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Thursday, September 4 1986

CALL TO ORDER

At 10:01 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. Rene V. Sarmiento, to wit:

"A reading from the Book of Sirach, Chapter 25, Verse 1: With three things I am delighted, for they are pleasing to the Lord and to man: harmony among brethren, friendship among neighbors, and the mutual love of husband and wife.

Loving Father, friend and counsellor, we are about to finish the work which You, in Your wisdom, have assigned and destined us to do' Yet, frail as we are, we have our fears. Amid the turmoil in our land and our differences in this Commission, we ask: Will we be able to finish our task united and inspired? Will we be able to work hand in hand, unselfishly giving our best until we fulfill the co-creation of a masterpiece?

Loving Father, God of our patriots and heroes, our refuge through all generations, we are confident that with You teaching us to number our days aright, prospering the work of our hands and filling us at daybreak with Your kindness, we, all Members of this Commission, healthy and sick alike, will succeed in our mission. For in You, with You and through You, nothing is impossible.

As we begin anew our delicate job this morning, and resume it in the days to come, grant us the grace to have harmony and friendship among us in the midst of sponsorship, interpellations, debates, amendments, and amendment to an amendment. Guide us with Your fatherly hand to transcend our biases and prejudices, our selfishness and pride, so that, remembering our limited but precious days in this Commission, we will accomplish our task.

In Jesus' name we pray.

Amen."

ROLL CALL

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

Aquino, F. S.

Muñoz Palma, C.

Bacani, T. C.

Quesada, M. L. M.

Bennagen, P. L.

Rama, N. G.

Rosario Braid, F.

Regalado, F. D.

Calderon, J. D.

De Los Reyes, R. F.

De Castro, C. M.

Rigos, C. A.

Colayco, J. C.

Rodrigo, F. A.

Concepcion, R. R.

Romulo, R. J.

Davide, H. G.

Sarmiento, R.V.

Foz, V. B.

Suarez, J. E.

Guingona, S. V. C.

Sumulong, L. M.

Jamir,A. M. K.

Tan, C.

Lerum, E. R.

Tingson, G. J.

Monsod, C. S.

Uka, L. L.

Nieva, M. T. F.

Villacorta, W. V.

Padilla, A. B.

Villegas, B. M.

With 32 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R.

Laurel, J. B.

Alonto, A. D.

Maambong, R. E.

Azcuna, A. S.

Natividad, T. C.

Bengzon, J. F. S.

Nolledo, J. N.

Bernas, J. G.

Ople, B. F.

Garcia, E. G.

Tadeo, J. S. L.

Gascon, J. L. M. C.

Messrs. Rosales and Treñas were sick.

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.

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 read the titles of the following Communications which were, in turn, referred by the Chair to the Committees hereunder indicated:

Communication No. 706 — Constitutional Commission of 1986

Letter from Rev. Romeo Palma transmitting a resolution adopted by the Inter Church Ministerial Fellowship, Cotabato City, urging the Constitutional Commission to incorporate in the Constitution as provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 707 — Constitutional Commission of 1986

Communication from fifty-three (53) concerned citizens of Davao City and Davao del Sur, appealing to the

Constitutional Commission to consider favorably provisions that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State

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

Communication No. 708 — Constitutional Commission of 1986

Communication from Mr. Delfin R. Manlapaz, 1707 E. Rodriguez, SF. Avenue, Cubao, Quezon City, submitting an article "On Import Liberalization" hoping that the same may be of interest and use in the consideration of the Article on the National Economy and Patrimony

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 709 — Constitutional Commission of 1986

Communication from the Philippine Council of Evangelical Churches, Inc., 62 Molave St., Project 3, Quezon City, urging the Constitutional Commission to incorporate, among others, a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 710 — Constitutional Commission of 1986

Communication from Ms. Pacita G. Infante and fourteen (14) other women of Negros Occidental, expressing concern over the U.S. bases issue, among others, saying that if the U.S. bases are pulled out, the vacuum will immediately be occupied by Russia

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

Communication No. 711 — Constitutional Commission 1986

Communication from the Philippine Council of Evangelical Churches, Inc., Ozamiz City Chapter, signed by its Chairman, Abraham Mapangal, and ten other officers and members, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 712 — Constitutional Commission of 1986

Communication from Mr. Juanito J. Manangkil of 266 Sta. Quiteria Road, Caloocan City, suggesting that elections must be for every six years for all elective officials from President to Barangay Captain and that the incumbents including their relatives and relatives by affinity within the fourth degree shall be barred from running for the same position in order to minimize if not totally eradicate political dynasty and political warlordism

TO THE STEERING COMMITTEE

Communication No. 713 — Constitutional Commission of 1986

Letter from Mr. Lucio I. Ricafrente, transmitting Resolution No. 35 of the Sangguniang Panlalawigan of Aklan, requesting the Constitutional Commission to allow in the new Philippine Constitution the retention of the American bases in the Philippines even after the year 1991

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

Communication No. 714 — Constitutional Commission of 1986

Communication from the Diliman Campus Bible Church, 152 Valenzuela Street, Area 2, U.P. Campus, Diliman, Quezon City, signed by its Pastor, William Girao, and two others, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 715 — Constitutional Commission of 1986

Communication from the Palkan Alliance Church, Palkan, Polomolok, South Cotabato, signed by its Secretary, Mr. Domingo C. Biantan, urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 716 — Constitutional Commission of 1986

Communication from Ma. Paz R. Hidalgo and Leonarda A. Yber, both of Madrid, Spain, requesting inclusion of Spanish as one of the official languages in the new Philippine Constitution

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 717 — Constitutional Commission of 1986

Communication from the Church of the Foursquare Gospel in the Philippines, Romblon-Aklan-Masbate District, Odiongan, Romblon, signed by Rev. Norberto D. Doromal, Jr., urging the Constitutional Commission that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 718 — Constitutional Commission of 1986

Letter from Mr. Gerardo C. Enriquez, Chairman, Environmental Conservation Movement, Alabat, Quezon, proposing various suggestions on conservation of natural resources

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 29 ON PROPOSED RESOLUTION ON THE ARTICLE ON EDUCATION, SCIENCE, TECHNOLOGY, ARTS AND CULTURE

On motion of Mr. Rama, there being no objection, the Body proceeded to the consideration, on Second Reading, of the Proposed Resolution on the Article on Education, Science, Technology, Arts and Culture (Committee Report No. 29), entitled:

Resolution to incorporate in the Constitution an Article on Education, Science, Technology, Arts and Culture.

Mr. Rama stated that the parliamentary status would be the continuation of the period of amendments.

The Chair recognized Mr. Villacorta and the members of the Committee on Human Resources.

PROPOSED MODIFIED AMENDMENT OF MR. DAVIDE

Thereupon, Mr. Davide proposed a modified amendment on Section 1(a) to read:

IT SHALL BE THE DUTY OF THE STATE TO PROVIDE EDUCATION TO ALL THE CITIZENS, AND TO ENSURE EQUAL ACCESS AND OPPORTUNITY TO IT. MEASURES TO PROMOTE QUALITY EDUCATION AT ALL LEVELS SHALL BE VIGOROUSLY IMPLEMENTED.

Mr. Davide stated that the proposal would reconcile the problem presented by Mr. Ople and meet Mr. Gascon's request to emphasize the duty of the State to provide education to all citizens.

Reacting thereto, Mr. Gascon stated that the Committee has no serious objection to the proposal but would emphasize the "right of the citizen to education" and the correlative duty of the State to provide it.

Ms. Aquino proposed to amend Mr. Davide's amendment to read:

EVERY CITIZEN HAS AN EQUAL RIGHT TO EDUCATION. THE STATE GUARANTEES THAT NO ONE SHALL BE LEFT WITHOUT ACCESS TO EDUCATION.

Ms. Aquino stated that she introduced "equal" to approximate the problem presented by Mr. Ople on the possible arbitrary classification for purposes of avilment of educational facilities.

