

**2005 CONSULTATIVE COMMISSION  
To Propose the Revision of the 1987 Constitution**

**Committee on General Provisions / Constitutional Commissions /  
Amendments and Transitory Provisions**

**MINUTES**

**Meeting No. 1**

**Wednesday, October 12, 2005**

**CALL TO ORDER**

At 2:10 p.m., The Committee Co-Chairman, Jose C. Bello Jr., called the meeting to order.

**DESIGNATION OF FLOOR LEADER**

Upon recommendation of Com. Apostol, the Committee designated Com. Adamat as Floor Leader for this committee meeting.

**NATIONAL ANTHEM**

The members sang the Philippine national anthem.

**ROLL CALL**

Upon motion of Com. Adamat, there being no objection, the Committee dispensed with the roll call.

However, Com. Abarico stated that the secretariat should take note of the names of the members present. The following members were present:

Abarico, Angelo M.	
Abueg Jr., Alfredo E.	5:42
Abueva, Jose V.	4:12
Acevedo, Anthony Y.	2:31
Adamat, Ronald L.	
Apostol, Sergio A.F.	
Azurin, Rene B.	2:50
Bautista, Andres D.	2:30
Bello Jr., Jose C.	
Bondoc, Jarius Y.	

Cariño, Noel M.	2:36
Chua, Francis	
Espina Sr., Gerardo S.	
Lambino, Raul L.	3:53
Laus, Liberato P.	
Lim, James Marty L.	4:51
Lorenzana, Lito Monico C.	4:12
Magno, Alexander R.	3:09
Matula, Jose Sonny G.	2:44
Ortega, Victor F.	3:03
Pedrosa, Carmen N.	
Romualdo, Pedro P.	3:17

The following non-members were also present:

Angeles, Emanuel Y.	
Mendoza, Democrito T.	3:50
Naval, David C.	3:29

Noting the relatively small attendance, Com. Apostol said that most of the Commissioners are used to the 3:00 p.m. schedule.

Com. Espina suggested that the Committee recommend to the Body that committee and plenary meetings should start at 3:00 p.m. The Chair stated that the recommendation would be presented to the Secretary General.

Com. Espina noted that there is nothing wrong with starting the discussion provided the body does not vote because quorum is needed in voting. He mentioned that this is the normal situation in Congress.

## **MINUTES OF THE PREVIOUS MEETING**

Com. Espina recalled that the Committee had a previous meeting and he suggested that the Minutes of that meeting should be included in the agenda for approval. If the Committee was not yet ready with the Minutes, he said someone should move for the deferment of its approval.

The Chair replied that the ongoing meeting was the first of the committee. He explained that the previous meeting Com. Espina was referring to was just a preliminary and informal meeting and there was no minutes taken. He also added that the Chairman of the Committee, Com. Leviste, had informed the Committee that he would be out the entire week.

The Chair then explained that the composition of the subcommittees (copies of which were distributed to the members) was based on the earlier preferences indicated by the Commissioners. It noted that membership is subject to modification depending on the desire of the members. It informed the Body that there were three new members of the committee, Coms. Romualdo, Abueva, Rodriguez, Adamat, Carino and Bautista.

The Chair then read the subcommittee chairpersons as follows:

- Constitutional Commissions -  
Com. Raul Lambino
- General Provisions -  
Com. Jose Sonny Matula
- Amendments and Transitory Provisions  
Com. Ma. Romela Bengzon

It noted that the first two subcommittee chairmen were requested to prepare discussion points to be taken up during the meeting.

The Chair pointed out that the rules of procedures of the Committee would be substantially the same as the rules that the

Commission has been following in the past meetings.

## **RULE ON CHAIRMANSHIP TO ANY COMMITTEE OR SUB-COMMITTEE**

Com. Adamat noted that Com. Bengzon, now the chairperson of the Subcommittee on Amendments and Transitory Provisions, is also the Deputy Secretary General of the Commission. He sought clarification on the policy that any officer of the Commission cannot be appointed chairman of any committee or sub-committee.

The Chair stated that during the informal committee meeting, Com. Bengzon volunteered for the chairmanship of that subcommittee.

Com. Abarico observed that the chairmanship of Com. Bengzon is only for a subcommittee, and not a regular committee.

Com. Adamat said that an officer of the Commission must give chance to others.

Com. Espina said that the body must keep it open, as he believed that the more democratic way is for the members of the Committee to decide. Com. Pedrosa nonetheless stated that the Committee should follow the rules.

