here of law, we do not equate it with labor. In other words, anything that is provided for by law. So, if the law allows a different standard with regard to educational institutions, then the law prevails.

FR. BERNAS: In other words, it is clear that it is the intention of the committee not to treat faculty members in the same way as labor in general?

MR. GUINGONA: We would like to treat educational institutions as may be provided by law and not necessarily labor laws.

FR. BERNAS: Thank you, Mr. Presiding Officer.

Still on academic freedom, paragraph (f) on page 3 states:

All educational institutions at all levels shall be required to form multisectoral bodies composed of students, faculty, parents, nonteaching staff, administrators and other representatives to participate in the formulation of school policies . . .

What is the meaning of the phrase "to participate in the formulation of school policies"? in other words, what I am asking is: Must they have a vote in the administration? Are we speaking merely of consultative role?

MR. VILLACORTA: Commissioner Gascon would like to answer that.

MR. GASCON: Actually, the committee does not have a full consensus on this. The consensus that we had is that in the processes of determining policies, programs and directions, there should be a process of consultation among the different sectors in the academic community. So, this could go from several committees on curriculum or better facilities, programs, et cetera, all the way up. We are divided on the issue of the vote of the highest policy-making body; let us say, the board of trustees or the board of regents. I believe that is the tenor of the Commissioner's questioning.

FR. BERNAS: Yes.

MR. GASCON: My personal position is that it may be provided in the long run by law. And in fact, it is already being done slowly in some state colleges and universities. For example, the University of the Philippines at this point in time has a student regent. The law provides that a student regent would have a vote in the board of regents of the University of the Philippines. At this point in time, I believe in the restructuring and reorganizing of the Mindanao State University. There is not only a student representation but faculty representation as well. So, my idea here is that it could lead up to the level of board of trustees or board of regents as it may be provided by law. That section is open on that.

MR. GUINGONA: May I just add that I wish to underscore the statement of the Honorable Gascon that as far as

that matter that he touched upon is concerned, the committee is divided.

FR. BERNAS: Thank you, Mr. Presiding Officer, and perhaps, we can resolve the division somehow during the period of amendments. I have no difficulty with academic freedom of faculty. I think that is quite an established thing. I still have difficulty in conceptualizing academic freedom of students. I suppose we can have various extremes on this. As I understand it, the academic freedom of students is something that is a phenomenon in European systems of education where students are free to go or not to go to class. They take their exams anytime they are ready and so forth. What does "academic freedom of students" mean?

MR. VILLACORTA: Mr. Presiding Officer, in discussing academic freedom to include students, I referred to the Commissioner's book.

FR. BERNAS: It is always dangerous to write a book. It can be used against the person.

MR. VILLACORTA: It is entitled Philippine Constitutional Laws and it says:

The modern conception of academic freedom has its immediate origin from a 19th century German formulation, summed up by two words: Lernfreiheit and Lehfreiheit.

Lernfreiheit described the academic freedom of students who were free to roam from place to place, sampling academic wares, free to determine the choice and sequence of courses, responsible to no one for regular attendance and exempted from all tests, save the final examinations.

Of course, for the purpose of the students in the gallery, they are reminded that Commissioner Bernas was referring to the German university tradition. So, we request them to attend their classes still and take the tests.

The core of Lehfreiheit was the freedom of the German educator to do independent research, to report his findings to his students, and even to attempt to win adherents to his theories. Academic freedom was a right enjoyed only within the academic community. It was a right not available outside the walls of the academe.

Of course, Commissioner Gascon also did his research on the judicial precedence pertaining to academic freedom for students.

FR. BERNAS: I might also add that the next page in that book says that in the transplantation to the new world, academic freedom underwent a transformation.

MR. VILLACORTA: That is right. And it is too long for me to quote from the two pages that described the transplantation to the United States and the other countries of this concept of academic freedom. Suffice it to say that the impression we got from reading this portion is that academic freedom is indeed enjoyed by university students.

FR. BERNAS: In the European tradition, one can speak of academic freedom, but once transplanted to the American tradition, things became more rigid. As I said, the reason there was academic freedom in that form in the European tradition was that it was only within the university institution that there was freedom; outside there was none. Perhaps the most extensive thing that has been done on academic freedom of students is the article of a student editor of the UP Law Journal.

