

## JOURNAL NO. 38

*VOL. I, July 24, 1986*

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Thursday, July 24, 1986

### CALL TO ORDER

At 9:44 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. Decoroso R. Rosales, to wit:

Almighty and benevolent God, with bowed heads and humble hearts, we fervently beseech Thee to baptize this Assembly with the fire of the Holy Spirit, that we may be enlightened and inspired to formulate a new charter that would truly embody and enshrine the dreams, sentiments, ideals and aspirations of our suffering people. Grant this to us, Oh Most Merciful Lord.

Holy Virgin, Mother of God, at whose behest our Lord, Jesus Christ, performed the first miracle at the wedding celebration in Cana, with bended knees, we pray for Thy Motherly intercession and invoke Thine aid. Mater Christi, ora pro nobis.

Amen.

### ROLL CALL

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

Aquino, F. S. Quesada, M. L. M.

Bacani T. C. Rama, N. G.

Bennagen, P. L. Regalado, F. D.

Rosario Braid, F. De Los Reyes, R. F.

Brocka, L. O. Rigos, C. A.

Calderon, J. D. Rodrigo, F. A.

De Castro, C. M. Romulo, R. J.

Colayco, J. C. Rosales, D. R.

Concepcion, R. R. Sarmiento, R. V.

Davide, H. G. Suarez, J. E.

Foz, V. B. Sumulong, L. M.

Guingona, S. V. C. Tan, C.

Jamir, A. M. K. Tingson, G. J.

Monsod, C. S. Treñas, E. B.

Nieva, M. T. F. Uka, L. L.

Nolledo, J. N. Villacorta, W. V.

Muñoz Palma, G. Villegas, B. M.

With 34 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

Abubakar, Y. R. Laurel, J. B.

Alonto, A. D. Lerum, E. R.

Azcuna, A. S. Maambong, R. E.

Bengzon, J. F. S. Natividad, T. C.

Bernas, J. G. Ople, B. F.

Garcia, E. G. Padilla, A. B.

Gascon, J. L. M. C. Tadeo, J. S. L.

On July 11, 1986, Mr. Colayco was on official mission.

### **READING AND APPROVAL OF THE JOURNAL**

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

### **REFERENCE OF BUSINESS**

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

### **REFERRAL TO COMMITTEES OF RESOLUTION**

Upon direction of the Chair, the Secretary-General of the Commission read the title of the proposed Resolution which was, in turn, referred by the Chair to the Committee hereunder indicated:

Proposed Resolution No. 532, entitled:

RESOLUTION EXPRESSING THE PROFOUND APPRECIATION OF THE CONSTITUTIONAL COMMISSION TO THE NATIONAL MOVEMENT FOR FREE ELECTIONS (NAMFREL) FOR THE INVALUABLE ASSISTANCE IN ORGANIZING PROVINCIAL CONSULTATIONS

Introduced by Honorable Sarmiento, Villacorta and Quesada

TO THE STEERING COMMITTEE

### **COMMUNICATIONS**

**Communication No. 288-Constitutional Commission of 1986**

Communication from the (Southern) Philippines Physics Society, signed by its President, Mr. Gerardo C. Maxino, seeking to convert the Philippine Atomic Energy Commission into a constitutional body

TO THE COMMITTEE ON GENERAL PROVISIONS

**Communication No. 289 — Constitutional Commission of 1986**

Letter from Judge Delilah Vidallon Magtolis of the Metropolitan Trial Court of Metro Manila, Branch XLI, Quezon City, addressed to the Honorable Cirilo A. Rigos, proposing a constitutional provision on the teaching of religion in public elementary schools and high schools

TO THE COMMITTEE ON HUMAN RESOURCES

**Communication No 290 — Constitutional Commission of 1986**

Letter from Mr. Roque B. Dajao of Mantahan, Maasin, Southern Leyte, proposing a provision to make mandatory the establishment of vocational schools (secondary and college levels) in all capital towns of the country

TO THE COMMITTEE ON HUMAN RESOURCES

**Communication No. 291 — Constitutional Commission of 1986**

Letter from the Philippine Chamber of Communications, Inc., signed by Mr. Santiago Morales of Room 525, SMS Bldg., 120 Juan Luna, Binondo, Manila, suggesting a constitutional provision that only citizens of the Philippines shall be allowed to sit in the governing body of any public utility and no foreigner or corporation, association, or any other entity which is not wholly owned by Filipinos shall be allowed to manage, control, administer or operate public utilities

TO THE COMMITTEE ON NATIONAL ECONOMY AND PATRIMONY

**Communication No. 292 — Constitutional Commission of 1986**

Resolution from the Philippine Federation of Savings and Loan Banks, Inc., Room 306, Puso ng Maynila Bldg., corner U.N. Avenue and Mabini Street, Ermita, Manila, signed by its President, Noli B. Bajada and other Members of the Board of Directors, proposing a constitutional provision which would inculcate credit worthiness in the youth

TO THE COMMITTEE ON HUMAN RESOURCES

**Communication No. 293 — Constitutional Commission of 1986**

Resolution NO. 07 S. 1986, of the Southern Philippine Muslim Youth Association, c/o P.O. Box 5452, Iligan City, signed by its national Chairman, Datu Camad M. Ali, urging consideration and full implementation of the Bangsa Moro Autonomous Government within the framework of the national sovereignty and territorial integrity of the Philippines

TO THE COMMITTEE ON LOCAL GOVERNMENTS

**Communication No. 294 — Constitutional Commission of 1986**

Letter from Mr. Ernesto P. Tupas of Rosal Grande Sts., TWHV Village, Dumoy, Toril, Davao City, suggesting that the filing and payment of income tax be embodied in the Constitution

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

**Communication No. 295 — Constitutional Commission of 1986**

Letter from Mr. Simeon V. Enriquez of 63S-E. A. Mabini St., Caloocan City, Metro Manila, proposing a constitutional provision on social justice

TO THE COMMITTEE ON SOCIAL JUSTICE

**Communication No. 296 — Constitutional Commission of 1986**

Letter from Ms. Roxanne S. Rodriguez of Naga City, containing her comments and suggestions on the various issues under consideration by the Constitutional Commission

TO THE STEERING COMMITTEE

**Communication No. 297 — Constitutional Commission of 1986**

Letter from Mr. Santiago R. Merino of 23 Bagtikan St., Pilar Village, Las Piñas, Metro Manila, suggesting, among others, the adoption of the policy of neutrality

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

**Communication No. 298 — Constitutional Commission of 1986**

Communication from LUMAD people, signed by Messrs. Precioso M. Tapitan and Vicente Pedrosa and four others, proposing a policy of neutrality and non-alignment, a bill of political and civil rights, a bill of economic, social and cultural rights, autonomy for the Cordillera and LUMAD and Muslim peoples of Mindanao, and systems of recall and initiative, among others

TO THE STEERING COMMITTEE

**Communication No. 299 — Constitutional Commission of 1986**

Position of NAMFREL, Pitogo Municipal Chapter, proposing, among others, provisions on the legislature, to wit: four-year term for a bicameral legislature, question hour to include the President, the creation of a commission on appointments, the declaration of martial law for a maximum period of two months after consultation with the legislature and that the President cannot dissolve the legislature

TO THE COMMITTEE ON THE LEGISLATIVE

**Communication No. 300 — Constitutional Commission of 1986**

Letter from Ms. Charito Apao de la Pena of 749 Capistrano Street, Molave, Zamboanga del Sur, proposing the retention of U.S. military bases for economic and security reasons; a federal form of government and suggesting the principle of self-determination regarding the Sabah issue

TO THE STEERING COMMITTEE

**Communication No. 301 — Constitutional Commission of 1986**

Letter from Mr. Antonio S. Rodriguez of Baclay, Tukuran, Zamboanga del Sur, suggesting that the Members of the Commission on Elections and the Commission on Audit be appointed by civic and religious groups to make them truly independent

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

**Communication No. 302 — Constitutional Commission of 1986**

Letter from Mr. Esmeraldo M. Ignacio of 102 Sta. Maria Norte, Binalonan, Pangasinan, suggesting that theft of fruits, root crops, and other vegetables be given a heavier penalty

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

**Communication No. 303 — Constitutional Commission of 1986**

Letter from Mr. Arsenio D. Castillo of 14 Loans St., GSIS Village, Project 8, Quezon City, Metro Manila, saying that the present electoral system is the root of the evils and difficulties that now plague the country, and proposing an electoral system whereby the leaders in each barangay shall elect the barangay chairman; the barangay chairmen shall elect the municipal of mayor from among themselves; the municipal mayors shall elect the provincial governor from among themselves; and the provincial governors shall elect the President also from among themselves to minimize expenses on the part of the government and the candidates

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

**Communication No. 304 — Constitutional Commission of 1986**

Position paper of BAGUHIN (Citizen's Movement for Continuing Change), signed by the members of its national directorate, on the tenure of office of President Corazon C. Aquino and Vice-President Salvador H. Laurel

