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Thursday, September 4, 1986

OPENING OF SESSION

At 10:01 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Rene V. Sarmiento.

MR. SARMIENTO: A reading from the Book of Sirach, Chapter 25, verse 1:

With three things I am delighted for they are pleasing to the Lord and to man:

Harmony among brethren, friendship among neighbors, and the mutual love of husband and wife.

PRAYER

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

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

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

In Jesus' name, we pray. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present [*] Natividad Present [*]

Alonto Present [*] Nieva Present

Aquino Present Nollado Present[*]

Azcuna Present [*] Ople Present[*]

Bacani Present Padilla Present

Bengzon Present [*] Quesada Present

Bennagen Present Rama Present

Bernas Present [*] Regalado Present

Rosario Braid Present Reyes de los Present

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Absent

Davide Present Sarmiento Present

Foz Present Suarez Present

Garcia Present [*] Sumulong Present

Gascon Present [*] Tadeo Present [*]

Guingona Present Tan Present

Jamir Present Tingson Present

Laurel Present [*] Treñas Absent

Lerum Present Uka Present

Maambong Present [*] Villacorta Present

Monsod Present Villegas Present

The President is present.

The roll call shows 32 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of a quorum.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we dispense with the reading of the Journal of yesterday's session.

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

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

(Communication No. 706 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from fifty-three (53) concerned citizens of Davao City and Davao del Sur, appealing to the Constitutional Commission to consider favorably provisions that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State.

(Communication No. 707 — Constitutional Commission of 1986)

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

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

(Communication No. 708 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

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

(Communication No. 709 — Constitutional Commission of 1986)

To the Committee on General Provisions.

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

(Communication No. 710 — Constitutional Commission of 1986)

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

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

(Communication No. 711 — Constitutional Commission of 1986)

To the Committee on General Provisions.

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

(Communication No. 712 — Constitutional Commission of 1986)

To the Steering Committee.

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

(Communication No. 713 — Constitutional Commission of 1986)

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

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

(Communication No. 714 — Constitutional Commission of 1986)

To the Committee on General Provisions.

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

(Communication No. 715 — Constitutional Commission of 1986)

To the Committee on General Provisions.

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

(Communication No. 716 — Constitutional Commission of 1986)

To the Committee on Human Resources.

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

(Communication No. 717 — Constitutional Commission of 1986)

To the Committee on General Provisions.

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

(Communication No. 718 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 29

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

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we continue the consideration of Committee Report No. 29 on the Article on Education, Science, Technology, Arts and Culture. We are now in the period of amendments.

THE PRESIDENT: Is there any objection that we continue the consideration on Second Reading of the proposed Article on Education? (Silence) The Chair hears none; the motion is approved.

We request the honorable chairman and members of the Committee on Human Resources to please occupy the front seats.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, there was a pending proposed amendment to Section 1, page 1 of the committee report. I submitted yesterday an amended omnibus amendment to the proposed article, and I would like to modify my earlier proposed amendment to Section 1 (a) to read as follows: "IT SHALL BE THE DUTY OF THE STATE TO PROVIDE EDUCATION TO ALL THE CITIZENS, AND TO ENSURE EQUAL ACCESS AND OPPORTUNITY TO IT. MEASURES TO PROMOTE QUALITY EDUCATION AT ALL LEVELS SHALL BE VIGOROUSLY IMPLEMENTED." Madam President, this will actually reconcile the problem presented by Commissioner Ople.

THE PRESIDENT: Will this be the opening paragraph of Section 1?

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: Is the committee ready to give any observation?

MR. VILLACORTA: The Commissioner is, in effect, amending the proposal which he earlier submitted which states: "THE STATE SHALL PROMOTE THE RIGHT OF CITIZENS, et cetera."

MR. DAVIDE: Yes, Madam President. The modified proposal will reconcile the problem presented by Commissioner Ople and it will also meet what Commissioner Gascon had repeatedly requested that we should emphasize the duty of the State.

MR. VILLACORTA: Commissioner Gascon would like to give his reaction to this proposal.

MR. GASCON: Madam President, we have no serious objection to the Commissioner's proposal, but we would like to emphasize the right of the citizen to such education which is the duty of the State to provide. Although it is implied, we feel that it would be for clarity's sake to make use of the words "the right to education."

MR. DAVIDE: I understand that Commissioner Aquino has a proposal to amend my amendment. I would like to listen to it.

MS. AQUINO: This is an attempt to satisfy the specific desires of the committee in the formulation of Section 1. My proposed amendment to Commissioner Davide's amendment would read: "EVERY CITIZEN HAS AN EQUAL RIGHT TO EDUCATION. THE STATE GUARANTEES THAT NO ONE SHALL BE LEFT WITHOUT ACCESS TO EDUCATION." The qualification of the right with the word "EQUAL" is being introduced to approximate the problem presented by Commissioner Ople on the possibilities of arbitrary classification in terms of availments of educational facilities.

MR. VILLACORTA: Commissioner Guingona is recognized.

MR. GUINGONA: Madam President, this has reference to the use of the word "QUALITY." If the Commissioner would allow me, I would elaborate briefly on the matter of quality education as I had explained in a previous session. The quality of education has been linked by me with the imposition of minimum requirements.

Webster defines "quality" as the degree of conformance to standards. I assume that the word "standards" here would mean acceptable or suitable standards, which would mean that the quality of education should be acceptable or suitable. And there is no agency, body or ministry that is most qualified to provide minimum requirements in order to bring about quality education than the Ministry of Education, Culture and Sports.

As a matter of fact, Madam President, the ministry has done this not only through the Manual of Regulations for Private Schools, but also through numerous memoranda and circulars, as well as other manuals including the Qualification Standards Manual.

Just to show the extent of coverage of the minimum requirements, Madam President, may I be allowed to enumerate some of the areas of concern. These include administration, institutional objectives, financing, faculty qualifications, library facilities, textbooks and other instructional materials, curricula, laboratory, methods of teaching and physical facilities, which would include prohibition of having more than a number of students or limiting the number of students in a class, and institutional facilities and contributory programs regarding research and community involvement. Of course, there are educational institutions which provide requirements higher than the minimum requirements. And we could say that these schools are providing not only quality education, but higher quality education. It has often been said that education or institutions of higher standards are expected to grow continuously and progressively, which is a reiteration of what I have said earlier that "Better than ever is not enough."

With respect to the word "QUALITY," I think it is the agreed sense of the committee that it should be included in

Section 1 (a). However, my personal preference is not to include it in said section, which is sought to be amended by the honorable Commissioner Davide, but in the section on supervision and regulation, which is Section 2 (b). This is precisely the original proposal of the committee as contained in the committee report. It is through external governance, supervision, regulation, prescribing of minimum requirements and seeing to it that these are observed that the aims of quality education are realized.

Thank you, Madam President.

MR. VILLACORTA: Madam President.

THE PRESIDENT: Commissioner Villacorta is recognized.

SUSPENSION OF SESSION

MR. VILLACORTA: Since the members of the committee have different ideas on how to react to the Davide and Aquino amendments, may we request a two-minute suspension.

THE PRESIDENT: The session is suspended.

It was 10:23 a.m.

RESUMPTION OF SESSION

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

THE PRESIDENT: The session is resumed.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, during the suspension of session, the three main proponents, Commissioners Aquino, Bernas and this Representation, had agreed to present a joint modified amendment which will be read into the record and sponsored by Commissioner Bernas. Other coauthors of the proposal are Commissioners Monsod and Rama.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, the proposed provision now reads: "THE STATE SHALL, IN SUPPORT OF THE PRIMARY RIGHT OF PARENTS, PROTECT AND PROMOTE THE RIGHT OF ALL CITIZENS TO QUALITY EDUCATION AT ALL LEVELS OF EDUCATION AND SHALL TAKE VIGOROUS STEPS TO MAKE SUCH EDUCATION ACCESSIBLE TO ALL."

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I would like to propose an amendment to the amendment. Can we substitute another word for the word "VIGOROUS," like "NECESSARY" or "APPROPRIATE"?

FR. BERNAS: I would have no objection to a substitute word.

THE PRESIDENT: May the Chair know the substitute word for "VIGOROUS."

MR. MONSOD: It is "APPROPRIATE," Madam President.

THE PRESIDENT: Is that acceptable to the sponsor?

FR. BERNAS: Yes, Madam President.

MR. GASCON: How would the phrase now read?

FR. BERNAS: The phrase would now read: "SHALL TAKE APPROPRIATE STEPS TO MAKE SUCH EDUCATION ACCESSIBLE TO ALL." The provision emphasizes four things: 1) that the primary right of education belongs to the family; 2) that the State has the duty to support this primary right; 3) that the State shall make efforts to support this primary right by promoting quality education; and 4) making such quality education accessible to all.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Just some observations, Madam President. I propose that the reference to the natural right of the parents be deleted from this section and instead transposed to Section 1 (b) regarding compulsory education. In terms of conceptual balance, the perspective and priorities of rights are better placed and appreciated in the context of compulsory education which is included in the committee report. So I propose the deletion of that reference in Section 1 (a) and I would accordingly propose an amendment in Section 1 (b) to accommodate that principle.

MR. GASCON: Madam President, we would like first to express that the committee feels the same way, that the phrase "IN SUPPORT OF THE PRIMARY RIGHT OF PARENTS" is not necessary because it is assumed as the basic premise when we speak of education that it is the right, duty and obligation of the parents to provide for the education of their children. Second, it is included, at this point in time, in the Family Rights Article which shall be presented later on. So because of these two basic premises, we feel that it is unnecessary for it is already assumed.

FR. BERNAS: On that understanding, I would not object to the deletion of the phrase "IN SUPPORT OF THE PRIMARY RIGHT OF PARENTS" on the understanding that this concept is accepted and, in fact, will be enshrined elsewhere in the Constitution.

MR. GASCON: Yes, that is correct. And besides, Madam President, when we speak of that right, we speak of two rights, in fact — the primary right of parents to provide education for their children and the basic right of every citizen to that education.

FR. BERNAS: That is correct, Madam President.

MR. GASCON: So it is not only the duty of the State to support the primary right of parents to provide for education, but also to provide for such a right to education.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Apropos of the comment of Commissioner Bernas that the principle should be stated in some other place, I propose that we recognize the primary right of parents to educate their children in the Article on Declaration of Principles.

MR. GASCON: The committee does not have any objection at all.

MR. MONSOD: Thank you.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: In the proposal of Commissioner Bernas, he vindicates the right of all citizens to quality education at all levels. Am I correct, Madam President?

FR. BERNAS: Yes, The Commissioner is correct.

BISHOP BACANI: I would like to know whether the Commissioner would really want to vindicate the right of every single citizen to education in the tertiary level. Would the Commissioner consider that a right of every citizen?

FR. BERNAS: Yes, I would consider it a right. And although we say that the State shall protect and promote the right of all citizens and also take appropriate steps to make such education accessible to all, this is not a prescription that the State, therefore, should give free education up to the tertiary level but that the State should take steps and promote measures, which will ensure that education up to the highest level would be quality education.

BISHOP BACANI: Yes, but would that mean, Madam President, that the State, therefore, cannot prescribe qualifying examinations which would screen students for education at the tertiary level so that they could say: "I have a right to this. The Constitution vindicates my right to this and so you cannot stop me from having education at the tertiary level as well."

FR. BERNAS: Precisely, part of the duty of the State to provide quality education is the duty to screen those who are not qualified, because if we accept unqualified people into higher education, then we are diluting the quality of education. Besides, not everyone will qualify.

MR. GUINGONA: Madam President, as I mentioned earlier, all rights, including the right to education, are not absolute. In other words, these will be subject to the inherent right of the State to exercise police power.

MS. ROSARIO BRAID: Also, Madam President, we accept the concept of quality. Would quality, to Commissioner Bernas' mind, include taking into consideration the differential aptitudes, the logic, the unique capabilities and limitations of learners who come from different levels of socioeconomic and cultural development?

FR. BERNAS: Yes, we will take those into consideration. A person may have very strong native skills, but because of the fact of background, it may be that these skills are undeveloped. And part of the duty of the State would be to offer opportunities for such a person to be able to develop himself so that he can qualify for higher education.

MS. ROSARIO BRAID: Or to move away from homogeneous curricula and approaches to take into consideration these unique capabilities. Is that the intent?

FR. BERNAS: Yes, Madam President.

MS. ROSARIO BRAID: I ask because, otherwise, we would introduce the concept of appropriateness after the concept of accessibility.

FR. BERNAS: Yes, Madam President. What I am trying to say there is that, for instance, to go into a doctoral level, to allow a person to be promoted to a doctoral level, would already imply that the State should have higher requirements for the doctoral level. If a person is not qualified for that, then there is no right.

MS. ROSARIO BRAID: Thank you, Madam President.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: I would like to suggest that we just state in this section a general principle that the State shall protect and promote the right to education of all citizens. In Section 1 (b), I propose an amendment to read: "The State shall establish and maintain a system of free public ELEMENTARY education AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS AND AT THE TERTIARY LEVEL FOR THOSE QUALIFIED."

THE PRESIDENT: Is the proposed amendment acceptable to Commissioner Bernas?

FR. BERNAS: Madam President, I would like to introduce the concept of quality as early as possible. We are trying to raise the standards of education. And if we say that our aim is any type of education, then we would be diluting our aim. So I would like to introduce the concept of quality as early as possible in the very first sentence of the Article on Education.

MR. RAMA: Madam President.

THE PRESIDENT: Commissioner Rama is recognized.

MR. RAMA: I was insisting on the inclusion of the words "QUALITY EDUCATION," because we have a peculiar problem in this country. There has been a survey which shows that many of our schools are "diploma mills." That is a peculiar problem of this country. In other words, we should frame a Constitution not in the vacuum of theories and principles from other countries. We should address this peculiar problem.

Now why quality education? It would be defeating our purpose if we give education to everybody. And with the kind of education that we have which is farcical, it gives no education at all. So this is a peculiar problem that I believe is one of the biggest rackets in this country. The parents are made to pay and sacrifice all their lives to send their children to school to get inferior or no education at all. And that is a waste of money and the biggest racket of which the parents in this country are victims. So I hope that we maintain the words "QUALITY EDUCATION" to address a peculiar problem in this country.

MR. GUINGONA: Madam President, I would like to take exception to the particular remark of the honorable Floor Leader that there is rampant existence of "diploma mills." I do not know of the survey he is talking about. If he is talking of the SOUTELLE survey, what was shown there was that, in general, public education in the elementary and secondary level performs in a less efficient manner than that in the private schools. If he is referring to the Monroe survey, that occurred more than 30 years ago.

What I am trying to say, Madam President, is that generally, our educational system, both public and private, is providing quality education because, clearly, the fact that we have had graduates whom I said had distinguished themselves in many areas of activities and that we have been attracting even foreign students to this country mean that we are not providing a very poor type of education really.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Although Commissioner Guingona, our vice-chairman on Education, has made substantive research on this matter, we still agree with the proponents that on the primary level, particularly in barangay schools, there is much to be desired in terms of quality of education. So I think, generally, the

committee accepts the concept of quality which we have included on page 2, Section 1 (c). The proponents would like to transpose this to Section 1 (a) as its first sentence, because we will note that it is on page 2.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Actually, my proposal also includes that — that we just state in Section 1 (a) that the State shall protect and promote the right to education of all citizens and amend Section 1 (b) to read: "The State shall establish and maintain a system of free public ELEMENTARY education AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS AND AT THE TERTIARY LEVEL FOR THOSE QUALIFIED."

MR. GUINGONA: Madam President, may I invite the attention of the honorable Commissioner that at our caucus held two days ago, the committee agreed that we would deliberate on this proposed article on a section-to-section basis. The honorable Commissioner Bernas is now going to the next section.

Actually, we agreed that the sequencing would not be done by us here on the floor. We have taken into consideration the proposals of the honorable Commissioners Maambong and Monsod and we have, in fact, already prepared our sequencing which we are ready to distribute either this afternoon or tomorrow in final form.