MR. GASCON: I was about to put some discussions on that. Actually, when I spoke this morning on the issue of student academic freedom, I said that this would be attuned to the academic freedom we afford the institutions and teachers and, in fact, it would parallel the freedom of inquiry and expression in curricular activities, extracurricular student affairs, in-and off-campus, procedural fairness in disciplinary proceedings and participation in the governance of the institution.

The whole context of our backing the academic freedom afforded to students is to complete our definition of the academic community. We cannot think of an academic community without the faculty, without the administrative personnel and, of course, without the students.

The Commissioner was referring to an article written by a student of the UP College of Law in the Philippine Law Journal. He is Atty. Rafael Lotilla, now a professor of the UP College of Law. In his article, he defines student academic freedom in institutions of higher learning. This can be found on page 589 of the Philippine Law Journal, Volume 57, 1982, and I quote:

The student should not be prevented by the teacher or the institution from undertaking research on his own and afterwards publishing the result of his research. But the student is under an obligation to observe administrative procedures and requirements such as the payment of fees for the use of chemicals, power and facilities of the university. The sane administrative restriction is imposed on other members of the academic community.

The student is also required to observe standards of safety and hygiene, thus, the school authorities may regulate access to laboratory facilities, the use of which may pose a hazard in the hands of individuals lacking in skill.

Supervision by a faculty member or an administrative assistant may also be required. Individual student academic freedom is also limited by the freedom of other students. Where the acts of a student denied academic freedom of other students, school authorities must step in. Included among such acts are the employment of violence, force or coercion of other members of the academic community in order that the latter will conform to a particular line of thought or adopt a particular line of action.

The boot camp policy of intolerance is anathema in an institution of higher learning. Additionally, in a universe where the range of knowledge borders on the infinite, the teacher may find himself in the position of another learner so that his freedom to learn will also have to be respected.

FR. BERNAS: Yes, Mr. Presiding Officer, I have no quarrel with what I have heard. When I listened to that, it seems to me that the only thing that can be properly considered as academic freedom there is the right of the student not to be prevented to do research and to publish it — if he can find a publisher, of course, or if he can publish it himself. But all the rest just seems to be a mere recognition of due process, and I suppose it also includes the fact that the student should be consulted about school policy and so forth. What I am concerned about is that we should not raise the expectation of students by leaving unexplained the meaning of this. Certainly, by academic freedom for students, I do not think the committee meant, for instance, that they may not be bound to follow certain core requirements if they want to have a degree. That is, I suppose, not the intention of the committee. If one wants to have a degree in Nursing, then the institution of higher learning has the right to require that a student must pass this course on this subject, this course on that subject and attend a number of classes; that is perfectly within the academic freedom of students. In other words, all of these — the academic freedom of students, the academic freedom of the faculty member and the academic freedom of the institution — should be balanced so that they do not cancel each other out.

MR. VILLACORTA: That is correct.

FR. BERNAS: But when there is a conflict, which prevails?

MR. VILLACORTA: Would the Commissioner have any suggestion?

FR. BERNAS: On the matter of who should be taught, I would say that academic freedom is generally the freedom of the scholar. Therefore, all of these must be weighed on scholarly grounds. So, as a general rule, I would probably say that faculty and institution are on the same level, but as far as the student is concerned, they are on a lower level.

MR. GASCON: I would disagree with that in the sense that the student himself is also a scholar.

FR. BERNAS: As far as the freedom to do research is concerned, I do not think we can prevent anybody from doing any research. The father or the mother may be able to stop the child from doing a research in a particular field, but I do not think an outsider . . .

MR. GASCON: Because essentially, when we speak of academic freedom, it means that the core is the freedom to inquire.

FR. BERNAS: Correct.

MR. GASCON: Because of such, I do not see any delineation between the teacher and the student in the institutions of higher learning because in reality and in that context, both are learners.

FR. BERNAS: As far as inquiry is concerned, as I said, I have no difficulty. But as far as requiring standards, then, I think it would be the institution or the faculty which would have the superior right to set standards if the student, let us say, wants to get a degree.

MR. GASCON: Of course, to get a degree, there are certain core subjects which have to be fulfilled and the context of academic freedom is seen within the purview.

MR. GUINGONA: Mr. Presiding Officer, if I may, I would like to give some additional remarks. In the enjoyment of academic freedom, as the Commissioner has very well pointed out, conflict situations could arise: between institutions and individuals and even between institutions — between the university as a whole and its units such as its colleges or institutes; and between individuals, for example, professors and students. We have thought it prudent not to make any statement on this matter because we think it would be better addressed to the legislature and to the courts and matters could be decided perhaps on a case-to-case basis.