TO THE COMMITTEE ON AMENDMENTS AND TRANSITORY PROVISIONS

**Communication No. 305 — Constitutional Commission of 1986**

Letter from Mr. Pio B. Campaner from BASICA United Veterans-VFP, Inc., Bagong Silang, Caloocan City, Metro Manila, suggesting that a voter whose name is omitted from the voters list of the precinct where he registered be allowed to vote upon presentation of a voter's affidavit, with his picture attached, duly signed by the members of the board of election inspectors; and the grant of a life pension to veterans who are 65 years old and above

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

**Communication No. 306 — Constitutional Commission of 1986**

Letter from Mr. Juan F. de Jesus of 936 Del Monte Avenue, San Francisco del Monte, Quezon City, proposing that elected barangay officials elect the municipal mayor, vice-mayor, and councilors, who will then elect the provincial governor, vice-governor, and board members, who in turn will elect the congressmen of the different districts of the province, who will in turn elect the President and Vice-President

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

**Communication No. 307 — Constitutional Commission of 1986**

Letter from Mr. E. Garcia of 985 Padilla St., San Miguel, Manila, for the Kilusang Pangkalahatan Kaunlaran (KPK), submitting a position paper, entitled: "Constitutional Requirements for Genuine Land Reform"

TO THE COMMITTEE ON SOCIAL JUSTICE

**Communication No. 308 — Constitutional Commission of 1986**

Letter from Mr. Alfredo M. Libit of NBI Sub-Office, Calapan, Oriental Mindoro, proposing a provision in the bill of rights that would deter the wanton killing of witnesses by providing for the waiver of the right of the accused to confront witnesses against him and the sworn statements of said witnesses be received in evidence without cross-examination

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

Communication No. 309 — Constitutional Commission of 1986

Letter from Mr. Porfirio R. Razalan of Mayantoc, Tarlac, proposing that small landholders with seven hectares or below be exempted from the implementation of PD 27 and that leasehold contracts forced on them during the Marcos regime be cancelled

TO THE COMMITTEE ON SOCIAL JUSTICE

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 22 ON THE ARTICLE ON THE LEGISLATIVE

On motion of Mr. Romulo, there being no objection, the Body resumed consideration of Committee Report No. 22 on the Article on the Legislative, entitled:

Resolution to incorporate in the new Constitution an Article on the Legislative Department.

PERIOD OF AMENDMENTS

(Continuation)

Upon call of Mr. Romulo, the Body proceeded to consider the proposed amendments which were not so accepted by the Committee.

**PROPOSED AMENDMENT OF MR. RAMA**

Thereupon, adverting to his proposed amendment action on which was deferred, Mr. Rama stated that although one of the reasons for the deferment was the misapprehension that election by district was held in some cities of Metro Manila, the fact is that there was no election by district even in the last election of Assemblymen to the Batasang Pambansa, thus he allayed the fear that his proposal would establish a double standard of applying one rule for cities like Cebu and another for the cities in Metro Manila.

Mr. Rama, however, manifested that with the prior knowledge and consent of the Chairman of the Committee, he was modifying his proposed amendment on Section 5, page 2, by adding after line 8 the sentence **UNLESS OTHERWISE PROVIDED BY LAW, REPRESENTATIVES OF CITIES SHALL BE ELECTED AT-LARGE**. He explained that experience has shown that electing at-large city representatives to Congress is less expensive than electing them by district because then the candidates could just share in the expenses for election propaganda, radio, television, transportation, etc., stressing that a less expensive election is more democratic, less personal, less bitter and less acrimonious than a "mano-mano" contest between candidates in a small district.

He also reasoned that unlike an election by district, the election of representatives at-large presents a better and wider field of choice from candidates who could be from any part of the city from among residents best qualified to run for the office. Mr. Rama stressed that a representative elected at-large has a better overview of the problems of the City he represents, such overview being important in solving problems which entail the establishment of priorities, not on the basis of a small portion of the city, but in accordance with the needs of the city as a whole.

Replying thereto, Mr. Davide manifested the Committee's acceptance of Mr. Rama's amendment subject to the understanding that any other scheme may later be adopted by the Congress of the Philippines and in the Ordinance to be appended to the new Constitution providing for the reapportionment of seats. He also stated that the Committee's acceptance of the amendment shall take into account the number of inhabitants in a given city and the standards prescribed under the proposal.

### **MANIFESTATION OF MR. MONSOD**

At this juncture, Mr. Monsod manifested that he had registered some reservations on the matter during the previous session. He requested for a suspension of the session to convey some statistics to the proponents.

### **SUSPENSION OF SESSION**

Thereupon, the Chair suspended the session.

It was 10:05 a.m.

### **RESUMPTION OF SESSION**

At 10:14 a.m., the session was resumed.

At this juncture, Mr. Rama withdrew his amendment on the Committee's assurance that the matter shall be taken up in the Ordinance to be appended to the Constitution.

Upon inquiry of the Chair, Mr. Davide confirmed that the matter can be resolved in the proposed Ordinance redistricting the entire Philippines into legislative districts.

On the parliamentary situation, Mr. Romulo explained that amendments which are not acceptable to the Committee shall be discussed Section by Section. He also informed that Mr. Lerum had agreed to defer consideration of his amendment after the free-wheeling discussion on the party list system.

### **PROPOSED AMENDMENT OF MR. GASCON**

On Section 2, page 1, line 12, after the words "at-large", Mr. Gascon proposed to insert the phrase THROUGH A PARTY LIST SYSTEM as an assurance that the Senate shall not be dominated by one or two parties. He stated that the party list system would ensure proportional representation and, hence, democratize the Legislature by encouraging small parties supported by substantial voters' blocs, to compete for and win seats in the Body. He noted that although the system would still allow well-oiled parties more seats, smaller parties would nevertheless have representation.

Mr. Gascon manifested his support for Mr. Lerum's call for sectoral representation in the Senate inasmuch as this will be one way of democratizing the legislative body although he stated that the party list system would suffice should the sectoral groups bound by common interests unite and form one major political party supporting candidates who shall promote their interests. He asserted the need to veer away from the two-party system which encourages the largest, well-financed parties to dominate the political scene towards a multi-party system which would allow various organizations to promote their interests in the Legislature.

Mr. Lerum requested deferment of discussion on sectoral representation after the free-wheeling discussion on the party list system.

Thereafter, Mr. Davide requested that amendments which were not accepted by the Committee should be taken up first.

### **AMENDMENT OF MR. PADILLA**

On Section 17, page 5, lines 19 to 23, Mr. Padilla proposed and the Committee agreed, to delete after the word "session" the semicolon (;) and the clause "but each House shall surrender the Member involved to the custody of the law within twenty-four hours after its adjournment for a recess or for its next session, otherwise such privilege

shall cease upon its failure to do so." Mr. Padilla noted that the clause does not appear in the 1935 Constitution but was inserted in the 1973 Constitution. Deeming it unnecessary, he noted that the House or the Senate is not the custodian or bondsman of the Member affected by the provision.

At this point, Mr. Sarmiento inquired what offenses shall be covered by "offenses punishable by not more than six years imprisonment" noting that the -1935 Constitution specified the exception, thereto.

On request of Mr. Davide, a vote was taken on Mr. Padilla's amendment which, there being no objection, was approved by the Body.

Thereafter, on the same page, line 18, Mr. Padilla proposed to insert the words OR SEARCH between the words "arrest" and "while" which amendment was not accepted by the Committee.

Mr. Davide explained that the immunity extended to the Members of Congress is designed to ensure their attendance in the sessions but that immunity from search will not prevent them from such attendance. He contended that this was the reason why the 1935 and 1973 Constitutions did not include immunity from search. He maintained that the provision, without the amendment, would be adequate safeguard for the discharge of the Member's official duties.

In reply thereto, Mr. Padilla stated that the provision penalizing violation of parliamentary immunity under Article 145 of the Revised Penal Code speaks of "arrest and search of any Member thereof". He stated that while some jurisprudence hold that the right to immunity from arrest includes immunity from search, it would be more emphatic to put the right against search with the right against arrest.

Mr. Davide, in answer to Mr. Padilla's statement that the Committee seemed to have accepted the amendment in previous deliberations, stated that the Committee had reassessed its position after the explanation offered by Mr. Rodrigo.

Thereupon, Mr. Rodrigo clarified that the reason for the provision on immunity from arrest is to bar anyone from preventing a Member of Congress from attending the sessions and such immunity is limited to arrest in both the 1935 and 1973 Constitutions. He opined that search will not prevent the Member from attending the sessions.

Mr. Padilla noted that while the latter statement is correct inasmuch as it will not prevent the physical attendance, documents and papers of the Member can be searched and seized while the Congress is in session which documents and papers may be needed for the Member's participation.

In reply, Mr. Rodrigo explained that before a search warrant is issued, the judge examines and specifies the documents and it would be remote that such warrant will be issued on the documents required by the Member in his work but should such a situation arise the Member can approach the Judge and seek the release of the documents.

