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Monday, September 8, 1986

CALL TO ORDER

At 9:56 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Gregorio J. Tingson, to wit:

"Now Faith is the substance of things hoped for, the evidence of things not seen, for by it the elders obtained a good report. Through Faith we understand that the worlds were framed by the Word of God so that things which are seen were not made of things which do appear."

Book of Hebrews

"Loving Heavenly Father, Whose we are and Whom we serve, we approach Thy throne of grace this morning as we start another day of work at our Constitutional Commission with deep humility and with a profound sense of gratitude: deep humility because we are not worthy to be entrusted with such a heavy and intricate task; profound gratitude because we can do all things through Christ Who strengthens us which is really faith at work; faith which is the substance of things hoped for, the evidence of things not seen; faith which is the flow of Divine energy through us, who are willing to do that which is well-pleasing in Thy sight; faith which is believing the incredible, seeing the invisible and doing the impossible.

Our country here, Lord, needs a political stabilizing document. Help us to write it well. We need to finish this Charter fairly soon. We cannot afford to disappoint our people. Bless us with discerning mind, a believing heart, a strong physique, a living and uncompromising faith.

And along with St. Paul, we declare true faith in Thy goodness, tolerance and understanding when he said, "This is our work and we can do it because Christ's Mighty energy is at work within us."

In the Blessed and Matchless Name of Christ, we pray.

Amen.

ROLL CALL

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

Alonto, A. D.

Muñoz Palma, C.

Bacani, T. C.
Quesada, M. L. M.
Bengzon, J. F. S.
Rama, N. G.
Bernas, J. G.
Regalado, F. D.
Rosario Braid, F.
De Los Reyes, R. F.
De Castro, C. M.
Rigos, C. A.
Colayco, J. C.
Rodrigo, F. A.
Concepcion R. R.
Romulo, R. J.
Davide, H. G.
Sarmiento, R.V.
Foz, V. B.
Suarez, J. E.
Gascon, J. L. M. C.
Sumulong, L. M.
Guingona, S. V. C.
Tadeo, J. S. L.
Jamir, A. M. K.
Tingson, G. J.
Monsod, C. S.
Treñas, E. B.
Natividad, T. C.
Uka, L. L.
Nieva, M. T. F.
Villegas, B. M.
Padilla, A. B.

With 33 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R.

Lerum, E.R.

Aquino, F. S.

Maambong, R. E.

Bennagen, P. L.

Nolledo, J. N.

Calderon, J. D.

Ople, B.

Garcia, E. G.

Tan, C.

Laurel, J. B.

Villacorta, W. V.

P.M.

Azcuna, A. S.

Mr. Rosales was sick.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Rama, there being no objection, the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body.

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communications Nos. 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771 772, 773, 774, 775, 776, 777 — Constitutional Commission of 1986

Letters, 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, each from the following:

(1)

Miriam E. Auza

60-B Mabilis Street

Diliman, Quezon City

(2)

Beth Banez

32-A Scout Madrinan

Quezon City

(3)

Josephine Sasoy

56 Miranda Street

Panabo, Davao

(4)

Ana F. Japay

58 Peach Street

SSS Village

Marikina, Metro Manila

(5)

Orpah Marasigan

32-C Scout Madrinan

Quezon City

(6)

Karenina B. Montemayor

Beverly Hills Subdivision

Antipolo, Rizal

(7)

Beth C. Manalastas

Sampaguita Street, Sto. Nino

San Fernando, Pampanga

(8)

Jing Carpio

32-A Scout Madrinan

Quezon City

(9)

Leah M. Darwin

73-B Lazeano

Diliman, Quezon City

(10)

Cyd H. Latuno

66-D Gen. Lim Street

Heroes Hill, Quezon City

(11)

Rachel Ma. Virtucio

70-3 Gen. Malvar Street

Davao City

(12)

Adela S. Erpelo

914 Guadalupe BLISS I

Makati, Metro Manila

(13)

Maria Jovita M. Perez

56 Luna Street

San Pedro, Laguna

(14)

Lutgarda Ocastro

1721 Phase 3

Guadalupe BLISS

Makati, Metro Manila

(15)

Leonida Ramos

217 Paraiso Street

Tondo, Manila

(16)

Alvina Torres

ACPO Box 51

Quezon City

(17)

Roy Bolina

70 Scout De Guia Street

Quezon City

(18)

Zillah Balico

Barotac Nuevo

Iloilo

(19)

Rowena Jameo

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 778 — Constitutional Commission of 1986

Letter from Mr. Manuel Navoa expressing his gratitude and of the three hundred persons in death row for the abolition of the death penalty and also seeking the enactment of a law providing compensation to acquitted prisoners as well as victims of crimes

TO THE COMMITTEE ON SOCIAL JUSTICE

Communications Nos. 799 and 780 — Constitutional Commission of 1986

Communications, urging the Constitutional Commission to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from the following:

(1)

One hundred twenty-one signatories from the BIR Catholic Charismatic Community, East Triangle, Diliman, Quezon City

(2)

Seven thousand five concerned citizens of the Province of Misamis Occidental

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

Communication No. 781 — Constitutional Commission of 1986

Letter from Mr. Jesus B. Blanco, submitting Resolution No. 1 of the BIR Improvement Movers Association, urging the creation of a Constitutional Commission on Revenue

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 782 — Constitutional Commission of 1986

Communication from Mr. Delfin R. Manlapaz of 1707 E. Rodriguez, Sr. Boulevard, Cubao, Quezon City, suggesting a constitutional provision mandating the State to create a citizen-owned reservoir of national credit, wherein each of them, natural-born or naturalized, is credited with a prorated initial bank deposit

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

QUESTION OF PRIVILEGE OF MR. ALONTO

At this juncture, Mr. Alonto rose on a question of privilege by giving the reaction of the Mindanao Muslims to the historic trip of President Aquino to the South for a peace talk with Nur Misuari.

He stated that on Friday, September 5, 1986 which was also the first day of the first month of the Hegira year, President Aquino proceeded to Jolo, Sulu, against the advice of her advisers, to meet the leader of the secessionist Moro National Liberation Front.

On behalf of the Muslims in Mindanao, he congratulated the President and all those who accompanied her on a mission of peace for Mindanao. He stated that the meeting significantly had for its venue the Carmelite Convent situated at the heart of a Muslim city which had not known peace during the regime of President Marcos.

He quoted the President, who spoke before the audience in Zamboanga City and Jolo, to have said: "I am not afraid to face any danger. I am ready to face anything and if I have to make sacrifices, I will gladly do it to achieve peace for all." He lauded the President, stating that she deserves not only the accolade but also the support and cooperation of the Filipino people in her effort to attain peace for all people.

Mr. Alonto recalled that twenty years ago, some 20,000 Muslims had already recommended a workable solution to the peace problem in Mindanao through the grant of local autonomy with a definite and guaranteed territorial jurisdiction; and a legislative power to enact local laws based on the Holy Qur'an and the Sunnah of the Holy Prophet, which recommendation was based on what Dr. Majul said in the 1971 Constitutional Convention that "unless we can bestow to our people a sense of oneness and common destiny, there seems to be no possible recourse to contain the process of disintegration going on in our very midst involving not only a certain sector of our society but its entirety."

Mr. Alonto also acknowledged the contribution of the Constitutional Commission to the efforts of the President to bring peace, unity and harmony by approving the establishment of the autonomous regions of Mindanao and the Cordilleras on August 21, 1986 which happened to be the third death anniversary of Senator Benigno Aquino, Jr., a hero and martyr who was assassinated upon his return to the country on a mission of peace and reconciliation. He stated that the establishment of autonomous regions would solve the persistent peace problem which has stood in the way of nation-building for the last two decades.

Finally, he implored the guidance of the Almighty God for the President of the Philippines and all the Filipino people in their quest for peace and success.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 10:19 a.m.

RESUMPTION OF SESSION

At 10:41 a.m., the session was resumed.

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

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

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

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

Mr. Villacorta informed that the concepts being discussed are on 1) ownership of all non-religious schools which the Committee proposed to be 100% owned by Filipinos; and 2) ownership of educational institutions by religious orders, mission boards and charitable organizations which the Committee proposed to be 75% owned by Filipinos.

Thereupon, the Chair asked for speakers in support of the proposals.

REMARKS OF MR. PADILLA

Mr. Padilla manifested support for the proposal of Messrs. Regalado and Bernas to revert to the 1973 Constitutional provision. He stated that educational institutions of religious orders and mission boards, perhaps even charitable organizations, should not be subject to the ownership requirement. He noted that such schools are found not only in urban areas but also in remote places where there is hardly any school. On the contention that Philippine colleges and universities are Filipinized, he adverted to the remarks of Mr. Bernas that not all colleges and universities of religious orders are wholly owned by Filipino citizens. He stated that he has doubts on the meaning of "Filipinized" because although the University of St. Tomas, for instance, has a Filipino Dominican and Ateneo University a Filipino Jesuit as Presidents, the Filipinization might refer only to administration or management but not necessarily to ownership. He observed that members of religious orders are pledged to the vows of obedience, chastity and poverty and cannot really own any portion of the educational institution whose valuable assets consist of lots, buildings and equipment. He reiterated that under the 1973 provision, the Filipino ownership requirement for other education institutions, as corporations or associations, is 60 percentum of their capital.

Replying thereto, Mr. Guingona stated that the Committee's stand is for a 75-25 ratio which for is willing to reduce to 60-40 for the reasons given by some Members, among others, by Mr. Regalado who explained that in the school where he is Dean of the College of Law, the school's charter provides that upon liquidation, all the school's assets will revert to the religious organization which owns it and, therefore, where the religious organization is 100% owned by foreigners, the assets will go back to a 100% foreign-owned religious organization. He noted that the 60-40 ratio might be initially provided for but, perhaps, with a saving clause that the Legislature may change this ratio later on.

Apropos Mr. Guingona's statement regarding his school, Mr. Regalado clarified that upon dissolution, the school's assets will go back to the Order of Los Padres Benedictinos de Filipinas, not a foreign entity.

With respect to the proposed amendment to Section 4(a), Mr. Regalado informed that the consensus arrived at after conference with the Committee and Messrs. Davide, Padilla, Rodrigo and others, is that there should be a little change from the 1973 Constitution to the effect that educational institutions established by religious orders and mission boards, excluding those established by charitable organizations, shall continue to operate as they now operate under the exemption of the 1973 Constitution until Congress shall provide otherwise.

