

FRANCISCO, J., dissenting and concurring opinion:

There is no question that my esteemed colleague Mr. Justice Davide has prepared a scholarly and well-written *ponencia*. Nonetheless, I cannot fully subscribe to his view that R.A. No. 6375 is inadequate to cover the system of initiative on amendments to the Constitution.

To begin with, sovereignty under the constitution, resides in the people and all government authority emanates from them.^[1] Unlike our previous constitutions, the present 1987 Constitution has given more significance to this declaration of principle for the people are now vested with power not only to propose, enact or reject any act of law amendments to the constitution as well.^[2] To implement these Constitutional edicts, Congress in 1989 enacted Republic Act No. 6375, otherwise known as "*The Initiative and Referendum Act*". This law, to my mind, amply covers an initiative on the constitution. The contrary view maintained by petitioners is based principally on the alleged lack of sub-title in the law on initiative to amend the constitution and on their allegation that:

"Republic Act No. 6735 provides for the effectivity of the law after publication in print media. [And] [t]his indicates that Republic Act No. 6735 covers only laws and not constitutional amendments, because constitutional amendments take effect upon ratification not after publication"^[3]

which allegation manifests petitioners' selective interpretation of the law, for under Section 9 of Republic Act No. 6735 on *Effectivity of Initiative or Referendum Proposition* paragraph (b) thereof is clear in providing that:

"The proposition in an initiative on the constitution approved by a majority of the votes cast in the plebiscite shall become effective as to the day of the plebiscite."

It is a rule that every part of the statute must be interpreted with reference to the context, i.e., that every part of the statute must be construed together with the other parts and kept subservient to the general intent of the whole enactment.^[4] Thus, the provisions of Republic Act No. 6735 may not be interpreted in isolation. The legislative intent behind every law is to be extracted from the statute as a whole.^[5]

In its definition of terms, Republic Act No.6735 defines **initiative** as "*the power of the people to propose amendments to the constitution or to propose and enact legislations through an election called for purpose*"^[6] The same section, in enumerating the three systems of initiative, included an "*initiative on the constitution which refers to a petition proposing amendments to the constitution*"^[7] Paragraph (e) again of Section 3 defines "plebiscite" as the "*the electoral process by which an initiative on the constitution is approved or rejected by the people*". And as to the material requirements for an initiative on the Constitution, Section 5(b) distinctly enumerates the following:

"A petition for an initiative on the 1987 Constitution must have at least twelve percentum (12%) of the total number of the registered voters as signatories, of which every legislative distric must be represented by at least 3 per centum (3%) of the registered voters therein. Initiative on the constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five years thereafter."

These provisions were inserted, on purpose, by the Congress the intent being to provide for the implementation of the right to propose an amendment to the Constitution by way of initiative. "A legal provision", the Court has previously said, "must not be construed as to be a useless surplusage, and accordingly, meaningless, in the sense of adding nothing to the law or having no effect whatsoever thereon."^[8] That this is the legislative intent is further shown by the deliberations in Congress, thus:

"x x x More significantly, in the course of the consideration of the Conference Committee Report on the disagreeing provisions of Senate Bill No. 17 and House Bill No. 21505, it was noted:

"MR. ROCO. On the Conference Committee Report on the disagreeing provisions between Senate Bill No. 17 and the consolidated House Bill No. 21505 which refers to the system providing for the initiative and referendum, fundamentally, Mr. Speaker, we consolidated the Senate and the House versions, so both versions are totally intact in the bill. **The Senators ironically provided for local initiative and referendum and the House of Representatives correctly provided for initiative and referendum on the Constitution and on national legislation.**

I move that we approve the consolidated bill.

"MR. ALBANO, Mr. Speaker.

"THE SPEAKER PRO TEMPORE. What is the pleasure of the Minority Floor Leader?

"MR. ALBANO. Will the distinguished sponsor answer just a few questions?

"THE SPEAKER PRO TEMPORE. What does the sponsor say?