Mr. Padilla stated that the right of parliamentary immunity does not consider judicial process but is in fact a far richer and greater right than the freedom of speech, which should be almost absolute. He stressed that this is an exceptional Constitutional provision which allows a Member to express his opinions free from any liability for any speech or debate uttered in the halls of Congress.

At this juncture, Mr. Rodrigo noted that parliamentary immunity does not emanate from the first but from the last sentence of Section 17. He explained that the first sentence contains the privilege from arrest while Congress is in session the purpose being not to prevent his attendance in sessions and representation of his constituency, while the last sentence would be the basis of parliamentary immunity. For this reason, he stated that the matter of parliamentary immunity is immaterial to the discussion.

Mr. Padilla conceded that the substance of parliamentary immunity is in the last sentence but maintained that the sentence is dependent on the attendance to the deliberations of Congress. He stressed that the essence of parliamentary immunity would refer to the right of the Member to absolute freedom of expression in the halls of Congress which is attendant to the first sentence providing that a Member shall have the right to attend sessions or meetings to express his opinions and cast his votes without fear.

In reply to Mr. Rodrigo's argument that search will not prevent the Member from attending sessions, Mr. Padilla stated that mere physical attendance is not significant. He argued that more important is absolute freedom of the Member to express his opinions for which he would not be held liable and to cast his votes which would be above scrutiny but vital documents, which would be the basis for opinions and votes even if such documents are considered illegal or unlawful, should not be deprived him.

Mr. Rodrigo reiterated that immunity from search was not included in the 1935 and 1973 Constitutions and no Member of Congress or the Batasang Pambansa had ever complained that he was searched or that documents were seized from him.

### **INQUIRY OF MR. SUAREZ**

In reply to Mr. Suarez' query on the application of the proposed amendment to certain situations, Mr. Padilla stated that the Constitutional provision would apply to attendance in sessions of Congress and in going to and returning from the same. He added that the privilege is limited to the right of the Member to attend and that the privilege against search should be limited to "going to and returning from the same". He stated that should the Member be in the house at night and certain contraband items were found in his possession, the exemption would not apply.

Mr. Padilla stated that the Member should be exempt from search in going to or returning from the sessions. He opined, however, that if he is in a place other than those connected with his attendance, the exemption should not apply. He also agreed that the word "search" would be qualified by the phrase "in all offenses punishable by not more than six years imprisonment."

### **INQUIRY OF MR. REGALADO**

In reply to the query of Mr. Regalado, Mr. Padilla stated that the phrase "immunity from arrest" envisions an exemption from search of the person and does not apply to his car, house, office or any other place.

Mr. Regalado observed that since the purpose of search for evidence is basically to perpetuate it in the event of future criminal prosecution, the fact that Congress is in session the whole year round would defeat such purpose since it is possible that during such period vital evidence may be spirited out and may no longer be available to the judicial authorities when criminal prosecution is instituted against the legislator.

In reply, Mr. Padilla stated that that was precisely why he wanted the phrase in the 1935 and 1973 Constitutions reinstated. He also stated that this exemption is not absolute because it only covers offenses which carry a penalty of less than six years imprisonment.

### **INQUIRY OF MR. BERNAS**

In reply to Mr. Bernas' query on the meaning of the phrase "in going to and coming from the same", Mr. Padilla stated that the Member could not be arrested while Congress is in session. He explained that the prohibition extends to arrests at night or even when the Member is just resting at home as long as Congress is in session.

### INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query on the reckoning of the period of effectivity of the immunity, Mr. Padilla stated that the immunity is not limited to the physical time of going to and coming from Congress, the important thing being that the Member is not prevented from attendance in the session.

With respect to police checkpoints in the public highways and checkpoints in private subdivisions, Mr. Padilla stated that while a Member may not be subjected to a check at police checkpoints along the highways, in a private subdivision where he resides, he should not be privileged from exemption from a private arrangement to which he is a party.

On whether there is any variance between the Committee's interpretation and Mr. Padilla's answers, Mr. Davide stated that the variance lies in Mr. Padilla's desire to restore the original wordings of the 1935 and 1973 Constitutions where the immunity would apply only to a Member of Congress while attending sessions. He pointed out that the proposal broadens the immunity from arrest to include the entire duration of the session in cases where the penalty imposable is more than six years.

On the matter of search, Mr. Davide stated that the proposal would allow the Member to enjoy immunity from both arrest and search, even if he commits offenses. He stressed that the basic reason for the proposal is only to ensure that the Member is not prevented from attending the sessions.

With respect to the point of origin and the point of termination of immunity, Mr. Davide amplified that it would depend on the factual basis. He contended that if the sessions of Congress are from Monday to Friday, a Member who goes home to his province on a Friday afternoon is covered but should he return to Manila the following Saturday for some other business, he could be arrested on that day because he did not come to attend the session.

### INQUIRY OF MR. NOLLEDO

In reply to the queries of Mr. Nollado, Mr. Padilla agreed that parliamentary immunity covers freedom from delay, vindictiveness and pressure which all come into play when search is made.

Mr. Nollado then read into the record the observations of Justice a. B. L. Reyes, in his dissenting opinion in the case of *Osmeña vs. Pendatun* that "the plain purpose of parliamentary immunity is to protect the freedom of action of each Member and to relieve him from the fear of disciplinary action taken upon second thought as a result of political convenience, vindictiveness or pressure."

He observed that, on the basis of Mr. Padilla's remarks that the exception would not apply if the punishment is more than six years, the Member could be free to commit any kind of crime.

Responding thereto, Mr. Davide stated that the quotation of Justice J. B. L. Reyes would apply only to the last sentence of Section 17 and has no application to the first sentence referring to immunity from arrest.

Mr. Nollado maintained, however, that Justice Reyes' observations were equated with outside pressure and would apply with equal force to the first sentence.

Mr. Padilla stated that he was the counsel of Osmena who brought the matter to the Supreme Court. He recalled that the decision of the House was that the suspension was lawful because it violated the provision against disorderly behaviour which, he opined, was not the issue, the real issue being whether based on his privilege speech Mr. Osmeña could be suspended, thereby involving the question of parliamentary immunity. In this regard, he contended that parliamentary immunity does not only apply to the first sentence but also to the last sentence because the whole section pertains to parliamentary immunity.

Mr. Padilla argued that the more important part of the provision is the last sentence which extends absolute freedom of expression to the Member to free him from arrest and search except when he commits an offense punishable by prison mayor. He explained that a Member who commits murder, which is punishable by afflictive penalty, is no longer entitled to the privilege against arrest or search which refers only to offenses that are punishable by correctional or light penalties of not more than six years. He maintained that the privilege should be limited by the nature or the gravity of the offense of which he is charged.

Mr. Padilla stressed that in the first case the Member could not be arrested because he would be deprived of his absolute right to attend the sessions, to express with absolute freedom his opinions and to freely cast his vote, nor could he be questioned for any remark or speech uttered during the sessions or committee meetings, because that is the essence of parliamentary immunity.

### **REMARKS OF MR. ROSALES**

Contributing his thoughts on the question of immunity, Mr. Rosales maintained that under the provisions of the 1935 and 1973 Constitutions, when Congress was in session, the Member's right to immunity was absolute whether he was sleeping on a Saturday or Sunday as long as Congress was in regular session.

On "coming to or returning from the session", Mr. Rosales stated that this had reference to the time when the Member went home to his province when the regular session adjourned and to the time when he came back for the next session. He stated that the provision did not apply to the time when Congress was in session because then the immunity was absolute.

### **INQUIRY OF MR. OPLE**

In reply to Mr. Ople's query whether the right to parliamentary immunity is absolute in instances like when a Member is booked for overspeeding but that he could waive his immunity by submitting himself to arrest and investigation, Mr. Rosales stated that when the offense committed is not punishable with a penalty of more than six years, the immunity is absolute.

Mr. Regalado noted that under the proposed amendment, Mr. Padilla wanted to broaden the immunity by including the immunity from search but at the same time, he would delimit the application by a substitute phrase "during his attendance or when going to or returning from the sessions of Congress" in lieu of the present formulation which, he opined, is all-embracing. He then asked for the restatement of Mr. Padilla's proposed amendment.

Mr. Padilla restated his proposed amendment which is the insertion of the words OR SEARCH between the words "arrest" and "while" on Section 17, page 5, line 18.

Submitted to a vote, and with 14 Members voting in favor and 16 voting against, the amendment was lost.

### **AMENDMENT OF MR. PADILLA**

As proposed by Mr. Padilla and accepted by the Sponsor, the Body approved the amendment on Section 17, page 5, line 23 to change the article "A" to NO at the start of the sentence so that it would read: NO MEMBER SHALL BE QUESTIONED NOR BE HELD LIABLE IN ANY OTHER PLACE FOR ANY SPEECH OR DEBATE IN THE CONGRESS OR IN ANY COMMITTEE THEREOF.

