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Saturday, July 19, 1986

OPENING OF SESSION

At 9:40 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 Cirilo A. Rigos.

Everybody remained standing for the Prayer.

PRAYER

REV. RIGOS: Let us pray:

Most loving and righteous God, who knowest our deepest thoughts and divinest the purest longings of our hearts, look with mercy upon us. Save us from faithlessness and pride. Remind us of our inadequacy and assure us of Thy sufficiency.

As we gather for another day of work, may we find pleasure in the thought that we are investing unto eternity a portion of our labors and of ourselves. Help us, therefore, to bear the weight of our responsibilities and to discharge our duties with a sense of mission.

May this be another day of fulfilling experiences, a glorious time of learning from one another, and a precious moment in the life of our nation.

We pray in Jesus' name. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading.

Abubakar Present [*] Monsod Present

Alonto Present [*] Natividad Present [*]

Aquino

Present [*] Nieva Present

Azcuna Present [*] Nollado Present

Bacani Present [*] Ople Present

Bengzon Present [*] Padilla Present

Bennagen Present Quesada Present [*]

Bernas Present Rama Present

Rosario Braid Present Regalado Present

Brocka

Present [*] Reyes de los Present

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Present

Davide Present Suarez Present

Foz Present [*] Sumulong Present

Garcia Present [*] Tadeo Present [*]

Guingona Present Tan Present

Jamir Present Tingson Present

Laurel Absent Treñas Present

Lerum Present [*] Uka Present

Maambong Present

Commissioners Gascon, Sarmiento, Villacorta and Villegas are on official mission.

The President is present.

The roll call shows 30 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of quorum.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized .

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

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

APPROVAL OF JOURNAL

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

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Just one minor correction on page 6. The paragraph starting on line 4 states: "Mr. Bernas, on behalf of the Committee, accepted the proposed deletion but rejected the text of the substitute amendment." This should read: ". . . accepted the proposed deletion but ACCEPTED THE SUBSTITUTE TEXT FOR CONSIDERATION IN ANOTHER ARTICLE."

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; let the proper correction be made.

There was a previous motion to approve the Journal of yesterday's session.

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from the honorable Commissioner Ponciano L. Bennagen, transmitting a resolution for an autonomous Cordillera region signed by 3,219 people.

(Communication No. 236 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from the Family Planning Organization of the Philippines, signed by Mr. Ramon A. Tagle, Jr., transmitting two resolutions from the Maguindanao and North Cotabato Chapters requesting the inclusion of a clear statement on the population program, and a provision making the members of the Supreme Court elective.

(Communication No. 237 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Enrique B. Inting, Provincial Fiscal, Bohol, proposing the retirement of the justices of the Supreme Court and other collegiate courts upon reaching 70 years and other trial judges upon reaching 65 years.

(Communication No. 238 — Constitutional Commission of 1986)

To the Committee on the Judiciary.

Communication from the Katipunan ng Bagong Pilipino and the Samahan ng Kababaihang Manggagawang Pilipino, proposing provisions on the equality of men and women and the retention of Philippine citizenship of a Filipino who marries an alien.

(Communication No. 239 — Constitutional Commission of 1986)

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

Letter from the Family Planning Organization of the Philippines, Zamboanga Provincial Chapter, signed by Dr. Pilar A. Avedillo, transmitting its Resolution No. 10, series of 1986, proposing provisions that shall strengthen the

family as a basic social unit and a policy statement on population program.

(Communication No. 240 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from the honorable Commissioner Minda Luz M. Quesada, transmitting the following papers a) protests by different groups against the move to make religious instruction in public schools compulsory, and b) position paper of the Citizen Assembly for Good Government, People's Welfare, and Human Rights on the proposed Constitution.

(Communication No. 241 — Constitutional Commission of 1986)

To the Steering Committee.

Letter of Mrs. Liceria H. Ona of the Catholic Women's League, San Juan, Batangas, suggesting measures to improve health care delivery services.

(Communication No. 242 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from the National Council of Churches in the Philippines signed by Bishop La Verne D. Mercado, enclosing proposals on separation of church and state, human rights, foreign relations, education, rural issues and land reform, labor issues, women's and children's rights, among others.

(Communication No. 243 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Piux W. Amoguia of Baclayon, Bohol, submitting proposals to help achieve economic recovery.

(Communication No. 244 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from the honorable Commissioner Ponciano L. Bennagen, transmitting a resolution for a regional autonomous government in the Cordillera, sponsored by the Cordillera People's Alliance and signed by 4,905 Igorots.

(Communication No. 245 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from P/Lt. Policarpio F. Josen, Navotas Police Station, Metro Manila, proposing the adoption of general policies regarding the police organization.

(Communication No. 246 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from the Philippine Federation for Environmental Concern signed by Mr. Delfin J. Ganapin, Jr., supporting Proposed Resolution No. 205 introduced by the Honorable Cirilo A. Rigos which seeks to incorporate in the Declaration of Principles and State Policies provisions recognizing the right to a healthy environment and providing for the preservation and protection of the country's natural resources; and suggesting that similar provisions be incorporated in the Articles on the Bill of Rights, National Economy and Patrimony and General

Provisions.

(Communication No. 247 — Constitutional Commission of 1986)

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

Letter from Mr. Manuel C. Pore of the Confederation of Labor and Allied Social Services, suggesting some provisions on labor and social justice.

(Communication No. 248 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from the honorable Commissioner Ambrosio B. Padilla, attaching a letter from Mr. Alejandro P. San Pedro regarding the Sabah issue.

(Communication No. 249 — Constitutional Commission of 1986)

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

Letter from Mr. Ahmad P. Musur of Data Street, Sta. Mesa Heights, Quezon City, recommending the federal form of government and the change of name of the Republic of the Philippines to the United Federal States of Luzviminda.

(Communication No. 250 — Constitutional Commission of 1986)

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

Letter from Mr. Nicolas B. Montenegro of 126 F. Fule St., Barangay I, Alaminos, Laguna, suggesting that nationalism be taught from kindergarten to the college level.

(Communication No. 251 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. P.S. Caguioa of Quirino, Bacnotan, La Union, expressing opposition to the abolition of the death penalty.

(Communication No. 252 — Constitutional Commission of 1986)

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

Letter from Mr. Generoso B. Sangil of 2561 Molave St., United Parañaque Subdivision No. 1, Parañaque, Metro Manila, proposing the presidential type of government, declaration of martial law by the legislature upon recommendation of the President, synchronization of elections, and the retention of U.S. military bases, among others.

(Communication No. 253 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Florencio D. Montalbo of 39 Notre Dame, Cubao, Quezon City, expressing his objection to the proposal to adopt the postaudit system.

(Communication No. 254 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from Mr. Alejandro de Jesus of 124 Valero St., Salcedo Village, Makati, Metro Manila, proposing a transitory provision providing for the review of a final decision of the Supreme Court during the martial law period when this is manifestly against the evidence and is contrary to law, upon a petition filed within one year from the ratification of the Constitution.

(Communication No. 255 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Communication signed by Mr. Pablo R. Lopez of 1557 Carissa, Dasmarinas Village, Makati, Metro Manila and 453 others, proposing that the U.S. military bases issue be left to the government to negotiate.

(Communication No. 256 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from the honorable Commissioner Ponciano L. Bennagen transmitting an Omnibus Resolution, entitled: "Resolution strongly endorsing to the Delegates to the Constitutional Commission of 1986 the inclusion of a special provision granting autonomy to the Bangsa Moro nation.

(Communication No. 257 — Constitutional Commission of 1986)

To the Committee on Local Governments.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA.: I would like to call on the Steering Committee Chairman, Commissioner Bengzon.

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

MR. BENGZON: Good morning, Madam President. I have two announcements to make.

May I call the attention of the Commissioners that the Committee on Accountability of Public Officers filed an amended Committee Report No. 17. We will notice that much earlier there were two committee reports — Committee Report No. 16 and Committee Report No. 17 — filed by the Committee on Accountability of Public Officers. Yesterday they consolidated these two reports and they have come up now with an amended report on Committee Report No. 17. So, when we consider the report of the Committee on Accountability of Public Officers, the amended Committee Report No. 17 will be used as the basis. We have this amended committee report now on the Members' desks. If anyone does not have it yet, I think the Secretariat has it.

Secondly, we are going to take up today the report on Suffrage. As a matter of incentive. Madam President, if the Commission finishes the report on Suffrage on Second Reading this morning, the Floor Leader and the Steering Committee will suggest that the body adjourn until Monday, when we take up the report of the Committee on the Legislative.

Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Floor Leader is recognized.

CONSIDERATION OF
PROPOSED RESOLUTION NO. 486

(Article on Bill of Rights)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: There was a reservation in yesterday's session to include another amendment to the Article on the Bill of Rights. The reservation was made by Commissioner Maambong with the consent of the Committee Chairman or Vice-Chairman, Commissioner Bernas.

In order to enable us to go into the printing of the Article on the Bill of Rights for Third Reading, we would like to have this amendment put out of the way now.

THE PRESIDENT: So, I would like to ask the honorable members of the Committee on the Bill of Rights to please come forward and join Commissioner Bernas.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: In line with that reservation made last night and in consultation with the other proponents. Commissioners Ople, de los Reyes and Natividad, we have come up with this provision which we seek to be included as the second paragraph of Section 22. I would like to state that the concept of this provision was already conceded as acceptable in principle. What we are trying to do now is to put it in the proper formulation in order to implement that principle.

I will now read the amendment by addition to the second paragraph of Section 22 of the Bill of Rights. It reads
THE EMPLOYMENT OF CORPORAL OR PSYCHOLOGICAL PUNISHMENT AGAINST PRISONERS OR PRE-TRIAL DETAINEES, OR THE USE OF SUBSTANDARD OR OUTMODED PENAL ACTIVITIES CHARACTERIZED BY DEGRADING SURROUNDINGS, UNSANITARY OR SUBHUMAN CONDITIONS SHOULD BE DEALT WITH IN ACCORDANCE WITH LAW.

I move for the approval of this amendment by addition Madam President.

THE PRESIDENT: Was the Committee furnished a copy of the Commissioner's amendment?

FR. BERNAS: Yes, Madam President.

MR. MONSOD: Madam President, may we ask for a copy of the proposal?

THE PRESIDENT: Copies of this Proposed amendment are being made.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

NOMINAL VOTING ON C.R. NO. 18

ON THIRD READING

(Article on the Judiciary)

MR. RAMA: While we are waiting for those copies, I move that we take up on Third Reading the Article on the Judiciary.

THE PRESIDENT: Is there any objection that we proceed to take up on Third Reading the Article on the Judiciary?

MR. ROMULO: Madam President, may I just make a reservation with regard to the Article on the Judiciary.

There are some style corrections that we have to make. For example, Integrated Bar is in capital letters, when we meant that to be in small letters because we do not want to institutionalize the Integrated Bar of the Philippines.

THE PRESIDENT: So, it will just be a matter of style; there is nothing of substance.

MR. ROMULO: Yes, there will be some changes as a matter of style.

THE PRESIDENT: With that reservation, is there any objection that we proceed to the Article on the Judiciary on Third Reading? (Silence) The Chair hears none; the motion is approved.

Printed copies of Committee Report No. 18 were distributed on July 16, 1986 pursuant to Section 27, Rule VI of the Rules of the Constitutional Commission of 1986.

Voting on the proposed resolution on Third Reading is, therefore, in order.

The Secretary-General will read the title of the proposed resolution.

THE SECRETARY-GENERAL: Committee Report No. 18; entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION AN ARTICLE ON THE JUDICIARY.

FIRST ROLL CALL

THE PRESIDENT: The body will now vote on this proposed resolution, and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Bennagen Yes

Alonto Bernas Yes

Aquino Yes Rosario Braid Yes

Azcuna Brocka Yes

Bacani Yes Calderon Yes

Bengzon Yes Castro de Yes

Colayco Yes Lerum Yes

Concepcion Yes Maambong Yes

Davide Yes Monsod Yes

Foz Yes Natividad

Garcia Yes Nieva Yes

Gascon Nollado Yes

Guingona Yes Ople Yes

Jamir Yes Padilla

Laurel

MR. PADILLA: Madam President, I will just make a statement.

THE PRESIDENT: Commissioner Padilla is recognized.

COMMISSIONER PADILLA EXPLAINS HIS VOTE

MR. PADILLA: As a member of the Committee on the Judiciary, I vote in favor of the approved version, but I wish to state that I regret that paragraph 3, Section 12 of the committee report on the Article on the Judiciary — on the right of appeal by the State or the offended party from a judgment of acquittal by a petition for review on certiorari based on the ground that the judgment is manifestly against the evidence and with a great abuse of discretion amounting to lack or excess of jurisdiction — was finally deleted from the approved version.

The principal objection to the above paragraph was that it might violate the principle against double jeopardy. Thereafter, it was admitted that it does not violate the inhibition against the principle of double jeopardy, but it was subsequently claimed to be unnecessary or even harmful.

I notice that last night Commissioner de los Reyes was among the first to object to my proposed provision, but he is now very much concerned with the rights of the offended party or the victim of the crime. As I had previously explained, said provision was to allow the State and/or the offended party the right of appeal under the restricted conditions contained there in. I regret that this was not approved because it would have clarified the very wrong impression prevailing even among top lawyers in this country who are practicing law that a judgment of acquittal, under all circumstances, is final, executory and not appealable.

Thank you, Madam President.

THE SECRETARY-GENERAL, reading:

Quesada Yes Reyes de los Yes

Rama Yes Rigos Yes

Regalado Yes Rodrigo

MR. RODRIGO: May I explain my vote, Madam President?

THE PRESIDENT: Commissioner Rodrigo has three minutes.

COMMISSIONER RODRIGO EXPLAINS HIS VOTE

MR. RODRIGO: During the period of amendments I presented an amendment to delete all the provisions regarding the creation of a Judicial and Bar Council. but my arguments are already on record so I will not repeat them.

Madam President, I have not changed my stand on this matter. However, notwithstanding this provision which makes me unhappy, the Article as a whole is all right. So I vote yes.

THE SECRETARY-GENERAL, reading:

Romulo Yes Tan Yes

Rosales Yes Tingson Yes

Sarmiento Treñas Yes

Suarez Yes Uka Yes

Sumulong Yes Villacorta

Tadeo Villegas

SECOND ROLL CALL

THE PRESIDENT: The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Abubakar Natividad

Alonto Sarmiento

Azcuna Tadeo

Gascon Villacorta

Laurel Villegas

APPROVAL OF ARTICLE ON THE JUDICIARY
ON THIRD READING

THE PRESIDENT: The President votes yes.

The results show 38 votes in favor and none against.

I am pleased to inform the Commission that the Article on the Judiciary, as amended, is approved on Third Reading.[*]

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Floor Leader is recognized.

CONSIDERATION OF
PROPOSED RESOLUTION NO. 530
(Article on Suffrage)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: While we are waiting for those copies to be distributed, I move that we consider Committee Report No. 30 on Proposed Resolution No. 530 as reported out by the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

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

Consideration of Proposed Resolution No. 530 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 530, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON SUFFRAGE.

(The following is the whole text of the substitute resolution per C.R. No. 30.)

COMMITTEE REPORT NO. 30

The Committee on Citizenship, Bill of Rights, Political Right and Obligations and Human Rights to which were referred the following:

Proposed Resolution No. 8, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON SUFFRAGE.

Introduced by Hon. Davide, Jr.

Proposed Resolution No. 99, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE ENTIRE ARTICLE VI OF THE 1973 CONSTITUTION.

Introduced by Hon. Bengzon, Jr.