So we believe that the sequencing is not to be considered here. What we should consider is the substance of the various sections. If Commissioner Davide has his own proposal regarding sequencing, we would also be glad to take that into consideration so we should first take the proposal of Commissioner Bernas with regard to Section 1 (a) and proceed to Section 1 (b).

BISHOP BACANI: Madam President, the reason I came in at this point is that precisely I have a difficulty establishing a right of all citizens to education at the tertiary level. I have no difficulty affirming strongly that that should be made accessible to all and that those qualified should be admitted. But I cannot, at this point, affirm that every citizen has a right to education at the tertiary level. That it should be made accessible to all, is quite clear to me; but that everybody has a right to that, is not clear to me. That is the reason I formulated my amendment in that way.

MR. GASCON: I believe Commissioner Tan, who is a member of the committee, wishes to present something.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: I have been feeling confused because we have been talking about quality education and evidently our concept of quality education is different. Some of us believe that we do not have quality education and others believe that we are so great in quality education that foreigners come to our country to be educated.

Since this is very substantial and important for all of us more than sequencing, I would like to ask the president of the Ateneo University to let us know what his ideas are about quality education.

FR. BERNAS: Education is a combination of many things. It involves acquisition of information, development of critical thinking, one's artistic talents, moral qualities and his sensitivity to the needs of others, and so forth. All of these, as much as possible, should be maximized. That is my concept of quality education.

Perhaps, it is easier to define what is not quality education. One has to have, at least, the minimum — reading, writing and arithmetic — at least, mastery of a certain language and reading and writing. That is very basic as far as skills are concerned.

And I think it is generally accepted that education, especially in the elementary level, has deteriorated so much.

When a person who has the basic talent is accepted into the secondary school and he or she will be capable of receiving instruction proper to secondary schools. This affects the whole chain. If one has poor quality on the basic level of education, it affects the entire system.

What we are trying to say is that the State should attend to this, and this will have to be very gradual. At the moment, for instance, the emphasis, I think, of the government is on making sure that basic education is really solid, because if it is not solid, it affects the quality of secondary education. If secondary education is poor, then the person goes to college unprepared for college work. And if he is allowed to graduate again with a poor quality college education, he goes to university professional education even more unprepared. So this is my understanding of quality education.

What I am trying to say is that the State should recognize its duty to promote quality education and as much as possible make this accessible to all and not just to the wealthy.

THE PRESIDENT: Commissioner Padilla is seeking recognition.

MR. PADILLA: Madam President, I am in favor of the proposal of Commissioner Aquino which is more simple and clear.

Our country, Madam President, was one of the highest in literacy rate in Asia. Unfortunately, we have illiterates that count to millions. In fact, we wanted to qualify suffrage to the literates but, apparently, the "Rama resolution" objected to it. Many of our people do not even have the basic three "Rs"; they cannot read or write.

I think the primary purpose of state education, if not private education, is to make all our people, if possible, literate, and that is only the primary grades. Then comes the elementary grades, high school and tertiary education: college, university and other higher branches of learning. Madam President, I am in favor of "quality education," because even law students sometimes have no adequate qualification. Many of them cannot even write clear and correct English. But to say that we must assure quality education from the primary or elementary grades to the tertiary level is a beautiful dream. I am not against quality education, but to impose it from the very start when we cannot even make all our people literate is somewhat visionary. We have to be a little more practical and make our people first literate through the primary grades. I have been mentioning minimum requirements to prevent some schools that others call "diploma mills" to operate as sources of profit without the real purpose of true education. But finding or qualifying with the minimum requirements does not necessarily mean high quality education. Why do we not just say, as Commissioner Aquino stated "EVERY CITIZEN HAS AN EQUAL RIGHT TO EDUCATION. THE STATE GUARANTEES THAT NO ONE SHALL BE LEFT WITHOUT ACCESS TO EDUCATION"? It is very simple as the first paragraph. And later on we may mention elementary, secondary and tertiary education. I do not believe that the State has a right or duty to give all the citizens tertiary education. That will be limited to some students, whom God has given more talents, who are qualified for higher learning. After the elementary grades, and even before high school, many students go to technological schools rather than pursue liberal education. I am in favor of liberal education, with the basic principles of logic, but that cannot be extended to all citizens and, inevitably, not as a mandatory duty of the State.

Thank you, Madam President.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I just reiterate that when the proposal here says that all citizens should aspire for quality education or that the State should protect and promote the right of all citizens to quality education, it does not

mean that everyone is entitled to go to UP. That is not what it means. What it means is that all citizens are entitled to quality education according to their level of talent. At least on the elementary level he should have quality education, but if he has the talent to go further, then he should be given quality education in the secondary level. And if he has the talent to go further, he should be given quality education in the tertiary level. I would like to emphasize the idea of "quality" because we are living in a context of a Philippine situation where educators are precisely deploring the deterioration of education in the Philippines. So, if we just mention education in general again, we are losing this opportunity to emphasize the urgency of raising the level of education in the Philippines. We had a fairly good system of public education some years ago, but it is commonly accepted that both on the private and the public levels, there has been a very serious deterioration in education. And we must address this. We have the opportunity, and we do this by emphasizing "quality." I am telling the State: Do what you can to improve the quality, and do what you can to make sure that this quality education is accessible not just to those who can afford to pay high tuition but to everybody. In other words, to be more concrete, for instance, the State maintains the University of the Philippines. And anyone who is qualified has a right to try to get into UP. We are telling the State here, as much as possible, to establish more state colleges and universities around the Philippines. Or, if this is not acceptable, at least, give subsidies to students so they can go to private schools. This is what we are saying. We are not saying that everyone should go to the university level. We are not saying that at all.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Before I propound one question to Commissioner Bernas, may I just say that with that explanation, I think this provision is not visionary nor idealistic, but practical and good for our people.

When the Commissioner speaks of quality education at all levels, will this include quality education at the preschool?

FR. BERNAS: I do not know what the status of preschooling is now. I think preschool means "before the school."

MR. SARMIENTO: Let us say, nursery and kindergarten. Would these be covered?

FR. BERNAS: I would say no.

MR. SARMIENTO: I thank the Commissioner.

MR. GUINGONA: Madam President, Commissioner Bernas spoke of Philippine conditions and I had made reference to the degree of the quality of education. In relation to tertiary education, if we try to compare, for example, a Filipino student with an American student, then perhaps we could say with reasonable certainty that the first year student in the United States would be better qualified. But that is due to other factors. For example, in the United States, to finish secondary level, the student has to go through 12 years of elementary and secondary education. Here, we only require ten years. So, actually, a first year student in the tertiary level in the Philippines would only be a fifth year high school student in the United States.

FR. BERNAS: Madam President, my own experience is that when some students from some schools in the Philippines go to the United States, they try to enter the equivalent level of the school in the United States. They get in there and they are immediately accelerated. There are some quality schools here.

THE PRESIDENT: May the Chair know whether or not the committee accepts this new formulation.

MR. VILLACORTA: Madam President, before we announce our decision, we would like to point out that things would have been simpler if the body accepted the original formulation of the committee which says:

Education is the right of every citizen of the Philippines. The State recognizes its duty of providing education to all citizens.

But after conferring with the members of our committee, we are accepting the Bernas, Rama, Aquino and Davide amendments.

MR. GASCON: Madam President, what we would like to emphasize first is that we are now discussing Section 1 (a) and these are the basic principles we would like the body to discuss: the right of every citizen to education and the duty of the State to provide for such education. We are not yet speaking of the different levels and others.

Now there have been proposed reformulations of the basic principles. For example, in the Aquino, Bernas, Davide and Rama amendments, when we speak of the duty of the State, of course, we are already taking as a basic premise the primary right and duty of the parents. This is already an assumed premise. The duty of the State to provide education is included in the phrase "The State shall protect and promote." Then the provision defines that there is such a right to education of all citizens. It continues to define further its duty by stating that it shall take appropriate steps to make education accessible, which is the basic essence of the second sentence in our original proposal. There is a new added concept, which is the concept of quality education, the definition of education that not only is it the duty of the State to support the citizen's right to education but also to assure that whatever education such a citizen thinks as his right, should be quality.

We do not define quality as the levels of education alone — primary, secondary, tertiary. There could be different forms of quality education. So this is a new added concept to our original proposal; that is why we have accepted the proposed section. We feel that it still reflects our basic principles of defining the right of the citizen to education and the duty of the State to provide for such.

BISHOP BACANI: Madam President.

THE PRESIDENT: Just a very brief reminder, Commissioner Bacani, because this matter has already been sufficiently discussed in the previous meetings.

BISHOP BACANI: The reason I objected to the formulation of Commissioner Bernas was that I thought he was asserting a right to college education for all. But now I see that the thrust is to have a right to quality education in the college level. So I do not interpose any objection to Commissioner Bernas' proposal.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

We would just like to clarify a few points with Commissioner Bernas because I heard Commissioner Gascon say that the Bernas proposal elevates the right of citizen to education to the right of citizen to quality education. Is my understanding correct?

FR. BERNAS: Yes, although I would say that we are not saying different things. I am sure that when Commissioner Gascon says education, he means quality education. But I put in "quality" here because of the context we live in. We just want to emphasize that. Not just any institution which calls itself a school should be recognized as a school.

MR. SUAREZ: Thank you. So it is clear that the right sought to be promoted and protected under this provision is the right of every citizen to quality education, which is at all levels.

FR. BERNAS: Yes. And, moreover, the right to go to the various levels would depend on the person's talents and capabilities.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Before we vote, I would like to pose an inquiry. Are we voting for an amendment by substitution to Section 1 (a) only?

MR. GASCON: That is correct, Madam President.

MR. RODRIGO: Thank you.

MR. GASCON: Another thing, when we speak of education here, it does not mean only formal education but also informal and nonformal education. This is the first of the basic principles of the right to education in whatever form and level.

MS. ROSARIO BRAID: Madam President, to allay the fears of those who feel that this will involve additional huge investments, I think the concept of quality means using existing resources more creatively. Any additional investment would mean the reorientation of teachers so that they are able to develop more learner-oriented approaches in teaching with the maximum use of community resources. Therefore, we relate education to the relevant needs of the communities, so that when a Grade IV student drops out, he would be able to fit his skills to the needs of the communities' economic and social development programs.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada desires to be recognized.

MS. QUESADA: Just for the record, I would just like to state here that the concept of accessibility also includes the concept of availability and affordability.

MR. RAMA: In addition to what Commissioner Rosario Braid has stated, I would like to tell this honorable Commission why we have this peculiar problem. I made a research on this for a series of articles in the Philippines Free Press. The peculiar problem of a low standard of education came after the war. When the war broke out and we set up our educational system, there was a dearth of teachers. So the government was hiring every Pedro, Pablo and Juan, even if he was not qualified to be a teacher.

Second, there was a great period of profiteering at that time so that we have 2,000 fake teachers, many of whom are still in the teaching profession. That is the finding that we made which was confirmed by the Department of Education.

And third, there was a preposterous law passed by Congress soon after the war which gave an additional credit or percentage to anybody who passed or did not pass the examination of teachers on the ground that they were veterans. So the government could not really get the better teachers. If they failed in this examination, say, if they got only 70%, they were given an additional 5% because they were veterans. These are some of the things that created this peculiar problem where we have a very low standard of education. So I hope we maintain the words "quality education."

MR. SUAREZ: I am satisfied with the explanation of the Commissioner. But may I go to another point. Commissioner Bernas uses the phrase "PROTECT AND PROMOTE." This is a little bothersome because it could lead to unnecessary litigations. Let us take the case of a simple Juan de la Cruz going to court compelling, by a mandamus action that a certain university should provide quality education. Does the Commissioner not think that under this provision, if we do not delete the phrase "PROTECT AND PROMOTE," we may be swamped with unnecessary litigations, Madam President? Notwithstanding the observation of the Honorable Guingona, there

may indeed be some "diploma mills" abounding all over the country. What is the Commissioner's thinking about this, Madam President?

FR. BERNAS: My thinking about that, Madam President, is that I do not think we really need to fear because concretely, for instance, if a student were studying in a school and found out that the teachers were unqualified, the facilities were not as promised and so forth, then he could appeal to this provision. He should have a right to appeal to this.

MR. SUAREZ: Precisely, that student will seek the protection of the State.

FR. BERNAS: Correct.

MR. SUAREZ: He can do this by compelling that university or school to improve the quality of its education. Can he do that?

FR. BERNAS: Yes, or if one wants that school to continue its operation, the complaints could be addressed also to Congress. Usually a school is unable to continue because it needs money. Precisely a school could have a low standard because it does not have the money to pay qualified teachers, to buy good books and so forth. Hence, students could address their complaints to the State also, telling the State: "Look, if you want the school to continue, it is your duty to support it."

MR. SUAREZ: I have been handling a number of cases in behalf of student demonstrators who were demanding quality education in the form of good teachers, good books, academic freedom, improved facilities. Will this statement "The State shall protect and promote the right of all citizens to quality education at all levels," be a license or permission for them to go before our courts and demand the protection which is provided under this provision?

FR. BERNAS: The answer would have to be in the affirmative, with proper explanation. If the school involved is a state school, then I think the State can easily answer that. But if the school involved is a private school, which is precisely in such situation because the State is not allowing a private school to collect the tuition that is necessary to raise its quality, then the private school would have a proper defense. This will awaken the eyes of the State to the fact that, if the private schools are to deliver quality education, then there must be some reasonableness in the regulation of tuition fees.

MR. SUAREZ: So who, in the ultimate analysis, will determine whether a certain school is providing quality education or not? Would it be the courts or the State through its instrumentalities or agencies like the Ministry of Education, Culture and Sports?

FR. BERNAS: Certainly, the State, by its police power, can insure that there are minimal levels of quality education. But there are other ways of insuring quality. Private accrediting associations, for instance, are very effective in raising the quality of education and part of the thing which can be done by the State is to recognize private schools that are already delivering quality education. Hence, we should not just lump them together with everybody else in terms of regulation.

MR. SUAREZ: Under the Commissioner's theory, that assumes that there will be practically a reexamination or review of the quality of the education now being given by these private schools. Is that what the Commission has in mind?

FR. BERNAS: We are entering into the area of accreditation. Certainly, the State has some authority to determine at least minimum levels of quality. But private educators also have the right to require even more.

MR. SUAREZ: Can we agree on the procedural matters to be taken up regarding the matter of providing quality

education? I asked so because I would like to prevent the proliferation of suits against the State or the school. Can we put in the record that under this provision, what is contemplated is that a complaining student can address his protest against the State instrumentalities or agencies before going to the courts for seeking refuge under this particular provision?

FR. BERNAS: Under the principles of exhaustion of administrative remedies, yes.

MR. SUAREZ: Thank you .

MR. RAMA: Madam President, the body is now ready to vote on that amendment.

MR. GASCON: The committee has accepted the Bernas amendment.

VOTING

THE PRESIDENT: The committee has accepted the amendment.

As many as are in favor of this proposed Bernas, et al amendment which has been accepted by the committee, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (One Member raised his hand.)

The results show 28 votes in favor and 1 against; the amendment is approved.

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

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Madam President, I would propose an amendment by substitution to the second sentence of Section 1 (b), lines 1 and 2 which will now read: "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE."

MR. VILLACORTA: The committee accepts the amendment.

THE PRESIDENT: Is the amendment by substitution for the entire paragraph?

MS. AQUINO: This is only for the second sentence of Section 1 (b), lines 1 and 2.

MR. GASCON: The second sentence reads: "Education shall be compulsory through the elementary level."

MS. AQUINO: Again, the amendment by substitution reads: "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE." The intent and reason for this is that, however strong its interest in universal compulsory education, the State's interest is not absolute to the exclusion of all the other interests. It is consistent in jurisprudence that the children are not mere creatures of the State. Those who nurture them and those who direct their destinies have the primary right to develop them for additional obligations.