### **PROPOSED AMENDMENT OF MR. PADILLA**

On the same Section 17, Mr. Padilla proposed the rewording of the first sentence thereof to read as follows: A MEMBER OF CONGRESS SHALL HAVE THE RIGHT TO ATTEND ITS SESSIONS AND MEETINGS AND OF ITS COMMITTEES TO EXPRESS HIS OPINIONS AND TO CAST HIS VOTE. HE SHALL BE PRIVILEGED FROM ARREST WHILE THE CONGRESS IS IN SESSION.

In explaining his proposed amendment, Mr. Padilla stressed that one of the important aspects of parliamentary immunity as an absolute right of a Member of Congress is not mere physical attendance but the expression of his opinions and the casting of his vote. He stated that even Article 145 of the Revised Penal Code provides penal sanctions for the violation of parliamentary immunity.

Mr. Davide did not accept the proposed amendment on the ground that it is not necessary, because a Member of Congress has the inherent right to attend the sessions or Committee meetings to express his opinions, to vote and to participate in Committee deliberations to which he may be assigned.

Submitted to a vote, and with 4 Members voting in favor and 23 voting against, the amendment was lost.

### **INQUIRY OF MR. TINGSON**

In reply to Mr. Tingson's inquiry on the rationale for deleting the sentence on page 5, lines 19 to 23, Mr. Padilla explained that if the felony is punishable by imprisonment of more than six years, a Member could not invoke the privilege against arrest but if the offense is punishable by prison correccional, then he has the privilege from arrest. He stated that Congress, not being the custodian of every Member, is not the bondsman called upon to keep a Member under custody or to surrender him. He pointed out that if a Member is subject to arrest, then the usual procedure should be followed.

### **MANIFESTATION OF MR. SARMIENTO**

Mr. Sarmiento stated that he was withdrawing his question on the specification of offenses punishable by not more than six years imprisonment considering that this would be taken care of by the Revised Penal Code and other pertinent laws.

### **AMENDMENT OF MR. MONSOD**

On Section 25, page 8, line 24, Mr. Monsod proposed to add after the word "re-enacted" the words PLUS AN INCREMENT THERETO NOT EXCEEDING THE ADDITIONAL REVENUES ACTUALLY COLLECTED BY THE GOVERNMENT FOR THE CURRENT YEAR.

Explaining his proposed amendment, Mr. Monsod stated that the amendment would enable the government to operate normally while Congress has not enacted a general appropriations law. He explained that if Congress fails to enact a general appropriations law, the previous general appropriations law would govern but with the addition of the increment which should not exceed the actual collections.

In reply to the queries of Mr. Guingona, Mr. Monsod stated that the word "increment" would refer to revenue collections, not necessarily from the Bureau of Internal Revenue and the Bureau of Customs only but also from other agencies of the government. He pointed out that it would be the President who would allocate and adjust the budget proportionately so that the other branches of government which do not have increments as far as collections are concerned would get their fair share.

In case of a drop in the increment by the second half of the year, on the query as to how an increase in increment

during the first half could be accounted for, Mr. Monsod stressed that in making an appropriation, the project covers the whole year.

Mr. Guingona maintained that when the previous appropriations law is deemed reenacted, the available funds would be limited by the previous appropriations law until a new appropriations law is enacted, to which Mr. Monsod stressed that the operation of the government should not be hampered simply by an inaction on the part of Congress. He pointed out that the amendment would serve as an incentive for Congress to act on the appropriations law and not to use the inaction to put pressure or to impose itself on the other branches of the government.

In reply to Mr. Suarez' inquiries, Mr. Monsod affirmed that in the absence of an appropriations law, the government could not make disbursements so that in case of a failure on the part of Congress to enact an appropriations law, the previous law would be the basis for government disbursements in the ensuing year.

On the contention that the increment which is proposed to be added to the previous appropriations law has no authority from the Legislature and therefore the government could not dispose of it, Mr. Monsod stated that he was precisely proposing the amendment as an exception in order that the government, through a constitutional mandate, could disburse it.

On the possible abuse regarding the use of the increment, Mr. Monsod expressed willingness to consider amendments to his amendment so that safeguards could be adopted for the Commission on Audit to look into the expenditure on a pre-audit basis. He affirmed that when Congress approves the new appropriations law, it should include the disbursements of these increments.

In reply to Mr. Ople's query on whether the Executive could appropriate an additional budget by means of the increased revenue collections, Mr. Monsod stated that the Executive could do so only in exceptional cases when Congress fails to act on the appropriations bill.

Mr. Monsod, however, agreed to Mr. Ople's suggestion that the appropriations authority of the Executive be conditional and subject to law, so that Congress could as well concur with such temporary authority.

Mr. Davide observed that the proposed amendment would not be necessary because 1) Congress upon convening its regular session, immediately acts on the budget of the succeeding calendar year; 2) if Congress fails to act on the appropriations bill for the following year, the appropriations bill of the current year would be deemed reenacted; and 3) if there is a need for increases in the budget of the preceding year, Congress itself could enact special appropriations measures as certified by the President.

On Mr. Monsod's contention that, in view of the reasons advanced by Mr. Davide, the proposed Section would not be necessary, Mr. Davide pointed out that unlike the old Congress which opened its regular session on the fourth Monday of January and was expected to act on the budget for the fiscal year starting from July of the same year, the future Congress would have longer time to act on the budget since its session would not be limited to 100 days. He added, however, that in the event it still fails to act on the budget, the proposed Section would apply.

On whether there would be an assurance that Congress would act on a special appropriations measure, Mr. Davide believed that if it is endorsed or certified by the President, the Congress would be compelled to enact a special appropriations law, but not on the assumption that there would be no budget because the budget of the preceding year would automatically be reenacted. He further explained that the power of the President to call the Congress to a special session to act on a particular matter had already been granted under this Article, which is enough authority for the President to ask the Congress to supplement an inadequate budget. He also believed that Congress would not be so unnationalistic as to do nothing about an insufficient budget.

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

Thereafter, on page 10, line 1, between the words "law" and "authorize", Mr. Monsod proposed to insert a comma (,) and the phrase CONSISTENT WITH THE ECONOMIC PROGRAM OF GOVERNMENT,

He explained that the power granted to the President to limit or restrict tariff rates and other duties must be consistent with the economic program of government, which the Legislature itself would approve.

The Sponsor accepted the proposed amendment.

In reply to Mr. Bengzon's query, Mr. Monsod affirmed that the Executive prepares the economic program to be presented to and concurred in by the Legislature.

On whether the President may control the Congress with respect to economic programs, Mr. Monsod stated that it is the Congress that approves the program and it does not have to change what it has approved only to accommodate the wishes of the President. He stressed that such authority must in fact be consistent with the economic program of government.

Thereupon, Mr. Ople suggested that the proposed amendment be placed at the end of the paragraph so that line 5 would read: OR IMPOSTS, WITHIN THE FRAMEWORK OF THE NATIONAL DEVELOPMENT PROGRAM OF GOVERNMENT.

Mr. Monsod accepted the proposed amendment to his amendment.

In reply to Mr. Sarmiento's query on the use of the term "national development program", Mr. Ople explained that it is broader than simply saying "economic program", in the sense that social programs related thereto would also be taken into consideration.

In this connection, Mr. Monsod pointed out that "national development program" is embodied in the "Integrated Economic Development Program", and that the choice of terms would just be a matter of style.

In reply to Mr. Padilla's query on the necessity of the proposed amendment, considering that an economic program is announced as national policy by an incoming President, which economic program is usually never implemented, Mr. Monsod underscored that the present economy is in shambles primarily because economic policies in the past were never implemented; hence, the need of putting it in the Article.

Mr. Padilla, however, maintained that it would not be necessary to restrict the policy-making powers of the President and Congress.

Thereupon, submitted to a vote, and with 21 Members voting in favor and 5 against, the proposed amendment of Mr. Monsod as amended by Mr. Ople was approved by the Body.

Thereafter, on the same page, line 4, Mr. Monsod proposed to change the word "quotas" to QUANTITIES.

He explained that "quota" had acquired the bad connotation of an import or export quota, but that the intent of the proposal would be to determine the quantity and thereafter to subject it to certain tariff rates, in reply to which Mr. Rodrigo stated that the word "quotas" already carries an established jurisprudence and is clearer than "quantity".

However, on the understanding that it does not refer to the system of imposing quotas on individuals and companies which was the practice before, Mr. Monsod withdrew his proposed amendment.

### **PROPOSED AMENDMENT OF MR. BACANI**

On Section 29(2), page 10, Mr. Bacani proposed to add a new sentence at the end of line 24 to read as follows:

EXCEPT WHEN SUCH APPROPRIATION WOULD NOT ACCRUE TO THE EXCLUSIVE BENEFIT OF ANY SUCH PARTICULAR SECT, CHURCH, DENOMINATION, SECTARIAN INSTITUTION OR SYSTEM OF RELIGION, OR WHEN SUCH PRIEST, PREACHER, MINISTER OR DIGNITARY PERFORMS WORK DIRECTLY BENEFICIAL TO THE GOVERNMENT.