On the word "quality", Mr. Guingona stated that he has linked the quality of education to the imposition of minimum requirements. Webster, he said defines "quality" as the degree of conformance to standards. He opined that "standards" would mean acceptable or suitable standards which the Ministry of Education, Culture and Sports, as the most qualified agency, can bring about by providing minimum requirements which are prescribed through the Manual of Regulations for Private Schools, the Qualification Standards Manual, and memoranda and circulars. He stated that the minimum requirements include some areas of concern, namely, administration, institutional objectives, financing, faculty qualifications, library and facilities, textbooks and Other instructional materials, curricula, laboratory, methods of teaching and physical facilities which would include limiting the number of students in a class, institutional facilities and contributory programs on research and community involvement. Mr. Guingona underscored the unanimous sense of the Committee to include the word "quality" although he personally feels it should not be included in Section 1(a) but in Section 1(b) because it is through external governance, supervision and regulation, and the prescription of minimum requirements that the aims of quality education are realized.

SUSPENSION OF SESSION

At this juncture, upon request of Mr. Villacorta, the Chair suspended the session.

It was 10:23 a. m.

RESUMPTION OF SESSION

At 10:31 a.m., the session was resumed.

Upon resumption of session, Mr. Davide informed the Chair that he, Mr. Bernas and Ms. Aquino had agreed on a joint modified amendment to be sponsored by Mr. Bernas. Additional co-authors of the proposed amendment are Messrs. Monsod and Rama.

JOINT AMENDMENT OF MESSRS. BERNAS, DAVIDE, MS. AQUINO, MESSRS. MONSOD AND RAMA

Thereupon, Mr. Bernas presented the following modified amendment:

THE STATE SHALL, IN SUPPORT OF THE PRIMARY RIGHT OF PARENTS, PROTECT AND PROMOTE THE RIGHT OF ALL CITIZENS TO QUALITY EDUCATION AT ALL LEVELS OF EDUCATION AND SHALL TAKE VIGOROUS STEPS TO MAKE SUCH EDUCATION ACCESSIBLE TO ALL.

MR. MONSOD'S AMENDMENT TO THE AMENDMENT

Mr. Monsod proposed and the proponent accepted the substitution of the word APPROPRIATE in lieu of "vigorous" so that the phrase would read SHALL TAKE APPROPRIATE STEPS.

Mr. Bernas explained that the provision emphasizes four things: 1) that the primary right of education belongs to the family; 2) that the State has the duty to support this primary right; 3) that the State shall make efforts to support this primary right by promoting quality education; and 4) that the State shall make such quality education accessible to all.

AMENDMENT OF MS. AQUINO

Ms. Aquino proposed that the reference to the natural right of parents in Section 1 be transposed to Section 2 where the perspective and priority of rights are better placed and appreciated in the context of compulsory education.

Mr. Gascon stated that the Committee feels that the phrase "in support of the primary right of parents" is unnecessary because it is the basic premise of education and that it has already been included in the Article on Family Rights.

Mr. Bernas stated that he would not object to the deletion of the phrase on the understanding that its concept is accepted and enshrined elsewhere in the Constitution.

Additionally, Mr. Gascon observed that the word "right" refers to the primary right of parents to provide education for their children and to the basic right of every citizen to education. He noted that it would not only be the State's duty to support the parents' primary right to provide education for their children but also to provide for such right to education.

Apropos the comment of Mr. Bernas, Mr. Monsod proposed that the Declaration of Principles recognize the primary right of parents to educate their children, to which Mr. Gascon stated that the Committee would not have any objection.

INQUIRY OF MR. BACANI

Upon inquiry of Mr. Bacani, Mr. Bernas affirmed that his proposal would vindicate the right of every citizen to quality education at all levels.

On whether this would also vindicate the right of every citizen to education in the tertiary level, Mr. Bernas affirmed that he would consider this as a right of every citizen. He explained that although the State shall protect and promote the right of all citizens and take appropriate steps to make such education accessible to all, it would not be a prescription that the State shall provide free education up to the tertiary level but that it shall take steps and promote measures which will ensure quality education up to the highest level.

As to whether this would mean that the State cannot prescribe qualifying examinations to screen students for the tertiary level, Mr. Bernas clarified that the State may screen the applicants as part of its duty to provide quality education. He stated that accepting unqualified applicants for admission to higher education would dilute the

quality of education, besides, not everyone would qualify.

Mr. Guingona observed that all rights, including the right to education, are not absolute because they are subject to the State's inherent right to exercise police power.

INQUIRY OF MRS. ROSARIO BRAID

Mrs. Rosario Braid stated that the Committee accepts the concept of quality education.

She asked Mr. Bernas whether "quality" would take into consideration the aptitude, logic, capabilities and limitations of learners who come from different levels of socio-economic and cultural development. In reply, Mr. Bernas affirmed that these aspects will be taken into consideration. He noted that a person may have very strong native skills which, because of his background, were not developed, in which case, it is part of the State's duty to offer him opportunities to develop so that he can qualify for higher education. Mr. Bernas affirmed that taking such unique capabilities into consideration may be a move away from homogenous curricula and approaches. He clarified that, for instance, in the doctoral level, the right to quality education would already imply that the State shall have higher requirements for this level and a person who is not qualified would, therefore, not have that right.

AMENDMENT OF MR. BACANI

Mr. Bacani proposed that Section 1(a) state the general principle that the State shall protect and promote the right of all citizens to education, and Section 1(b) to be amended to read:

THE STATE SHALL ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS AND AT THE TERTIARY LEVEL FOR THOSE QUALIFIED.

Reacting thereto, Mr. Bernas stated that he would like to introduce the concept of quality as early as the first sentence of the Article. He observed that the effort is towards raising the standards of education and "any type" of education would dilute that aim.

REMARKS OF MR. RAMA

Mr. Rama manifested that he insisted on the inclusion of the phrase "quality education" because of the diploma mills which survey showed to be many. He stressed the need for framing a Constitution not out of a vacuum of theories and principles from other countries. He stated that this peculiar problem should be addressed because the kind of education being given by diploma mills would defeat the purpose of education. He noted that this is one of the biggest rackets which parents are made to pay and sacrifice for all their lives. He underscored the need to maintain quality education to meet this peculiar problem.

Taking exception to the statement of Mr. Rama, Mr. Guingona remarked that he does not know what was the survey adverted to. He noted that if Mr. Rama had in mind the SOUTELLE survey, this survey showed that, in general, public schools in the elementary and secondary levels perform less efficiently than those in the private schools. On the other hand, if it was the Monroe survey, he stated that this was taken more than 30 years ago.

Moreover, Mr. Guingona underscored that the country's educational system, both public and private, are providing quality education as evidenced by the number of graduates who have distinguished themselves in many areas of activity and the fact that the country has been attracting foreign students.

Mrs. Rosario Braid stated that despite Mr. Guingona's extensive research on the matter, there is much to be desired in terms of quality of education with respect to the primary level, particularly in the barangay schools. She noted that the Committee accepts the concept of quality which has been included in Section 1(c) although the proponent would like to transpose this to Section 1(a).

Mr. Bacani clarified that his proposal would also include Section 1(a) to which Section 1(b) can be added.

POINT OF INFORMATION OF MR. GUINGONA

Mr. Guingona informed that the Committee had agreed in caucus that the Article would be considered section by section and that Mr. Bacani has gone to the next section. He added that the sequencing would not be done on the floor and that the Committee has in fact prepared the sequencing which can be distributed to the Members later, following the suggestions of Messrs. Maambong and Monsod. He noted that if Mr. Davide has a proposal on the sequencing, the Committee would consider it. He proposed that the Body consider the proposed amendment of Mr. Bernas on Section 1(a) and then proceed to Section 1(b).

Mr. Bacani explained that he had difficulty establishing the right of all citizens to education at the tertiary level although it is clear that it should be made accessible to all. He stated that for this reason he had formulated his amendment.

INQUIRY OF MS. TAN

Ms. Tan observed that Members seem to have divergent views on "quality education". She inquired from Mr. Bernas as to what would be his ideas on "quality education".

REMARKS OF MR. BERNAS

Mr. Bernas explained that education is a combination of activities which involve the acquisition of information, development of critical thinking, development of the individual's artistic talents, moral qualities, sensitivity to the needs of others and so forth — all of which should be maximized. He noted that reading, writing, arithmetic, and mastery of a certain language would be very basic as far as skills development are concerned. He noted that it is generally accepted that education, especially at the elementary level has deteriorated, to the extent that some effort at remedial teaching has to be done to enable the student to receive instructions at the secondary level. He stressed that the basic poor quality of education affects the entire system.

