

JOURNAL NO. 78

VOL. II, September 10, 1986

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Tuesday, September 9, 1986

CALL TO ORDER

At 10:00 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. Francisco A. Rodrigo, to wit:

"Tulungan Mo kami, Diyos naming Ama,
Na matuklas namin ang pagkakaisa
Sa aming magusot na pagkakaiba —
Sa paraang wasto't maka-demokrasya.

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

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

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

Amen."

ROLL CALL

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

Bacani, T. C.

Nieva, M. T. F.

Bennagen, P.L.

Padilla, A. B.

Bernas, J. G.

Muñoz Palma, C.

Rosario Braid, F.

Quesada, M. L. M.

Calderon, J. D.

Rama, N. G.

De Castro, C. M.

Regalado, F. D.

Colayco, J. C.

De los Reyes, R. F.

Concepcion, R. R.

Rigos, C. A.

Davide, H. G.

Rodrigo, C. A.

Foz, V. B.

Romulo, R. J.

Gascon, J.L.M.C.

Sarmiento, R. V.

Guingona, S. V. C.

Sumulong, L. M.

Jamir, A. M. K.

Tan, C.

Laurel, J. B.

Tingson, G. J.

Lerum, E. R.

Treñas, E. B.

Uka, L. L.

Villacorta, W. V.

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.

Monsod, C. S.

Alonto, A. D.

Natividad, T. C.

Aquino, F. S.

Nolledo, J. N.

Azcuna, A. S.

Ople, B. F.

Bengzon, J. F. S.

Suarez, J. E.

Maambong, R

Villegas, B. M.

P.M.

Garcia, E. G.

Tadeo, J. S. L.

Mr. Rosales was 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.

Mr. Calderon moved for the approval of the Journal of the previous session.

At this juncture, on page 1146, under the caption "Remarks of Mr. Davide", in reply to Mr. Bacani's request for clarification of the explanation on the transposition of the phrase "unless otherwise provided by law", Mr. Regalado affirmed that the status quo under the 1973 Constitution remains until such time that Congress provides otherwise. He added that it does not mean that Congress will automatically allow or disallow the entry of foreign religious orders but that it is up to Congress to deliberate on the matter.

Mr. Rama, likewise, made the observation that the provision, as worded, could lead to an interpretation contrary to the intent of the Committee and of the Body. He affirmed the need for correcting the provision during the period of amendments.

There being no further comment or manifestation, the Journal of the previous session was approved by the Body subject to the reservation indicated.

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. 783 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 784 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 785 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 786 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON THE JUDICIARY

Communication No. 787 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 788 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 789 — Constitutional: Commission of 1986

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

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 790 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 791 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 792 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 793 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 794 — Constitutional Commission of 1986

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

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

Communication No. 795 — Constitutional Commission of 1986

Letter from the twenty-five Inter-denominational members of Evangelical Christian Churches, 92-A, Barangay Carmen, Ozamiz City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and State shall be inviolable as embodied in the 1973 Constitution and as

understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 796 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communications Nos. 797, 798 and 799 — Constitutional Commission of 1986

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

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

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

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 resumed 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.

Thereupon, the Chair recognized the Chairman and members of the Committee on Human Resources.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session..

It was 10:18 a.m.

RESUMPTION OF SESSION

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

AMENDMENT OF MR. RAMA

Pursuant to his earlier reservation to amend Section 4(a) in order to prevent any possible interpretation contrary to the intent of the Committee and of the Body, Mr. Rama proposed, upon prior consultation and agreement with the Committee, the rewording of Section 4(a) to read:

EDUCATIONAL INSTITUTIONS OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS, MISSION GROUPS AND MISSION BOARDS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS AT LEAST SIXTY PERCENTUM OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS UNTIL CONGRESS INCREASES THE

MINIMUM FILIPINO EQUITY IN EDUCATIONAL INSTITUTIONS OWNED BY CORPORATIONS.**MR. DAVIDE'S AMENDMENT TO THE AMENDMENT**

Mr. Davide proposed to amend the last clause to read THE CONGRESS SHALL REDUCE THE FOREIGN EQUITY IN EDUCATIONAL INSTITUTIONS OWNED BY CORPORATIONS in order to emphasize that Filipino participation can never be reduced while foreign equity may be reduced.

Mr. Rama accepted the amendment to his amendment.

At this juncture, in reply to the Chair's inquiry, Mr. Rama affirmed that he was seeking a reconsideration of the approval of Section 4(a) in order to make certain corrections in form but not in substance.

OBSERVATION OF MR. RODRIGO

Mr. Rodrigo pointed out that the words "at least" which he introduced already implies that Congress may not decrease but may increase Filipino equity even up to 100%.

Mr. Rama contended that the phrase "unless otherwise provided by Congress" would open the whole provision to legislation, to which Mr. Rodrigo replied that while he would agree to the deletion of such phrase, Mr. Rama's proposed amendment inserting the phrase "until Congress increases the minimum Filipino equity in educational institutions owned by corporations" would likewise be unnecessary because the words "at least" means that the sixty percent cannot be reduced but may be increased by Congress.

RECONSIDERATION OF THE APPROVAL OF SECTION 4(a)

Thereupon, on motion of Mr. Rama, there being no objection, the Body reconsidered the approval of Section 4(a).

RESTATEMENT OF MR. RAMA'S AMENDMENT:

Mr. Rama restated his amendment so that Section 4(a) would read: EDUCATIONAL INSTITUTIONS OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS, MISSION GROUPS AND MISSION BOARDS, SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS AT LEAST SIXTY PERCENTUM OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS, UNTIL CONGRESS INCREASES THE MINIMUM FILIPINO EQUITY IN EDUCATIONAL INSTITUTIONS OWNED BY CORPORATIONS.

WITHDRAWAL OF OBJECTION

Mr. Rodrigo manifested that while he noticed a surplusage, he was withdrawing his objection in order to save time.

The Chair asked Mr. Regalado, as the proponent of the Section, if he has any objection, in reply to which Mr. Regalado stated that he was not objecting since the rephrasing of Section 4(a) would only reflect the intent to avoid misinterpretation.

PROPOSED AMENDMENT OF MR. BERNAS

Mr. Bernas proposed to instead rephrase Section 4(a) to read: EDUCATIONAL INSTITUTIONS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS AT LEAST SIXTY PERCENTUM OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS, PROVIDED THAT THIS RULE DOES NOT APPLY TO EDUCATIONAL INSTITUTIONS ESTABLISHED

BY RELIGIOUS ORDERS, RELIGIOUS GROUPS AND MISSION BOARDS, UNTIL CONGRESS PROVIDES OTHERWISE.

He explained that the special rule for schools established by religious groups should be clearly separated from the rest of the provision.

Mr. Rama opined that Mr. Bernas' formulation did not reflect the intent of the Committee.

Mr. Bernas, however, maintained that it would preserve the requirement that if a school is owned by an individual he must be a Filipino citizen, and, if it is owned by a corporation other than a religious corporation, the Filipino equity therein must at least be 60 percentum, and with respect to ownership of religious groups, the existing rule would apply until Congress provides otherwise.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Rama, the Chair suspended the session.
It was 10:38 a.m.

RESUMPTION OF SESSION

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

REFORMULATION OF SECTION 4(a)

Upon resumption of session, the Chair requested Mr. Monsod to present the compromise formulation.

Thereupon, Mr. Monsod restated Section 4(a) as reformulated by Messrs. Rama, de Castro, Guingona, Villacorta, Davide, Maambong, Bernas, Foz and himself, to wit:

EDUCATIONAL INSTITUTIONS OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS, MISSION GROUPS AND MISSION BOARDS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS AT LEAST SIXTY PERCENTUM OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS. CONGRESS MAY, HOWEVER, REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS.

THE CONTROL AND ADMINISTRATION OF EDUCATIONAL INSTITUTIONS SHALL BE VESTED IN CITIZENS OF THE PHILIPPINES.

MRS. QUESADA'S CORRECTION

In reply to Mrs. Quesada's query on the meaning of "mission groups", Mr. Bernas explained that "religious groups" was the term approved in the previous Session in order to accommodate the Muslims who do not have religious orders.

Mrs. Quesada then proposed that the words "mission groups" be deleted so that the phrase would read RELIGIOUS GROUPS AND MISSION BOARDS. She stated that "mission groups" could have another meaning which might open the floodgates to foreign missions to come in and set up educational institutions. She also stated that her proposal was only a correction to reflect the intent of the amendment approved in the previous session.

Mr. Monsod accepted the correction made by Mrs. Quesada.

INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' query, Mr. Monsod affirmed that Section 4(a) would now provide that Congress may increase not only the Filipino participation in corporations and associations but also in religious groups and mission boards.

Mr. Monsod explained that if the educational institution is 100% owned by foreigners, Congress may provide for Filipino participation therein.

OBSERVATION OF MS. TAN

Thereafter, Ms. Tan observed that the change of "religious orders" with "religious groups" would be too general to include such religious sects as the Suicide and Tadtad sects.

Mr. Bernas explained that the term "religious groups" was used in order to accommodate the Muslims who do not have orders but not to include illegitimate groups which do not have schools.

Ms. Tan then clarified for the record that "religious groups" as contemplated in Section 4(a) would not include outlawed religious sects.

INQUIRY OF MR. SARMIENTO

In reply to Mr. Sarmiento's query, Mr. Monsod reiterated that Congress may not only increase the 60% Filipino participation but even require such participation from zero in educational institutions which are 100 percent foreign-owned.

APPROVAL OF SECTION 4(a) AS AMENDED

Thereafter, Mr. Monsod restated Section 4(a) as amended, to wit:

EDUCATIONAL INSTITUTIONS OTHER THAN THOSE ESTABLISHED BY RELIGIOUS GROUPS AND MISSION BOARDS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS AT LEAST SIXTY PERCENTUM OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS. CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS

THE CONTROL AND ADMINISTRATION OF EDUCATIONAL INSTITUTIONS SHALL BE VESTED IN CITIZENS OF THE PHILIPPINES.