FR. BERNAS: Yes, Mr. Presiding Officer.

MR. GASCON: However, I would like to expand. When we speak of academic freedom, basically we also speak of the freedom of the citizen to express.

And I do not think that such a freedom which is existent in society should be limited within the context of the university. Therefore, students should be given their democratic rights to, for example, form organizations which they feel are relevant to their needs and, of course, subject to certain limitations and provided that this is not contrary to law. Second, they have the right to organize, let us say, alliances or student councils to unite the studentry in projecting their issues and demands. Third, they should also be given the freedom of expression and speech in as far as campus papers are concerned. And there should be no law or regulation passed which would limit such right of the students.

In the Philippine society, up to this point in time when we have already won the political revolution of 1986, there are still many schools that do not have genuine and autonomous student councils. There are still many schools which do not have campus papers. Or if they do, these are heavily censored by the administration. So these, from my perspective, are violations of not only academic freedom but of the Bill of Rights.

FR. BERNAS: I have no difficulty with everything that the Commissioner said, except perhaps to ask why class all of the things he enumerated as coming under academic freedom. It would seem to me that many of those things are already covered by freedom of speech, assembly, petition and so forth and these certainly apply wherever the student is. What I am trying to do is just to narrow down what the scope is of student academic freedom. Does this add anything over and above what is already guaranteed by the Bill of Rights?

MR. GASCON: From my point of view, it gives assurance that the rights a student has as a citizen would continue

to be enjoyed by him as a student.

FR. BERNAS: And I do not see why it should not.

Just one minor question, Mr. Presiding Officer. The question was asked by Commissioner Tingson — correct me if I heard it wrong or I repeat it wrong — as to whether the phrase "without additional cost to the government" includes the meaning that, therefore, public school teachers may not teach religion. The answer of Commissioner Rigos was in the affirmative. Would it still be in the affirmative if in fact the public school teacher, during his free time, volunteers at no extra cost to teach?

REV. RIGOS: The committee's fear in that kind of an arrangement is that the teacher may tend to give more favor to students who attend their religious class.

FR. BERNAS: So, it is not a question of the cost to the State. That is the only point I have. I do not see why it should be linked to the phrase "cost to the State."

REV. RIGOS: As far as the "cost to the State" is concerned, that is perfectly all right.

FR. BERNAS: No, but I thought that I understand, as saying to Commissioner Tingson . . .

REV. RIGOS: As far as salary is concerned, it should not be charged to the government.

FR. BERNAS: That is correct. But whether or not the public school teacher will be allowed to teach, I would agree with the Commissioner that that should be left to the discretion of even the school authorities. It would be within the power of the State, for instance, to prohibit public school teachers from teaching because, precisely, as the Commissioner has said, the teachers themselves may be subjected to pressure by religious authorities or the teacher may use religion as an instrument for, as it were, persecution. But the only thing I wanted to clarify was that there is really no link between that and the cost to the State.

REV. RIGOS: That is right, Mr. Presiding Officer.

FR. BERNAS: I thank the sponsors; thank you, Mr. Presiding Officer.

SUSPENSION OF SESSION

MR. SARMIENTO: Mr. Presiding Officer, the number of Commissioners has dwindled to only about 20. May I ask for a suspension of the session, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Rodrigo): The session is suspended.

It was 4:42 p.m.

RESUMPTION OF SESSION

At 5:21 p.m., the session was resumed with the President, the Honorable Cecilia Muñoz Palma, presiding.

THE PRESIDENT: The session is resumed.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. SARMIENTO: After the evangelist and the two priests, may I ask that a general be recognized, Commissioner de Castro?

THE PRESIDENT: We welcome the general. General de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President. I just have a few questions to the committee which are answerable in crisp language, yes or no, without giving a lecture nor a reading from a research paper. My first question is on page 1, line 18, on free education up to secondary level. When we say "free," what are included here? Are books included in this free education?

MS. ROSARIO BRAID: Yes, they have free workbooks which are provided by the government. So this will include tuition fees and free workbooks, but not other expenses.

MR. DE CASTRO: How about laboratory fees?

MS. ROSARIO BRAID: I think this will also include all fees.

MR. DE CASTRO: How about athletic fees?

MS. ROSARIO BRAID: Yes, all fees.

MR. DE CASTRO: So, the student will just be there, free of everything, except his pencil and paper, is that clear? Do I get that?