In this regard, Com. Espina pointed out that the Transitory Provisions would be the most controversial area because of the following major issues that would generate discussions and have to be decided by the Committee:

- proposals for elections in 2007
- whether the next election will be the first election under the new Constitution

Thus, Com. Espina recommended that the Committee select a subcommittee chairman who can preside in the meetings.

On the query of Com. Adamat whether these subcommittees are governed by certain rules or just creation of the committees to help it in making recommendations, Com. Espina replied that the subcommittees can recommend a course of action to the mother committee and the mother committee may adopt it or not.

The Chair recalled that the Commissioners selected the chairmen and co-chairmen and left it to the committees to form subcommittees; the Committee on General Provisions agreed to have subcommittees and Chairman Leviste asked for volunteers and their names were listed.

Com. Adamat insisted that the Commission must resolve the matter when all the parties concerned are present.

Com. Espina also suggested that the Committee reconsider its previous decision to create three subcommittees because the two subcommittees do not have much controversy, and it is only the Transitory Provisions that would be controversial and it could be taken care of by the mother committee. Coms. Bautista and Pedrosa supported the suggestion.

Com. Abarico recommended that the Committee should give the subcommittee chairpersons the chance to give up their positions. Com. Adamat clarified that the subcommittee chairpersons were not being unseated but the Committee should adhere to the policy agreed upon.

Thereupon, Com. Adamat asked the Committee to take up the business of the day.

### **CONSTITUTIONAL COMMISSIONS AND TRANSITORY PROVISIONS**

The Chair stated that Com. Lambino was supposed to make a presentation but he was not yet present.

Com. Abarico mentioned that all the Constitutional Commissions are important but what the Committee should do is prioritize which commission to discuss first.

Com. Espina commented that the Committee might be treading on the jurisdiction of the Committee on Suffrage and Electoral Reforms when it discusses the Commission on Elections. He suggested that the Committee focus on the recommendation of other committees on the aspect of General Provisions.

Com. Acevedo recommended that the Committee may refer to the five models of transitory proposals of Speaker Jose de Venecia, and then discuss what model would suit, for example, the parliamentary-federal system. Com. Espina added that the Committee could invite the proponent of these five proposed transitory provisions. Com. Acevedo agreed, as he asked the Committee to secure a copy of Speaker de Venecia's speech at the Manila Overseas Press Club.

Com. Pedrosa also suggested the inclusion of the Ramos proposal in the agenda of proposals to be discussed.

At this point, Com. Bautista noted the overlaps between their Committee and the Committee on Suffrage and Electoral Reforms, on matters pertaining to the COMELEC; and the Committee on Civil Service and Public Accountability, on matters pertaining to the Civil Service Commission and maybe the Commission on Audit. He asked whether the transitory provisions proposed by other committees would still go to the Committee on General Provisions, Amendments and Transitory Provisions and Constitutional Commissions for further discussion.

Com. Espina pointed out that among the proposed transitory provisions, his only concern was the scheduling of the elections. He said that he was against elections in 2007. With regards to the right to vote for

the illiterate, he stated that there should be a program to educate them so they could exercise their right to vote in the following elections. But he said he would not propose it in the Committee on General Provisions but in the Committee on Suffrage and Electoral Reforms.

The Chair asked why the Committee would be tackling the Constitutional Commissions per se. It suggested that the Committee limit its discussions on General Provisions, Amendments and Transitory Provisions that are stated in Articles XVI, XVII and XVIII of the 1987 Constitution. He also stated that since the Committee would cut across other committees, it might be necessary to coordinate with other committees.

Thereupon, Com. Adamat moved that the Committee invite officers of constitutional commissions to the committee hearing so they could tackle the issues concerning their respective commissions. There being no objection, the motion was approved by the Committee.

## **GENERAL PROVISIONS**

At this point, the Chair stated that the Committee would skip the discussion on the constitutional commissions and proceed to the presentation of Com. Matula on the General Provisions.

Com. Matula noted that under the General Provisions, the only controversial provisions are Section 6 (on national police force) and Section 11 (on ownership of mass media). The sections on the flag and the non-suability of the state can be retained, he said.

Com. Espina commented that Section 11 could be deleted citing the experience of Brunei which has no national newspapers but it does not make the people less nationalistic. He also opined that it is much better to allow foreign ownership of local

media so they would have no local agenda, and the public would then have more access to the truth and public opinion, which are very important in a democratic society. He further stated that it is important to recognize the technology of communication that has more than surpassed the traditional view of the media.