Mr. Bacani explained that although the provision was intended to maintain the time-honored tradition of separation between the church and the state, his proposal is in anticipation of future ecumenical meetings of different religions which the government may find important and even necessary to finance, like what happened right after the declaration of martial law when an ecumenical meeting at the Development Academy of the Philippines was initiated and financed by the government. He urged that when an appropriation does not favor any religion but directly benefits the government, it should be allowed as an exception.

Mr. Azcuna did not accept the proposed amendment because if the meeting is ecumenical, it would not violate the prohibition in the same manner that there is no violation when a priest, preacher or minister performs functions beneficial to the government. He added that the Supreme Court should be allowed to determine the application of the provision on a case-to-case basis.

Mr. Bacani maintained that the provisions on separation between the state and church follow the American model whereas in Europe, like in the case of Belgium which explicitly adheres to such separation, Protestant ministers, Catholic priests and Jewish rabbis are paid by the state, and in Germany religious taxes are collected and paid to priests and ministers from any religion because of the help they extend to the state. He then inquired whether the possibility of adopting a similar system in the Philippines has been foreclosed.

At this juncture, Mr. Tingson manifested that he would join Mr. Bacani in not pressing for the amendment if the Committee would express an opinion in consonance with Mr. Bacani's interpretation.

Mr. Rodrigo pointed out that the Supreme Court had already ruled that funds could be appropriated even if it would benefit a particular religion if such benefit is only incidental, like when the Post Office printed stamps to commemorate the International Eucharistic Congress because it would benefit the state directly, the religious aspect being merely incidental.

With this understanding, Mr. Bacani withdrew his proposal.

### **WITHDRAWAL OF PROPOSED AMENDMENT OF MR. BENGZON**

Thereupon, Mr. Bengzon withdrew his proposed amendment on Section 28, page 10, line 9, stating that its approval could do more harm to poor students than benefit the government.

### **INQUIRY OF MR. CONCEPCION**

On parliamentary immunity, Mr. Davide agreed with Mr. Concepcion's observation that the immunity was granted to facilitate the performance of duties by the Members of Congress.

Mr. Concepcion also observed that the phrase "during their attendance in the sessions of Congress" and the phrase "going to and from" in the 1935 Constitution were replaced by the Committee.

Mr. Davide stated that the Committee opted to use the phrase "while Congress is in session" which also includes the phrase "going to and from" to give the Members of Congress immunity from arrest for offenses punishable by

imprisonment of not more than six years while Congress is in session.

On Mr. Concepcion's query whether the immunity would apply even if the Member is not attending the session, Mr. Davide stated that it would, because the Member might decide to attend at any time.

On Mr. Concepcion's suggestion that since parliamentary immunity is incident to the performance of duties, a Member should not be allowed to invoke it if by his action or omission there is no indication of his intent to perform his duties, Mr. Davide stated that although it is incumbent upon a Member to attend the session, it cannot be determined when he would decide to attend. He admitted, however, that the best procedure should be for a Member to declare whether or not he would attend the sessions without prejudice to disciplinary measures under the Rules of each House for Members who refuse to attend its sessions.

Mr. Concepcion maintained that since it is the Constitution which gives the privilege of immunity, it should also impose the conditions for the exercise thereof. He suggested that the Committee amend the provision to ensure that no Member would be able to enjoy the immunity if he does not attend the sessions.

### **PROPOSED AMENDMENT OF MR. GASCON**

On Section 31, page 11, line 9, Mr. Gascon proposed to change "ten" to EIGHT so as to lessen the percentage of voters required to petition for referendum or initiative and thus encourage the people to become more politically active.

Mr. Davide rejected the proposal for the reason that during the Committee discussions the proponents of initiative and referendum had agreed at a compromise of ten percent.

Submitted to a vote, and with 10 Members voting in favor and 22 voting against, the amendment was lost.

### **AMENDMENT OF MR. GASCON AS MODIFIED BY MR. RIGOS**

On Section 31, page 10, line 5, Mr. Gascon proposed to insert WITHIN NINETY DAYS AFTER ITS INITIAL SESSION after "therefrom", to encourage the Congress to immediately enact the measures implementing the system of referendum and initiative.

Mr. Rodrigo did not accept the proposal because the Committee intended to make the provision merely directory and not mandatory, besides, the concept is new that Congress should be given time to seriously consider its mechanics.

On the same Section and page, line 3, Mr. Gascon proposed to insert IMMEDIATELY between the words "shall" and "provide".

Mr. Rodrigo, likewise, did not accept the proposal.

At this juncture, Mr. Bennagen asked Mr. Rodrigo when "shall" is used mandatorily or when it is merely directory.

In reply thereto, Mr. Rodrigo stated that even the Supreme Court interprets "shall" as directory, and at times, as mandatory. He stated that in cases such as committee meetings, the substitution of "shall" to MUST makes the term mandatory. Mr. Rodrigo also stated that to make clear the directory nature of the term, "shall" is substituted with MAY.

Mr. Gascon then stated that he was withdrawing his proposal to add "immediately" and to substitute it with AS EARLY AS POSSIBLE. He stressed that the people should be assured that Section 31 would be made available to

the people as soon as possible to give meaning to such right.

Mr. Rodrigo, on behalf of the Committee, stated that the proposed amendment would be submitted to a vote.

Thereupon, submitted to a vote, and with 18 Members voting in favor and 11 voting against, the amendment was approved by the Body.

### **INQUIRY OF MR. TINGSON**

In reply to Mr. Tingson's query on whether the system of initiative and referendum referred to in Section 31 could be used as an excuse should a similar incident as the one that occurred in Manila three weeks ago be repeated, Mr. Davide stated that while he does not rule out the possibility of its being used as an excuse, he would leave it to the future generation to solve the problem.

### **SUSPENSION OF SESSION**

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

It was 12:47 p.m.

### **RESUMPTION OF SESSION**

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

The Chair acknowledged the presence of members of the Concerned Women of the Philippines.

### **INQUIRY OF MR. MAAMBONG**

Mr. Maambong prefaced his inquiry by noting that the Article on the Legislative allowed Senators or Congressmen to hold positions in the Commission on Appointments and in the Electoral Tribunal as well as members of the Supreme Court to serve in the latter body and further that the Article on the Executive allowed the Supreme Court members to serve in the Presidential Electoral Tribunal in presidential and vice-presidential elections.

He observed that these might come in conflict with two provisions in the Constitution — the first against serving in another office and the second against additional or double compensation.

Anent the second provision, he informed that as Chairman of the Sub-committee on Public Officers and the Committee on General Provisions, he had submitted a provision which reads as follows: "No elective or appointive public officer or employee shall receive additional, double or indirect compensation, except pensions or gratuities, unless specifically authorized by law nor accept without the consent of the National Assembly, any present, emolument, office or title of any kind from any foreign state." This resolution, he explained, was adopted by the Committee although the phrase "unless specifically authorized by law" was deleted and consequently Committee Report No. 31 of the Committee on General Provisions does not contain that specific clause which would have addressed the problems he had raised.

Mr. Davide affirmed that the inclusion of the phrase "unless specifically authorized by law" would have solved the problem of double compensation but added that the particular prohibition would not affect the Members of the Commission on Appointments and the Electoral Tribunals inasmuch as the offices to which they shall be elected, in addition to their membership in either House, would not be incompatible offices. He noted that the particular rule Mr. Maambong adverted to would not bar appointment to any other office which is compatible with the

office the Member is holding.

Mr. Maambong explained that the main reason he included the phrase "indirect compensation" in the provision was Mr. Davide's insistence on it and recalled that Mr. Davide opined that any Member who is elected to the Commission on Appointments or the Electoral Tribunal will receive double compensation which can be considered indirect under the prohibition.

Mr. Davide noted that the phrase "unless otherwise provided by law" can be restored by the Committee on General Provisions. Mr. Maambong informed the Committee that a similar provision had already been approved by the Body under Section 7 on the Article on the Civil Service Commission although the said provision does not contain reference to "indirect compensation" and the exception of pensions or gratuities. He then suggested that this provision under the Article on General Provisions be transposed to the Article on the Civil Service Commission where it properly belongs.

On the matter of service in another office, Mr. Maambong stated that this provision which is now contained in the Committee Report reads as follows: "Unless required by law, neither should he hold any other office or employment in the government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations."

Mr. Davide explained that there is no problem with respect to this provision as it allows Members of either House and members of the Supreme Court to be elected to the Commission on Appointments, Electoral Tribunal and the Presidential Electoral Tribunal.

Mr. Maambong, thereafter, adverted to Section 20 which was amended by Mr. Suarez which section provides that Members of the Cabinet cannot be compelled to appear before either House although their presence may be required under Section 21. He recalled that one of the competent sources of information in committee deliberations in the Batasang Pambansa, either in aid of legislation or in legislative investigations, had been the Cabinet Ministers.

