

JOURNAL NO. 34

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Saturday, July 19, 1986

CALL TO ORDER

At 9:40 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Cirilo A. Rigos, to wit:

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

Upon direction of the Chair, the Secretary-General of the Commission called the Roll and the following Members responded:

Bennagen, P. L. Padilla, A. B.

Bernas, J. G. Muñoz Palma, C.

Rosario Braid, F. Rama, N. G.

Calderon, J. D. Regalado, F. D.

De Castro, C. M. De los Reyes, R. F.

Colayco, J. C. Rigos, C. A.

Concepcion, R. R. Rodrigo, F. A.

Davide, H. G. Romulo, R. J.

Guingona, S. V. C. Rosales, D. R.

Jamir, A. M. K. Suarez, J. E.

Maambong, R. E. Sumulong, L. M.

Monsod, C. S. Tan, C.

Nieva, M. T. F. Tingson, G. J.

Nolledo, a. N. Treñas, E. B.

Ople, B. F. Uka, L. L.

With 30 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

Abubakar, Y. R. Foz, V. B.

Alonto, A. D. Garcia, E. G.

Aquino, F. S. Lerum, E. R.

Azcuna, A. S. Natividad, T. C.

Bacani, T. C. Quesada, M. L. M.

Bengzon, J. F. S. Tadeo, J. S. L.

Brocka, L. O.

The following Members were on official mission:

Gascon, J. L. M. C. Villacorta, W. V.

Sarmiento, R. V. Villegas, B. M.

Mr. Laurel was absent.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Calderon, there being no objection, the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body, with the correction, at the instance of Mr. Bernas, on page 312, column 1, paragraph 6, lines 8 and 4, under the caption AMENDMENT OF MR. ROMULO, to delete the phrase "rejected the text of the substitute amendment", and in lieu thereof, to substitute the phrase "accepted the substitute text for consideration in another Article."

REFERENCE OF BUSINESS

On motion of Mr. Calderon, there being no objection, the Body proceeded to the Reference of Business.

REFERRAL TO COMMITTEES OF COMMUNICATIONS

Upon direction of the Chair, the Secretary-General of the Commission read the titles of the following Communications which were, in turn, referred by the Chair to the Committees hereunder indicated:

Communication No. 236 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 237 — Constitutional Commission of 1986

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 of the population program, and a provision making the members of the Supreme Court elective

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 238 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON THE JUDICIARY

Communication No. 239 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 240 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 241 — Constitutional Commission of 1986

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

TO THE STEERING COMMITTEE

Communication No. 242 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 243 — Constitutional Commission of 1986

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

TO THE STEERING COMMITTEE

Communication No. 244 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON NATIONAL ECONOMY AND PATRIMONY

Communication No. 245 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 246 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 247 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 248 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 249 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 250 — Constitutional Commission of 1986

Letter from M. 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.

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 251 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 252 — Constitutional Commission of 1986'

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

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No. 253 — Constitutional Commission of 1986

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 US military bases, among others

TO THE STEERING COMMITTEE

Communication No. 254 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 255 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON AMENDMENTS AND TRANSITORY PROVISIONS

Communication No. 256 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 257 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON LOCAL GOVERNMENTS

MANIFESTATION OF MR. BENGZON

Mr. Bengzon, as Chairman of the Steering Committee, stated that the Committee on Accountability of Public Officers had consolidated Committee Reports Nos. 16 and 17 into one amended Committee Report No. 17, on which the discussion on the Article on the Accountability of Public Officers would be based.

He also manifested that the Body would be considering Committee Report No. 30, report of the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights on Proposed Resolution No. 530 on the Article on Suffrage, and if Second Reading thereon would be finished in the morning, the Steering Committee would recommend adjournment of the session until Monday, July 21, 1986.

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 23 ON PROPOSED RESOLUTION NO. 486

In view of Mr. Maambong's reservation to introduce an amendment, the Body resumed consideration of Committee Report No. 23 an Proposed Resolution No. 486, entitled:

A resolution to incorporate in the new Constitution an Article on the Bill of Rights.

The Chair recognized Mr. Bernas, sponsor of the measure, and Mr. Maambong for his amendment.

PROPOSED AMENDMENT OF MR. MAAMBONG

Thereupon, Mr. Maambong, with Messrs. Ople, de los Reyes and Natividad as coauthors, proposed to add a new paragraph to Section 22, to read as follows:

THE EMPLOYMENT OF CORPORAL OR PSYCHOLOGICAL PUNISHMENT AGAINST PRISONERS OR PRE-TRIAL DETAINEES, OR THE USE OF SUB-STANDARD OR OUTMODED PENAL ACTIVITIES CHARACTERIZED BY DEGRADING SURROUNDINGS, UNSANITARY OR SUBHUMAN CONDITIONS SHOULD BE DEALT WITH IN ACCORDANCE WITH LAW.

At this juncture, upon request of Mr. Monsod, the Chair directed the Secretariat to reproduce copies of the proposed amendment for distribution to the Members.

RESERVATION OF MR. ROMULO

Thereupon, Mr. Romulo made reservation on certain corrections on style in the Article on the Judiciary, which reservation was noted by the Chair.

APPROVAL ON THIRD READING OF THE ARTICLE ON THE JUDICIARY

Meanwhile, on motion of Mr. Rama, there being no objection, the Body proceeded to vote, on Third Reading, on the Article on the Judiciary, entitled:

Resolution to incorporate in the Constitution an Article on the Judiciary.

Upon direction of the Chair, the Secretary-General of the Commission called the Roll for nominal voting. Thereafter, a second Roll Call was made.

EXPLANATION OF VOTES

1. Mr. Padilla voted Yes but expressed regret over the deletion of the third paragraph of Section 12 on the right of appeal by the State or offended party from the judgment of acquittal, initially on the objection that it might, although later admitted that it would not, violate the principle of double jeopardy and that it was unnecessary or even harmful.

He maintained that the deleted provision would have clarified the wrong impression that judgment of acquittal under all circumstances is final, executory and not appealable.