MS. ROSARIO BRAID: Yes.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Although the right to education, as I said this morning, could be expanded, essentially, these fees could include, among other things, what Commissioner Rosario Braid has mentioned, like textbooks; and it could even extend to other matters.

MR. DE CASTRO: Then, that is clear.

In our Province of Laguna, our high school is located in Santa Cruz, the capital of the province, and that is indeed very far from the first district of Laguna. So, if we want to study in a public high school, we go to Metro Manila. But we are not admitted here because we are from the province, and it will be more costly for the towns of San Pedro, Biñan and Santa Rosa to go to Santa Cruz and get a free secondary education. I do not know about the other provinces. Batangas has only the Batangas High School, and it covers the farthest town of Nasugbu. And so with Cavite. Does the committee look towards establishing public high schools in several places in a province?

MR. VILLACORTA: That would be a consequence of this provision because the idea is to maintain a system of free public education and also to provide equal access and opportunity.

MR. DE CASTRO: I asked this so it can be put on record so that our Congress may see that the intent of the committee is to establish free secondary schools easily accessible to students in the province.

Allow me to go to line 1, page 2 which says: "compulsory through the elementary level." How about those who would not like to go to school? I know of many children who are just running around the barangays and although we have free elementary education and the school is just near them, they do not like to go to school. The reason of the parents is: "Wala naman kaming pang-uniporme ng bata, pambili ng notebook at pambaon." They are really poor.

How can we compel them to go to school?

MR. GUINGONA: Although the word "compulsory" is oftentimes linked with attendance, as we mentioned this

morning, even in political communities like the United States where they have very strict attendance laws — they have this Truancy Law — there are still quite a number of students who do not attend. In other words, "compulsory" is not a strict compulsion, but this is established not only in jurisprudence but in many documents like declarations and constitutions and so forth, and we would like to think that this word would also refer to a mandate to the State.

MR. DE CASTRO: All right, we leave it at that.

I remember in the early 1920's when I was in the first grade, ang lahat ng batang hindi pumapasok ay hinuhuli ng pulis at dinadala sa kanilang mga magulang. Does the committee intend to do this?

MR. GUINGONA: No, sir, because precisely we are just using the same words that are found in both the 1935 and 1973 Constitutions and, therefore, practices in jurisprudence . . .

MR. DE CASTRO: Thank you.

MR. GASCON: Madam President, I would like to add just a little; it will be short.

The intent is very simple. The context for continuing education is present in the student, in the youth, in the children, so that these examples which the Commissioner gave — walang lapis, uniporme o pambaon — ay hindi magiging dahilan para hindi siya makapag-aral. Sa aming pananaw, kung ang pamahalaan ay magbibigay ng isang malinaw na programang pang-edukasyon para sa mga bata para mahikayat siyang ipagpatuloy ang kanilang pag-aaral sa iba't-ibang pamamaraan, iyong mga ganyan ay mawawala. Ito po ang punto dito.

MR. DE CASTRO: Thank you. I hope so; we have tried it very hard in our place.

MR. GASCON: The point is, we hope there will come a time when we do not even need to compel; the parents themselves will send them to the school.

MR. DE CASTRO: I hope.

MS. ROSARIO BRAID: May I just add that, I think, as Commissioner Gascon said, the State shall do its best to provide the necessary support services; but for the future, say, 10 years from now, the classrooms that we have today will not be enough for all those who seek entry to the educational system. In other words, the education that we will have will use as many learning delivery systems, like radio, television and community organizations. This is what we call "independent system."

MR. DE CASTRO: If the committee finds me a little impatient in hearing the long explanations, please do not think that I am restraining anyone from talking or from asking a simple question because we are also bidding for time. Please do not include the officers of this Constitutional Commission when I say thank you, I am satisfied.

On lines 3 to 5 of page 2, does this refer to public and private schools?

MR. GASCON: Does the Commissioner refer to scholarship grants and other incentives?

MR. DE CASTRO: No, I mean the whole sentence. Does this refer to public and private schools?

MR. GASCON: In as far as the State is promoting quality education, of course, the State should make sure that quality education is given to all students, whether they are in public or private schools. The second part which reads: "ensure equal access and opportunity to it by maintaining a system of scholarship grants and other incentives," is biased and directed to the poor and deserving students. So, the hope is to equalize access for those who are poor but deserving.

MR. DE CASTRO: So, the second part refers also to private schools?

