

**2005 CONSULTATIVE COMMISSION  
TO PROPOSE THE REVISION OF THE 1987 CONSTITUTION**

**Committee on Civil Service/Accountability of Public Officers**

Minutes of the Meeting  
Tuesday, November 16, 2005

**CALL TO ORDER**

At 12:29 p.m., Committee Chairman Antonio T. Vilar called the meeting to order.

**ATTENDANCE**

The following Commissioners were present during the meeting:

Bian, Joji Ilagan  
Jurado, Gonzalo M.  
Vilar, Antonio T.

**APPROVAL OF THE  
OCTOBER 18 MINUTES  
AS CORRECTED**

Upon motion of Commissioner Bian, there being no objection, the Committee approved the Minutes of the meeting on October 18, 2005 with the correction by Commissioner Jurado on page 2, substituting the words "there are 200 of them and using up 16Billion a year and employing professionals that are not doing anything," with the following: "some 200 SUCs and LUCs using 16B budget for personnel not well-qualified for teaching."

**QUALITY OF EDUCATION**

Noting the deterioration of the quality of education, Commissioner Jurado pointed out that the responsibility lies in the SUCs.

Chairman Vilar mentioned the existence of budget appropriation for barrio schools aside from that for public

schools. He queried if barrio schools still exist.

However, Commissioner Bian presented the suggestion of the private sector for partnership with the government, to allow the private sector to run schools where students would be given coupons in order to remove from government the responsibility in running schools and encountering large costs.

Commissioner Jurado revealed a CHED monitoring report which stated that a lot of schools needed to be closed already. He added that the coupon system would even allow the students to pick a school of their choice, and that these students would be the real "Iskolar ng Bayan" because they would be very grateful to government.

Commissioner Bian further suggested that the schools would only need to submit a report to government for monitoring purposes.

**THE JUDICIAL AND BAR COUNCIL**

Adverting to page 5 of the October 18 Minutes which contained the statement that "the JBC is unnecessary and should be deleted," Commissioner Bian asked if the reason for the proposed abolition is redundancy. She then asked what body would recommend appointees to the President if the JBC was removed.

Lawyer Ben Cordova, a guest speaker, stated that it would then be the task of the Parliament.

Commissioner Bian also read the portion of the Minutes which stated that the recommendation for the position of Ombudsman should follow the procedures of the CSC. She noted that the role of the JBC in screening the appointees would be discarded.

In this connection, Chairman Vilar asked would happen to the position of the Ombudsman under the parliamentary system.

Attorney Cordova affirmed that the Parliament will directly be appointing the Ombudsman, and an appropriate committee could be formed by the Parliament for the purpose of screening the candidates.

Chairman Vilar, however, expressed the apprehension that such committee might have excessive powers. Commissioner Bian then stated that there should be check and balance in this regard.

Asked by Commissioner Bian how appointments were being done in other countries such as the United Kingdom and France, Attorney Cordova stated that the French model follows the proposed procedure, as he pointed out that the term Ombudsman was in fact borrowed from the French system.

### **COMMITTEE PROPOSALS TO AMEND ARTICLES IX-B & XI OF THE CONSTITUTION**

Commissioner Bian stated that the part of Article XI of the Constitution, which provides for the change in citizenship of public officials and employees of the state, should be provided for instead under Article IV. The Committee agreed that this

proposal to delete such provision from Article XI would be transmitted to the Committee on Citizenship.

Commissioner Bian suggested that the Committee make a second draft based on what has been discussed, call for a quorum and make a final proposal for the amendments to the Constitution. Commissioner Jurado then reviewed the previous changes they made with regard to the contents of Articles IX-B & XI. The Committee assigned the following rearrangement of Article IX-B: Section 1 shall provide for the definition of the Civil Service and the Composition of the Commission; Section 2 -- the Oath of Affirmation; Section 3 -- the Manner of Appointment; Section 4 -- the Duties and Responsibilities of a Civil Servant.

### **MERIT AND FITNESS**

In relation to the issue of exemptions in taking competitive exams to determine qualification for appointment in the Civil Service, Commissioner Jurado suggested that all appointments should be determined by merit and fitness through competitive examinations.

In this connection, Commissioner Bian found the word "confidential" objectionable and she stressed that there should be no confidentiality in public office. Chairman Vilar mentioned that this wording is not found in the 1935 Constitution. The committee agreed that appointments to the Civil Service shall be based on passing specialized exams given for that purpose, even for those with co-terminus designations.