2. Mr. Rodrigo voted in favor of the Resolution, stating that although his objection on the creation of the Judicial and Bar Council was overruled, and his stand thereon had not changed, he found the whole Article on the Judiciary commendable.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Aquino Nieva

Bacani Nolleto

Bengzon Ople

Bennagen Padilla

Bernas Muñoz Palma

Rosario Braid Quesada

Brocka Rama

Calderon Regalado

De Castro De los Reyes

Colayco Rigos

Concepcion Rodrigo

Davide Romulo

Foz Rosales

Garcia Suarez

Guingona Sumulong

Jamir Tan

Lerum Tingson

Maambong Treñas

Monsod Uka

Against:

None

With 38 Members voting in favor and none against, the Body approved, on Third Reading, the Article on the Judiciary, as amended.

BUSINESS FOR THE DAY: COMMITTEE REPORT NO. 30 ON PROPOSED RESOLUTION NO. 530

Thereafter, on motion of Mr. Rama, there being no objection, the Body proceeded to the consideration, on Second Reading, of Proposed Resolution No. 530 (Committee Report No. 30), entitled:

Resolution to incorporate in the new Constitution an Article on Suffrage.

The Chair recognized Mr. Bernas for the sponsorship.

SPONSORSHIP REMARKS OF MR. BERNAS

Mr. Bernas stated that except for the change of "Batasang Pambansa" to "Legislature" on line 15 and the addition of the last sentence on lines 17 to 19, the proposed Article is the same as the provision in the 1973 Constitution.

He explained that the additional sentence would reconcile conflicting Resolutions on whether illiterates would be allowed to vote by mandating the Legislature to provide the mechanism to enable them to vote without the assistance of another person.

INTERPELLATION OF MR. DE LOS REYES

Upon inquiry, Mr. Bernas affirmed that under this provision, illiterates cannot participate in the election which may be held in March or April, 1987.

Mr. de los Reyes stated that 10 to 15 percent of the Filipino people, although they are not exactly illiterate in the sense that they cannot read or write, would fall under the classification of illiterates though they are only semi-illiterates. He then proposed a compromise that while the Legislature has not yet designed a mechanism or system which will not require the assistance of another person, disabled and illiterates who voted in the last election be allowed to vote. He proposed amending the last sentence to read "In the case of the disabled and the illiterates, 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". He noted that the disenfranchisement of the illiterates by a constitutional mandate, especially in the 1986 Constitution, would be unpopular to many Filipinos.

Thereafter, Mr. Bernas also proposed on line 9, to rephrase the words "eighteen years of age or over" to AT LEAST 18 YEARS OF AGE to be consistent with other provisions which use the words "at least" and omit the word "over"; and on line 18 to substitute "legislature" with NATIONAL ASSEMBLY.

Mr. Bernas stated the Committee's sentiment that the last sentence could serve more as a topic for discussion on the floor rather than a firm conviction of the Committee.

MR. RAMA'S SPEECH EN CONTRA

At this juncture, Mr. Rama with the permission of the Chair, spoke en contra on the Article, particularly on the right of the illiterates to vote. He noted that one of the major tasks of the Constitutional Commission is to establish some reforms which would create for the people a better government, one of the premises being that a

system oftentimes is only as good as the men who run it. He stated the need for the government to look into the kind of reform which would make it possible for the government and the system itself to produce competent people to run the system. He argued that to have that kind of reform, there should be an examination of the election process which is the most important political exercise of the people and a determination, through a scrutiny of the electorate, if the country has to produce competent leaders who will duly represent the people. He contended that the major concern would be not to swell the number of voters but rather to upgrade the quality of the electorate. He maintained that allowing illiterates to vote would not achieve this purpose.

Mr. Rama explained that the 1935 Constitution did not allow those who could not read or write to vote and that it was only in the 1973 Constitution when such right was extended to the illiterates. He recalled that in the past elections, especially during the martial law years, illiterates were used to defraud and cheat during the elections, a matter which the Opposition complained of but that, as Mr. Marcos pointed out, the provision allowing illiterates to vote was introduced by an Opposition leader during the 1971 Constitutional Convention. Mr. Rama took note that President Marcos favored the retention of this provision.

Moreover, Mr. Rama maintained that the electorate cannot be upgraded without removing this provision and that electing a candidate is not merely a mechanical act of picking candidates but involves an intellectual process of knowing the election issues as well as other important considerations such as the record, platform, the election promises, the performance of the candidate and his behavior during his term in office which cannot be determined and weighed by an illiterate voter.

Mr. Rama also argued that illiterates cannot perform the requirement of a democratic balloting inasmuch as the first requirement is secret ballot. He recalled that illiterates were herded to polling places by barangay captains who wrote their votes — an infringement of the most fundamental tenet of democratic voting. He noted an inherent flaw in the system where illiterates had to be accompanied and assisted inside the polling places and they themselves would be unaware whom they voted.

Mr. Rama stated that cheating during elections was one of the most grievous problems in the country and argued that it is the duty of the Commission to try to plug all the loopholes to cheating in the election process, one way being a return to the old procedure in the 1935 Constitution which would not allow illiterates to vote.

He stressed that the kind of leaders and public officials this country will have depends on the kind of electorate and improving that electorate by raising the qualifications for voting would be one way of improving leadership. He noted that in urbanized areas where schools and media abound, and where an informed electorate exists, candidates of proven probity and integrity could win. Such candidates, he said, would have difficulty in areas where most of the people are either illiterate or semi-illiterate.

He noted that one of the favorite arguments against disqualifying illiterates is that they are unfortunate people, but allowing them to vote would be inflicting this misfortune on the whole nation. He argued that it would be best to try and cure the misfortune of the illiterates and not to allow them to choose leaders. He noted that the reason why many rascals were voted into office was because uninformed and illiterate voters voted for them.

He expressed his appreciation for Mr. Bernas' effort to meet his resolution halfway by requiring the Legislature to come up with some procedures whereby the illiterate can vote alone but stated this is not enough and called for the removal of the provision in the Constitution which gives the illiterates the right to vote. He stressed that it is the Commission's job to identify the wrong provisions and remove them from the Constitution.