For his part, Com. Bondoc gave the following comments:

- The invasive foreign content of local media has been overtaken by technology;
- The trend now is to think globally but act local;
- Foreign owned or co-owned media would not mean imposition of foreign values or ideas;
- Media should be talked about in a broader sense that it should include entertainment;
- Media contents cross national borders, e.g. foreign telenovelas, Philippine telenovelas are hit in Taiwan and Malaysia; and,
- But there are certain portions of in Section 11 that may have to be recommended for retention.

The Chair asked Com. Espina if co-ownership would mean there is a limit to foreign ownership or it could be 100% foreign-owned. Com. Espina responded that it could be 100% foreign-owned which might even develop local capabilities. He stressed that the market should regulate the situation.

Com. Azurin stated that he was for the complete deletion of this particular provision.

Com. Magno averred that the provision is self-contradictory since monopoly arises because participation is constrained. This provision is anachronistic of the time, he opined.

Com. Bautista recommended that the provision on mass media be deleted as well as the whole Article on general provisions because he believes that the Constitution should be the repository only of the basic principles and policies. He also supported the recommendation of Com. Bondoc that an anti-trust law should be legislated.

Com. Abarico expressed the following views:

- The committee should not be preempted by other committees and should take a stand on what is assigned to it. The committee should be heard by the other committees and if there are conflicting views, this can be reconciled with the other committees.

- There is a need to update the provisions, considering that the world is fast becoming a global village and the provisions have been overtaken by technology.

- The committee should also invite representatives from media so it would not be accused of silencing the sector.

Com. Chua agreed that technology has no boundaries but he believed there should be some reservations as there is a way of controlling technology. He also mentioned that the country was the first to experience and embrace WTO but it has suffered so much. He suggested that there must be a provision on reciprocity.

Com. Bondoc further recommended that there must be a provision in the Constitution restraining any kind of public monopoly.

Com. Adamat commented that the 1987 Constitution puts restriction on who may or may not participate in the market, thus preventing a fully competitive market.

Com. Romualdo agreed that the provision be deleted because he believes that there should be an open market. But he

cautioned that there must be a sort of regulation because government should not allow the flooding of obscene mass media. He contended that there must be some sort of regulation rather than reciprocity which is always one-sided depending on a country's economic status.

Com. Laus recommended that the committee find out the number of countries with and without open market in mass media, as this would help the Committee in deciding on the matter. But Com. Azurin replied that it is not important to find out the experience of other countries since imposing regulation would only lead to more graft and corruption and would not promote public welfare. He agreed that the whole provision should be deleted.

Com. Espina stated that the Committee should inform the subcommittee, through the its Chairman, that it has discussed this issue and it is recommending for this section's omission. He also mentioned that he shares the position of Com. Azurin on the question of reciprocity.

Com. Matula responded that being the chairman of the subcommittee, he was not offended and the Committee can vote for the deletion of the entire section. He noted however that the second paragraph of Section 11 of the General Provisions is a duplication of Section 19 of Article XII on National Patrimony and Economy, with the words Congress and State as the only difference, thus the provisions could be harmonized.

On regulation, Com. Espina mentioned that regulatory bodies (self-regulatory body of the newspapers and television, the census board) can remain since they are created by the law, and a new law thereon can be enacted anytime a need for it arises. He requested that all members of the Committee be made coauthors of the proposal to delete the entire Section 11, unless there is a particular subsection to be retained.

Com. Romualdo favored the deletion of the entire Section 11 but was worried on the lack of safeguards. He said that government should trust the Filipino people for once.

Com. Ortega stated that a good Constitution must be comprehensive but concise and precise. He said that whatever is not included in the Constitution can be covered by acts of the Legislative Department. He cited the absence of any rules and regulations concerning media in the Constitution, thus the power to regulate is given to the Legislature. But he clarified that legislations in contravention of the Constitution are therefore unconstitutional.

Thereupon, Com. Espina reiterated his motion to delete the entire Section 11 of the General Provisions, and there being no objection, the same was approved by the Committee.

Com. Adamat asked that all Committee members present who voted in favor of the deletion, be recorded as co-authors of the motion.

### **SUSPENSION OF MEETING**

Upon motion of Com. Romualdo, the session was suspended.

*It was 4:08 p.m.*

### **RESUMPTION OF MEETING**

The meeting resumed at 4:25 p.m.