Further, Mr. Regalado informed that with respect to other schools, proprietary, cooperative or foundations, there is no consensus as to whether ownership should be 60-40, 76-25 or 100% Filipino owned and that the matter of equality should be submitted to the Body. He noted that the Committee proposed 100% ownership.

Mr. Guingona, reacting thereto, stated that as far as Mr. Regalado's school is concerned, he does not dispute that the religious organization is predominantly Filipino but that he was thinking of other religious organizations or mission boards which may be fully owned by foreigners and which may have in their charters a provision that upon liquidation all assets will go back to the organization.

Mr. Regalado inquired whether the Committee has conducted a survey or has some data from the Securities and Exchange Commission or the Ministry of Education, Culture and Sports which could serve as the basis for discussion.

In reply, Mr. Villacorta informed that the Committee has a directory from the Catholic Educational Association of the Philippines (CEAP), to which Mr. Regalado replied that the Committee should get the complete data so that the Body would know the real situation.

Mr. Villacorta stated that the directory confirms what Brother Rolando Dizon, President of the CEAP, has said that Catholic schools are Filipino-owned. He opined that there is no mission school which is foreign-owned and that Mr. Rigos has explained about Protestant schools. He inquired why an exception should be made for schools which are non-existent.

Mr. Guingona noted that the proposal of Mr. Regalado would refer not only to existing schools but also to schools to be established in the future. He remarked that the proponents themselves do not have data.

With respect to the reversion of property and assets to the religious order upon dissolution of the school, Mr. Regalado surmised that the data for the other religious orders would be available in the Ministry of Education, Culture and Sports to which they are submitted with the application for authority to operate or for recognition, although such data may not be available in the Securities and Exchange Commission because corporations sole were not registered with it until lately. He also noted that CEAP records may not be complete because such data are submitted to it on a purely voluntary basis.

On a point of information, Mr. Bacani stated that many religious orders had been coming to the Philippines because of the vocation crisis in Europe and among the recent arrivals were the Cabrini Fathers and the Servants of Mary. He stated that these religious congregations, which have been increasing in number, could not immediately have Filipino members to enable them to establish schools and would need a minimum of eight years before they could recruit perpetually professed members or full members of the institute and, precisely, one of the means by which they could grow in the Philippines and carry out their mission is through the building of schools. In view thereof, Mr. Bacani sought retention of the phrase "unless otherwise provided by law" which would allow Congress flexibility to legislate on the matter of transfer of ownership within a certain period of time.

MOTION OF MR. DAVIDE

At this juncture, Mr. Davide suggested that, for purposes of intelligent voting, the Body should first vote on the ownership of non-religious schools and later take up the issue of ownership of educational institutions by religious orders and mission boards in view of the different proposals for each of them.

Responding thereto, the Chair adverted to the Committee proposal for private educational institutions to be owned solely by citizens of the Philippines or corporations or associations wholly owned by such citizens and asked Mr. Villacorta if he would agree to a voting on it first, to which the latter acceded.

INQUIRY OF MR. MONSOD

In reply to Mr. Monsod's query on whether the Committee has any complementary proposals, maybe in the Transitory Provisions, on how much time these institutions would be allowed in order to reach the 100% proposed by the Committee, Mr. Villacorta stated that the Committee had in mind proposing in the Transitory Provisions that Congress determine the period within which foreign-owned religious schools may divest ownership such that the provision would not take effect immediately upon ratification since Congress would have to decide on the time frame.

Reacting thereto, Mrs. Quesada stated that the principle which guided the Committee on whether foreigners should be allowed to own proprietary schools or schools other than religious or charitable, is the recognition of the fact that education is a very vital mechanism for inculcating and developing the concept of nationalism, and that the Filipinos would never learn to become self-reliant but would always be subservient to foreign domination if they do not have effective control of this particular dimension of societal life. She stressed that education should be looked at as a vital instrument for the liberation and development of the Filipino.

SUGGESTION OF MR. BERNAS

Mr. Bernas suggested that the discussion include what the Committee contemplates to put in the Transitory Provisions since the vote of many Members would depend on what the Transitory Provisions would look like.

Mr. Villacorta, however, pointed out that the Committee's proposal on the first and second issues is to give Congress flexibility to fix the time frame in the Transitory Provisions.

Thereupon, Mr. Bernas suggested that the Body vote first on the proposition that Congress provide for the time frame for transition, which suggestion was accepted by Mr. Villacorta.

REMARKS OF MR. RODRIGO

Mr. Rodrigo stated that consistent with his observation that making a categorical statement in the Article itself that the State shall provide free elementary and high school education and providing discretion to Congress in the Transitory Provisions is deceptive, he would suggest that the Committee combine the provisions by including the phrase "unless otherwise provided by law" so that everybody would know the situation in one reading.

Reacting thereto, Mr. Treñas stated that the other Members of the Committee recognize the merits of Mr. Rodrigo's suggestion that the period for the conversion of educational institutions into 100% Filipino ownership may be stated in the same Article instead of putting the time frame in the Transitory Provisions.

In reply to Mr. Regalado's query on whether the Committee would accept the proviso "unless otherwise provided by law", Mr. Treñas stated that the Committee would stand by its report that institutions should be wholly owned by Filipinos, but giving Congress the discretion to decide the time within which the present educational

institutions may effect such ownership.

Thereupon, Mr. Regalado requested for a reformulation of the Committee amendment.

REFORMULATED COMMITTEE AMENDMENT

Thereupon, Mr. Villacorta stated the Committee reformulation, to wit:

PRIVATE EDUCATIONAL INSTITUTIONS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES, OR CORPORATIONS OR ASSOCIATIONS WHOLLY OWNED BY SUCH CITIZENS EXCEPT FOR EDUCATIONAL INSTITUTIONS OF RELIGIOUS ORDERS, MISSIONARY BOARDS AND CHARITABLE ORGANIZATIONS WHICH SHALL BE AT LEAST SEVENTY-FIVE PERCENT OWNED BY FILIPINO CITIZENS. CONGRESS MAY, BY LAW, PROVIDE THE PERIOD WITHIN WHICH THIS REQUIREMENT IS MET. THE ADMINISTRATION OF ALL SCHOOLS SHALL BE VESTED IN FILIPINO CITIZENS.

Mr. Guingona rectified "may, by law," to read SHALL BY LAW.

SUSPENSION OF SESSION

On motion of Mr. Bernas, the session was suspended.

It was 11:15 a.m.

RESUMPTION OF SESSION

At 11:29 a.m., the session was resumed.

AMENDMENT OF MR. REGALADO

Thereupon, Mr. Regalado proposed to amend Section 4(a), to read:

UNLESS CONGRESS OTHERWISE PROVIDES, EDUCATIONAL INSTITUTIONS OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS, MISSION BOARDS AND CHARITABLE ORGANIZATIONS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS 60 PERCENTUM OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS. THE CONTROL AND ADMINISTRATION OF EDUCATIONAL INSTITUTIONS SHALL BE VESTED IN CITIZENS OF THE PHILIPPINES.

He explained that he was adopting the provision of the 1973 Constitution subject to such prescription as may be provided by Congress.

Mr. Villacorta stated that the Committee had its own formulation of Section 4(a).

Mr. Regalado, however, asked for a vote on his proposed amendment, and if voted down, the Body could then vote on the Committee's proposal.

INQUIRY OF MR. BERNAS

In reply to Mr. Bernas' query, Mr. Regalado stated that the phrase "unless Congress otherwise provides" would only refer to ownership because the matter of administration would fall under the second sentence.

OBSERVATION OF MR. GUINGONA

Mr. Guingona pointed out that there were actually three issues on which the Body would vote, namely, on private educational institutions in general which was formulated by the Committee; on the exception regarding the religious orders and mission boards as contained in Mr. Regalado's amendment; and on the matter of administration.

He suggested that the Body vote first on the matter of ownership of private educational institutions subject to law.

Mr. Rodrigo, however, stated that the Body should first vote on Mr. Regalado's amendment, and when voted down, the Body would then consider the Committee's proposal, in reply to which Mr. Guingona pointed out that the Committee's proposal was anterior to Mr. Regalado's proposal.

Mr. Regalado explained that he was not asking for a discussion on the issues but for a vote on his entire proposed amendment.

Thereupon, the Chair stated the parliamentary situation and allowed the Committee to submit its new formulation for the guidance of the Members in casting their votes on the Regalado proposal. Mr. Villacorta then read the formulation as follows:

PRIVATE EDUCATIONAL INSTITUTIONS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATION WHOLLY OWNED BY SUCH CITIZENS, PROVIDE THAT CONGRESS SHALL DETERMINE THE PERIOD WITHIN WHICH EXISTING EDUCATIONAL INSTITUTIONS SHALL COMPLY WITH THIS REQUIREMENT

Mr. Villacorta stated that the Committee's proposal was amended by Messrs. Monsod, Bernas and Rodrigo, among others.

INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' query, Mr. Regalado reiterated that the phrase "unless Congress Otherwise provides" refers only to ownership and not to control and administration of the private educational institutions. He underscored that he was in favor of full administrative control by Filipino citizens of all educational institutions.

Mr. Regalado also pointed out that almost all schools, except for two, had already been Filipinized since the school year 1975-1976, and that for those that had not yet been Filipinized, his amendment would ensure that administrative control would be vested in Filipino citizens pursuant to the provisions of Presidential Decree No. 176.

On whether private educational institutions need not be owned solely by Filipinos or Filipino corporations and associations, Mr. Regalado explained that under the 1973 Constitution, they should be owned solely by Filipinos or corporations 60% of the capital of which belongs to Filipinos, however, his proposal would allow Congress to change the equity ratio.

On Mr. Suarez' observation that the 1935 and 1973 Constitutions only provide for corporations and associations and not individuals, Mr. Regalado replied that the phrase "unless Congress otherwise provides" would apply to corporations and associations while individuals must wholly own such educational institutions. He affirmed that his proposal was different from that of the Committee, for which reason he was asking that the Body first vote on his amendment and, if voted down, it could consider the Committee's proposal.

