

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

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

MINUTES
Meeting No.3
Monday, November 21, 2005

CALL TO ORDER

At 3:00 p.m., Committee Co-Chairman Jose C. Bello Jr. called the meeting to order.

ROLL CALL

Upon suggestion of the Chair, there being no objection, the Committee dispensed with the roll call. The following Members were present:

Acevedo, Anthony Y.	
Amin, Omar U.	
Bautista, Andres D.	4:35 p.m.
Bello, Jose Jr. C.	
Bengzon, Ma. Romela M.	
Calisin, Jesus B.	
Espina, Gerardo Sr. S.	
Lambino, Raul L.	4:16 p.m.
Matula, Jose Sonny G.	4:35 p.m.
Pedrosa, Carmen N.	5:02 p.m.
Peña, Fernando O.	4:37 p.m.

APPROVAL OF THE MINUTES

Upon motion of Commissioner Amin, there being no objection, the Committee approved the Minutes of its meeting on November 14, 2005.

BRIEFING BY CHAIR

Co-Chairman Bello stated that he was requested to preside over the meeting by Chairman Leviste, who was in China.

The Chair introduced the resource speaker, retired COA Commissioner Sofronio B. Ursal. The Chair mentioned that COMELEC Commissioner Borra's proposed amendments were also part of the agenda and since Mr. Ursal was already present and Mr. Borra was not, the Committee would hear the former.

**COA COMMISSIONER URSAL'S
PRESENTATION**

Commissioner Ursal stated that he had no problems with the general provisions of the Constitution on the Commission on Audit except for Section 2(2) vesting COA with "the exclusive authority, subject to the limitations in this Article; to define the scope of its audit and examination, establish the techniques and methods required therefore, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties."

Commissioner Ursal stated that this provision is the basis of the Chairman to reorganize the COA including its organizational structure which can be found in the General Audit Code, and reiterated in EO 292. He added that this is the same basis for the reforms

undertaken by the current Chairman in establishing a new accounting system.

Commissioner Ursal pointed out that if every new COA Chairman would make changes every 7 years, this being the term of the Chairman, there would be no stability.

INTERPELLATION BY COMMISSIONER AMIN

Asked by Commissioner Amin on the meaning of "prevention and disallowance of irregular expenditures," Commissioner Ursal explained that if a transaction is not in accordance with prescribed regulations then it is considered irregular.

As to "unnecessary expenditures," Commissioner Ursal gave an example pertaining to transportation -- the procurement of a vehicle is necessary; however, the procurement of a sports car for government transport purposes would be unnecessary. He defined "unnecessary" as spending more than what is necessary.

Commissioner Amin asked if what is unnecessary is also irregular. Commissioner Ursal replied that sometimes procurement may not be what is needed but it is according to the rules; therefore, what is unnecessary is not necessarily irregular.

Commissioner Amin also asked about "expensive expenditures and allowance". In reply, Commissioner Ursal stated that a garbage can amounting to Php6,000 is expensive by COA standards. The latter stated that the person responsible for determining what is allowable purchase is the head of the agency.

To Co-Chairman Bello's query on whether the canvass from a minimum of 3 suppliers is required before any

purchase, and to Commissioner Amin's query on public bidding, Commissioner Ursal replied that in the case of the garbage cans, there is a canvass; however, the issue in this example is not the price offered but the purchase price itself.

To Commissioner Amin's question whether the billeting of a procurement officer in a 5-star hotel would be considered expensive, Commissioner Ursal replied in the affirmative, adding that the pertinent provision could be amended.

Commissioner Amin then inquired what is considered extravagant expenditures, and how to calculate between expensive and extravagant. Commissioner Ursal said that extravagant is buying something not necessary but highly priced.

At this point, Co-Chairman Bello inquired if upon compliance of canvass, and the presentation of different prices, the discretion of purchase is with COA. Commissioner Ursal stated that the first discretion is always with the managers procuring the item because they know what they need, and then COA looks at the regulations and see if the action of the head of the agency impinges on regulations or common sense; thus, what is necessary, extravagant, or irregular is sometimes subjective as it depends on who is making the judgment. But he affirmed that after review, COA determines if the transaction is irregular.