MR. RODRIGO: Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to propound a few questions.

I am really against this provision making elementary education compulsory, but then Commissioner Aquino puts a condition which is about the rights of parents. However, what is the meaning of that? Does it mean that if the parents say, "I do not want my child to go to school," then that child is exempted from the compulsory elementary education?

MS. AQUINO: Yes. For clarification, the provision for compulsory education is already a historical imperative and I suppose we are in agreement on that principle. But the qualification in the clause, "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS," taken in context with the second part of the sentence, only hopes and aspires to set some kind of a moral compulsion for the parents to lead their children to undertake primary education. We do not speak in terms of sanctions or in terms of penalty for a misdemeanor, but we speak in the nature of a moral compulsion.

MR. RODRIGO: In our 1935 and 1973 Constitutions, there is no provision making compulsory elementary education.

MS. AQUINO: Yes, that is true.

MR. GASCON: If the Commissioner will still recall during the period of interpellations, the reason we had included the provision on compulsory elementary education is to stop the retrogression which is occurring at present, wherein our literacy rate is going down, and, second, we feel that if we make elementary education, at least, from the position of Commissioner Aquino, as morally compulsory, this would alleviate the situation where our illiteracy rate is increasing and would avoid the situation where retrogression of those who dropped out of school will no longer occur.

MR. RODRIGO: But if we make it a provision in the Constitution, we do not make it only morally compulsory. It is compulsory by constitutional mandate.

MS. AQUINO: May I add to supplement the position of Commissioner Gascon on the matter that when I say that compulsory education is a historical imperative, it is not only the call of progress but it is also an attempt to arrest the problem of declining literacy which has a chain reaction to the problems of involuntary child labor, child prostitution and the host of other social ills that arise from ignorance. Now, as I have qualified, a constitutional mandate for compulsory elementary education does not necessarily provide for an impetus for sanctions. This has been consistently ruled in jurisprudence in the United States of America, like in the case of *Wisconsin vs. Yoder* and that of *Pierce vs. Society of Sisters in the Holy Name of Jesus*. In fact, compulsory education has been adopted in almost all of the constitutions all over the world except that it would have to yield to the recognition of the primacy of the natural right of the parents, lest it would infringe on the free exercise clause of the First Amendment and the Fourteenth Amendment.

MR. GASCON: In fact, when the Universal Declaration of Human Rights itself spoke of education it states that elementary education shall be compulsory. This is in Article XXVI, which is stated for that very same reason advanced by Commissioner Aquino.

MR. RODRIGO: Yes, but we have to be practical about this. First of all, I know that in the provinces there are many barrios without school buildings. According to Dr. Juanita Guerrero of the Bureau of Elementary Education, the government provides elementary education free of tuition and matriculation fees but it does not give free books or free materials. So what will happen to the children of very poor families, either in Manila or in the provinces who cannot afford to buy books? With this situation, some parents could not send their children to school. They try to encourage them to go but do they penalize them? If there is no penalty, then what is the use of making it compulsory? How can we make it compulsory unless there is a sanction?

MR. GUINGONA: As I mentioned in an earlier discussion, the sense of the committee is that the word "compulsory" is not to be construed or interpreted in its strict sense. As a matter of fact, I made reference to exemptions provided by the government with regard to school attendance, and I mentioned about the accessibility, which may be three kilometers away, or if the children cannot afford. I enumerated all of these the last time, which show that this is subject to exemptions.

MS. AQUINO: Madam President, the intention in the provision is that when there is a constitutional mandate, it should have enough moral suasion to carry with it compulsory effect but without necessarily entailing sanctions or penalties. In fact, it has been ruled out in the host of cases in the United States that to penalize the failure to abide by the rules of compulsory education as a misdemeanor is unconstitutional.

MR. RODRIGO: Madam President, I view this also from my position as chairman of the Committee on Style. Why should we use the word "compulsory" if it is not really compulsory? We cannot compel because as the Commissioner says there is no sanction. So, why do we not use some other words, like "persuade" or "encourage"? I have been raising this point all the time for when the Constitution says "shall provide free high school education," the understanding is that it is a commitment of the government. Then we say, "it shall," although it is not really a commitment.

Here it is compulsory, but there is no sanction. We do not compel, and if the parents do not want to send their children to elementary school, then they do not have to go. Why should we use the word "compulsory"? We might be misleading our people.

MS. AQUINO: I do not share the apprehension of Commissioner Rodrigo. In fact, I think his fear is more apparent than real. The concept of compulsory education subject to the primary right of the parent, has acquired a settled usage in law and in jurisprudence.

MR. RODRIGO: It is not a fear. I am not afraid. It is just that I want to call a spade a spade, and I would like to state that in the 1935 Constitution, we do not have such a provision making elementary education compulsory. Neither do we have it in the 1973 Constitution. Now that we are in an economic crisis, we, all of a sudden, incorporate in our Constitution a provision making elementary education compulsory. We are saying it is compulsory, but it is really not.

That is all I want to express.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I would like all our children to acquire not only primary education, but also elementary, and, if possible, high school. But when we affirm the right of a child, can the exercise of that right be compelled? A person may waive the exercise of his right but he cannot be compelled to exercise that right. If the word "compulsory" carries no penal sanction, not even as a misdemeanor, then said word may appear attractive but it may not have real value.

Is it not enough that the State should provide for free primary or elementary education but should it be made compulsory? To attach any kind of a sanction for non-exercise of a right would be illegal and unconstitutional. That is why I share the view of Commissioner Rodrigo that there are goals we want to achieve, but we have to be careful that the means we will use are not only within the resources of the State but it should also be realistic and practical.

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

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

That word "compulsory" existed in the 1935 Constitution, but if I remember right, it was compulsory only up to the primary level. Then it was extended up to the elementary level. I remember very well that in the 1971 Constitutional Convention, the use of the word "compulsory" was extended up to Grade 6 or Grade 7 because the government was alarmed by the increase of illiteracy on a certain period of time in our Republic. Considering the basic and national purpose, a transcendental purpose of promoting literacy in the country, I believe that the right cannot be waived. While it is true that a minor cannot waive, still a parent can waive in the child's favor. Thus, the imperative demand for increasing literacy shall result in the "non-waivability" of the right.

So, I believe that we have to retain the word "compulsory" there. The fact that we put "compulsory" and we do not punish does not necessarily mean that we preclude Congress from providing for a sanction whether civil or criminal. Perhaps, the criminal sanction may take the form of a fine or forfeiture of certain privileges in a reasonable manner. Considering that our literacy percentage is not too high as compared with other civilized countries of the world, the word "compulsory" shall exist. The fact that there is no sanction does not mean that the word "compulsory" is out of place because it opens the avenue for Congress to provide for a sanction if the time will come that the parents will not send their children because they labor under the impression that, at any rate, there will be no sanction at all.

I hate to say this. I am not unFilipino. This provision on compulsory education is being geared towards the mentality of most Filipinos. Unfortunately, I say this because if we put it there as optional then we will be promoting illiteracy in the country because the path of least resistance may be followed by the parents. Since there is no word "compulsory," and there will be no sanction at all in the future, then they will not send their children to school anymore. If this event happens and the word "compulsory" exists in the Constitution, then Congress can pass a law in order to arrest the alarming proportion on the part of parents not sending their children to school in order to promote literacy in this Republic.

Thank you, Madam President.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Did Commissioner Nollado say that under the 1935 Constitution elementary education is compulsory?

MR. NOLLEDO: That is what I said; correct me if I am wrong.

MR. RODRIGO: There is no such provision. May I read Article 14, Section 5:

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

It is not compulsory.

MR. NOLLEDO: If the Commissioner would make a further research, that was interpreted as compulsory because, if my memory serves me right, there was a commonwealth act implementing it.

MR. RODRIGO: Then it is not a constitutional provision. I have read Section 5; I would like to ask Commissioner Nollado if there is any other section.

MR. NOLLEDO: As a law professor, my interpretation is that it is, in effect, compulsory. It was implemented in that sense by the National Assembly.

MR. RODRIGO: So it is not a provision of the 1935 Constitution. It is an interpretation by Professor Nollado.

MR. NOLLEDO: It says there, "shall provide at least . . ."

MR. RODRIGO: Let us make it clear.

MR. NOLLEDO: That was also the interpretation of the Committee on Education in the 1971 Constitutional Convention where I appeared because the wordings are not clear enough. But it says there, "shall provide at least primary instruction." So, it was compulsory on the part of the government and the implementing statute said that the children must acquire that knowledge in order to promote literacy. That is my interpretation, but if the Commissioner disagrees, that is his right to do so.

THE PRESIDENT: So, let us limit ourselves to the question that is before us. Shall it be compulsory or not?

MR. BENNAGEN: Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

May we address a few questions to Commissioner Nollado?

MR. NOLLEDO: Gladly.

MR. SUAREZ: Thank you.

I like Commissioner Nollado's gentle interpretation of the word "compulsory" as now proposed. According to Commissioner Monsod it is really a soft mandate in the sense that although it is compulsory in character there is no sanction or penalty attached to it. Are we clear in that regard?

MR. NOLLEDO: In the Constitution there is no penalty attached to it, but even if there is no penalty attached to it, we still open an avenue to the Congress to provide for a penalty in the event that circumstances should justify the imposition of a penalty.

MS. AQUINO: Madam President, may I clarify something.

THE PRESIDENT: The Commissioner may proceed.

MS. AQUINO: When we say that there are no sanctions constitutionally provided for, we are very conscious of jurisprudence that strikes down as unconstitutional any criminal sanction to failure to comply with compulsory education. However, as articulated by Commissioner Nollado, it does not preclude Congress from providing for statutory provision of reasonable sanctions. It may vary modalities of sanction and penalties.

MR. SUAREZ: Thank you.

In other words, we leave it up to Congress to determine later on the nature of the penalties or sanctions, if any, that may be provided by way of implementing this mandate of our Constitution.

MR. NOLLEDO: The Commissioner is right.

MS. AQUINO: Conscious, however, of the constitutional limitations in the infringement of free expression

clause.

MR. SUAREZ: Yes, subject to that limitation, I assume that to be true. So, in other words, since we do not have those laws, like the truancy law in the United States, that may be provided by Congress, therefore, this is only in the pursuit of that soft mandate or gentle interpretation that we have been advocating. Is my understanding correct?

MR. NOLLEDO: Yes.

MR. SUAREZ: What is bothering a number of the Commissioners is that when we speak of compulsory education on the elementary level, it might connote something like physical arrest and put them there in school, notwithstanding the fact that the student concerned may be needed to support the family, notwithstanding the fact that there may be no schools available on the elementary level in most countrysides. The Commissioner does not have those in mind, does he?

MR. NOLLEDO: No, because if the Commissioner will notice in my remarks, I said that the penalties should be reasonable enough.

MR. SUAREZ: The Commissioner wants that this constitutional mandate should be applied in a very humane way.

MR. NOLLEDO: I agree.

MR. SUAREZ: Thank you.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, in line with the earlier principle articulated that we should not write a Constitution in a cultural and economic vacuum, let me just share with the body some insights that I have derived in studying the economics of education. In the Philippines, true to our Asian heritage, parents have already an inner compulsion to send their children to school. We do not have to compel parents. That is anthropologically and culturally established that as part of the Asian region, parents have already an inner compulsion to send their children to school. The only reason why literacy has dropped in a very alarming way in the last few years is economic: Either they are needed by their parents to help out in the farm or their parents do not have the money, not necessarily for tuition, but for transportation and all the other items that have been enumerated. So I think it would be a wrong diagnosis to infer that parents are not sending their children to school because of noneconomic reasons. Since the word "compulsory" has already led us to a lot of byzantine arguments, I would suggest that we do not use it if we do not mean compulsory and already rely on the inner compulsion that Filipino parents have to send their children to school if the State and other agencies will provide the economic wherewithals.

Thank you very much.

MR. VILLACORTA: Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: I yield to Commissioner Bennagen.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I have been raising my hand earlier.

I speak in support of the observation of Commissioner Villegas. All empirical studies on Filipino values point to education as one of the leading values that are upheld by Filipino families because they look at education as a vehicle for social mobility although this is not exactly supported by data. We are saying, therefore, that outside of the legal compulsion, there is a psychological compulsion amongst parents to send their children to school limited only by the inadequacy of the State and sometimes the family itself to meet this high value that is placed on education as a vehicle for upward mobility.

MR. VILLACORTA: Madam President, with respect to the issue of compulsory education, we just would like to mention that in the International Covenant on Economic, Social and Cultural Rights of which the Philippines is a signatory, paragraphs 1 and 2 of Article XIII state:

The States Parties to the present Covenant recognize the right of everyone to education.

The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all.

Madam President, Article 26, Section 1 of the Universal Declaration of Human Rights states:

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

We thought that we should just add these citations for the record.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: I remember my grandparents telling me in the early 1900s that the policemen were rounding up the children and compelling the parents to send them to school. But those were in the early days and those were the times when the worth of education was not well appreciated by us. But we are now living in a different stage of educational level and we have a deeper appreciation of the value of education. I do agree with the observation propounded by Commissioner Villegas a while ago, that indeed this is now the feeling preponderant in our society in which we do not need to be compelled. We would like to have education. So I am also against the use of the word "compulsory" here.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: My point of information is in connection with the observations of Commissioners Villegas and Tingson. There is in the Revised Penal Code a felony known as "indifference of parents" which penalizes the parents who fail to afford the education of their children which their position or social status permits. That provision has been there since January 1, 1932, when the Revised Penal Code took effect. I am not aware that that provision has ever been invoked nor has there ever been a prosecution thereunder, for the simple reason that we do not have to compel the parents to send their children to school. If they fail to do so, it is because of circumstances beyond their control.

Thank you.

MR. GASCON: We would like to submit the proposal of Commissioner Aquino to a vote. May we ask Commissioner Aquino to restate her proposed amendment.

At this juncture, the President relinquished the Chair to the Honorable Adolfo S. Azcuna.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Aquino is recognized to restate her proposal.

MS. AQUINO: Mr. Presiding Officer, lines 1 and 2 of page 2, as amended, will now read: "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE."

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Monsod is recognized.

MR. MONSOD: I thought we agreed earlier that the concept of the primacy of the parents' right in the education of children would be transposed to the Article on the Declaration of Principles. Would this not be a redundancy if we are going to repeat it here?

MS. AQUINO: We have not yet approved the Article on the Declaration of Principles. My perception is that in terms of balancing concepts, this is where the natural right of the parents should be balanced against the State's interest. This provision should be properly articulated.

MR. MONSOD: If such provision would be incorporated in the Article on the Declaration of Principles, would we then go back and eliminate it here? Or is there no harm putting this provision here as well?

MS. AQUINO: There is no harm or danger.

MR. MONSOD: There was a manifestation made earlier by the committee that we go section by section according to the committee's draft. This is one instance where it might be good to look at its totality and see that in the process of amending we already start restructuring the entire article. The way we are going about it is that we can really put the amendment of Commissioner Aquino in one phrase if we adopt restructuring where we say "The State shall establish and maintain . . ." We can put her amendment in one phrase rather than put it in the context of an entire paragraph.

This is where we believe that we cannot really amend without considering the sequence and the consolidation of the sections.

THE PRESIDING OFFICER (Mr. Azcuna): What does the committee say?

MR. VILLACORTA: Mr. Presiding Officer, the committee just wants to be clear about the proposal of Commissioner Monsod. Is the Commissioner referring to his proposed amendment as well as those of Commissioners Davide and Maambong?

MR. MONSOD: Yes.

MR. VILLACORTA: The committee in its last caucus — the Commissioner was present there — decided that we go section by section based on the draft that is now in the possession of all the Commissioners because otherwise it will be confusing if we go by the proposed restructuring.

MR. MONSOD: Yes, but my point is that I do not entirely agree that if we go paragraph by paragraph we can go back and then decide the sequencing later. It will not make sense when we sequence them later since the structure and even the wordings would be different.