FURTHER INQUIRY OF MR. BERNAS

In reply to Mr. Bernas' query, Mr. Regalado also affirmed that the phrase "until Congress otherwise provides" would not mean authorizing Congress to decrease the Filipino equity which could be increased up to 100 percent.

MR. RODRIGO'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Rodrigo proposed an amendment to Mr. Regalado's amendment, between the word "association" and the number "sixty", to insert the words AT LEAST, so that the phrase would read "OR CORPORATIONS OR ASSOCIATIONS AT LEAST SIXTY PER CERTUM OF THE CAPITAL OF WHICH . . ."

Mr. Regalado accepted the amendment to his amendment.

INQUIRY OF MR. MAAMBONG

On Mr. Maambong's query on whether the term "associations" would include "foundations" as provided for under Republic Act 6055, Mr. Regalado explained that under Section 25 of the Education Act of 1982, the schools to be established in the future are enjoined to be purely on a non-stock corporate arrangement, which encourages the establishment of foundations, therefore, they are included in the term "associations" subject to the provisions of the Corporation Code, such as those on exemption from taxes, import duties, assessments and other charges imposed by the government.

MR. BACANI'S AMENDMENT TO THE AMENDMENT

Mr. Bacani proposed to change the word "orders" to GROUPS so as to include the Muslims and other religious societies in the term RELIGIOUS GROUPS.

Mr. Regalado accepted the amendment.

INQUIRY OF MRS. QUESADA

In reply to Mrs. Quesada's query, Mr. Regalado reiterated that Congress may not decrease- the 60% Filipino equity but may increase it up to 100 percent.

INQUIRY OF MR. OPLE

On Mr. Ople's query on whether all, except two, private educational institutions are Filipinized, Mr. Regalado explained that Filipinization involves ownership and administration, and under Presidential Decree No. 176, all private institutions were required to be Filipinized not later than school-year 1976-1977, but the University of Sto. Tomas had some controversy which was subsequently resolved when the Rector became a Filipino citizen.

He further explained that the second sentence of his proposed amendment would now provide that the control and administration of all private educational institutions shall be vested in Filipino citizens.

On Mr. Ople's query on whether various degrees of control of the administration would arise when the ownership is shared between Filipino and foreign equity holders, Mr. Regalado explained that in a 60% Filipino and 40% foreign equity arrangement, the foreign equity holders are entitled to only 1/3 of the number of directors in the board of trustees, and the 2/3 majority would be Filipino, therefore, the Filipino controls the majority vote.

On whether the participation of foreign equity in the policy-making body of a school, San Beda for instance, would have no consequence in the autonomy of the school administration, Mr. Regalado pointed out that as far as San Beda is concerned, there is no foreign equity therein, although it is a corporation duly registered with the

Securities and Exchange Commission, and working coordinately with Los Padres Benedictinos de Filipinas.

He further stated that if his proposed amendment would be rejected, the status of schools would be as they were under the 1973 Constitution unless Congress provides for an increase in the equity ratio, for which it has to provide a time frame.

He underscored that under his proposal, it would depend upon Congress to increase such 60-40% equity ratio while under the Committee proposal, the ratio would be fixed at 100%, subject to the terms that Congress may provide.

INQUIRY OF MR. NOLLEDO

On Mr. Nollado's observation that Congress may not change the equity requirements on private schools run by religious orders such that they would be owned 100% by foreigners, Mr. Regalado explained that the Committee was in fact proposing in the Transitory Provisions such restriction.

But Mr. Nollado pointed out that religious orders or mission boards are, in fact, the exceptions to the general rule which Congress may change. He then expressed support of the Committee's formulation.

Mr. Treñas observed that under the amendment of Mr. Regalado, the matter would be left to Congress while under the Committee's formulation, the matter would be left to the Commission itself. He opined that the Commission itself should determine whether or not such schools would be wholly owned by Filipinos and allow Congress to determine the period within which existing educational institutions shall comply with the provision.

Mr. Bernas, in response to the question of Mr. Nollado, stated that it is for this reason that it would be better to place the clause "unless otherwise provided by law" at the beginning and not in the middle of the sentence so as to cover even religious schools.

In relation thereto, Mr. Regalado opined that by transposing the qualificative provision at the outset, it would cover schools established by religious orders and proprietary schools.

By way of clarification, Mr. Guingona noted that Mr. Regalado has included within the exceptions to the general rule not only religious groups and mission boards but also charitable institutions while the Committee's proposal would not include charitable institutions. On the interpellation of Mr. Ople, Mr. Guingona stated that Mr. Regalado's proposal is for a 2/3-1/3 ratio while his proposal is for a 60-40 ratio.

REMARKS OF MR. DAVIDE

Mr. Davide registered his opposition to the proposal of Mr. Regalado, stating that the original proposal placing "unless otherwise provided by law" at the beginning of the Section is worse than the second proposal. He contended that Congress may grant an alien ownership of an educational institution, or may not require Filipino equity in any corporation or association to operate and establish an educational institution, which would destroy the very exemption which the Body is contemplating for educational institutions operated by religious groups or mission boards, thus, it would be a retrogression of the highest order.

At this juncture, the Chair directed that the Body proceed to vote on Mr. Regalado's amendment, as restated, to wit:

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

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

Mr. Regalado clarified for the record that transposing “unless otherwise provided by law” would not mean that Congress would hereafter allow foreign religious orders or foreign citizens to establish educational institutions contemplated in the provision.

VOTING ON MR. REGALADO'S AMENDMENT

Submitted to a vote, and with 23 Members voting in favor, 18 against and no abstention, the proposed amendment was approved by the Body.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 12:02 p.m.

RESUMPTION OF SESSION

At 12:04 p.m., the session was resumed.

Upon resumption of session, Mr. Villacorta asked the Chair whether, in view of the approval of Mr. Regalado's amendment, the first paragraph or the paragraph preceding paragraph (a) is also approved, to which the Chair replied that what has been approved is a substitute amendment to paragraph (a). Mr. Villacorta, upon inquiry of the Chair, informed that inasmuch as the opening paragraph has not been submitted to a vote, the Committee would formalize it.

AMENDMENT OF MR. MONSOD

On Section 4, page 2, line 23, after the word "institutions", Mr. Monsod proposed to put a period (.) inasmuch as the rest of the paragraph is reflected in the general statement on education and would be a surplusage. Mr. Villacorta accepted the amendment on behalf of the Committee.

AMENDMENTS OF MR. DE LOS REYES

On Section 4, page 2, line 19, Mr. de los Reyes proposed to insert between the words “recognizes” and “public” the phrase THE COMPLEMENTARY ROLES OF and on line 20, to delete the words “as complementary aspects of”. The sentence, as amended, would read: "The State recognizes the COMPLEMENTARY ROLES OF public and private educational institutions in an integrated system of Philippine education . . ." the Committee accepted the amendment.

Upon direction of the Chair, Mr. Villacorta read the amended paragraph, to wit:

“The State recognizes THE COMPLEMENTARY ROLES OF public and private educational institutions in an integrated system of Philippine education, and shall exercise reasonable supervision and regulation of all educational institutions.”

PROPOSED AMENDMENT OF MR. MONSOD

Mr. Monsod proposed to delete the word “reasonable”. Reacting thereto, Mr. Guingona stated that, as explained earlier, the word "reasonable" was included to erase the concept expressed in an obiter dictum in the case of

PACU vs. Secretary of Education and the Board of Textbooks where the Supreme Court ruled that "it is enough to point out that local educators and writers think the Constitution provides for control of education by the State".

In view thereof, Mr. Monsod withdrew his proposed amendment.

MOTION FOR RECONSIDERATION BY MR. DAVIDE

Mr. Davide sought reconsideration of the deletion in Section 4 of the clause "shall establish, maintain and support a complete and adequate system of education relevant to the needs of the people and society" and proposed that it be transferred as a subsection under Section 2(a), to wit:

ESTABLISH, MAINTAIN AND SUPPORT A COMPLETE AND ADEQUATE SYSTEM OF EDUCATION
RELEVANT TO THE NEEDS OF THE PEOPLE AND SOCIETY.

The Committee accepted the amendment.

Furthermore, Mr. Davide proposed in the same section to simplify the phrase "in an integrated system of Philippine education" to IN THE EDUCATIONAL SYSTEM.

The Committee accepted the proposal.

AMENDMENT OF MR. MONSOD

Mr. Monsod proposed to delete "education" inasmuch as it is redundant.

The Committee accepted the amendment.

VOTING ON THE FIRST PARAGRAPH OF SECTION 4

As amended, the paragraph would read:

THE STATE RECOGNIZES THE COMPLEMENTARY ROLES OF PUBLIC AND PRIVATE
INSTITUTIONS IN THE EDUCATIONAL SYSTEM AND SHALL EXERCISE REASONABLE
SUPERVISION AND REGULATION OF ALL EDUCATIONAL INSTITUTIONS.

Submitted to a vote, and with 33 Members voting in favor and none against, the first paragraph of Section 4 was approved by the Body.

Thereafter, there being no objection, the Body also approved the amendment of Mr Davide to transpose the deleted clause of the first paragraph to Section 2 as Subsection (a) with the addition of the word INTEGRATED.

At this juncture, Mr. Davide withdrew his proposal to require Filipino ownership to the extent of 60 percentum in view of the amendment of Mr. Regalado.

Thereupon, Mr. Villacorta asked the Chair if the Body could vote on Section 4, second and third sentences of paragraph (a), lines 1 to 7, to wit:

NO EDUCATIONAL INSTITUTION SHALL BE ESTABLISHED EXCLUSIVELY FOR ALIENS AND NO
GROUP OF ALIENS SHALL COMPRISE MORE THAN ONE-THIRD OF THE ENROLLMENT IN ANY
SCHOOL. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO SCHOOLS
ESTABLISHED FOR FOREIGN DIPLOMATIC PERSONNEL AND THEIR DEPENDENTS AND FOR
OTHER TEMPORARY RESIDENTS AS MAY BE PROVIDED BY LAW.

AMENDMENTS OF MR. DAVIDE

Mr. Davide proposed and the Committee accepted the following amendments:

1)

on line 6, before the word “temporary” insert the word FOREIGN; and

2)

instead of “as may be provided by law” substitute the words as may be” with UNLESS OTHERWISE.