Proposed Resolution No. 161, entitled:

RESOLUTION PROVIDING FOR A SEPARATE ARTICLE ON SUFFRAGE, INITIATIVE AND REFERENDUM, AND RECALL.

Introduced by Hon. de los Reyes, Jr.

Proposed Resolution No. 199, entitled:

RESOLUTION TO DISQUALIFY THOSE WHO CANNOT READ AND WRITE FROM VOTING.

Introduced by Hon. Rama.

Proposed Resolution No. 246, entitled:

RESOLUTION REDEFINING THE CITIZEN'S RIGHT TO VOTE AND BE VOTED UPON.

Introduced by Hon Maambong, Ople, and de los Reyes, Jr.

Proposed Resolution No. 370, entitled:

RESOLUTION RECOGNIZING THE RIGHT OF A CITIZEN TO BOYCOTT AN ELECTION.

Introduced by Hon. Sarmiento.

Proposed Resolution No. 405, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON SUFFRAGE.

Introduced by Hon. Tingson,

has considered the same and has the honor to report them back to the Constitutional Commission with the recommendation that Proposed Resolution No. 530, prepared by the Committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON SUFFRAGE,

be approved in substitution of Proposed Resolution Nos. 8, 99, 161, 199, 246, 370, and 405, with the Honorable Laurel, Jr., Bernas, Abubakar, Colayco, Sarmiento, Tadeo, Garcia, Villegas, Rodrigo, Bennagen, Lerum, Bacani, Padilla, Natividad, Davide, Jr., Bengzon, Jr., de los Reyes, Jr., Rama, Maambong, Ople, and Tingson as authors thereof.

(Sgd.) Jose B. Laurel, Jr.

Chairman

Committee on Citizenship,

Bill of Rights, Political Rights
and Obligations and Human Rights

(Sgd.) Joaquin G. Bernas

(Sgd.) Yusup R. Abubakar

Vice-Chairman

(Sgd.) Jose C. Colayco

(Sgd.) Rene V. Sarmiento

(Sgd.) Jaime S.L. Tadeo

(Sgd.) Edmundo G. Garcia

Bernardo M. Villegas

(Sgd.) Francisco A. Rodrigo

(Sgd.) Ponciano L. Bennagen

(Sgd.) Eulogio R. Lerum

(Sgd.) Teodoro C. Bacani

(Sgd.) Ambrosio B. Padilla

(Sgd.) Teodulo C. Natividad

PROPOSED RESOLUTION NO. 530

(Substitute Resolution)

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON SUFFRAGE.

Be it resolved as it is hereby resolved, by the Constitutional Commission in session assembled, To incorporate in the new Constitution the following provisions on Suffrage:

ARTICLE _____

SUFFRAGE

SECTION 1. Suffrage shall be exercised by all citizens of the Philippines not otherwise disqualified by law, who are eighteen years of age or over, and who shall have resided in the Philippines for at least one year and in the place wherein they proposed to vote for at least six months preceding the election.

No literacy, property or other substantive requirement shall be imposed on the exercise of suffrage.

The legislature shall provide a system for the purpose of securing the secrecy and sanctity of the vote.

In the case of the disabled and the illiterate, the legislature shall design a mechanism or a system which will not require the assistance of another person.

THE PRESIDENT: Commissioner Bernas is recognized to sponsor the resolution.

SPONSORSHIP SPEECH

OF COMMISSIONER BERNAS

FR. BERNAS: Madam President and honorable Commissioners, in the absence of our Chairman, Honorable Jose

Laurel, Jr., I have been asked to sponsor this committee report on suffrage. The committee report is Committee Report No. 30, and the body or text of the report contains 19 lines. Let me just say that except for the last sentence on lines 17 to 19 and except for the change of the word "Batasang Pambansa" to LEGISLATURE on line 15, the entire provision is exactly the same as that of the 1973 Constitution. The major change, therefore, is on lines 17 to 19 which states:

In the case of the disabled and the illiterate, the legislature shall design a mechanism or a system which will not require the assistance of another person.

These lines are an effort to reconcile conflicting resolutions. Some asked for the simple retention of the 1973 provision, while others asked for the disenfranchisement of the illiterate mainly on the ground, I believe, that the illiterate are used by the literate. So, what lines 17 to 19 do is to ask the legislature to formulate a procedure so that the illiterate can vote without the assistance of a second person, and until such system is formulated by the legislature, the illiterate would not be able to vote. That is all I have to say on this matter.

MR. RAMA: Madam President, I ask that Commissioner de los Reyes be recognized.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, I was about to ask that same question covered by the explanation of Father Bernas on the assumption that we will have an election sometime in March or April 1987 in which the illiterate cannot participate.

FR. BERNAS: That would be the effect.

MR. DE LOS REYES: I think about 10 to 15 percent of our people, although not exactly illiterates in the sense that they cannot completely read and write are having a hard time writing the names of the candidates. Kung tawagin po sa amin iyan ay "binubuno na ang lapis sa pagsulat." For all practical purposes they could be classified as illiterates, although if we will be precise about it, they are only semi-illiterates. So, I was thinking that perhaps we can reach a better compromise by stating that while the legislature has not yet designed a mechanism or a system which will not require the assistance of another person, these disabled and illiterates who were able to vote during the previous elections be allowed to vote. Thus, the last sentence will read something like "In the case of the disabled and the illiterate, EXISTING LAWS SHALL REMAIN IN FORCE UNTIL AFTER the legislature shall have designed a mechanism or a system which will not require the assistance of another person." If we disenfranchise the illiterates by constitutional mandate, especially by placing this in this new Constitution of 1986, I think many people will be dissatisfied; in short, they will not like it.

Another observation is that perhaps the phrase "eighteen years of age or over" should be consistent with other provisions where we use the words "at least." We can rewrite the line by saying "who are AT LEAST 18 years of age" and omit the word "over." And, of course, instead of "legislature," we use "NATIONAL ASSEMBLY" on line 18.

That is my observation, Madam President.

FR. BERNAS: I thank the Commissioner. As far as the Committee is concerned, my perception of the sentiment of the Committee with respect to lines 17 to 19 is that these are put here more as topic for discussion than as a formed conviction of the Committee.

TURNO EN CONTRA

OF COMMISSIONER RAMA

MR. RAMA: Madam President. I would like to speak en contra against this Article, particularly on the right of

illiterates to vote.

I thought that one of the major tasks of this Constitutional Commission is precisely to establish some reforms that would create for us a better government. One of the premises that I would like to state here is that a system is oftentimes only as good as the men that run it. Therefore, a system like ours, a government like ours should look into a kind of reform that could make it possible for the government or the system itself to produce competent people to run that system; and if we have to have that kind of reform, we must go to the most important political exercise of the people which is the election, and I would like to start scrutinizing the electorate if we have to produce competent leaders truly representing the people. I would like to think that instead of swelling the number of voters, our major concern and a better task would be trying to upgrade the quality of our electorate. I believe that making the illiterate vote would not achieve that purpose. We will recall that in 1935, the great men who drafted the 1935 Constitution precisely did not allow those who could not read and write to vote. It was only in the 1971 Constitution under President Marcos that the illiterate were allowed to vote.

I recall that during the election in the martial law regime, the opposition have been complaining about the use of the illiterates to defraud and to cheat the election. Mr. Marcos was very proud in saying that this is a provision in the Constitution that was introduced precisely by one of the opposition leaders in the 1973 Constitution. President Marcos would like to have that particular provision in the Constitution retained. I believe that we cannot upgrade the electorate without removing these illiterates in the most important political exercise. I believe that electing our candidates does not involve merely a mechanical act of picking candidates on a ballot. It involves an intellectual process of knowing the election issues. A voter must know the record of the candidate. He must know not only the record of the candidate but what he stood for during his last term of office or before he got elected. What were the promises he made during an election campaign? How did he perform during his term of office? And what kind of alliance or dalliances he made when he was in office? What kind of crony was he? Who were his cronies? And particularly what were the election issues? I believe that illiterates are not quite capable of coping with these requirements of a democratic election.

Another thing, Madam President, the illiterates cannot perform the requirement of a democratic balloting because the first requirement of democratic voting is the secrecy of the ballot. As we have seen, illiterates were herded to the polling places and assisted mostly by the barangay captains who wrote their votes. This is an infringement of the most fundamental tenet of democratic voting — the secrecy of the ballot. So, there is an inherent flaw in this system where illiterates are made to vote when they themselves would not be voting alone; they themselves would not be voting at all; and they themselves would not know what their assistants will be writing on the ballots. So, this flaw opens the floodgates to cheating.

One of the most difficult and, I think, one of the most grievous evils now upon this country is cheating during election. That is a tremendous problem that was evident in the last election when Mrs. Cory Aquino could not win in the counting and had to be cheated publicly here in this one-time Batasang Pambansa hall.

Our job now is to try to close all those loopholes and all those doors to cheating in the election process. One way of doing it is by not allowing the illiterates to vote — by returning to the old procedure in the 1935 Constitution — because when we allow the illiterate to vote, we open the floodgates to cheating, and that is what we do not need. This is now an opportunity for us to try to clean up the election process.

In Cebu, for instance, I found out that in the last election of February 7, 1986, they produced hundreds of thousands of affidavits of illiterates. This indicated to me and to everybody that making illiterates vote was one of the major cheating operations of the party in power for the simple reason that it is the most effective vote-buying procedure. When one buys votes from other people who know how to read and write and who go to the polling

places alone, there is no assurance that they can be bought. In the case of the illiterate, the vote buyer is 100-percent sure that his vote buying is effective because he himself will accompany the illiterate to vote for him.

I think it stands to reason that very often the kind of election the kind of leaders and public officials we have will depend on the kind of electorate we have. As a matter of fact, I would even make the qualification for voters higher if we can do it. Some of my friends have suggested that they should be at least high school students or high school graduates. My experience as a political writer is this: Many of the good candidates who are recognized for their proven probity and integrity in a senatorial election, for instance, could win in urbanized areas where the media and the schools abound, where there is an informed electorate, where the voters are more or less informed and intelligent. These good candidates in the senatorial election in many decades past had a lot of problems when it came to voting in places where there were no or few media, where there were very few schools and where most of the people were either illiterate or semi-illiterate.

One of the favorite arguments against disqualifying illiterate electorates is that these are unfortunate people. It is not their fault that they are illiterates. Why do we add to their misfortune? My answer is this: We know that these people are suffering from a misfortune but why do we inflict this misfortune on the whole nation? Is that fair to the nation? What we should do is to try to cure the misfortune of these illiterates and not to inflict it on our most sacred and most important political process of choosing the leaders of the country. If we analyze the situation in this country, we are confronted with the fact that we had a lot of rascals that were elected to public office, including President Marcos. And a lot of the warlords are rascals. The reason they were elected to public office was that uninformed voters and illiterates voted for them.

One reason advanced by Commissioner Bernas-and I appreciate that he had taken efforts to meet my resolution halfway by requiring Congress to come up with some procedures whereby the illiterate can vote alone, although I think that is not enough — is that the Constitution allowed illiterates to vote. So, it would be a little awkward to take away that right to vote. My argument is that precisely because it is there in the Constitution we must remove it. If there is an error in the 1973 Constitution, our job is to try to identify these wrong or evil or harmful provisions in the Constitution.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Will the Gentleman please yield to interpellations, Madam President?

MR. RAMA: Willingly, Madam President.

MR. NOLLEDO: Thank you, Madam President.

My distinguished colleague was also a member of the 1971 Constitutional Convention. If the Gentleman remembers, the main author of the resolution allowing illiterates to vote is the Honorable Raul Manglapus.

MR. RAMA: That is right.

MR. NOLLEDO: And I was one of the coauthors. Does the Gentleman agree with me that the purpose of that resolution was to widen the political base in the country?

MR. RAMA: Yes, precisely I objected to that and I said: "That is a sonorous incantation of principles that are not in touch with reality."

MR. NOLLEDO: And that is more in keeping with the democratic principles that illiterates who are really unfortunate people should be allowed to vote.

MR. RAMA: I disagree, because I believe that we must define the function of a voter. The function of a voter is to

choose the best men for this country so that we would not be in trouble. I believe that an illiterate cannot inherently perform that function.

MR. NOLLEDO: It seems to me that the Gentleman equates intelligence with capacity to read and write; am I right?

MR. RAMA: To a certain extent, yes.

MR. NOLLEDO: Because based on his statements, one can conclude that a person who does not know how to read and write lacks intelligence. Does the Gentleman mean that?

MR. RAMA: There are people who do not know how to read and write that are intelligent, but they are the exceptions, in the same manner that there are college professors and college graduates who are also semi-literate in the sense that they do not know the election issues. They are also the exceptions. We are not going by exceptions.

MR. NOLLEDO: I beg to disagree because I think the Filipinos are generally intelligent people. If given the opportunity and the chance, they will manifest that intelligence. I understand that there are at least 15 percent of our total population who are illiterates. That is based on the census many years ago, and perhaps we can reasonably say that there are now about 20 percent illiterates in the country that will reach easily 10 million people.

MR. RAMA: No, I beg to disagree. In the July issue of The Daily Express, the Minister of Education came up with the statistics on illiterates, and she said that there are 1.2 million illiterates in this country.

MR. NOLLEDO: I have talked to many illiterates in Agusan and Naga City; they did not know how to read and write, but they have the capacity to discuss important issues.

MR. RAMA: They are the exceptions.

MR. NOLLEDO: I do not believe so. I talked to hundreds of them and they seem to be brighter than people who manifest intelligence. Does the Gentleman agree with me if I say that the cheaters are not found among the illiterates; they are found among the literates? Does the Gentleman agree with me that the cheaters in previous elections are the literate ones?

MR. RAMA: I do not agree.

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

THE PRESIDENT: Yes, Commissioner Suarez is recognized.

MR. SUAREZ: A parliamentary inquiry on the situation because we have no Floor Leader. We would like some guidance.

THE PRESIDENT: The Floor Leader asked that he be allowed to speak en contra, and he is already speaking en contra.

MR. SUAREZ: Can we appoint an Acting Floor Leader to take care of the floor proceedings?

MR. RAMA: May I ask, Madam President, that Commissioner Bengzon take over the task of floor leadership while I am speaking?

THE PRESIDENT: The request is granted.

MR. NOLLEDO: May I continue, Madam President, on important points about the speech of my dear colleague?

THE PRESIDENT: The Gentleman may proceed.

MR. NOLLEDO: The Gentleman said that voting involves an intellectual process and according to him, that seems to be the basic process in a democracy.

MR. RAMA: That is correct.

MR. NOLLEDO: Does the Gentleman agree with me that that is only one of the basic processes in a democracy because in a democracy, we have also assemblies of men and women discussing public issues and arriving at a consensus?

MR. RAMA: That is one of the main requirements of a voter, that he must know the election issues; he must know the records of candidates. That is a very important requirement in a democracy for voting purposes particularly.

MR. NOLLEDO: If we follow the Gentleman's suggestion that only literates should be allowed to vote, we will be disenfranchising millions of voters, registered voters at that. Would it not be improper, in the sense that we are making them second class citizens?

MR. RAMA: I think there is a misconception about democratic voting, Madam President. Democratic voting does not require a great majority of people to vote or all the people to vote. In 1935, we allowed only the 21 year old to vote. Now, we are allowing the 18-year old to vote. If we follow the logic that the masses of people should vote, then we should allow the 16-year old, the 15-year old, the blind, the sick and everybody to vote. As a matter of fact, under the concept of democracy, few people can represent the whole country like, for instance, 200 people in Congress can represent the country. It is not necessary that there be massive representation; it is enough that there is identification of the sentiments of the people through the process of voting.