As to the meaning of unconscionable funds, Commissioner Ursal explained that it is an act contrary to conscience. He averred that COA even has audit jurisdiction on the reports of government agencies, which covers determining the authenticity, accuracy, and effect of transactions, as well as compliance with rules.

CONTINUATION OF COMMISSIONER URSAL'S PRESENTATION

On Section 1 of Article IX-D which provides the qualifications of the Chairman and the two Commissioners of the COA, Commissioner Ursal pointed out that they have to be natural-born citizens, at least 35 years old, CPA with not less than 10 years of auditing experience, or members of the Philippine Bar; they shall be appointed with the approval of the Commission on Appointments.

He stated that in Japan, there are also two (2) commissioners and one (1) Chairman but the appointment is for the three (3) members as Commissioners, who elect the Chairman among themselves. He explained that the advantage here is that the members of commission will recognize who among them is the rightful Chairman, although the process may be divisive.

Section 2, he pointed out, focuses on the power of COA to examine, audit, and settle all accounts pertaining to the expenditures of government. He explained that "to settle" is to determine the accounts in the cash advance, the amount spent, and liquidated by submitting receipts to justify the cash advance. He said that the process of settlement is not observed in the private sector.

Commissioner Ursal stated that COA can undertake only post-audit with respect to constitutional bodies, commissions and offices that have been granted fiscal autonomy, such as state colleges and universities, and GOCCs with original charter.

Further, Commissioner Ursal said that pre-audit involves the auditor conducting audit activities before a transaction occurs, as an aid to management; after payment, the auditor

will examine the transaction once more. However, he said, where an auditor has already made an approval on pre-audit, he cannot review what he has already approved, except when there are intervening events between the approval and the post-audit, which can vary the condition.

At this point, Co-Chairman Bello said he understood that pre-audit cannot be exercised under the present Constitution. Commissioner Ursal replied that there are exceptions, for example, when it is apparent that the management is careless or disregards laws and regulations, the COA can impose a pre-audit to prevent reckless misuse of funds; however this can only be a temporary solution.

INTERPELLATION BY COMMISSIONER BENGZON

Commissioner Bengzon inquired as to whether Commissioner Ursal advocates that auditors should be allowed to pre-audit in exceptional circumstances, particularly of GOCCs without original charter. Commissioner Ursal clarified that pre-audit is allowed except in those agencies enumerated in the Constitution for which only post-audit is allowed. However, he noted that the Constitution also states, in Section 2 Paragraph 1: "...However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies."

Commissioner Ursal explained that pre-audit is not encouraged so that the auditor will not meddle with management, since auditors are all too human and subject to the same temptation that afflicts people in management.

Commissioner Ursal opined that the provisions of the present Constitution regarding pre- and post-audit are sufficient and give leeway to the COA to decide when to impose pre-audit. He therefore said that no revisions would be necessary in this regard. .

INTERPELLATION BY COMMISSIONER CALISIN

Commissioner Calisin inquired as to the rule regarding consultation with auditors. Commissioner Ursal clarified that consultation with the auditor is not the same as a pre-audit, although it is very closely associated: in pre-audit, the auditor considers the authenticity, accuracy, and compliance with rules of a transaction; in the case of consultation, management is allowed to consult the auditor subject to certain conditions -- first, management must explain why it is asking for advice, second, it has to disclose the problem and explain why it cannot decide on the matter, and third, the consultation must be limited to the questions raised, otherwise an extensive examination will amount to a pre-audit. Commissioner Ursal admitted that consultation is still a gray area.

Commissioner Ursal said that he would not propose any provision on consultation this is a minor matter. Co-Chairman Bello noted that COA regulations require agencies requesting for consultation to justify this in writing.