Mr. Bernas underscored that the government should make basic education solid; recognize its duty to promote quality-education; and make this accessible to all and not just to the wealthy.

REMARKS OF MR. PADILLA

Mr. Padilla expressed support for the proposal of Ms. Aquino which, he stated, is more simple and clear. He observed that while the country had one of the highest literacy rates in Asia it has now about 2 million illiterates.

He stated that the primary purpose of State education is to make, if possible, all people literate. He is in favor of "quality education", for he observed that even in law schools, there are students who do not have adequate qualification and that many of them cannot write English clearly and correctly. However, he stated that "quality education" from primary to tertiary level would be a beautiful dream and would be visionary inasmuch as the State cannot even make all the people literate. He urged the Body to be more practical by adopting Ms. Aquino's proposal simply providing that every citizen has an equal right to education and that the State guarantees that no one shall be left without access to education. He stated that he does not believe in imposing upon the State the

duty to give all citizens tertiary education, for such right should be availed of by students with talents and who qualify for higher learning. He observed that after elementary and high schools many students go to technological schools rather than pursue liberal education.

Mr. Bernas clarified that when the proposal says that all citizens should aspire for quality education or that the State should protect and promote the right of all citizens to quality education, it does not mean that everyone is entitled to go to college. What it means, he stressed, is that all citizens are entitled to quality education according to their level of talent. He noted that at least in the elementary level the student should have quality education but if he has the talent to go further, he should be given quality education in the secondary level and thereafter in the tertiary level. He underscored "quality" in view of the deplorable deterioration of education in the country. By mentioning education in general, he stated, the Body would lose the opportunity to emphasize the urgency of raising the level of education. He underscored that the State should do what it can to improve the quality of education and next, do what it can to ensure that this quality education is made accessible to everybody and not just to those who can afford to pay high tuition. Mr. Bernas stressed that everyone who is qualified has a right to go to the University of the Philippines and that the provision mandates the State to establish more state colleges and universities all over the country and, if not acceptable, to give subsidies to students so that they could go to private schools.

INQUIRY OF MR. SARMIENTO

Mr. Sarmiento prefaced his query by stating that the provision is neither visionary nor idealistic but practical and good for the people.

In reply to Mr. Sarmiento's query, whether "quality education at all levels" would include pre-school education, Mr. Bernas replied in the negative.

REMARKS OF MR. GUINGONA

On tertiary education, Mr. Guingona, comparing a Filipino student with an American student, stated that a first year college student in the United States would be better qualified, considering that, to finish secondary school an American student has to go through twelve years of elementary and secondary education, while it would require only ten years for a Filipino student, so much so that a first year student in the tertiary level would only be a fifth year high school student in the United States.

Reacting thereto, Mr. Bernas stated that when students from some schools in the Philippines go to the United States, they enter the equivalent grade level of the school in the United States, but once they are in, they are immediately accelerated.

Thereupon, Mr. Villacorta accepted the amendment, pointing out that things would have been simpler had the Body accepted the original formulation of the Committee.

Additionally, Mr. Gascon stated that the basic principles which the Committee would like to emphasize in Section 1 are the right of every citizen to education, and the duty of the State to provide for such education.

On the proposed reformulations of the basic principle, Mr. Gascon stated that the duty of the State to provide education is already included in the phrase "the State shall protect and promote" which defines said duty by stating that it shall take appropriate steps to make education accessible to every citizen. He also stated that the provision has added a new concept on quality education.

MANIFESTATION OF MR. BACANI

Mr. Bacani manifested that he objected to the formulation of Mr. Bernas because he thought that the latter was asserting a right to college education for all. He stated he was withdrawing his objection after the explanation that the thrust of the proposal is to have a right to quality education in the college level.

INQUIRY OF MR. SUAREZ

On Mr. Suarez' query, Mr. Bernas affirmed that his proposal would elevate the right of the citizen to quality education and not to just recognize any institution as a school. He stated, however, that the right to the levels of education would depend on the person's talents and capabilities.

INQUIRY OF MR. RODRIGO

In reply to Mr. Rodrigo's query, Mr. Gascon affirmed that the Body would vote on the amendment by substitution to Section 1(a).

Additionally, Mr. Gascon stated that the education referred to in the proposal does not only refer to formal education but includes informal and nonformal education, considering that this would be the first of the basic principles of the right to education in whatever form and level.

Mrs. Rosario Braid allayed the fears of those who feel that this provision would involve huge additional allocations. She observed that the concept of quality education means using existing resources more creatively and that any additional investment would be used for the reorientation of teachers so that they would be able to develop more learner-oriented approaches in teaching with maximum use of community resources. In this regard, she stated that education would relate to the relevant needs of the communities, such that when a Grade IV student drops out, he would be able to fit his skills to the needs of the economic and social development programs of the community.

For the record, Mrs. Quesada stated that the concept of accessibility would include the concept of availability and affordability.

Mr. Rama, adverting to his research for a series of articles on education in the Philippines Free Press, pointed to the peculiar problem of low standard of education brought about by the war, to wit:

Abubakar, Y. R.

Laurel, J. B.

Alonto, A. D.

Maambong, R. E.

Azcuna, A. S.

Natividad, T. C.

Bengzon, J. F. S.

Nolledo, J. N.

Bernas, J. G.

Ople, B. F.

Garcia, E. G.

Tadeo, J. S. L.

Gascon, J. L. M. C.

Messrs. Rosales and Treñas were sick.

CONTINUATION OF MR. SUAREZ' INQUIRY

On the contention that the phrase "protect and promote" could lead to unnecessary litigations and on Mr. Guingona's observation that there may be "diploma mills" which may require State supervision, Mr. Bernas gave the assurance that if the students studying in a school find that the teachers are unqualified or the facilities are inadequate, they could appeal to and seek the protection of the State which may compel the school to improve the quality of its teachers and educational facilities or they could also address to Congress the possibility of subsidizing the school.

On whether the clause. "The State shall protect and promote the right of all citizens to quality education at all levels" could be a license for students to go to court and demand implementation of this provision, Mr. Bernas opined that the answer would be in the affirmative with the qualifications that if the school involved is a public school, the State should answer for its inadequacies; if it is a private school, said school could put up in the defense that the State has not allowed it to collect the tuition necessary to raise its quality of education.

On who would determine whether or not a certain school is providing quality education, Mr. Bernas stated that the State, by its police power, could ensure that there are minimal levels of quality education. He pointed out that there are other ways of ensuring quality education, among others, a determination by private accrediting associations which are effective in raising the quality of education. He likewise adverted to the fact that the State could also recognize private schools that are already delivering quality education.

On the observation that the suggestion would practically amount to a reexamination or review of the quality of education being given by the private schools, Mr. Bernas stressed that since the area of accreditation has been entered into, the State has some authority to determine at least the minimum levels of quality, although private educators also have the right to require even more than such levels.

On the procedural matter of providing quality education, Mr. Bernas agreed that under the principle of exhaustion of administrative remedies, the complaining student could address his protest against the State instrumentality or agency before going to court to seek refuge under this particular provision.

APPROVAL OF THE AMENDMENT

Mr. Gascon reiterated the Committee's acceptance of the amendment.

Submitted to a vote, and with 28 Members voting in favor and 1 against, the amendment was approved by the Body.

AMENDMENT OF MS. AQUINO

Ms. Aquino proposed an amendment by substitution to the second sentence of Section 1(b), to wit:

WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN,.
ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE.

Mr. Villacorta accepted the amendment.

Ms. Aquino explained the intent and reason for her proposal by stating that the State's interest in universal compulsory education, however strong not absolute to the exclusion of all the other interests, but is consistent with jurisprudence that children are not mere creatures of the State and that those who nurture them and direct their destinies have the primary right to develop them for additional obligations.

INQUIRY OF MR. RODRIGO

Mr. Rodrigo prefaced his query by stating that he was against the provision making elementary education compulsory.