MR. GASCON: Yes, it is possible that students who are poor and deserving can study in private schools.

MR. DE CASTRO: The answer would be, the first part refers to public schools and the second part refers to private schools.

MR. GASCON: No, the Commissioner is speaking of quality education.

MR. DE CASTRO: To both.

MR. GASCON: Students who are poor and deserving can avail of scholarships to private schools if they are available.

MR. DE CASTRO: Yes. I am only asking whether it refers to public or private schools. Once that is answered, I am satisfied.

MR. GASCON: It refers to both.

MR. DE CASTRO: On line 8, what is the meaning of "indigenous learning systems"?

MR. VILLACORTA: Commissioner Bennagen will explain that. That is his contribution.

MR. BENNAGEN: There is now an ongoing movement in the ASEAN region which tries to document those learning systems that have survived even from prequest period, and this is taking place not only in the Philippines but also in Indonesia and Thailand.

MR. DE CASTRO: Will this be taught in all schools in the Philippines?

MR. BENNAGEN: Not necessarily, only where it is appropriate. For instance, in certain areas where these are still viable, they could be integrated into the formal school system.

MR. DE CASTRO: What does "indigenous learning systems" mean?

MR. BENNAGEN: It could include the participation of indigenous institutions. What would be a familiar institution to the Commissioner? In other areas in the Philippines, both in the North and the South, there are community institutions where children are educated in terms of economic and cultural skills as well as political skills, and this takes place outside of the formal school system.

MR. DE CASTRO: On line 11, it says: "The State shall provide civics, vocational efficiency . . ." What is the meaning of "civics"?

MR. VILLACORTA: Madam President, "civics" generally refers to citizenship, social studies, concepts of personal and social morality.

MR. DE CASTRO: Does it not include the three Rs — reading, 'riting and 'rithmetic? I believe that the basic thing that we should teach our people, particularly because we are now allowing illiterates to vote, is reading and writing.

MS. ROSARIO BRAID: Yes, the Commissioner will notice that the first part of Section 1 (d) includes literacy classes for adult learners and dropouts. And so, this is where we could teach the three Rs. From lines 11 to 13, which is the second paragraph of the same subsection, we want to emphasize that along with the three Rs and the basic skills needed, we would like to also include civic, vocational efficiency and other skills.

MR. DE CASTRO: Thank you. I am more concerned about the three Rs because these are very basic. A man, after learning the three Rs, can get a vocational job and he will be all right.

Lines 14 to 27 state: "All educational institutions shall inculcate nationalism, love of fellowmen and respect for human rights." Does the committee not think that the best subject here is Fiber and Finish? Even a small boy will talk to me, "Hoy, ano ba iyong . . .?" When I was in college, one time while enrolling at FEU I was smoking and somebody just grabbed my cigarette to have a light without even saying, "May I have a light?"

So, I think Fiber and Finish would be the best thing that should be impressed on the students rather than instill in them political awareness. When I talk of Fiber and Finish, it means good manners and right conduct.

MR. GASCON: I think Commissioner de Castro is speaking of good manners and proper conduct, is that correct?

MR. DE CASTRO: Yes, that is Fiber and Finish.

MR. GASCON: This is on line 19. Aside from inculcating nationalism, love of fellowmen, et cetera, it will also develop moral character and personal discipline, as well as ethical and spiritual values.

MR. DE CASTRO: If we go to page 3, line 25, one will find out that the study of the Constitution and human rights is made part of the curricula because if we teach the Constitution, we also teach human rights. There is some emphasis on human rights. We find this on page 2 and page 3. Is that the intent of the committee?

MR. VILLACORTA: Madam President, the emphasis on human rights is a product of our recent traumatic experience.

MR. DE CASTRO: I know.

MR. VILLACORTA: But not only that. I know the Commissioner's point. We cannot go by our recent experience in writing the Constitution. If the Commissioner has any suggestion, we would be open to it as far as the Committee on Human Rights is concerned.

MR. DE CASTRO: Thank you. I find the emphasis by the Committee on Human Rights and I also find the emphasis of human rights towards the military and the police. So, I could not be blamed if I also find emphasis in this committee report.

We now go to line 16 of page 2 — "rights and duties of citizenships." This is also part of the Constitution. When we say that the study of the Constitution shall be part of the curricula, then this is also the citizenship rights and obligations which are already necessarily included. Am I right?