Submitted to a vote, and with 33 Members voting in favor, none against, and one abstention, Section 4(a), as amended, was approved by the Body.

PROPOSED AMENDMENT OF MR. DAVIDE

Thereafter, Mr. Davide proposed to delete the entire Section 5(a) on page 3, lines 19 to 22 on the ground that it is already included in the general statement that the State shall establish, maintain and support a complete, adequate and integrated system of education, wherein regional and sectoral needs and conditions would necessarily be considered in the formulation of educational policies.

RESTATEMENT OF SECTION 5(a)

Mrs. Rosario Braid pointed out that the Committee had presented an amendment to Section 5(a) so that it would read:

IN THE FORMULATION OF EDUCATIONAL POLICIES, THE STATE SHALL TAKE INTO ACCOUNT REGIONAL AND SECTORAL NEEDS AND CONDITIONS AND SHALL ENCOURAGE LOCAL PLANNING IN THE DEVELOPMENT OF EDUCATIONAL POLICIES AND PROGRAMS.

She explained that the second part would provide the encouragement of decentralized planning at the local level in line with the thrust of local autonomy.

Mr. Davide contended that the Article on Local Governments adequately covers administrative decentralization on regional and sectoral levels, which already includes all aspects of administration.

Replying thereto, Mr. Gascon explained that although the principles enunciated in Section 5(a) are covered by the provisions of the Local Government Code, the Committee felt that there is a need to emphasize greater decentralization for the establishment of schools which are responsive to local needs, hence, the retention of the Section.

Thereupon, Mr. Davide requested for a vote on his proposal to delete Section 5(a) on the ground that its concept is already included in the Article on Local Governments.

At this juncture, Mr. Bennagen manifested support for the retention of Section 5(a) stating that during the public hearings, the teachers argued for participation in planning educational programs, including the writing of textbooks, on the ground that a highly centralized educational system does not respond to regional needs. He stated that Section 5(a) would underscore the desire of the teachers and educators to participate in planning educational programs within their area of competence.

Additionally, Mrs. Rosario Braid expressed support for the retention of Section 5(a) for the following reasons: 1) the teachers during the public hearings articulated the need to select their own school superintendents rather than leave the selection to the Central Office; 2) it would ensure attention to the diverse needs of the regions in curriculum planning; and 3) it would ensure better innovations through a decentralized policy development.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.
It was 11:03 a.m.

RESUMPTION OF SESSION

At 11:09 a.m., the session was resumed.

Upon resumption of session, Mr. Villacorta manifested that the Committee had taken into account the points raised by Messrs. Davide and Monsod and had consequently condensed Section 5(a) to read as follows:

THE STATE SHALL TAKE INTO ACCOUNT REGIONAL AND SECTORAL NEEDS AND CONDITIONS AND SHALL ENCOURAGE LOCAL PLANNING IN THE DEVELOPMENT OF EDUCATIONAL POLICIES AND PROGRAMS.

Mr. Davide accepted it as a substitute amendment.

Thereafter, submitted to a vote, and with 28 Members voting in favor, none against and 1 abstention, the same was approved by the Body.

AMENDMENT OF MR. COLAYCO

Mr. Colayco proposed to delete Section 5(b) because with the approval of the provision giving the State, through the Ministry of Education, Culture and Sports (MECS), the authority to decide matters involving the formulation of school policies and programs, it would be better to simply let competent MECS officials formulate school policies and programs; rather than have all the sectors in Section 5(b) decide.

Mr. Davide then proposed to reword Section 5(b) to read as follows: ALL EDUCATIONAL INSTITUTIONS SHALL PROVIDE CONSULTATIVE MECHANISMS FOR STUDENTS, FACULTY MEMBERS, PARENTS, NON-TEACHING STAFF AND ADMINISTRATORS IN THE FORMULATION OF SCHOOL POLICIES AND PROGRAMS.

Mr. Villacorta accepted the proposal.

In reply to Mr. Gascon's query on the meaning of "consultative mechanism", Mr. Davide explained that it is similar to the consultative mechanisms provided for in the Article on Social Justice, which allows the parents and students to organize themselves into associations which the school should consult in formulating the programs and policies. He stressed that the Body would not mandate educational institutions to establish multi-sectoral bodies but leave the parents and students free to organize them.

At this juncture, Mr. Sarmiento also presented his reformulated version of Section 5(b) for the Committee's consideration, to wit:

ALL EDUCATIONAL INSTITUTIONS SHALL BE REQUIRED TO FORM CONSULTATIVE BODIES COMPOSED OF STUDENTS, FACULTY, PARENTS NON-TEACHING STAFF AND ADMINISTRATORS TO PARTICIPATE IN THE FORMULATION OF SCHOOL POLICIES.

Mr. Gascon noted the similarity in the proposals of Messrs. Davide and Sarmiento,, the main idea being to democratize the different levels of policy-making in the schools.

In reply to Mr. Suarez' query on the Committee's intent in formulating the provision, Mr. Villacorta explained that the Committee intends to adopt the new trend in education in more educationally developed countries, which is active participation and involvement of students, teachers, parents and employees in the formulation of school policies and programs. However, he added that the Committee is open to the suggestions of Messrs. Davide and Sarmiento.

On Mr. Suarez' contention that they were only suggesting consultation and not active participation, Mr. Gascon pointed out that what they suggest is consultation at its minimum, but this does not preclude any situation in the future wherein the various sectors could be represented, as the law may provide, in official policy-making bodies. He stressed that consultation and democratic participation must be first assured before opening the avenue for Congress to enact a law for more direct participation in official policy-making bodies by the sectors.

At this juncture, Mr. Bacani opined that although Section 5(b) is an ideal which schools should work for, it is something which should not be mandated by the Constitution. He pointed out that Section 5(a) already sets the mechanism for consulting the different sectors on matters affecting education in the different regions, in view of which, they should be given the flexibility whether or not to adopt the ideal set forth in Section 5(b). He stressed that Section 5(a) should be retained while Section 5(b) should be deleted.

Ms. Aquino remarked that while democratization is an ideal, the Committee seems to be ambiguous in its notion of consultative and participating committee

In reply to Ms. Aquino's query whether in the participatory mechanism, a committee or task force composed of students, teachers, parents and other school employees should be absorbed in the policy-making body of the school, Mr. Gascon replied in the negative.

Ms. Aquino stated that precisely the problem lies in the lack of decisive definition of the domain of consultative and participatory mechanism, in reply to which Mr. Villacorta stated that participation ranges from mere consultation to direct participation. He also stated that amendments to make this intention clearer would be welcomed.

On whether participatory and consultative mechanism would include the determination of tuition fee increase, Mr. Guingona stated that "consultation is used in its accepted meaning, and that the other forms of participation should be implemented only with the approval and acceptance of the school.

Mr. Gascon added that the minimum requirement with respect to tuition fee increases is prior consultation with the parents, to which Ms. Aquino agreed.

On the issue of increase in salary of academic and non-academic personnel, student activism and militarization of the university, Mr. Gascon stated that there should be consultation among and participation by the different community sectors in the institution. He stressed that the provision is not a mandate to form multi-sectoral bodies for purposes of policy-making since educational institutions are governed by their charters, but that the consensus of the whole community could influence amendments in the charter.

Ms. Aquino stated that she was thinking of an umbrella provision that would provide flexibility for the evolution of this system. She expressed concern that a definition in terms of a multi-sectoral body composed of students, faculty and others would actually bear upon the possibility of a full fruition of the process which will evolve a democratization of the entire educational system.

In support of the proposal to delete, Mr. Bernas stated that the provision mandates a very detailed regulation of schools which would affect their day to day life 'without being consulted on how it would affect, for instance, the role of the board of trustees or of the existing councils. He stated that he would rather rely on the general provision approved earlier that "the State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions."

He suggested that the State be allowed to encourage the evolution of various methods of consultation or sharing in the decision-making process without imposing it outright in the Constitution itself.

Mr. Padilla expressed support for the Colayco proposal to delete Section 5(b) and concurred with the views advanced by Messrs. Bacani and Bernas, adding that the so-called democratization should not be applied to all levels of education including elementary and high schools. He opined that there should be more discipline and obedience to the policies of the school in the early stages of education.

Submitted to a vote, and with 17 Members voting in favor, 12 against and 3 abstentions, the Body approved Mr. Colayco's motion to delete Section 5(b).

Mrs. Quesada manifested that before the motion was voted upon, there was a clarification that the deletion would not prevent the formulation of an alternative provision for which Mr. Villacorta invited Messrs. Davide, Sarmiento and Ms. Aquino to harmonize their proposed amendments.

Reacting thereto, Mr. Colayco stated that the deletion preempted any attempt to introduce any of the matters included therein, otherwise, it would be an indirect reconsideration of the Body's decision, to which Mrs. Quesada conceded.

The Chair ruled that approval of the motion deleted the whole paragraph which, however, would not foreclose the rephrasing of any other Section in the draft.

Mr. Gascon opined that since the basis for the deletion of Section 5(b) is that it is already covered in other provisions, such deletion would not preclude Congress or the MECS from providing regulations for consultation and democratization.

Mr. Maambong pointed out that even with the deletion, university councils have been in existence for many years and there seems to be no need to quibble on the provision.

PROPOSED AMENDMENTS OF MR. MONSOD

Mr. Monsod proposed the following amendments on Section 5(c):

- 1) on lines 29 and 30, to delete "as well as faculty members and students thereof"; and
- 2) on lines 31 and 32, to delete the sentence on "fiscal autonomy"

With respect to the second, he adverted to the clarification during the interpellations that the COA shall be limited to post-audit of public educational institutions and that fiscal autonomy would put too much discretion and authority in educational institutions. He also stated that he would not know the connotation of "fiscal autonomy" in relation to private educational institutions since it normally applies to public institutions.