INTERPELLATION OF MR. NOLLEDO

Mr. Rama affirmed that the main author of the resolution allowing illiterates to vote was Mr. Raul Manglapus.

Mr. Nollado informed that he was one of the coauthors of the resolution.

Mr. Rama pointed out that he objected to the resolution, the main purpose of which was to widen the political base in the country.

Mr. Rama disagreed with Mr. Nollado's view that the resolution was more in keeping with the democratic principle that illiterates who are unfortunate people should be allowed to vote, stating moreover that there is a need to define the function of a voter. Mr. Rama stated that such function is to choose the best men for this country and that an illiterate inherently cannot perform this function.

Mr. Rama affirmed that intelligence is equated with the capacity to read and write. He admitted, however, that intelligent people who do not know how to read and write are exceptions in the same manner that there are college professors and college graduates who are also semi-illiterates in the sense that they do not know the issues.

Disagreeing with Mr. Rama, Mr. Nollado maintained that Filipinos are generally intelligent people who, given the opportunity, will manifest that intelligence. He referred to a census taken a few years ago which placed the illiterates at 15 percent of the total population, which statistics was corrected by Mr. Rama. Mr. Rama adverted to a July issue of the Daily Express where the Minister of Education, Culture and Sports came up with the figure of 1.2 million illiterates.

Mr. Rama disagreed with the contention of Mr. Nollado that cheaters in the last election were the literate ones.

At this juncture, Mr. Suarez requested the Chair to appoint an Acting Floor Leader. At the request of Mr. Rama, Mr. Jose F.S. Bengzon, Jr. was designated by the Chair to take over the task of the Floor Leader while Mr. Rama was delivering his speech en contra.

Mr. Rama affirmed that voting involves an intellectual process which is the basic process in a democracy. As to whether the intellectual process is only one of the basic processes in a democracy, others being the discussion of public issues and arrival at a consensus, Mr. Rama replied that one of the main requirements of a voter is knowledge of the election issues as well as the records of the candidates.

As to whether the disenfranchisement of millions of illiterate voters would make them second-class citizens, Mr. Rama noted the misconception about democratic voting. He argued that democratic voting does not require that a great majority of people or all the people vote since the few could represent the whole country in the same manner that only 200 people in Congress represent the whole country.

Upon inquiry of the Chair as to the parliamentary situation, Mr. Bengzon informed that the Body was now in the period of turno en contra inasmuch as the Chair had allowed Mr. Rama to speak en contra.

The Chair then ruled that the Body proceed to the period of interpellations to allow the Members of the Commission a chance to express their opinions on the points they want to raise.

Mr. Bengzon requested those who want to support Mr. Nollado to reserve their turn for the period of amendments.

INTERPELLATION OF MR. OPLE

Referring to Section 1, Mr. Ople noted that the provision on residence requirement is not clear whether the right of suffrage is not denied to citizens temporarily residing or working abroad which government statistics place at about 2 million. He noted that although the provision was lifted from the 1935 and 1973 Constitutions with the

exception of the last paragraph, both Constitutions did not foresee the explosion of Filipino laborers overseas, which according to government data number about 600,000 contract workers and employees scattered over 177 countries in the world with a large concentration in the Middle East. He then adverted to a statement made by the Chairman of the Commission on Elections, Mr. Ramon Felipe, in the previous hearing of the Committee on Constitutional Commissions and Agencies, that there was no insuperable obstacle to making effective the right of suffrage for Filipinos overseas. He noted that there are many Filipino workers overseas who have no intention of changing their residence on a permanent basis but who, under the requirement of Section 1, would be technically disqualified from exercising the right of suffrage in their countries of destination.

Thereafter, he asked if the Committee, at the proper time, would be willing to entertain an amendment which will make this exercise of the right to vote available to Filipino citizens abroad an effective rather than a nominal right under the proposed Constitution.

Mr. Bernas expressed the Committee's willingness to consider the amendment. As to the meaning of the word "residence", Mr. Bernas stated that this is a concept which has been discussed in various decisions of the Supreme Court. He then adverted to the decision of the Supreme Court in the case of *Faypon vs. Quirino*, a 1954 case which considers the *animus revertendi* in determining the meaning of residence.

Mr. Bernas stated that this may be the explanation why the registration of a voter in a place other than his residence of origin has not been deemed abandonment or loss of such residence. He pointed out that the provision has two residence qualifications, the first being residence in the Philippines which means domicile and the second being residence in the place where he will vote which has a different meaning. He noted that a voter could have a domicile in one place yet he could also be a resident of another place for six months where he would be allowed to vote.

Mr. Ople stated, however, that this Article of the Constitution explicitly and unequivocally extends the right of effective suffrage to Filipinos abroad calling for a logistical exercise of global proportions in effect requiring budgetary and administrative commitments on the part of the Philippine Government mainly through the COMELEC and the Ministry of Foreign Affairs. He opined that a more extensive elaboration of this mechanism should be put in place to make effective the right to vote.

Expressing disagreement with Mr. Rama's stand on the right of the illiterate population to vote, he stated that the illiterates are not illiterate on purpose nor did they choose to be illiterate. He observed that the same ambitions that burn in the hearts of the poor to become literate inflamed them in earlier stages 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 in their estimation could better use this limited opportunity for a poor family.

Mr. Ople also stated that there is no class division deeper than the division in knowledge and that the most numerous underclass in Filipino society are the illiterates who were denied by their environment and skewed priorities of the government the opportunity to enjoy some elementary schooling that would make them literate. He then reserved the right to propose an amendment at the proper time.

INTERPELLATION OF MR. GUINGONA

In reply to Mr. Guingona's query on whether the Committee would be willing to entertain a proposal against the recall by law of the right of suffrage of a qualified voter on account of his failure to vote in previous elections, plebiscites or referenda, Mr. Bernas stated that the absence of proposal in the report means that it is no longer necessary. He expressed willingness, however, to entertain amendments at the proper time.