Mr. Davide confirmed that Section 20 refers only to what was originally the Question Hour and Section 21 refers to inquiries in aid of legislation under which anybody may be summoned to appear and can be held in contempt of the House if he refuses.

As to whether a Cabinet Member or Minister who refuses to comply with the subpoena issued by a Committee Members can be held in contempt, Mr. Davide clarified that it is not a Member who issues the subpoena. Under such circumstances, he stated that the subpoena must be signed by either the President of the Senate or the Speaker of the House of Representatives and the contempt will not be a contempt of a particular Committee but a contempt of the House.

Mr. Davide also clarified that a Cabinet Minister can be compelled through a subpoena issued by either the Speaker of the House or the President of the Senate if it is in aid of legislation but not if it is in the guise of an aid in legislation which can be refused. In congressional investigations, Mr. Davide noted that the Cabinet Minister can also be compelled to appear.

### **SUSPENSION OF SESSION**

At this juncture, the Chair suspended the session.

It was 3:-06 p.m.

## RESUMPTION OF SESSION

At 3:14 p.m., the session was resumed.

## INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' query on the interpretation of the word "signed" on line 9 of page 11, Mr. Davide stated that the thumbprint by an illiterate is considered his signature.

## PROPOSED AMENDMENT OF MRS. QUESADA

On page 10, line 10, before the word "educational", Mrs. Quesada proposed to insert the word NON- PROFIT.

Mrs. Quesada stated that without her proposal, the provision would contribute to the loss of much-needed revenue from realty taxes, and that helping profit-making institutions would constitute a bad precedent even if they contribute to the basic needs of education.

## INQUIRY OF MR. NOLLEDO

In reply to the queries of Mr. Nollado, Mrs. Quesada affirmed that private schools, whether profit or non-profit, share in the basic function of government of educating the youth. She likewise agreed that because of inflation, many schools are suffering financially and, therefore, should be given some incentives, one of which is exemption from the payment of realty tax.

Thereupon, Mr. Nollado registered his objection to the amendment.

## INQUIRY OF MR. BACANI

In reply to Mr. Bacani's query, Mrs. Quesada denied any knowledge of the fact that the rate of returns on investments in schools is 3% which is much lower than the rate of returns for other businesses.

Mr. Bacani informed the Body that a non-profit and non-stock school, believed to be the biggest Catholic parochial school in the whole world, is at present suffering a loss of P70,000 a year, excluding the losses due to depreciation. He opined that if this is the situation in said school which is reputedly well-run, other schools must be suffering from a worse situation. He suggested that insofar as the interest of education is concerned, the Commission should not add burden to private educational institutions.

Replying thereto, Mrs. Quesada stated that the sad plight of education in the country is a reflection of government neglect of education, so much so that providing more support to private schools would mean solving the problem of education. She stated that although the Commission would like the citizens to enjoy the right to education, access to such right cannot be achieved by lessening state support to public schools where 70% of the poor students go. She pointed out that extending the privilege of tax exemption to profit-making institutions would get some of the resources that should be channeled to state-supported institutions.

## REMARKS OF MR. DE LOS REYES

Mr. de los Reyes stated that the proposal is not necessary because under existing laws and jurisprudence, the profit portion is really taxable. He stated that when a religious or charitable institution engages in business for profit, it is as much liable to taxation as any other business. In the case of YMCA vs. Internal Revenue, he stated, the Supreme Court held that the YMCA is not subject to real property tax because it is devoted to a combination of religious, charitable and educational purposes, and, in the case of Herrera vs. Quezon City Board of

Assessment, that the admission of pay patients does not detract from the charitable character of the hospital if all of its funds are devoted exclusively to the maintenance of the institution as a public charity hospital. Thus, he observed that if despite the fact that an educational institution derives some profits, all its funds are devoted exclusively to its maintenance to help the poor students, such institution is exempt from taxation; however, when it is a profit-making institution, the Bureau of Internal Revenue shall determine whether or not it is taxable. He reiterated that there is no need to qualify education with "non-profit" because it is already settled by existing jurisprudence.

Thereupon, Mrs. Quesada withdrew her proposed amendment.

### **REMARKS OF MR. GUINGONA**

On the reference to the word "non-profit", Mr. Guingona stated that there are some who prefer to use the word "proprietary" as against "non-proprietary" because the word "non-profit" does not speak well in reference to educational institutions.

He pointed out that 85% of the students in colleges or universities throughout the Philippines are studying in private educational institutions and about 60% of the students are studying in proprietary schools most of whose students are working. He opined that these proprietary schools provide quality education as could be gleaned from the results of board examinations, so much so that by pushing them to the wall, the owners of these schools would be compelled to transfer their assets to other ventures, leaving the students to suffer.

Mr. Guingona also stated that tuition fee in proprietary schools is generally P2,000 per annum while nonproprietary schools charge P5,000 per annum, the implication being that students would either expect the state to provide them with more schools or exert pressure on nonproprietary schools to extend more scholarships or reduce their tuition fees, otherwise, they would be forced to quit their studies, thereby creating a social problem.

### **INQUIRY OF MR. OPLE**

In reply to Mr. Ople's query on whether there is a way of quantifying what the government would lose and what the private schools would gain in terms of exemptions from real property taxes, Mr. Guingona stated that the exemption would benefit students either in the form of reduced fees or in the quality of education. He cited the case of the Central Colleges of the Philippines, which registered an average enrollment drop of 1,200 although its records showed that less than 10% asked for transfer credentials.

On whether there is any assurance that the owners of tertiary schools would pass on the benefits of savings to the students, Mr. Guingona stated that it would be so provided in the sections which the Sub-committee on Education would propose.

### **PROPOSED AMENDMENT OF MR. UKA**

On page 10, line 10, after "taxation", Mr. Uka proposed to insert the clause PROPRIETARY EDUCATIONAL INSTITUTIONS SHALL LIKEWISE BE ENTITLED TO THE EXEMPTION PROVIDED THEY LIMIT DIVIDENDS AS MAY BE PROVIDED BY LAW.

Mr. Uka explained that the reason for his proposal is that tax exemption is one form of reimbursement to the parents of millions of poor students all over the country.

Adverting to some European countries like Holland and Germany, Mr. Uka stated that the government had exempted the proprietary schools from taxation. He contended that if these schools were closed due to high

taxation, the government would have a big problem in its hands.

Replying thereto, Mr. Davide requested Mr. Uka to defer consideration of his amendment until the time when the Body considers the Article on Human Resources which, he opined, is the proper situs of the proposal. Mr. Uka acceded to the request.

#### CONSIDERATION OF THE SURVEY ON THE SYNCHRONIZATION OF ELECTIONS FOR THE OFFICE OF THE PRESIDENT AND THE VICE-PRESIDENT

On motion of Mr. Romulo, there being no objection, the Body proceeded to the consideration of the survey on the synchronization of the elections for the Office of the President and Vice-President, the Members of Congress and the local officials.

#### INQUIRY OF MR. OPLE

In reply to Mr. Ople's inquiry, Mr. Romulo stated that the proposal would not involve the incumbents.

#### RESULT OF THE OPINION SURVEY REGARDING THE TERM OF OFFICE

Upon direction of the Chair, the Secretary General read the result of the Opinion Survey on the Re Term of Office, to wit:

##### THE TERM OF OFFICE

(Numbers Correspond to No. of Years)

O f f i c i a l s

Frequency of Elections

Once every

Scheme No.

Pres/

VP

Senators

Reps

Local

Total 43

#### I

6

6

4

4

2

20

**II**

6

6

3

3

3

12

**III**

6

6

6

3

3

1

**IV**

6

6

3

6

3

**V**

6

6

6

6

6a/

1

**VI**

5

5

5

5

5b/

1

**VII**

4

4

4

4

4c/

5

**VIII**

4

4

4

4

4d/

2

a/

no reelection

b/

no reelection

c/

one reelection only, but official is allowed to run again after a one term interval

d/

one reelection for all except local officials who will be allowed unlimited reelections

Remarks re Scheme No. I

1.

No reelection for the President

No limit for all others

2.

No immediate reelection for President

Senators with reelection

Congressmen with reelection

Local officials with one reelection

3.

Local officials no immediate reelection

4.

No limit to reelection

5.

No reelection for all

Remarks re Scheme No. II

1.

No reelection for President

2.

No immediate reelection

Local officials limited to 2 reelections

Senators limited to one reelection

Representatives allowed 3 reelections

3.

No reelection for President, immediate or otherwise

Senators — no reelection, immediate or otherwise

Representatives/Local officials — one reelection

4.

Unlimited reelection for Senators, Representatives, and Local Officials

Remarks re Scheme No. VII

National/Local officials elected in the same year but not on the same date to avoid confusion of issues

Remark re Scheme No. VIII

One reelection only

In reply to Mr. Bennagen's inquiry, the Secretary-General stated that the remarks referred to are general remarks in relation to each scheme.