In support of the Committee proposal, Mr. Sarmiento stated that there is need to give emphasis on faculty members and students as an aspect of academic freedom, especially in the light of the Supreme Court decisions which enriched the jurisprudence on students' academic freedom. He stressed that the faculty and students are the oppressed sectors of society and that retaining the phrase in the provision would show that the members of the Commission patronize, protect and love them.

Speaking in support of the deletion, Mr. Bengzon stated that since the Supreme Court has enriched the jurisprudence on the concept of academic freedom, the same should be left to develop by itself through the cases that may be filed in the proper courts. He stressed that love and concern for the students and the teachers could be expressed by allowing the concept to develop and flourish.

Concurring with Messrs. Monsod and Bengzon, Mr. Padilla stated that the 1935 Constitutional provision on academic freedom which was expanded by the 1973 Constitution would be more than enough to assure academic freedom in educational institutions of higher learning.

Mr. Nollado stated that the pronouncements of the Supreme Court on academic freedom in the cases cited by Mr. Sarmiento were merely in the form of obiter dictum since the Court was not decisive on the issue. He urged that the Commission make a categorical statement that students also enjoy academic freedom. He stated that love for the students could be manifested by an overt act and not just by an omission.

In support of the Committee's stand, Ms. Aquino stated that academic freedom should be expressed in the Constitution since there is no well-established law or jurisprudence that expresses the same. She stated that academic freedom, in the concept of freedom of intellectual inquiry, is basic to intellectual growth and development although it is susceptible to being manipulated as a means to peddle ideologies, sectarian thoughts or professed dogma, or to serve the ends of the educators or professors themselves. She stated that there is a hairline distinction between learning and persuasion or between indoctrination and assimilation and that it is necessary to develop the students' critical faculties to avoid orthodoxy or standardized thought in education.

In reply to Mr. Bernas' query whether it is the intention to fix the meaning of academic freedom, Mr. Gascon

stated that the provision intends to clarify what is already understood, which includes the academic freedom of teachers and students.

On the contents of the concept, Mr. Gascon stated that when speaking of academic freedom as accruing to scholars, it must be asserted that students should also be acknowledged as scholars who should be accorded: 1) the basic right to inquire; and 2) the right to search and publish their findings, which were repressed by the past regime. He stressed that the provision seeks to inculcate upon the students that their basic rights as citizens are not lost when they enter the gates of the university. He agreed that students should be accorded their rights under the Bill of Rights and even much more than these right especially at this time when there are even no genuine campus organizations or student councils. He affirmed that, as with other rights, the assertion of academic freedom allows the weighing of values whenever there are conflicts.

Ms. Aquino stated, by way of assisting the Committee streamline the concept, that academic freedom is the freedom of intellectual inquiry and all other rights appurtenant thereto are supportive of such freedom such as the right to organize and participate in the policy-making bodies of the institutions. She stressed that academic freedom is the right of the student to learn and the right to be protected from conversion or indoctrination.

REMARKS OF MR. GUINGONA

Mr. Guingona stated that the Members of the Subcommittee on Education have agreed that academic freedom should be extended to students. He noted that under the 1973 Constitution and the decisions in the cases of *Garcia vs. Loyola School of Theology* and *Montemayor vs. GAUF*, it is settled that academic freedom is extended to educational institutions and faculty members. He explained that there are two kinds of academic freedom, namely, (1) institutional academic freedom, a concept expressed in the case of *Sweezy vs. State of New Hampshire*; and (2) individual academic freedom of faculty members, which Arthur Lovejoy defines as "the freedom of the teacher in higher institutions of learning to investigate and discuss the problems of his science and to express his conclusions, whether through publication or instruction to the students, without interference from the political or ecclesiastical authority or from the administrative officials of the institution in which he is employed, unless his methods are found by qualified bodies of his own profession to be clearly incompetent or contrary to professional ethics."

He opined that student academic freedom refers only to academic matters and that such freedom would include the right to inquire and the right to publish, on which points he would agree with Mr. Gascon. However, he stated that he would not go as far as including the right to form an association which, in no way, would be denied the students since they admittedly have such right as citizens under the Bill of Rights and the Article on Social Justice. He maintained that the formation of associations is not an academic matter. He noted that the statement of Arthur Lovejoy on the freedom of the teacher would also apply to the student's academic freedom. He stated that should a student talk about a scientific matter on which he has done research, this would fall under academic freedom but should he talk about other matters such as the Miss Universe contest, this would fall under the right to free expression.

INQUIRY OF MR. RODRIGO

Noting that one of the rights the Committee wants to grant students is the right to publish college newspapers Mr. Rodrigo, by way of an example, stated that a group of Ateneo University students publishes a college paper of their own in which they say that they do not believe in the divinity of Christ, the Immaculate Conception and the Virgin birth. He asked whether-under this circumstance the University authorities may intervene.

Mr. Villacorta stated that the Committee's contemplation of academic freedom of students includes the students'

right to freedom of inquiry which encompasses the right to accurate information, the right to hear opinions on any subject of general concern which they believe are worthy of consideration regardless of whether or not they are related to any subject under study as well as the right not to be subjected to indoctrination which could lead to imposed ideological homogeneity. For this purpose, he stated that the students have the right to invite outside speakers and that the school authorities may not veto such invitation solely on the basis of the speaker's credentials. In answer to the question, he opined that the University authorities would not have the right to suppress the publication.

Mr. Gascon additionally remarked that Ateneo University can intervene when there is a clear violation of regulations inasmuch as the academic freedom accorded to faculty or students is balanced by the basic regulations of the school. He stated that academic freedom does not give the students or the faculty the right to violate the rules and regulations laid down by the educational institution. He observed that in the hypothetical situation drawn by Mr. Rodrigo, he did not present any violation.

By way of a rejoinder, Mr. Rodrigo noted that Ateneo, De La Salle and the University of Santo Tomas are Catholic universities and that the Immaculate Conception, the Virgin Birth, Divinity of Christ, and the Trinity are all Catholic dogmas.

Mr. Villacorta answered that Catholic universities, as institutions of higher learning, should respect academic freedom. He informed that even at De La Salle University there are some faculty members who are Marxists or atheists and are free to manifest their beliefs inside the classroom and even the student organ "The La Sallite" has come up with leftist or atheist views which are not suppressed inasmuch as these are part of the academic freedom.

On whether the intervention of the university authorities under such circumstances would violate the Constitutional provision, Mr. Villacorta replied that any university, Catholic or non-Catholic, would have to respect the students' academic freedom regardless of whether or not the Constitutional provision is adopted. Academic freedom, he stressed, is a universally accepted tradition in universities all over the world.

REMARKS OF MR. BENNAGEN

Mr. Bennagen stated that the students cited in Mr. Rodrigo's example should be protected as long as their activities fall within the canons of scholarship and subjected as it were to the forces of the market place of ideas. He noted that it is eventually in that market place of ideas where the right to academic freedom will be tested. He noted that the duty of the State to foster or promote human liberation and development is the flagship provision in the Article and that Section 3(b) thereof specifically provides that the State shall encourage creative and critical thinking. He maintained that the provision on academic freedom is a measure of protection for the pursuit of knowledge which, if allowed full play in the academic institutions of higher learning, would produce better students.

REMARKS OF MR. GASCON

Mr. Gascon stated that according to the primer "Legal Rights of Students", published by the Civil Liberties Union, school authorities may lay down reasonable regulations on the exercise of students' rights to freedom of movement, speech, peaceful assembly and privacy inside the school premises. He stated that what is being reasserted is that the studentry, as a sector of the academic community, enjoys academic freedom the essence of which is that they have the basic right to intellectual inquiry and other rights provided in the Bill of Rights which may not be taken away from them after entering a university.

INQUIRY OF MR. DE LOS REYES

Mr. de los Reyes observed that academic freedom has been defined as the freedom of intellectual inquiry as well as freedom from indoctrination. Noting that the Body has approved the phrase "encourage critical and creative thinking" in Section 3(b), he inquired whether this is not included in the concept of academic freedom or whether academic freedom is entirely a different concept from critical and creative thinking.

Mr. Bennagen stated that the provision on academic freedom provides a measure of protection. He noted that in many institutions of higher learning, baccalaureate and graduate students are tasked to write term papers, seminar papers, theses and dissertations and that the provision will promote the capability of students to pursue the limits of their ideas.

In reply thereto, Mr. de los Reyes remarked that Section 3(b) protects and encourages critical and creative thinking, which is a higher right. He stated that when the State encourages critical and creative thinking, the State would naturally protect it. He noted that the definition read by the Committee is already covered by the section.

PROPOSED AMENDMENT OF MR. AZCUNA

Mr. Azcuna proposed a simplified provision, to wit: ACADEMIC FREEDOM SHALL BE ENJOYED IN ALL INSTITUTIONS OF HIGHER LEARNING a instead of "Academic freedom shall be enjoyed by students; by teachers, by researchers", so as to embrace all types of academic freedom. He stated that the 1973 Constitution granted the freedom to the institution itself. He reasoned that as reformulated, it would not freeze the meaning and limits of this freedom as it is a dynamic concept which should be expanded. He noted that the Constitution could leave it to the courts to develop the parameters of academic freedom and that the Constitution could provide that academic freedom shall be enjoyed in all institutions of higher learning.

INQUIRY OF MR. OPLE

Upon inquiry of Mr. Ople, Mrs. Rosario Braid affirmed that the Committee shares the definition of academic freedom as put forward by Ms. Aquino and Mr. Guingona.

Mr. Ople queried whether the quotation of Arthur Lovejoy adverted to by Mr. Guingona was a Supreme Court decision or a treatise, to which Mr. Guingona clarified that the concept advanced by Arthur Lovejoy had been accepted jurisprudentially not only in the United States but also in the Philippines.

On the question whether there is any significant difference between advocacy and pursuit of truth in the academic sense, Mr. Villacorta replied that advocacy is part of the pursuit of truth although it is not the only means towards such pursuit. He noted that in the process of pursuing truth, when individuals discover certain manifestations of truth, it would be their duty to advocate and spread what they have discovered.