In reply to Mr. Rodrigo's query on the meaning of the rights of parents, Ms. Aquino stated that the provision for compulsory education is already historical imperative and that the clause "without limiting the natural right of parents", taken in context with the second part of the sentence, only hopes and aspires to set some kind of a moral compulsion for the parents to lead their children to primary education, She stressed that the provision does not speak in terms of sanction or penalty for a misdemeanor but it is in the nature of a moral compulsion.

On the observation that there was no provision in the 1935 and 1973 Constitutions making elementary education compulsory, Mr. Gascon stated that the reason for the provision on compulsory elementary education is to stop the retrogression of the literacy rate which continues to go down He stated that making elementary education morally compulsory would at least alleviate the increasing illiteracy rate.

On the observation that by providing it in the Constitution, it would not only make it morally compulsory but also compulsory by constitutional mandate, Ms. Aquino stressed that her statement about compulsory education being a historical imperative is not only a call of progress but also an attempt to address the problem of declining literacy which has a chain reaction to the problems of involuntary child labor, child prostitution and a host of other social ills that arise from ignorance. She maintained that a constitutional mandate for compulsory elementary education does not provide for an impetus for sanctions but that compulsory education is a universal attribute considered in almost all of the Constitutions all over the world except that it would have to yield to the recognition of the primacy of the natural right of the parents to rear their children.

Additionally, Mr. Gascon stated that Article XXVI of the Universal Declaration of Human Rights expressly provides that elementary education shall be compulsory for the same reasons advanced by Ms. Aquino.

As to how the Constitution could make it compulsory if there are no sanctions, Mr. Guingona stated that the word "compulsory" should not be construed or interpreted in its strict sense, but should be subject to certain exemptions he had previously enumerated.

Reacting thereto, Ms. Aquino pointed out that the intention of the provision is such that when there is a constitutional mandate, it should have enough persuasive effect to carry out its compulsory thrust without necessarily involving sanctions or penalties. She pointed out that it had been ruled in several cases in the United States that to qualify the failure to abide by the rules of compulsory education as a misdemeanor is unconstitutional.

On the suggestion to use the word "persuade" or "encourage" instead of "compulsory" on the understanding that it shall be considered a commitment of the government, Ms. Aquino maintained that the concept of compulsory education subject to the primary natural right of the parent has acquired a settled usage in law and in case law.

Mr. Rodrigo pointed out that the 1935 and 1973 Constitutions do not contain a provision making elementary education compulsory. He questioned the propriety of suddenly incorporating such provision in the Constitution under a prevailing economic crisis. He also noted that while it is purportedly compulsory, it is not really

compulsory.

REMARKS OF MR PADILLA

Mr. Padilla stated that while he would like all children to have not only primary, but also elementary, and if possible, secondary education, it is doubtful whether the exercise of such right may be compelled. He stressed that the exercise of a right may be waived but the person who has a right may not be compelled to exercise it. He stated that while the word "compulsory" appears attractive, it may not have real value if it does not carry any penal sanction.

He suggested that it would be enough to say that the State shall provide for free elementary education without saying that it is compulsory because to provide a sanction for the non-exercise of a right would be illegal and unconstitutional.

It is for this reason, he stated, that he shared the views of Mr. Rodrigo that in setting the goals of education which the Commission would want to achieve, it should be careful that the means used should not only be within the resources of the State but should also be realistic and practical.

REMARKS OF MR. NOLLEDO

Mr. Nollado recalled that the word "compulsory" was used in the 1935 Constitution in relation to primary education which was later extended to elementary education. He recalled that the 1971 Constitutional Convention extended compulsory education up to elementary education because the government at that time was alarmed by the increase in illiteracy. He opined that, considering the basic national and transcendental purpose of promoting literacy in the country, the right is not waivable.

Mr. Nollado urged the retention of the word "compulsory", taking into account the country's low literacy percentage compared with other civilized countries. He maintained that the absence of a sanction would not preclude Congress from providing for it later whether in the form of civil or criminal sanction. He expressed the fear that considering the mentality of the Filipinos, to leave out the compulsory character of the provision and make it optional would only promote illiteracy because of the tendency of parents to follow the path of least resistance.

REMARKS OF MR. RODRIGO

Mr. Rodrigo took exception to Mr. Nollado's statement that under the 1935 Constitution elementary education was compulsory. He pointed out the pertinent provision, Section 5, Article XIV thereof, to wit:

"All educational institutions shall be under the supervision and subject to regulation by the State. The Government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary instruction . . ."

He underscored that the Article provides for free public, but not compulsory primary education.

Replying thereto, Mr; Nollado stated that his own interpretation as a law professor is that the provision, in effect, is compulsory, and was in fact implemented by a Commonwealth Act.

Mr. Rodrigo stressed that it was not a constitutional provision.

Mr. Nollado further pointed out that it was likewise the interpretation of the Committee on Education of the 1971 Constitutional Convention that it was compulsory on the part of the government, adding that there was even an implementing statute to promote literacy.

INQUIRIES OF MR. SUAREZ

In reply to Mr. Suarez' observation on Mr. Monsod's statement that the provision is really a soft mandate to the State, Mr. Nollado affirmed that there is no sanction attached thereto, however, It would open the avenue for Congress to provide for a penalty in the event that circumstances would justify its imposition.

Ms. Aquino admitted that sanctions have not been constitutionally provided for the reason that certain jurisprudence have struck; down as unconstitutional any criminal sanction for failure to comply with compulsory education. She, however, agreed that Congress would not be precluded from providing for statutory implementation which may assume the modalities of sanction.

Mr. Nollado thereafter affirmed Mr. Suarez' observation that Congress may later determine the nature of the penalties that may be provided by way of implementing the constitutional mandate. Ms. Aquino added that Congress should take into account the constitutional limitation on infringement of free expression. Mr. Nollado also agreed with Mr. Suarez that this would be in pursuit of a soft mandate.

Mr. Suarez stated that what is bothering is that compulsory education implies physical arrest and putting children back in school notwithstanding possible financial constraints on the part of parents and lack of school facilities, to which Mr. Nollado clarified that the penalties should be reasonable and that the constitutional mandate should be applied in a very humane way.

REMARKS OF MR. VILLEGAS

Mr. Villegas stated that his study of the economics of education in the Philippines showed that parents true to the Asian heritage, have an inner compulsion to send their children to school. He pointed out that economic consideration is the only reason why literacy has dropped in alarming proportions during the last few years. He explained that the children were needed to help earn money and it is possible that the parents do not have the money, not necessarily for tuition, but for other expenses attendant to education. He opined that it would be a wrong diagnosis to infer that parents are not sending their children to school for non-economic reasons. He believed that the word "compulsory" would only lead to byzantine arguments. He suggested that the word "compulsory" should not be used if it does not really mean compulsory since the inner compulsion of Filipino parents may be relied upon to send their children to school if the State provides the economic wherewithals therefor.

REMARKS OF MR. BENNAGEN

Mr. Bennagen agreed with Mr. Villegas' comments by adverting to empirical studies on Filipino values which point to education as one of the leading values upheld by Filipino families who look at education as a vehicle for social mobility. He stated that outside of the legal compulsion, there is a psychological compulsion on parents to send their children to school subject to limitations of inadequacy of the State and sometimes of the family itself to meet the high value placed on education.

REMARKS OF MR. VILLACORTA

Mr. Villacorta quoted for the record paragraphs 1 and 2, Article XIII, of the International Covenant on Economic, Social and Cultural Rights, to which the Philippines is a signatory:

"The States, parties to the present covenant, recognize the right of everyone to education.

"The States, parties to the present covenant, recognize that with a view to achieving the full realization of this

right, primary education shall be compulsory, free and available to all."

Likewise, Mr. Villacorta read Section 1, Article 26 of the Universal Declaration of Human Rights, to wit:

"Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory."

REMARKS OF MR. TINGSON

Mr. Tingson recalled that his grandparents told him that in the early 1900s, when many did not appreciate the worth of education, policemen rounded up children and compelled parents to send their children to school. He observed, however, that as pointed out by Mr. Villegas, at present everyone has a deeper appreciation of education and the preponderant feeling is that compulsion is unnecessary. In view thereof, he objected to the use of the word "compulsory".