MR. BENGZON: Madam President, there are other Commissioners who would like to speak in support of Commissioner Nolleddo's point. So, we would like to give them a chance.

MR. NOLLEDO: May I ask only two questions, Madam President?

THE PRESIDENT: Just to clarify the situation, are we now in the period of turno en contra, or are we through with the interpellations?

MR. BENGZON: This is the period of turno en contra because the Chair gave Commissioner Rama the chance to speak en contra.

THE PRESIDENT: Are there no more questions so that we can go back to the period of interpellations, if that is possible?

MR. BENGZON: We still have a list of interpellators here, Madam President.

THE PRESIDENT: So, we can call the other speakers who would like to speak on behalf of this resolution and proceed first with the interpellation so that we can have the opinion of the Committee on several points that it desires to be raised.

MR. BENGZON: In accordance with the suggestion of the Chair, I would like to bring back the discussion to the period of interpellations. To those who may wish to speak in favor of the points raised by Commissioner Nolleddo, I would like to request them to reserve their right when it comes to the period of amendments.

MR. RAMA: Madam President, I am not quite through with my speech en contra. So, I would just make a reservation if we go back to the period of interpellations.

THE PRESIDENT: May I ask the Acting Floor Leader to call on the first one who would like to interpellate the Committee.

MR. BENGZON: The next one to interpellate the Committee is Commissioner Ople.

THE PRESIDENT: Commissioner Ople is recognized.

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

Will the sponsor yield to a question or two?

FR. BERNAS: Very willingly, Madam President.

MR. OPLE: With respect to Section 1, it is not clear whether the right of suffrage, which here has a residential restriction, is not denied to citizens temporarily residing or working abroad. Based on the statistics of several government agencies, there ought to be about two million such Filipinos at this time. Commissioner Bernas had earlier pointed out that these provisions are really lifted from the two previous Constitutions of 1935 and 1973, with the exception of the last paragraph. They could not therefore have foreseen at that time the phenomenon now described as the Filipino labor force explosion overseas.

According to government data, there are now about 600,000 contract workers and employees, and although the major portions of these expatriate communities of workers are to be found in the Middle East, they are scattered in 177 countries in the world.

In a previous hearing of the Committee on Constitutional Commissions and Agencies, the Chairman of the Commission on Elections, Ramon Felipe, said that there was no insuperable obstacle to making effective the right of suffrage for Filipinos overseas. Those who have adhered to their Filipino citizenship notwithstanding strong temptations are exposed to embrace a more convenient foreign citizenship. And those who on their own or under pressure of economic necessity here, find that they have to detach themselves from their families to work in other countries with definite tenures of employment. Many of them are on contract employment for one, two, or three years. They have no intention of changing their residence on a permanent basis, but are technically disqualified from exercising the right of suffrage in their countries of destination by the residential requirement in Section I which says:

Suffrage shall be exercised by all citizens of the Philippines not otherwise disqualified by law, who are eighteen years of age or over, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months preceding the election.

I, therefore, ask the Committee whether at the proper time they might entertain an amendment that will make this exercise of the right to vote abroad for Filipino citizens an effective, rather than merely a nominal right under this proposed Constitution.

FR. BERNAS: Certainly, the Committee will consider that. But more than just saying that, I would like to make a comment on the meaning of "residence" in the Constitution because I think it is a concept that has been discussed in various decisions of the Supreme Court, particularly in the case of *Faypon vs. Quirino*, a 1954 case which dealt precisely with the meaning of "residence" in the Election Law. Allow me to quote:

A citizen may leave the place of his birth to look for greener pastures, as the saying goes, to improve his lot and that, of course, includes study in other places, practice of his avocation, reengaging in business. When an election is to be held, the citizen who left his birthplace to improve his lot may decide to return to his native town, to cast his ballot, but for professional or business reasons, or for any other reason, he may not absent himself from the place of his professional or business activities.

So, they are here registered as voters as he has the qualifications to be one, and is not willing to give up or lose the opportunity to choose the officials who are to run the government especially in national elections. Despite such registration, the animus revertendi to his home, to his domicile or residence of origin has not forsaken him.

This may be the explanation why the registration of a voter in a place other than his residence of origin has not been deemed sufficient to consider abandonment or loss of such residence of origin.

In other words, "residence" in this provision refers to two residence qualifications: "residence" in the Philippines and "residence" in the place where he will vote. As far as residence in the Philippines is concerned, the word "residence" means domicile, but as far as residence in the place where he will actually cast his ballot is concerned, the meaning seems to be different. He could have a domicile somewhere else and yet he is a resident of a place for six months and he is allowed to vote there. So that there may be serious constitutional obstacles to absentee voting unless the vote of the person who is absent is a vote which will be considered as cast in the place of his domicile.

MR. OPLE: Thank you for citing the jurisprudence.

It gives me scant comfort thinking of about two million Filipinos who should enjoy the right of suffrage, at least a substantial segment of these overseas Filipino communities. The Committee, of course, is aware that when this Article of the Constitution explicitly and unequivocally extends the right of effective suffrage to Filipinos abroad, this will call for a logistical exercise of global proportions. In effect, this will require budgetary and administrative commitments on the part of the Philippine government, mainly through the COMELEC and the Ministry of Foreign Affairs, and perhaps, a more extensive elaboration of this mechanism that will be put in place to make effective the right to vote. Therefore, seeking shelter in some wise jurisprudence of the past may not be sufficient to meet the demands of the right of suffrage for Filipinos abroad that I have mentioned. But I want to thank the Committee for saying that an amendment to this effect may be entertained at the proper time.

May I proceed to the new provision on the Article on Suffrage already referred to by Commissioner Bernas as the one new provision, and this has to do with the disabled and the illiterate. I am in complete disagreement with the proposition put forward by my friend, Commissioner Rama, concerning the right to vote of the illiterate population. I seem to have a higher opinion of the illiterates in Bulacan than he has of the illiterates in Cebu.

Madam President, the illiterates among our countrymen are not illiterate on purpose. They did not choose to be illiterate. Presumably, the same ambitions that burned in the hearts of the poor to become literate inflamed them in earlier stages of their lives that I wanted to bring to the attention of the Committee and of the Commission many heroic choices, in fact, made early in their lives by members of families to forego their own opportunities in life in favor of some other members of the family; in effect, sacrificing their own ambitions to go to school in favor of siblings, who probably in their estimation could better use this limited opportunity for a poor family. And so, it was not uncommon for the eldest brother, like the brother of Jose Paciano Rizal, to forego his own opportunity, to work in the field with the father so that the younger brothers and sisters could go to school. Perhaps that is the exception to what I said that the illiterates are illiterate not on purpose. There are some who made heroic choices. And yet, it does not follow that the eldest brother, the benefactor of the more fortunate younger brothers and sisters, is less intelligent because he decided to forego his own opportunity in favor of others. In many cases, this eldest brother that we find in the countryside who did not go to school is, in fact, more respected by his own more literate brothers and sisters because of the self-abnegation that he had made in their favor.

Lord Acton said there is no class division deeper than the division in knowledge. We are speaking here of underprivileged classes. The most numerous underclasses in Filipino society are the illiterates. They were denied by their environment and perhaps by skewed priorities of the government the opportunity to enjoy some

elementary schooling that would make them literate, and, therefore, rise to the rigorous standard which Commissioner Rama would not set before them, which would disqualify them from the right to vote.

And so, at the proper time, Madam President, I hope to propose an amendment on behalf of the most helpless underclass—most helpless in not being able to be heard here — the illiterates — so that this proposed provision can be eliminated.

Thank you very much, Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. BENGZON: It is observed that we are mixing the period of interpellations with the period of debate. I do not mind because their arguments are already put on the record. May I just request that the Commissioners be conscious of this matter during the period of amendments.

May we now request that Commissioner Guingona be recognized for interpellation.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you.

Madam President, would the Committee be willing to entertain at the appropriate time a proposal that the right of suffrage of a qualified voter shall not be recalled by law on account of his or her failure to vote in previous elections, plebiscites, initiatives or referenda?

FR. BERNAS: Madam President, the Committee will always entertain consideration of any proposal, but perhaps it can react so that we would save time in not presenting this proposal in case the Committee is not ready at the moment.

Madam President, if the proposal is not found in the report, that would mean that the initial reaction of the Committee is that it would not be necessary, but is open to being proven wrong.

Thank you.

MR. GUINGONA: Since Commissioner Ople was allowed to say a few words in connection with the observations of our Floor Leader, may I also ask, Ma dam President, that I be allowed a few minutes to react to the statements of Commissioner Rama.

THE PRESIDENT: As stated by the Floor Leader, the Commissioners are requested to confine themselves first to the interpellation and then afterwards we can have speakers for and against.

MR. GUINGONA: I submit, Madam President.

MR. BENGZON: Madam President, may I now request that Commissioner Rodrigo be recognized for interpellation.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, I would like to ask my first question.

Am I right in saying that the issue now is not whether or not we should vest the illiterate and the disabled with the right to vote but whether or not we should divest the illiterate and the disabled said right which they already have?

FR. BERNAS: That is the issue.

MR. RODRIGO: And if this proposed resolution is passed and then approved by the people in the plebiscite, the last paragraph will take effect, to mean:

Until the legislature shall have enacted a law providing for a mechanism or a system by which the disabled and illiterate can vote without requiring the assistance of another person, the illiterates and the disabled will not be allowed to vote.

FR. BERNAS: Yes, but this does not exclude them from voting in the plebiscite.

MR. RODRIGO: Precisely. So, when they vote in the plebiscite, they know that if they vote "yes" for the Constitution, they are practically disenfranchising themselves and depriving themselves of their right to vote.

FR. BERNAS: In effect, they would, yes.

MR. RODRIGO: There are more than a million illiterate voters and they have relatives and friends. Are we not jeopardizing the approval of the whole Constitution by incorporating this very controversial provision in the Constitution?

FR. BERNAS: I think the honorable Commissioner makes a very good point there, that is why, as I said, these particular three lines are put in there more as subject for discussion and certainly this can be modified, for instance, by commanding the COMELEC to formulate something better than what we have today.

MR. RODRIGO: Thank you very much.

I just wanted to emphasize that we might be jeopardizing the whole Constitution by incorporating this controversial provision.

MR. BENGZON: Thank you.

May I now request Commissioner Monsod to be recognized.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I will abide by the rules and not present my arguments for and against the position of Commissioner Rama, but I would like very much to reserve the right to do so at the proper time.

I just wanted to ask the Committee, in the case of lines 18 and 19, whether the Committee equates the secrecy and sanctity of the ballot to the nonassistance of another person. Line 19 says: "a system which will not require the assistance of another person." Are we saying here that the secrecy of the ballot is not inviolate as long as another person knows about the vote of the illiterate at the time that he is voting? That seems to be the assumption.

FR. BERNAS: I am not too sure I understood the question.

MR. MONSOD: Let me go back. The Committee, I assume, knows that under these are provisions in the present Election Code pursuant to the provision in the Constitution on the secrecy and sanctity of the ballot.

FR. BERNAS: Yes.

MR. MONSOD: The present Election Code provides for a system of assistance to illiterates.

FR. BERNAS: Yes.

MR. MONSOD: And this provision in the present Election Code has not been declared unconstitutional, and as far as I know, has not been questioned on constitutionality as being violative of the provision of the Constitution on secrecy and sanctity of the ballot.

FR. BERNAS: Yes.

MR. MONSOD: Are we saying now that the procedures present in the Omnibus Election Code of 1986 are unconstitutional, if this provision is approved?

FR. BERNAS: As the proposed three lines are worded, they would nullify the existing provisions of the Election Code.

MR. MONSOD: And that, therefore, we are making the assumption that assistance violates secrecy.

FR. BERNAS: Assistance is a major source of corrupting the electoral process.

MR. MONSOD: Under the 1986 Election Code, which the Gentleman probably knows, there have been improvements and refinements in the assistance provision, and Commissioner Rama was referring to abuses of barangay captains in the voting of illiterates. We are aware that under the 1986 Election Code, the barangay captains are no longer allowed to assist illiterates.

FR. BERNAS: Yes.

MR. MONSOD: We are also aware that under the 1986 Election Code, the assistance that was allowed unqualifiedly in the 1984 Code has been limited by the provision that anybody assisting can only assist three persons.

FR. BERNAS: Yes.

MR. MONSOD: The reason I am mentioning this is that in the testimony of Chairman Felipe in the Committee on Constitutional Commissions and Agencies, he was citing as one of the reasons for prohibiting illiterates from voting a case that involved somebody assisting 38 people and the difference in the vote was 28 people. I am just making the point that this was already sought to be solved in the 1986 Election Code.

FR. BERNAS: Yes.

MR. MONSOD: Are we also aware that there are many ways by which an illiterate can be allowed to vote, other than assistance by another person? I assume that this is one of the reasons why the Committee put this provision — that there are other ways such as having pictures, color codes and symbols and so on.

FR. BERNAS: Yes.

MR. MONSOD: My question is: Why should we preclude the other means of assisting the illiterate, if there are enough safeguards that there is really secrecy? Under the 1986 Election Code, on assisting an illiterate, let us say that we limit it to public schoolteachers or members of the board of election inspectors, who must execute an affidavit under oath not to violate the secrecy of the ballot because a violation of the oath is an election offense.

FR. BERNAS: Yes.

MR. MONSOD: There have been arguments that this system has been abused and the NAMFREL has enough evidence to show, quite a bit of evidences that part of the abusive process and the failure of elections arose precisely from abuse of government officials, sometimes maybe a conspiracy at the highest levels, to undermine and subvert the election process.

Madam President, in the places where this occurred, there was no direct correlation between literacy or illiteracy and an abusive process, and that, in fact, our a study shows that the abuse of the process arose more out of other circumstances and other factors than the literacy of the voters in the area.

FR. BERNAS: If in the judgment of those who have more experience with the electoral process these three lines are unnecessary, I myself would be most willing to end with line 16.

MR. MONSOD: Thank you.

MR. BENGZON: Madam President, may we request that Commissioner Regalado be recognized.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Madam President, I would prefer to submit my proposed amendments during the period of amendments.

MR. BENGZON: Thank you very much.

Madam President, may we request that Commissioner Suarez be recognized for interpellation.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

I just want to follow up two points: the points raised by Commissioners Rodrigo and Monsod referring to the last sentence under Section 1 of the Article on Suffrage. Are we clear to the effect, Madam President, that in connection with the plebiscite that is supposed to be called for the purpose of ratifying the 1986 Constitution, if I may call it that, the illiterate and the disabled are free to exercise the right of suffrage pursuant to the procedure outlined in the Omnibus Election Code of 1986?

FR. BERNAS: My understanding, Madam President, is that the provision on suffrage in the 1973 Constitution has become a part of the Freedom Constitution under which the plebiscite will be held.

MR. SUAREZ: So it is clear to the effect that they can freely exercise their right of suffrage. After that, the legislature is mandated to provide the mechanism to preserve the sanctity of the ballot in connection with the exercise of the right of suffrage by the disabled and the illiterate.

FR. BERNAS: As this is worded, yes. Or it could be amended by the COMELEC, not necessarily by the legislature.

MR. SUAREZ: Does the Gentleman not feel that a transitory provision is necessary to reflect that sentiment, although our Committee has already been overburdened with referrals?

FR. BERNAS: If we want the illiterate to vote in the first elections under the new Constitution and if we say the law governing the voting of the illiterate must be passed by the legislature, then necessarily we would need a transitory provision.