Mr. Ople recalled that Chairman Mao Tse Tung's proclamation about "letting a hundred flowers bloom and letting a hundred schools of thought contend" had encouraged the Chinese to paste up political thoughts on the wall near Tien An Men Square which led to the arrest of some people. In view thereof, he inquired whether academic freedom can be invoked by student groups to espouse in the name of academic freedom what authorities may consider seditious propaganda.

Mr. Villacorta pointed out that during the past regime what the government considered seditious and subversive had to be asserted within the universities and that the universities were very effective in defending the freedoms and rights of the people. He noted that for this reason, academic freedom should be guaranteed in the Constitution.

Mr. Ople remarked that the cardinal principle followed by every government, regardless of the form, is that the State must preserve itself. He observed that in view thereof countries like the Soviet Union, China, the United States and the Philippines have sedition and national security laws to balance the exercise of freedom and liberties of citizens. He reiterated his question.

In reply, Mr. Villacorta stated that the reason for the Committee proposal that the beneficiaries of academic freedom — faculty members and student — should be identified and protected from certain State suppressive activities is to obviate the possibility that certain school authorities may wittingly or unwittingly collaborate with the dictatorial State authority in suppressing freedom of thought and expression.

Thereupon, Mr. Ople adverted to the definition of Ms. Aquino and asked the Committee what she meant by “the danger of ideological indoctrination.”

REMARKS OF MR. SARMIENTO

Mr. Sarmiento stated that having handled several students' cases during martial law, he could assist the Committee answer the inquiries of Mr. Ople. He clarified that academic freedom does not mean license inasmuch as the students are subject to reasonable school regulations and that if such students espouse seditious views or distribute seditious materials, the schools could file appropriate charges against them, which was what happened during martial law.

He opined that the exercise of students' right to freedom of movement, of speech, of peaceful assembly and privacy inside school premises are subject to reasonable regulations, which would also apply to the publication of the official organ of the school or the student body, as well as to the circulation of other publications within school premises. He stated that the school regulations must comply with three requirements: (1) they must be adopted by the board of officers of the school having authority to do so; (2) they must be made known to the student body; and (3) they must be designed to prevent disruption of school functions or to protect the health, morals, properties or rights of students.

Mr. Ople stated that the explanation eliminated some of his doubts noting that academic freedom is more easily and quickly understood in an atmosphere of political and social stability. He also noted that polarizations take place inside and outside campuses during volatile situations and that there is a valid concern for asking questions which could help determine the implications of academic freedom for students.

INQUIRY OF MR. MAAMBONG

Mr. Maambong manifested that properly formulated, he favors a statement on academic freedom in the Constitution. He inquired whether the problem, would relate to the harmony between supervision and regulation on the one hand and academic freedom on the other hand. Mrs. Rosario Braid affirmed that the problem lies in the harmonization of the two concepts — regulation and freedom. Mr. Villacorta added that there is conflict between the two concepts.

Mr. Maambong noted that this is one part of the problem inasmuch as when a student, professor or the institution itself exercises academic freedom there would be conflict with the Constitutional provision on supervision and regulation of the school.

In reply, Mr. Villacorta explained that when the State regulates to a certain extent the behavior and actions of the individual citizen, that citizen has inherent and inalienable rights which the State cannot take away. He noted that there is no conflict in this relationship in the same manner that State regulation of schools does not conflict with the academic freedom of universities and colleges.

Mr. Maambong observed that establishing the concept that the State has supervision and regulation of institutions of learning and at the same time, putting in the concept of academic freedom inside such institutions of learning could lead to trouble.

Reacting thereto, Mrs. Rosario Braid agreed that while there could be trouble with regard to the degree of state or school regulation in terms of the curriculum, however, the concept of freedom to search must be harnessed.

On the dynamic definition of freedom, she stated that the freedom to search should not only be matched with social responsibility but should also be seen in terms of the students' freedom to demand a restructuring, of orientations and of existing curricula, which rights should be guaranteed to the student beyond the individual right of inquiry.

Mr. Maambong pointed out, however, that the discussion bogged down because the Committee does not seem to see how it could reconcile the concept of state regulation and supervision with the concept of academic freedom, in reply to which Mr. Gascon stated that there is no conflict with the Committee's perspective because regulation would speak of providing guidelines and cooperation as far as defining curricula is concerned, but it does not give any mandate to the State to impose its ideas on the educational institution.

Additionally, Mr. Treñas stated that there is no conflict between the two concepts because, while it may be true that the institution, the faculty and the students enjoy academic freedom, such freedom is not absolute because it is always subject to reasonable regulation by the school and by existing laws, to which Mr. Maambong agreed.

As a rejoinder, Mr. Maambong pointed out that there seemed to be some problem also between the concept of academic freedom and freedom of expression.

REMARKS OF MR. MONSOD

On the parliamentary situation, Mr. Monsod stated that he had proposed to delete the phrase "as well as faculty members and students thereof", but Mr. Azcuna had modified his proposal to eliminate the same phrase by restating it in another way. He manifested that he accepted the modified amendment of Mr. Azcuna.

RESTATEMENT OF MR. AZCUNA'S AMENDMENT

Mr. Azcuna restated his amendment, to wit:

ACADEMIC FREEDOM SHALL BE ENJOYED IN ALL INSTITUTIONS OF HIGHER LEARNING.

In reply to Mr. Gascon's query, Mr. Azcuna agreed that his proposal would mean that academic freedom would be enjoyed by the institution, faculty and students as it is enjoyed under existing jurisprudence without prejudice to the development of the idea of freedom in the future.

Mr. Treñas accepted the amendment.

Submitted to a vote, and with 35 Members voting in favor and none against, the amendment was approved by the Body.

PARLIAMENTARY INQUIRY OF MR. BENGZON

In reply to Mr. Bengzon's query on whether the approval of Mr. Azcuna's amendment would mean the deletion of the rest of the phrases in the paragraph including the second sentence thereof, the Chair replied in the negative, pointing out that the amendment referred only to academic freedom in view of the understanding that it would be taken up separately.

AMENDMENT OF MR. MONSOD

As proposed by Mr. Monsod and accepted by the Sponsor, the Body approved an amendment to delete the entire sentence on Section 5, page 3, lines 31 and 32 starting with the phrase "Public and private educational institutions ..."

SUSPENSION OF SESSION

On motion of Mr. Romulo, the Chair suspended the session until two-thirty in the afternoon.

It was 12:39 p.m.

RESUMPTION OF SESSION

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

PROPOSED AMENDMENT OF MR. DAVIDE

On page 4, Mr. Davide proposed the formulation of Section 5(d) to read as follows:

THE STATE SHALL ENHANCE THE RIGHT OF TEACHERS TO JUST AND ADEQUATE COMPENSATION AND TO PROFESSIONAL ADVANCEMENT RESEARCHERS AND NON-TEACHING ACADEMIC PERSONNEL SHALL ENJOY PROTECTION OF THE STATE.

Mrs. Rosario Braid stated that the Committee would accept Mr. Davide's proposed amendment which could be integrated with a similar proposed amendment submitted by Mr. Ople.

Mr. Ople confirmed that he earlier submitted a similar amendment, coauthored by Messrs. Rama, Guingona and Calderon, which reads:

THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO ENSURE THAT TEACHING WILL ATTRACT AND RETAIN THE BEST TALENTS AVAILABLE THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB FULFILLMENT.

SUSPENSION OF SESSION

Upon request of Mr. Villacorta, the Chair suspended the session in order that the Committee could harmonize the two proposals.

It was 3:04 p.m.

RESUMPTION OF SESSION

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

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Upon resumption of session, the Chair announced and acknowledged the presence inside the Session Hall of students from Canossa College of San Pablo City, Laguna.

MODIFIED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed a modified amendment on the opening sentence of Section 5(d), to read as follows: THE STATE SHALL ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT, He stated that this amendment would be followed by the proposed amendment of Mr. Ople.

PROPOSED AMENDMENT OF MR. OPLE

After Mr. Davide's amendment, Mr. Ople pro- posed the following:

THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO ENSURE THAT TEACHING WILL ATTRACT AND RETAIN ITS RIGHTFUL SHARE OF THE BEST AVAILABLE TALENTS THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB SATISFACTION AND FULFILLMENT.

In explaining his proposed amendment, Mr. Ople stated that all the great and sincere piety professed by every President and every Congress of the Philippines since the end of World War II for the economic we fare of the public schoolteachers always ended up in failure and this failure, he stated, had caused mass defection of the best and brightest teachers to other careers, including menial jobs in overseas employment and concerted actions by them to project their grievances, mainly over low pay and abject working conditions.

He pointed to the high expectations generated by the February Revolution, especially keen among public schoolteachers, which at ,present exacerbate these long frustrated hopes.

Mr. Ople stated that despite the sincerity of all administrations that tried vainly to respond to the needs of the teachers, the central problem that always defeated their pious intentions was really the one of budgetary priority in the sense that any proposed increase for public schoolteachers had to be multiplied many times by the number of government employees in general and their equitable claims to any pay standardization such that the pay rate of teachers is hopelessly pegged to the rate of government workers in general. This, he stated, foredoomed the prospect of a significant pay increase for teachers.

Mr. Ople pointed out that the recognition by the Constitution of the highest priority for public schoolteachers, and by implication, for all teachers, would ensure that the President and Congress would be strongly urged by a constitutional mandate to grant to them such a level of remuneration and other incentives that would make teaching competitive again and attractive to the best available talents in the nation.

Finally, Mr. Ople recalled that before World War II, teaching competed most successfully against all other-career choices for the best and the brightest of the younger generation. It is for this reason, he stated, that his proposed amendment if approved, would ensure that teaching would be restored to its lost glory as the career of choice for the most talented and most public-spirited of the younger generation in the sense that it would become the countervailing measure against the continued decline of teaching and the wholesale desertion of this noble profession presently taking place. He further stated that this would ensure that the future and the quality of the population would be asserted as a top priority against many clamorous and importunate but less important claims of the present.