As amended, it would read "and their dependents and for other FOREIGN temporary residents, UNLESS OTHERWISE provided by law".

INQUIRY OF MR. BACANI

In reply to Mr. Bacani's inquiry on the rationale of the phrase “shall comprise no more than one-third of the enrollment in any school”, Mr. Villacorta stated that the idea is to prohibit the operation of schools mainly for foreigners, except those intended for children of diplomatic personnel and other temporary foreign residents.

AMENDMENT OF MR. BACANI

Mr. Bacani proposed to amend the word "one- third" to ONE-HALF.

The Committee accepted the amendment.

Mr. Davide objected to the increase of alien enrollment in any educational institution, stating that this was the evil sought to be remedied by the 1973 Constitutional provision because of the many educational institutions exclusively for aliens, especially the Chinese, and that the purpose of limiting their enrollment to one-third is to obviate the danger that the Filipino students might be unduly influenced by foreign interests or that they would become the minority group or second class citizens in said schools. He then sought reconsideration of the Committee's acceptance of the amendment.

In view thereof, Mr. Bacani withdrew his amendment.

INQUIRY OF MR. RIGOS

Mr. Rigos inquired whether “The provisions of this paragraph” on line 4 would refer to Subsection (a). He noted that lines 1 to 4 in the draft is not a new paragraph, to which Mr. Villacorta replied that said lines constitute a new paragraph beginning with the words "No educational institution . . .”

Mr. Rigos then inquired whether the Committee has a record of the schools which come under the category of "schools established for foreign diplomatic personnel and their dependents and for other foreign temporary residents.”

In reply, Mr. Villacorta informed that the International School is the only school established for children of diplomatic personnel. He added that some embassies have schools within their embassy grounds which are beyond the jurisdiction of the Philippines. He added that the Brent School in Baguio is for temporary foreign residents, while the Faith Academy which has been established for the children of pastors, falls under the exception.

Reacting thereto, Mr. Rigos stated that he had the impression that the Brent School would fall under educational

institutions established by mission boards referred to in the previous paragraph.

INQUIRY OF MR. BERNAS

Mr. Bernas observed that the Body should not determine which schools fall within the ambit of the provision since this would depend on the factual situation. He also noted that the reply of Mr. Villacorta to the query of Mr. Rigos on the second sentence of page 3, line 4, has reference only to the provision on lines 1 to 4, while under the 1973 Constitution, the exceptions cover ownership, administration and student population. He pointed out that the Committee intended to exempt these institutions only from the requirements of student population.

Reacting thereto, Mr. Villacorta stated that Mr. Bernas' point was well taken.

Mr. Villacorta then inquired whether the appropriate terminology would be "subsection" rather than "paragraph", to which Mr. Bernas replied that perhaps it would be better to split subsection (a) into paragraphs. Mr. Villacorta observed that the 1973 provision refers to it as a "subsection" and not as a "paragraph".

AMENDMENT OF MR. BENGZON

Mr. Bengzon proposed an amendment to transpose the phrase "unless otherwise provided by law" so that the sentence would read:

THE PROVISION OF THIS PARAGRAPH SHALL NOT APPLY TO SCHOOLS ESTABLISHED FOR FOREIGN DIPLOMATIC PERSONNEL AND THEIR DEPENDENTS AND, UNLESS PROVIDED BY LAW, FOR OTHER FOREIGN TEMPORARY RESIDENTS.

In reply to Mr. Villacorta's request for clarification, Mr. Bengzon stated that in line with the intention of the 1971 Constitutional Convention, Congress should not prohibit the establishment of schools for foreign diplomatic personnel, although Congress may prohibit the establishment of schools for other foreign temporary residents.

Thereupon, Mr. Villacorta accepted the amendment.

INQUIRY OF MS. TAN

In reply to Ms. Tan's query, Mr. Villacorta affirmed that the phrase "foreign diplomatic personnel" would include personnel of the World Bank and the IMF, but not the personnel of the Bank of America and Citibank which are not diplomatic institutions. In this connection, he stated that there is no provision prohibiting nationals or local citizens from enrolling in international schools.

INQUIRY OF MR. REGALADO

In reply to Mr. Regalado's query on the meaning of "any school" in the phrase "and no group of aliens shall comprise more than one-third of the enrollment in any school", Mr. Villacorta stated that the word "school" would refer to the entire institution and not to a particular course or discipline.

Specifically, on whether foreigners may completely displace Filipinos in the college of medicine for instance, on the assumption that they would not constitute more than one-third of the total university population, Mr. Guingona stated that Congress or the Ministry of Education, Culture and Sports could provide the quotas. He stressed, however, that the provision was not intended to allow the complete displacement of Filipino students in particular courses in any school.

INQUIRY OF MR. OPLE

Mr. Ople observed that the provision does not define a policy whether the Philippines should aspire for the role as the new Athens of Asia by opening its doors to the influx of foreign students or protect Filipino students from being deprived of seats that should go to them as a matter of top priority. In this connection, upon his inquiry, Mr. Villacorta affirmed that Congress, in considering an enabling law, should take into account the matter of reciprocity considering the exodus of Filipinos to many parts of the world and the initiative under taken by Filipino communities to organize therein schools for temporary residents from the Philippines.

INQUIRY OF MR. BENGZON

With particular reference to a school in Makati which offers courses in Tagalog, Cebuano and Ilocano and foreign languages like Spanish and French, Mr. Bengzon inquired whether this school would come under the requirement that its alien enrollment be not more than one-third of the student population, in reply to which Mr. Guingona stated that a determination must be made whether the school is offering the courses with or without credit. He opined that in the latter case, it would not be subject to supervision or regulation by the Ministry of Education, Culture and Sports (MECS) and, therefore, would not fall under the concept of educational institution contemplated by the Committee. Mr. Bengzon pointed out, however, that said school had been accredited by the MECS, in which case, Mr. Guingona affirmed that it falls within the concept and is subject to MECS's supervision and regulation. He also opined that the grades obtained by students in such school should be accredited by other schools. Additionally, Mrs. Rosario Braid stated that the MECS's jurisdiction extends only to credited or degree units and that professional development programs, training programs and non-degree programs are outside of its jurisdiction, to which Mr. Villacorta agreed.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query on the rationale for the acceptance of Filipino students in schools established primarily for dependents of foreign diplomatic personnel and other temporary residents, considering that their curricula may not imbue the students with the tenets embodied in the Constitution, Mr. Villacorta expressed willingness to consider amendments at the proper time.

Additionally, Mr. Gascon stated that the Committee had agreed that these schools should primarily be for foreigners and that the provision is silent on whether or not the Filipinos should be allowed to enroll therein. He pointed out, however, that the provision would not preclude Congress or the MECS from setting the conditions under which Filipino students may enroll in said schools.

Mr. Guingona opined that in the same manner that parents are allowed to send their children to schools abroad where the curricula are different, they should also be allowed to send them to any school in the Philippines.

Mr. Villacorta stated that personally he feels there is something wrong in the practice which allows children of the elite to go to international schools which prescribe curricula different from those prescribed for Philippine schools.

At this juncture, the Chair observed that the Body was ready to take a vote, and upon request, Mr. Villacorta restated the amendment, to wit:

NO EDUCATIONAL INSTITUTION SHALL BE ESTABLISHED EXCLUSIVELY FOR ALIENS AND NO GROUP OF ALIENS SHALL COMPRISE MORE THAN ONE-THIRD OF THE ENROLMENT IN ANY SCHOOL. THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO SCHOOLS ESTABLISHED FOR FOREIGN DIPLOMATIC PERSONNEL AND THEIR DEPENDENTS AND,

UNLESS OTHERWISE PROVIDED BY LAW, FOR OTHER FOREIGN TEMPORARY RESIDENTS.

Submitted to a vote, and with 32 Members voting in favor, none against and one abstention, the amendment was approved by the Body.

SUSPENSION OF SESSION

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

It was 12:49 p.m.

RESUMPTION OF SESSION

At 2:55 p.m., the session was resumed.

PROPOSED SECTION 4(b)

Thereupon, the Chair stated that the Body would consider Section 4(b), which Mr. Villacorta read as follows:

THE STATE SHALL ENCOURAGE THE ESTABLISHMENT OF EDUCATIONAL FOUNDATIONS AND COOPERATIVELY-OWNED EDUCATIONAL INSTITUTIONS.

Mr. Guingona explained that although Republic Act No. 6055, otherwise known as the Educational Foundation Act, grants exemptions to foundations, the same have to be provided for in the Constitution because the statute may be repealed.

PROPOSED AMENDMENT OF MRS. ROSARIO BRAID

Mrs. Rosario Braid pointed out that the 1973 Constitution and subsequent laws encourage the organization of non-stock educational foundations so that schools like the Centro Escolar University, had been transformed, into a cooperative following the trend towards broader ownership as a more advisable structure for proprietary institutions that encounter financial difficulties. She stated that the constitutionalization of foundations would exempt them from all taxes, and should they cease operation, their resources could be given to the State or other selected institutions.

Thereupon, she proposed a new paragraph to read:

THE STATE SHALL STRENGTHEN VOLUNTARY COMMUNITY LEARNING CENTERS INCLUDING PRESCHOOLS AND FACILITATE DEVELOPMENT OF INNOVATIVE APPROACHES BASED ON THE UNIQUE CAPABILITIES OF THE COMMUNITY AND LEARNERS.

She explained that aside from the organization of independent learning institutions, the State would strengthen the existing learning centers in the community. She cited La Salle University, St. Scholastica's College and other schools that undertake special programs for slow learners and for parents to organize preschools. She stated, however, that pre-schools should not be limited to the elite but should be extended to the rural communities, for which the INNOTECH had designed a suitable curriculum. She added that folk education which had been implemented in different parts of the world should also be encouraged by the local governments especially for the cultural communities, considering their efforts to go beyond the madrasah schools and to design their own learning system.

At this juncture, Mr. Guingona suggested that Mrs. Rosario Braid's proposed amendment be embodied as a separate section to complement Section 4(b), to which Mr. Sarmiento agreed, considering that the Body was still taking up Section 4(b) which refers to foundations and cooperatively-owned educational institutions while the

proposal refers to the establishment of preschools.

Thereupon, Mr. Sarmiento moved to defer Mrs. Rosario Braid's amendment until after the consideration of Section 4(b), to which the latter agreed.