But if we amend this to say that the rules for the illiterate can be promulgated by the COMELEC, then a transitory provision may not be necessary because the COMELEC can do it right away. In fact, we could ask from the President an executive order authorizing the COMELEC to design a new way for the illiterate for purposes of the first election.

MR. SUAREZ: Can we leave that job, filling up that constitutional gap, to the Commissioner's wisdom to determine?

FR. BERNAS: To the collective wisdom of the Commission, Madam President.

MR. SUAREZ: Thank you.

Let me go to the first sentence in Section 1. The Commissioner was saying a while ago that this was practically lifted from the 1935 and the 1973 constitutional provisions on the right of suffrage.

FR. BERNAS: From the 1973 provisions, Madam President.

MR. SUAREZ: But as distinguished, the 1973 Constitution represented a dramatic change which completely revolutionized the matter of exercise of suffrage. The complexion of this exercise was changed dramatically, if I may say so. In the 1935 Constitution, the word "may" was employed; in the 1973 Constitution, the directory word "may" was changed to "shall," making it mandatory in character. Now we are reemploying the use of the term "shall" under the draft proposal. Is the proponent conveying the thought to us that he would want the right of suffrage to be exercised mandatorily by the free citizens of our country?

FR. BERNAS: That is not my intention, Madam President. As a matter of fact, in my understanding of the 1973 Constitution, the obligation to vote does not arise simply from the word "shall" in Article VI on Suffrage, but rather comes from the Article on Duties and Obligations of Citizens. Apparently, the 1971 Constitutional Convention felt that by itself, the word "shall" here does not connote obligation so that, therefore, it became necessary for them to add that other provision. And, if the Gentleman would ask my personal opinion about the obligation to vote, I would rather not have it.

MR. SUAREZ: So, aside from the conveyance of the meaning, that the word "shall" is only directory in character as far as Section 1, Article on Suffrage, is concerned, the word "shall," if mandatory in character, applies only to the exercise of the right of suffrage by a citizen.

FR. BERNAS: Yes, it is directory as far as the citizen is concerned, it is mandatory as far as the State is concerned, in the sense that the State may not prevent any of these from voting.

MR. SUAREZ: Thank you.

FR. BERNAS: Thank you.

MR. BENGZON: Madam President, may I request that Commissioner Nieva be recognized for interpellation.

THE PRESIDENT: Commissioner Nieva is recognized.

MR. BENGZON: Does the Commissioner have a question?

MS. NIEVA: No, this is just in support of the Nollado amendment; it is not an interpellation.

MR. BENGZON: Thank you.

The last interpellator, Madam President, is Commissioner Bacani.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: My questions were asked by Commissioner Suarez already, so I have gotten the clarification I wanted.

Thank you.

MR. BENGZON: Madam President, there are no more interpellators. Before we move into the period of debate, I move that the period of interpellations be terminated and that we proceed to the period of debate.

THE PRESIDENT: Is there any objection that we close the period of interpellations?

FR. BERNAS: Madam President, just a few closing remarks, perhaps, from the sponsor.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: First of all, intelligence is not measured by the ability to read and write, and the capacity to be informed is not necessarily limited by lack of ability to read and write.

If we look at the Philippine situation, the communication situation in the Philippines now, the means of communication that has the farthest reach is AM radio. People get their information not from reading newspapers, but from AM radio — farmers while plowing, and vendors while selling things, listen to the radio. Without knowing how to read and write, they are adequately informed about many things happening in the country. So, even those who cannot read and write are in a position to make a judgment about what is good or bad for the nation.

Second, illiteracy shows government neglect of education, and if we disenfranchise the illiterate, it will only aggravate the situation of the illiterates because their voices will not be heard then.

The representative quality of a government is determined by the voting base. When we talk about the capacity to vote, we are not talking about the representatives; we are talking precisely about the people who will choose their representatives, and representatives are those who are chosen by those who are represented. And, therefore, as many as possible should be allowed to choose their representatives so that those who profess to be representatives can say that "yes, we are representing even the illiterates" because they have been chosen by the illiterates.

I am very disturbed — very disturbed — by the elitist tendency of narrowing the mass base. I think it is a retrogressive act, and it will do a disservice to the efforts of the nation to promote social justice and to uplift the conditions of the masses. That is all, Madam President.

MR. BENGZON: Thank you very much.

Madam President, the situation now is that Commissioner Rama has not yet finished his speech en contra. So, may I request that Commissioner Rama be allowed to finish, and that, since under our Rules two are allowed to speak for and two are allowed to speak against, I would like to find out if there would be any other Commissioner who would wish to speak in favor of the position of Commissioner Rama, so that he could take the podium after Commissioner Rama.

As it is now, there are already five who have registered to speak against the position of Commissioner Rama.

THE PRESIDENT: Commissioner Rama is recognized to continue his speech.

MR. RAMA: Thank you, Madam President.

It is really very easy to go into such romantic arguments — that illiterates are also educated and intelligent. But the large fact of life here in this country, Madam President, is that the illiterate belong to that segment of the population that is ignorant. We know that there are ignorant people in the country and that they make up a large segment. And among those ignorant people are the illiterates; many of the ignorant can read and write and the most ignorant of them cannot read and write. Now, in the business of election, I think we should not make the ignorant cancel out the votes of the thinking and the informed voter. They are unfortunate; therefore, we should not add to their misfortune. That is neither here nor there, Madam President, because we are talking about a very vital function of electing and choosing the leaders of the country. This function will determine not only the quality of leaders we are going to have but also the future of this country.

As a matter of fact, Madam President, I made a study of other countries that are most successful. They are also compassionate, like I am compassionate. I know that we should be compassionate to these unfortunate illiterates. But that is a misplaced compassion. Other countries more advanced than ours do not precisely allow the illiterates

to vote and to inflict their misfortune on the country. Like, for instance, New York, USA. New York does not allow the illiterates to vote for the simple reason that they are going to cause an aberration to democracy. We must distinguish the; function of a voter. Let us put misfortune in its proper place. Let us have them educated; let us make all efforts to educate them, but do not bring them into the system of our election.

All European countries, Madam President, require that their voting must be secret — direct, secret. That means no assistor, for that will open the electoral process to cheating. Our business here is to try to close, not to open, our election system to cheating. In the communist countries, all the illiterates are allowed to vote and I think that is significant. Mr. Marcos wanted the illiterate to vote. In all communist countries, the illiterates can vote. That is why they have a grotesque election process. That is why dictators, who are insane, become leaders of the country. Brazil does not allow the illiterates to vote; Chile does not allow the illiterates to vote. In Peru and Ecuador, the people have studied and have made a survey and they are also compassionate, but they would not try to mess up their election system with a misplaced sense of compassion. Japan has no constitution, but has no disqualification against the illiterate for the simple reason that they are 99 percent literate. The only other countries that celebrate this so-called doctrine of compassion for the unfortunate are Indonesia and India. Do we want the Philippines to be in the same league and in the same category as Indonesia and India? India allows the illiterate to vote because, I think, the majority of her people are illiterate. But the Philippines is one of the countries that have the highest literacy rate, because before the war, the 1935 Constitution did forbid people to vote if they could not read and write so that everybody strove to know how to read and write to be able to vote. I think we should disabuse ourselves with the romantic argument that the illiterate are intelligent, that they are more intelligent than the literate. This deserves scant consideration.

We know very well that in this country, the rascal politicians win their elections in benighted regions where there are no or few schools and people are misinformed. The rascals and the warlords cannot win in urbanized cities because people are educated and well-informed. So that if we go over the political history of this country, we will find out that the best senatorial candidates had difficulty winning in the areas where there are many illiterate; in the areas where the schools are very few, but they do not have difficulty winning in places where people are informed. With respect to the point that the so-called radio as the main medium of information is helpful to the illiterate, the point is that one has to be civilized and educated to be able to understand, analyze, collate the issues and propaganda disseminated over the radio and comment on them. That is why Mr. Marcos was very successful because he controlled the media and the illiterate could not distinguish propaganda from truth. So for a person to understand and know the election issues, he must have some kind of education. This is the reason Jose Rizal said that education of the people is the salvation of this country. He did not subscribe to the theory that the illiterate are innately intelligent. What did he mean by education? One must at least go to school and know how to read and write. Therefore, a person who does not know how to read and write is completely uneducated because the most basic element of education is knowing how to read and write. As Jose Rizal said, we should be educated because that is the only salvation of our country. If we have to depend on the illiterate to vote and select our leaders now, God help us! Another argument, Madam President, is that we have to learn from the past experience not to be doomed by history. We know that the past election was debauched by cheating. The COMELEC Chairman, Ramon Felipe himself, came to this Commission to tell us to please take out that provision in the Constitution which allows the illiterate to vote because that is one of the main forms of debauchery of the election process. Are we going to ignore that? Of course, we have also the NAMFREL, but I believe the COMELEC Chairman is a very decent man who knows whereof he speaks and yet he asked the Commission to eliminate that provision because it is a source of cheating. Our democracy cannot survive if our election process is vulnerable to cheating. Even Thomas Jefferson himself who is the genius of the republican type of government had to revise his definition of democracy. In his later years, he wrote George Washington, and I quote: "Yes. we must have a

democracy of, for and by the people with a certain degree of instruction." He realized that a government run by ignorant people for ignorant people and of ignorant people will not long survive. This means we must have education.

Thank you.

MR. TADEO: Madam President, isang minuto lang po.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. BENGZON: Is there anyone who wants to speak in favor of the position of Commissioner Rama? Nobody has registered with me, and one more is allowed under the Rules to speak in favor of the position taken by Commissioner Rama.

MR. UKA: Madam President.

MR. TADEO: Madam President.

THE PRESIDENT: We will recognize Commissioner Tadeo later.

Is it in favor of or against the position of Commissioner Rama?

MR. BENGZON: Is Commissioner Rama finished?

MR. RAMA: If there is a question, I yield.

MR. BENGZON: Does Commissioner Uka want to interpellate?

MR. UKA: I want to support the position of Commissioner Rama in few sentences only.

MR. BENGZON: I request that Commissioner Uka be recognized to speak in favor of the position of Commissioner Rama for one minute.

SPEECH OF COMMISSIONER UKA

MR. UKA: How about one-and-a-half or two minutes? What is one-and-a-half minutes among friends?

My friends, Section 1 of the Article does not actually disenfranchise the so-called "illiterate." Perhaps God loves them otherwise, He would not have created many of them. May God forgive them for they know not how to read and write. It says here in the last part:

In the case of the disabled and the illiterate, the legislature shall design a mechanism or a system which will not require the assistance of another person.

That does not entirely disqualify them.

Let us wait for the day when the legislature would design a machine wherein the picture of every candidate could be seen secretly by the illiterate and he would just punch something there which would decide which candidate he wants to elect. But until that time comes when the sophisticated machine is invented, let us be kind to them although they cannot vote. It is not their fault they are illiterate. Maybe it is the fault of society. Maybe they did not have any chance to read and write. They can recognize which candidate they want. So let us not disenfranchise them because as the provision, says: "In the case of the disabled and the illiterate, the legislature shall design a mechanism." What is this mechanism? It is a machine. So let us elect to the legislature inventors who could design that machine. I repeat, until that time comes, my friends, let us be kind to them.

Thank you.

SUSPENSION OF SESSION

THE PRESIDENT: The Chair suspends the session for a few minutes.

In the meantime, I ask the Commissioners who wish to speak to please register with the Acting Floor Leader so as to have an orderly discussion.

It was 11:24 a.m.

RESUMPTION OF SESSION

At 11:27 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. BENGZON: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

RECONSIDERATION OF APPROVAL

ON THIRD READING OF ARTICLE

ON THE JUDICIARY

MR. BENGZON: Before we resume our discussion on the Article on Suffrage, I move that we reconsider the approval on Third Reading of the Article on the Judiciary to afford those Members who were not able to cast their votes to do so.

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

The Secretary-General will call the roll of Members who were not able to cast their votes.

THE SECRETARY-GENERAL, reading:

Abubakar Yes Lerum

Alonto Yes Natividad Yes

Azcuna Yes Sarmiento

Brocka Tadeo Yes

Gascon Villacorta

Laurel Villegas

THE PRESIDENT: How many additional votes do we have?

THE SECRETARY-GENERAL: We have additional affirmative votes.

THE PRESIDENT: So we have now a total of 43 votes in favor of the Article on the Judiciary.

MR. BENGZON: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader recognized.

CONSIDERATION OF

PROPOSED RESOLUTION NO. 530

(Article on Suffrage)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. BENGZON: I move that we now continue the consideration of Committee Report No. 30 on Resolution No. 530 on Second Reading. We are still in the period of sponsorship and debate.

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

MR. BENGZON: I ask that Commissioner Padilla be recognized to speak against the resolution.

THE PRESIDENT: Commissioner Padilla is recognized.

TURNO EN CONTRA

OF COMMISSIONER PADILLA

MR. PADILLA: Madam President, I am in favor of the requirement in the 1935 Constitution which states "and able to read and write," which was deleted in the 1973 Constitution. While there are valuable Members in this Commission who were members of the 1971 Constitutional Convention, my position is that, oftentimes, the 1935 Constitution provision is better than that of the 1973 Constitution, and that the 1973 Constitution is not always an improvement over the 1935 Constitution.

Madam President, we have the reputation that the Philippines is a literate country and that the Filipinos are highly literate.

During the Spanish regime, while we had the benefit of the Christian faith, there was no real effort on the part of colonial Spain to fully educate the Filipinos, because it is said that it is easier to rule and govern a nation when the people remain more ignorant than educated. Whatever be our reactions to the American rules one benefit was the widespread education of our people. Many American teachers devoted their time and effort in their sacrifice to uplift the educational standards of the Philippines. And we have always been giving the biggest share of our national budget to education. However, during the dictatorial regime of Mr. Marcos, the budgetary allotment for education was reduced, and the biggest allotment went to the military, the Armed Forces of the Philippines, which, in my opinion, was a big mistake. But the dictator had his own designs to make the military powerful so that he could utilize the military strength to support his dictatorship.

Madam President, if we delete the qualification of the 1935 Constitution on literacy and continue the 1973 Constitution on illiteracy, I am alarmed that the number of illiterate now will keep on increasing. Even the 1.2 million Filipinos who are illiterate among the electorate is alarming. If we continue qualifying the illiterate to vote, we may be fomenting illiteracy; whereas, if we return to the 1935 Constitution provision and require the voters to be literate, to be able to read and write, it will be an incentive for our people.

It is said that an illiterate is underprivileged, that his being an illiterate is not by his own choice or fault. Madam President, we pride ourselves in having a system of education. We are given at least free elementary education where we definitely learn how to read and write, which is one of the most elementary acquisitions in the ladder of education.

Assuming there are some who are still illiterate, I believe there is an existing movement for adult education, to teach even those who are already beyond the school age. Even the parents of our schoolchildren may be given the basic instructions to be able to read and write. We should have instances wherein the young children go to public schools and get the elementary rudiments, at least, the ability to read and write. And if the parents have not had that chance during the many years of martial misrule, they still have the opportunity to acquire this rudimentary and fundamental requisite of the ability to read and write.

Madam President, I understand and I agree that there are many illiterates who are intelligent. In fact, I would even

go further. There are some illiterates who are more intelligent than the many literates. But it does not mean that we should perpetuate this status of illiteracy, much less encourage and foment illiteracy. We should take every step to uplift the education of our people and grant them, at least, this basic essential of citizenship and the right to vote, based on this minimum qualification of the ability to read and write.