INTERPELLATION OF MR. RODRIGO

In reply to Mr. Rodrigo's query, Mr. Bernas agreed that the issue is not whether or not the illiterates and the disabled should be given the right to vote but whether they should be divested of a right which they already have. He likewise agreed that should the proposed resolution be approved, the illiterates participating in ratifying the Constitution would know that they would be practically disenfranchising and depriving themselves of their right to vote.

On the observation that the Commission would be jeopardizing the approval of the whole Constitution by incorporating a very debatable provision in the Constitution, Mr. Bernas reiterated that the provision was placed more as a subject for discussion which can be modified by a better formulation.

INTERPELLATION OF MR. MONSOD

Mr. Monsod stated that he would be interpellating with a reservation to present his arguments at the proper time.

On whether the system of assistance to illiterates provided for in the present Omnibus Election Code would be declared unconstitutional if the provision were approved, Mr. Bernas stated that, as worded, the provision, if approved, would nullify the existing provision of the Election Code. He agreed that such assistance is a major source of corrupting the electoral process.

Mr. Monsod suggested that the Commission should not preclude other means of assisting the illiterate if there are enough safeguards of protecting the secrecy of the ballot, such as limiting to public schoolteachers or members of the Board of Election Inspectors the giving of such assistance requiring them to execute an affidavit to preserve the secrecy of the ballot. However, he contended that there is no direct correlation between literacy and illiteracy and that the abuse of the process arose more out of other circumstances and factors than the literacy of the voters in the area, in reply to which, Mr. Bernas stated that he is willing to have the sentence deleted if those who have more experience in the electoral process would consider it unnecessary.

INTERPELLATION OF MR. SUAREZ

In reply to Mr. Suarez' query on whether, pursuant to the procedure outlined in the Omnibus Election Code the illiterates and the disabled would be free to exercise the right of suffrage in the plebiscite to be called for ratifying this Constitution, Mr. Bernas stated that the provision on suffrage in the 1973 Constitution has become part of the Freedom Constitution under which the plebiscite would be held.

On the necessity of a transitory provision to reflect such sentiment, Mr. Bernas stated that if the law governing voting by the illiterates would be passed by the Legislature, a transitory provision would be necessary; however, if the rules for the illiterate were to be promulgated by the COMELEC, a transitory provision may no longer be necessary and that the President can issue an executive order authorizing the COMELEC to design a new system for the illiterate.

On the observation that Section 1 uses "shall" making the exercise of suffrage mandatory in character, Mr. Bernas stated that it is directory as far as the citizen is concerned but mandatory as far as the state is concerned in the sense that it may not prevent any of the citizens from voting.

Mr. Bernas stressed that intelligence is not measured by the ability to read and write and that the capacity to be informed is not necessarily limited by lack of ability to read and write.

He pointed out that an AM radio as a means of communication reaches and enables people from all walks of life to get their information. He stated that even those who cannot read and write are in a position to make judgments

about what is good or bad for the nation.

Mr. Bernas also stated that illiteracy shows government neglect of education, and to disenfranchise the illiterates would only aggravate their situation to the extent that they would no longer be heard, considering that the representative quality of a government is determined by the voting base.

He stated that capacity to vote is associated more with the people who will choose their representatives, the representatives being chosen by those who are represented, so that narrowing the mass base would be a retrogression and a disservice to the country.

MR. RAMA'S FURTHER REMARKS EN CONTRA

On the argument that illiterates are also educated, Mr. Rama stated that a large segment of the population are the illiterates who are the most ignorant people in the country. He took exception to the statement that these people are unfortunate and that to disenfranchise them would only add up to their misfortune. He stressed that election does not only determine the quality of leaders but also the future of the country, citing the case of New York, which does not allow the illiterates to vote, thus, preventing them from inflicting misfortune to the country and causing aberration to democracy. He stated that compassion to them is a misplaced compassion insofar as elections are concerned. He pointed out that all European countries require that voting be done directly and by secret ballot, doing away with assistance to prevent cheating. On the other hand, he stressed that communist countries which allow their illiterates to vote have installed insane dictators as leaders.

Mr. Rama underscored that while Indonesia and India allow the illiterates to vote for the simple reason that these illiterates comprise majority of the population, the Philippines has a high literacy rate especially after the 1935 Constitution when literacy was made a requirement for voting.

Tracing the political history of the country, Mr. Rama pointed out that in places where educational services were inadequate, rascal politicians had been elected while the best senatorial candidates had a hard time winning, unlike in areas where the people were well informed.

On the argument that radio, as a medium of information, could be a good source of education, Mr. Rama maintained that for a man to be educated, he must be able to understand and analyze issues and to distinguish between truth and propaganda. He stated that the basic tenet of education is knowing how to read and write.

Finally, Mr. Rama urged the Members to consider the advice of the Chairman of the Commission on Elections, pointing out that the provision allowing the illiterates to vote is the main source of cheating. Quoting Thomas Jefferson in his later years when he said "We must have a democracy of, for, and by the people with a certain degree of instruction", he maintained that a government run by ignorant people, for ignorant people and of ignorant people would not long survive.

REMARKS OF MR. UKA

In his remarks, Mr. Uka opined that the Article on Suffrage does not actually disenfranchise the illiterates considering that on the last part of the Article, the Legislature could design a mechanism or a system by which an illiterate may not require the assistance of another person in the preparation of his ballot. He then urged everyone to be kind to these people.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 11:24 a.m.

RESUMPTION OF SESSION

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

RECONSIDERATION AND APPROVAL, ON THIRD READING, OF THE ARTICLE ON THE JUDICIARY

On motion of Mr. Bengzon, there being no objection, the Body reconsidered the approval, on Third Reading, of the Article on the Judiciary, to afford the other Members opportunity to cast their votes.

Thereupon, upon direction of the Chair, the Secretary-General called the Roll for nominal voting and the following Members cast an affirmative vote:

Abubakar
Natividad

Alonto
Tadeo

Azcuna

With 5 additional affirmative votes, making a total of 43 Members voting in favor and none against, the Chair declared the Article on the Judiciary approved on Third Reading.