### **SECTION 6 OF THE GENERAL PROVISIONS**

Thereafter, the Chair opened the floor for discussion on Section 6 of the General Provisions, the establishment of a national police force.

Com. Romualdo mentioned that Section 6 was an error committed in the 1972 ConCon in reaction to the warlords' presence in the municipalities at that time,

owing to isolation and poor communication. He added that the syndicates thrived under this system so the problem of peace and order was very difficult to solve during that time.

Com. Espina argued that whether the government is federal or unitary, the problem is really the effective maintenance of peace and order. He disclosed that the sentiment of local officials, especially mayors, during his several public hearings, that the national police be given back to the local government, giving them political accountability in the matter of maintaining peace and order in their respective areas. Thus, regardless of the structure of the government, the police force must be given back to the local government, he stressed.

Further, Com. Espina stated he favors abolishing regional police offices; increasing the ratio of policemen to the number of population by assigning those holding clerical work in various regional offices to field duty; and standardizing the salary levels for policemen in various regions. He also proposed that there should be a law giving local governments the power of supervision and control, especially in the conduct of operations against crimes. However, he said, the National Police Commission can be maintained for recruitment and qualification standards.

In this regard, Com. Chua mentioned privatizing or localizing the police force. He also mentioned that the PNP is beyond the control of the National Government and that it is high time that it was drastically changed as they create trouble instead of preserving peace and order.

For his part, Com. Lambino stated that the provision of Section 6 is merely a reiteration of the provisions of Sections 3 and 5 of Article II, hence it would not help Congress or the Parliament in any way, but rather defeat the very purpose of legislation by confining the creation of a police force under the control of the National Police

Commission. He added that it contravenes the principle of autonomy as well as decentralization of powers from the national to the local government units. With these, he expressed his full agreement to the complete deletion of Section 6, unless the legislature is given the power to decide what will happen to the police force.

The Chair pointed out that the police is not the military. Nonetheless, it suggested that the decision on this matter be deferred until after consultations with the Department of Interior and Local Government (DILG) whose officials, including the PNP Director General and the DILG Secretary, could be invited by the Committee to enlighten the members on the issues.

Further, Com. Espina noted that one person appointed by the President, the DILG Secretary, has tremendous power of supervision over hierarchical officers from elected mayors and barangay officials to uniformed armed men. He stated that placing the police under local control would diminish this concentration of power.

The Chair pointed out that the authority is already distributed down to the local governments who have operational control of policemen while the Director General of the PNP exercises only administrative control. He said that the local governments have the authority to hire and fire policemen under their jurisdiction.

Thereupon, the Chair reiterated its suggestion that the Committee defer action on Section 6 to verify some information from the officials concerned.

Com. Lambino maintained that Section 6 of the General Provisions is already covered by Article X of the Constitution, and that this is only defeating the very principle laid down by the Constitution on civilian authority over the military.

Com. Bondoc pointed out that he sees no contribution from the PNP and DILG which potentially would be abolished under the federal form of government. He agreed with Com. Lambino on the deletion of Section 6 and supported the deletion of the entire General Provisions.

Likewise, Com. Pedrosa completely agreed on the deletion of the entire Section 6.

Com. Espina suggested going back to the old provision that the police force is civilian in character, and that it is the duty of the government, in lieu of the armed forces, to protect the people and state.

Thereupon, Com. Bondoc reiterated the motion for the recommendation of the deletion of Section 6.

In reply to Com. Romualdo' query on the status of the police upon the deletion of Section 6, the Chair stated that the national police would be devolved to the local government.

Com. Romualdo stated his opposition to reverting the national police to the local government considering the experience during the Martial law, which was precisely the basis for the creation of the national police.

According to Com. Lambino, the deletion of Section 6 would not immediately result in the abolition of the DILG and the PNP. He said that a statement on the status of the PNP as well as the DILG can be put under the Transitory Provisions until the decision is made on the structure of the government. He believed that the fear that the police would be used again by local officials as a private army could be understandable forty or thirty years ago when the mass media were not as active as they are today.

Com. Espina insisted that the deletion of Section 6 would provide political accountability in the maintenance of peace and order.

Com. Acevedo affirmed that the mayors in Western Visayas, where he was a Provincial Treasurer for 15 years, are well administering the police force. He pointed out that the local government officials are all in favor of restoring the administrative control including the hiring and firing of policemen to the local government. Because of the Constitutional provision, he said, the local government can only have operational control.