As I understand it, one of our resource persons, Deputy Minister Ordoñez, has also suggested certain consolidations which would put the article in a very organized fashion. I really cannot understand why we have to go section by section according to the original if there are ways by which we can consolidate, cut down and put ideas in their proper context.

MR. VILLACORTA: The systems and procedures that we are following now are consistent with the systems and procedures that were followed by the other committees that presented their reports. I do not see any reason we should deviate from this procedure that we have agreed upon.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Azcuna): The session is suspended for a few minutes to thresh this matter out.
It was 11:53 a.m.

RESUMPTION OF SESSION

At 12:03 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Azcuna): The session is resumed.

The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA: Mr. Presiding Officer, I move that we suspend the session until two-thirty this afternoon.

THE PRESIDING OFFICER (Mr. Azcuna): Is there any objection? (Silence) The Chair hears none; the session is suspended up to two-thirty this afternoon.

It was 12:03 p.m.

RESUMPTION OF SESSION

At 2:58 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Azcuna): The session is resumed.

MR. ROMULO: Mr. Presiding Officer.

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

MR. ROMULO: I ask that Commissioner Aquino be recognized.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Aquino is recognized.

MS. AQUINO: Mr. Presiding Officer, the discussions this morning have been exhaustive on the proposal so I suggest that we submit it to a vote. The amendment would now read: "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE." This would belong to lines 1 and 2, second paragraph of Section 1 (b) on page 2.

THE PRESIDING OFFICER (Mr. Azcuna): We will now vote on the proposed amendment.

MR. GASCON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Gascon is recognized.

MR. GASCON: Can we ask Commissioner Aquino to repeat her amendment for clarity since we will be voting on it.

THE PRESIDING OFFICER (Mr. Azcuna): The Commissioner will please read the proposed amendment again.

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

VOTING

THE PRESIDING OFFICER (Mr. Azcuna): We will now proceed to vote on the proposed amendment of Commissioner Aquino.

As many as are in favor of the proposed amendment as read, please raise their hand. (Several Members raised their hand.)

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

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 15 votes in favor, 13 against and 1 abstention; the amendment is approved.

The Acting Floor Leader is recognized.

MR. ROMULO: Mr. Presiding Officer, I ask that Commissioner Rodrigo be recognized.

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

MR. RODRIGO: My amendment is on page 1, line 16. I propose to insert "ENDEAVOR TO" between the words "shall" and "establish." So, that paragraph will read: "The State shall ENDEAVOR TO establish and maintain a system of free public education at the elementary and the secondary levels . . ."

THE PRESIDING OFFICER (Mr. Azcuna): What does the committee say?

MR. VILLACORTA: We are still conferring, Mr. Presiding Officer.

MR. GASCON: What does the Commissioner mean by the words "ENDEAVOR TO"?

MR. RODRIGO: This is not the first time this phrase is used. In previous articles, when we know that the government is not financially capable of accomplishing what it promises to do, we decided that, instead of the word "shall" which connotes a definite commitment, we use the words "endeavor to." May I explain a little further. One of the criticisms against the so-called "politicians" is that they make promises which they cannot fulfill. Now, this is a Constitution we are framing and this is the basic fundamental law of the land. This is a very serious matter and we should not promise anything here which we cannot comply with. But as it is, we are making a categorical statement. Unless we change the word "shall" to "ENDEAVOR TO," this Constitution will make a categorical commitment on the part of the government to establish and maintain free elementary and high school education. Even our elementary education now, Mr. Presiding Officer, is not really free. It is free of tuition, yes, but then there is a lack of buildings; and, not only that, textbooks are not free. Much less is high school education. High schools are not even free of tuition and there will be an absolute lack of buildings if tuition were to be made free.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): What is the pleasure of Commissioner Ople?

MR. OPLE: Will Commissioner Rodrigo yield to a question or two?

THE PRESIDING OFFICER (Mr. Azcuna): The Commissioner may yield, if he so desires.

MR. RODRIGO: Certainly.

MR. OPLE: Thank you very much.

The way the amendment of the Commissioner is formulated now, since elementary education is guaranteed to be free, when he places his amendment under the limiting term "ENDEAVOR TO," will this not represent a reduction of benefits already being enjoyed by the families of the poor who send their children to free elementary schools because the context in which this will now be placed will actually release the State from the guarantees of the 1935 and 1973 Constitutions for free primary and elementary education, respectively?

MR. RODRIGO: I am willing to accept an amendment to my amendment to make a categorical statement, like in the 1973 Constitution which says that elementary education shall be free. But then the 1973 Constitution itself says that in areas where finances permit, high school education shall be free. However, I would like to state also that we consulted Dr. Juanita Guerrero of the Bureau of Elementary Education only a few days ago. She said that public elementary education now, which according to the 1973 Constitution shall be free, is not really free. She said that what is free is the tuition or matriculation fee, but the books and other school supplies are not free.

As I said, I am willing to admit an amendment to my amendment.

MR. OPLE: Thank you, Commissioner Rodrigo; I also thank the Presiding Officer.

I want to complete this interpellation with just another question.

To what does the Commissioner attribute his doubt concerning the feasibility at this time of free public education at the elementary and the secondary levels? Is this a question of his perception of very scarce resources?

MR. RODRIGO: It is known to everybody that our government is in one of its worst financial crises at present and for us to give a categorical promise now would just disappoint our people.

MR. OPLE: I just happen to recall very recently that P28 billion was ordered released by the President of the Philippines as new equity infusion for several government financial institutions, mainly the Philippine National Bank and the Development Bank of the Philippines. If my recollection of the committee's figure is correct, the amount of P28 billion of fresh equity intended to prevent the two major banks from collapsing would be thrice the amount estimated to be required to fund free secondary education. I think the government equity to such failing government corporations will be far in excess of P28 billion.

The point of these inquiries to determine Commissioner Rodrigo's doubts based on his perception of very scarce financial resources for the government might actually be due to skewed resource allocations rather than to sheer unavailability of funds to sustain free elementary and public education. In this connection, may I also recall the magnificent survey of South Asia in the book entitled Asian Drama by Gunnar Myrdal, in which countries like Sri Lanka and Malaysia were ranked far above the Philippines in terms of social well-being, although in Sri Lanka the per capita income is less than one-half the per capita income of the Philippines. The fundamental conclusion out of this three-volume work of Gunnar Myrdal is that we should allocate our scarce resources to favor the general well-being and the quality of the population, as shown in Sri Lanka, a poor country, but both elementary and secondary public education are given free by the government. Then, in spite of a low gross national product, the sum of the net economic welfare is higher. And so, I was wondering whether if the skewed resource allocation policies of the government could be corrected with less equity for failing banks and more funding for education to afford free public schools, in addition to the elementary level. Perhaps this can be rejuvenating for the country, both socially and economically.

MR. RODRIGO: Mr. Presiding Officer.

MR. OPLE: Will Commissioner Rodrigo comment on that?

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Regalado is recognized.

MR. RODRIGO: The Commissioner was asking me a question. May I be given a chance to answer?

THE PRESIDING OFFICER (Mr. Azcuna): The Chair stands corrected, and I would like to ask the indulgence of Commissioner Regalado that he be recognized after Commissioner Ople's question is answered.

MR. REGALADO: I will wait, Mr. Presiding Officer.

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

MR. RODRIGO: Mr. Presiding Officer, I want to make my position clear. I do not say that I am against free high school education. I wish we could provide free high school education. As a matter of fact, we should try our best to have free high school education. What I am against is making a categorical promise to give free high school education at this stage, considering the dire finances of the country. We inherited this financial situation from the past administration.

Regarding banks, we are faced with a situation where we either save the banks or they will sink. With the sinking of these banks, many will sink with them. This is a problem that already faces us. I am not saying that the money should be given to those banks to save them from sinking and collapsing. Maybe that money should have been used for education. If that money is sufficient, then let us give free high school education. But are we sure we really can afford it? I doubt it. That is why I say, let us not make a firm promise. Let us just say the State will "endeavor," will try its best.

MR. OPLE: Thank you, Mr. Presiding Officer; that is all I want to say.

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Regalado is recognized.

MR. REGALADO: Commissioner Rodrigo mentioned, among other things, the question of finances. In connection with his observation on finances and for the information of the committee and also of the Commission, I have here a copy of a letter from the executive director of the National Census and Statistics Office showing that we also have to consider, incidentally, the matter of the school population, not only the finances.

In school year 1972 to 1973, there were 6,667,644 students in the elementary level in government schools. Based on the 78 percent completed survey, there were 8,210,570 students enrolled in government elementary schools in the school year 1983 to 1984. In the secondary level, for school year 1972 to 1973, enrolled in government high schools were only 863,326; but for school year 1984 to 1985, there were 1,957,444 students and again this is only based on 78 percent completed survey. It would be safe to say that for school year 1984 to 1985, there must have been almost 2,500,000 students enrolled in government public high schools and, in the elementary level, there must have been about 9,000,000. Since this is only 78 percent complete, in the elementary level, there were 8,269,825 students enrolled last school year. So, that shows the ever increasing number of the school population both in the elementary level and the secondary level.

And if we throw it back a little further and start with school year 1954-1955 — since we are projecting this not only for today or for tomorrow — 30 years ago the enrollment in the elementary government schools was only 3,305,103 as compared with last year's enrollment of 8,269,825. In the secondary level in government schools, there were only 187,373 high school students 30 years ago. Yet last school year there were 1,957,444. As I have

said, safely, there would be 2,500,000 students in high school because this report of last year is only 78 percent complete. So, we not only have to balance our finances but we have to consider the ever increasing population. And the question is, if we commit ourselves firmly to granting not only free elementary education but also secondary education, are we really in a position to comply with our commitment? Are we not engaging in self-delusion or in deluding the public into believing that the government really can give them this free secondary education? I do not think there is any Commissioner here who is against giving free secondary education. But as between the desirable and the attainable, as between what is affordable and what is an obsession, perhaps, on our part we have to strike a happy balance. As we have often heard it said here, we might be raising false hopes; we might be inviting great expectations. That is why I agree with Commissioner Rodrigo to reformulate this in a more modest and a more intellectually honest presentation as it was in the 1973 Constitution, insofar at least as the elementary education is concerned. It is not really very expensive. As far as the expense per capita for the elementary is concerned, perhaps, we can promise free education. But for the secondary level, where the cost is a little more expensive not only in the matter of supplies but also of textbooks, let us go to that 1973 formulation that in areas where our finances permit, then the government shall endeavor to give free secondary education. But in the matter of the elementary level, I think it will be affordable.

We know, of course, that in the elementary grades, the cost of education is not really very high. I suppose this time we can make a firm commitment. I understand that the statistics from the MECS as well as the National Census and Statistics Office show that dropouts usually start at about the fourth grade. At least, they shall have the benefit of compulsory and free elementary education. But in the high school level, let us be a little more reasonably enlightened on what we will expect within the next 10 or 20 years.

Thank you.

MR. VILLACORTA: Mr. Presiding Officer.

MR. SARMIENTO: Mr. Presiding Officer.

MR. VILLACORTA: May the committee react to that?

MR. SARMIENTO: Before the committee reacts, may I briefly speak in favor of Section 1 (a)?

THE PRESIDING OFFICER (Mr. Azcuna): The Honorable Sarmiento is recognized.

MR. SARMIENTO: To me, this section, as drafted by the committee, will not create a revolution of rising expectations nor will it foster a spirit of self-delusion.

If we adopt the Rodrigo amendment, we will emasculate Section 1 (b). The spirit and intent of this section which, to me, is wise will be weakened. It is a question of reordering our priorities.

My humble submission is that we have no scarce resources; it is a question of prioritizing our resources. A study was conducted that for every peso given to education, several more pesos are given to the military. And even former Minister of Education Laya himself, in a statement he made in 1985, admitted that we have this problem not because of scarce resources but because of governmental priorities, which shows that if we reorder our priorities and give more emphasis to education and not to the military budget or to other concerns of the government, the government can definitely handle the situation. And if we will not require the State to adopt this policy, we will be aggravating our educational situation. For instance, the Ministry of Education, Culture and Sports said that of the 100 schoolchildren who started in Grade I, 70 finished Grade IV or primary education. Of the 70, only 62 proceeded to Grade V and only 56 finished Grade VI. In turn, of the 56 grade school graduates, only 43 managed to start with first year high school and barely 33 of them reached fourth year and finished

secondary school. Of the 33 high school graduates, only 30 actually started with first year in college. Those who reached second year college are further reduced to 21; and finally, only a measly 11 of them managed to graduate from college.

So, I humbly submit, Mr. Presiding Officer, that if we adopt this amendment, we compound our educational crisis.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Honorable Rodrigo is recognized.

MR. RODRIGO: Heeding the suggestion of Commissioner Ople, I would like to amend my proposed amendment and restate the provision of the 1973 Constitution: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND, IN AREAS WHERE FINANCES PERMIT, ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

That is the provision in the 1973 Constitution and that remedies the first objection of Commissioner Ople that I might be retreating from the 1973 provision, which makes elementary education free. I would like to state that when I was in the Senate, from 1955 to 1967, education always had the biggest part of the budget pie. But even then, under the 1935 Constitution, the government could afford to give free education only up to the primary grades. In the 1973 Constitution, when finances were better, the government could only afford to give free education up to the elementary level and only free tuition at that. Free tuition is not synonymous with free education because free education means even the textbooks can be loaned for free.

Mr. Presiding Officer, it is true that we can save from some of the misspendings. But the priority, I think, is also on education. Before spending the money, whatever money we can get for free high school education, we should first increase the salaries of our teachers from the primary up to the high school level because our teachers are very, very poorly paid. Even the facilities of schools should be improved. I think that is also a priority.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Honorable Davide is recognized.

MR. DAVIDE: Would the distinguished proponent yield to some questions on the proposed amendment?

MR. RODRIGO: Gladly.

MR. DAVIDE: If we approve the modified proposal, does it mean, therefore, that the government can choose the areas where there will be a free public high school?

MR. RODRIGO: Where finances permit.

MR. DAVIDE: How would the proponent determine the availability of finances for a particular or specific area?

MR. RODRIGO: The financing for high school now is shared by the national government with the city, provincial or municipal government and even the barangay. So, there are places where the local governments can help in giving free high school education. I think that was an issue in the City of Manila recently. It used to be free under Mayor Lacson. Under Mayor Villegas, tuition fees were restored and I do not know if at present they were able to restore in the City of Manila free high school education.

MR. DAVIDE: In other words, the local governmental units may, by themselves, provide for a free high school education?

MR. RODRIGO: Yes.

MR. DAVIDE: But is it the Commissioner's position that the national government may assist these local governmental units if in that particular area the national government can have available financial assistance or sources?

MR. RODRIGO: Yes.

MR. DAVIDE: Would this not amount to undue discrimination and class legislation because the national government will now assist those high schools which are maintained by the local governments, but it may not at all open any high school in other areas where the local governments cannot provide a free high school? So, in areas where the local government does not attend to the needs of the education of the youth, necessarily the national government may not open a high school. Where lies now the right of every citizen to free education or to quality education?

MR. RODRIGO: I am not acquainted with all the details in financing the public high schools; however, let me read what Dr. Antonio Dumlao of the Bureau of Secondary Education has to say:

Tuition and matriculation fees are paid by all public high school students. Subsidy comes from the national government and the local government through the barangay, the municipality, cities and provinces.

There is the possibility that this might lead to discrimination but that is up to the implementing powers. I think they can devise a means to avoid discrimination.

MR. DAVIDE: I understand that the practice now is that barangay high schools receive national aid to the extent of about 70 percent of the salaries for teachers and these are graduated depending on the class of the municipality. There is national assistance to high schools maintained by the city government. But if we follow the Gentleman's argument, it would necessarily mean that the national government can only give assistance to high schools, if these high schools are opened by the local governmental units. And so, in areas where there are no high schools maintained or operated or supported by the local governmental units, it would not be mandatory upon the national government to open any high school, and, therefore, deprive the youths in that particular area of high school education simply because the local government has not provided for a high school there.