COMMITTEE REPORT NO. 30 ON PROPOSED RESOLUTION NO. 530

(Continuation)

On motion of Mr. Bengzon, the Body resumed consideration of Committee Report No. 30 on Proposed Resolution No. 530 on the Article on Suffrage.

SPEECH EN CONTRA OF MR. PADILLA

In his remarks, Mr. Padilla stated that he favored the original provision of the 1935 Constitution which was better than the 1973 Constitutional provision.

Mr. Padilla stressed that the Philippines has a reputation of being a literate country and the Filipinos as a highly literate people. He recalled that during the Spanish regime, the country benefited from the Christian faith but not in terms of education because at that time, the colonizers believed that it was easier to rule an ignorant nation. On the other hand, he stated that during the American rule, the country benefited from the American teachers who devoted their time and effort to uplift the educational standards of the country.

Mr. Padilla pointed out that the government had always given education the biggest share in the national budget and it was only during the Marcos regime that the budget was reduced, because the biggest allotment went to the military.

Mr. Padilla warned of the alarming increase in the number of illiterates among the people, specifically among the electorates. He stated that to allow these illiterates to participate in the election process would be fomenting illiteracy whereas to require literacy would be an incentive for the people to be literate.

Mr. Padilla stated that the Philippines prides itself in the system of education now prevailing especially with the new program on adult education to afford people beyond school age the opportunity to acquire basic instructions. Although he sympathized with this segment of the populace, Mr. Padilla opined that they should be educated first before allowing them to participate in the exercise of suffrage, in order that they could exercise such a right personally without the need of an assistant.

Therefore, while he sympathized with the illiterates, he stated that he was supporting Mr. Rama's proposed amendment on the ground that illiteracy should not be encouraged but remedied by adult education.

REMARKS OF MR. MONSOD

On the proposed amendment, Mr. Monsod pointed out that literacy was a vestige of a few people to deny a truly participatory democracy in the country. He recalled that the literacy requirement was mandated in Act No. 1582 when the Americans insisted that the right of suffrage should be based on the ability to read and write English or Spanish, which requirement was minimized by the 1935 Constitution with the ability to read and write, and finally abolished by the 1973 Constitution. He pointed out that there is no Southeast Asian country that imposes the literacy requirement, and the United States Supreme Court, in a recent decision, declared that any state law providing for such requirement for voting is unconstitutional.

He also opined that developed countries are such, not because they deny illiterates the right to vote, but because their developments are independent of the exclusion of illiterate voters.

He maintained that the right to vote is a basic political right in a democracy. Adverting to the remarks of Mr. Rama, Mr. Monsod stated that there should be a distinction between illiterates and uninformed voters, and that the abuses committed by government officials should not be a ground for excluding illiterate voters because there is no correlation between illiteracy and abusive or tolerable process. He cited Makati, which has higher literacy than provinces like Samar, Benguet and Batanes, but had failed in the last election, to show more credible results than said provinces.

He also disagreed with the argument that denying illiterates the right to vote would encourage better education, because even if illiterates were allowed to vote, they would still have the right to education.

On the presumption that illiterates are not capable of contributing to the election of competent and responsible officials, Mr. Monsod pointed out that, on the contrary, his experience in NAMFREL would attest that even illiterates know the issues and were undisturbed by the distortions of the media and manipulations by some people.

REMARKS OF MS. TAN

In opposing the proposal, Ms. Tan stated that some illiterates were able to learn how to write and vote intelligently during the elections. She pointed out, however, that it is not their lack of interest but their poverty which had kept them from formal education.

She also disagreed with the presumption that illiterates do not possess political consciousness, stating that if the illiterates would be disenfranchised, there would come a time that the blind, the aged and the moral deviants would also be disallowed to vote.

Finally, she believed that the proposed mechanism to be provided by the Legislature would solve the problem of these illiterates and would encourage national unity.

REMARKS OF MR. BENNAGEN

Mr. Bennagen opined that illiteracy is not related to the capability to make sound moral and intellectual judgment. He maintained that it is not the motivation which is lacking in areas like the Cordillera but the inability of the State to meet such motivation for learning.

Mr. Bennagen then urged his colleagues to enfranchise the illiterates.

REMARKS OF MR. TADEO

Mr. Tadeo stressed that illiteracy is a product of a colonial and feudal system which deprived people of their right to education. He stated that in Cuba, there is no classification of professions and all people are students in a nonformal educational system.

He underscored that if only the Members of the Commission would expose themselves to the masses, as Christ had lived and felt like the poor, the Commissioners would find out that the common citizens are also capable of proposing legislations that are responsive to their needs and capable of establishing a government that would care for them.

REMARKS OF MR. GUINGONA

Mr. Guingona stated that while he agreed with Mr. Rama on maintaining the secrecy of the ballot and that voting by an illiterate should not be done with the assistance of another person, he would disagree that there could be no mechanism that would allow the illiterates to cast their votes without the assistance of other persons. He cited the system used in India and Malaysia where symbols were adopted by the candidates themselves for the illiterates to choose from.

In this connection, Mr. Bennagen additionally stated that during the consultations in the Mountain Province, it was suggested that symbols or even photographs of the candidates be used to substitute for their written names.

REQUEST OF MR. TINGSON

At this juncture, Mr. Tingson requested that his written explanation in support of the Committee's stand be inserted into the records, which request was given due course.

TERMINATION OF THE PERIOD OF SPONSORSHIP AND DEBATE

On motion of Mr. Bengzon, there being no objection, the Body terminated the period of sponsorship and debate.

MR. MAAMBONG'S PROPOSED AMENDMENT ON THE ARTICLE ON THE BILL OF RIGHTS

On motion of Mr. Bengzon, there being no objection, the Body proceeded to the consideration of Mr. Maambong's proposed amendment on the Article on the Bill of Rights.

Thereupon, Mr. Maambong restated his proposed amendment as further modified by Messrs. Suarez, Romulo, Davide and Rigos, to read: THE EMPLOYMENT OF CORPORAL OR PSYCHOLOGICAL PUNISHMENT AGAINST CONVICTED PRISONERS OR PRE-TRIAL DETAINEES, OR THE USE OF INADEQUATE PENAL FACILITIES UNDER SUBHUMAN CONDITIONS SHOULD BE DEALT WITH BY LAW.