INQUIRIES OF MR. NOLLEDO

In reply to Mr. Nollado's inquiries, Mr. Ople affirmed that his proposed amendment would refer only to public schoolteachers because they are the ones accessible to the budget of the government. With respect to private schoolteachers, he opined that any budgetary priority assigned to improve the pay scale of public schoolteachers

would necessarily have a positive feedback effect on the salaries of private schoolteachers.

On the observation that the proposal would be a discrimination against the other government employees who are also doing service to the nation, Mr. Ople expressed the view that the constitutional option is whether to help improve the present lives of teachers or whether the whole scale of remuneration for all public employees remains virtually undisturbed. He manifested his intention to present a proposal, elsewhere in the Constitution that a high budgetary priority should be given also for the entire workforce of the government.

Finally, Mr. Ople affirmed that in giving the highest budgetary priority, it would include the raising of standard of teaching in public schools by providing them adequate and appropriate school facilities and equipment.

INQUIRIES OF MR. GUINGONA

Mr. Guingona stated that under Section 6 of the Education Act, non-teaching academic personnel would refer to such officials as registrars, librarians, counselors and the like and that there is still another group of non-academic personnel which includes the clerks, janitors, etc. He then inquired whether or not they are included in the proposed amendment, to which Mr. Davide replied that they are included in the term "non-teaching personnel".

Upon Mr. Guingona's suggestion, Mr. Davide agreed to include NON-ACADEMIC PERSONNEL, and to delete the word "Researchers" in view of the explanation that researchers as defined in the Education Act are included in the term "academic non-teaching personnel."

As amended by Mr. Guingona, Mr. Davide restated his proposed amendment, to wit:

THE STATE SHALL ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT.
NON-TEACHING ACADEMIC PERSONNEL AND NON-ACADEMIC PERSONNEL SHALL ENJOY
PROTECTION OF THE STATE.

INQUIRIES OF MRS. QUESADA

On Mrs. Quesada's inquiries, Mr. Davide affirmed that his proposed amendment would refer to all teachers in both private and public schools whereas Mr. Ople's proposed amendment would only refer to public school teachers in private educational institutions for their professional advancement.

On whether the provision would bar the teachers in the private sector from seeking parity with public schoolteachers, Mr. Davide stressed that they are allowed to organize and to bargain for better terms and conditions of their employment.

INQUIRIES OF MR. PADILLA

On the meaning of the term "professional advancement", Mr. Davide explained that this would mean the advancement of their profession through seminars and pursuit of further studies.

On whether the intent is for them to become supervisors, superintendents or to pursue masteral or doctoral degrees, Mr. Davide stated that this would be generally covered although the State has to consider its financial position. He opined that the government, through the Ministry of Education, Culture and Sports, may provide for seminars so that the teachers could uplift their professional standing in the community and even among themselves. He pointed out, however, that the incentive provided by the State would require the necessary response on the part of the teachers whether they would avail of the opportunity to advance professionally.

On Mr. Padilla's observation that the provision was rather vague in the sense that it does not clearly protect, promote or enhance the right of teachers, Mr. Davide stated that the word "enhance" was precisely used to mean

encouragement or promotion of all possible ways the State could think of in order that the teaching profession would not stagnate or vegetate.

As to what kind of protection is intended for the non-teaching and non-academic personnel, Mr. Davide stated that the non-teaching and non-academic personnel belong to a special class in the government sector and considering that the labor provision in the Article on Social Justice may not be fully applicable to them, the provision intends to upgrade compensation to afford them decent wages and better terms and conditions of employment.

Mr. Padilla questioned the propriety of granting the non-teaching and non-academic personnel a special privilege since they are also covered by the general term "public officers", to which Mr. Davide replied that the reason for this special attention is the very special nature of their work in the educational system. He stated that he would consider education as the matrix of the Constitution because this is where nationalism, patriotism and the duties of citizenship are infused and fostered. He opined that their functions could not be categorized as similar to those in other areas.

On the contention that this special protection may undermine the basic principles of the civil service, Mr. Davide opined that it would not in the sense that this is a mandate of the State to be implemented by Congress.

Mr. Padilla pointed out that he was precisely against granting in the Constitution a special privilege or protection to a particular group of government employees even if they are connected with public schools.

REMARKS OF MR. REGALADO

Mr. Regalado pointed out that terms "academic non-teaching personnel" and "non-academic personnel" in Mr. Davide's amendment should be interpreted as defined in Section 6 of the Education Act of 1982 which provides that academic non-teaching personnel are those persons holding some academic qualifications and performing academic functions directly supportive of teaching, such as registrars, librarians, guidance counsellors, researchers, research assistants, aides and similar staff; while non-academic personnel are all other school personnel teaching and academic non-teaching personnel.

APPROVAL OF MR. DAVIDE'S AMENDMENT

Mr. Davide restated his amendment so that Section 5(d) would read:

THE STATE SHALL ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT.
NON-TEACHING ACADEMIC AND NON-ACADEMIC PERSONNEL SHALL ENJOY PROTECTION OF
THE STATE.

Submitted to a vote, and with 28 Members voting in favor, and 2 against, the proposed amendment was approved by the Body.

AMENDMENT OF MR. OPLE, JOINTLY WITH MS. AQUINO AND MESSRS. GUINGONA, DE LOS REYES, NATIVIDAD, MAAMBONG AND CALDERON

Mr. Ople, jointly with Ms. Aquino and Messrs. Guingona, de los Reyes, Natividad, Maambong and Calderon, proposed the following as the second paragraph of Section 5:

THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO EDUCATION AND ENSURE THAT TEACHING WILL ATTRACT AND RETAIN ITS RIGHTFUL SHARE OF THE BEST AVAILABLE TALENTS THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB SATISFACTION

AND FULFILLMENT.

Submitted to a vote, and with 25 Members voting in favor, and none against, the proposed amendment was approved by the Body.

AMENDMENT OF MR. DAVIDE

Thereafter, Mr. Davide proposed to delete the entire Section 5(e) for the reason that it was already covered by the provisions in the Articles on Civil Service; Social Justice; and Bill of Rights.

Mrs. Quesada and Mr. Ople affirmed the reason given by Mr. Davide.

Submitted to a vote, and with 25 Members voting in favor, and 7 against, the proposed deletion of Section 5(e) was approved by the Body.

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople proposed a new paragraph to be later appropriately placed in the Article, to wit:

TO DEMOCRATIZE ACCESS TO EDUCATION ESPECIALLY TO COURSES DEEMED CRITICAL TO NATIONAL DEVELOPMENT, CONCESSIONAL LOANS BASED ON THE STUDY-NOW-PAY-LATER PRINCIPLE SHALL BE MADE AVAILABLE TO DESERVING STUDENTS IN BOTH PUBLIC AND PRIVATE SCHOOLS TO THIS END, THE STATE MAY ESTABLISH A COMMON FUND DRAWN FROM THE EARNINGS OF GOVERNMENT FINANCIAL INSTITUTIONS.

He explained that his proposal had been proven to be feasible by the existing "study-now-pay-later" program which the Social Security System, the Government Service Insurance System, the Development Bank of the Philippines, the Philippine National Bank and the Land Bank of the Philippines support in the amount of P65 million, which program is under the administration of the Ministry of Education, Culture and Sports. He pointed out that the program had benefited some 20,000 underprivileged students taking up technical and engineering courses. He stated that it was established in 1977 through the initiative of former Education Minister Juan Manuel and him. self since the "study-now-pay-later" bill authored by the late Senator Benigno Aquino, Jr. was not passed by Congress.

He stressed that with the approval of his proposal, there would be no reason for the underprivileged not to pursue collegiate courses and waste their talents simply because of poverty.

Mr. Sarmiento objected to the proposed amendment, stating that it would be a surplusage because the Body had already approved provisions that man date the State to make quality education accessible to all and to maintain a system of scholarship grants, student loan programs, subsidies and other incentives which shall be available to deserving students in both public and private schools especially for the underprivileged.

He opined that the proposal would be appropriately covered by legislation in the same way that Senator Aquino had filed a bill in the Senate.

Mr. Ople maintained that there would be no inconsistency between his amendment and the provision on State assistance which was already approved by the Body. He stated that his proposal would have concrete results, if provided separately.

INQUIRY OF MR. TINGSON

In reply to Mr. Tingson's query on the implementation of the "study-now-pay-later" scheme, Mr. Ople explained that as in the past, each government financial institution has a loan portfolio for the program. And upon application by schools or universities, the banks release the amount therefor, and the students start paying for the amortizations upon employment.

He pointed out, however, that the loans obtained under this program could not be used for any purpose other than education in accordance with the agreement which the students enter into with the university and the Ministry of Education, Culture and Sports.

Mr., Tingson opined that the "study-now-pay-later" program need not be specified in the amendment considering that loans obtained by students would be consistent with such program. He disclosed that many beneficiaries of such program were deserving working students.

Upon suggestion of Mr. Tingson, Mr. Ople agreed to delete the phrase concerning the "study-now-pay-later" program in his proposed amendment.

OBJECTION OF MR. REGALADO

Mr. Regalado, likewise, objected to Mr. Ople's proposed amendment because Section 2(c) of the Article on Education already provides that the State shall maintain a system of scholarship grants, student loan programs and other incentives which shall be available to deserving students in both public and private schools especially for the underprivileged. He suggested that Mr. Ople's proposal could just be put on record as a basis for implementation of future legislation.

Mr. Ople maintained that his proposal would not be redundant but he would agree to place it immediately following Section 2(c).

Mr. Villacorta then stated that the Committee would accept the intent of Mr. Ople's proposal and would include it in the interpretation of Section 2(c).

In view of the Committee's explanation, Mr. Ople withdrew his proposed amendment.

In reply- to Mr. Maambong's query, Mr. Villacorta affirmed that the provisions of Section 2(c) would include the "study-now-pay-later" scheme as provided in the Education Act of 1982.