POINT OF INFORMATION OF MR. REGALADO

Mr. Regalado, on a point of information, stated that the Revised Penal Code contains a provision which penalizes parents who fail to afford their children education which their position or social status permit. He stated that although this provision has been in the Revised Penal Code since January 1, 1932, he was not aware that it has ever been invoked or that there has been a prosecution thereunder for the simple reason that the parents' failure to send their children to school was due to circumstances beyond their control,

Thereupon, Mr. Gascon asked that Ms. Aquino's proposed amendment be submitted to a vote.

(At this juncture, the President relinquished the Chair to Mr. Azcuna.)

RESTATEMENT OF MS. AQUINO'S AMENDMENT

Ms. Aquino restated her amendment to reword lines 1 and 2 of page 2 to read WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE.

At this juncture, Mr. Monsod reminded the Committee of an agreement to transpose the concept of primacy of the parents' right to give education to their children to the Article on the Declaration of Principles. He then inquired whether it would not be a redundancy to repeat this in the Article on Education, Science, Technology, Arts and Culture.

In reply, Ms. Aquino stated that the Body has not yet approved the Article on the Declaration of Principles but in terms of balancing concepts, she perceived that this is where the natural right of the parents should be balanced against the State's interest. She stressed that properly articulated, there would be no harm in incorporating it in the Article on Education, Science, Technology, Arts and Culture.

Mr. Monsod stated that if the same provisions would be incorporated later in the Declaration of Principles, the Body would have to go back and delete it from the Article on Education, Science, Technology, Arts and Culture. He stated that it is possible to incorporate Ms. Aquino's amendment in the provisions on Education in only one phrase without stating it in a separate sentence.

He pointed out that although there was a previous agreement to proceed section by section, it would be better to restructure the entire Article, taking into account the sequences and consolidations already made.

Mr. Villacorta opined that it would be more confusing to restructure the entire Article than to proceed section by

section.

Mr. Monsod maintained that it would not make sense if the Body would proceed paragraph by paragraph and make the sequencing later because the ideas might be mixed up. He stated that, as pointed out by Deputy Minister Ordoñez, the Article could be better organized with the consolidation of sections and presentation of the ideas in their proper context.

Mr. Villacorta contended that the Committee on Human Resources was just following procedure adopted by the other Committees and there was no reason for deviating from such procedure.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Rama, the Chair suspended the session until two-thirty in the afternoon.

It was 12:03 p.m.

RESUMPTION OF SESSION

At 2:58 p.m., the session was resumed with Mr. Azcuna presiding.

AMENDMENT OF MS. AQUINO

Upon resumption, Ms. Aquino reiterated her proposed amendment on Section 1(b), lines 1 and 2, which reads as follows: WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE.

Submitted to a vote, and with 15 Members voting in favor, 13 voting against and 1 abstention, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. RODRIGO

Thereupon, Mr. Rodrigo proposed on page 1, line 16, to insert ENDEAVOR TO between "shall" and "establish".

In reply to Mr. Gascon's query as to the meaning of "endeavor", Mr. Rodrigo explained that in previous Articles the Body used the word as a compromise whenever the government is not really capable of accomplishing what it promises to do. He stressed that the Body should not make any categorical commitment for the government to establish and maintain free elementary and high school education because at present tuition and textbooks are not free as far as high school education is concerned.

On Mr. Ople's query whether the proposal would, in effect, reduce the benefits already enjoyed by poor families who send their children to free elementary schools because of the context that would actually release the State from guaranteeing free primary and elementary education as provided for in the 1935 and 1973 Constitutions, Mr. Rodrigo replied that he would be willing to revert to the 1973 Constitutional provision which categorically stated that elementary education shall be free and in areas where finances permit, high school education shall also be free. He pointed out, however, that according to Dr. Juanita Guerrero of the Bureau of Elementary Education, the government only gives free matriculation fees but not books and other school supplies.

In reply to Mr. Ople's query whether very scarce resources have made it doubtful at this time to provide free elementary and secondary education, Mr. Rodrigo stated that the government is in one of its worst financial crises and to give a categorical promise now would just disappoint the people.

Mr. Ople pointed out that the government recently released P28 billion as new equity infusion for the Philippine

National Bank and Development Bank of the Philippines to prevent these banks from collapsing. He added that such amount is thrice that required to fund free secondary education, as estimated by the Committee. He then inquired whether the reason why the government could not afford to provide free secondary education now might actually be due to skewed resource allocation rather than to sheer unavailability of funds, to which Mr. Rodrigo replied that although he is not against free high school education, he is not in favor of giving a categorical promise at this stage considering the state of the country's finances. He stressed that instead of making such a promise, it would be better to simply say that the State would endeavor or try its best to provide free secondary education.

At this juncture, Mr. Regalado informed, in connection with Mr. Rodrigo's observation on finances, that according to statistics from the National Census and Statistics Office (NCSO) there were 3,305,105 elementary students and 187,373 high school students enrolled in public schools thirty years ago, 6,667,644 elementary students in school year 1972-1973 and this student population increased to 8,210,570 students in 1983-1984, based on 78% completed survey; while in the secondary level 863,326 students enrolled in government high schools in 1972-1973 which also increased to 1,957,444 students for school year 1984-1985 based on 78% completed survey. He pointed out that these figures show the ever increasing number of school population both in the elementary and high school levels and this would further increase in the future. He stated that between the desirable and the attainable, the Body has to strike a happy balance so as not to raise false hopes and great expectations. He stressed that the Body is not in a position to make a commitment of giving free high school education and perhaps it would be much better to revert to the provision of the 1973 Constitution.

Thereupon, Mr. Sarmiento manifested that he is in favor of Section 1(a). He maintained that adoption of Mr. Rodrigo's proposal would weaken the spirit and intent of Section 1(b). He opined that it is not really a question of scarce resources but of priorities. He reiterated that Mr. Rodrigo's proposal would compound the country's educational crisis.

Thereafter, Mr. Rodrigo manifested that upon Mr. Ople's suggestion, he would modify his proposal in line with the provision in the 1973 Constitution which reads:

THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND, IN AREAS WHERE FINANCES PERMIT, ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL.

Mr. Rodrigo stated that even when he was Senator from 1955-1967, education was already given the biggest part of the budget pie and yet the government could only give free tuition fees for elementary education which is not synonymous with free education. He stressed that before providing free high school education, the government should first increase the salaries of elementary and high school teachers.

On Mr. Davide's query whether the proposal if approved, means that the government could Choose which areas would have free high schools, Mr. Rodrigo stated that it would only be for areas where finances permit.

As to how the availability of finances for a particular area could be determined, Mr. Rodrigo explained that the budgets for high schools are presently shared by the national government and the local government concerned.

On Mr. Davide's query on whether the national government may assist local government units should national funds be available for such assistance, Mr. Rodrigo replied in the affirmative.

In reply to Mr. Davide's contention that this would amount to a class legislation, Mr. Rodrigo stated that it is possible that this might lead to discrimination but it is up to the implementing authority to devise means of avoiding such discrimination.

Mr. Davide pointed out that the argument would necessarily mean that the national government could only give

assistance to high schools if these are established by the local governments and in areas where no such schools are maintained or operated by the local government, it would not be mandatory upon the national government to open high schools in those areas. In reply, Mr. Rodrigo stated that the provision has been in force since 1973 but no complaint about discrimination has been expressed, to which Mr. Davide observed that the people in the rural areas did not have the opportunity to complain.

Agreeing with Mr. Sarmiento's remarks, Mr. Davide stressed that it is not expensive to maintain free public secondary education since it is a matter of prioritizing, which may be carried out by a reduction of the budget for defense or the merger and liquidation of government corporations and using the savings therefrom to maintain at least one public high school in every municipality.

Mr. Rodrigo argued that the Members of Congress would be more interested in providing free public secondary education because as elective officials they know that making a definite commitment might only raise false hopes, to which Mr. Gascon replied that the phrase proposed would only provide a constitutional excuse to renege from such public duty.

Mr. Rodrigo proposed to reword the phrase to read: AND SHALL ENDEAVOR or SHALL STRIVE ITS UTMOST.