FURTHER QUESTIONS OF COMMISSIONER AMIN

Commissioner Amin inquired about the special circumstances in which the auditor may conduct a pre-audit, and whether the amendments would be necessary on this matter. Commissioner Ursal replied that no amendment would be necessary since an auditor can only do a pre-audit if

authorized by the COA. This, he explained, can be gleaned from the provision of Section 2(1). He reiterated that the COA can only perform post-audit unless the agencies are constitutional bodies, or GOCCs with original charters and other agencies in which pre-audit is specifically allowed by the Constitution.

In addition, Commissioner Ursal pointed out that the Constitution also contains preventive measure in the provision "when internal control system is inadequate, the Commission may adopt such measures including temporary special pre-audit."

INTERPELLATION BY COMMISSIONER LAMBINO

Commissioner Lambino inquired as to whether it would be possible to make it a regular requirement to conduct both a post- and pre-audit of all agencies. Commissioner Ursal explained that auditing is essentially for the examination or review of transactions, operations and reports of agencies to ascertain accuracy, integrity, authenticity and compliance with laws and regulations. He said that the auditor should not participate in management prerogatives, such as deciding whether a transaction should be made or not, which is exactly what occurs in a pre-audit. He added that after a pre-audit, an auditor cannot review his own decision and in which he has taken the role of management. The proper role of an auditor is to examine a transaction after it has been made, he stressed.

Commissioner Lambino pointed out that the COA is not necessarily prohibited from conducting a post-audit of a government agency or corporation on which a pre-audit had previously been conducted. He explained that the Committee was considering amending the power of the COA to allow it to

conduct pre-audit and at the same time, when necessary, to conduct post-audit. He pointed out that this was a situation allowed by the Supreme Court in the case of the Development Bank of the Philippines vs. the COA. Thus, he opined, pre-audit does not bar a post-audit since that would also serve as a means of double-checking the transactions approved in pre-audit.

Commissioner Ursal said that the Supreme Court ruling only emphasized that the proper role of the COA is to conduct post-audit. Auditing, he said, is very complex and heads of agencies require assistance in financial matters, which is the reason for Republic Act 7160, which established the internal control unit. He noted that in local government, there has been misunderstanding on the purpose of internal auditing because RA 7160 places the internal auditor under the accountant, which makes it impossible for the internal auditor to conduct an independent appraisal of the financial activities of an agency. He believed that an amendment of Republic Act 7160 would be necessary.

QUESTIONS OF COMMISSIONER AMIN

Furthermore, Commissioner Amin cited Section 2(1)(d), which refers to NGO entities receiving subsidy or equity, directly or indirectly from or through the government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. He inquired as to whether these NGOs are subject to pre-audit or post-audit. Commissioner Ursal replied that the NGOs referred to are subject only to post-audit.

In this regard, Commissioner Ursal recommended a revision of Section 2(2) to read: "The Commission shall have

exclusive authority, subject to the limitations in this Article and to the provisions of law." He said that the amendment would prevent any misinterpretation that the COA has exclusive authority which might lead to disregarding even the provision of law.

Commissioner Amin said that, in case of misinterpretation, it is possible for parliament to introduce an amendatory law at a later time. Commissioner Bengzon agreed this was possible as long as the law is germane and not in conflict with the Constitution. But Commissioner Ursal said that the proposed revision would make it clear to all that the limitation is not only in the Article but also in the provision of law.

Further, Commissioner Ursal said that an example of misinterpretation of a provision occurred in Presidential Decree 1445 and Executive Order 292, both of which enumerated the organizational structure of the COA. He stated that the organization is therefore a provision of law, but under the present leadership, COA is reorganized and the organization fixed by law therefore disregarded. He informed the Committee that he had joined former COA Chairman Domingo, Chairman Gangan and former Commissioner Cruz in filing a petition with the Supreme Court questioning the actuations of the present COA administration, however, the case was dismissed on technicality that they were retired and therefore had no real partisan interest.

Commissioner Bengzon pointed out that the Article referred to in the Constitution does not refer to the structural form of the COA, but to the functions, methods and accounting standards of the Commission as well as the scope of audit and examination, and the auditing procedures involved.