Attorney Cordova suggested that the term of a public official be determined by periodic competency examinations throughout one's career to adapt to the changing times and needs. Commissioner Bian asked whether public officials have any form of evaluation to

ensure efficiency and productivity throughout their respective terms. The PMS representative pointed out that a periodic evaluation is given by immediate supervisors, but is of a very subjective form and can be contested. Commissioner Jurado noted that civil servants become complacent as time passes.

## **RIGHTS OF PUBLIC EMPLOYEES**

The Committee discussed the right of public employees to self-organization, particularly the right to go on strike. Attorney Cordova clarified that in accordance with an Executive Order, public employees are not allowed to go on strike unless they are on leave from work, which relieves them from their duty to the public. Chairman Vilar suggested that this provision be deleted but Commissioner Jurado dissented, stating that deleting this would give them more freedom.

The PMS noted that if the provision were not stated in the Constitution, the employees may invoke their rights as private citizens, which may lead them to leave their posts. They agreed that the provision must be maintained so that the proper agencies may put meat into it because there are certain posts that cannot be abandoned at any time such as the fire departments.

The Committee also discussed the rights of civil servants who have acquired dual citizenship. Attorney Cordova explained that those who have dual citizenship still have full civil, but not political, rights. Commissioner Jurado stated that if a public officer decides to obtain dual citizenship, that person must leave the service. Commissioner Bian added that dual citizens may become public employees but may not run for public office.

## **RIGHTS OF TEMPORARY EMPLOYEES**

Commissioner Bian proposed that the provision in Section 2(6), Article IX-B of the 1987 Constitution on temporary employees be deleted because it makes them no different from regular employees. The Committee concurred in the proposal.

## **DECLARATION OF ASSETS AND LIABILITIES**

Chairman Vilar asserted that in publishing the assets that shall be declared, there must be some historical value, and that all sources and applications must be included. The Committee also concurred in this proposition.

## **GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS**

Commissioner Bian opened the discussion on Section 2 of Article IX-B with regard to the scope of the Civil Service, which includes GOCC's with original charters. Commissioner Jurado explained that most GOCC's do not have an original charter that is why the Constitution particularly states that the scope should include those with charters because of the danger that these entities might set their own rules.

Attorney Cordova differentiated public officials from public employees. But the Committee identified GOCC officials as public employees. Commissioner Bian pushed for more accountability on the part of GOCC's. Commissioner Vilar recommended that specific provisions on this matter be provided in order that the GOCCs would be directly accountable to the people.

Attorney Cordova pointed out that as a consequence, the GOCC officers' salaries will be reduced and they will be directly under the Sandiganbayan. Commissioner Jurado proposed that the board members, directors, and officers of GOCC's be considered public officials while their other personnel be considered public employees.

Commissioner Bian suggested shortening the present provision on the virtues a public officer must possess. Commissioner Jurado suggested that the virtues of public officers should be to serve faithfully and with patriotism and to live modest lives.

### **THE SANDIGANBAYAN**

The Committee agreed that the provisions on the Sandiganbayan shall be referred to the appropriate committee.

### **PUBLIC OFFICE IS A PUBLIC TRUST**

Attorney Cordova pointed out that not all government employees are government officials. He said that perhaps the reason why officials abuse their power is their lack of accountability, and the people do not know the technicalities of the functions of government officials. Chairman Vilar added that the people cannot rely on the law, which is ambiguous, to maintain checks and

balances within the government.

The Committee considered some terms used in the presentation. The PMS suggested that the "people" be called *principals* instead of *beneficiaries*, which sounds very dependent.

Asked what fiduciary – the essential nature of government, according to Robert Natelson – means, Attorney Cordova explained that it comes from the Latin word *fides*, which means trust. Commissioner Jurado noted the true and correct meaning of *trustee* as opposed to what it is in reality, which he identified as subordinate and immune, respectively. Attorney Cordova explained that this is due to the fact that people do not know their rights. Chairman Vilar pointed out that power emanates from the people and that the people should be more careful in dispensing that power.

Commissioner Bian suggested that a Power Point presentation be made for the final draft, and as stated by Commissioner Jurado, *Fiduciary* would set the tone for the entire report.

### **ADJOURNMENT OF MEETING**

Upon suggestion of the Chair, there being no objection, the meeting was adjourned.

*It was 5:12 p.m.*