Mr. Bacani stated that together with Mrs. Nieva, they had formulated an amendment to Mr. Rodrigo's amendment to read: AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS AND AT THE TERTIARY LEVEL FOR THOSE QUALIFIED. He stated that the proposed amendment does not specify that public secondary education shall be free, thus giving the State the right to choose other means of making the educational service available. He pointed out that service contracts in the past had been less costly to the government and had served the purpose better.

Mr. Rodrigo stated that he accepts the amendment except for the repetition of the word "elementary", to which Mr. Bacani explained that the State may adopt measures in the future whereby the students shall be assisted with their elementary education, and not with respect to secondary education, but through other means.

On the suggestion to delete the word "elementary", Mr. Bacani explained that the State may provide for other means of making education available to elementary school pupils, to which Mr. Rodrigo agreed.

Reacting thereto, Mr. Villacorta observed that the two amendments are based on two assumptions: 1) that the burgeoning student population will make it impossible to meet the demands for free public secondary education; and 2) that the government does not have the funds and the resources to finance free public secondary education.

Mr. Bacani corrected the misimpression by stating that his assumption is based on the fact that parents shall be assisted to make a choice not only for education but where education shall be received, to which Mr. Villacorta commented that Mr. Bacani's amendment is addressed to another issue.

Expounding on the assumptions mentioned, Mr. Villacorta stated that the first assumption is based on the fact that many children cannot avail of free public education presently guaranteed because many of them drop out of school by the time they reach Grade IV as pointed out by Messrs. Regalado and Sarmiento. With respect to the second assumption, he stated that he agrees with the observations of Messrs. Davide and Sarmiento that it is a matter of priority.

On the feasibility of a financing scheme to provide free secondary education, he stated that it would only require a 6% increase in the recent budget of P11 billion.

He pointed out that countries poorer than the Philippines guarantee free education at all levels which is enshrined

in their Constitutions.

Adverting to the news report read by Mr. Padilla from the Philippine Tribune, he stated that Deputy Minister Victor Ordoñez clarified that Minister Quisumbing was misquoted as she supports the free public secondary education program. He stated that Minister Quisumbing suggested a transition period for its implementation, for which an appropriate resolution should be passed to embody her suggestion.

In reply to Mr. Gascon's query whether Mr. Bacani's proposal would mandate the State to subsidize students to enter private high schools, Mr. Bacani answered in the affirmative, stating that it is in line with Minister Quisumbing's suggestion to implement the program within the year or in two years time.

Mr. Gascon observed that Mr. Bacani's concern is a separate issue as it merely supplements the main issue of the State's mandate to provide for free secondary education, to which Mrs. Rosario Braid agreed.

She suggested that Mr. Bacani introduce a separate proposal since it implies the encouragement of more service contracts which she said is less expensive for the State.

Mr. Gascon maintained that Mr. Bacani's proposed amendment is a different issue because it is based on the assumption that there are enough private schools for the parents to be given the choice where to send their children. He pointed out that in the rural areas, there are no public high schools, which is the very issue to be resolved.

Commenting on Mr. Rodrigo's proposed amendment, Mr. Guingona stated that it is speculative because the Legislature has other areas of concern of which education might not be one.

Raising a point of order, Ms. Tan stated that the discussion was primarily on amendments on compulsory education and there was a shift to funding of private education. The Chair clarified that the amendment of Mr. Rodrigo was being amended by Mr. Bacani.

In support of the Committee's stand, Mr. Nollado stated that the premise that the State has no money to finance free public secondary education is erroneous. He stressed that people throughout the country are clamoring for free elementary and secondary education, and that education is the foundation of a strong nation.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Villacorta, the Chair suspended the session.
It was 3:57 p.m.

RESUMPTION OF SESSION

At 4:11 p.m., the session was resumed.

At this juncture, Mr. Rodrigo informed that he had accepted Mr. Bacani's amendment. He asked the Chair's recognition of Mr. Bacani.

To clarify the parliamentary situation, Mr. Bacani stated that he was temporarily withdrawing his amendment to enable the Body to vote on Mr. Rodrigo's amendment, after which the body could go back to his amendment.

Mr. Rodrigo then restated his reformulated amendment, to wit:

THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AND SHALL TAKE MEASURES TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL.

Mr. Villacorta did not accept the proposal, stating that the Committee intends to submit to the Committee on Transitory Provisions a proposed Section allowing Congress to determine the period during which the government may extend free public secondary education. He stated that this would meet Mr. Rodrigo's doubt on the ability of the government to give free public secondary education.

Reacting thereto, Mr. Rodrigo stated that the phrase "shall take measures" carries the idea that Congress shall determine the period, when free public secondary education shall be implemented. He asked for a vote on his amendment.

REMARKS OF MR. DE CASTRO

Mr. de Castro raised the question whether there would be a need to prioritize the budget in order to enable the government to give free public secondary education. He adverted to the statement of Mr. Sarmiento that the government can perhaps afford it if it reduces the budget of the Armed Forces. He noted that the strength of the NPA is estimated at 20,000 and studies indicate that to meet this force, the ratio should be 15:1 or 20:1 which would require about 400,000 regular armed personnel instead of the current AFP strength of about 200,000. He stated that the ration of each soldier is only P12.00 daily which many of them by getting the chickens, pigs, goats, barrio residents in violation of Human Rights. He expressed condemnation of such acts and stated he had informed General Ramos about it. He observed that reducing the amount of ration and giving it to education as a matter to weaken priority could weaken the Armed Forces' capability to stop the insurgents without realizing the aims of free public education. He pointed out that the President is going out of her way to pacify the MNLF by agreeing to meet Nur Misuari in the South. He underscored the need to establish peace and order to pave the way for the implementation of agrarian reform, social justice and education.

Mr. Villacorta, in reply, stated that the prioritization would not single out a cut on the AFP budget and that, on the matter of peace and order, free public secondary education can contribute much to enhance peace and order. He observed that peace and order cannot be attained only through pacification but also through other constitutional measures such as agrarian reform, industrialization and economic and socio-political measures that would eventually bring the country to economic recovery and political stability.

Mr. de Castro stressed that he is not for increasing the budget for the AFP but for ensuring peace and order in the country.

INQUIRY OF MR. PADILLA

Mr. Padilla said that two Committee members mentioned service contracts which referred to natural resources and public utilities. He inquired whether service contracts are also contemplated in the area of education, to which Mr. Villacorta replied that the Committee intends to separate the issue of service contracts which was included in Mr. Bacani's proposal. He informed that service contracts refer to educational service contracting, not with foreigners, but with private schools.

Mr. Padilla also asked whether countries such as Haiti, Sri Lanka and some South American countries whose Constitutions provide for free secondary education, which matter was mentioned by one of the Members, actually implement free public secondary education.

In reply, Mr. Villacorta acknowledged that although they did consult other Constitutions, they have not delved into the actual experiences of such countries because of the unavailability of data.

Mr. Padilla doubted whether such economically poor countries as Haiti or Bangladesh can implement free public secondary education. He stated that the Philippines should not be compared to these countries and that the Body

should deal with realities, among others, a growing population and children who have to be accommodated in primary, elementary and perhaps even in high school levels, the problem of peace and order and national efforts towards economic reconstruction.

INQUIRY OF MR. REGALADO

On the matter of service contracts, Mr. Regalado informed that the practice in the MECS is that student from public schools are brought to private schools and their tuitions paid under what is called contract servicing, meaning, a contracted rendition of educational services to distinguish it from service contracts which are given to foreigners. He observed that during the suspension of session, some Committee members made the statement that the Body can make a firm commitment to grant free secondary education if a portion of the allocation for the military as well as other budgetary allotments are slashed and given to education. He stated that slashing 50% from each budgetary allotment would even allow government to grant free tertiary education. He inquired whether the Committee had made inquiries into the feasibility of transferring some budgetary allotments to the MECS within a year or two since the Committee also contemplates putting this in the Transitory Provisions.

Mr. Villacorta clarified that it would not only involve slashing but also saving and that the government has done a good job in saving money by doing away with unnecessary expenses. This, he noted, is proof that if there is a political will to provide more for education, the government can do it. He manifested his trust in the ability of members of the Congress to come up with ways of implementation.