REMINDER OF THE CHAIR

The Chair reminded the Members that questions may be propounded or answered within three minutes.

INQUIRY OF MR. NOLLEDO

In reply to Mr. Nollado's query, Mrs. Rosario Braid stated that exemption from all taxes and direct subsidy from the government with priority over proprietary institutions would encourage the establishment of foundations and cooperatively-owned educational institutions. On the composition of cooperatives, Mrs. Rosario Braid explained that in Centro Escolar University, the cooperative started with the faculty, non-teaching and administrative staff, but parents and other interested members of the community are not prevented from joining it.

Adverting to the group of rich parents who organized cooperatives to raise the standard of education of their children, Mr. Nollado inquired if the government would still grant them incentives like tax exemption. Mrs. Rosario Braid replied that since the idea is the establishment of nonprofit educational institutions, they would also be entitled to incentives or tax exemptions. She pointed out, however, that the primary intent of the provision is to extend such organizations to rural communities in order to democratize education.

Mr. Guingona underscored that the principal thrust is to extend subsidy to the students.

INQUIRY OF MR. SARMIENTO

On Mr. Sarmiento's query, Mrs. Rosario Braid affirmed that foundations are given tax exemptions under Republic Act No. 6055. She opined that despite the mushrooming of foundations, they should continue to enjoy tax exemption benefits in consideration of their contribution to the upgrading of the quality of education and the fact that they also serve the needs of the poor.

On Mr. Sarmiento's observation that most enrollees of Montessori schools come from the upper class, Mrs. Rosario Braid stated that she would be amenable to an amendment addressed to the specific needs of the underprivileged.

On whether educational foundations include foreign foundations, Mrs. Rosario Braid explained that the opening provision embodies a nationalistic thrust for education that even foundations should be owned and managed by Filipino citizens.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query, Mrs. Rosario Braid affirmed that Section 4(b) contemplates the tax exemptions provided for under Republic Act No. 6055. She added that foundations are required to plow back a certain percentage of their income for the improvement of instruction, the curriculum and faculty. She also affirmed that upon dissolution of a foundation, its assets shall escheat to the State, or such foundation may select another foundation or agency with related goals to be the beneficiary of its resources.

Mr. Gascon pointed out that foundations are encouraged to serve the educational needs of people at affordable costs and not because the government may benefit from assets that may accrue therefrom

Mr. Guingona, however, underscored that educational foundations which do not comply with the requirements of Republic Act No. 6055 are not entitled to the exemptions and other incentive provided therein. He stressed that Congress should see to it that a substantial portion of the profits go to the benefits of the students, teachers, and non. academic personnel and not to the officials of the foundations.

MR. SARMIENTO'S AMENDMENT

Thereupon, Mr. Sarmiento proposed the following substitute amendment:

THE STATE SHALL ENCOURAGE THE ESTABLISHMENT OF EDUCATIONAL FOUNDATIONS FOR THE UNDERPRIVILEGED AND COOPERATIVELY-OWNED EDUCATIONAL INSTITUTIONS.

Mrs. Rosario Braid accepted the amendment.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query on whether the enrollees of educational foundations would be limited to the underprivileged, Mr. Guingona explained that, although they may accept students from the upper class, foundations primarily cater to the needs of the underprivileged, as against schools which are exclusively for the rich.

Mr. Sarmiento added that the thrust is to democratize ownership of educational institutions, in reply to which Mrs. Rosario Braid indicated willingness to incorporate in the amendment the concept that it is for the underprivileged.

Mr. Maambong observed that the phrase "for the underprivileged" would limit the scope of the provision since it could mean that students would have to prove that they are underprivileged. He then asked for a vote on Mr. Sarmiento's amendment.

In reply to the Chair's query on whether the amendment of Mr. Sarmiento would in effect exclude the establishment of educational foundations as a general rule, the latter explained that he was only stressing that such foundations should be for the underprivileged. He suggested the phrase EDUCATIONAL FOUNDATIONS PRINCIPALLY FOR THE UNDERPRIVILEGED to meet Mr. Maambong's apprehensions so that foundations like the montessories may continue to exist or to be established.

Mr. Maambong maintained that the phrase would still be unnecessary considering that most of the 400 existing educational foundations are in fact catering to the needs of the underprivileged.

Mr. Guingona opined that there should be a reduction in tax exemptions in proportion to the tuition realized by catering to the elite or those who can afford to pay high tuition fees.

MR. AZCUNA'S PROPOSED AMENDMENT TO THE AMENDMENT

Thereafter, Mr. Azcuna proposed to amend the amendment so that the phrase would read PARTICULARLY THOSE FOR THE UNDERPRIVILEGED to give emphasis to the underprivileged without limiting it to them

Mr. Sarmiento accepted the amendment to his amendment.

The Sponsor likewise accepted the amendment, as amended.

INQUIRY OF MR. DAVIDE

On Mr. Davide's query on whether the provision would impair or delimit the right of a student who wants to enroll in such foundations but who cannot be classified as underprivileged, Mrs. Rosario Braid reiterated that this provision would only give special attention to the underprivileged. She pointed out that the Maryknoll Foundation and the Montessori schools have been accepting students from the lower class.

Mr. Davide observed, however, that even without the limitation on Congress to merely encourage the establishment of foundations to serve the underprivileged, it would be a class legislation since special treatment is given to the underprivileged.

INQUIRY OF MR. BERNAS

In reply to Mr. Bernas' query whether it is the central purpose of the provision to encourage the establishment of non-profit educational institutions, Mrs. Rosario Braid stated that in addition, it would provide an alternative structure to proprietary institutions, especially the financially-distressed, to convert themselves into a cooperative or foundation. She affirmed that the central idea is to discourage profit-making educational institutions.

Mr. Bernas noted, however, that this central idea does not come out in the text and that it seems to be an assumption that by making the school a foundation or cooperatively-owned, it would be a non-profit educational institution. He suggested that the provision simply read: THE STATE SHALL ENCOURAGE THE ESTABLISHMENT OF NON-PROFIT EDUCATIONAL INSTITUTIONS, SO that it is non-profit, whether it be a foundation or a cooperative.

In reply, Mrs. Rosario Braid stated that the Committee would like to stress that there are other structures, one of which is a cooperative where teachers and parents would be co-owners.

Mr. Bernas explained that non-profit institutions can be foundations or cooperatives, the central idea being that they should be non-profit.

Mr. Guingona, however, stated that the Committee does not envision non-profit cooperatively-owned educational institutions. He stated that profit will go to the cooperative members who may be faculty members or non-academic personnel and that Mr. Bernas' concern is met in the following section which speaks of exemptions for non-stock, non-profit educational institutions. He noted that a general provision might be taken to mean that cooperatively-owned educational institutions are prohibited from making profit, which is not the idea of the Committee:

Mr. Bernas underscored that unless the non-profit idea is made the central theme, the provision would have no constitutional usefulness. Mrs. Rosario Braid replied that it would be useful in encouraging creativity and initiative for new structures towards profit which could be channeled not only to individuals but to the common good. Besides, she reiterated that there are many ways of restructuring ownership.

ANTERIOR AMENDMENT OF MR. BERNAS

Mr. Bernas moved to delete the provision, which Mr. Rama manifested constitutes an anterior amendment to Sarmiento's amendment.

Thereupon, Mr. Monsod manifested that the motion to delete would not preclude inclusion of the word "cooperatives" in the next paragraph in order that the idea would not be lost completely. He suggested that the phrase in Section 4(c) could be reworded to read "Proprietary educational institutions INCLUDING COOPERATIVES."

VOTING ON MR. BERNAS' AMENDMENT

Submitted to a vote and with 15 Members voting in favor, and 14 against, Mr. Bernas' motion to delete Section 4(b) was approved by the Body.

PROPOSED AMENDMENT OF MR. SUAREZ

On Section 4(c), Mr. Suarez manifested that he would propose a substitution for the first sentence, at which point, Mr. Villacorta called attention to a typographical error and clarified that the sentence should read: "Non-stock, non-profit educational institutions shall be exempt from taxes and duties." In this connection, in reply to Mr. Suarez' query, Mr. Villacorta affirmed that the sentence has reference to educational institutions with earnings but which earnings are exempt from taxes inasmuch as they are used exclusively for educational purposes.

On whether the exemptions would apply to the importation of cars by educational institutions, Mrs. Rosario Braid stated that it would apply to a limited degree on such items as laboratory equipment or how much income taxes the government collect audio-visual vans, books, libraries. She observed that from existing institutions and that an overall tax nowadays non-stock schools do not import cars.

Upon inquiry, Mr. Villacorta affirmed that such items must be directly and exclusively used for educational purposes.

Thereupon, Mr. Suarez proposed an amendment by substitution, to wit:

ALL REVENUES AND ASSETS OF NON-STOCK NON-PROFIT EDUCATIONAL INSTITUTIONS
USED DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES SHALL BE EXEMPT FROM
TAXES AND DUTIES.

Mr. Suarez reasoned that the essential consideration is that revenues, assets, equipment and buildings are used by non-stock non-profit educational institutions directly and exclusively for educational purposes.

Upon inquiry of Mr. Gascon, Mr. Suarez affirmed that realty tax would be included in "taxes". Mr. Gascon explained that the reason for the exemptions is that many schools which are genuinely non-profit and non-stock have been taxed to the extent that they oftentimes have to increase tuition fees to the detriment of the students. He stated that tax exemptions would assure the students lower tuition fees.

In reply to Mr. Gascon's query whether this intent is not lost in the proposal, Mr. Suarez maintained it would in fact encourage the reduction of tuition fees.

The Committee accepted the amendment.

REMARKS OF MR. DAVIDE

Mr. Davide invited attention to paragraph 3) Section 29 of the Article on the Legislative, which reads:

Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries and all lands, buildings and improvements actually, directly and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation; and paragraph 4) thereof, which reads:

No law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of Congress.

Mr. Davide observed that Mr. Suarez' proposal includes properties and assets which already fall under paragraph 3) of said Section 29. As far as revenues are concerned, he opined that it would not be proper for the Body to

provide for a total exemption. He maintained that this should be left to Congress since the Commission has not determined exemption could deplete the income of government proposal for complete, free education up to secondary level precisely because of questions about the government's financial capability.