"MR. ROCO. Willingly, Mr. Speaker.

"THE SPEAKER PRO TEMPORE. The gentleman will please proceed.

"MR. ALBANO. I heard the sponsor say that the only difference in the two bills was that in the Senate version there was a provision for local initiative and referendum, whereas the House version has none.

"MR. ROCO. **In fact, the Senate version provided purely for local initiative and referendum, whereas in the House version, we provided purely for national and constitutional legislation.**

"MR. ALBANO. Is it our understanding, therefore, that the two provisions were incorporated?

"MR. ROCO. Yes, Mr. Speaker.

"MR ALBANO. **So that we will now have a complete initiative and referendum both in the constitutional amendment and national legislation.**

"MR. ROCO. That is correct.

"MR. ALBANO. And provincial as well as municipal resolutions?

"MR. ROCO. Down to barangay, Mr. Speaker.

"MR. ALBANO. And this initiative and referendum is in consonance with the provision of the Constitution to enact the enabling law, so that we shall have a system which can be done every five years. Is it five years in the provision of the Constitution?

"MR. ROCO. That is correct, Mr. Speaker. For **Constitutional amendments to the 1987 Constitution, it is every five years.**" (*Id.*[Journal and Record of the House of Representatives], Vol. VIII, 8 June 1989, p. 960; quoted in *Garcia v. Comelec*, 237 SCRA 279, 292-293 [1994]; emphasis supplied).

"x x x The Senate version of the Bill may not have comprehended initiatives on the Constitution. When consolidated, though, with the House version of the Bill and as approved and enacted into law, the proposal

included initiative on both Constitution and ordinary laws."^[9]

Clearly then, Republic Act No. 6735 covers an initiative on the constitution. Any other construction as what petitioners foist upon the Court constitute a betrayal of the intent and spirit behind the enactment.

At any rate, I agree with the ponencia that the Commission on Elections, at present, cannot taken any action (such as those contained in the Commission's orders dated December 6,9, and 12, 1996 [Annexes B,C and B-1]) indicative of its having already assumed jurisdiction over private respondent's petition. This is so because from the tenor of Section 5 (b) of R.A. No. 6735 it would appear that proof of procurement of the required percentage of registered voters at the time the petition for initiative is filed, is a jurisdictional requirement. Thus:

"A *petition for an initiative* on the 1987 Constitution *must have* at least twelve *per centum* (12%) of the total number of registered voters as signatories, of which every legislative district must be represented by at least three per centum (3%) of the registered voters therein. Initiative on the Constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five (5) years thereafter."

Here private respondents' petition is unaccompanied by the required signatures. This defect notwithstanding, it is without prejudice to the refiling of their petition once compliance with the required percentage is satisfactorily shown by private respondents. In the absence, therefore, of an appropriate petition before the Commission on Elections, any determination of whether private respondents' proposal constitutes an amendment or revision is premature.

ACCORDINGLY, I take exception to the conclusion reached in the *ponencia* that R.A. No. 6735 is an "inadequate" legislation to cover a people's initiative to propose amendments to the Constitution. I, however, register my concurrence with the dismissal, in the meantime, of private respondents' petition for initiative before public respondent Commission on Elections until the same be supported by proof of strict compliance with Section 5 (b) of R.A. No. 6735.

^[1] Article II, Section 1, 1987 Constitution.

^[2] Article VI, Section 32, and Article XVII, Section 2, 1987 Constitution.

^[3] Petition, p. 5.

^[4] Paras v. Commission on Elections, G.R. No. 123619, December 4, 1996.

^[5] Tamayo v. Gsell, 35 Phil. 953, 980.

^[6] Section 3 (a), Republic Act No. 6735.

^[7] Section 3(a) [a.1]. Republic Act No 6735.

^[8] Uytensu v. Republic, 95 Phil. 890, 893.

^[9] Petition in Intervention filed by Sen. Raul Roco, pp. 15-16.