In this connection, Com. Acevedo mentioned that Senate Bill No. 2111 proposed the hiring of the Local Foundation of the Philippines to redraft the Local Government Code, but which plan was abandoned.

Com. Romualdo mentioned the restoration of the Philippine Constabulary and that he agreed to the abolition of the National Police provided the police force will be professionalized.

For his part, Com. Lim said he always believes in the empowerment of people in choosing the police. He pointed out that whether or not Section 6 would be deleted, there should be a law that would enable the governance of the police force whether it be centralized or devolved. He noted that the training is concentrated in the PNPA in Cavite instead of dispersing it in various regional PNP training areas.

But Com. Lim stated that it is important to find out what law would be enacted if Section 6 is deleted. Finally, he opined that the National Police Commission should remain a national office to generate a balance.

Com. Magno said that if the government is decentralized, one drawback is that the police would face uneven training

and economies of scale would be lost in developing the specialized units within the police organization. If the police are broken up as an organization, be warned, then the capability of the smaller units to deal with a problem of national scope is removed. He suggested the re-establishment of the Philippine Constabulary should the police be decentralized. Nonetheless, he believed that the Constitution can be silent on this and leave it to legislative remedy.

Com. Abarico agreed to the observation of Com. Espina that there is too much centralization of power in the national police through the DILG, which controls not just the PNP but also the local governments. He supported the proposal to have a new national police organization, not necessarily the Philippine Constabulary, but similar to the Federal Police in the US or the Royal Canadian Mounted Police. Moreover, Com. Abarico said that the local governments under the federal form of government should also have their own local state police. These two organizations, he said, should co-exist and complement each other.

Com. Espina contended that the efficient maintenance of peace and order can be achieved by maintaining national standards on the qualification, training, and techniques of the police, even as he noted that the syndication of crimes remains a grave problem because of the present national character of the police force.

Com. Azurin mentioned that the issue of the police essentially depends on whether or not the government would be federalized. In the meantime, he said, he would agree to the deletion of the entire Article XVI rather than just Section 6.

Moreover, Com. Lambino pointed out that Section 3 of the General Provisions which provides that the State may not be sued without its consent, is not controversial and it is one of the principles of Republicanism, which can be transferred to

Article II which provides for the features of a democratic and republican state, including the inviolability of the separation of Church and State.

But Com. Bondoc reiterated his motion to delete the entire Article XVI and, as proposed by Com. Lambino, to transfer Section 3 to Article II. Com. Bondoc also noted that Section 1 of Article XVI is already covered by the National Flag Act.

### **SUSPENSION OF MEETING**

Upon motion Com. Adamat, the meeting was suspended.

*It was 5:37 p.m.*

### **RESUMPTION OF MEETING**

The meeting resumed at 5:43 p.m.

### **MOTION OF COM. BONDOC**

Com. Bondoc reiterated his motion to delete the entire Article XVI, the General Provisions, except for Section 1 and 3 which can be transferred to Article II of the Constitution.

Com. Azurin seconded the motion. Com. Espina said he agreed to the motion except that there is a need to hear the sectors concerned prior to the vote.

Com. Romualdo concurred with Com. Espina in deference to Com. Bello who represents the military sector.

Co-Chairman Bello averred that the military is affected by many constitutional provisions, even as he agreed to the deletion of certain portions of Section 3, Article II. He added that the benefits of the veterans have not been addressed by the Commission. He informed the Committee that the magnitude of the unpaid differentials and pensions of the veterans is

about P33 billion with no assurance of payment.

But he stressed that whether the government is federal or presidential, the Commander-in-Chief's relationship with the Armed Forces still remains. Given these, he said, the provisions on the military are still relevant. He added that the revolving door policy of appointing the Chief of Staff, including the existing retirement laws, should be discussed.

According to Com. Bondoc, the benefits problem of the veterans is not a problem that should be addressed by the Constitution but by Congress. He added that Section 5 is already the subject of a lot of existing rules, regulations, and laws, and improvements can be done by legislation. Nonetheless, Com. Bondoc accepted the Chair's request to defer action on his motion.

Coms. Espina and Bondoc agreed that the Committee should invite the affected sectors, through the Chairman.

Com. Magno argued Article XVI is redundant and unnecessary and he asked the Committee to move ahead with the deletion.