MS. ROSARIO BRAID: The Commissioner is right. We just want to come up with guidelines needed for curriculum development which are here — statement of goals or aims. And then, the study of the Constitution will support these aims and goals, so that really the aims here take precedence or primacy over the subjects.

MR. DE CASTRO: For emphasis, maybe it should be duties, rights and obligations of citizens.

MR. GASCON: I would like to make a clarification.

All of these concepts are goals. They are not titles or subjects or courses to be taught. They are themes and goals which may be taught in different ways and in different schools. When we go into the teaching of the Constitution, probably, it will become a special subject as we now have the Philippine Constitution as a required course in college. So, the teaching of the Constitution would be actually in line with the teaching of . . .

MR. DE CASTRO: I am more concerned about our writing the Constitution. People may say, "What a Constitution this is! It is a repetition of the whole thing."

Let us go to page 3, lines 2 and 3 which states: "Private educational institutions shall be owned and administered solely by citizens of the Philippines . . ." When one says "owned," that is wholly owned, is it not? What happens

to Ateneo, La Salle, San Beda, Letran and University of Santo Tomas?

MR. VILLACORTA: They are Filipino-owned, Madam President.

MR. DE CASTRO: The University of Santo Tomas?

MR. GASCON: Yes, and Letran.

MR. VILLACORTA: Yes, the University of Santo Tomas has been Filipinized.

MR. DE CASTRO: If it is not, then I have not made my research; I just received this this morning. Perhaps, I will make my research tomorrow.

MR. GASCON: It is now.

MR. DE CASTRO: All right, thank you.

Lines 16 to 18 state:

In the formulation of educational policies, the State shall take into account regional and sectoral needs . . .

When we say "regional," are we talking of the autonomous regions created in the Constitution?

MR. GASCON: Not only the autonomous regions, but all geopolitical regions in the country, even the Ilocos region.

MR. DE CASTRO: Are the autonomous regions included?

MR. GASCON: Yes, they are included.

MR. DE CASTRO: We now go to Section 16 of the Article on Local Government which we approved. It says:

The Congress shall enact an organic act for each autonomous region with the assistance and participation . . .
The organic act shall define the basic structure of government for the region consisting of the executive department . . . The organic acts shall likewise provide for special courts . . .

SECTION 20 says:

Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over . . . educational policies.

Since these include Section 1 (e); that is, for the State to include the region, are they not also included in the autonomous regions?

MR. GASCON: That is right, they complement. However, in Section 2 (e), it does not only think of the autonomous regions but all other regions. The whole point is that at this point in time schools are over-centralized in the urban areas, particularly in Metro Manila, and there is a great need for relevant educational institutions in the regions and provinces to be of service to the citizenry in those areas.

MR. DE CASTRO: Will the committee accept certain amendments to harmonize this section with the autonomous regions?

MR. VILLACORTA: Certainly, if the Commissioner has some ideas.

MR. DE CASTRO: On line 25, page 3, it states that:

The study of the Constitution and human rights shall be part of the curricula in all schools.

I agree with Commissioner Tingson when he said that the life of our national heroes should be part of the

curricula, particularly Jose Rizal, not because he is from Laguna but because he is our national hero. And this is to impress upon our people patriotism and nationalism so that our young people will know right from the very beginning what is patriotism and nationalism through clenched fist.

Now we go to page 4, lines 10 to 13. Does this refer to public and private institutions?

MS. ROSARIO BRAID: Yes.

MR. DE CASTRO: And the committee is saying here that the private institutions must practice fiscal autonomy, is that right?

MR. VILLACORTA: Yes, Madam President.

MR. DE CASTRO: So that the State is directing even the private institutions to practice or to institute fiscal autonomy. Am I correct?

MR. VILLACORTA: Yes, Madam President.

MR. DE CASTRO: Lines 18 to 23 state that academic and nonacademic personnel can undertake concerted activities. And when we say concerted activities, these include strikes. When the academic and the nonacademic people go on strike, what happens to the students? They have no classes.

MR. VILLACORTA: I guess that is the consequence.

MR. DE CASTRO: So, if the strike goes longer, the schoolchildren are out of school.

On line 21, it says, "They shall enjoy security of tenure." As the sponsor has explained, they cannot be removed after a certain period. Suppose they want to get out and they are so important to the university and the university would not let them go out, can they go out?

MR. VILLACORTA: They may, Madam President.

MR. DE CASTRO: This is one-sided. The university cannot hold them and the university cannot fire them. We are having here a one-sided provision in the Constitution.