On the amount and percentage of the budget allotted to the Ministry of Education, Culture and Sports, Mr. Gascon stated that it received P12.5 billion and that it would need P6.5 billion more to make a total of P19.5 billion, or an increase in the national budget of only 6% for education. He pointed out that an increase of 12% to 18% or 20% would enable it to provide free secondary education, thus by reprioritizing and increasing the budget for education, free secondary education may be availed of within the next three to five years.

On the observation that the Committee plans to put in the Transitory Provisions a rating period within which the program could be implemented, Mr. Regalado stated that the country does not have a negative specific period, in reply to which Mr. Villacorta stated that it would be best to leave it to Congress to determine how long it would take.

Additionally, Mr. Gascon stated that Mr. Rodrigo's amendment states categorically that there will be a system of free elementary education and measures shall be taken to establish and maintain a system of free public education at least up to the secondary level. He pointed out, however, that the Committee's proposal was that, instead of putting it under the provisions on education, the Committee shall provide in the Transitory Provisions a categorical statement that free public education up to the secondary level shall be established and maintained.

Mr. Guingona stated that the 6% mentioned by Mr. Gascon represents the maximum, which can go down to as low as 3.5% of the present budget.

Mr. Regalado observed that while Mr. Rodrigo's proposal would require the State to provide measures, the Committee would specify that there shall be free secondary education. However, in the Transitory Provisions, the proposed measures contemplated in Mr. Rodrigo's amendment would be translated into a term after which the phrase in the Transitory Provisions would be made available. Mr. Villacorta replied that the Committee's proposal would be more reflective of the nature of the problem. The Committee, he said, is apprehensive of a temporary situation, hence, it would like to place it in the Transitory Provisions. However, the Committee would like the provision on public elementary and secondary education to be more categorical since the Constitution is intended for all times.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's query on whether it is the stand of the Committee to accept Mr. Rodrigo's proposal but that it should be placed in the Transitory Provisions, Mr. Gascon stated that the Committee was not inclined to accept Mr. Rodrigo's proposal because it would need some rewording especially with regard to the suggestion that Congress provide the term towards a secondary education.

Mr. Davide stated that he wanted to be clarified on the stand of the Committee so that he could either join or oppose it. He indicated that he might vote for it should the Committee opt to place the proposal under the Transitory Provisions.

Reacting thereto, Mrs. Rosario Braid stated that while the Committee would like to, have free secondary education, it would also like to include a provision in the Transitory Provisions along the line of Mr. Rodrigo's proposal but specifying a particular time frame within which Congress shall determine the period.

On whether the Committee has any serious objection to Mr. Rodrigo's proposal, Mr. Villacorta pointed out that Mr. Rodrigo's proposal has two parts, namely, the first which reaffirms the 1973 provision for free public elementary education, and the second which calls for measures to ensure free public secondary education.

At this juncture, Mr. Rodrigo invited attention to the conflict between the answers of Mr. Gascon and Mrs. Rosario Braid in that the former stated that the purpose of having the provision under the Transitory Provisions is to leave it to Congress to determine the time frame for free public secondary education while the latter wanted a definite time frame set under the Transitory Provisions, to which Mr. Villacorta replied that the Committee was not in favor of a definite time frame but of leaving it to Congress to determine.

Mr. Rodrigo questioned the propriety of breaking up his proposal into two parts. He maintained that it would be clearer for the people who read the Constitution to see the provision in one sentence instead of seeing a definite commitment in the body only to find in the Transitory Provisions that it is not really a commitment.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:38 p.m.

RESUMPTION OF SESSION

At 5:11 p.m., the session was resumed.

INQUIRIES OF MR. OPLE

Mr. Ople sought clarification on the distinction in terms of form and substance, between the text of the Committee's proposal and Mr. Rodrigo's proposed amendment. He noted that the Committee text, categorically saying that the State shall establish a free system of public education at both elementary and secondary levels, is a forthright statement of the Constitutional provision, whereas under Mr. Rodrigo's proposal, the State shall merely take measures to establish such a system. He agreed that to accommodate Mr. Rodrigo's concern regarding the financial feasibility of the free system of public education up to the secondary level, the Committee shall submit a proposal to include in the Transitory Provisions a provision mandating Congress to determine the time frame within which the free system of public education up to the secondary level may be implemented. This, he stated, is the correct procedure because it is Congress which holds the purse in the tripartite system of government. He then inquired whether Mr. Rodrigo subscribes to this substantial distinction between his proposal and the text

submitted by the Committee.

Replying thereto, Mr. Rodrigo stressed that should the Committee proposal be approved which, he opined is deceptive, one who reads Section 1(b) in the body of the Constitution would get the impression that this is a definite, unconditional commitment by the State unless he reads the Transitory Provisions. He maintained that his proposed amendment would be more encompassing. He assured that there would be no inconsistency should the Committee decide to pursue its proposal to place a provision in the Transitory Provisions mandating Congress to enact an implementing law that would set the time frame.

Mr. Ople observed that Mr. Rodrigo was accentuating the form rather than the substance. He stressed that when he spoke of a distinction in substance, he was referring to the fact that under the Committee text, the Constitution holds the initiative and leaves a very little margin of choice to Congress to put the structure and the flesh to such an unequivocal, forthright and even urgent mandate of the Constitution while the proposed amendment of Mr. Rodrigo would leave to Congress most of the initiative, including the discretion, to take time before taking up the measures, about which one could not be sure of their sufficiency, before the system of free public education up to the secondary level actually gets into a workable and operating system.

He pointed out that during the public hearings, there was a tremendous clamor for free public secondary education in addition to free elementary education that the people presently enjoy. He stated that while in the past he had agreed with Mr. Rodrigo in urging the Commission to be prudent in offering hope to the people, in this case, he had to part ways with him because many Members are obsessed with the vision of a free public school system.

Mr. Ople opined that there is a good amount of flexibility given to Congress and even to the President and the Minister of Education, Culture and Sports. He expressed the view that the P6 billion needed for this system is affordable taking into account the losing government corporations from which Congress could derive the needed funds to establish the kind of free public school system up to the secondary level as contemplated in the Committee Report.

Commenting on Mr. Padilla's observation, Mr. Ople stated that when he mentioned the study of Gunnar Myrdal, he was referring to the conclusion that when one allocates more funds to the development of the human being, the quality of the population is improved and this, he pointed out, is an investment that recovers many times the returns of other investments merely placed in other areas of concern. He cited the case of Sri Lanka which offers free public school system up to the tertiary level despite its per capita income of \$260 compared to the Philippines' per capita income of \$700. He lamented the fact that Sri Lanka, a country poorer than the Philippines, seemed to be more elevated on the basis of all the indices of social and economic well-being, the only reason being that it spends for free public education. On these grounds, Mr. Ople stated, he would support the text of the Committee's proposal provided that the proposal of Mr. Rodrigo is accommodated by leaving to Congress the mandate and flexibility to determine the time frame.

Commenting on Mr. Ople's remarks, Mr. Rodrigo stated that the Committee wanted to have a separate provision in the Transitory Provisions mandating Congress to implement the main provision in the body of the Constitution whereas, under his proposal, he would want the implementing provision placed in the body of the Constitution so that there could be no deception, intentionally or unintentionally.

REMARKS OF MR. TADEO

Speaking on behalf of the agricultural sector, Mr. Tadeo stated that the farmers interpret education as a service-oriented and not a profit-oriented activity. He stressed that the right to education is a right of every citizen, whether rich or poor. He stated that based on experience, farmers who earn their livelihood only during planting

and harvesting seasons could not afford to send their children up to the secondary level because most high schools are private. He stated that when the barangay high schools were established, these farmers benefited tremendously. He cited the fact that while the Bulacan College of Arts and Trades offers low tuition fees, the farmers prefer to send their children to the barangay high schools where they could minimize the expenses attendant to education.

He pointed out that with the establishment of a barangay high school in his hometown, most farmers were able to send their children to school without so much burden.

On Mr. de Castro's earlier statement on the budget of the military, Mr. Tadeo stated that the increase in such budget was brought about by the increasing number of military and paramilitary troops. He opined, however, that the insurgency problem could be solved by implementing a genuine land reform which has been the primary demand of the masses and those in the hills. He stated that a lesser number of insurgents would warrant a corresponding reduction in the number of military men, in which case, part of the budget for defense could be rechannelled to education.