Noting that the concerns raised would just necessitate the transfer of certain sections to other appropriate Articles, Com. Abueg suggested that the matter be referred to the Committee on Style.

Com. Magno said he would agree to the deferment of Committee action provided the record would clearly show the high degree of consensus for the deletion of the entire Article.

### **SUSPENSION OF MEETING**

Upon motion of Com. Adamat, the meeting was suspended.

*It was 6.00 p.m.*

## RESUMPTION OF MEETING

The meeting was resumed at 6:02 p.m.

## CONSTITUTIONAL COMMISSIONS

Com. Lambino presented his observations and suggestions with regard to the three Constitutional Commissions under Article IX of the 1987 Constitution - Civil Service Commission (CSC), Commission on Elections (COMELEC) and Commission on Audit (COA).

Com. Lambino said that he had no objection on Article (D) pertaining to the COA. He said that he would leave it to the economists, treasurers, and accountants in the committee to give their views since they have a better understanding on how the government bureaucracy can be strengthened in this area.

As to the Civil Service Commission, Com. Lambino stated that CSC at present has failed to strengthen the civil service that is why it should not be maintained as an independent body and its status should be reviewed. Instead, he proposed that a department or ministry of civil service should be created. He pointed out that:

- a) CSC, with its enormous executory power, has weakened the executive department:

Historically, CSC was just a board in the 1935 Constitution, in charge of the appointment, classification, promotion and adoption of amount of salaries that will be received by government employees, among other functions. It was a strong civil service then.

When it was "constitutionalized" and became an independent body under the 1973 Constitution pursuant to the discussion of the 1971 Constitutional

Convention, the purpose of strengthening the civil service was stopped. It has weakened the power of control of the President (under Sec. 17, Art. VII of the present Constitution, and under Sec. 10, Art. VII of the 1935 Constitution).

With CSC acting as an administrative body independent from the Executive or President, it has added an exhausting bureaucratic layer. It has weakened the power of the President to control, to alter, modify, set aside what his/her subordinate has done, and to make judgment on the latter's performance. The power of appointment of the President also carries with it the power to discipline the members of the bureaucracy who do not perform well their duties and functions.

But with the present status of CSC, which is an independent constitutional body that cannot be subject to control of the Executive, the disciplinary power of the President, which is inherent in the power of appointment, has been weakened. Thus, many erring, ineffective, and inefficient officials and government employees do not mind committing abuses in government because they can always go to the CSC and charge the executive department of abuse of power and can appeal to the CSC to reverse any decision of disciplinary action of the executive branch.

- b) Added layer in the exhaustion of administrative remedy

The CSC acts as an administrative body to check the appointments to be made by the President or even the penalties imposed by the executive against

erring employees and officials. This adds another layer in the exhaustion of the administrative remedy before any person can go immediately to the courts.

Instead of the affected person just waiting for the decision from the executive department to exhaust all administrative remedies, the CSC becomes another layer. This has resulted in abuses committed by government officials and employees.

- c) The appointment as well as the classification of the positions and the criteria on who will be appointed is primarily an executive power.

Under the provision of Section 31, Book III of the Administrative Code, the President is given the power to abolish, merge, create an office if it is necessary to make it a more efficient and effective bureaucracy. But since CSC is already a constitutional independent body, it can go against this principle laid down by legislature through the President. That is the reason why the objective of strengthening the civil service has not been achieved. So instead of strengthening the civil service and making it as an effective bureaucracy, it has destroyed the very essence of civil service.

- d) The need to review the status of CSC as a body under the 1935 Constitution and look at the possibility of creating a Department or Ministry of Civil Service as replacement:

In the light of the foregoing, the CSC should be removed and a Department or Ministry of Civil Service should be created instead, similar to the Department of Labor and Employment and the National

Labor Relations Commission which were created to address the concerns of private employees. These are not independent constitutional bodies but which are performing a quasi-judicial power that is not necessarily subject to the control of the Executive in order to ensure the rights of the private workers. Another example is the National Police Commission, which ensures the security of tenure of police officials. So, the CSC may be a legislative body rather than a constitutional body.

As to the Commission on Elections, Com. Lambino stated that it should:

- a) be retained as a constitutional body without judicial powers;
- b) remove the two divisions and act as one body; and
- c) computerize elections.