In that regard, Madam President, I do not want to disenfranchise the illiterate, or the disabled, or even the blind. They are citizens and they should have the right to vote, but they should be able to read and write to exercise this right of suffrage without the assistance of other persons. Otherwise, the present situation which has been the object of grave abuses in our electoral process will unfortunately continue and even increase because unfortunately, the persons authorized to write the ballots for the illiterate oftentimes do not follow the choice of the so-called illiterate. And the illiterate are in no position to check or verify whether their so-called representatives follow their votes because they cannot read what the representatives have written on their ballots.

So, Madam President, while I sympathize with some people who are illiterate. I fully support the proposed amendment of Commissioner Rama because we should not encourage illiteracy; on the contrary, we should reduce illiteracy by all means by including adult education.

Thank you very much.

MR. BENGZON: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

MR. BENGZON: There are no more speakers in support of the position of Commissioner Rama. I request that Commissioner Monsod be recognized to speak against the position of Commissioner Rama.

THE PRESIDENT: Commissioner Monsod is recognized.

SPEECH OF COMMISSIONER MONSOD

MR. MONSOD: Madam President, I think Commissioner Padilla mentioned the 1935 Constitution. May I also say that a literacy test is a vestige of a policy to limit suffrage to only a few people that has been used to deny a truly participative democracy in our country.

In Act No. 1582 in 1907, the Americans insisted that the right of suffrage must be premised on the Filipinos' having the ability to read and write English or Spanish. In the 1935 Constitution, this literacy test was minimized by the ability to read and write, and was finally abolished by the 1973 Constitution.

There is no Southeast Asian country that imposes the literacy requirement. And if the book of Father Bernas is to be considered an authority, the United States Supreme Court a couple of years ago declared unconstitutional any state law that would continue to impose this requirement for voting.

Madam President, the argument that has also been imposed here is that many developed countries deny illiterate voting while underdeveloped countries allow it. I do not know if the proper classifications have been made, but there is an axiom, I think, in Latin which says: "Post hoc, ergo propter hoc" — after this, therefore, because of this. Just because a country is developed does not mean its development arose out of the exclusion of illiterate voters.

If there is one political right that is very precious to us, it is the right to vote. We have many rights, but the one-man one-vote rule is one of the basic and fundamental rights in a democracy.

I think there is some confusion in Commissioner Rama's talk when he said that rascals were elected because of misinformed or uninformed voters and the illiterate. There was mention of both uninformed or misinformed voters and the illiterate. Are we talking about the illiterate or uninformed or misinformed voters? He talked about

the abuse by the radio, by the barangay captains, by government officials and perhaps by the COMELEC. But the presence of abuses is not a ground for denying the illiterate to vote because during the 14 years of Mr. Marcos' misrule the system of abuse and fraud was perfected. We do not throw out the baby with the bath. As a matter of fact, NAMFREL would like to share with this Commission the finding that there is no correlation between illiteracy and abusive elections. In fact, one of the most abusive election areas was Makati where there was a failure of elections. On the other hand, there were areas where the elections were considered tolerable and the results credible, for instance, Eastern Samar. People would say that the level of literacy in Makati is probably higher than that in Samar. In all of Metro Manila, our finding is that there is only one city where elections could be considered tolerable. Yet in the provinces like Benguet, Batanes, Southern Leyte, Eastern Samar and Zamboanga, elections were considered tolerable and the results credible, even Nueva Vizcaya whose elections were tolerable in 1986. So, Madam President, we believe that there is no correlation between an abusive process and illiteracy. If the process was abused, it was because there was a conspiracy of the highest level to subvert the 1984 and 1986 elections. I also would like to make a distinction between the mechanism and the principle of excluding. I believe Commissioner Rama is for the principle of excluding; whereas, the proposed Article is for a mechanism and, therefore, does not make an assumption as to the education level and so on. As to the argument that denying the illiterate the right to vote is an incentive to improve the educational system, to me, that is a non sequitur. The right of the people to education is a matter of social justice and a matter of right. Whether or not we deny the illiterate the right to vote, that right to education is there. And I believe that in this Constitution we are framing that mandate quite strongly, and the fact that we deny the illiterate the right to vote will not matter as far as mandating the education of the illiterate is concerned. The last point is that the government we want to elect should be responsible, competent people, and the assumption is that the illiterate are not capable of contributing to that end. I think the history of the world shows that people who do not read or write somehow manage or are very capable of choosing their leaders. As a matter of fact, our experience in NAMFREL when we went all over the country to see the issues very clearly, they were undisturbed by the distortions of the media and manipulations by people. And there is no correlation between their ability to choose their leaders and their ability to read and write.

Thank you, Madam President.

MR. BENGZON: Thank you very much. Commissioner Monsod.

Madam President, I request that Commissioner Christine Tan be recognized for a short speech.

THE PRESIDENT: Commissioner Tan is recognized.

SPEECH OF COMMISSIONER TAN

SR. TAN: Madam President and Members of the Commission, I have been living with illiterates for more than seven years. There were very many instances during the past elections when these illiterates voted and were fooled by the regime. But there were also instances when they used the elections to learn how to write, and many succeeded in learning how to write and to vote intelligently. The reason for their incapacity to write was not their lack of interest but their poverty which had kept them from formal education.

I disagree completely with the presumption that the illiterate do not possess sufficient political consciousness. If we, therefore, divest them today, what would keep us in the future from divesting other groups like the blind, the aged and the moral deviants?

The crux of the solution, I believe, is in the kind of mechanism to be used which will not require the assistance of another person, for corruption lies in the person. And these persons during the past regime were all literate.

I, therefore, support and would dare to use the mechanism proposed rather than be guilty of national injustice

which will further keep us from national unity.

Thank you.

MR. BENGZON: Thank you, Commissioner Tan.

Madam President, I request that Commissioner Bennagen be recognized for a short remark.

THE PRESIDENT: Commissioner Bennagen is recognized.

SPEECH OF COMMISSIONER BENNAGEN

MR. BENNAGEN: Thank you, Madam President.

What I want to say has been anticipated by the two previous speakers, and I do not wish to belabor the point. I just want to add that as an anthropologist and a social scientist, I have been exposed to the worst social situations in this country such as those found all the way from the Cordillera to Sierra Madre and to uplands of Mindanao, including the squatters of Metro Manila, as well as peasants both in Mindanao and Luzon. And I can say that I have learned a lot from people in those areas in terms of what it means to be intelligent. There certainly is no relationship between illiteracy and the capability to make sound moral and intellectual judgment.

As to the argument that disenfranchisement is a motivation for learning, I am convinced that the motivation is not lacking in all of these areas; rather it is the inability of the State to meet this motivation for learning.

I am for enfranchising the illiterate.

Thank you.

MR. BENGZON: Thank you, Commissioner Bennagen.

Madam President, I request that Commissioner Tadeo be recognized for a short remark.

THE PRESIDENT: Commissioner Tadeo is recognized.

SPEECH OF COMMISSIONER TADEO

MR. TADEO: Madam President, sinisikap kong makilahok sa interpellation dahil alam kong ang pinakamahalaga rito ay ang idea in motion. Naniniwala akong sa mga illiterate, pinakamarami rito ay mga magbubukid. Bakit ba sila naging illiterate? Sa kadahilanang bunga ito ng kahirapan, naging biktima sila ng isang sistema na sa murang edad, kahit na libre ang elementarya, hindi nila makuhang mag-aral dahil kinakailangan ang survival. Sa murang edad, nagtitinda na sila ng ice candy, katulong na sila ng kanilang mga magulang sa bukid. Sila ay biktima ng isang mala-kolonyal at malapiyudal na sistema, pagkatapos parurusahan pa natin sila sa pamamagitan ng hindi nila pagboto? Napakalaking insulto at napakalaking kawalang-katarungan nito sa mga magbubukid na bahagi ng pag-unlad ng bansang ito.

Tungkol sa sinasabing edukasyon, ang edukasyon ba ay natatapos sa apat na sulok ng ating kuwarto? Ang mga illiterate ay nasa larangan ng buhay kung saan naroon ang tamang edukasyon. Bibigyan ko kayo ng isang halimbawa. Sa Cuba, walang pormal na edukasyon kasi inaalas na nila ang feudalism na mayroon pang makapag-aral, mayroon pang abogado, ma roon pang duktor. Lahat ng mamamayan ng Cuba ay estudyante dahil ang tamang edukasyon ay ang larangan ng buhay. Mayroon ngang nakapag-aral ngunit sila'y nakahiwalay sa sambayanan, hiwalay sa magbubukid. Ang kanilang edukasyon ay naroon sa apat na sulok ng kanilang kuwarto, kaya't hindi nauunawaan ang magbubukid, manggagawa, at urban poor. Napakaliwanag ng halimbawa ni Hesukristo. Mula sa langit, ipinadala Siya sa mga dukha at tumira, tumawa, gumawa, humalakhak at tumangis kasama ng mga dukha dahil iyon ang tamang edukasyon. Ang tutoo mga kasama, kung kayo ay pupunta sa mga magbubukid, sa mga manggagawa, ang agrarian reform at social justice ay hindi ninyo babawasan, bagkus ay

dadagdagan pa — ito ang "exposure," ang pagpunta sa tamang edukasyon — bibigyan nila kayo ng tamang edukasyon. Kung tayo ay sasama sa mga dukha, pagbalik natin sa Constitutional Commission ay makagagawa tayo ng isang makabuluhang Saligang Batas at sasabihin ko sa inyo na kapag tinalakay natin ang foreign military bases, ang lahat ng 48 Members ng Commission ay boboto na alisin ito sa Pilipinas sapagkat nakasama nila ang mga dukha na siyang tamang edukasyon. Ang tutoo, hindi naman talaga illiteracy ang problema natin kung hindi ang ating political system na isang elite democracy. Ang mga manggagawa at mga magbubukid ay tinanong ako: "Jimmy, paano ang gagawin namin? Ang pipiliin namin parehong masama o kaya lesser evil." Laging ang pinag-pipilian natin sa eleksiyon ay kung sino lamang iyong lesser evil dahil hindi natin binibigyan ng pagkakataon ang mga dukha na pumunta sa National Assembly. Ating subuking dalhin sa National Assembly ang mga dukha, mga magsasaka, mga manggagawa, urban poor at mga estudyante at siguradong lilikha sila ng tamang mga batas na tutugon sa kanilang pangangailangan at ng isang pamahalaang mapagkalinga sa mamamayang Pilipino.

MR. BENGZON: Madam President

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. BENGZON: I request that Commissioner Guingona be recognized as the last speaker against the position of Commissioner Rama.

THE PRESIDENT: Commissioner Guingona is recognized.

SPEECH OF COMMISSIONER GUINGONA

MR. GUINGONA: Thank you, Madam President.

I share the concern of our distinguished Floor Leader for the secrecy of the ballot, that is why I do not favor the voting by illiterates with the assistance of other persons since this will be conducive to cheating in election. But with due respect to the Floor Leader, I do not agree with his assumption that there could be no mechanism that would allow an illiterate voter to cast his ballot without assistance from anyone. May I cite one such mechanism successfully designed and used by India and Malaysia where the illiterates are allowed to vote through the use of symbols adopted by the candidates themselves and reproduced in the ballots which the illiterate voters simply check.

Thank you, Madam President.

MR. BENGZON: Madam President, I move that the period of sponsorship and debate be closed.

MR. BENNAGEN: I just would like to add a little note that as a result of our consultation in the Mountain Province with respect to the disenfranchisement of the illiterate, a number of suggestions came out which could be stated in the following manner: We should not confuse the capability to vote properly with the capability to write. Some other ways could be designed to safeguard the sanctity of the ballot, such as the use of appropriate symbols and even photographs of candidates which are substitutes for the written names.

Thank you.

MR. BENGZON: I now move that we close the period of sponsorship and debate, Madam President.

MR. TINGSON: Madam President.

THE PRESIDENT: Yes, Commissioner Tingson is recognized.

MR. TINGSON: I have a paper here in support of the Committee's stand. May I just submit it for record purposes.[*]

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

MR. TINGSON: Thank you.

THE PRESIDENT: Is there any objection to the motion of the Acting Floor Leader that we close the period of sponsorship and debate? (Silence) The Chair hears none; the motion is approved.

MR. BENGZON: I move that we proceed to the period of amendments, Madam President.

THE PRESIDENT: Is there any objection that we proceed to the period of amendments?

CONSIDERATION OF
PROPOSED RESOLUTION NO. 486
(Article on the Bill of Rights)
Continuation

PERIOD OF AMENDMENTS

MR. BENGZON: Madam President, before we proceed to the period of amendments, may I go back to where we left off earlier this morning with respect to that particular section in the Bill of Rights. I believe that Commissioners Maambong and Bernas are now ready to consider that section in the Bill of Rights.

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

The body will continue the consideration of Section 22 of the Bill of Rights which reads:

The employment of corporal or psychological punishment against prisoners or pretrial detainees, or the use of substandard or outmoded penal facilities characterized by degrading surroundings, unsanitary or subhuman conditions should be dealt with in accordance with law.

Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, I just would like to indicate the generous response of the Members of the Commission to this proposed amendment, notably Commissioners Romulo, Suarez, Davide, Rigos and others who offered beautiful suggestions to implement the concept.

I will start, however, with the perfecting modifications offered by the Committee, acting through the efforts of Commissioner Nollado to whom the proponents are very grateful.

Based on the draft, copies of which are now in the possession of the Members, on line 2, between the words "against" and "prisoners," insert the word CONVICTED.

On line 3, delete the words "substandard or outmoded" and substitute the word INADEQUATE.

On the same line 3, delete the last word "characterized," together with all the words on line 4, and substitute the word UNDER.

On lines 5 and 6, delete the words "in accordance with law" and substitute the words BY LAW. So with this Committee modifications, the whole proposed amendment would read: "The employment of corporal or psychological punishment against CONVICTED prisoners or pretrial detainees, or the use of INADEQUATE penal facilities UNDER subhuman conditions should be dealt with BY LAW."

We now present that before the Committee, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Will the proponent accept a simple amendment to his amendment which will be in connection with line 1?

We have heard many discussions regarding the way the Bill of Rights should be stated, emphatically by the honorable Vice-President. So bearing this in mind, this is the proposed amendment to the amendment.

Instead of a statement of a principle, let us begin with the word NO such that the proposed amendment will now read: NO PHYSICAL OR MENTAL PUNISHMENT SHALL BE EMPLOYED.

MR. MAAMBONG: Madam President, I would refer that proposed amendment to the Committee for its comment so that we can save time.

THE PRESIDENT: What does the Committee say?

FR. BERNAS: As I said in the beginning, as the Bill of Rights is now shaping up, we have two kinds of rights — rights which are self-implementing and rights which need implementation. The rights which are self-implementing are generally worded in the way Commissioner Suarez would have it. But this particular right which we are putting in here is something which needs implementation. So, actually, the effective provision here would be "should be dealt with BY LAW" because we are still dependent on law.

MR. SUAREZ: May I add that my proposal is to make two sentences out of this proposed provision. So put a period (.) after "detainees" and continue the next sentence: "The use of inadequate . . ."

FR. BERNAS: How would it read now?

MR. SUAREZ: It would read something like this: "NO PHYSICAL OR MENTAL PUNISHMENT SHALL BE EMPLOYED against CONVICTED prisoners or pretrial detainees. The use of INADEQUATE penal facilities UNDER subhuman conditions should be dealt with BY LAW."

FR. BERNAS: I think the proposed amendment of Commissioner Maambong, when it speaks of "should be dealt with BY LAW," has reference not just to inadequate or substandard conditions, but even also to torture.

MR. MAAMBONG: I confirm that, Madam President.

FR. BERNAS: Yes. So, it does modify the sense of Commissioner Maambong's proposal. I would leave it to Commissioner Maambong to say whether he accepts that or not.