MR. RODRIGO: I do not know how it is implemented. As I said, however, this is a provision in the 1973 Constitution which has been enforced since 1973 up to recently — for 13 years already — and I have not heard of any complaint about discrimination. Has the Commissioner heard of any?

MR. DAVIDE: Frankly, I have not heard of any discrimination because there were no complaints so far, especially in the rural areas. They have no opportunity to make the complaint. It is a question of life and death in the rural areas; they cannot really ask for something more. But my point is, it is not really expensive to maintain high schools even if we provide free public high schools and even if we maintain the number of high schools all over the country and make them free now, meaning to say, we do not collect matriculation and tuition fees from the students. I believe it is just a question of prioritizing. Commissioner Sarmiento was correct. If we only reduce the budget for defense even to the extent only of about 5 percent and if we now proceed with the merger and liquidation of government corporations, we will have a lot of savings and this could be used to fund the high schools. Probably, if we even abolish the Senate, we can have additional savings for high school education.

So, the point is, I really do not see why the government cannot maintain a free high school education. Even if we only maintain one high school in every municipality, I think the people will be satisfied with that. There are now means of transportation from the rural areas, from the farms to the poblacion, and it is easy for the national government to maintain free high schools — at least one in every municipality.

MR. RODRIGO: Yes, I am in favor of that but the only issue is whether we should mandate it in the Constitution. Should we make a definite commitment to that effect in the Constitution? Let us remember that with this amendment of mine, then it will be up to Congress. Let us not forget that Congress will be composed of Senators — let us not please abolish the Senate; we already approved it — elected nationwide and by Congressmen who are elected by the people in their respective districts. And I think they will be very much interested in education as we are, even more than we are. We are appointive officials. And so, let us leave it to them and they are the ones who will know just what the finances are. They will be in a better position than we to know. Can we afford this? So, we have the same purpose. All I am saying is, why make a definite commitment on something which, in all probability, we will not be able to comply with.

MR. GASCON: Before the committee presents its position, I would like to make a reaction to the amendment to the Gentleman's own amendment. If the phrase "WHERE FINANCES PERMIT" were to be retained, those who have the responsibility of disbursing funds for educational institutions would always have a constitutional excuse. It is this avoidance of public duty as protected by the Constitution that we disagree with. So, we cannot accept the amendment.

MR. RODRIGO: Suppose we change "WHERE FINANCES PERMIT" to "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL ENDEAVOR TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Honorable Bacani is recognized.

MR. RODRIGO: I would like to ask the committee because if its objection is to the phrase "WHERE FINANCES PERMIT," then let us change that to "AND SHALL ENDEAVOR" or "SHALL STRIVE ITS UTMOST TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION." It is just that when we promise something, let us be sure that we can comply with it. I think that with this amendment, then we leave it to Congress, and Congress will be in a better position.

THE PRESIDING OFFICER (Mr. Azcuna): What is the pleasure of the Honorable Bacani first?

BISHOP BACANI: I was going to suggest an amendment to the amendment which may skirt the issue and at the same time be satisfying to all. May I suggest this amendment that was presented by Commissioner Nieva and myself?

THE PRESIDING OFFICER (Mr. Azcuna): Please proceed.

BISHOP BACANI: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION." I think we are all agreed on that. "AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS AND AT THE TERTIARY LEVEL FOR THOSE QUALIFIED." May I explain just briefly why I suggest this particular formulation?

THE PRESIDING OFFICER (Mr. Azcuna): Please proceed.

BISHOP BACANI: Here we say that "WE SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL" not only education at the elementary level but also at the high school level. At the same time, we do not specify necessarily that this will have to come in the form of free public high schools. I am sorry to say that, by and large, the record of public high schools, that is, the barangay high schools, that we had in the past has not

been a very happy one. I think the standard of education in those barangay high schools leaves much to be desired.

What this amendment tries to point out is the giving to parents their right to choose; and hence, the State can choose other means to render available educational service at the elementary and high school levels and not simply by establishing and maintaining public elementary and high schools. It was pointed out that the service contracts before have been less costly to the government and apparently serves the purpose better.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Honorable Rodrigo is recognized.

MR. RODRIGO: I accept the amendment to my amendment, except the repetition of the word "elementary."

BISHOP BACANI: Yes, the reason there is the repetition of the word "elementary" is this.

MR. RODRIGO: Will Commissioner Bacani please repeat it?

BISHOP BACANI: Yes. It says: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS."

MR. RODRIGO: Why is that there again?

BISHOP BACANI: The reason for this is that the State may also adopt measures, perhaps not immediately but in the future, by which pupils will be helped to do elementary schooling not necessarily again by making them enter public elementary high schools but by another way.

MR. VILLACORTA: Mr. Presiding Officer, may the committee react to all these amendments?

THE PRESIDING OFFICER (Mr. Azcuna): Just a moment. The Chair would like to clarify the situation now. The proponent, the Honorable Rodrigo, has accepted only a portion of the amendment to the amendment, so that there is no repetition of the word "elementary." Is that correct?

MR. RODRIGO: Yes. Can we not eliminate that word in the last part of the sentence?

BISHOP BACANI: Yes. The reason for the second word "elementary" is this: The State may provide for another way of making education available to elementary school pupils.

MR. RODRIGO: Maybe private high schools, is that it?

BISHOP BACANI: Maybe private elementary schools.

MR. RODRIGO: Then I accept the amendment.

THE PRESIDING OFFICER (Mr. Azcuna): The amendment to the amendment is accepted.

May we know the reaction of the committee?

MR. VILLACORTA: Mr. Presiding Officer, the two amendments are based on two assumptions: first, that the burgeoning student population will make it impossible to meet the demands for free public secondary education; and second, the government does not have the funds and the resources to finance free public secondary education. Are we right, Mr. Presiding Officer?

BISHOP BACANI: No, Mr. Presiding Officer, if I may reply.

Those are not my assumptions. The very first assumption is that the parents should be helped and enabled to put into effect a choice not only for education but where the education will be received because it has been pointed out, and nobody doubted it, that it is the parents who have a primary right to the education of the children. If they have the primary right, they have the primary right to choose. And if the State can help them to choose, then they should be helped in that choice.

MR. VILLACORTA: Then Commissioner Bacani's amendment is addressed to another issue. But let me just first elaborate on these two assumptions, which I think are the bases of the fears of many, with respect to our proposal for free public education.

First, on the matter of whether the burgeoning student population will make it difficult for the government to meet the demands for free public secondary education, I think that Commissioners Regalado and Sarmiento had pointed out the dropout rate at the elementary level. In other words, it is clear that there are not that many who would be able to avail even of free high school education assuming that it is assured by this Constitution because if it is true that they dropped out of Grade IV, then that means that a lot of our children cannot even avail of the free public elementary education which is presently guaranteed. So I think the student population problem is real in that sense.

Secondly, we agree with Commissioners Davide and Sarmiento that it is a question of priority. The Honorable Rodrigo mentioned the fact that up to 1967, Congress had given priority to education, but the ACUP Report of 1983 noted that while in the 1950's and the 1960's education received an increase in share of total government expenditure, in the 1970's up to 1980, the average share of the education sector decreased to 2.35 percent of the GNP and to only 17.47 percent of the total government expenditure, or an almost 50-percent slash in an 11-year period. About 85 percent to 90 percent of the current operating expenditures are spent on salaries of teachers and other school personnel with only 10 percent to 15 percent earmarked for other resources such as textbooks, learning aids, instructional materials, teachers' upgrading and others.

Commissioner Rodrigo was asking about the facts concerning the financing of secondary education if it would be made free. According to the study done for us by Dr. Arcelo, if we assume that the secondary level enrollment will increase from the present 3.3 million to 9.4 million, with 57.4 percent share of the public secondary schools, enrollment in the public sector will reach 5.7 million. The incremental enrollment will be 3.8 million, which is 5.7 million less than the present enrollment in the public sector of 1.9 million. And he said that the total cost of secondary education will be P6.9 billion broken down as follows: operating cost — P4.576 billion; capital outlay cost — P2.376 billion. The amount of P6.952 billion represents only a 6-percent increase over the present budget of P11 million. So, it is only a 6-percent increase. It is not that scary with respect to the additional appropriation that the national government will have to give to guarantee free public secondary education.

We would also like to point out that in addition to Sri Lanka, there are many poor countries, even poorer than we, that guarantee free education at all levels, namely: Paraguay, Uruguay, Venezuela, Haiti, Panama and Thailand. And this free public education at all levels is guaranteed in their constitutions.

We were also told by Deputy Minister Victor Ordoñez, who was with us in our caucus yesterday, that he was informed by Minister Lourdes Quisumbing that she was misquoted in a Philippine Tribune news report that was read to us by the Honorable Padilla that she was really all out for free public secondary education. However, she says there must be a provision for a transition period to allow this to happen. In other words, it should not be implementable within the next school year or two school years from now. And for that purpose, the committee decided yesterday to propose to the Committee on Transitory Provisions to provide for this allowance. With the help of our fellow Commissioners, we can come up with the appropriate resolution that will embody this wish.

We in the committee would like to stress that the reason we would like the government to give priority to public education, both elementary and secondary, and to guarantee such education for free, is that we would like to enhance the quality of literacy. It is not enough for our people to be literate. We also have to invest on human capital as well which is the most valuable capital of any nation. With this valuable investment on human capital, we would be increasing our chances for both human and social development.

I think Commissioners Guingona and Gascon would like to add something.

MR. GASCON: I would like to ask Bishop Bacani a question. From my point of view, I think what Bishop Bacani is saying in his proposal is another issue which we can tackle. Aside from providing for a system of free public elementary education, when it comes to secondary education and even perhaps elementary education, instead of creating public high schools, the State could subsidize students to enter private high schools. Is that correct? So that their choice is not limited to entering public high schools only where they can have free public education but they can also have free private education because the students will be subsidized as they enter private schools. Is that correct?

BISHOP BACANI: Yes, that is one of the main features of the amendment. The first one is precisely to answer such a concern of Commissioner Villacorta that Minister Quisumbing said it may not be implemented this year or next year, and that is why we say: "AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL." In other words, it is not being told right away — "it shall maintain free elementary and public high school" — but it shall provide measures to move towards that.

MR. GASCON: However, Deputy Minister Ordoñez told us that Minister Quisumbing herself feels that a statement calling for the establishment and maintenance of free public secondary schools would be very helpful towards that long-term goal of the ministry. Even she herself believes that we can. The issue that is being presented actually is another issue which we have to discuss separately from the issue of providing for a system of free public secondary education as well because that is supplemental. So, my perspective is that perhaps we could separate the two issues to make this provision clearer.

MS. ROSARIO BRAID: Mr. Presiding Officer, may I ask a clarificatory question? I quite agree that this is a separate issue and that perhaps one implication of the proposal is that the State may provide subsidy to parents who then can select schools of their own choice.

BISHOP BACANI: Yes. I am not in agreement completely with the committee's wording that is why actually my amendment to Commissioner Rodrigo's amendment is an amendment to the committee's wordings.

MS. ROSARIO BRAID: We would like to encourage Commissioner Bacani to come up with a separate proposal on this issue. Perhaps another implication of the proposal is that, therefore, we encourage more service contracts since they are really less expensive to the State.

I have here, for instance, figures which indicate that the per student cost in the private school is P276 per year as against P593.17 in public schools. So, it is actually cheaper for the State to enter into service contracts with private schools.

BISHOP BACANI: Mr. Presiding Officer, precisely it is here that an opening is being made for that.

MR. GASCON: Yes.

MS. ROSARIO BRAID: But it is a different issue.

MR. GASCON: This is a different issue because, first, the assumption is that there are enough private schools for the parents to be given their choices whereby the State will support them in providing their children the

opportunity of entering private schools. But, in reality, over and above the State's probability of supporting parents to send their children to private schools by a direct subsidy, there is still the need for the creation or establishment of public high schools in places where there are no public high schools or even private high schools because that choice is broader. We are actually saying that over and above providing public high school, it should also support students to enter private high school. We have no disagreement with that, but the problem is the assumption that the Commissioner is making — that there are enough private high schools where all the students can go. But in reality, in the rural areas, there are not even enough public high schools and we are saying now that we should subsidize them to go into private high schools as well when there is none. So, over and beyond that issue, there is the issue of providing secondary education to all in the rural areas, for example. That is what we mean. We feel that the issue that was presented should be discussed; and, in fact, I am amenable to it because it is something even broader. But it clouds the basic issue of secondary public education.

MR. GUINGONA: Mr. Presiding Officer, additionally, I notice that some of our honorable colleagues are cost-oriented or cost-conscious, which is certainly a good thing, and what our distinguished chairman has pointed out, the increase, as contained in this study by FAPE and provided us by Dr. Arcelo, would only be 6 percent of the present low budget of P11 billion. And may I point out that in the giving of the figures by our distinguished chairman, he has considered capital outlay as an expense but Commissioner Rosario Braid has talked about private service contracting which will reduce drastically the capital outlay expense, which according to this report is about P2.4 billion; which means that we can still subtract this amount of P2.4 billion from the P6-billion increase which will even reduce the increase from the present P11-billion budget to only 3.6 percent.

With regard to the remark of Commissioner Rodrigo, I believe that his reference to the concern of Congress for education is rather speculative because there are other areas of concern for the legislators; and if the legislators were given a choice between providing for education, on the one hand, and providing for their pork barrels, on the other hand, I wonder which they will choose.

SR. TAN: Mr. Presiding Officer, point of order.

THE PRESIDING OFFICER (Mr. Azcuna): The Honorable Christine Tan is recognized.

SR. TAN: We were on the amendments on compulsory education, then we went to private education, the pork barrel and funding private education. I do not know where we are.

THE PRESIDING OFFICER (Mr. Azcuna): The Chair would like to clarify the situation. The amendment of the Honorable Rodrigo, as amended by the Honorable Bacani, is to reword Section 1 (b) to read as follows: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS . . ."

MR. NOLLEDO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Honorable Nollado is recognized.

MR. NOLLEDO: Only for one minute. I would like to speak against the amendment and for the retention of the recommended provision by the committee, subject to a provision in the Transitory Provisions that the implementation of free high school education will be delayed for some time.

Mr. Presiding Officer, I think the main objection is that we do not have the money to finance free education in high school and that objection, I think, is premised on the wrong assumption that we will never attain economic recovery. I would like the Members of the Commission to know that the uniform result of our consultations in all

places of the Philippines is that the people are demanding free elementary and high school education; there is no dissent to that.

And we have already stated in an approved provision that education is a right. To provide free secondary education will strengthen this provision. We also stated that it is the duty of the State to provide education. To provide free high school education will be to render meaningful this provision. And I do not need to say that education is the foundation of a strong nation. An educated citizenry makes an enlightened nation.

If there is a will, there is a way. If we put the recommended provision of the committee in the Constitution, there is something to hope for on the part of the citizenry, and an obligation to aspire for on the part of the State.

So my conclusion is that the economic constraints that we are talking about are merely temporary.

Thank you, Mr. Presiding Officer.

MR. PADILLA: Mr. Presiding Officer.

MS. ROSARIO BRAID: Mr. Presiding Officer.

SUSPENSION OF SESSION

MR. VILLACORTA: Mr. Presiding Officer, may we ask for a suspension of the session for two minutes so we can resolve this problem.

THE PRESIDING OFFICER (Mr. Azcuna): Is there any objection? (Silence) The Chair hears none; the session is suspended for a few minutes.

It was 3:57 p.m.

RESUMPTION OF SESSION

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

THE PRESIDING OFFICER (Mr. Azcuna): The session is resumed.

The Honorable Rodrigo is recognized.

MR. RODRIGO: The parliamentary situation is I have accepted the amendment to the amendment presented by Commissioner Bacani. So, may I request that Commissioner Bacani.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Bacani is recognized.