Commissioner Amin requested copies of Presidential Decree 1445, Executive Order 292, and the organizational structure of the COA, so that the Committee can make the proper recommendations. Commissioner Ursal said he would provide these materials, and added that the organizational structure of the COA may be downloaded from its website.

Commissioner Ursal said all other provisions on the COA need not be changed.

OTHER QUESTIONS OF COMMISSIONER LAMBINO

Commissioner Lambino asked Commissioner Ursal's opinion on the proposal to merge the COA and the Ombudsman. The latter replied that this was the first time he heard of the proposal, but there was historical basis for a merger. He explained that the Ombudsman originated with the auditor, but because of the wide range of functions of the auditor, some functions were segregated and given to another body.

Commissioner Lambino said that the Ombudsman was based on a similar body under the Scandinavian system of government, but it is traditionally a functionary of the COA, with the power to pursue prosecution of anomalies and criminal activities committed in government.

Commissioner Amin noted that therefore there is no legal impediment to the merging of these two bodies. Commissioner Lambino said that a merger might expedite the solution of many legal problems. However, Commissioner Ursal said that he had not studied this particular aspect.

Commissioner Lambino said that the objective of the proposal was to make

government a leaner and more efficient bureaucracy. He pointed out that previous to the 1973 Constitution, the Ombudsman did not exist. Under the 1973 Constitution, the Ombudsman was created, but its powers were also dependent upon the results of the investigations made by COA.

COMMISSIONER AMIN'S QUESTION ABOUT ANNUAL REPORTS

Commissioner Amin then cited Section 4, which states: "The Commission shall submit to the President and Congress within the time fixed by law an annual report covering the financial condition and operation of the government." He inquired as to whether there is a law or legal provision regarding the submission of this annual report. Commissioner Ursal replied that this is included in Presidential Decree 1445 and reiterated in Executive Order 292, which is the administrative code for the implementation of the provision.

QUESTION OF COMMISSIONER BENGZON

Commissioner Bengzon mentioned that as a Board Member of several GOCCs without original charter, she noticed the matter of discussing audited financial statements at the end of the year is often deferred because the COA has not yet finished its work. She inquired as to whether this was a problem of logistics or manpower.

In addition, she noted that GOCCs that are also SEC-registered are required to have financial statements that differ in format from the reporting required by the COA. She asked Commissioner Ursal to clarify this difference, and if it would be possible to have a standardized format for the presentation of financial statements that would apply even to government corporations.

Commissioner Ursal explained that there are two forms of auditing: private corporations use the short form, which contains only the audited financial statement; COA, however, follows the long form, which contains the usual financial statement and the audit findings and recommendations of the auditor. He added that government audit differs from private audit: in government audit, the auditor is required to examine whether the transactions or operations of the agency complies with laws and regulations; in private audit, the auditor only checks if the transaction complies with the instructions from management.

However, a careful comparison of the financial statements required by the COA and by private organizations will demonstrate that these are basically the same, said Commissioner Ursal, because the accounting system used by the COA conforms with the generally accepted accounting system.

INQUIRY OF COMMISSIONER AMIN ON THE LAW OF SALARY STANDARDIZATION

Commissioner Amin asked Commissioner Ursal whether he reviewed the statements and accounts of government-owned and controlled corporations during his incumbency in the COA; for instance, the president of the GSIS at the time received a monthly compensation of PhP 600,000.00.

Commissioner Ursal said that the salary standardization law regulates the salaries of government employees, however, some organizations such as the GSIS succeeded in obtaining legislation exempting their employees from salary standardization. He agreed that this presents a difficult situation for the COA.

COMMISSIONER LAMBINO'S INQUIRY ON GOCCS WITHOUT ORIGINAL CHARTER

Commissioner Lambino said that GOCCs without original charters or their subsidiaries are not covered by the Commission on Civil Service, but are covered by the COA. He inquired whether Commissioner Ursal would recommend that the CSC also cover these agencies.