MR. MAAMBONG: Actually, I am amenable to the use of the words "NO PHYSICAL or psychological. . ." But I really have a difficulty in separating the two things with the words "should be dealt with BY LAW" and I would rather agree with the Committee on this point.

FR. BERNAS: At any rate, what Commissioner Suarez wants to be emphasized is already covered by other provisions.

MR. MAAMBONG: Yes, Madam President.

FR. BERNAS: This is more of a command to the State saying that beyond having recognized these things as prohibited, the State should do something to remedy whatever may be a violation.

MR. MAAMBONG: Yes. But I would just like to indicate, even though I cannot accept the amendment, that the wording of Commissioner Suarez would indeed be more emphatic and it would have served my purpose better if it would not destroy the essence of the whole provision.

FR. BERNAS: Yes.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Will the sponsor entertain an amendment to his amendment?

MR. MAAMBONG: Yes, Madam President. .

THE PRESIDENT: We are still on the amendment of Commissioner Suarez.

MR. REGALADO: No. I will address it instead to Commissioner Maambong.

MR. BENGZON: Madam President, I think Commissioner Suarez is not going to insist on his amendment. So, may we allow him to withdraw?

MR. SUAREZ: Inasmuch as the word "corporal" has already been substituted with the word PHYSICAL, as stated by the honorable proponent. I will not insist on my amendment to the amendment because the sense is already very well conveyed.

Thank you.

THE PRESIDENT: Commissioner Regalado desires to be recognized in relation to the proposed amendment.

MR. MAAMBONG: Yes, Madam President, but I would just like to make a statement. Considering that Commissioner Suarez mentioned "PHYSICAL" — I did say "corporal" — to save time, I would rather ask the Committee to allow me to change "corporal" to PHYSICAL; then, I will accept that amendment on the word PHYSICAL by Commissioner Suarez.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Madam President, I am proposing a further amendment to put some standards on this, to read: "The employment of PHYSICAL, psychological OR DEGRADING punishment ON ANY PRISONER."

Please permit me to explain. The punishment may not be physical but it could be degrading. Perhaps, the Members have seen the picture of that girl who was made to parade around the Manila International Airport with a placard slung on her neck, reading "I am a thief."

That is a degrading form of punishment. It may not necessarily be corporal nor physical. That is why I ask for the inclusion of OR DEGRADING "punishment" on this line and employment should be ON ANY PRISONER. It includes a convicted prisoner or a detention prisoner.

MR. MAAMBONG: Where would the words be?

MR. REGALADO: "The employment of PHYSICAL, psychological OR DEGRADING punishment ON ANY PRISONER." This is all-inclusive.

MR. MAAMBONG: In other words, the Commissioner seeks to delete the words "against CONVICTED prisoners or pretrial detainees," and in its place would be "ON ANY PRISONER."

MR. REGALADO: Because in penal law, there are two kinds of prisoners: the prisoners convicted by final judgment and those who are detention prisoners. Delete "or pretrial detainees"; then, "or the use of GROSSLY substandard or INADEQUATE penal facilities." If we just say "substandard," we have no basis to determine against what standard it should be considered. But if we say "GROSSLY substandard," that is enough of a

legislative indication and guideline.

MR. MAAMBONG: Madam President, before we take it up one by one, the Committee modification actually deleted the words "substandard or outmoded," and in its place, we put the word INADEQUATE. Is it the Gentleman's position that we should put back the word "substandard" instead of "INADEQUATE"?

MR. REGALADO: I put both, "or the use of GROSSLY substandard or INADEQUATE penal facilities," because the penal facilities may be adequate for a specific purpose but it may be substandard when considered collectively and vice-versa; and then, we delete the rest, "should be dealt with BY LAW." That capsulizes, I think, the intent of the sponsor of the amendment.

FR. BERNAS: If we add the word "GROSSLY," we are almost saying that the legislature should act only if the situation is gross.

MR. REGALADO: How do we determine what is substandard?

FR. BERNAS: We leave that to the legislature. What I am saying is that the legislature could say: "Well, this is substandard but it is not grossly substandard; therefore, we need not do anything about it."

MR. REGALADO: Could we have a happy compromise on how the substandard categorization could come in because it may be substandard from the standpoint of American models. but it may be sufficient for us?

FR. BERNAS: I do not think we should go into great details on this. We are not legislating . . .

MR. REGALADO: So, the sponsor's position is that we just leave it to the legislature to have a legislative standard of their own in the form of an ordinary legislation?

FR. BERNAS: Yes.

MR. MAAMBONG: Before I make any acceptance of the offered amendment, may I know from the Committee if on line 3, after the word "INADEQUATE," we should also replace "substandard" which we have cancelled earlier?

FR. BERNAS: I do not know where we are now, but this is what I have. "The employment of PHYSICAL, psychological OR DEGRADING PUNISHMENT against CONVICTED PRISONERS . . ."

MR. MAAMBONG: "against ANY PRISONER. . ." They were thinking of any prisoner.

MR. REGALADO: No, I put the word ON not "against." One inflicts the punishment on a person.

MR. MAAMBONG: Yes.

FR. BERNAS: But the word "inflict" is not used but "employment" is used. So, the preposition is "against," not "ON."

MR. REGALADO: That is right; it is a matter of style.

MR. BENGZON: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. BENGZON: May we just leave that to the Committee on Style? What is important is, we decide on the concept. If we can decide on the concept, then we can leave the style to the Committee on Style.

THE PRESIDENT: It should be left to the Committee on Style or to the Committee itself, to the Committee of Commissioner Bernas if they are agreed on the substance as to what is to be contained in the proposed

amendment.

FR. BERNAS: I just have one question on the substance. If we just say "ANY PRISONER," that may connote that the person is either a prisoner convicted or a pretrial prisoner and, therefore, charged. I would much rather have ANY PRISONER OR DETAINEE because a "prisoner" usually connotes someone who is convicted; a "detainee" could be on pretrial or not charged at all.

THE PRESIDENT: May we now have the recommendation of the Committee as to how this whole provision will read?

FR. BERNAS: So, the recommendation of the Committee would be: "The employment of PHYSICAL, psychological OR DEGRADING punishment against ANY PRISONER OR DETAINEE, or the use of INADEQUATE penal facilities UNDER subhuman conditions should be dealt with BY LAW."

MR. RODRIGO: Madam President.

THE PRESIDENT: Yes, Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to call attention to the fact that the word "DEGRADING" is already in the first sentence of this section: "Excessive fine shall not be imposed nor cruel, degrading or inhuman punishment inflicted." So, why repeat the word "DEGRADING"?

FR. BERNAS: Precisely, Madam President, yesterday, we said that the provision we have in the present Constitution has reference to the punishment that is prescribed by the law itself; whereas what we are dealing with here is the punishment or condition which is actually being practised. In other words, we are, in the present Constitution, talking about punishment which, if imposed by the law, renders the law invalid.

In this paragraph, we are describing conditions of detainees who may be held under valid laws but are being treated in a manner that is subhuman or degrading.

MR. RODRIGO: So, that is the reason for repeating the word "DEGRADING."

FR. BERNAS: Yes, that is the reason.

MR. COLAYCO: Just one suggestion for the Committee.

THE PRESIDENT: Yes, Commissioner Colayco is recognized .

MR. COLAYCO: To shorten the sentence, I would suggest this: "The employment of PHYSICAL, psychological OR DEGRADING punishment IN ANY PLACE OF DETENTION." That will cover prisoners who are already convicted and those under detention or during trial.

MR. MAAMBONG: I am sorry I cannot accept that. I think the Committee has made a good job in modifying the sentence.

THE PRESIDENT: Will Commissioner Maambong please read his proposed amendment with all the suggestions that have come in?

MR. MAAMBONG: Yes. It would read like this: "The employment of PHYSICAL, psychological OR DEGRADING punishment against ANY PRISONER OR DETAINEE or the use of substandard or INADEQUATE penal facilities UNDER subhuman conditions should be dealt with BY LAW."

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: May I just ask one question of the proponent of the amendment. I get it that the law shall provide penalties for the conditions described by his amendment.

MR. MAAMBONG: In line with the decisions of the Supreme Court on the interpretation of cruel and unusual punishments, there may be a law which punishes this violation precisely or there may not be a law. What could happen is that the law could provide for some reliefs other than penalties.

In the United States, there are what is known as injunctive or declaratory reliefs and that is not exactly in the form of a penalty. But I am not saying that the legislature is prevented from passing a law which will inflict punishment for violations of this section.

MR. FOZ: In case the law passed by the legislature would impose sanctions, not so much in the case of the first part of the amendment but in the case of the second part with regard to substandard or outmoded legal penal facilities characterized by degrading surroundings and insanitary or subhuman conditions, on whom should such sanctions be applied?

MR. MAAMBONG: It would have to be applied on the administrators of that penal institution. In the United States, in my reading of the cases furnished to me by Commissioner Natividad, there are instances where the law or the courts themselves ordered the closure of a penal institution and, in extreme cases, in some states, they even set the prisoners free for violations of such a provision.

MR. FOZ: I am concerned about the features described as substandard or outmoded penal facilities characterized by degrading surroundings, because we know very well the conditions in our jails, particularly in the local jails. It is not really the fault of those in charge of the jails but these conditions are the result of lack of funds and the support by local government, in the first instance, and by the national government.

Does the Gentleman think we should penalize the jailers for outmoded penal facilities?

MR. MAAMBONG: No, Madam President. What we are trying to say is that lack of funds is a very convenient alibi for the State, and I think with these provisions, the State should do something about it.

MR. FOZ: Thank you, Madam President.

FR. BERNAS: Madam President, we are not telling the legislature what to do: we are just telling them that they should do something about it.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

The provision which says: "The employment of PHYSICAL, psychological OR DEGRADING PUNISHMENT against ANY PRISONER OR DETAINEE SHALL be dealt with BY LAW" is already provided for by our present laws. We already have laws against third-degree punishments or even psychological punishments. Do we still need this provision?

Thank you. Madam President.

MR. MAAMBONG: As I was saying, Madam President, the law need not penalize; the law may only put in corrective measures as a remedy.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May I just rejoin the statement of Commissioner de Castro that we have laws already covering situations like this. The law we have on that in the Revised Penal Code is maltreatment of prisoners which comes from the original text *maltratos de los encarcerados*. That presupposes that the prisoner is incarcerated.

The proposed legislation sought here will apply not only to incarcerated prisoners, but also to other detainees who, although not incarcerated, are nevertheless kept, their liberty of movement is controlled before incarceration. So, this is for the legislature to fill that void in the law.

MR. GUINGONA: Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Guingona seeks to be recognized.

MR. GUINGONA: Thank you, Madam President.

The description that our penal facilities are characterized by degrading surroundings under subhuman conditions, in my opinion, is already indicative of substandard or inadequate facilities. And, therefore, I was wondering whether or not the words "substandard or INADEQUATE" might be a surplusage.

MR. BENGZON: Madam President, the Committee is asking for a vote.

THE PRESIDENT: Yes, but what is the phrasing now?

MR. GUINGONA: May I ask, Madam President, for reply to my comment before we vote?

MR. MAAMBONG: May I make a very short reply on that. Precisely, the Committee has modified the original version by deleting the words "characterized by degrading surroundings. unsanitary or" because it is felt that that is a surplusage.

THE PRESIDENT: So, please read it now as it is now ready to be voted upon.

MR. MAAMBONG: Yes, Madam President. It will read: "The employment of PHYSICAL, psychological OR DEGRADING punishment against ANY PRISONER OR DETAINEE or the use of substandard or INADEQUATE penal facilities UNDER subhuman conditions should be dealt with BY LAW."

I now ask if this is acceptable to the Committee.

VOTING

THE PRESIDENT: This particular amendment has been accepted by the Committee and, therefore, we are now ready to vote.

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

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

The results show 28 votes in favor and none against; the amendment, as amended, is approved.

MR. BENGZON: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

SUSPENSION OF SESSION

MR. BENGZON: I move that we suspend the session and resume at two-thirty this afternoon to take up the period of amendments on the Article on Suffrage.

THE PRESIDENT: There is lunch being served but may we resume earlier than two-thirty?

MR. BENGZON: One-thirty?

THE PRESIDENT: Is this agreeable to everybody?

The session is suspended until one-thirty in the afternoon.

It was 12:25 p.m.

RESUMPTION OF SESSION

At 1:33 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. BENGZON: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

CONSIDERATION OF

PROPOSED RESOLUTION NO. 530

(Article on Suffrage)

Continuation

PERIOD OF AMENDMENTS

MR. BENGZON: I move that we go to the period of amendments or Committee Report No. 30 on Proposed Resolution No. 530 which is the Article on Suffrage.

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

MR. BENGZON: May I request that Commissioner Rama be recognized to present his amendment.

THE PRESIDENT: Commissioner Rama is recognized.

MR. RAMA: Madam President, my amendment would affect Section 1, line 9. After the words "eighteen years of age and over," insert ABLE TO READ AND WRITE; delete "and" and "who" then proceed with the rest of the sentence "and shall have resided in the Philippines . . ." Those are all my amendments. and I would like to delete lines 13 to 19 as a consequence of said amendments.

THE PRESIDENT: Will Commissioner Rama please repeat?

MR. RAMA: Line 19 of Section I would read: "eighteen years of age or over, ABLE TO READ AND WRITE and shall have resided in the Philippines. . ." So, we only delete the words "who" and "and." As a consequence, delete lines 13 to 19.

FR. BERNAS: Madam President. the Committee does not accept the amendment and submits the matter to a vote.

MR. RAMA: I would like to explain my vote by taking advantage of the five-minute rule.

THE PRESIDENT: The Gentleman may proceed.

MR. RAMA: What we have here, Madam President; against my proposal are the emotional, the patriotic and the

compassionate arguments. We are not in the business of trying to be compassionate, patriotic, etc. when it comes to reasoning out our proposal. The first is that the illiterate in the Philippines are really intelligent: they understand. They are better than the illiterate abroad. This is a patriotic argument.

The other main argument and objection is that these illiterates are already unfortunate and we must not add to their misfortune by not allowing them to vote. This is a compassionate argument and I do not think we should consider this as a substitute for rational argument. What could be misleading is that the proponent of this amendment could be mistaken as to the illiterate as such that he condemns the misfortune of these people even if they are not at fault for their misfortune, and that I am discriminating against the illiterate because of their misfortune. That is not the point. The point is that the illiterate should not be allowed to vote because they cannot function as voters under a democratic rule of voting. They cannot know the election issues, the records of each candidate comparing them with the rest, the performances of these candidates. Therefore, they are not in a position to elect the best men as public officials and leaders of this country.

Second, we have had our experience with these illiterates. We have seen how they were utilized in the past election. I am against the voting of the illiterate because they are vulnerable to manipulation by the politicians. Precisely, I do not want the illiterate to be further exploited by the politicians. That has happened. They have already been exploited enough by many people and we allow these politicians and war-lords to exploit them further during elections. We have seen that this provision allowing the illiterate to vote makes our electoral process vulnerable to cheating. That is the main problem we have in this country. We should try our best to try to close the door to and minimize this cheating as much as possible.

This Constitutional Commission whose Members have sworn not to run in the next election or in the next 6 or 12 years anyhow are in the best position to pass this kind of amendment disauthorizing the illiterate to vote. No other body in this country, neither a Congress nor a Constitutional convention, would have the opportunity and courage as this Constitutional Commission to approve that kind of a provision in the Constitution because it will take some kind of moral courage to present a provision disqualifying 1.2 million voters.

So, for that reason, Madam President, I appeal to the Commission to at least look at this issue under the cold light of reason, not using the arguments that are either patriotic or romantic or compassionate.