BISHOP BACANI: Thank you, Mr. Presiding Officer.

So as to make the issues very clear, the committee, at the request of Commissioner Rodrigo, has acceded that I withdraw my amendment to the amendment so that the amendment of Commissioner Rodrigo will be voted upon, and then I can just propose my amendment later.

MR. RODRIGO: So, may I reformulate my amendment?

THE PRESIDING OFFICER (Mr. Azcuna): The Gentleman may proceed.

MR. RODRIGO: The amendment will read: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL TAKE MEASURES TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

THE PRESIDING OFFICER (Mr. Azcuna): What is the reaction of the committee?

MR. VILLACORTA: Mr. Presiding Officer, we regret that we cannot accept the proposal because the committee is planning to submit to the Committee on Transitory Provisions a proposed section that will allow Congress to determine the period of time during which the government would be able to implement the giving of free public secondary education. In other words, that step of ours will really respond to the worry of Commissioner Rodrigo about the present inability of the government to finance free public secondary education.

MR. RODRIGO: But, Mr. Presiding Officer, that idea that Congress will determine when this will be implemented is contained in my amendment — "SHALL TAKE MEASURES." Those measures mean legislation by Congress. And so, I ask that we vote on my amendment to expedite matters.

THE PRESIDING OFFICER (Mr. Azcuna): The body will now vote, but before we vote, we will ask Commissioner Rodrigo to restate his amendment.

MR. RODRIGO: The amendment will read: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL TAKE MEASURES TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Just a moment, Commissioner de Castro is recognized.

MR. DE CASTRO: Before we vote. I heard that to get a free elementary and high school education, we have to prioritize our budgeting to meet the objections of Honorable Rodrigo. Is that correct?

MS. ROSARIO BRAID: Yes.

MR. DE CASTRO: If we are to prioritize our budgeting, we have to get from some items like public works.

THE PRESIDING OFFICER (Mr. Azcuna): May I know to whom the question is addressed? Is it to the committee?

MR. DE CASTRO: I am talking about the question of prioritizing our budget.

THE PRESIDING OFFICER (Mr. Azcuna): Please proceed.

MR. DE CASTRO: I will show the body that it would be impossible at this time. I heard Commissioner Sarmiento say that if we reduce the budget of the AFP, perhaps we can give free high school and elementary education. As of now — correct me if I am wrong — the budget of the AFP is 8.7 percent of our budget and that of education is 12 percent. Am I correct?

I will say that unless there is peace and order in this country, we cannot have free elementary and high school education. At present, the strength of the NPA is about 20,000. To appropriately meet this force, according to our studies, the ratio should be 1:15 up to 1:20. If we will have a ratio of 1:20, to stop insurgency once and for all, we will need 400,000 regular armed forces. As of now, we only have 200,000 — 80,000 PCs, 70,000 police maintaining peace and order, plus 70,000 CHDFs which we will demilitarize when we reach the Article on General Provisions. The ration of each soldier is only P12 a day. That is why when a soldier reaches the barrio, he gets chickens, pigs, goats and so on. This is a violation of human rights. I am not protecting them. I am condemning these acts and I have told General Ramos about these. But he said we need P16 to appropriately feed our soldier, but the most we can give is P12. According to Commissioner Sarmiento, we still have to reduce that and give it to education as a matter of prioritizing. One will find out that in a few months the communists will be ruling us because we shall not be able to stop them, and perhaps our talk about free education cannot be realized

anymore. Please take note that our President is getting out of her way to meet Nur Misuari in the South, a very dangerous place indeed, just so she can pacify the MNLF, not the 20,000 insurgents yet.

So, Mr. Presiding Officer, if we are talking of prioritizing the support on education, I hope we will also prioritize the requirements to beat once and for all the insurgency problem and establish peace and order in our country. Once this problem is solved, we can have agrarian reform, social justice and all the education we want. But, above all, to my humble thinking, peace and order must first be resolved.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Are we now ready to vote?

MR. VILLACORTA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The chairman of the committee is recognized.

MR. VILLACORTA: We just would like to point out that the prioritization that we are talking about is not only at the expense of the AFP budget. We are not singling out the AFP. Moreover, on the question of peace and order, there is much that free public secondary education can contribute to better peace and order because peace and order cannot only be attained through pacification but through other means. Besides, the other measures that are being proposed by this Constitution — agrarian reform, industrialization and other economic measures, as well as sociopolitical measures — will eventually bring our country to economic recovery and political stability. We are anticipating these better days for our country.

MR. DE CASTRO: I made mention of this, Mr. Presiding Officer, because I heard Commissioner Sarmiento say — I hope I heard him correctly — that if we can reduce the budget for the AFP, perhaps we can meet at least five percent of the requirement. And I still heard some members of the committee talk about the budget of the AFP. I am not for increasing the budget of the AFP; I am for seeing to it that there is peace and order in our country. So, I made mention of these statistics that I have in my mind. I really have a write-up on this, but I cannot help but answer some comments about reducing the budget of the AFP in order to prioritize the educational requirement.

Thank you.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Honorable Padilla is recognized.

MR. PADILLA: Before the last suspension of the session, I was about to make two inquiries of the committee. I heard from Commissioners Rosario Braid and Guingona about service contracts. Are these also contemplated in the area of education? I thought service contracts could be entered into with regard to our natural resources and public utilities. Is it contemplated that there be also service contracts, meaning, some foreigners with probably Filipino capital entering into the field of education?

MR. VILLACORTA: Mr. Presiding Officer, we are separating the issue of service contracts which was included in Commissioner Bacani's proposal. By the way, these service contracts are with respect to educational service contracting, not with foreigners but more with private schools.

MR. PADILLA: Because I was confused by the words "service contracts."

I have another inquiry for the distinguished chairman. He mentioned many poor countries including Haiti, Sri Lanka and some South American countries — and I hope I did not hear Bangladesh — to the effect that their constitutions provide for free secondary education. Is this a mere formal expression in the constitution or is that actually implemented in those countries?

MR. VILLACORTA: We consulted their constitutions, Mr. Presiding Officer; we have not really dealt with the actual experiences of these countries because these data are not available.

MR. PADILLA: These countries might have made a nice expression of free education, including secondary education. But I doubt very much if there is such an established fact of free elementary education in Haiti, for example, or in Bangladesh. These are very poor countries and we should not compare ourselves with them. We just have to face the realities of our situation. We have a growing population. That means more children will have to be accommodated not only in the elementary but perhaps in the high schools. We really have a problem on peace and order; we have the problem of economic reconstruction. And when the distinguished chairman said that the Rodrigo amendment is based on two assumptions, I am afraid that many answers of the committee are based on mere assumptions.

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): What is the pleasure of the Honorable Regalado?

MR. REGALADO: There were a few things during the suspension of the session that I wanted to clarify but, incidentally, on that matter of service contracts which is generally confused with what we give to these foreigners who come here to try to drill for oil, in the MECS, where there is this practice, students from public schools are brought to private schools and they pay for their tuition there. They do not call it service contracts; they call it contract servicing, meaning, a contracted rendition of educational services to distinguish it from service contracts. That was the original term. They eventually decided to make a distinction.

During the suspension, there were statements by members of the committee that we can make a firm commitment to grant free secondary education if we slash a portion from the allocation to the military, and not only to the military but also other budgetary allotments. Of course, that is true. If we can slash 50 percent from each budgetary allotment, we can even grant free tertiary education. But has the committee made inquiries into the feasibility of transferring some of the budgetary allotments from the allottees right now so that they could possibly be availed of for purposes of the Ministry of Education, say, within one year or two or three years from now since the committee is contemplating on putting something in the Transitory Provisions? Has the committee made some preliminary inquiries into the feasibility of such transfers or slashes in the budget of the Ministry of Education? And if so, what were the findings?

MR. VILLACORTA: Mr. Presiding Officer, first of all, we would like to clarify that it is not just a matter of slashing but also of saving, and this present government has done a good job in saving money by doing away with needless expenses. And that in itself would be proof that if we have the political will to provide more for education, it is possible. I think we can trust the genius of our future elective, as well as appointive, leaders to come up with ways to make money.

MR. REGALADO: Incidentally, just as a kickoff, for this fiscal year, what is the present budget and what is the percentage allotted to the Ministry of Education?

MR. VILLACORTA: I understand it is P12.5 billion.

MR. REGALADO: For the ministry?

MR. GASCON: It is 11 percent.

MR. VILLACORTA: I think Commissioner Gascon has the statistics.

MR. GASCON: The percentage that education receives at this point in time is P12.5 billion.

MR. REGALADO: And if we were to provide free public secondary education, what would be the projection?

MR. GASCON: We said that we need P6.5 billion more so that it will reach up to P19 billion, which will mean an increase in the national budget of only 6 percent for education. So, from the present 12 percent of the national budget for education, if we increase it to 18 percent or perhaps 20 percent, we would be able to provide for free secondary education. It will be recalled that prior to the Marcos dictatorship, education received up to 35 percent. The whole point is, if we really reprioritize to provide an increase in percentages for education, maybe in the next three to five years, we would be able to provide for free secondary education. It is possible.

MR. REGALADO: Have there been fiscal projections to the effect that suppose we want to give free secondary public education by next year, we would be in a position to do so given the present expenditure and income that we have?

MR. GASCON: By next year, perhaps, no. However it is the intent of the Ministry of Education, Culture and Sports to gradually increase the percentage that education receives from its low 12 percent to, hopefully, at a level point of 20 percent to 25 percent.

MR. REGALADO: I asked the question about fiscal projections because of the statement of the chairman that the committee plans to put in the Transitory Provisions a certain rating period within which we can have the implementation of the program.

MR. GASCON: That is correct.

MR. REGALADO: But we still do not have, more or less, a tentative specific period.

MR. VILLACORTA: Not yet, Mr. Presiding Officer. We leave it to Congress because Congress would be able to tell how long it will take.

MR. GASCON: So, actually, with regard to the Rodrigo amendment which we would be voting on — although it states categorically that, first, there will be a system of free elementary education and, second, it shall take measures to establish and maintain a system of free public education at least up to the secondary level — our proposal is that instead of putting it under the provision on education, we make a categorical statement that it shall establish and maintain a free public education up to the secondary level, and when we go to the Transitory Provisions, we shall provide for such.

Thank you, Mr. Presiding Officer.

MR. GUINGONA: Mr. Presiding Officer, may I just add that the 6 percent that the honorable Commissioner Gascon mentioned is already the maximum. As I pointed out earlier, it would go down to as low as 3.6 percent of the percent budget; that is, for the school year 1986-1987.

MR. MAAMBONG: Mr. Presiding Officer.

MR. REGALADO: In other words, the Rodrigo proposal provides that the State shall provide measures, whereas the committee would like to specify right away that it shall provide for a free secondary education. But in the Transitory Provisions, those proposed measures contemplated in the Rodrigo amendment would be made available in the Transitory Provisions.

MR. VILLACORTA: That is right, Mr. Presiding Officer. Our proposal will be more reflective of the nature of the problem. We are apprehensive about a temporary situation that is why we would like to put it in the Transitory Provisions. But with respect to provisions on public elementary and secondary education, we would like it to be more categorical because this is the Constitution that we are making and it is supposed to be for all time.

MR. TADEO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): What is the pleasure of the Honorable Maambong?

MR. MAAMBONG: I have just been assigned as Acting Floor Leader. The floor is now ready for the vote.

MR. DAVIDE: Mr. Presiding Officer.

MR. TADEO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): What is the pleasure of the Honorable Davide?

MR. DAVIDE: In order that I can vote intelligently, I seek this inquiry from the committee. Is it the stand of the committee that the Rodrigo amendment is proper provided that it will be in the Transitory Provisions? In other words, does the committee accept this? But it is now a question as to where to place the same, and it is the proposal of the committee that it shall be in the Transitory Provisions.

MR. VILLACORTA: Not exactly, Mr. Presiding Officer. What we really want is the approval of the section that we are proposing.

MR. DAVIDE: On the question of the Rodrigo proposal, Mr. Presiding Officer, we disregard first the committee proposal.

MR. VILLACORTA: Yes, that is right.

MR. DAVIDE: Is it the stand of the committee that it should be accepted but should be placed in the Article on the Transitory Provisions?

MR. VILLACORTA: No, Mr. Presiding Officer, because what we have in mind is simply the provision that Congress will determine the period of time.

MR. DAVIDE: I thought that that was the position of Commissioner Gascon speaking for the committee.

MR. VILLACORTA: Commissioner Gascon?

MR. DAVIDE: Yes.

MR. VILLACORTA: I do not remember Commissioner Gascon making that statement.

MR. GASCON: What I said, Mr. Presiding Officer, is that the committee prefers what is written in our committee report. However, we see that the Rodrigo amendment, which states that the State shall take measures to establish and maintain a system of free public education at least up to the secondary level, is more attuned to what we intend to do in as far as providing it in the Transitory Provisions.

MR. DAVIDE: In effect, the committee will be adopting that, but it should be in the Transitory Provisions.

MR. GASCON: Not exactly. It needs a little rewording because what we want to say is that Congress will provide the term towards a secondary education.

MR. DAVIDE: We want to be clarified on the stand of the committee so we could either join the committee or not, because if the committee prefers that it should be in the Transitory Provisions, I might even be voting in favor of that.

MS. ROSARIO BRAID: No. Let me explain, Mr. Presiding Officer.

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

MS. ROSARIO BRAID: The stand of the committee is that we would like free secondary education but we would also like to include a provision in the Transitory Provisions along the Rodrigo proposal, but it will specify a particular time frame.

MR. DAVIDE: In effect, the committee has no serious objection to the Rodrigo proposal, except that it should be in the Transitory Provisions.

MR. VILLACORTA: No, Mr. Presiding Officer. The Rodrigo proposal has two parts. The first part reaffirms the 1973 provision for free public elementary education. The second part has to do with the State endeavoring to take measures to ensure free public secondary education.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

MR. VILLACORTA: May we ask for clarification from Commissioner Rodrigo?

MR. RODRIGO: There is a conflict now between the answers of the two committee members. I remember that Commissioner Gascon said that the purpose is to have a provision in the Transitory Provisions, leaving it to Congress to determine the time frame.

MR. VILLACORTA: For free public secondary education, Mr. Presiding Officer.

MR. RODRIGO: Yes. But then Commissioner Rosario Braid said a definite time frame will be in the Transitory Provisions. Which is it now?

MR. VILLACORTA: The committee is not for a definite time frame because Congress will determine the time frame.

MR. RODRIGO: So, the two points in my proposed amendment will also be incorporated, except that the two will be separated — one in the body and the other in the Transitory Provisions. But why break it up? Is it not clearer for people who read the Constitution to see this in just one sentence instead, because it seems we are mandating a definite commitment to have a secondary education? And then one has to see the Transitory Provisions; and in there, it is not really a commitment. We are leaving it to Congress. I ask that we vote.

MR. VILLACORTA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Chair would like to make an announcement that the matter has been sufficiently discussed and the Chair would like to submit it to a vote now.

MR. GUINGONA: With due respect to the Chair, may we just clarify the situation?

SUSPENSION OF SESSION

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

It was 4:38 p.m.

RESUMPTION OF SESSION

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

THE PRESIDING OFFICER (Mr. Azcuna): The session is resumed.

Commissioner Guingona is recognized to give his reply to the remarks of Commissioner Rodrigo.

MR. GUINGONA: Thank you.

I would like to yield to Commissioner Ople.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Ople is recognized.

MR. OPLE: Thank you very much, Mr. Presiding Officer.

I thought I would like to get some final clarification concerning the distinction — it can be a distinction of substance or form — between the committee-proposed text and the Rodrigo amendment in which he was joined by Bishop Bacani.

MR. RODRIGO: May I answer that.

THE PRESIDING OFFICER (Mr. Azcuna): What is the pleasure of Commissioner Rodrigo?