Upon inquiry of Mr. Gascon whether non-stock non-profit institutions would not be exempted from income tax because of said Section 29, Mr. Davide replied that this should be left to Congress to deter. mine.

On the contention that the income generated by non-stock non-profit institutions will accrue in the form of service, Mr. Davide stated that unless there is a constitutional mandate that all income will be plowed back to the operation of the school, it would be easy to avoid such requirement.

REMARKS OF MR. NOLLEDO

Mr. Nollado agreed with Mr. Gascon. He maintained that there is a mandate making it an obligation of the State to provide education and in order to give meaning to this mandate, non-profit institution should be granted tax exemptions. He underscored the fact that private educational institutions bear part of the State's burden to give education to the youth. He noted that the Suarez amendment which refers to properties, other than real property, to be exempt from compensating tax, advance sales tax, custom duties and charges would give meaning and substance to the duty of the State to provide education.

REMARKS OF MR. BERNAS

Additionally, Mr. Bernas noted that the Suarez amendment contains sufficient safeguards in the phrase “used directly and exclusively for educational purposes” which modifies not just assets but also revenues. He stressed that the clear intent of the proposal is to exempt incomes and revenues to be used directly and exclusively for educational purposes and not revenues for other purposes. He stated that the amendment is perfectly in keeping with the provision earlier approved mandating the State to maintain a system of scholarship grants, student loan programs, subsidies, and other incentives which shall be available to deserving students in both public and private schools, especially the underprivileged; and with the idea of making available quality education to all. He pointed out that although the State may lose some income, that income comes in as a built in subsidy to the operation of the school and that subsidy will, in turn, enable the school to either give more scholarships or increase the salaries of the faculty members without passing on the cost to students.

REMARKS OF MR. BACANI

Mr. Bacani supported the amendment. He stated that he is the director of a parochial school in Paco, Manila He was also the director of a provincial parochial school. The school in Manila, a non-profit and non-stock school, which has an enrollment of 7,200 students is losing P500,000 this year while the provincial school could barely make both ends meet. The other parochial schools in the same province would have been in the same predicament but were helped by subsidies from a religious order.

He maintained that the schools should not be burdened any further inasmuch as they do not make profit.

REMARKS OF MR. OPLE

Mr. Ople informed that there is a crisis in tertiary education in the country for the reason that according to MECS, 85% of all tertiary schools are private, which means that they have to earn the cost of their continued survival by turning in some profit. He stated that the case of the University of the East helps focus attention to the problem. He noted that the State cannot replace the 85% and that it would be a wise move for the Commission to help meet

the crisis partially by extending assistance to the private tertiary schools in Section 4(c) in the form of exemption from taxes.

He agreed with Messrs. Suarez and Davide that it may not be possible to anticipate loopholes in such a blanket exemption, especially with the elimination of the phrase “as may be provided by law.”

Upon inquiry of Mr. Ople, Mr. Villacorta affirmed that the exemption would apply to importation of textbooks, reading materials and supplies.

He stated that he favors a liberalization although this will have implications in the country's textbook and printing industry. He observed that people in this industry may lobby with the future Congress just to have a day in court although the provision may cause, unintentionally, the destruction of the said industry. In view thereof, as Mr. Davide has suggested, he raised the possibility of reinstating a role for Congress where industries adversely affected would have their day in court.

SUGGESTIONS OF MR. OPLE

Mr. Ople suggested that the second sentence contain the clause PROPRIETARY EDUCATIONAL INSTITUTIONS MAY BE ENTITLED TO SUCH EXEMPTIONS PROVIDED THEY LIMIT STOCKHOLDERS DIVIDENDS as well as the phrase AND PLOW BACK THEIR EARNINGS TO THE INSTITUTION AS THE LAW MAY PROVIDE.

SUSPENSION OF SESSION

The Chair suspended the session.
It was 3:52 p.m.

RESUMPTION OF SESSION

At 3:56 p.m., the session was resumed.

MODIFIED AMENDMENT OF MR. SUAREZ

Upon resumption of session, Mr. Suarez presented his modified amendment, to wit:

ALL REVENUES AND ASSETS OF NON-STOCK NON PROFIT EDUCATIONAL INSTITUTIONS USED ACTUALLY, DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES SHALL BE EXEMPT FROM TAXES AND DUTIES.

Mr. Suarez stated that the coauthors of his amendment were Messrs. Ople, Nollado, Monsod and Davide.

Mr. Villacorta accepted the amendment.

In reply to Mr. Nollado's query, Mr. Suarez agreed that assets would include importations and, therefore, should be exempt from tax.

Mr. Padilla queried whether the phrase "non-stock, non-profit" is cumulative or alternative. Mr. Suarez stated that the two words must always go together with no comma (,) in between, therefore, it must be non-stock and non-profit, otherwise, it would not qualify.

On the reason for the particular preference to non-stock as distinguished from stock, if the educational institutions in both are non-profit, Mr. Suarez stated that the moment a stock corporation is organized, it will have stockholders who would have interests in the assets and who would be entitled to dividends, such that, although it

may be non-profit in character, the fact remains that a stock corporation would be thinking in terms of stockholders who would have interests in the corporation in the event of dissolution or liquidation.

Mr. Padilla pointed out, however, that there is really no essential difference as long as both educational institutions are non-profit.

Responding thereto, Mr. Bernas stated that the word "non-stock" is placed mainly as a safeguard, because the moment a stock corporation is formed, the implication is that it is for profit, therefore, to make sure that there would be no getting around the non-profit idea, it is also required that it be a non-stock corporation. He also stated that the word "non-profit" would mean that no income would accrue for the benefit of any member of the corporation.

In reply to Mr. Azcuna's query on whether the school would have to pay taxes on the revenues retained for reserve purposes, Mr. Suarez stated that if the reserve would be used for educational purposes, whether directly or exclusively, it would enjoy the same exemption, even if it will be spent five years later because it could happen that the reserve funds may be used for the purchase of laboratory equipment or library books. He also stated that no tax would be paid on retained earnings because they could be considered as reserve funds.

In reply to Mr. Regalado's query on the educational institutions contemplated within the category of non-stock and non-profit educational institutions, Mr. Treñas stated that there would be no need to enumerate such institutions because the section refers only to non-stock and non-profit educational institutions.

On the classification of educational foundations and cooperatively-owned institutions, Mr. Treñas stated that they would fall under a different classification of proprietary educational institutions.

In reply to Mr. Davide's query on what would happen, upon dissolution, to the properties acquired by the corporation while enjoying tax exemption, Mrs. Rosario Braid stated that under the Foundation Law, they would either revert to the State or the owners could give the resources, facilities and assets to selected foundations.

On whether all the assets of the corporation would be escheated in favor of the State according to the Foundation Law if said non-stock and non-profit educational institution shall cease to be a corporation before the expiry date of its lifetime or upon its dissolution following the expiration of its lifetime, Mr. Guingona stated that there is a specific provision regarding escheat if the foundation is established under Republic Act 6055, otherwise, there is a provision under the Education Act of 1982 on transfer of assets to other non-profit non-stock foundations or to such institutions as the court may decide. He pointed out, however, that being a statutory law, it could be repealed.

On whether the Committee would consider providing in the Constitution a rule on the distribution of the assets of the corporation upon its dissolution or upon cessation of its corporate existence, Mr. Treñas stated that it would be better to leave it to Congress to provide for such eventuality.

Thereupon, Mr. Davide made a reservation to introduce an amendment regarding the rule on assets after the amendment of Mr. Suarez shall have been approved by the Body.

APPROVAL OF MR. SUAREZ' AMENDMENT

Thereafter, the Chair submitted Mr. Suarez' amendment to a vote, and with 32 Members voting in favor and none against, the same was approved by the Body.

INQUIRY OF MR. RAMA

In reply to Mr. Rama's query on the definition of "educational institutions", Mr. Villacorta stated that educational institutions would refer to those which have certificate of authority from the Ministry of Education, Culture and Sports.

RESTATEMENT OF THE SECOND SENTENCE

Thereafter, Mr. Villacorta restated the second sentence, to wit:

PROPRIETARY AND COOPERATIVELY-OWNED EDUCATIONAL INSTITUTIONS MAY BE ENTITLED TO SUCH EXEMPTIONS PROVIDED THEY LIMIT STOCKHOLDERS' DIVIDENDS AS THE LAW MAY PROVIDE.

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople proposed an amendment to insert the clause AND REINVEST THE MAJOR PART OF THEIR EARNINGS IN THE INSTITUTION after the word "dividends".

Mr. Ople explained that although the Phrase "limit stockholders' dividends" may be self explanatory, it involves blanket exemptions from taxes and duties on major concessions from the people. He stated that after limiting stockholders' dividends a situation may arise wherein stockholders would borrow from the reserve which they sometimes invest indefinitely in the money market for the unearned increment.

Mr. Ople contended that when Congress considers the enabling law for this sentence in Section (c), it would be guided by a more rigorous standard for granting tax exemptions to proprietary institutions.

In reply to Mr. Treñas query on the concept of "major part", Mr. Ople stated that it would refer to what is left after deducting the limited dividends, in other words, that the "major part" of what is left of the earnings should be invested in the institution.

In reply to Mr. Monsod's query on whether the provision would limit it to stockholders' dividends and reinvestment only by leaving Congress with no option to impose other limitations, Mr. Ople stated that the provision is not all-inclusive but would only constitute minimum standards to be established by the Constitution and would not prevent Congress from stipulating other limitations if it so desires.

Mr. Monsod suggested that proprietary educational institutions should also be entitled to similar exemptions subject to the limitations provided by law, in reply to which Mr. Ople asked that Mr. Monsod extend his assistance in rewording the text for the consideration of the Committee.

In reply to Mr. Rodrigo's query, Mrs. Rosario Braid agreed that proprietary educational institutions would include single proprietorships, partnerships and non-stock corporations or associations.

Mr. Ople likewise affirmed that if the exemption would be based on the limit to stockholders' dividends, then single proprietorships, partnerships and associations would have no stockholders.

SUSPENSION OF SESSION

On motion of Mr. Ople, the Chair suspended the session.
It was 4:19 p.m.

RESUMPTION OF SESSION

At 5:03 p.m., the session was resumed.