Com. Lambino explained that COMELEC, which was also declared as an independent body under the 1935 Constitution, has proven to be a source of rigged and questionable election results. The increase in its commission membership (from three to five, now to seven) has added to its irregularity. Most or some of the members of the Commission are not even lawyers and do not understand the rule of evidence and the basic rule of procedure, which are important features of the rules of court. This is very important in deciding a judicial issue, for instance, in an election contest. That is why the issue on the disqualification of the voters - the petition for inclusion or exclusion of voters - which is a judicial issue, is removed from the COMELEC and given to the municipal trial court.

He pointed out that COMELEC should act as one body without its two divisions. He noted that the decision of a division is appealable to the Commission *en banc* through a motion for reconsideration, unlike

in the Supreme Court where the decision of one division is not appealable to the Supreme Court *en banc*. It is only after the COMELEC *en banc* has decided that a petition for certiorari under the Rule 64 and Rule 65 of the Rules of Court can become appealable to the Supreme Court.

Com. Lambino also commented that the current practice of COMELEC of getting teachers to man the precinct is a great disservice to the people. With the current method used by COMELEC, the problem of “*dagdag-bawas*” down to the precinct level has been raised. So if there would be an electoral reform law mandating the elections to a two-party system, it is necessary to review the provision of the 1935 Constitution and the 1973 Constitution regarding the selection of the pool of inspectors of the political parties. To have a semblance of neutrality and avoid cheating, two dominant or major political parties should have inspectors or poll watchers in every precinct.

Com. Lambino added that in order to ensure clean and honest elections, there is a need to computerize or make use of technology for faster results. He said that too many hands touching the papers create more opportunities for cheating. He informed the Committee that there are at least seven human interventions at present before reaching the final decision.

#### **INTERPELLATION BY COM. AZURIN**

Com. Azurin asked if Com. Lambino’s statements considered the change into a parliamentary system. Com. Lambino clarified that regardless of what system of government is adopted, he tried to tailor fit the presentation to the kind of government suggested by the Body.

#### **INTERPELLATION BY COM. BONDOC**

Com. Bondoc asked on the possibility of CSC becoming partisan to members of parliament or any politician for that matter

when it would be reformed as a ministry. He suggested that the problem can be solved by amending the CSC Code rather than delisting CSC from the Constitution.

Com. Lambino explained that in its more than 30 years of being independent (1973 - 2005), CSC has not answered its vision to strengthen the bureaucracy, but rather, it has deteriorated. In reality, applicants still ask recommendations from politicians and the practice did not diminish with CSC being an independent body because the bureaucracy is a political structure.

Com. Lambino recognized that strengthening the CSC law would help but there were more merits in removing the CSC as an independent body.

#### **INTERPELLATION BY COM. PERDOSA**

Com. Pedrosa averred that single intervention is needed to ensure clean and honest elections but there are still ways of using computerization to commit fraud. She stressed that what is important is to accompany it with the restructuring of levels for the counting. She cited India as a model where the proclamation of winners can already be known even in the precinct level.

Com. Lambino agreed with Com. Pedrosa. He said that with technology already getting cheaper, COMELEC can already put a computer in every precinct or barangay so that within 24 hours all winners would be known, unlike today when it takes five days in the municipality level to determine the winner. Because of the many interventions and with the manual method of counting, he said, every candidate claims to have been cheated.

#### **INTERPELLATION BY COM. MATULA**

On Com. Matula’s query on the nature of COMELEC as a body, Com. Lambino explained that COMELEC would still be an administrative body, like for instance in

administering the counting of votes; it would also be functioning as a quasi-judicial body that decides on the disqualification of candidates. But he also stressed that it should no longer be given judicial powers because some members are not lawyers. He believed that the COMELEC should just concentrate in exercising purely administrative function.

Com. Abueg commented that the original jurisdiction of the COMELEC includes election protests in the city and provincial levels and its decision is appealable to the Supreme Court. He noted that if the contest is in the barangay level, it is appealed before the MTC and the municipal cases before the RTC. He stated that COMELEC's judicial function is in the adjudication of cases.

#### **SUGGESTION OF THE CHAIR TO INVITE RESOURCE PERSONS**

The Chair suggested that responsible persons from CSC and COA should be invited to discuss issues pertaining to their respective commissions. He said that CSC Chair Karina David prepared a thorough report on how to improve the commission. He also suggested considering the possibility of making CSC similar to the system in other countries like the US where COA and CSC are not independent bodies but arms of Congress or oversight bodies of the bureaucracy.

He added that in order to get a view of the private sector, the Committee could also invite some accounting and management firms and the Business Administration people from UP.