Commissioner Ursal said that he believed the reason for GOCCs and their subsidiaries being covered under the COA is that they receive government funds.

Commissioner Lambino said that the GOCCs without original charter were first included under the CSC in the 1973 Constitution, but that at this time the subsidiaries are not included because these agencies were the milking cows of the politicians at the time. Today, said Commissioner Lambino, these GOCCs without original charters are the new milking cows of politicians who receive enormous salaries, allowances and other perks because the law on salary standardization and the civil service law do not cover them.

SUSPENSION OF MEETING

At this juncture, the meeting was suspended.

It was 4:52 p.m.

RESUMPTION OF MEETING

The meeting resumed at 5:00 p.m.

OTHER MATTERS

The Chair suggested discussing Item 4 b of the agenda concerning the proposed amendments of the COMELEC Commissioner next meeting

instead. Commissioner Lambino recommended that the said amendments be discussed in conjunction with the Committee on Suffrage and Electoral Reforms. The Chair informed the Body that the Committee would invite Commissioners Seno and Naval, along with COMELEC Commissioner Borra.

PRESENTATION OF COMMISSIONER BENGZON

Commissioner Bengzon presented the matrix regarding the transitory provisions. She noted that all the variations contained in the matrix were culled from discussions with Congressman Jaraula, who is currently the Chair of constitutional amendments committee in Congress. Commissioner Bengzon mentioned that she also possessed a copy of the letter of Commissioner Leviste for Commissioner Espina, which outlined his thoughts on transitory provisions. Commissioner Bengzon read the contents of the matrix for discussion of the Body.

The Chair asked if the 1/3 requirement indicated in the matrix means 1/3 of the Parliament. Commissioner Bengzon replied that the 1/3 being referred to are the senators. Commissioner Peña added that the 2/3 has to be confirmed and that appointments have to come from the Parliament.

Commissioner Bengzon noted that if there would be a stalemate between the House of Representatives and the Senate, a Constitutional Convention (ConCon) or a Constituent Assembly (Consa) would not be possible. The only mode left, she said, is the people's initiative which requires 3% of the voters in congressional districts and 12% of the whole population.

Commissioner Pedrosa stated that she took part in moves to amend the Constitution in 1997 through a people's initiative. She noted although one (1) million signatures were collected and duly counted by the COMELEC, the demand for charter change was put down and declared as unconstitutional by the Supreme Court. She added that even if the local officials express support for charter change, it still does not spell out that it is the people's will.

Commissioner Bengzon stated that an enabling law is needed to fully implement the people's initiative. Commissioner Lambino noted that the people's initiative under Article XVII applies only to amendments and not to revisions.

Commissioner Bengzon further stated that a Congress-led amendment to the Constitution would be discussed by the Body, either through a ConCon or a Constituent Assembly, not through a people's initiative.

INTERPELLATION BY COMMISSIONER MATULA

Commissioner Matula asked if the 1/3 referred to in the matrix means four (4) senators, as there were twelve (12) senators elected in 2004. Commissioner Bengzon replied that 1/3 refers to all of the 24 senators. She added that the tenure of the 12 senators whose terms will expire in 2007 will be extended until 2010. Commissioner Lambino stated that 1/3 means 8 senators as there are currently 23 senators.

INTERPELLATION BY COMMISSIONER LAMBINO

Commissioner Lambino asked if the Members to be appointed to the Cabinet refer to those with or without portfolios. He noted that the 1973 Constitution

explicitly stated “with or without portfolios.” Commissioner Peña suggested that such has to be explicitly stated.

Regarding the Members of the National Assembly, Commissioner Lambino suggested that majority of the Members of the Cabinet with portfolios should come from the Parliament

INTERPELLATION BY COMMISSIONER PEÑA

Concerning the extension of the term of office of the senators until 2010, Commissioner Peña inquired if the Members of the House of Representatives who are now on their third term can run again. Commissioner Espina mentioned that the consensus in the Committee on Structure was to abolish the term limits.