PROPOSED AMENDMENT OF MR. VILLEGAS

Thereafter, Mr. Villegas proposed a new Section to be appropriately placed in the Article, to read:

THE STATE SHALL PROMOTE THE ESTABLISHMENT OF TECHNICAL AND VOCATIONAL SCHOOLS AT THE SECONDARY AND TERTIARY LEVELS ESPECIALLY THROUGH THE INITIATIVE OF PRIVATE EDUCATIONAL INSTITUTIONS IN PARTNERSHIP WITH THE BUSINESS SECTOR AS A MEANS TOWARDS INCREASING THE PRODUCTIVITY OF BOTH INDUSTRY AND AGRICULTURE.

He explained that with the general attitude to get white collar jobs, most graduates have been unemployed and there had been scarcity in technical skills. He stated that even in agriculture, there had been a shortage of experienced extension workers.

He pointed out, however, that private institutions and foundations had been successful in securing funds from the business sector for the establishment of vocational and technical schools and in relating their training programs to

the actual needs of industry and agriculture. He opined that it is necessary to provide that the State shall promote an atmosphere conducive to the establishment of more vocational and technical schools by private individuals and groups, including cooperatives organized by workers.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Villacorta, the Chair suspended the session.
It was 3:56 p.m.

RESUMPTION OF SESSION

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

WITHDRAWAL OF MR. VILLEGAS' PROPOSED AMENDMENT

Upon resumption of session, Mr. Villacorta stated that the Committee could not accept Mr. Villegas' amendment because it is already covered by Section 3(b), including the concept of partnership with business corporations for the establishment of vocational schools.

In view of the explanation, Mr. Villegas withdrew his proposed amendment.

PROPOSED AMENDMENTS OF MR. DAVIDE

Mr. Davide proposed to incorporate a new section to read as follows: NO CONTRIBUTION OR EXACTION OF ANY KIND SHALL BE IMPOSED ON STUDENTS AND THEIR PARENTS OR GUARDIANS EXCEPT THOSE VOLUNTARILY IMPOSED BY THEIR ORGANIZATIONS.

Mr. Villacorta rejected the proposal because it is a very specific amendment, however, he added that the Committee would like to incorporate it, on record, as a goal shared by it.

Mr. Davide pointed out that although the Education Act of 1982 contains a similar provision, there must be a continuing mantle of protection for students and their parents against imposition of contributions or other kinds of exaction except those voluntarily agreed upon by parents and teachers' organizations.

Mrs. Rosario Braid opined that there is no need to constitutionalize the proposal because the matter of contributions could be taken up in the consultative councils at the regional level where parents and other community members could participate.

With that assurance, Mr. Davide withdrew his proposal.

Mr. Davide then proposed a new section to read as follows: ALL EXPENSES FOR EDUCATION, AND ALL GRANTS, DONATIONS OR CONTRIBUTIONS FOR SCHOLARSHIP OR FOR ANY EDUCATIONAL PURPOSES SHALL BE DEDUCTIBLE EXPENSES FOR INCOME TAX PURPOSES, AND ANY DONATION, DEVISE OR LEGACY FOR ANY SUCH PURPOSE SHALL BE EXEMPT FROM ANY FORM OF TAX.

Mr. Villacorta accepted the proposal.

At this juncture, Mr. Monsod manifested some reservations about the proposal on the ground that it is very encompassing; it belongs to tax legislation and its implications are yet to be fully realized.

Reacting thereto, Mr. Davide stated that he would not insist on including "all expenses for education", however, he would insist on the rest of his proposal.

He explained that during the previous session the Body approved a proposal granting exemptions from any form of tax on revenues and assets of educational institutions used exclusively, directly or actually for educational purposes. He stated that this incentive to educational establishments should be balanced with similar exemptions to those who may voluntarily grant or donate money and property to be used exclusively for educational purposes. He also stated that the grant of such exemption should not be left to Congress because of the difficulty of obtaining the required two-thirds vote of all its Members.

In reply to Mr. Ople's query whether he would be amenable to including a stipulation that no pecuniary gains shall accrue to the source of the donation or legacy in order that it may not be used as a tax shelter, Mr. Davide stated that there is no need for such stipulation because the devise or legacy could become effective only upon the death of the donor. With respect to schools owned by close family corporations which, Mr. Ople stated, may be used to circumvent the payment of taxes, Mr. Davide opined that the pecuniary benefit that may accrue from such subterfuge would be negligible. Mr. Ople also stated that donating properties to such schools is only one form of circumvention but there may be many others. He asked for more assurance that the proposal would not be used as a loophole to cheat the government of taxes.

In reply to Mr. Bernas' query whether the exemptions approved during the previous session already include donations and bequests made to non-stock and non-profit educational institutions, Mr. Davide replied that the donor in that provision would still be liable to a transfer tax or an estate tax. He stated that what the proposal intends to exempt from the donor's tax are contributions to the cause of education.

Mr. Monsod suggested that the proposal be amended to include the phrase INCLUDING DONOR'S TAX.

Mr. Davide accepted the proposal, adding that it should also exclude estate tax. Mr. Monsod, however adverted to the observation of Mr. Ople that the provision can be used to circumvent the payment of taxes, to which Mr. Davide replied that the BIR can reach out to inquire on such circumvention or violation.

In reply to Mr. Natividad's query whether the proposal also contemplates something similar to donations made by alumni associations in the United States to their alma maters, Mr. Davide answered in the affirmative. He also dismissed as unfounded the fear that this could be used as a tax shelter, considering that the BIR has the means and facilities to determine whether a donation or grant is actually used for the purpose intended.

In reply to Mr. Natividad's query if this would not elicit objection from the Minister of Finance on the ground that it would mean less government revenues, Mr. Davide opined that while there could be such objection, the Commission should not inquire into it considering that it had already approved during the previous session exemptions of all revenues, properties or assets of non-stock, non-profit corporations involved in education from the payment of taxes.

Thereupon, Mr. Natividad manifested support for the proposal.

In reply to Mr. Maambong's query whether Mr. Natividad would insist on constitutionalizing his proposed amendment in the light of Section 30 of P.D. No. 69, which already provides for exemptions sought to be provided for, Mr. Davide replied in the affirmative.

Mr. Maambong suggested that the Body simply rely on the law rather than constitutionalize the proposal.

Mr. de los Reyes proposed to amend the proposal by prefacing it with the phrase SUBJECT TO CONDITIONS AS MAY BE PROVIDED BY LAW.

Mr. Davide accepted the amendment.

At this juncture, Mr. Nollado, on a point of information, stated that P.D. No. 69 was already repealed by P.D. No.

1459, besides, Mr. Maambong was referring to deductions from gross income whereas Mr. Davide's proposal contemplates of exemptions from estate tax.

Mr. Maambong stated that he is abreast with Presidential Decrees and would like to question the statement of Mr. Nollado.

SUSPENSION OF SESSION

Upon request of Mr. Monsod, the Chair suspended the session.

It was 4:23p.m.

RESUMPTION OF SESSION

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

Upon resumption of session, Mr. Davide informed that after consultations, the proposed amendment has been modified to read as follows: **SUBJECT TO CONDITIONS PRESCRIBED BY LAW, ALL GRANTS, DONATIONS OR CONTRIBUTIONS USED ACTUALLY, DIRECTLY, AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES SHALL BE EXEMPT FROM TAX.**

Mr. Davide stated that the coauthors of the amendment are Messrs. de los Reyes, Natividad, Ople, Maambong and Guingona. Moreover, he informed that the amendment shall be inserted by the Style Committee or the Sponsorship Committee in the Article on Education or in any other appropriate place. The Committee accepted the amendment.

INQUIRY OF MRS. ROSARIO BRAID

Mrs. Rosario Braid inquired whether contributions to projects on non-formal education shall also be exempted from tax. Mr. Davide, in reply, noted that donations for educational purposes, whether formal or non-formal, would be covered.

INQUIRY OF MR. DE LOS REYES

For the record, Mr. de los Reyes queried whether "donation" in the amendment, used in the generic sense, would include legacies and devises

Mr. Davide answered that mortis causa donations and inter vivos donations are included. Upon inquiry, Mr. Davide affirmed that "educational purposes" would include scholarships.

INQUIRY OF MR. SUAREZ

On the query of Mr. Suarez. Mr. Davide affirmed that the exemption would be on the grant, donation, legacy or contribution itself.

On whether the donor, the contributor or the grantor would not be entitled to tax exemptions, Mr. Davide replied that they are the ones entitled since the estate is exempt from the payment of the donor's taxes and the estate tax for legacies, devises or donations inter vivos.

INQUIRY OF MR. TINGSON

On the inquiry of Mr. Tingson whether the word "exclusively" would not encompass the words "directly" and "actually", Mr. Davide clarified that the use of these words would align the provision to the phrase "directly, actually and exclusively" used in the Article on the Legislative as well as with the provision on exemptions granted to non-stock non-profit educational institutions in the Article on Education.

As to whether he is aware that there are big institutions of learning in the country which are making good profits, Mr. Davide replied that, perhaps, there are, although he has not inquired into the financial standing of the educational institutions.

On the presumption that those who make such donations are doing so for altruistic motives and not to circumvent the tax laws, Mr. Davide replied that good faith is always presumed. Mr. Davide also stated, that he is not in a position to answer Mr. Tingson's query on whether by making such donations, the donor would be entitled to some returns on his money. He noted that it would depend on the arrangements between the donor and the donee. He explained, moreover, that the donor is exempted from paying the donor's tax.

INQUIRY OF MR. RODRIGO

Mr. Rodrigo observed that inasmuch as the Constitutional provision is not self-implementing, after the Constitution is ratified and takes effect, Congress would have to enact an implementing legislation setting the conditions for the provision to take effect.

Mr. Davide answered that it would be so, although, Mr. Maambong has mentioned that there are certain laws allowing such exemptions and such laws may be operative until Congress shall provide for some other conditions.