MR. BENGZON: Madam President, Commissioner Concepcion wants to say a few words on the matter before we go to a vote.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Thank you, Madam President.

I do not propose to speak in favor or against any of the proposals, but I would like to transmit what happened in the Integrated Bar of the Philippines when the question of suffrage was taken up.

One significant feature of the exchange of ideas in the Integrated Bar of the Philippines was that some of the experienced politicians there were strongly in favor of the removal of the provision of the 1973 Constitution insofar as illiteracy is concerned. Their main reason was that during the last presidential elections, most of the irregularities were committed through illiterate voters. We discussed the propriety or popularity of a measure that would eliminate illiteracy as a disqualification to vote but they said that the illiterates have never exercised the right of suffrage even under the 1973 Constitution. The reason is they never knew; they never filled their own ballots; and they never knew what their ego had written on their ballots. During the last presidential elections the vote-buying by agents of the administration was rampant that they even caused many people to register as illiterate and sell their votes by receiving half of the amount agreed upon and choosing the buyer to fill the

corresponding ballot. After the same had been cast, the balance of the price was delivered to the illiterate voter.

Madam President, the draft provision submitted by the Committee has tried to offset that problem by adding a last sentence which would require Congress to design means to ensure voting by an illiterate without the intervention of another person.

I note, however, that the last sentence is preceded by another sentence appearing in the 1973 Constitution directing Congress to take measures to insure the secrecy and sanctity of the ballot. This, notwithstanding, that secrecy has not really been protected by Congress inasmuch as the Election Code authorizes the illiterate to vote through another who fills the ballot of such illiterate.

Undoubtedly, there are other means by which the illiterate may vote without the intervention of another person. The illiterate are entitled to participate in the operation of every democratic society. Their voice should be heard in a democratic society. In fact, I believe it is their duty to express their views and cast their votes on matters of public concern. I share the conviction that every citizen is under moral and legal obligation to be fairly informed on matters of public concern and should contribute to the formation and development of an enlightened and sound opinion on such matters.

Every registered voter has the duty to cast his vote. A provision to this effect in the 1973 Constitution was introduced in response to a paper prepared on the occasion of the centenary of Gregorio Araneta, wherein it was pointed out that the people had not only the right but also the duty to participate in the government of a democratic community; that every power carries with it the corresponding responsibilities; and that sovereignty residing in the people, epitomized by people power, entails an assumption of the responsibility to ensure that such power is properly exercised.

One of the remedies proposed in 1970 was education geared towards the development of political maturity. By our educational system seems to emphasize instead technique rather than values or practices devoid of morality. It is high time that our citizens begin to evaluate their priorities on the matter.

I notice that when we voted on Third Reading the other day someone left the session hall with a note stating that if a given project or draft were submitted to a vote, his vote would be in the manner indicated in his note, but that vote was not counted. At least, it was not counted. If that is so with respect to the literate, why should we make the distinction with the illiterate? But, of course, I am familiar with that. I think in India there are big pictures of the candidates in the polling places with their respective colors and sort of logo, and the illiterate voters are instructed on how they could vote. They are given a ballot where colors are printed on the ballot and they fill the ballot by lighting a match or a lighter or punching a hole into the ballot. If that could be adopted, I would certainly welcome it. But I want to stress the fact that notwithstanding the provision in the 1973 Constitution which is reproduced in the present draft that Congress shall provide means to ensure the secrecy of the ballot, nothing actually has been accomplished in that respect. And I am afraid that the sentence now being added may not solve the question adequately.

Thank you, Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. BENGZON: I think the body is ready to vote now. Will Commissioner Rama again read the amendment?

MR. RAMA: Commissioner Uka would like to make a correction of what he previously said for the record.

MR. UKA: Madam President.

THE PRESIDENT: Commissioner Uka is recognized.

MR. UKA: May I explain my statement. My friends, this is not a turnabout because I am not a balimbing but I want to explain. Before I spoke, I was asked a question: "Are you supporting his amendment"? I said, "Yes." That is why I stood up. We are but human. This is not a case of a mistake of the mind. but of the tongue. I used the words "not disenfranchise"; that is double negative. I should not have used the word "not." And so, I would like to correct that sentence. The tongue is very naughty sometimes. It is the cause of most of our misfortunes. That is why we have libel in the criminal code because of the tongue.

I am not against the illiterate. In fact, I love them and because God loves them, as I said, He created many of them. But the case of the illiterate is like that of a driver. Whom do we want to drive our car? The one who knows how to drive, of course. Whom do we allow to vote? The one who knows how to cast his vote. So, my not allowing someone to drive a car especially when I am the passenger does not mean that I do not love him. I will let him learn how to drive a car first. This is the reason why I said that in the case of the disabled and the illiterate, the law provides that the legislature shall design a mechanism or a system which will not require the assistance of another person. And I was thinking of that day when that mechanism will be designed. Maybe, it will not be a very long time from now; maybe it will be very soon especially in this age of the invention of sophisticated machines. I was explaining that someday the legislature may find an inventor who can invest a machine wherein the picture of the candidates will be there and the illiterate one will just punch something. He will just ask himself: "Shall I vote for this Juan de la Cruz or this one? " He will do it alone by himself; nobody will punch it for him. That will be a great day. In the meantime, we must postpone his voting until that time when he has learned to write, or the sophisticated machine is invented for his use. This will also encourage education because he will say, "I must learn how to write so that I can vote for my candidate." that will really bolster our educational system. So, my sentence there should have been "Let us, in the meantime. not allow him to vote or let us, in the meantime, disenfranchise him," not that we love him less but we love him more. We want him to learn how to write so he can vote independently and wisely.

MR. BENGZON: Thank you very much, Commissioner Uka.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

May the honorable Commissioner Rama admit some amendments to his amendment?

MR. RAMA: I would like to listen to them.

MR. DE CASTRO: I would like to retain lines 15 and 16 which read: "The Legislature shall provide a system for the purpose of securing the secrecy and sanctity of the vote." It is contained in the 1973 Constitution, and in the amendment, it is proposed to be deleted.

MR. RAMA: I accept the amendment joyfully.

MR. DE CASTRO: Thank you.

On the amendment of Commissioner Rama, which reads: "THOSE WHO ARE ABLE TO READ AND WRITE," at present, we have adult education going on in all our barrios, and those who do not know how to read and write easily learn in two or three nights of adult education. I see no reason why these illiterates cannot learn through adult education.

I saw what happened in the last election when there were assistors in the precinct. I saw one assistor from the time the precinct opened up to about eleven o'clock in the morning. I complained although I was only an onlooker and said, "What is that person doing there?" Those in the board told me that she was an assistor. I said, "Assisting who?" She had been there from early morning and she was assisting all voters who went inside the booth. I asked the representative of the NAMFREL, "Ano ba ang ginagawa ninyo? Nagkakaloko-loko na sa loob, wala pa kayong sinasabi." They could not say anything. There was a policeman there with a big .45 caliber gun tucked in his waist guarding the whole precinct. So, the assistor was there and my complaint came to naught. That is my comment.

Thank you, Madam President.

MR. BENGZON: May we now vote on the amendment of Commissioner Rama as amended by Commissioner de Castro? So, for purposes of clarity, Commissioner Concepcion requests that Commissioner Rama read again his proposed amendment with the amendment of Commissioner de Castro.

MR. RAMA: The amendment, Madam President, is merely the insertion of the words ARE ABLE TO READ AND WRITE.

THE PRESIDENT: Please read the whole Section 1.

MR. RAMA: This has specific reference to line 9. So, the whole section will read: "Section 1. Suffrage shall be exercised by all citizens of the Philippines not otherwise disqualified by law, who are eighteen years of age or over, ARE ABLE TO READ AND WRITE and shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months preceding the election."

So, the next amendment would be the deletion of lines 13 and 14 and lines 17 to 19.

THE PRESIDENT: Is that clear? Are we ready to vote now?

MR. BENGZON: Yes, Madam President.

VOTING

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

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

The results show 6 votes in favor and 21 against: the amendment, as amended, is lost.

MR. BENGZON: Madam President, may I request that Commissioner Monsod be recognized for an amendment.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I would like to propose an amendment by deletion.

MR. DE LOS REYES: Madam President, I have only one anterior amendment.

THE PRESIDENT: Commissioner de los Reyes is recognized for his anterior amendment.

MR. DE LOS REYES: Yes, Madam President. On line 8 of Section 1, after the word "are," I propose to add the words AT LEAST. Then on line 9, delete the words "or over," so that the sentence will read: "Suffrage shall be exercised by all citizens of the Philippines not otherwise disqualified by law, who are AT LEAST eighteen years of age . . ."

FR. BERNAS: The Committee accepts.

MR. DE LOS REYES: Thank you.

THE PRESIDENT: The Committee has accepted the amendment.

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

Commissioner Monsod is recognized.

MR. MONSOD: Yes. Madam President, I propose to delete lines 17 to 19 of Section I beginning with the word "In" and ending with the word "person."

THE PRESIDENT: Will Commissioner Monsod explain his proposed amendment?

MR. MONSOD: Madam President, I think the arguments for and against this provision have already been amply discussed here. I just want to say that as far as the mechanisms and the procedures are concerned, they are amply covered by the mandate of the legislature to provide for a system of securing the secrecy and sanctity of the ballot. Thus, lines 17 to 19 would really deprive the illiterate of the right to vote, until the legislature shall have designed these means. We believe that the illiterate should be allowed to vote, and that there are many mechanisms and methods by which the secrecy and sanctity of the ballot may be protected.

THE PRESIDENT: Is this accepted by the Committee?

FR. BERNAS: I leave the matter to the body because I think there are others who prefer to keep or modify this provision.

MR. BENGZON: Madam President.

THE PRESIDENT: Yes, Commissioner Bengzon is recognized.

MR. BENGZON: This is just for the information of the body. If the body approves the amendment by deletion proposed by Commissioner Monsod, there will be other Commissioners who will propose amendments in place thereof. Commissioner Aquino has an amendment which will take the place of this particular paragraph. So, perhaps, we could dispose of Commissioner Monsod's amendment first.

THE PRESIDENT: Let us hear the proposed amendment of Commissioner Aquino.

MS. AQUINO: My proposed amendment would be an amplification of lines 17 to 19 which, when approved, should be transposed to the Article on Transitory Provisions. Hence, I would oppose the motion to delete lines 17 to 19.

THE PRESIDENT: How would the paragraph read?

MS. AQUINO: Madam President, I propose that we address first the amendment by deletion of Commissioner Monsod.

MR. BENGZON: That is why I am proposing that we first vote on the amendment of Commissioner Monsod.

THE PRESIDENT: Let us vote first on the proposed amendment of Commissioner Monsod.

MR. RAMA: Madam President, I would like to speak against that amendment.

MR. BENGZON: Commissioner Rama wishes to speak against the amendment.

THE PRESIDENT: Commissioner Rama is recognized.

MR. RAMA: Madam President, many of our Members here voted in favor or against my amendment because

there is a similar provision on lines 17 to 19. So, it would be a little unfair to those people who voted against disenfranchising the illiterate in view of this method provided for on lines 17 to 19. Another reason is that it has been the largest fact of life here that the manner of voting by the illiterate through an assistor is one of the main sources of cheating. It also violates the first requirement of a democratic voting which is secrecy of the ballot. That is why it is important that this provision remain if we are allowing the illiterate to vote.

FR. BERNAS: Madam President.

THE PRESIDENT: Yes, Commissioner Bernas is recognized.

FR. BERNAS: The understanding is that if the three lines are approved as they are now, they would automatically disenfranchise the illiterate until the legislature is able to act. So unless the provisions for the nondisenfranchisement will be provided for, we oppose the total deletion.

MR. BENGZON: May we put the matter to a vote now, Madam President?

THE PRESIDENT: Are we ready to vote now?

MR. MONSOD: Madam President, may I know the parliamentary situation? Are we saying that we will vote on this amendment but we will later on put in additional safeguards or whatever wordings in this paragraph?

THE PRESIDENT: Not necessarily. All that we are called upon is to vote whether or not we should delete lines 17 to 19.

MR. MONSOD: Madam President, I think if there is a motion to amend this provision, it might be a prejudicial issue to the question of deletion.

MS. AQUINO: May I venture a possible explanation of the situation as it obtains now? It was clearly mentioned by the honorable sponsors that upon the ratification of this Constitution, the disabled and the illiterate will be effectively and eventually disenfranchised — meaning, declassified as voters — in the absence of a statutory implementation of this Article on Suffrage. Since there is a consensus among us not to prematurely disenfranchise them, I would propose the insertion of a paragraph which would amplify lines 17 to 19 for transposition to the Transitory Provisions. It is my fear that if lines 17 to 19 are deleted, it will not address the problem; it will, in fact, only open the gates again for potential vote cheating and debauchery as Commissioner Rama would say it. I would think that the right solution is to reenforce lines 17 to 19 with a specific provision that would address affirmatively the problem.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. BENGZON: Madam President, may I request a suspension of around two minutes so that Commissioners Monsod and Aquino can get together?

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 2:00 p.m.

RESUMPTION OF SESSION

At 2:20 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Acting Floor Leader is recognized.

MR. BENGZON: May we request-that Commissioner Bernas be recognized.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, we have more or less agreed on a possible compromise.

We keep the provision on lines 17 to 19 pretty much as it is with a minor change. It will now read: "In the case of the disabled and the illiterate, the legislature shall design a PROCEDURE which will not require the assistance of another person. UNTIL THE LEGISLATURE PROVIDES FOR THE APPROPRIATE PROCEDURE, THE ILLITERATE AND THE DISABLED SHALL BE ALLOWED TO VOTE UNDER THE EXISTING LAW AND SUCH RULES AS THE COMMISSION ON ELECTIONS MAY PROMULGATE TO PROTECT THE SECRECY OF THE BALLOT."

THE PRESIDENT: That is beautiful.

MR. MONSOD: Madam President, may I just ask the Committee a question.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Will the Commissioner please repeat the last phrase?

FR. BERNAS: THE COMMISSION ON ELECTIONS MAY PROMULGATE TO PROTECT THE SECRECY OF THE BALLOT.

MR. MONSOD: Is the interpretation of the Committee "TO PROTECT THE SECRECY OF THE BALLOT" under the existing rules and regulations or is the Committee equating secrecy of the ballot with the phrase "will not require the assistance of another person"?

FR. BERNAS: My understanding is that during this interregnum, we leave the matter to the COMELEC.

MR. MONSOD: Then, Madam President, I withdraw my previous motion and I endorse this amendment of the Committee.

THE PRESIDENT: So, this is now a joint amendment by Commissioners Monsod, Nollado and Aquino.

FR. BERNAS: We accept, Madam President.

THE PRESIDENT: The Committee has accepted.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

Will this amendment that Commissioner Bernas has just read take effect during the ratification of our Constitution?

FR. BERNAS: No, because until this Constitution is ratified, it is just a piece of paper. So, in the ratification, we will be governed by the Omnibus Election Code.

MR. DE CASTRO: There will be the same assistor in the same booth from morning till afternoon?

FR. BERNAS: I beg the Commissioner's pardon?

MR. DE CASTRO: The Commissioner said that in the ratification of the Constitution we are drafting, we will be governed by the existing law and that is, the Omnibus Election Code.

FR. BERNAS: Yes.

MR. DE CASTRO: Then I said that there will be the same assistor in the same booth where he will stay from morning till afternoon.

FR. BERNAS: The provision of the Omnibus Election Code, whatever it is, will govern.

MR. DE CASTRO: Thank you, I am clarified.