In reply to Mr. Romulo's query, Mr. Davide, on behalf of the Committee, suggested that the discussion would be limited to Scheme No. I and Scheme No. II.

### **SUSPENSION OF SESSION**

At this juncture, the Chair suspended the session.

It was 3:54 p.m.

## RESUMPTION OF SESSION

At 4:02 p.m., the session was resumed.

## MOTION OF MR. ROMULO

On motion of Mr. Romulo, there being no objection, the Body approved the motion to limit the discussion to Schemes No. I, II and VII.

Mr. Romulo stated that the Body would decide only the term of office, after which it would decide on whether there will be reelection or no reelection for a particular official. He stated that after the completion of the sponsorship on the three schemes, interpellations would follow.

In reply to Mr. de Castro's inquiry, the Chair stated that the frequency of elections and other related matters could be raised during the interpellations.

## SPONSORSHIP REMARKS OF MR. BENGZON ON SCHEME NO. I

In his remarks, Mr. Bengzon explained that under Scheme No. I, the President, the Vice-President and Senators would have a six-year term without re-election while the Members of the House of Representatives and local officials would have a four-year term but they can be reelected. Adverting to President Quezon's statement that four years is too short for a good President, Mr. Bengzon stated that six years would be good enough for a good President to perform and implement his program of government. Although six years would be too long for a bad President, he opined that a bad President would not be able to carry out any evil intention he may have because of 1) checks and balances; 2) emasculated powers of the Executive; 3) strengthened Supreme Court and Judiciary; 4) strengthened legislature; and 5) institutionalization of people power.

With respect to the Senators, Mr. Bengzon stated that a six-year term would be sufficient. He opined that if indeed the Senate is the training ground for the presidency, if a Senator is not able to prove himself capable of becoming a President within six years, the chances are he will never prove himself capable for the office.

Mr. Bengzon stated that Members of the House of Representatives and local officials are allowed re-election because they are the ones in touch with the people and they are the ones capable of implementing the parochial programs of their constituencies aided by their colleagues in the Senate who would have an overview of the national problems.

## SPONSORSHIP REMARKS OF MR. RODRIGO ON SCHEME NO. II

Mr. Rodrigo stated that he would have preferred Scheme No. I were it not for the holding of elections every two years which, he believed, is not good for the country because elections are expensive, divisive and leads to too much politicking. While both schemes are similar insofar as the term of office of the President and Vice-President is concerned, he noted that under the first scheme, both the President and Vice-President could not run for reelection while under the second scheme, only the President is prohibited from running for reelection because he might use his vast powers to assure his reelection unlike the Vice-President who has no powers at all unless appointed to a Cabinet position.

At this juncture, Mr. Bengzon stated that he was not too keen on the Prohibition for the reelection of Vice-President and the Senators under Scheme No. I.

Thereafter, Mr. Rodrigo stated that Senators would be allowed to run for indefinite reelection and that Members of the House of Representatives and local officials would have three-year terms, the purpose being that there will

be an election every three years instead of every two years. He added that there will be a continuing and staggered membership in the Senate because 12 of the 24 Senators will be elected in every election.

He observed that although the term of local officials would be reduced from four to three years, the election would be less frequent than under Scheme No. I which would be every two years. He stated that between lesser evils he would opt for Scheme No. II.

### **SPONSORSHIP REMARKS OF MR. DAVIDE ON SCHEME NO. VII**

Sponsoring Scheme No. VII, Mr. Davide pointed out that it provides for a four-year term for the President, Vice-President, Senators; Members of the House of Representatives and all local officials, allowing them only one reelection.

Unlike Schemes No. I and II which respectively provide for election every two and three years, Mr. Davide stated that Scheme No. VII provides for an election every four years, thus, allowing the people enough time to express their sentiments.

He disclosed, however, that the only possible problem in this scheme is that there would be too many candidates to vote for in a synchronized election. But he believed that this would not be a hindrance to but a demonstration of democracy in its highest order.

Finally, he urged that the Body support this scheme, and that the older Members give the younger ones more chances of being elected.

At this juncture in reply to Mr. Ople's query, Mr. Romulo reiterated that a Member may interpellate any one of the three Sponsors.

### **REMARKS OF MS. AQUINO**

Speaking in favor of Scheme No. VII, Ms. Aquino observed that in Scheme No. I, the election for the Members of the Lower House would be after every four years while one-third of the Senators would be elected every two years, therefore, the membership of the Senate would change twice during its term, while the Lower House would change its membership only after four years. She opined that this would be an obstacle to the efficient operation of the multi-party system because it would allow a party to control one House and another party to control the other, thus promoting factionalism, disharmony and inefficiency. She stressed that the multi-party system would find fertile grounds in Scheme No. VII.

### **REMARKS OF MR. TINGSON**

Mr. Tingson stated that he would be in favor of Scheme No. VII if the President were to have a six-year term without reelection. He stated that because of Mr. Monsod's explanation that it would provide for an election every two years, he opted for Scheme No. I which also provides for the holding of election every two years so that the people would be allowed to choose their public officials more often.

### **INTERPELLATION OF MR. OPLE**

In reply to Mr. Ople's query, Mr. Bengzon believed that the Vice-President should not be banned from running for reelection or from seeking the Presidency.

With respect to the Senators, Mr. Bengzon opined that they should be allowed to seek reelection which means they would have twelve years of service, if reelected. He stated that if after twelve years, a Senator has not yet

proven himself capable of being a President or a national leader, then he could not make any better.

On Mr. Ople's observation that many Members of the U.S. Senate were reelected for a number of times and had served as Senators for more than 30 or 40 years, thus, accumulating such knowledge and experience that had unquestionably helped the Senate, Mr. Bengzon stated that in the Philippines, although there were also distinguished veteran legislators, there are equally bright and able young men aspiring to serve the country who should be given their chance. He added, however, that the older Senators would not be prevented from continuing to serve the country as advisers to the younger ones.

Mr. Ople then underscored that like in other parliamentary systems, the right to seek public office carries with it the right to be elected, thus public officials should not be prohibited from running for reelection.

On Mr. Ople's observation that an election every two years would bring the country back to the political rhythm of the past, Mr. Bengzon stressed that although the process may be the same, the maturity of the people today differs a lot from that of yesteryears.

On whether the frequency of elections under Scheme No. I would be harmful to the economy, Mr. Bengzon pointed out that since one election would cost about 1.9 million it would not be too expensive for Filipinos who always look forward to an opportunity to exercise their political rights.

On Mr. Ople's comment that those who are concerned with the divisive effect of elections should instead focus on Constitutional measures to guarantee clean and honest elections and not blame the exercise of suffrage itself as divisive, Mr. Bengzon stated that whether or not an election is divisive depends upon the people's attitude because in some areas the elections are unifying while in others they are not.

Mr. Bengzon agreed with Mr. Ople's observation that a national consensus could never be achieved if there are no elections through which the people could express themselves on issues which could then be used by the elected government as guidance.

Mr. Bengzon, likewise, agreed with Mr. Ople's observation that holding elections once every two years would increase the opportunity for people's organizations to use the power of initiative and referendum to express themselves and to serve the government.

On Mr. Ople's query whether Scheme No. I envisions any mechanism to control the campaign expenditures of political parties, Mr. Bengzon stated that in 1970, in relation to the call for a Constitutional Convention, Congress passed a law limiting campaign expenditures. He noted, however, that the present Constitution does not contain a provision limiting election expenses.

Mr. Bengzon also agreed with Mr. Ople's observation that although one positive effect of an election is the redistribution effect, there must be effective measures against overspending which has an adverse effect on the economy especially when elections are held once every two years.

### **COMMENT OF MR. NATIVIDAD**

At this juncture, Mr. Natividad commented that he authored an approved amendment giving the COMELEC the power to designate places where campaign and propaganda materials could be displayed thereby giving the poor candidates equal opportunity with the richer ones.

Mr. Bengzon stated that this answered Mr. Ople's query on any specific provision in the Constitution which limits election spending.

### INTERPELLATION OF MR. DE CASTRO

On Mr. de Castro's query on the staggering of elections under Schemes I and II, Mr. Monsod explained that for Scheme I, in the election in 1987 of the first twenty-four Senators to be voted, eight would be for a term of 5 years, sixteen for 3 years, and in 1990, of the sixteen Senators eight would be voted for a term of 6 years while the other eight would be for a term of 4 years after which, elections would be held every two years.

For Scheme No. II, Mr. Rodrigo explained that 12 Senators would be elected every three years.

On Mr. de Castro's query whether the Committee had taken into consideration the hassles a voter would face considering that every election he has to vote for at least 45 government officials, Mr. Davide stated that the Committee had realized it but he added that a voter usually knows even before he goes to the polling booth for whom he would be voting and that political parties usually distribute sample ballots which the voter could simply copy or, for the illiterates, a square or a box on the ballots which they could simply check for purposes of voting.