MR. SUAREZ' PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Suarez proposed to change the word "The" before "employment" at the beginning of the sentence to NO. and to put a period (.) after "detainees", and to delete "or" and to start a new sentence with "The".

Mr. Bernas explained that there are two kinds of rights: those which are self-implementating, and those that need implementing action. He pointed out that the right contained in Mr. Maambong's proposal requires implementation, thus the phrase "should be dealt with by law" should remain. He also pointed out the need to have just one instead of a separate sentence because the phrase "shall be dealt with by law" also refers to physical tortures. He stressed that it is more of a mandate for the State to give remedy to whatever violation may be committed.

Mr. Maambong then stated that he was amenable to the use of the word PHYSICAL in lieu of "corporal".

PROPOSED AMENDMENT OF MR. REGALADO

Thereafter, Mr. Regalado proposed to insert the words OR DEGRADING before "punishment" and to substitute the phrase "against convicted prisoners or pre-trial detainees" with the phrase ON ANY PRISONER, and to insert GROSSLY before "substandard".

He explained that a punishment may not only be physical and psychological but also degrading like the one given to the girl who was made to parade at the airport with a placard hung around her neck bearing the inscription "I am a thief". He added that the phrase "on any prisoner" would include prisoners and detainees. On the word "grossly" before "substandard", he opined that it would provide the basis as to what standard should be prohibited.

In reply, Mr. Maambong pointed out that the word "substandard" was already changed by the Committee to INADEQUATE.

Mr. Regalado proposed retaining the words "substandard" and "inadequate" so that the phrase would read OR THE USE OF GROSSLY SUBSTANDARD OR INADEQUATE PENAL FACILITIES. He explained that penal facilities may be inadequate for a specific purpose but may be substandard when considered collectively or vice versa. He further moved for the deletion of the phrase "and shall be dealt with by law".

Mr. Bernas, reacting to the use of the word "grossly", stated that it would be almost saying that the Legislature should act only if the situation is gross.

As to further categorizing substandard, Mr. Bernas maintained that the Legislature can decide the matter.

At this juncture, Mr. Maambong inquired from the Committee if the word "inadequate" should also replace the word "substandard" which had been deleted earlier. Mr. Bernas answered that what the Committee had noted was the amendment which states "The employment of physical, psychological or degrading punishment against convicted prisoners . . ."

Following Messrs. Maambong and Regalado's disagreement on the wording, Mr. Bengzon suggested leaving the matter to the Committee on Style stressing that the important thing is to decide on the concept.

The Chair stated that the Committee on the Bill of Rights should agree on the substance of what should be contained in the proposed amendment.

On the matter of substance, Mr. Bernas mentioned that just saying "any prisoner" may connote that the person is either a convicted prisoner or a pre trial prisoner and therefore charged. He expressed his preference to use "any prisoner or detainee" inasmuch as a "prisoner" connotes someone who is convicted and "detainee" could either be

a pre-trial detainee or one who was not charged at all.

Thereafter, Mr. Bernas stated the Committee's recommendation, to wit:

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 noted that the word "degrading" was already contained in the first sentence of Section 22.

On the reason for repeating the word "degrading", Mr. Bernas clarified that, as was previously stated, the constitutional provision has reference to the punishment that is prescribed by the law itself whereas the proposed provision deals with the punishment or the condition which is actually being practiced.

MR. COLAYCO'S AMENDMENT TO THE AMENDMENT

Mr. Colayco proposed to shorten the amendment with the sentence THE EMPLOYMENT OF PHYSICAL, PSYCHOLOGICAL OR DEGRADING PUNISHMENT IN ANY PLACE OF DETENTION . . . which shall cover prisoners who are already convicted and prisoners under detention before or during trial.

Mr. Maambong did not accept the amendment.

RESTATEMENT OF MR. MAAMBONG'S AMENDMENT

Thereafter, Mr. Maambong restated his amendment incorporating all the suggestions, to wit:

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.

INQUIRY OF MR. FOZ

Mr. Foz asked if the law would have to provide penalties for the conditions described by the amendment, to which Mr. Maambong replied that in line with the decisions of the Supreme Court interpreting "cruel and unusual punishments", there may be a law which shall provide penalties for violations or for some reliefs other than penalties.

He noted that in the United States, there is an injunctive or declaratory relief which is not exactly in the form of a penalty. Nevertheless, he stated that the Legislature is not prevented from enacting a law which will inflict punishment for violations of Section 22.

Mr. Foz mentioned that conditions in jails, particularly local jails, are not the fault of those in charge but are the results of lack of funds and support from the local or national government.

Mr. Maambong, in reply to Mr. Foz' inquiry, denied that jailers would be penalized for outmoded penal facilities in the event the Legislature passes a law imposing sanctions on the second part of the provision. He said, however, that the reason of lack of funds has been a convenient alibi for the state but stressed that the state should do something about penal conditions of the penal facilities.

Mr. Bernas said that the provision would not tell the Legislature what to do but that it should do something about the matter.

INQUIRY OF MR. DE CASTRO

Mr. de Castro inquired if there is any need for the provision in view of the existence of laws against third degree or even psychological punishment, to which Mr. Maambong replied that the law need not penalize but may only put in corrective measures as a remedy.

REMARKS OF MR. REGALADO

Mr. Regalado, by way of a rejoinder, stated that the present law covering situations in Section 22 is found in the Revised Penal Code provision on maltreatment of prisoners which came from the original text *maltratos de los encarcerados*, which presupposes that the prisoner is incarcerated. He explained that the proposed legislation will not only apply to incarcerated prisoners but also to other detainees who, although not incarcerated, are nevertheless kept or whose liberty of movement is controlled before incarceration.

REMARKS OF MR. GUINGONA

Mr. Guingona observed that the description that penal facilities should be characterized by degrading surroundings under subhuman conditions is already indicative of substandard or inadequate facilities. In view thereof, he inquired whether the words "substandard" or "inadequate" would be a surplusage.