He questioned the accuracy of the argument based on financial constraints of the government by pointing out that the same government was able to financially support private and proprietary schools through tax exemptions and subsidies.

REPLY OF MR. DE CASTRO

In reply, Mr. de Castro pointed out that the increase in the number of military men was brought about by the growing number of insurgents both in the New People's Army and the Moro National Liberation Front.

He underscored that the budget for defense was in fact inadequate for the material needs of the soldiers, for which reason many of them resorted to stealing food and animals.

Finally, he stressed the importance of security and peace and order, stating that the younger generation could not even go to free public schools should the public disturbance persist. He added that Sri Lanka was able to allocate more for education because it has no such insurgency problem.

INQUIRY OF MR. BACANI

In reply to Mr. Bacani's query on the difference between the Committee's proposal and that of Mr. Rodrigo, Mr. Villacorta explained that the Committee's proposal to provide free education up to the secondary level would be a permanent Constitutional provision. He added, however, that to resolve the apprehensions of Mr. Rodrigo, the Committee was proposing to provide in the Transitory Provisions that Congress shall determine the time frame for the implementation of free public secondary education considering the present economic situation. He also pointed out that in the 1973 Constitution, Congress was given so many mandates but it failed to perform its duties.

He assured that there is no intent to deceive in the proposal to put such provision in the Transitory Provisions, since most of the provisions therein are meant to supplement the provisions in the body of the Constitution.

RESTATEMENT OF MR. RODRIGO'S PROPOSED AMENDMENT

Thereafter, Mr. Rodrigo restated his proposal to amend Section 1(b), to read:

THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL TAKE MEASURES TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL.

Submitted to a vote, and with 13 Members voting in favor, 18 against, and one abstention, the proposed amendment was lost.

PROPOSED AMENDMENT OF MR. BACANI JOINTLY WITH MRS. NIEVA, MRS. ROSARIO BRAID AND MR. GUINGONA

Mr. Bacani, jointly with Mrs. Nieva, Mrs. Rosario Braid and Mr. Guingona, proposed a second sentence to Section 1(b) to read: THE STATE SHALL PROVIDE MEASURES, INCLUDING SUBSIDY TO STUDENTS, THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT ALL LEVELS.

He explained that the Committee's proposal refers to public educational system while his proposed amendment provides for accessibility of elementary; secondary and tertiary levels of education through other means.

PARLIAMENTARY INQUIRY OF MR. BENGZON

At this juncture, in reply to Mr. Bengzon's inquiry on the proper place of Mr. Bacani's proposal, Mr. Villacorta pointed out that with the voting down of Mr. Rodrigo's proposal, Section 1(b) would read THE STATE SHALL ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT THE ELEMENTARY AND SECONDARY LEVELS AND A SOCIALIZED FEE STRUCTURE IN THE TERTIARY LEVEL OF STATE COLLEGES AND UNIVERSITIES, which was the original provision.

Mr. Gascon affirmed that the Body should first vote on the first part of Section 1(b) before considering Mr. Bacani's proposal.

In view thereof, Mr. Bacani temporarily withdrew his proposed amendment.

MR. DAVIDE'S PROPOSED AMENDMENTS

Thereafter, Mr. Davide proposed to add a new paragraph to Section 1(a), to wit:

TOWARD THIS END, THE STATE SHALL ESTABLISH, SUPPORT AND MAINTAIN

(a)

A COMPLETE, ADEQUATE AND INTEGRATED SYSTEM OF EDUCATION RELEVANT TO THE NEEDS OF THE COUNTRY AND THE PEOPLE, WHICH SHALL INCLUDE A COMPREHENSIVE FORMAL, NON-FORMAL AND INFORMAL AND INDIGENOUS LEARNING SYSTEMS, AS WELL AS SELF-LEARNING AND OUT-OF-SCHOOL STUDY PROGRAMS AND CITIZENSHIP, VOCATIONAL AND OTHER SKILLS TRAINING TO ADULT AND DISABLED CITIZENS.

(b) A SYSTEM OF FREE PUBLIC EDUCATION IN THE ELEMENTARY AND HIGH SCHOOL LEVELS. WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE.

(c)

A SYSTEM OF SCHOLARSHIP GRANTS, LOAN PROGRAMS AND OTHER INCENTIVES, WHICH SHALL BE AVAILABLE TO DESERVING STUDENTS IN BOTH PUBLIC AND PRIVATE SCHOOLS, ESPECIALLY THE UNDERPRIVILEGED.

(d)

A PROGRAM OF PHYSICAL EDUCATION AND AMATEUR SPORTS DEVELOPMENT. NO CONTRIBUTION OR EXACTION OF ANY KIND SHALL BE IMPOSED ON STUDENTS AND THEIR

PARENTS OR GUARDIANS EXCEPT THOSE VOLUNTARILY IMPOSED BY THEIR ORGANIZATIONS.

He explained that his proposed paragraph (a) would combine paragraphs (b) and (d) of the Committee proposal; his proposed paragraph (b) would include the concept of free public education in the elementary and high school levels, incorporating therein the amendment of Ms. Aquino on elementary education; paragraph (c) would provide for scholarship grants including loan programs and other incentives which shall be made available to deserving students in both private and public schools, especially the underprivileged, in lieu of the concept of socialized fee structure in the tertiary level of state colleges and universities. He also stated that physical education program was included in line with the insertion of the word "sports" in Section 1.

Additionally, he underscored that since education would be free, both in the elementary and high school levels, no contribution of any kind would be imposed on students, parents or guardians except those voluntary donations asked by their organizations.

In reply to Mr. Ople's query, Mr. Davide affirmed that his proposed paragraph (a) would include paragraph (d) of the Committee's proposal, and that loan programs would be included in his proposed paragraph (c), which loan programs were originally in a separate Section.

Thereupon, Mr. Villacorta suggested that the Body first consider Section 1(b) of Mr. Davide's proposal since the issue at hand is the provision on a system of free public education in the elementary and high school levels, and considering that other Members would also propose amendments on the other provisions of Section 1, which suggestion was seconded by Mr. Ople.

Mr. Davide replied that it could not be Section 1(b) because its second sentence was amended by Ms. Aquino.

At this juncture, Mr. Maambong manifested that the Body had difficulty in following the deliberations on the Article because of improper sequencing. He stated that Deputy Minister Victor Ordoñez had submitted an outline of sequencing the provisions of the proposed Article, copies of which were distributed to the Members. He suggested that the Committee adopt the outline to facilitate the proceedings.

In reply thereto, Mr. Villacorta stated that it is not true that the sequencing is not proper. He stressed that the Committee has its own logic and that the Report was not prepared haphazardly.

Mr. Maambong stated that he was merely suggesting that the Report be put in a proper outline as suggested by Deputy Minister Ordoñez, to which Mr. Villacorta replied that although the Committee is open to suggestions, the Committee needs time to resequence the Article. Thereupon, he suggested that the Body vote on Mr. Davide's proposal which the Committee accepted and proceed to the consideration of the other paragraphs without prejudice to resequencing the Article later on.

Mr. Maambong agreed and added that the Committee could consider Mr. Ordoñez' proposal, to which Mr. Villacorta replied that he was also consulted by the Committee.

On Mr. Regalado's query whether the Body would vote on the acceptability of the concepts of free elementary and high school education, and for the socialized fee structure in the tertiary level, Mr. Villacorta replied in the affirmative.

On free secondary education, in reply to Mr. Regalado's query as to what would be the gist of the complementary provision in the transitory provisions, Mr. Villacorta stated its tenor, to wit: "Congress will determine when free public secondary education will be fully implemented". He stated that the formulation could be improved with the assistance of Mr. Rodrigo.

On socialized fee structure , Mr. Villacorta stated that the concept will be discussed later.

Mr. Davide clarified that the issue is whether education shall be free up to the Secondary level without splitting the voting into one for elementary and another for the secondary level.

ADJOURNMENT OF SESSION

Thereafter, on motion of Mr. Maambong, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of the following day.

It was 6:05 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA

President

Approved on September 5, 1986

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