Mr. Rodrigo pointed out that Mr. Nolleto has informed that the Presidential Decrees have been repealed, in which case, there would have to be another implementing legislation for the provision to take effect. Mr. Davide affirmed that if the existing laws have been repealed, Congress shall have to prescribe the conditions.

POINT OF INFORMATION OF MS. TAN

Ms. Tan stated that during the break she called up the Bureau of Internal Revenue to confirm if there is a tax on donations to educational institutions. She stated that she was informed that the BIR has been giving tax exemptions on such donations and that it is so provided in the National Internal Revenue Code.

MR. SUAREZ' AMENDMENT TO THE AMENDMENT

Mr. Suarez proposed and Mr. Davide accepted the insertion of the word ENDOWMENTS after "grants".

POINT OF INFORMATION OF MR. NOLLEDO

Mr. Nolleto, apropos the statement of Ms. Tan, stated that the tax exemption refers only to the first P1,000 as provided for in the National Internal Revenue Code, unless the Code has been amended by the President. He clarified that he is referring to Presidential Decree No. 69 which was cited by Mr. Maambong and that the Presidential Decree had been repealed by a subsequent decree. He observed that in order to avail of the exemption, a lot of donations are made out by different persons not exceeding the limit, which is going around the law. He stressed that there is no specific provision in the National Internal Revenue Code granting exemptions on endowments given to educational institutions. He noted that Mr. Maambong's statement refers to deduction from gross income and not exemption from donor's tax.

VOTING ON MR. DAVIDE'S AMENDMENT

Submitted to a vote, and with 27 Members voting in favor, 3 against and 2 abstentions, the proposed amendment of Mr. Davide was approved by the Body.

PROPOSED AMENDMENT OF MR. PADILLA

On the Subsection on Sports, Mr. Padilla proposed the following:

THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY. ALL SCHOOLS, COLLEGES AND UNIVERSITIES, PUBLIC AND PRIVATE, SHALL UNDERTAKE REGULAR SPORTS ACTIVITIES, FROM BARRIO, MUNICIPAL, PROVINCIAL, REGIONAL TO NATIONAL SPORTS PROGRAMS IN COOPERATION WITH ATHLETIC CLUBS AND OTHER SECTORS.

THE PROMOTION OF AMATEUR SPORTS, AS DISTINGUISHED FROM PROFESSIONAL PLAYERS, SHALL BE PROVIDED BY LAW, INCLUDING THE TRAINING OF NATIONAL ATHLETES FOR OLYMPIC GAMES.

Mr. Padilla informed that the phrase "in cooperation with other sectors was suggested by the Committee, and he inserted "athletic clubs and".

Mr. Villacorta advised that the Committee has distributed its own proposal which is almost identical to Mr. Padilla's amendment.

Reacting thereto, Mr. Padilla noted that his original proposal specifying the sports program in all schools and in different levels is clearer and more specific than the suggestion of the Committee to use "throughout the country".

REMARKS OF MRS. NIEVA

Mrs. Nieva stated that she is for the promotion of sports as a valuable aid in the total formation of the youth. She queried whether the first paragraph could not take care of all the details inasmuch those details do not belong to the Constitution and perhaps are more proper in the domain of legislation.

Upon inquiry of the Chair whether she is proposing to delete the two paragraphs, Mrs. Nieva stated that the first paragraph would state it all.

In reply, Mr. Padilla stated that the origin provision of Section 2(i), reads: "The State shall provide opportunities for participation involving all sectors and assure the teaching and practice of physical education and sports in the curricula of the national educational system". He stated that during the period of interpellations, he suggested that the same be deleted. He stated that he has always attempted to be brief, clear and concise in his amendments and that he has objected to many provisions which contain too many details that should be left to the Legislature.

Mr. Padilla reasoned out that in this case, the development of sports cannot be undertaken by just a course in the curricula of the national educational system. He noted that such development would require, in addition, competition through organized leagues from the lowest to the highest level. He noted that the ultimate goal of an amateur student athlete is to qualify in the national team for the Olympic games. He underscored that the proposal is short, concise and specifies the steps necessary to realize the promotion and development of sports.

MR. OPLE'S AMENDMENT TO THE AMENDMENT

Mr. Ople inquired whether the Section on sports would state the value of sports, including individual discipline, cooperation and excellence. He stressed that the highest priority should be allocated to sports and physical development -as it fosters the values of individual discipline, cooperation and excellence.

Thereupon, he proposed an amendment, to wit:

THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF INDIVIDUAL DISCIPLINE, COOPERATION AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY.

Reacting thereto, Mr. Padilla observed that by accepting the amendment he might be accused of making it longer. He agreed with Mr. Ople that sports development would require self-discipline, continuous training, adherence to instructions and teamworks all leading to excellence. He noted that a student athlete cannot be a university athlete unless he has self-sacrifice and is willing to submit to discipline and rigorous training and that the objective always would be to represent the university in the national league and to qualify as a member of the national team to compete in the Asian Games and possibly the World Olympics.

Mr. Ople remarked that Mr. Padilla might also agree that the emphasis given to sports in the old Greek confederacy, at the time of the birth of democracy, was compatible with the spirit of freedom, tempered by the spirit of discipline and performance. He noted that the Greeks organized the Olympics in aid of the over-all human development for excellence.

Mr. Padilla concurred with the observation, reiterating that physical excellence in a particular sports event can only result from years of training, self-discipline and self-sacrifice.

Mr. Ople invited Mr. Padilla, as the author of the section, to join him in taking the risk. He said that they may be able to convince the Committee and the Commission that inserting the value of sports in the first paragraph would not add to the bulk of or detract from the strength of the sentence but contribute a new spiritual, moral and democratic dimension to the definition of the objectives of sports in said sentence.

Mr. Ople then stated the amendment, to wit:

THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF SELF-DISCIPLINE, TEAMWORK AND EXCELLENCE FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY.

Mr. Padilla accepted the amendment, which the Committee, in turn, accepted.

In reply to Mrs. Rosario Braid's query on whether the provision would include the encouragement of indigenous sports such as sipa and yoyo, Mr. Padilla stated that the provision does not exclude native sports which can be promoted but the emphasis is on athletics — track and field, swimming and other individual events and also group or team events recognized as part of the program of the Olympic Games.

In reply to Mr. Davide's query on whether acceptance of Mr. Ople's amendment would in effect constitutionalize the objectives of Presidential Decree No. 604 which created the Ministry of Youth and Sports Development, Mr. Padilla stated that the words proposed by Mr. Ople were not the words of PD No. 604.

Thereupon, Mr. Ople restated his amendment, to wit:

THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF SELF-DISCIPLINE, COOPERATION AND EXCELLENCE FOR THE

TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY.

VOTING ON MRS. NIEVA'S AMENDMENT

At this juncture, Mr. Sarmiento joined Mrs. Nieva in her proposal to delete paragraphs 2 and 3 on the ground that paragraph 1 covered comprehensively Paragraphs 2 and 3. He stated that Mrs. Nieva's amendment constitutes a prejudicial issue which the Body would have to resolve before voting on Mr. Ople's amendment.

In reply to Mr. Foz' query on whether the Members could still present amendments to Mr. Padilla's amendment in the event Mrs. Nieva's amendment would be lost, the Chair replied in the affirmative.

Thereafter, the Chair submitted Mrs. Nieva's amendment to a vote, and with 20 Members voting in favor and 13 against, the amendment was approved by the Body.

VOTING ON MR. OPLE'S AMENDMENT

Thereafter, Mr. Ople restated his amendment, to wit:

THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS
TO FOSTER THE VALUES OF SELF-DISCIPLINE, TEAMWORK AND EXCELLENCE FOR THE
TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY.

The Committee accepted the amendment. Submitted to a vote, and with 32 Members voting in favor and one against, the amendment was approved by the Body.

MOTION TO EXPUNGE FROM THE RECORD

At this juncture, Mr. Sarmiento manifested that upon request of Mr. Nollado, he was moving to expunge from the record the statements, remarks and manifestations connected with Presidential Decrees Nos. 69 and 1459.

Mr. Suarez seconded the motion.

In reply to Mr. Ople's query on the reason for the request, Mr. Nollado stated that there were some embarrassing statements made and it would be within the power of the Body to grant the motion. He asked Mr. Ople to desist from objecting.

Mr. Ople withdrew his objection.

Mr. Maambong agreed to the motion on the understanding that the portion to be expunged would be the statements made by him and Mr. Nollado after his interpellation of Mr. Davide.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.
It was 5:42 p.m.

RESUMPTION OF SESSION

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

RESTATEMENT OF MOTION

Upon resumption of session, Mr. Sarmiento restated his motion to expunge from the record all discussions pertaining to Presidential Decrees Nos. 69 and 1459.

In reply to Mr. de Castro's query on the rationale for the motion, Mr. Sarmiento stated that said remarks should be deleted to avoid embarrassment and shame.

Mr. de Castro stated that he was not interposing any objection but was merely asking the reason for the deletion.

At this juncture, Mr. Padilla suggested that any motion for deletion be filed by the Members concerned and not by any other Member who was not involved in the interchange. He stated that he would have no objection if Messrs. Nollado and Maambong agreed to the deletion although said motion should not be presented by any other Member who was not involved in the exchange of remarks.

The Chair observed that the motion had the conformity of the Members concerned.

Mr. Nollado manifested that to obviate Mr. Padilla's objection, he was adopting the motion of Mr. Sarmiento.

Mr. Maambong, likewise, manifested agreement to the motion on the understanding that the deletion would cover only the exchange between him and Mr. Nollado and not his interpellation of Mr. Davide, to which Mr. Nollado interposed no objection.

The motion was put to a vote, and there being no objection, the same was approved by the Body.

RESERVATION OF MR. FOZ

At this juncture, Mr. Foz made a reservation to submit further amendments to the provision on sports, to which Mr. Villacorta agreed if allowed by the Chair.

The Chair noted that the reservation was for an opportunity to submit a motion for reconsideration of the approval of the particular section on sports.