In reply thereto, Mr. Maambong stated that the Committee has not modified the original version by deleting the phrase "characterized by degrading surroundings, unsanitary or" which the Committee considered a surplusage.

APPROVAL OF MR. MAAMBONG'S AMENDMENT

Mr. Maambong restated his amendment, to wit:

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.

Submitted to a vote, and with 28 Members voting in favor and none against, the amendment was approved by the Body.

SUSPENSION OF SESSION

On motion of Mr. Bengzon, the Chair suspended the session until one-thirty in the afternoon.

It was 12:25 p.m.

RESUMPTION OF SESSION

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

COMMITTEE REPORT NO. 30 ON PROPOSED RESOLUTION NO. 530, PERIOD OF AMENDMENTS

On motion of Mr. Bengzon, there being no objection, the Body proceeded to the period of amendments on Resolution No. 530.

PROPOSED AMENDMENT OF MR. RAMA

On Section 1, line 9, after the word "over" and the comma (,), insert the words ABLE TO READ AND WRITE; delete the word "who"; and as a consequence, delete lines 13 to 19.

Mr. Rama explained that the Commission is not in the business of trying to be patriotic or compassionate in reasoning out the proposals, patriotic in the sense that the illiterates in the Philippines are intelligent than those of other countries; and compassionate in the sense that these illiterates are already unfortunate and disqualifying them from voting would add to their misfortune.

He underscored that the illiterates should not be allowed to vote because they cannot function as voters under a democratic rule of voting, they would not know the election issues, the records of each candidate in comparison with the rest and their performance, such that they are not in a position to elect the best men as public officials and leaders of the country.

Seeing how they were utilized in the past elections, Mr. Rama stated that he does not want the illiterates to be further exploited by the politicians and that allowing them to vote would make the electoral process vulnerable to cheating. He maintained that cheating is the main problem of the country and that it is up for the Commission, whose Members have sworn not to run in the next election, to rise to the challenge.

He then appealed to the Members of the Commission to consider his proposal favorably by not using patriotic or compassionate arguments.

REMARKS OF MR. CONCEPCION

Adverting to the exchange of ideas in the Integrated Bar of the Philippines, Mr. Concepcion stated that the main reason why some of the-experienced politicians who were in favor of removing the provision of the 1973 Constitution insofar as illiteracy is concerned was that during the last elections, most frauds were committed through these illiterate voters. He contended that the illiterates have never exercised the right of suffrage even under the 1973 Constitution because they never wrote on their ballots and never knew what was written on them.

Mr. Concepcion observed that the draft provision prepared by the Committee had tried to offset that difficulty by adding the last sentence which, he noted, was preceded by incentives which existed in the 1973 Constitution which provides that the Legislature shall take measures to ensure secrecy. He stated that secrecy was not really provided by the Constitution because of the authority of the illiterates to vote through somebody else.

On the provision of the 1973 Constitution which states that it is the duty of all citizens who are registered to cast their votes, Mr. Concepcion stated that when such provision was adopted, it was in response to several papers which pointed out that participation in government is not only a right of the people but a duty, since democracy is merely what the people want the government to be. He stated that one of the solutions proposed then was for education to develop the political maturity of the people. He observed, however, that the educational system is geared towards science and technology and not towards values and moral character, such that it is time for the citizens to remember that eternal vigilance is the price of liberty which could be enjoyed only if they exercise the right of suffrage.

Mr. Concepcion underscored that notwithstanding the provision in the 1973 Constitution which is reproduced in the present draft to the effect that the Legislature shall provide the means to ensure the secrecy of the ballot, nothing actually had been accomplished in that respect and, therefore, the sentence sought to be added may not solve the question adequately.

REMARKS OF MR. UKA

Mr. Uka explained that his earlier statement was a mistake of the tongue and not of the mind.

Speaking of the analogy between the situation of a driver and that of an illiterate, Mr. Uka stated that in the same way that a person who wants to be a driver should know how to drive, the person who wants to vote should know how to prepare his ballot. He stated that by not allowing someone to drive does not deprive the driver of anything if the purpose is to let him learn how to drive. Similarly, he stated that the Legislature should first design a mechanism or system which would no longer require the assistance of another person to an illiterate. He stated that his sentence should have been "Let us in the meantime not allow him to vote or let us in the meantime disenfranchise him."

MR. DE CASTRO'S AMENDMENT TO THE AMENDMENT

Mr. de Castro proposed an amendment to Mr. Rama's amendment by retaining lines 15 and 16 which read "The Legislature shall provide a system for the purpose of securing the secrecy and sanctity of the vote".

Mr. Rama accepted the amendment to his amendment. Mr. de Castro observed that adult education is being undertaken in the barangays and those who do not know how to read and write could easily learn these in two or three nights of education and, therefore, there is no reason why illiterates could not make use of such undertaking.

RESTATEMENT OF MR. RAMA'S AMENDMENT

Thereafter, Mr. Rama restated the Section, as amended, to 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.

THE LEGISLATURE SHALL PROVIDE A SYSTEM FOR THE PURPOSE OF SECURING THE SECRECY AND SANCTITY OF THE VOTE.

Submitted to a vote, and with 6 Members voting in favor and 21 voting against, the amendment was lost.

AMENDMENT OF MR. DE LOS REYES

As proposed by Mr. de los Reyes and accepted by the Sponsor, the Body approved the amendment to add the words AT LEAST after the word "are" on line 8; and delete the words "or over" on line 9

AMENDMENT OF MR. MONSOD

Mr. Monsod proposed the deletion of lines 17 to 19, explaining that this is amply covered by lines 15 and 16 mandating the Legislature to provide for a system for securing the secrecy and sanctity of the ballot. He opined that the illiterates should be allowed to vote on the ground that there are certain mechanisms and methods by which the secrecy and sanctity of the ballot may be protected.

Mr. Bernas asked that the matter be submitted to the Body considering that there are other Members who would prefer its retention or modification.

Ms. Aquino objected to the proposed amendment since she would be presenting an amendment that would

amplify lines 17 to 19 which, if approved, she would propose to include in the Article on Transitory Provisions.