MR. RODRIGO: I thought Commissioner Ople was asking a question. Was he propounding it to me?

MR. OPLE: I said I would like to seek a final clarification and this can be addressed to both the committee and to the proponent of the amendment. In the committee text, it says categorically that the State shall establish a free system of public education at both the elementary and the secondary levels.

In the Rodrigo amendment, I think, the wording is such that the State shall take measures to establish such a system. The committee had sought to accommodate Commissioner Rodrigo's concern over the financial feasibility of the free system of public education up to secondary level. The committee manifested their intention to submit a proposal to the Committee on Amendments and Transitory Provisions that would, in effect, mandate Congress to pass a law that would determine the time frame within which this free system of public education up to the secondary level will be deemed implementable. This, I think, is correct because Congress holds the purse in the tripartite system of government where we have the executive, the legislative, and the judiciary. It is said that the executive is the sword, the judiciary is the Scripture, and the legislature, the holder of the purse. And so, it is right that Congress should determine the time frame for the implementation of a constitutional mandate establishing a free system of public education in both the elementary and the secondary levels.

Will Commissioner Rodrigo subscribe to this distinction, a substantial distinction between his proposal and the text submitted by the committee?

MR. RODRIGO: May I add to that distinction. If the committee stand is approved, then anybody who reads Section 1(b) in the body of the Constitution will get the impression that this is a definite, unconditional commitment by the State. Unless he turns the pages and looks into the Transitory Provisions, that will be his impression.

And so, this can be deceptive. Very few persons, after seeing this provision, will take the trouble of looking at the Transitory Provisions, unless we place an asterisk and indicate "Please see Transitory Provisions." Whereas in my amendment, all of these are in just one section. There is no possibility of mistake, or of being misled or deceived. If the committee wants to place a provision in the Transitory Provisions, let us say, giving Congress ten years, then there is no inconsistency with my amendment. But the good thing about my amendment is, at one glance, people will see just what the Constitution provides; whereas, in the committee plan, there are two provisions. In one, it appears like an unconditional, immediate mandate. But then there is a sort of a catch in the Transitory Provisions.

MR. OPLE: Mr. Presiding Officer, we are talking of a distinction between substance and form, and I think Commissioner Rodrigo has been accentuating the form rather than the substance.

MR. RODRIGO: But that is very important.

MR. OPLE: May I complete my statement, Mr. Presiding Officer. When I speak of a distinction of substance, I do refer to the fact that in the committee text the Constitution holds the initiative. It says outright that the State establishes a free system of public education up to the secondary level and that leaves a very little margin of choice to the Congress in order to put the structure on flesh to such an unequivocal, forthright and, perhaps even urgent mandate of the Constitution.

On the other hand, in the Rodrigo provision we leave to Congress most of the initiative, including the discretion, perhaps under pressure from financial advisers of the government who are very powerful, to take their time before measures are taken. We are not even sure about the sufficiency of such measures before the system of free public education up to the secondary level actually gets translated into a workable and operating system.

I think I should like to point out, Mr. Presiding Officer, that as Commissioner Guingona said earlier, we have been to some of these public hearings and there seemed to be a tremendous clamor for free public schools in addition to free elementary education that the people now enjoy. I really admire the attitude taken by Commissioner Rodrigo from the beginning. I have joined him many times in urging this Commission to be prudent in offering hope that cannot be fulfilled because that is one way of deceiving our people. But I think in this case, I would like to part ways with Commissioner Rodrigo because the vision of a free public school system does obsess many of us. This is not a mandate to establish overnight free public schools in all municipalities. Unlike in the case of the universal elementary school system, I think there is a good amount of flexibility given to Congress and to the President and the Minister of Education, Culture and Sports in the days to come.

I have looked very closely at some of these data. I think the cost is affordable — P6 billion need not be a recurring cost because part of this is P2.5 billion of infrastructural capital budget, which means these are one-time expenses. And, therefore, when I take a look at the hemorrhage of public funds through losing government corporations, I am fascinated by the thought that even just a part of these funds that go into new equity infusion to failing government corporations could indeed make it extremely feasible for Congress to establish the kind of free public school system up to the secondary level as is contemplated in this report. And so, in reply to Commissioner Padilla, may I say that in the case of some countries I mentioned, based on the monumental work of Gunnar Myrdal, I think the principal conclusion of that great study known to most scholars is precisely that when we allocate more funds to the development of the human being himself, we improve the quality of the population. That is an investment that recovers manifold the returns of other investments merely placed in natural resources. The primacy of human resources, both as a factor in economic and social progress, can no longer be doubted. And so, in Sri Lanka where the per capita income is \$260 versus the \$700 per capita income of the Philippines, they have a complete free public school system up to the secondary and the tertiary levels. I am not saying that Sri Lanka is superior to the Philippines. What I am saying has reference to Gunnar Myrdal's historic study, *The Asian Drama*, an inquiry into the poverty of nations in South and Southeast Asia. A country poorer than the Philippines, like Sri Lanka, by all the indices of social and economic well-being seems to be more elevated than we are, and the only reason is that they spend for free public education a lot more proportionately to their budget than a richer country.

And it is upon these grounds, Mr. Presiding Officer, that I want to manifest my support for the text of the committee report, provided that we accommodate Commissioner Rodrigo's well-placed concern for the financial feasibility of this free public educational system in the Transitory Provisions, leaving to Congress the mandate and the flexibility to determine the time frame.

Thank you very much, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Does Commissioner Rodrigo wish to respond?

MR. RODRIGO: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): With the indulgence of Commissioner Tadeo, I would like to give Commissioner Rodrigo a few minutes to respond.

MR. RODRIGO: Just two sentences, Mr. Presiding Officer. The only issue is: should we separate the portion which states that Congress will have to implement this provision from the main provision that this is a definite constitutional commitment? As for me, I would not want to separate the two. I want them in just one provision. I think this is better because the people will know just what the provision really is at one glance. I think it is better that we place in one provision, right in the body of the Constitution, the whole principle plus the implementing provision, so that there can be no mistake; there can be no deception, intentional or unintentional.

Thank you very much.

THE PRESIDING OFFICER (Mr. Azcuna): What is the pleasure of Commissioner Tadeo?

MR. TADEO: Ang aking tunay na papel dito ay ang magbigay ng dugo at laman batay sa karanasan.

THE PRESIDING OFFICER (Mr. Azcuna): Ito ba ay tungkol sa amendment ni Commissioner Rodrigo?

MR. TADEO: Ano ba ang iniisip ng Kinatawang ito tungkol sa "free public education in all levels" para sa mga magbubukid? Education is the right of every citizen of the Philippines. Ang edukasyon ay hindi "profit-oriented", ito ay "service-oriented." Kung ito ay "service-oriented," ang karapatan ng isang mayaman ay karapatan din ng isang dukha, sapagkat ito ay isang karapatan at hindi isang pribilehiyo — mayroon ding karapatang tumuntong hanggang kolehiyo ang mga dukha. Nais ko lamang bigyang buhay ang isang kongkretong karanasan noong isilang ang barangay high school. Bunga ng sobrang kahirapan, sumisigaw sa kahirapan ang manggagawang bukid, na ang hanapbuhay ay nakatuon lamang sa pagtatanim at maghihintay pa siya ng gapasan para siya kumita. Sa panahong bakante, paano pa siya makapagpapaaral ng kanyang anak — libre ang pagpapaaral sa elementarya, ngunit pagdating ng high school, panay na pribadong paaralan lamang ang nagbibigay ng sekondaryang edukasyon? Makatutuntong pa ba siya ng high school?

Ang manggagawang bukid kung walang gawain ay walang makain; puro utang iyan. Kayat pagdating ng anihan, babayaran lamang niya ang kanyang mga utang at magsisimula na naman siya sa wala. Ngunit nang dumating ang barangay high school, nakapagpapaaral siya kahit walang kakainin.

Mayroong isang magandang nagawa si Commissioner Natividad sa Bulacan — ang Bulacan College of Arts and Trades. Mayroon ngayong kolehiyo sa Bulacan, at kamakailan lamang ang lahat ng kauna-unahang nagtapos ng pagka-inhinyero o "civil engineering" ay pasadong lahat. Ito ay isang kolehiyo lamang sa Bulacan. Nagkaroon din ng Bulacan College of Arts and Trades sa Bustos, at ang aking anak na si Andres Bonifacio ay doon nag-aaral. Alam ba ninyong ang matrikula ay P130 lamang sa isang taon? Aba'y sino naman ang hindi makapagpapaaral ng ganoon? Ngunit ang isang manggagawang bukid na walang maibigay na baon sa anak ay pinahihinto ang pag-aaral ng mga anak sa BCAT (Bulacan College of Arts and Trades) dahil ito ay nasa Bustos. Kami ay taga-Plaridel, kayat ang pamasahang ay ikakain na lamang ng pamilya. Saan ipinasok ang bata? Ipinasok sa barangay high school, dahil sa barangay high school mamimisikleta ka lamang o maglalakad ka lamang; wala ka nang pamasahang.

Ito ay isang kongkretong karanasan. Naniniwala akong ang aking tungkulin dito ay ang bigyan ko ng dugo at laman ang isang kongkretong karanasan.

Mga kasama, sasagutin ko lamang ang aking kaibigang Commissioner de Castro. Makabubuting suriin nating mabuti ang ibig pong sabihin ni Commissioner Sarmiento tungkol sa "budget" ng militar. Noong hindi pa

idinideklara ang martial law, ang bilang ng military ay animnapu't dalawang libo lamang, ngunit pagkaraan ng ilang taon, inaabot ito ng tatlong daang libo kasama ang paramilitary bagamat wala naman tayo sa digmaan. Isa ito sa pinakamalaking lumalamon ng ating budget. Ngunit ano ba iyong ugat ng peace and order? Muli akong magbabahagi sa inyo ng isang karanasan. Kapag inilaban ng magbubukid ang kanyang karapatan sa lupa, ang itatapat ng propertaryo o panginoong may lupa ay private army. Kapag nagreklamo ang mga magsasaka sa Mindanao tungkol dito sa pangangamkam ng lupa ng multinational, ang itinatugon ng Armed Forces of the Philippines ay dahas. Kayat ang tugon ng magsasaka ay:

Saan ba kami tatakbo? Kahit saan kami sumilong, papatayin nila kami, humawak man kami ng armas para ipagtanggol ang aming mga sarili. Ang armas ay proteksyon para sa amin.

Kung titingnan natin ang kalagayan, ang solusyon sa kanayunan ay ang tunay na reporma sa lupa. Kapag ipinairal natin ang tunay na reporma sa lupa, magkakaroon ng katarungan. Sinasabi iyan sa mga sinulat ni Mateo 23:23 (Matthew 23:23). Ang pinakamahalaga ay katarungan. Kapag ipinairal natin ang tunay na reporma sa lupa sa kanayunan, magkakaroon ng katarungan, ng kapayapaan at mawawalan ng kaguluhan. Ang mga tao sa bundok ay bababa na kapag pinairal natin ang tunay na reporma sa lupa. Hindi na kailangan ang militar. Babawasan natin ngayon ang military at ang budget ng militar ay ibibigay natin sa edukasyon.

Iyan lamang ang ibig sabihin ni Commissioner Sarmiento bilang paglilinaw.

The argument against free public education all the way to college based on financial constraint of the government will not hold water when the same government is being pressured to support financially through exemptions and subsidies private schools, including proprietary schools.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, may we now request for a vote.

MR. DE CASTRO: Mr. Presiding Officer, just one statement, please.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

Nabanggit ni Commissioner Tadeo na bago raw mag-martial law ang lakas ng militar ay wala pang isang daang libo; marahil mga limampung libo lamang. At bago naman mag-martial law, ang ating kalabang NPA ay wala pang limang daan. Dumami lamang nitong panahon ng ating magaling na Ginoong Marcos. At hanggang ngayon ay dumadami pa sila sapagkat kulang na kulang ang ating armed forces upang makibaka sa kanila. Kung ating babawasan ang militar, walang problema sa akin; ako ay isang retired officer; bahala na sila. Ngunit, isipin natin na kung walang peace and order, ay paano na ang ating barangay high school? Bagamat walang bayad diyan, hindi naman natin mapapasukan.

At pagkatapos ng martial law, dumami naman ang MNLF. Paano nangyari ito? Ang dahilan ay ang Tripoli Agreement na ginawa ng ating dating Presidente na hindi naman sinunod. Ilang libo silang kumakalaban sa ating armed forces ngayon at sinasabi kong padami pa sila. Ito'y amin nang nabanggit kay General Ramos at sa ating dating Presidente. Bakit nang bago mag-martial law ay mga limang daan lamang ang NPA? Bakit ngayon ay labing-anim hanggang dalawampung libo na sila?

Ngayon, kung ninanais ninyong alisin ang ating armed forces, walang problema sa akin iyan. Ang may suliranin ay kayong mga bata. Dadalawang taon o isang taon na lamang ang aking itatagal dito sa mundong ito, ngunit ang mga bata ay mayroong mga tatlung taon pa. Isipin ninyo kung saan kayo pupunta kung walang peace and order. Hindi sapagkat ipinagtatangol ko ang Armed Forces of the Philippines, kinakalaban ko pa nga sila. Bakit

dumami ang New People's Army? Sapagkat ninanakawan sila ng manok, ninanakawan sila ng kambing, ninanakawan sila ng baboy. Ang sabi naman ng mga militar:

Ano naman ang kakanin namin? Ang ibinigay sa amin ay ganoon lamang. And yet, we fight and we die everyday.

Recently, there were 16 members of the military killed. If they were our brothers or our relatives, perhaps, we would cry to the heavens. Bakit ganyan ang nangyayari? Kaibigang Tadeo, kakaunti ang militar bago mag-martial law sapagkat kakaunti ang kalaban.

Ang Sri Lanka, ayon kay Commissioner Ople, ay walang problema tungkol sa insurgency, kayat naibubuhos nila ang malaking halaga sa edukasyon. Kayat ang insurgency at ang peace and order ang dapat nating unahin. Maaaring dumating ang panahon na tayo ay hindi na makakakain ng tanghalian, hindi na makakakain ng hapunan sapagkat tayo ay inaabala ng kapwa tao. Iyan lamang ang aking pahatid sa ngayon kay Commissioner Tadeo.

THE PRESIDING OFFICER (Mr. Azcuna): Thank you.

MR. MAAMBONG: Mr. Presiding Officer, may I withdraw my motion for a moment and ask that Commissioner Bacani be recognized.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Bacani is recognized.

BISHOP BACANI: May I ask the committee what difference it will make if it is the committee's version or the version of Commissioner Rodrigo which will be followed? Let us foresee the scenario after this Constitution is approved, when we say that the State shall provide free elementary and high school education, while Commissioner Rodrigo says that the State shall take measures to provide such.

MR. VILLACORTA: Thank you, Mr. Presiding Officer.

The main difference we had pointed out is that our proposal makes permanent the idea of free public education up to the secondary level, because as we said, the body of our Constitution is addressed to all times. We are not concerned with the immediate present because the conditions of the immediate present may change, and are likely to change because we shall not be forever underdeveloped. However, to provide for the apprehensions such as those expressed by Commissioner Rodrigo, et al., we would like to provide in the Transitory Provisions the idea of Congress determining the time frame for the implementation of free public secondary education — only for free public secondary education. We understand and we sympathize with those who are afraid that, given the present economic crisis, it may not be possible for the government to immediately implement the intention of this proposed paragraph in Section 1 under Education. So, that is the main difference.

However, this is not to say that we do not appreciate the amendment of Commissioner Rodrigo in the second sentence which says that the State shall take measures to this effect. But as in the 1973 Constitution, there have been many provisions which stated that Congress shall take steps or that Congress shall take measures, but we know from our experience, as in the example of the development of the national language, that hardly anything was done. The proposal gives the government, or any government, much leeway, something to fall back on if it is unable to fulfill its duty.