The Chair granted the reservation.

REMARKS OF MR. VILLACORTA

Thereafter, Mr. Villacorta stated that the Committee was ready to receive proposals on language, copies of which had been previously distributed to the Members. For the record, he stated that the Chairman of the Subcommittee on Language is Mr. Rigos.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's query as to what documents would be used as the basis for purposes of the amendment, Mr. Rigos stated that it would be the one-page document representing the revised report on language which was the result of the meeting the night before and which was distributed to the Members.

SUGGESTION OF MS. AQUINO

Thereupon Ms. Aquino suggested that the Body address itself to the less controversial issues in view of the lateness of the hour, and reserve the debate on language for the following day.

Mr. Davide seconded the suggestion on the ground that the Committee, without leave of the Commission,

submitted its own amended report on language. He stated that some Members had already prepared their set of amendments based on the original Committee Report on language and, therefore, it would be unfair for them to immediately start the amendments on the basis of the new Committee version.

Responding thereto, Mr. Villacorta stated that the revised proposal sought to incorporate the different amendments either written or verbally articulated by the Members of the commission. In view thereof, he suggested that to save time, the Body start discussions on Section 1 of the provision on language.

Thereupon, in reply to the Chair's query on the salient points of Section 1, Mr. Villacorta stated the following: 1) the national language is identified as Filipino, the steps to be taken by the government and to use it as a medium of communication, and the language of instruction stipulated therein; 2) the use of regional languages as auxiliary media of instruction; and 3) English as a second language and as an alternative medium of instruction.

Mr. Villacorta stated that the Committee felt that these points were not controversial and, considering, that the Members had secured copies thereof, they could start with the amendments.

REMARKS OF MR. SARMIENTO AGAINST THE COMMITTEE'S PROPOSED AMENDMENT

Speaking against the Committee's proposed amendment, Mr. Sarmiento stated that he would rather favor the retention of the wordings of the 1973 Constitution which reads "The national language of the Philippines shall be Filipino" in the light of Mr. Davide's interpellations where it was pointed out that no efforts were made by the Philippine government towards making Filipino the national language and this, he stated, was further confirmed by an article written by Professor Leopoldo Yabes, a well-known linguist and UP Professor of Linguistics. He suggested that the first sentence of the Committee's proposal should use the words "shall be" instead of "is".

REMARKS OF MR. VILLACORTA

Reacting thereto, Mr. Villacorta stated that the Committee's position is that there is a living lingua franca called Filipino which is used by citizens of the Philippines who use different native languages or dialects such that if a Cebuano and an Ilocano meet each other in any place, they would use this lingua franca. This lingua franca, he stated, is called Filipino and not Pilipino because it is not exactly Tagalog. He stressed that Tagalog is pure in form whereas Filipino, according to linguists, is even purer because it tries to coin words which are not really used. Because of this living lingua franca, he stated that it is not accurate to say that despite the fact that the government has not really taken resolute steps to develop Filipino as the national language, there is no such language to speak of.

REMARKS OF MR. OPLE IN SUPPORT OF THE COMMITTEE'S PROPOSED AMENDMENT

Mr. Ople stated that for largely political purposes, the nation has temporized on the issue of national language. He pointed out the fact that since the onset of the American occupation, the Taft Commission which was the first civilian government in 1903, prescribed the use of English as the principal medium of communication in the country for understandable reasons.

Adverting to Dean Worcester's book "The Philippines' Past and Present", Mr. Ople lamented the effort to denigrate the Philippine Revolution of 1896 and the Philippine Republic of 1899. He noted that the book tried to demonstrate that the Malolos Republic was a Tagalog oligarchy with some help from the Pampango and the Ilocano oligarchy, the intention being to divide the people of Luzon and the people of the Visayas and Mindanao. He cited several Visayan heroes who fought the American colonizers and acknowledged the primacy of the Malolos Republic and who refused to be dissuaded by the Americans from believing that there was a central revolutionary government at that time.

Mr. Ople stated that the language has gone through a tortuous course, in the sense that the language of the Malolos Republic was bilingual, it was in Tagalog and Spanish but with the loss of the Republic, it was inevitable that the Americans with their superior paraphernalia of culture and arms had to insist on supplanting the native languages with their own tongue if only to symbolize most effectively the triumph of their colonial conquest and perhaps to demean the Filipino people in their own eyes. He pointed out, however, the efforts of the country's ancestors in 1935 when they took that singular step of providing for a national language in the Constitution. Likewise, he pointed out that in the 1971 Constitutional Convention there were charges hurled against Quezon, Laurel and Recto, alleging that they confabulated in the Style Committee in order to change the formulation of the national language instead of being based on the existing native languages, to one of the existing native languages. This accusation, he stated, was never proven.

Acting on the constitutional principle on national language developed in 1935, Mr. Ople adverted to the establishment of the Institute of National Language in 1940 whose members of the board were even non-Tagalogs. Mr. Ople stated that this language has evolved since that time.

Mr. Ople opined that the Committee's proposal is just a proclamation of an existing fact that the language has been transformed into Filipino which is open-ended and ready to accept contributions from all languages of the country. He endorsed the Committee's proposed amendment and urged his Colleagues to take this rare opportunity when there is an upsurge of nationalism in the minds of everybody and in the spirit of unity, solidarity, peace based on justice, to support Section 1 as formulated by the Committee.

REMARKS OF MR. DAVIDE AGAINST THE COMMITTEE'S PROPOSED AMENDMENT

Mr. Davide stated that the question is whether or not there should be a language known as Filipino. He noted that under the Committee's formulation, what was described as Filipino is actually Pilipino based on Tagalog. He pointed out that the Committee proposed the deletion of Section 2 on Pilipino as an official language whereas in the 1973 Constitution, the official languages are Pilipino and English and the Batasang Pambansa was mandated to evolve that common national language to be known as Filipino.

Mr. Davide pointed out that the Committee would in effect want to enshrine Pilipino as the Filipino so that Section 1 was written in such a way that the Pilipino before would then be called Filipino which is the common national language. He challenged everyone that the lingua franca in the Philippines is not Filipino because it is only the University of the Philippines which offers the subject known as Filipino while the rest of the schools teach Pilipino. He considers it a deception to treat the official language known as Pilipino as Filipino. He took exception to the statement that every time a Cebuano meets an Ilocano they would speak in the lingua franca. He stated that this would be a sweeping conclusion because nobody has even observed Filipinos abroad, even in Metro Manila or inside the Commission, speaking in the lingua franca.

Mr. Davide pointed out that it would be unfair to other regions to mandate such a language known as Filipino to be the national language on the ground that during the public hearings this was never the clamor, and instead they even opted for Cebuano as the national language because it is spoken by 24% of the entire population.

Finally, Mr. Davide suggested the adoption of Mr. Sarmientos proposal to reformulate the first sentence in the same manner as that of the 1973 Constitution and thereafter mandate Congress to wholly develop and enrich this common national language to be known as Filipino on the basis of the native languages and any other languages and in order to implement this mandate, there shall be a Commission on National Language; and it is only then that the country could formally adopt Filipino as the national language. He stated that he would not object provided that it should not be stated that the national language of the Philippines is Filipino because that is not the lingua franca for the moment.

Replying thereto, Mr. Villacorta stated that in the last caucus, Mr. Davide agreed with the formulation which was similar to the Committee's proposed amendment, to which Mr. Davide clarified that he would concede, provided that the last two sentences would be deleted because the Committee wanted to mandate that the medium of communication and the language of instruction shall be Filipino.

Mr. Villacorta insisted, however, that under Mr. Davide's formulation, the national language of the Philippines is Filipino, which Mr. Davide admitted but with the understanding that the remaining portion of the Section be deleted.

On Mr. Davide's observation that the Committee seemed to charge him as being deceptive, Mr. Villacorta stated that he was just saying that the Committee's formulation is similar to that of Mr. Davide's proposal, to which Mr. Davide insisted that it was not.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 6:19 p.m.

RESUMPTION OF SESSION

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

Upon resumption of session, Mr. Rigos stated that after consultation with some Members, the Committee had come up with an amendment consisting of two sentences.

PROPOSED SECTION 1

Thereupon, Mr. Davide read Section 1 as formulated with the Committee, to wit:

SECTION 1. THE NATIONAL LANGUAGE OF THE PHILIPPINES IS FILIPINO, BASED ON THE EXISTING PHILIPPINE AND OTHER LANGUAGES, CONGRESS SHALL TAKE STEPS TO FURTHER DEVELOP AND ENRICH IT ON SUCH BASIS AND FOR THAT PURPOSE, SHALL ESTABLISH A COMMISSION ON NATIONAL LANGUAGE

He explained that the phrase "existing Philippine and other languages" refers to the existing regional and native and foreign languages from which words may be assimilated into the common Filipino national language.

In reply to the Chair's query, Mr. Davide stated that his proposal would be the first two sentences Of Section 1 without prejudice to the addition of Other sentences.

The Sponsor accepted the proposed amendment to be the first two sentences of Section 1.

OBJECTION OF MR. OPLE

Mr. Ople pointed out that the proposed amendment would open the original provision to future interpretations which might be different from the intent of the Committee. He stated that its being based on the existing regional and native languages and other foreign languages might disregard what had been developed through the centuries and had been recognized in the 1935 Constitution.

He then suggested deferment of further debate thereon to the next session in order that the Committee would have more time to study the matter.

In reply to the Chair's query on the difference between the first sentence of Mr. Davide's proposal and that of the

Committee, Mr. Davide explained that the original proposal may be interpreted that it would only be based on one Philippine native language, but his proposal would allow the assimilation of words from other native and foreign languages, as suggested by Professor Constantino.

Mr. Ople contended, however, that the proposal would disregard what had been developed historically and would be open to different interpretations.

Mr. Rigos suggested continuance of the discussion on the national language in the next session to afford the Committee time to further study the matter.

ADJOURNMENT OF SESSION

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

It was 6:43 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 10, 1986

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