### INTERPELLATION OF MR. REGALADO

On Scheme No. II, in reply to Mr. Regalado's query whether a President could still be reelected after his term if he would wait for another six years before running for reelection, Mr. Rodrigo stated that he could.

On Scheme No. VII, in reply to Mr. Regalado's contention that a President who is elected for four years, being eligible for re-election, could merely use his first term for "politicking" to ensure his re-election, Mr. Davide stated that on the contrary one who is seeking immediate re-election would try his best to be a very good executive in order to win reelection.

On Mr. Regalado's argument that a President who is elected for six years would also try his best so that he would have a chance of reelection, Mr. Davide stated that six years would be too long that when re-elected he would be assured of a dynasty of 12 years with the danger that he may declare martial law.

### INTERPELLATION OF MR. DE LOS REYES

Mr. de los Reyes observed that none of the schemes is perfect because; 1) Scheme No. I would not solve the frequency of elections since elections would be held every two years; 2) Scheme No. II would make Representatives and local officials serve in office for three years only, which these officials were not used to do, thus, making it difficult to solicit the help of prospective candidates for Representatives and local officials to campaign for the ratification of the Constitution; and 3) Scheme No. VII, on the prevention of political dynasties, there is nothing that will prevent public officials from running for another office. He stated that a Member of the House of Representatives could run for Mayor or Governor after one reelection since he is not prohibited from doing so.

Mr. de los Reyes inquired whether all the schemes proposed shall start from 1992. In reply thereto, Mr. Monsod explained that since the next election would leave the incumbent President a remaining term of five years, adjustments of the terms have to be made. He stated that it is not desirable to hold elections for Members of the House of Representatives and for local officials on the same year since the former pertains to the national constituency while the latter pertains to the local constituency.

On the query whether the intent in determining the schemes would, in effect, increase the term of office of the incumbent President and Vice-President by one year should their term start in 1987, Mr. Monsod stated that the term of the incumbents is six years starting 1986 as proposed by the Committee on Transitory Provisions. He opined that it would be better not to adjust the term of the incumbents but adjustment of the terms of those who

will be running in the 1987 elections may be made. He stated that some officials shall serve for three instead of four years, while local officials shall have a five-year term. By 1992, which is the sixth year of the incumbent President and Vice-President, Mr. Monsod stated that synchronization of elections would then start.

As to how Senators, Representatives and local officials shall be elected applying Scheme No. I, assuming that the term of the incumbent President and Vice-President is fixed up to June 30, 1992, Mr. Monsod stated that the first eight Senators shall be elected for a term of five years ending in 1992 simultaneous with the incumbent President and Vice-President. As to the last 16 Senators, Mr. Monsod explained that they shall have a three-year term up to 1990, while the Members of the House shall, likewise, have a three-year term also ending in 1990. He stated that local officials shall have a five-year term until 1992. He stated that by that time, sixteen Senators shall be due for election, of whom the top eight shall serve for the regular six-year term while the bottom eight shall serve for four years. He stated that thereafter 'all elections shall be synchronized.

On Mr. de los Reyes' query whether the Transitory Provisions shall contain a different term of office prior to 1992, Mr. Monsod replied in the affirmative.

On how the scheme would work assuming that the Body approves a proposal submitting the question to the people during the ratification of the Constitution assuming, further, that the people mandate that the incumbent President and Vice-President submit themselves to an election, Mr. Monsod stated that the remedy is to move the base year from 1992 to 1993, and the terms shall consequently be adjusted to four years instead of three, and six instead of the five years for the first adjustment.

### **REMARKS OF MR. MAAMBONG**

Mr. Maambong observed that Mr. Davide failed to indicate that adjustments should be made on the in-coming term. He stated that he made some computations and that following the date of the election as indicated in the provisions on the Legislature, the first term of the incumbent President and Vice-President starting February 27, 1986 would be six years, four months and five days up to June 30, 1992.

On the assumption that the incumbent President and Vice-President shall not submit to an election, Mr. Maambong stated that if computation shall be made starting from February 25, 1986, the incumbents' terms would end on June 30, 1992, which would total six years, four months and five days. Mr. Davide affirmed that it would be so.

On Scheme No. VII, Mr. Davide confirmed Maambong's observation that should elections be held on the second Monday of May, 1987 and the term of office start on June 30, 1987, the first elected Senators, Representatives and local government officials would have a term of five years by way of adjustment, counting from June 30, 1987 up to June 30, 1992. Mr. Davide likewise agreed with Mr. Maambong that from June 30, 1992 onwards, the term of the President, Vice-President, Senators, Representatives and local officials shall be for four years.

### **SUSPENSION OF SESSION**

At this juncture, the Chair suspended the session.

It was 5:28 p.m.

### **RESUMPTION OF SESSION**

At 5:52 p.m., the session was resumed.

### REMARKS OF MR. RIGOS

Mr. Rigos stated that the difficulty confronting the Body is due to the commingling of the issue of term of the President with the issue of frequency of elections but that the Body should weigh the advantages and disadvantages and eventually arrive at a decision whether or not the term of the President shall be four or six years and whether or not elections shall be held every two or three or four years. He noted that in various public hearings, the people have manifested their sentiment on the presidential term which seems to point to one term without re-election in which case the term would be six years since a four-year term might mean a reelection. He stated his preference for a six-year term for the President without immediate reelection and suggested that other issues such as the term of the Senators should be discussed later. However, he maintained that whatever scheme is chosen it will still be adjusted inasmuch as there will be an election the next year if the proposed Constitution is approved and thereafter another election will be held in 1991 in case the Commission agrees with the proposed term of the incumbent President and Vice-President.

### REMARKS OF MR. GARCIA

Mr. Garcia suggested that the three schemes be broken down into: (1) the term of the President whether 6 years without reelection or 4 years with reelection, (2) the term of the Senators, Congressmen and local officials; (3) frequency of elections, and (4) the other features which could facilitate, deepen or strengthen popular participation through the systems of recall, party list, multi-party and sectoral representation, initiative and referendum.

On the term of office, he stated the need to focus attention on how to deepen democracy which would involve two principles the principle of no re-election for the Presidency and limited reelection for other offices and the principle of popular participation which could be strengthened if the Body gives substance to the five measures of popular participation.

On the matter of the Presidency, he opined that a six-year term without reelection would ensure that the person who becomes president shall realize that he has only one opportunity to give his best within that period and that history will judge him and shall not absolve his failure.

On the frequency of elections, and the terms of office of other elective officials, he opted for election every three years and for a six-year term with one reelection for Senators; three-year term for Congressmen and local officials with two reelections.

Mr. Garcia, in explaining his preference for no reelection, stated that there should be no special case of professional politicians and election to public posts should not be deemed a lifetime profession but an opportunity to render public service. He opined that accumulation of power would bring the desire to accumulate more.

On the matter of popular participation, especially on the exercise of recall, he raised the question as to how the people shall be able to question the actions of public elective officials. The party list system and sectoral representation, he observed, should become an effective tool for participation. On the system of initiative and referendum, he noted the need for submitting issues to the people so that they can vote more on principles and programs rather than on personalities of candidates.

### REMARKS OF MR. SARMIENTO

Mr. Sarmiento observed that Filipinos are familiar with Scheme No. VII inasmuch as it was the scheme obtaining in the 1935 Constitution and during the Marcos years. He noted that four-year term with one reelection would be dangerous as it breeds dictatorship as was shown in the case of the former President. He stated his apprehension that the person elected President might only think of perpetuating himself in power and that even before his term

expires, his main concern shall be to mend his political fences and win the support of the people to ensure his reelection.

In reply thereto, Mr. Davide stated that after the experience of the past regime, the people will not allow another dictator to rule. The possibility of a President becoming a dictator, he maintained, would be more prevalent under a six-year term without re-election inasmuch as it could be a term dedicated for the good of the country or a term dedicated for the self-aggrandizement of the individual himself. On the other hand, he argued that under a four-year term, should there be any politicking on the part of the President, it would be politicking for good as he might not secure a fresh mandate for his reelection bid.

Mr. Davide stated that Scheme No. I would not be beneficial to the country and the economy inasmuch as it would involve elections every two years. He contended that Scheme No. II would be the best compromise.

### **SUSPENSION OF SESSION**

The Chair suspended the session.

It was 6:06 p.m.

### **RESUMPTION OF SESSION**

At 6:10 p.m., the session was resumed.

Thereafter, Mr. Romulo explained the mechanics of voting on the different schemes. He explained that the first step will be a process of elimination in which the three schemes shall be voted upon and should one scheme get the majority vote it will then be considered by the Body. In case there is no majority vote, the scheme which will get the lowest vote will be eliminated and thereafter the Body shall vote on the remaining two schemes. After selecting the scheme, he stated that the Body will consider its various elements.

### **ADJOURNMENT OF SESSION**

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

It was 6:11 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 July 25, 1986

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