MR. VILLACORTA: Because we go by semesters or trimesters. It is usually the obligation of professors or teachers to stay until the semester is over.

This is on the tertiary level. But on the preuniversity level, we are talking about school years. We leave it to the moral responsibility of mentors to stay on until the semester or school year is over.

MR. DE CASTRO: But nothing could prevent them to get out despite the fact that the university is compelled for his fixed tenure.

MR. VILLACORTA: That is the common practice now. However, if the Commissioner has any proposal that would give teachers some responsibility before they leave, we would be open to that.

MR. DE CASTRO: Does this education include language? Can we talk of language at this time?

MR. VILLACORTA: I understand that it is separate, Madam President.

MR. DE CASTRO: I was intrigued by the concept of the Honorable Bacani especially when he mentioned Hongkong wherein the State is subsidizing private education and it is very, very successful. Even the Honorable Nieva during our merienda, told me how successful it is in Hongkong. Then I talked with Father Bernas and he said: "Well, this is even practiced in Germany"; Commissioner Nieva said this should include Belgium.

I noticed that on the provisions on education, there are 13 times where the phrase "the State shall" was used. So, it looks like this is really a state-controlled education, not giving the private sector an opportunity, like in Hongkong, Germany and Belgium, to formulate their own educational system which we found successful.

MS. ROSARIO BRAID: Madam President, on page 4, Section 5, there is this provision where the State shall encourage and may subsidize to a certain extent the establishment of educational foundations and cooperatively owned educational institutions. These are private institutions but they are nonprofit. In other words, there is a difference between proprietary educational institutions which really make a lot of profit that go to the proprietors and educational foundations that operate and are able to pay adequately their professors.

MR. DE CASTRO: Madam President, I am talking of the concept as expressed by Commissioner Bacani. It is successful in that private education, as in Hongkong, was subsidized by the State. In this case, the State is the one directing the whole educational system so that in five subsections, we have the phrase "the State shall." I am just saying my observations.

Thank you, Madam President.

MR. GASCON: Again, we would like to emphasize that the provisions on education are just a reminder to the government of its role and responsibility in providing for the development of education, science and technology, and arts and culture. This does not negate the role that private institutions will play. However, we see very clearly that because education is primarily a service, the State should always assure that it is accessible; therefore, there is a bias for nonprofit and nonstock institutions and there is a discouragement for profit-making institutions in the educational system. The whole point is, we are not saying that the State shall take everything unto itself and shall not allow private schools to do its share. In as far as education is concerned, it should assure citizens of their accessibility to such.

With regard to the statement made by Bishop Bacani about the situation in Hongkong, where the schools are private institutions but the teachers are paid by the State, from my perspective, that is essentially public education because the State pays for the teacher. They may be part of a private organization but they are paid by the State. Therefore, it is essentially a public service already.

MS. ROSARIO BRAID: And where they are still private educational institutions, I think we are quite sure that the owners do not rake in a lot of profit. What we are saying is that there will still be subsidies as long as they are nonprofit. Take the case of Maryknoll Foundation now. We would like to encourage the conversion of proprietary institutions into foundations that will still be able to provide quality education, pay their teachers very good salaries, provide good facilities, but do not allow too much profits for an individual or few individuals.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. SARMIENTO: May I ask that Commissioner Padilla be recognized.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Thank you, Madam President.

We now have a Ministry of Education, Culture and Sports. In this committee report, we have education, language, science and technology, arts and sciences; and with regard to sports, there is Section 3 (1) only on page 4.

MR. GASCON: Paragraph (i).

MR. PADILLA: Is that paragraph (i)?

MR. VILLACORTA: Yes, Madam President.

MR. PADILLA: I am sorry.

Does the committee believe that one paragraph in Section 2 is adequate to promote physical education and sports?

MR. VILLACORTA: We feel so, Madam President. However, we know that the Commissioner is very familiar with physical development, having been an Olympian in the past, and we would welcome very much whatever suggestions he might have.

MR. PADILLA: Thank you, Madam President. I started to learn amateur sports, to play basketball in the Ateneo with a very good Jesuit father as our coach. I learned it in the university. We have regular programs of athletic competitions, not only in the national collegiate association, the NCAA, but in the university league, the UAAP, and later under the Philippine Amateur Athletic Federation.

And we had scholastic programs; that is, the public schools sports program and the private schools sports program, the PRISAA; in addition, of course, to the athletic development program within the Armed Forces of the Philippines.