AMENDMENT OF MR. OPLE

In the second sentence of subsection (c), Mr. Ople proposed “ Proprietary education institutions INCLUDING THOSE COOPERATIVELY-OWNED may LIKEWISE be entitled to such exemptions SUBJECT TO THE LIMITATIONS PROVIDED BY LAW INCLUDING RESTRICTIONS on dividends AND PROVISIONS FOR REINVESTMENT.”

Mr. Ople informed that his coauthors are Messrs. Monsod and Nolleto.

The amendment was accepted by the Committee.

Submitted to a vote, and with 27 members voting in favor, none against and one abstention, the proposed amendment of Mr. Ople was approved by the Body.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed after the amendment of Mr. Ople to add the following sentence:

UPON THE DISSOLUTION OR CESSATION OF THEIR CORPORATE EXISTENCE ASSETS OF NON-STOCK AND NON-PROFIT INSTITUTIONS SHALL BE DISPOSED OF IN THE MANNER PROVIDED BY LAW.

INQUIRY OF MR. BACANI

On the query of Mr. Bacani relative to the disposition of assets of non-stock and non-profit educational institutions, Mr. Davide informed that there is a provision under the Foundation Law but if the institution is organized as a non-stock corporation, there would be none under the Corporation Law.

POINT OF INFORMATION OF MR. NOLLEDO

Mr. Nolleto informed that under the Corporation Code there is a provision on non-stock corporations stating that the assets shall be used for the same purpose as originally contemplated and that it would inure to the benefit of an institution also engaged in education. He stated that in the absence of this provision, the assets would inure to the benefit of the municipality, city or place. where the institution is located.

The Committee suggested that the amendment be placed after the first sentence so that it will refer to non-stock non-profit educational institutions.

Mr. Davide opined that his proposal should be inserted after Mr. Ople's amendment because the latter is related to the first sentence on exemptions. He noted that it is described as non-stock and non-profit, referring again to the corporation mentioned in the first sentence. He suggested that the matter be left to the committee on Style.

Submitted to a vote, and with 23 members voting in favor, none against and 2 abstention, the proposed amendment of Mr. Davide was approved by the Body.

PROPOSED AMENDMENT OF MRS. ROSARIO BRAID

Mr. Rosario Braid proposed a new subsection to be denominated as Section 3(C), to wit:

THE STATE SHALL ESTABLISH AND STRENGTHEN VOLUNTARY COMMUNITY LEARNING CENTERS INCLUDING FREE SCHOOLS AND FACILITATE DEVELOPMENT OF INNOVATIVE APPROACHES BASED ON THE UNIQUE CAPABILITIES OF THE COMMUNITY AND THE LEARNERS.

She informed that this is a Committee amendment with Mr. Sarmiento as coauthor.

Mrs. Rosario Braid explained that “voluntary” means that the initiative would Come from private organizations, families and community members and that there are current experiments in this area such as those for the gifted and the 810w learners; for communities in the periphery of regions the Bayanihan Schools Grassroots Development Institute, ACC Foundation, INNOTECH and others. The intent, she noted, is to tailor learning to the community's social and economic needs. She stated that the concept could be linked to development planning since studies indicate that the dearth of community learning centers is one of the problems affecting municipal and barangay development planning. She stressed that there is a need for community learning centers in villages, and the acceptance of the proposal would mean conversion of certain government offices into learning centers which would, likewise, broaden free schools located in communities.

INQUIRY OF MR. NOLLEDO

In reply to Mr. Nolleddo's query, Mrs. Rosario Braid affirmed that learning centers would include centers for vocational efficiency and livelihood centers for cottage industries and vocational courses.

On whether this would have to be coordinated with the Ministry of Labor and Employment (MOLE), Mrs. Rosario Braid stated that it would, especially with the National Manpower and Youth Council, because the intent is to encourage private initiative together with MOLE'S effort.

On the question of whether the amendment would also promote economic and social progress within the localities, Mrs. Rosario Braid replied in the affirmative, stressing that the economic activities would be complemented by social learning and would foster cooperativism.

INQUIRY OF MR. PADILLA

Mr. Padilla inquired whether the amendment would not be covered by such phrase as "formal", "non-formal", "informal", "indigenous" and "self- learning", to which Mr. Rosario Braid replied that it would be more than these. Aside from being "formal" because the provision can be credit courses, it may also provide opportunities for mothers to get together, establish schools, design the curriculum for their pre-elementary or elementary school children. She informed that this practice is credited and accepted by the Ministry of Education, Culture and Sports (MECS), and that it has an innovative feature because the parents can design the curriculum instead of accepting that of the MECS.

On the matter of being “unique” and “innovative”, Mrs. Rosario Braid explained that the concept of “unique capabilities” takes into consideration that pupils or students have different capabilities in learning — meaning that some are slower or faster in learning than others. She stressed that the present curriculum is homogeneous and does not take into consideration the different aptitudes and capabilities of learners.

Reacting thereto, Mr. Padilla remarked that the amendment would be unnecessary inasmuch as it is covered by the words mentioning all forms of education.

INQUIRY OF MR. DAVIDE

Mr. Davide inquired whether the word "establish" is included in the amendment, to which Mrs. Rosario Braid replied that it is an amendment of Mr. Sarmiento. She pointed out that the original word was "strengthen" and that Mr. Sarmiento's proposal is based on the contention that preschools do not exist except in urban centers.

Mr. Davide observed that with the inclusion of "establish" it would be mandatory upon the State to provide preparatory schools for pupils less than 7 years old, which Mrs. Rosario Braid acknowledged. She also affirmed that these will be special schools for Filipino citizens from four to six years old.

On whether the Committee had studied the number of preschoolers to be enrolled in these community learning centers, Mrs. Rosario Braid noted that the intent of the provision is to encourage private initiative.

Replying thereto, Mr. Davide adverted to Mr. Sarmiento's amendment wherein the State would have to establish preschools which might be more expensive than maintaining compulsory elementary education inasmuch as there are more children below 7 years old.

REMARKS OF MR. NOLLEDO

Mrs. Rosario Braid concurred with Mr. Davide and proposed to maintain the word "voluntary" and delete "establish".

Mr. Nollado, in supporting the amendment noted that many of Mrs. Rosario Braid's proposals are innovative in nature for which reason they find unjustified resistance from some Members. He stated that the proposal would involve the youth in the affairs of the community and that it would not mean that vocational work cannot be established for members of the community. Furthermore, he noted that the proposal would diversify local activities as in the case of Negros Occidental where due to lack of diversification, the people experienced hunger and privation. He contended that the learning centers would diversify the activities in the local communities and will teach handicrafts and promote vocational efficiency. The proposal, he stated, would destroy the passivity of the community members. He stated that in many areas, after harvest, the people do nothing except to stay in their houses. He underscored that the amendment would revolutionize the local scene.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento spoke in support of the establishment of preschools, stating that psychological studies endorse the concept of preschool education. He noted that experimental and quasi-experimental studies made by psychologists as well as clinical studies conducted by psychoanalysts lead to the conclusion that the first five years of childhood are very crucial in determining behavior and reaction patterns in adult life. Psychoanalysts, he stated, have discovered that experiences in early childhood influence a person's behavior even fifty years later leading to the conclusion that preschool or pre- elementary education is vitally important as this is the stage when the individual's intellectual and emotional foundations are built. He stated that higher education with a weak foundation is no education at all. He then adverted to the UNESCO study which reveals that preschool education has the following advantages: (1) it increases the chances of success in elementary education; and (2) it increases the ability of pupils to learn new skills. He also stated that even the Bureau of Elementary Education of the MECS has been supportive of preschool education, as manifested by its Director, Dr. Juanita Guerrero, who said that preschool education would pave the way for increased skills and awareness among the pupils.

PROPOSED AMENDMENT OF MR. MONSOD

Mr. Monsod proposed an amendment to rephrase the paragraph, to wit:

THE STATE SHALL PROMOTE VOLUNTARY COMMUNITY LEARNING CENTERS WITHIN THE FINANCIAL RESOURCES OF THE GOVERNMENT TO FACILITATE THE DEVELOPMENT OF LOCAL EDUCATIONAL CAPABILITIES.

Mrs. Rosario Braid stated that the amendment should include the concept of preschool education and the notion of innovative approaches as distinguished from the traditional approaches.

Reacting thereto, Mr. Monsod stated that a general statement would be sufficient provided the records reflect the types, configurations and refinements, encompassing the concept considering that any enumeration may not be exhaustive.

In reply to Mr. Ople's query, Mr. Monsod affirmed that the amendment would include the notion of government partnership with private foundations, private initiatives and linkage with existing resources of government that could be tapped for those learning centers.

On the query why the provision speaks of funding by the State when they are supposed to be voluntary centers of learning, Mr. Monsod explained that funding is used in the context of government assistance in making facilities available, assistance in sourcing funding and the like. He stated, however, that he would be willing to delete the word "financial" to impart the idea that it would not unnecessarily impose additional burden to the government.

In reply to Mrs. Rosario Braid's query whether it would mean that one responsibility of the government would be to rechannel funding from the UNESCO, Food Agriculture Organization and other concerned funding agencies to non-governmental organizations that would be involved in implementing community learning centers, Mr. Monsod stated that on the basis of fixed amount of resources available to the country which are not increased by reason of the provision, it would then be a matter of allocation and priorities. He then expressed willingness to restate the phrase to read "at no additional cost to the government."

In reply to Mr. Ople's query on the meaning of the phrase "releasing local educational capabilities", Mr. Monsod stated that it means facilitating the development of local educational capabilities.

Thereupon, Mr. Ople proposed to amend the amendment by deleting the final clause, and in lieu thereof, to substitute the phrase THE STATE SHALL PROMOTE VOLUNTARY COMMUNITY LEARNING CENTERS.

In reply to Mr. Monsod's query whether the amendment means that it would be without additional cost to the government, Mr. Ople stated that the cost would be the incidental cost of promoting the voluntary community learning centers.

Thereupon, Mr. Monsod accepted the amendment, which Mrs. Rosario Braid, in turn, accepted.

As thus amended, the amendment would read:

THE STATE SHALL PROMOTE VOLUNTARY COMMUNITY LEARNING CENTERS WITHOUT ADDITIONAL COST.

Mr. Treñas accepted the amendment.