#### **PROPOSAL OF COM. ESPINA**

Com. Espina proposed not to allow illiterates to vote but at the same time, the government should provide a one-year program to upgrade the literacy skill of the illiterates who are registered voters. He

cited the experience in Samar where politicians exploit the illiteracy of their voters.

In reaction to the proposal of Com. Espina, Com. Pedrosa cited India's experience of successfully overcoming the problem of illiteracy through its party system of voting and other methods of voting by the illiterates.

Com. Lambino stated that election is the only time where the most educated and dumbest become equal. He suggested devising ways for the illiterates like the use of signs or marks beside the picture of the candidates. He added that one radical reform needed in the COMELEC is the abolition of its judicial function in order to ensure fair and honest elections.

Referring to India's experience, Com. Espina pointed out that there is also a problem in block voting. He stated that he would agree to allowing illiterates to vote but at the same time, looking for ways to get rid of illiteracy eventually.

Com. Abueg recalled that the recognition of the right of the illiterates to vote was proposed by then Senator Manglapus during the 1971 Constitutional Convention in order to widen the base of the voting population.

#### **INTERPELLATION BY COM. ABARICO**

Com. Abarico stated that COA reports and findings should be made public; these should be available in public libraries and to the media; and for purposes of transparency, the reports and findings should be released once these are completed and finalized. He stressed that this would discourage corruption and would allow the public to know the accountability of public officials. At present, he said, people especially from the media have difficulty in accessing such documents. He noted that there were so many anomalies, such as in Mindanao, which could not be

exposed because of the unavailability of documents from COA.

### **SUSPENSION OF MEETING**

Upon motion of Com. Adamat, the meeting was suspended.

*It was 6:55 p.m.*

### **RESUMPTION OF MEETING**

The session resumed at 7:11 p.m.

### **ON COA DOCUMENTS**

Com. Lambino agreed with Com. Abarico's observation that COA documents should be made public, which would not affect national security. But he stated that post-auditing does not necessarily deter corruption.

Com. Abueg averred that corruption would be minimized by pre-audit system instead of the current practice of post-audit, thus, pre-audit should be restored and institutionalized.

Relative to the discussions, Com. Acevedo suggested that former COA Commissioner Patrinio Ursal, who was writing a book on graft and corruption, be invited as a resource speaker to discuss the policy of post-auditing. Com. Acevedo added that based on his long experience in auditing, the problem is behavioral and not organizational. He recommended not to touch the provisions of the Constitution but instead invite people from the NGOs and political parties (in the case of COMELEC) for the members to understand the commissions better.

### **FURTHER INQUIRIES OF COM. MATULA**

Com. Matula asked whether the Commission on Human Rights and the Ombudsman should be included in the discussion. The Chair replied in the negative. Com. Lambino explained that

CHR and Ombudsman, though they are independent offices, are still subject to the DBM unlike the Supreme Court and the Constitutional Commissions.

Com. Matula asked if CSC can be likened to NLRC where the employees can file their complaints. Com. Lambino explained that the two are very much different, the NLRC being an administrative body exercising quasi-judicial powers, exercising jurisdiction over employer-employee relations in private companies.

On the other hand, Com. Lambino pointed out that when a government official or employee is subjected to disciplinary action, even before exhausting all administrative remedies, he/she goes to the CSC. If the CSC can be beyond the control, appointive and disciplinary powers of the Executive, he opined that this would result to abuses by members of the bureaucracy. He reiterated his proposal to create a civil service ministry or department to ensure that those designated are the most qualified and could take full responsibility.

### **DEFERMENT OF COMMITTEE ACTIONS**

Com. Adamat stated that the deliberations were not yet closed as the Committee would still hear the views of government officials concerned. He also announced that consideration of item 5.2 on the agenda would be suspended since the subcommittee chairperson was absent.

Commissioner Lambino noted that the issues could also be discussed in two other committees – Committee on Suffrage and Electoral Reforms, and Committee on Civil Service and Public Accountability.

### **REMINDERS**

Secretary General Lorenzana reminded the Commissioners to submit their biodata the next day, October 13, 2005.

The Chair announced that the members of the committee would just be advised on the date of the next meeting

**ADJOURNMENT OF MEETING**

Upon motion of Com. Adamat, the meeting was adjourned at 7:37 p.m.

**Certified correct:**

Com. Jose C. Bello, Jr.  
Committee Co-Chair  
\_\_\_\_\_ November 2005