So, we had men like Congressman Simeon Torribio, an engineer, who was always a point-winner and a medal-earner in various world Olympic games in his favorite event — high jump. We had an army athlete, Teofilo Ildefonso, who was always a point winner in three or more world Olympic games in his event, the 200-meter breaststroke. We had an army athlete by the name of Miguel White who was a 1936 world medalist — although only a third placer, he could have been a second placer in his favorite sport of 400-meter hurdle. We had Anthony who was a silver medalist in boxing in the 1960 World Olympics held in Tokyo. He should have been a gold medalist.

On the other hand, our sports situation now is that even in Southeast Asia, that is, Indonesia, Malaysia, Thailand, Hongkong, Singapore, Burma or Brunei, the Philippines is only third or fourth in ASEAN competitions.

In Far Eastern games or Asian games where Japan, Korea and China are competing, the Philippines has always been a strong contender. In basketball, we have always been first in Asia, even beating Japan, China and Korea.

But now, notwithstanding the so-called Gintong Alay and the present system of sports development, we have sent some representatives to Seoul and we do not know what will be the result.

But what I am saying is, we have depreciated; we have deteriorated. Our standard of sports is something that we cannot be proud of, even as compared with the previous years, even before the war. If we will only have one little paragraph — paragraph (i), under Section 2 — we will not be developing the sports program. We cannot have healthy citizens, especially those who have potentials not only in national competitions but also in regional and even world competitions.

I think the Committee on Human Resources has given very little attention to sports. And as I see here, the first sentence may be all right — "The State shall promote physical education." Probably, this will encourage sports programs for the total development of a healthy and alert citizenry. I agree with that first sentence.

But towards this end, we again say "The State." I think we should just shift it to the schools — public and private colleges and universities. Even the Armed Forces of the Philippines or other private clubs should be encouraged to prepare competition programs of sports development from the barrio level up to the municipal, provincial, regional and national levels. Otherwise, we will further deteriorate.

I believe that the schools are the primary source of good athletes. And we have to overcome the wrong impression

that a good student cannot be a good athlete. In many schools, people look down on an athlete believing that an athlete cannot be a good student or even an honor student.

So, I would recommend that the committee give more importance to sports rather than limiting it to one short paragraph on Section 2.

MR. VILLACORTA: The Vice-President's point is well taken and we will need his help in improving our provisions related to sports and physical development.

MR. PADILLA: I think we should also encourage amateur sports as distinguished from professional sports because the highest ideal of a student athlete is to make it to the Olympic national team. But now, it is no longer the noble purpose of an athlete to represent the country in regional and world competitions, but only to make few more pesos in professional boxing or professional basketball. We should discourage, for example, the importation of black American basketball players who are paid excessive fees and enjoying so many privileges.

MR. VILLACORTA: Yes.

MR. PADILLA: But that is the tendency of our present society and generation.

MR. VILLACORTA: I think Commissioner Quesada would like to say something.

MR. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: It might help to make the Vice-President feel good that the original intention really was to have a separate section on sports. As a matter of fact, there were several sections on it based on the proposal submitted by the Bureau of Sports Development of the Ministry of Education, Culture and Sports. But as we went through, reviewing the provisions, everybody commented on its length. It shrank into just one section, but should the Vice-President be amenable to reviving some of these, we will show him how we cut it down to just one section. We do appreciate the need to develop healthy and alert citizenry and, as a matter of fact, it was not conceived merely in the context of school activity or program but in the light of a total national sports development.

MR. PADILLA: I will be glad to have a copy of that proposal but I am not also an endorser of many long paragraphs. As a matter of fact, my personal criticism on the many committee reports is that they are very long, very numerous, sometimes repetitious and always using words like "integrated," "comprehensive" and other similar words. I have objected on these on some instances. I would like a simple and brief portion but as a mere paragraph (i) of Section 2. And I would be glad to contribute my effort in that direction.

Thank you, Madam President.

MR. VILLACORTA: Thank you, Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. SARMIENTO: Considering that several Commissioners have registered to interpellate and that a good number of Commissioners have left the session hall already, I move to adjourn until tomorrow at nine o'clock in the morning.

THE PRESIDENT: Tomorrow Saturday, at nine o'clock?

MR. SARMIENTO: Yes, Madam President.

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

It was 6:09 p.m.

[*]Appeared after the roll call.

[**](The following is the whole text of the proposed resolution per C.R. No. 29 as amended.)

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