Mr. Davide observed that the phrase "at no cost to the government" would not mean anything.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 5:34 p.m.

RESUMPTION OF SESSION

At 5:39 p.m., the session was resumed.

WITHDRAWAL OF MR. MONSOD'S AMENDMENT

Upon resumption of session, Mr. Monsod withdrew his amendment on the understanding that the non-formal type of education would include the voluntary community learning centers and, therefore, would not require a separate provision on it.

Mrs. Rosario Braid agreed that the deliberations on this particular provision would be read into the records in support of the provision on non-formal education. She underscored that Congress should give priority to the promotion of voluntary efforts towards establishing community learning centers, including preschools.

The Chair requested Mrs. Rosario Braid to state her amendment, to which the latter replied that she would just read into the record the concept of the provision earlier approved on non-formal education. Mr. Villacorta affirmed that Mrs. Rosario Braid was not insisting on her amendment.

PROPOSED AMENDMENT OF MR. TINGSON JOINTLY WITH MR. MAAMBONG

Mr. Tingson, jointly with Mr. Maambong, proposed to delete Section 4(d). He explained that Section 1 amply covers the provision in a more positive manner "to protect and to promote the rights" instead of the negative nature of Subsection (d) which uses the word "interfere".

INQUIRY OF MR. OPLE

In reply to Mr. Ople's query on whether freedom of choice of profession is sufficiently reflected in Section 1 of the Article, Mr. Tingson stated that the phrase "shall take appropriate steps to make such education accessible to all" considers the desire of everyone to select whatever profession or course of study he would like to pursue.

Mr. Gascon stated, however, that the Committee believes that freedom of choice of profession has not been covered by Section 1. He stressed that what the Committee wants to avoid is a situation whereby the State would impose on the individual what course or profession he should pursue because in this event, while the State would make education accessible to all, it would not provide a choice.

Reacting thereto, Mr. Ople stated that access would acquire a democratic meaning when taken in the context of access to several choices, with the individual citizen making the final choice. He maintained that the right to freedom of choice is a valid constitutional principle applicable to a lifetime career and work to which the citizen would devote himself. However, he invited attention to the fact that, having been granted this freedom of choice, there is an immediate check by subjecting such freedom to admission and selection requirements, one of which is the NCEE which is a mandatory interference by the State on the freedom of choice of high school graduates.

Mr. Ople pointed out that because of the NCEE, about 70% passed and 30% flunked and, therefore, through the NCEE, the State had effectively interfered with the choice of a course of study by eliminating the 30% who flunked, thereby negating the freedom of choice enshrined in the Constitution.

Mr. Ople then made a reservation to present an amendment should the Committee insist on retaining the

paragraph.

At this juncture, Mr. Sarmiento suggested that the Committee insist on the amendment on the ground that the State should not interfere with the right of every citizen to select a profession.

On whether Mr. Sarmiento would agree to the deletion of the clause “subject to admission and selection requirements” and the addition of a sentence reading THE STATE MAY ESTABLISH NATIONAL QUALIFYING EXAMINATIONS BUT THIS SHALL BE SUBJECT TO INTER-REGIONAL EQUITY, Mr. Gascon stated that during the interpellations, the Committee had taken the stand that at this point in time, there is a need to review and reassess the NCEE but it would rather leave it to Congress and the different branches of government, particularly the Ministry of Education, Culture and Sports, to initiate such review and study.

On whether the Committee was accepting the proposed amendment of Mr. Tingson, Mr. Gascon stated that it was not, because it considers the clause to be an important assurance of the students' freedom of choice.

On the observation of Mr. Ople, Mr. Gascon also stated that, although it may be true that there are certain requirements for tertiary education, said requirements could be better left to Congress. He then reiterated that the Committee could not accept Tingson's amendment on the ground that there is a need to assure the students of their freedom of choice and that the Constitution should avoid a situation where the State would impose on the student the profession he should pursue.

At this juncture, Mr. Tingson manifested that he was in full agreement with the sentiments pressed by Mr. Ople with regard to the NCEE.

Thereupon, Mr. Tingson yielded the floor to his cosponsor, Mr. Maambong, who requested for a vote on the amendment.

Submitted to a vote, and with 12 Members voting in favor, 14 against, and one abstention, the proposed amendment was lost.

PROPOSED AMENDMENT OF MR. OPLE

On Section 4, page 3, line 18, Mr. Ople proposed change the comma (,) after the word "study to a period (.), to delete the words following it, and to insert a new sentence to read: THE STATE MAY ESTABLISH QUALIFYING EXAMINATIONS SUBJECT TO INTER-REGIONAL EQUITY.

He explained that since the provision intends to establish the principle of freedom of choice, the qualifications would not be necessary.

In reply to Mr. Villacorta's query, Mr. Ople explained that his proposal would not give the student the right to insist on being admitted even if he failed in the entrance examination, nor insist on being retained in a school if he flunks his subjects because both would be an abuse of the freedom of choice. He added that the rules of a particular school or university would be binding on students.

On Mr. Gascon's observation that with the deletion of the phrase “subject to admission and selection requirements” the freedom of choice would not be restricted, Mr. Ople stated that he was just strengthening the Committee's intent to establish the freedom of choice.

OBJECTION OF MR. RAMA

Thereupon, Mr. Rama expressed his objection to Mr. Ople's proposed amendment on inter-regional equity wherein higher grades are required of students from highly urbanized cities and lower grades from those in rural areas. He stated that incompetent teachers produce incompetent graduates and an upgrading of the school system outside of Metro Manila is necessary. He observed that while the Article on Education emphasizes quality education, the result would be misfits in the educational system because students from the rural areas were able to pass due to the ten per cent allowance given them.

He underscored that if the proposed amendment would be approved, there would be different sets of lawyers, doctors and other professionals those that come from the highly urbanized cities and those that come from the rural areas.

Mr. Ople clarified that the practice in the Philippine Science High School is that different sets of examinations are given to those who come from the Metropolitan area and another for those from the rural areas, but after a certain period of adjustment, those forty percent are able to catch up with 60 percent because of the availability of information facilities. He stated that he is just laying the principle for Congress to consider in connection with the law that would implement the review of the National College Entrance Examination.

He stated that he is aware that there are more intent students from the hinterlands but the equity he is asking for is time for them to adjust following the experiment in the Philippine Science High School.

MR. DAVIDE'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Davide then proposed an amendment to Mr. Ople's amendment so that page 3, line 18 would read STUDY, SUBJECT TO REASONABLE AND FAIR ADMISSION, SELECTION AND RETENTION REQUIREMENTS.

He explained that the concern of Mr. Ople would already be covered by the words "reasonable and fair", and Congress may formulate the necessary guidelines for the possibility of giving equitable consideration to students from the hinterlands. He also stated that with the original proposal of Mr. Ople, it would be possible for those in the urban areas to enroll in rural areas only for the examination considering that the requirements in the urban areas would be higher, in reply to which, Mr. Ople stated that it would already be exacerbating the possibilities.

Mr. Ople, however, stated that he would accept Mr. Davide's proposed amendment to his amendment if it would be applied to the national qualifying examination, which would not necessarily be the NCEE, rather a national qualifying examination from the individual school level.

In reply to Mrs. Rosario Braid's query, Mr. Ople affirmed that his proposal would not preclude Congress from improving the NCEE's methods in evaluating native intelligence, while coming up with a more culturally appropriate method of assessing the potentials of rural students.

MR. MONSOD'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Monsod also proposed to reformulate Sub-section (d) to read:

EVERY CITIZEN HAS THE RIGHT TO SELECT A PROFESSION OR COURSE OF STUDY OF HIS CHOICE, SUBJECT TO REASONABLE AND FAIR ADMISSION, SELECTION OR ACADEMIC REQUIREMENTS AS MAY BE PROVIDED BY LAW.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Monsod, the Chair suspended the session.
It was 6:11 p.m.

RESUMPTION OF SESSION

Submitted to a vote, and with 26 members voting in favor and 1 against, Section 4(d), as amended, was approved by the Body.

RESTATEMENT OF SECTION 4(d)

Upon resumption of session, Mr. Monsod restated Section 4(d) as amended by Messrs. Ople, Davide and himself, to wit:

EVERY CITIZEN HAS THE RIGHT TO SELECT A PROFESSION OR COURSE OF STUDY, SUBJECT TO FAIR, REASONABLE AND EQUITABLE ADMISSION AND ACADEMICS REQUIREMENTS, AS MAY BE PROVIDED BY LAW.

In reply to Mr. Ople's query, Mr. Villacorta affirmed that the same principles of admission and selection would apply to the review of the national qualifying test so that the inter-regional equity may be considered.

MR. RODRIGO'S PROPOSED AMENDMENT TO THE AMENDMENT

Mr. Rodrigo proposed to delete the phrase "as may be provided by law" because it might be interpreted to mean subject only to acts enacted by Congress, whereas laws may include circulars from the Ministry of Education, Culture and Sports which would have more experts to judge on such requirements than Congress.

Mr. Nollado agreed that the law does not preclude Congress from passing legislation that would set forth the standards which may be implemented by the Ministry of Education, Culture and Sports through circulars.

In view of the explanations, Mr. Monsod agreed to delete the phrase "as may be provided by law".

INQUIRY OF MR. BENNAGEN

On Mr. Bennagen's query on the meaning of the words "fair, reasonable and equitable requirements", Mr. Davide explained that "reasonable" means that the requirements must be consistent with the right of the students.

APPROVAL OF SECTION 4(d) AS AMENDED

Mr. Monsod read Section 4(d), as amended to wit:

EVERY CITIZEN HAS A RIGHT TO SELECT A PROFESSION OR COURSE OF STUDY, SUBJECT TO FAIR, REASONABLE AND EQUITABLE ADMISSION AND ACADEMIC REQUIREMENTS.

Submitted to a vote, and with 26 Members voting in favor and 1 against, Section 4(d), as amended, was approved by the Body.

TRANSPOSITION OF SECTION 4(d) TO SECTION 1

Thereafter, in reply to Mr. Maambong's inquiry, Mr. Villacorta stated that the Committee would have no objection to the transfer of Section 4(d) to Section 1.

ADJOURNMENT OF SESSION

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

It was 6:21 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA

President

Approved on September 9, 1986

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