FR. BERNAS: Unless it is amended by the legislative power of the President at the moment.

MR. BENGZON: The Committee has accepted the amendment, so if there are no objections, we are ready to vote.

THE PRESIDENT: The Committee has accepted the amendment.

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

MR. BENGZON: Madam President, may we request that Commissioner Regalado be recognized.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

This morning I submitted to Commissioner Bernas in writing an omnibus set of amendments for the entire Article. However, since the body has already voted favorably on the amendment on lines 17 to 19, I will limit my proposals to the Committee only to those lines which are not so affected. I propose to delete "or over" on line 9, so that the provision would read: "Suffrage shall be exercised by all citizens of the Philippines not otherwise disqualified by law who are at least eighteen years of age."

FR. BERNAS: That was the amendment of Commissioner de los Reyes which was already accepted.

MR. REGALADO: That is all right. I now propose to amend lines 15 to 16 of Section I to read as follows: "The NATIONAL ASSEMBLY shall PRESCRIBE a system WHICH WILL ENABLE QUALIFIED CITIZENS TEMPORARILY ABSENT FROM THE PHILIPPINES OR THE PLACE WHERE THEY ARE REGISTERED TO CAST THEIR VOTES."

I am referring to overseas Filipinos and to those who, at the time of the election, may not be in the place where they are registered. They are the so-called absentee voters. I will repeat: "The NATIONAL ASSEMBLY shall PRESCRIBE a system WHICH WILL ENABLE QUALIFIED CITIZENS TEMPORARILY ABSENT FROM THE PHILIPPINES OR THE PLACE WHERE THEY ARE REGISTERED TO CAST THEIR VOTES. IN ALL CASES SAFEGUARD SHALL BE PROVIDED TO SECURE the secrecy and THE sanctity of the BALLOT."

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Before we consider the amendment of commissioner Regalado, may I ask if we have acted upon the joint amendment of Commissioners Monsod, Nollado and Aquino?

THE PRESIDENT: Yes, we have; it has already been approved.

FR. BERNAS: So, we are into something new?

THE PRESIDENT: Yes.

FR. BERNAS: All right.

MR. MONSOD: Madam President.

MR. BENGZON: Madam President, Commissioner Monsod has an amendment to the amendment of Commissioner Regalado insofar as the Filipinos abroad are concerned.

MR. PADILLA: Madam President.

THE PRESIDENT: The Vice-President is recognized.

MR. PADILLA: May I propose a prior amendment? On line 7, the first line, we used the word "shall" following the 1973 Constitution. The 1935 Constitution, however, used the word "may." I propose to change the word "shall" to MAY.

FR. BERNAS: The Committee accepts.

THE PRESIDENT: The Committee has accepted the amendment.

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

MR. PADILLA: There is a typographical error on line 11. We delete the letter "d" on the word "proposed."

FR. BERNAS: The Committee accepts.

THE PRESIDENT: The Committee has accepted the amendment.

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

MR. BENGZON: May we request that Commissioner Monsod be recognized.

THE PRESIDENT: Commissioner Monsod is recognized .

MR. MONSOD: Madam President, there is a group of Commissioners who consolidated their proposals for absentee voting: Commissioners Ople, de los Reyes, Maambong, Foz and this Member. We would like to propose an amendment to the amendment on line 16 which states: "TO SECURE the secrecy and THE sanctity of the BALLOT." This should be followed with the phrase AS WELL AS FOR ABSENTEE VOTING BY FILIPINOS ABROAD.

We believe that the phrase "absentee voting" has already its own meaning, and the other provisions on safeguarding secrecy and sanctity of the ballot, and disqualifications and qualifications are already in the Constitution subject only to such modifications as the legislature may deem advisable to provide. That is the reason for proposing that amendment. Madam President.

MR. REGALADO: Before I act on that, may I inquire from Commissioner Monsod if the term "absentee voting" also includes transient voting; meaning, those who are, let us say studying in Manila need not go back to their places of registrations for instance, in Mindanao, to cast their votes.

MR. MONSOD: I think our provision is for absentee voting by Filipinos abroad.

MR. REGALADO: How about those people who cannot go back to the places where they are registered?

MR. MONSOD: Under the present Election Code, -there are provisions for allowing students and military people who are temporarily in another place to register and vote. I believe that those situations can be covered by the

Omnibus Election Code. The reason we want absentee voting to be in the Constitution as a mandate to the legislature is that there could be inconsistency on the residence rule if it is just a question of legislation by Congress. So, by allowing it and saying that this is possible, then legislation can take care of the rest.

THE PRESIDENT: Is that accepted?

MR. REGALADO: Just one more clarification, Madam President.

So, in the interim, that rule presently appearing in the Omnibus Election Code as well as the COMELEC rules on transient voting will be applied.

MR. MONSOD: Yes, whatever the rules may be; and at the moment, there are certain rules with respect to those situations.

MR. REGALADO: Since it covers the purpose of the amendment, I accept the amendment to my amendment. This capsulizes my amendment and shortens what is expressed in my amendment.

MR. BENGZON: May I request Commissioner Regalado to read his amendment to the amendment of Commissioner Monsod which would cover from line 7, Section I, all the way down to lines 15 and 16.

MR. REGALADO: It is our understanding that it will be for the record.

MR. BENGZON: Yes. The Commissioner should read from the beginning because he has some changes.

MR. REGALADO: "Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months preceding the election."

There is no change with respect to the second paragraph regarding literacy, property or other requirements.

The amendment to line 15 states: "The NATIONAL ASSEMBLY shall PRESCRIBE a system WHICH WILL ENABLE QUALIFIED CITIZENS TEMPORARILY ABSENT FROM THE PHILIPPINES OR THE PLACE WHERE THEY ARE REGISTERED TO CAST THEIR VOTES. IN ALL CASES SAFEGUARD SHALL BE PROVIDED TO SECURE the secrecy and THE sanctity of the BALLOT."

Since Commissioner Monsod says that that is already considered as the correct interpretation in his amendment to my proposed amendment with respect to "absentee voting," I will accept the amendment to my amendment.

THE PRESIDENT: So, lines 15 and 16 will read as stated by Commissioner Monsod.

MR. BENGZON: Yes. May I request Commissioner Monsod to restate his amendment to the amendment on lines 15 and 16 which has been accepted?

MR. MONSOD: Madam President, lines 15 and 16 will now read: "The NATIONAL ASSEMBLY shall PROVIDE a system for the purpose of securing the secrecy and sanctity of the vote AS WELL AS A SYSTEM FOR ABSENTEE VOTING BY FILIPINOS ABROAD. "

THE PRESIDENT: What does the Committee say?

FR. BERNAS: Is there no distinction between national and local elections? Do we leave that to the legislature?

MR. MONSOD: Yes, we leave it to the legislature.

FR. BERNAS: Since this is a very novel thing in our system and since the Committee has not had the opportunity to discuss this matter, I would leave it to the body rather than simply accept it.

MR. BENGZON: May we ask for a vote, Madam President.

THE PRESIDENT: Yes. We will be voting on lines 15 and 16.

MR. BENGZON: No, the whole thing, Madam President.

THE PRESIDENT: But paragraph (I) of Section 1 has already been approved.

MR. BENGZON: Yes, lines 15 and 16 only.

MR. RODRIGO: Before we vote. Madam President, I just want to ask if the word "Filipinos" is a general term. Does this refer to Filipinos who are qualified voters?

THE PRESIDENT: Yes, of course.

FR. BERNAS: Yes, that is the understanding.

MR. RODRIGO: Should we not spell it out in the provision or is it already understood?

FR. BERNAS: It is already understood.

THE PRESIDENT: Is there any objection to the proposed amendments on lines 15 and 16?

FR. BERNAS: In other words, these Filipinos must at least be domiciled in the Philippines.

MR. MONSOD: Yes.

FR. BERNAS: That is why we do not use the word "ABROAD" because they must be domiciled in the Philippines.

MR. MONSOD: That is why we are not repeating many of the basic things such as qualifications, disqualifications and domicile requirements.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May I just be recognized for a clarification. There are certain qualifications for the exercise of the right of suffrage like having resided in the Philippines for at least one year and in the place where they propose to vote for at least six months preceding the election. What is the effect of these mandatory requirements on the matter of the exercise of the right of suffrage by the absentee voters like Filipinos abroad?

THE PRESIDENT: Would Commissioner Monsod care to answer?

MR. MONSOD: I believe the answer was already given by Commissioner Bernas, that the domicile requirements as well as the qualifications and disqualifications would be the same.

THE PRESIDENT: Are we leaving it to the legislature to devise the system?

FR. BERNAS: I think there is a very legitimate problem raised there.

THE PRESIDENT: Yes.

MR. BENGZON: I believe Commissioner Suarez is clarified.

FR. BERNAS: But I think it should be further clarified with regard to the residence requirement or the place where they vote in practice; the understanding is that it is flexible. For instance, one might be a resident of Naga or domiciled therein, but he satisfies the requirement of residence in Manila, so he is able to vote in Manila.

MR. TINGSON: Madam President, may I then suggest to the Committee to change the word "Filipinos" to QUALIFIED FILIPINO VOTERS. Instead of "VOTING BY FILIPINOS ABROAD," it should be QUALIFIED FILIPINO VOTERS. If the Committee wants QUALIFIED VOTERS LIVING ABROAD, would that not satisfy the requirement?

THE PRESIDENT: What does Commissioner Monsod say?

MR. MONSOD: Madam President, I think I would accept the phrase "QUALIFIED FILIPINOS ABROAD" because "QUALIFIED" would assume that he has the qualifications and none of the disqualifications to vote.

MR. TINGSON: That is right. So does the Committee accept?

FR. BERNAS: "QUALIFIED FILIPINOS ABROAD"?

THE PRESIDENT: Does the Committee accept the amendment?

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: When Commissioner Bengzon asked me to read my proposed amendment, I specifically stated that the National Assembly shall prescribe a system which will enable qualified citizens, temporarily absent from the Philippines, to vote. According to Commissioner Monsod, the use of the phrase "absentee voting" already took that into account as its meaning. That is referring to qualified Filipino citizens temporarily abroad.

MR. MONSOD: Yes, we accepted that. I would like to say that with respect to registration we will leave it up to the legislative assembly, for example, to require where the registration is. If it is, say, members of the diplomatic corps who may be continuously abroad for a long time, perhaps, there can be a system of registration in the embassies. However, we do not like to preempt the legislative assembly.

THE PRESIDENT: Just to clarify, Commissioner Monsod's amendment is only to provide a system.

MR. MONSOD: Yes.

THE PRESIDENT: The Commissioner is not stating here that he wants new qualifications for these absentee voters.

MR. MONSOD: That is right. They must have the qualifications and none of the disqualifications.

THE PRESIDENT: It is just to devise a system by which they can vote.

MR. MONSOD: That is right, Madam President.

VOTING

THE PRESIDENT: Is it clear enough? Are we ready to vote now?

Those in favor of the amendment, as amended, on lines 15 and 16 which includes "VOTING BY QUALIFIED FILIPINOS ABROAD." please raise their hand. (Several Members raised their hand.)

Those against the amendment, as amended, please raise their hand. (No Member raised his hand.)

The results show 28 votes in favor and none against; the amendment, as amended, is approved.

MR. SUAREZ: Madam President, may I be recognized for clarification.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: For clarification purposes, we just want to state for the record that in the case of qualified Filipino citizens residing abroad and exercising their right of suffrage, they can cast their votes for the candidates in the place where they were registered to vote in the Philippines. So as to avoid any complications, for example, if they are registered in Angeles City, they could not vote for a mayor in Naga City.

In other words, if that qualified voter is registered in Angeles City, then he can vote only for the local and national candidates in Angeles City. I just want to make that clear for the record.

MR. REGALADO: Madam President.

THE PRESIDENT: What does Commissioner Regalado say?

MR. REGALADO: I just want to make a note on the statement of Commissioner Suarez that this envisions Filipinos residing abroad. The understanding in the amendment is that the Filipino is temporarily abroad. He may not be actually residing abroad; he may just be there on a business trip. It just so happens that the day before the elections he has to fly to the United States, so he could not cast his vote. He is temporarily abroad, but not residing there. He stays in a hotel for two days and comes back. This is not limited only to Filipinos temporarily residing abroad. But as long as he is temporarily abroad on the date of the elections, then he can fall within the prescription of Congress in that situation.

MR. SUAREZ: I thank the Commissioner for his further clarification. Precisely, we need this clarification on record.

MR. MONSOD: Madam President, to clarify what we mean by "temporarily abroad," it need not be on very short trips. One can be abroad on a treaty traders visa. Therefore, when we talk about registration, it is possible that his residence is in Angeles and he would be able to vote for the candidates in Angeles, but Congress or the Assembly may provide the procedure for registration, like listing one's name, in a registry list in the embassy abroad. That is still possible under this system.

FR. BERNAS: Madam President, just one clarification if Commissioner Monsod agrees with this.

Suppose we have a situation of a child of a diplomatic officer who reaches the voting age while living abroad and he has never registered here. Where will he register? Will he be a registered voter of a certain locality in the Philippines?

MR. MONSOD: Yes, it is possible that the system will enable that child to comply with the registration requirements in an embassy in the United States and his name is then entered in the official registration book in Angeles City, for instance.

FR. BERNAS: In other words, he is not a registered voter of Los Angeles, but a registered voter of a locality here.

MR. MONSOD: That is right. He does not have to come home to the Philippines to comply with the registration procedure here.

FR. BERNAS: So, he does not have to come home.

MR. BENGZON: Madam President, the Floor Leader wishes to inquire there are more clarifications needed from the body.

Also, the Floor Leader is happy to announce that there are no more registered Commissioners to propose amendments. So I move that we close the period of amendments.

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

MR. BENGZON: I move that we vote on Second Reading on the Article on Suffrage.

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

We now proceed to vote on Second Reading on Proposed Resolution No. 530.

The Secretary-General is requested to please read the title of the said resolution.

THE SECRETARY-GENERAL: Proposed Resolution No. 530, entitled:

PROPOSED RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON SUFFRAGE.

APPROVAL OF PROPOSED RESOLUTION NO. 530

ON SECOND READING

(Article on Suffrage)

THE PRESIDENT: Those in favor of this Proposed Resolution No. 530, as amended, please raise their hand. (Several Members raised their hand.)

Those against the proposed resolution, please raise their hand. (One Member raised his hand.)

The results show 28 votes in favor and one against the motion is approved.

Proposed Resolution No. 530, as amended, is approved on Second Reading.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

The proposed resolution on the Article on Suffrage has been approved on Second Reading; hence, the illiterate as well as the disabled are allowed to vote. The law that shall be followed during the ratification of the Constitution shall be the Omnibus Election Code. I request the leadership of this Constitutional Commission to appeal to our President to issue a proclamation or a decree allowing the illiterate to vote and not to require the assistance of a third person as contemplated in the Omnibus Election Code since, as I said, the vote of the disabled and the illiterate is being guided by the assistor. I will not be surprised if others who may like to approve our Constitution may not do so because of the assistor.

Thank you, Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. BENGZON: The Floor Leader asks that the request of Commissioner de Castro be noted and that it be considered by the leadership. The Floor Leader also would like to advise the body that Committee Report No. 22, which was submitted by the Committee on the Legislative, will be considered on Monday.

ADJOURNMENT OF SESSION

MR. BENGZON: Madam President, may I move for adjournment of the session until Monday at nine-thirty in the morning.

THE PRESIDENT: The session is adjourned until Monday at nine-thirty in the morning.

It was 2:50 p.m.

[*] Appeared after the roll call.

[*] See Appendix.

[*] See Appendix.

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