Mr. Rama, likewise, objected to the proposed amendment on the ground that it is important to have the paragraph sought to be deleted should the Body decide to allow the illiterates to vote.

Mr. Bernas pointed out that the provision sought to be deleted, if approved, would automatically disenfranchise the illiterates until the Legislature shall have acted on the matter.

Ms. Aquino pointed out that on the basis of Mr. Bernas' statement that upon the ratification of the new Constitution, the disabled and the illiterates would automatically be disenfranchised in the absence of a statute implementing the Article on Suffrage, some Members were not in favor of prematurely disenfranchising them. It was for this reason, she stated, that she would propose an amendment to amplify lines 17 to 19. She opined that the deletion of lines 17 to 19 would not address the problem but it would in fact open the gate to potential vote cheating.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 2:08 p.m.

RESUMPTION OF SESSION

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

MODIFIED AMENDMENT OF MESSRS. MONSOD AND NOLLEDO AND MS. AQUINO

Upon resumption of session, Mr. Bernas read the modified amendment submitted by Messrs. Monsod and Nollado and Ms. Aquino, on lines 17 to 19, to wit:

IN THE CASE OF THE DISABLED AND THE ILLITERATES, THE LEGISLATURE SHALL DESIGN A PROCEDURE WHICH WILL NOT REQUIRE THE ASSISTANCE OF ANOTHER PERSON. UNTIL THE LEGISLATURE PROVIDES FOR THE APPROPRIATE PROCEDURE, THE ILLITERATES 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.

In reply to Mr. Monsod's query whether the secrecy of the ballot is implied in the phrase "does not require the assistance of another person", Mr. Bernas explained that during the interregnum, the matter would be left to the COMELEC.

Thereupon, Mr. Monsod withdrew his previous amendment by deletion.

In reply to Mr. de Castro's inquiry, Mr. Bernas stated that until the ratification of the new Constitution, the existing law, which is the Omnibus Election Code, shall govern.

There being no further objection, the Body approved the modified amendment presented jointly by Messrs. Monsod and Nollado and Ms. Aquino.

AMENDMENT OF MR. PADILLA

As proposed by Mr. Padilla and accepted by the Sponsor, the Body approved to change the word "shall" on line 7 to MAY; and delete the letter "d" on the word "proposed" on line 11.

PROPOSED AMENDMENT OF MR. REGALADO

On line 15, Mr. Regalado proposed to add the following: 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, SAFEGUARDS SHALL BE PROVIDED TO SECURE THE SECRECY AND THE SANCTITY OF THE BALLOT.

MR. MONSOD'S AMENDMENT TO THE AMENDMENT

Mr. Monsod proposed, jointly with Messrs. Ople, de los Reyes, Maambong and Foz, to add the words AS WELL AS FOR ABSENTEE VOTING BY FILIPINOS ABROAD after Mr. Regalado's proposed amendment. He explained that the term "absentee voting" has already acquired a definite meaning.

In reply to Mr. Regalado's query on whether "absentee voting" includes transient voting, Mr. Monsod stated that it would refer to absentee voting by Filipinos abroad.

Mr. Monsod stated that other situations are already covered by the Omnibus Election Code, but any inconsistency on the residence provision would be left to the discretion of the Legislature.

Mr. Regalado accepted the amendment to his amendment. He then restated his proposed amendment, as amended, so that lines 15 and 16 would read as follows:

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.

In reply to Mr. Rodrigo's query, Mr. Monsod explained that the word "Filipinos" refers to qualified voters. Mr. Bernas added that they must be domiciled in the Philippines.

On the requirement that a voter must be residing in the place for at least six months preceding the election, Mr. Monsod adverted to Mr. Bernas' reply that the domicile requirement and other qualifications would be the same. Mr. Bernas also stated that the domicile requirement must be flexible.

MR. TINGSON'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Tingson then proposed to add the word "qualified" before the word "Filipinos", which proposed amendment to the amendment was accepted by Mr. Monsod.

On Mr. Regalado's contention that the words "qualified Filipinos" were already covered by "absentee voting", Mr. Monsod explained that it would leave to the Legislature the qualifications and the system of registration.

VOTING ON THE PROPOSED AMENDMENT

Submitted to a vote, and with 28 Members voting in favor and none against, the proposed amendment, as amended, was approved by the Body.

MANIFESTATION OF MR. SUAREZ

Thereupon, Mr. Suarez stated that the qualified Filipinos abroad should vote for the candidates of the place where they are registered.

Mr. Regalado then clarified that the words "qualified Filipinos" refer to Filipinos temporarily abroad during the election, to which Mr. Monsod agreed. He further stated that the procedure for registration for said Filipinos abroad would be provided by the Legislature.

On Mr. Bernas' query regarding the children of diplomatic officers who reach the age of majority while living abroad, Mr. Monsod stated that the system to be provided by the Legislature should enable said children to comply with the registration requirements in the embassy without their having to come to register.

TERMINATION OF THE PERIOD OF AMENDMENTS

Thereafter, on motion of Mr. Bengzon, there being no objection, the Body closed the Period of Amendments.

APPROVAL ON SECOND READING OF PROPOSED RESOLUTION NO. 530, AS AMENDED

Submitted to a vote, and with 28 Members voting in favor and 1 voting against, Proposed Resolution No. 530, as amended, was approved by the Body.

REQUEST OF MR. DE CASTRO

In view of the approval of Resolution No. 530, Mr. de Castro requested that the Commission, through the President, recommend to the President of the Philippines the issuance of a decree allowing illiterates to vote but without the assistance of another person as provided for in the Omnibus Election Code, which request was noted by the Chair.

MANIFESTATION OF MR. BENGZON

At this juncture, Mr. Bengzon informed the Body that it would consider Committee Report No. 22 submitted by the Committee on the Legislative, on Monday, July 21, 1986.

ADJOURNMENT OF SESSION

Thereafter, on motion of Mr. Bengzon, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of Monday, July 21, 1986.

It was 2:50 p.m.

I hereby certify to be correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO
Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on July 21, 1986

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