Secondly, I do not think that there is anything deceptive, although as Commissioner Rodrigo said, it might be unintentionally deceptive to put this allowance for Congress in the Transitory Provisions. Although we have the terms of the President and the Vice-President fixed in the body of the Constitution and at the same time in the Transitory Provisions, we shall be providing for adjustments to respond to immediate and present exigencies and circumstances. For example, the synchronization of elections contained in the provisions proposed by

Commissioner Davide appears in the Transitory Provisions in order to supplement the provisions that are in the body of the Constitution.

I hope that answers the question of Commissioner Bacani.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Chair recognizes Commissioner Maambong.

MR. MAAMBONG: The floor now asks for a vote, but during all these discussions, the amendment got lost somewhere along the way. May we ask the committee to restate the amendment in clear terms so that the body will know what is to be voted on.

Thank you.

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

MR. RODRIGO: The proposed amendment reads: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL TAKE MEASURES TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

VOTING

THE PRESIDING OFFICER (Mr. Azcuna): As many as are in favor of the proposed amendment, please raise their hand. (Few Members raised their hand.)

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

As many as are abstaining, please raise their hand. (One Member raised their hand.)

The results show 13 votes in favor, 18 against and 1 abstention; the proposed amendment is lost.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: May I ask that Commissioner Bacani be recognized for his amendment?

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Bacani is recognized.

BISHOP BACANI: Mr. Presiding Officer, may I now propose my amendment which I made together with Commissioner Nieva and which is also cosponsored by Commissioners Guingona and Rosario Braid?

THE PRESIDING OFFICER (Mr. Azcuna): Please proceed.

BISHOP BACANI: My amendment reads "THE STATE SHALL PROVIDE MEASURES, INCLUDING SUBSIDY TO STUDENTS, THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT ALL LEVELS."

MR. VILLACORTA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Villacorta is recognized.

MR. VILLACORTA. Before the committee makes a decision on the motion, may we know whether this does not take the place of the committee's proposal which says: "The State shall establish and maintain a system of free public education at the elementary and secondary levels"? Will the Commissioner's amendment be the second sentence after our first sentence? Is that the intention?

BISHOP BACANI: Yes. I was made to understand by the committee that the paragraph that we just voted upon has to do with the public system of education. Now what is being proposed here is that the State will also make accessible elementary and high school education, as well as tertiary education for those qualified by other means.

MR. BENGZON: Mr. Presiding Officer, parliamentary inquiry, please.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Bengzon is recognized.

MR. BENGZON: After the Rodrigo amendment was defeated, how does the section stand now before the Bacani proposal?

THE PRESIDING OFFICER (Mr. Azcuna): May we ask the chairman of the committee to answer that?

MR. VILLACORTA: Mr. Presiding Officer, the proposed Section 1 (b) under Education would read: "THE STATE SHALL ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT THE ELEMENTARY AND SECONDARY LEVELS AND A SOCIALIZED FEE STRUCTURE IN THE TERTIARY LEVEL OF STATE COLLEGES AND UNIVERSITIES."

MR. BENGZON: The situation now is that we go back to the original report?

MR. GASCON: But it has not been approved yet by the body, Mr. Presiding Officer.

MR. BENGZON: That is right.

MR. GASCON: What we voted upon was the Rodrigo amendment but this section has not yet been voted upon.

MR. BENGZON: Yes. so we are back. Are we now using the original text?

MR. VILLACORTA: Yes.

MR. GASCON: Commissioner Bacani's proposal, therefore, would follow after we have approved on principle the providing of free public secondary education. So I think we have to decide first on that issue before we go into the additional amendment.

THE PRESIDING OFFICER (Mr. Azcuna): Does that answer the parliamentary inquiry

MR. BENGZON: So are we going to vote now on whether or not the State shall provide mandatorily for a free public education in the secondary level? Is that the issue now?

MR. VILLACORTA: Yes.

THE PRESIDING OFFICER (Mr. Azcuna): May we ask Commissioner Bacani to read his proposed amendment?

Has it been withdrawn?

MR. VILLACORTA: Commissioner Bacani reserves the right, Mr. Presiding Officer, to propose it again because his amendment is really a supplement to our proposal.

THE PRESIDING OFFICER (Mr. Azcuna): Meanwhile, Commissioner Bacani has withdrawn his proposed amendment. Is that correct?

BISHOP BACANI: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, in the list that I have here, Commissioner Aquino is listed as having reserved her right to propose an amendment.

MR. GASCON: Mr. Presiding Officer, is this an amendment to the same section? If it is not, maybe we could go into approving the principle of free public secondary education so that we can go on the third issue, after which we can continue from there.

So, we request that we make a vote on the principle of providing free public secondary education.

MR. MAAMBONG: Commissioner Aquino said that her amendment has already been covered. May I ask that Commissioner Davide be recognized on the same section.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

These amendments are reflected in the amended omnibus amendments which I submitted. I would like to propose the insertion of a new paragraph to Section 1 (a). It will read as follows: "TOWARD THIS END, THE STATE SHALL ESTABLISH, SUPPORT AND MAINTAIN."

Then we begin with letter (a), which is actually paragraph (b) of the original. And I seek to combine (b) with letter (d) or paragraph (d) on the second page and the others will follow. So, it will now read as follows: "TOWARD THIS END, THE STATE SHALL ESTABLISH, SUPPORT AND MAINTAIN:

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

(b) A SYSTEM OF FREE PUBLIC EDUCATION IN THE ELEMENTARY AND HIGH SCHOOL LEVELS."

Then insert what has earlier been approved which was the Aquino amendment:

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

(d) A PROGRAM OF PHYSICAL EDUCATION AND AMATEUR SPORTS DEVELOPMENT.

NO CONTRIBUTION OR EXACTION OF ANY KIND SHALL BE IMPOSED ON STUDENTS AND THEIR PARENTS OR GUARDIANS EXCEPT THOSE VOLUNTARILY IMPOSED BY THEIR ORGANIZATIONS."

If I may be allowed to explain, letter (a) will now totally combine paragraphs (b) and (d) of the committee report. Paragraph (b) will include the concept of free public education in the elementary and high school levels and, of course, with the amendment of Commissioner Aquino on the elementary education.

In the system of scholarship grants, which appears as paragraph (c), we combined this with loan programs and other incentives which shall be available to deserving students in both public and private schools, especially the underprivileged. Mr. Presiding Officer, this particular proposal is also coauthored by Commissioner Monsod. We deleted the concept of socialized fee structure in the tertiary level of state colleges and universities, and instead proposed for loan programs and other incentives for the reason that a socialized fee structure might not be adequate, sufficient and may result in discrimination. On the contrary, granting loan programs would make available education for the citizens, even those who will enroll in private educational institutions. And we give particular emphasis to the underprivileged, insofar as these programs are concerned. We also included the program of physical education and sports development to take into account Section 1 where we inserted sports.

And, certainly, since education now will be free, both in the elementary and high school level, we provided that 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. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Ople is recognized.

MR. OPLE: Will Commissioner Davide yield to just a question?

MR. DAVIDE: Willingly.

MR. OPLE: I see that Commissioner Davide has included Section (d) for his proposed amalgamations under Section 1 (a). Is that correct?

MR. DAVIDE: That is correct.

MR. OPLE: And in his amendment, the Commissioner has included loan programs.

MR. DAVIDE: That is another paragraph.

MR. OPLE: Yes, but that is paragraph (c).

MR. DAVIDE: If Commissioner Ople will notice, that particular proposal will, in effect, incorporate another portion of a separate section here.

MR. VILLACORTA: Mr. Presiding Officer, a prejudicial question.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Villacorta is recognized.

MR. VILLACORTA: Mr. Presiding Officer, while we are thankful for the efforts of Commissioners Davide and Monsod in integrating several sections of our proposed article — and we agree with most of what they are proposing — the committee feels that the issue hand now is the system of free public education in the elementary and high school levels. We are wining to separate the issue of socialized fee structure. Since Commissioner Davide's proposal here for Section 1 is a restructuring and contains a lot of issues which have yet to be debated fully, may we propose that we concentrate on Section 1 (b) which has to do with the system of free public education in the elementary and high school levels and the compulsory nature of elementary education which has been approved.

MR. OPLE: Mr. Presiding Officer, may I join the committee in this appeal to Commissioner Davide. I have a selfish reason because when we come to Section 1 (c) and (d), as previously submitted to the committee we have a proposed amendment concerning student loan programs based on a common portfolio established through the government financial institutions and on the "study-now, pay-later" principle.

MR. DAVIDE: Mr. Presiding Officer, I just would like to get it very clearly from the committee: Is it the thinking of the committee that we will vote on concepts first?

MR. VILLACORTA: Yes, because there are many other amendments. For example, Commissioner Padilla has an amendment on sports and Commissioners Bacani and Nieva have proposals for accessibility of education.

MR. DAVIDE: Exactly what is the stand of the committee? Shall we vote first on concept, for instance, on socialized fee structure or on whether or not we will allow free education up to the high school level?

MR. VILLACORTA: That is why we would like to vote first on (b) because that is the issue at hand, without prejudice to this restructure.

MR. DAVIDE: Mr. Presiding Officer, paragraph (b) alone includes several concepts — socialized fee structure, free education up to the secondary level.

MR. VILLACORTA: No, I refer to (b), the small letter (b) in the Gentleman's amendment.

MR. DAVIDE: I see. So what about (a)?

MR. VILLACORTA: We shall go back to that letter because what we have been discussing, like the amendment of Commissioner Rodrigo, was this issue of free public education.

MR. DAVIDE: I would have no problem with that.

MR. GASCON: Mr. Presiding Officer, the whole point is, we may be willing to accept Commissioner Davide's reformulation but since we already went into this issue on the system of free public education, perhaps we can dispose of this first and then go back to his other amendments.

MR. DAVIDE: We will finish (b) first?

MR. VILLACORTA: Yes, the Commissioner's letter (b).

MR. DAVIDE: I will have no objection.

THE PRESIDING OFFICER (Mr. Azcuna): So, for the meanwhile, is Commissioner Davide withdrawing his proposed amendment, considering that on this portion of 1 (b) of the committee report his own amendments seem to be exactly the same?

We would like to ask if there is any other proposed amendment to that.

MR. DAVIDE: I understand that the committee will take up 1 (b) of my proposal, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): The Chair has compared the committee text with Commissioner Davide's proposal on that portion and sees no difference.

MR. DAVIDE: Except for the socialized fee structure.

THE PRESIDING OFFICER (Mr. Azcuna): Yes, except that.

MR. DAVIDE: Up to the tertiary level of state colleges and universities.

MR. GASCON: Yes, because the proponent himself separated it and placed the concept of socialized fee structure in letter (c), so we shall discuss that when we go to his amendment. We are agreeable to separating the concepts first; therefore, the committee is accepting Commissioner Davide's 1 (b) for the moment.

MR. DAVIDE: It is not exactly 1 (b) because this has, in effect, been amended by Commissioner Aquino for the second sentence.

THE PRESIDING OFFICER (Mr. Azcuna): As amended, yes.

The Chair would like to recognize Commissioner Maambong.

MR. MAAMBONG: Mr. Presiding Officer, may I indicate at this point the difficulty we are facing because the sequencing of the sections is not as it should be. As a matter of fact, it was because of this that I submitted earlier the outline of the proposed provisions on education and I gave a copy of my outline to the Honorable Deputy Minister Victor Ordoñez who graciously answered me with a letter wherein he indicated an outline and a possible resequencing of the provisions. Everyone of us has a copy of that.

I would like to suggest to the committee that perhaps we could go faster, if the committee would follow the formulation suggested by Deputy Minister Ordoñez without doing any damage to the provisions as they appear now. Once these are properly sequenced, I think we can go faster. I notice Commissioner Davide jumping from one section to another, and this is because the sections themselves are not sequenced in the proper order.

The order of presentation suggested to Honorable Ordoñez is only on five parts, and if we could follow the sequence and if the committee will accept this and probably resequence the formulation of the sections themselves, we can propose our amendments on the basis of the new sequence and go very fast.

I would like to know the response of the committee to that.

THE PRESIDING OFFICER (Mr. Azcuna): May we hear the chairman of the committee?

MR. VILLACORTA: Mr. Presiding Officer, it is not true that the sequencing is not proper. I do not know what criteria were used when we say that the sequencing of our article is improper. We have our own logic here. I do not think that we just came up with a haphazard presentation without any logic in mind.

MR. MAAMBONG: I am not suggesting that, Mr. Presiding Officer. I am just saying that probably we could put it in a proper outline the way it has been suggested by Deputy Minister Ordoñez.

MR. VILLACORTA: We are open to that, except that the Gentleman's and Minister Ordoñez' proposal for sequencing is not the only such proposal. There is the proposal of Commissioners Monsod and Davide. Just to save time, we are very open to these suggestions for resequencing but we need time to do it. However, I think we should tackle the issue now at hand, which is free public elementary and secondary education.

The committee suggests to the Chair that we vote on this, unless there is no objection to the Davide amendment which the committee had accepted. After this, we can go on to the other paragraphs according to the sequence in the present article and then the resequencing can be done tomorrow. Is that acceptable to Commissioner Maambong?

MR. MAAMBONG: Yes, that is acceptable. We can still go on with the sections as they appear in the committee report but I still suggest that probably the committee could take a close look at the sequence presented by Deputy Minister Ordoñez, not that we are bound by it. It is just that it appears to be like a good suggestion. However, I would like to disabuse the mind of the committee that I am trying to say that the presentation is improper. I am just trying to put in a little bit of order in it. It is not really a disorderly presentation but I am just trying to help, Mr. Presiding Officer.

MR. VILLACORTA: The clarification is well taken. As a matter of fact, the committee itself also requested the help of Deputy Minister Ordoñez. So, we are one in our intention to improve the sequence of the committee report.

MR. REGALADO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Regalado is recognized.

MR. REGALADO: A parliamentary inquiry. For purposes of the proposed voting on Section 1 (b), is it our understanding that we shall vote on the concepts of acceptability, first, on free compulsory elementary education?

MR. VILLACORTA: Yes.

MR. REGALADO: Second, free education on the secondary level; and, thirdly, the socialized fee structure.

MR. VILLACORTA: Yes.

MR. REGALADO: With respect to the second, I understand there will be a complementary provision in the Transitory Provisions. May we have the gist of what that complementary provision is, because we are going to vote on its basic concept and the rest?

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): May we have the answer of the committee first?

MR. VILLACORTA: Mr. Presiding Officer, with respect to compulsory elementary education, I think that has been decided by the body in favor of the amendment of Commissioner Aquino. Now, with respect to the gist of our proposal for the Transitory Provisions, it will be something like this: That Congress will determine when free public secondary education will be fully implemented. Of course, the wording can be improved and we shall ask the help of Commissioner Rodrigo because this basically reflects the intention.

MR. REGALADO: How about the socialized fee structure? Will there be any conditions?

MR. VILLACORTA: Could we vote on that concept later on, because that will involve a long discussion and probably we do not have the time tonight.

MR. REGALADO: So we will only have to stick to (b) for the time being?

MR. VILLACORTA: Yes.

MR. REGALADO: All right.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Davide is recognized.

MR. DAVIDE: I just would like to modify the issues presented. It is not that we have to split the issue of free elementary education and free secondary education. I understand that the rejection of the Rodrigo amendment was, in fact, a confirmation that education shall also be free up to the high school level. The issue is whether or not education shall be free up to the high school level, not that the issues have to be split — one voting for elementary; another voting for secondary.

THE PRESIDING OFFICER (Mr. Azcuna): Commissioner Maambong is recognized.

ADJOURNMENT OF SESSION

MR. MAAMBONG: Mr. Presiding Officer, there are no other Commissioners who have registered to propose their amendment at this point in time. If there is no objection from the body, I move that we adjourn the session until tomorrow at nine-thirty in the morning.

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

The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:05 p.m.

[*] Appeared after the roll call

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