Commissioner Espina commented that Senators would rather be part of the transitory legislative body if it is true that P150 million is needed to run for the Senate. He stated that the Body should decide on their recommendations regardless of the Senators’ approval of the transitory government.

Commissioner Bautista stated that the premise behind charter change is to save the country from its current crisis. He urged not to give too many concessions to the Senators, i.e. extension of term of office, just for them to approve charter change. He concluded that everybody – including the senators, and even the President -- should sacrifice.

REMARKS OF COMMISSIONER ESPINA ON CANCELLING THE 2007 ELECTIONS

As far as the mayors and governors are concerned, Commissioner Espina noted that if the people do not want their

public officials anymore, there is a system of recall. He added that the President can even be impeached whether the presidential system or the parliamentary system is adopted.

Commissioner Espina proposed doing without elections in the interim. He mentioned that at least P10 billion would be needed to conduct an election in 2007. He added that the positive side if elections would not be held is that the country could save much and there is also a possibility of a healing period. He disclosed that historically, the country has undergone three transitory governments: 10 years during the Commonwealth period; six (6) years of the Interim Batasang Pambansa during the term of President Ferdinand Marcos; and six (6) months under the revolutionary government of President Corazon Aquino.

At this point, the Chair noted the point raised by Commissioner Pedrosa concerning the problem of resolving the Senators’ reluctance to charter change. Commissioner Espina mentioned however that there are several senators who are in favor of charter change through ConCon.

Commissioner Pedrosa noted that the Body should be guided by a definite attitude and not be tied to compromising stances, as the objective of the Commission is to suggest what is good for the country.

Commissioner Bengzon stated that the senators are needed to make charter change a reality. She added that as the people’s initiative is not an option and the Members of the House of Representatives favor Constituent Assembly, they would still need the vote of the senators.

Commissioner Bengzon noted that when the work of the Commission is

submitted and if the people eventually favor a change in the form of government, there would be public pressure on the senators to consider charter change. She added that Congress would pursue the route of voting separately, in deference to the Senate. She concurred with the Members that the Body would definitely adopt what is good for the country.

Commissioner Espina expressed his concurrence with Commissioner Pedrosa that the Body is supposed to be consultative and to present the best recommendation in its most pristine form regardless of the obstacles. He also noted the need to “sell Chacha to the people.” He stressed that sacrifices would be necessary in order to save the country.

Commissioner Pedrosa stated that the Body has to accept the separate voting of the Senate and the Congress. She noted that what the Constitution provides is very clear – “members of Congress.” Commissioner Lambino remarked that the Constitution is actually vague about it. Commissioner Pedrosa noted that the Constitution may not be clear but the Body “can make a case for it.” Commissioner Bengzon stated that voting separately was mentioned in the deliberation of the 1987 Constitution.

Commissioner Espina declared that the issue of voting separately or jointly was discussed many times in Congress. He pointed out that the proposal on such unicameral vote lost by one vote in the 1986 Constitutional Commission. While the Members of Congress forgot to go back on the issue, he said that the Body should not be tied to the mistake of the 1986 Concom. He then cited a survey conducted among city mayors, 2/3 of whom favored a parliamentary system of government.

Commissioner Pedrosa maintained that constitution making is a leadership issue. She stated that the Body should be “leaders” who are not subject to the will of other people. She added that it is not part of an ordinary person’s life to be leading.

SUGGESTION OF COMMISSIONER ESPINA

Commissioner Espina suggested that a “real-to-goodness” survey be conducted to determine the form of government that the people want. Commissioner Bengzon asked Commissioner Espina if he wanted “a populist vote” or if he wanted to be “a visionary.” Commissioner Espina concurred with Commissioner Pedrosa that advocates of charter change should have the will to do it regardless of the positions of the Members of the Senate or the Cabinet.

Commissioner Bautista noted that marketing is the problem, even as selling charter change to the people is imperative. He added that the December 15 deadline for the Concom is unrealistic.

INQUIRY OF COMMISSIONER PEDROSA

Commissioner Pedrosa asked if the Members would vote on the proposal of Commissioner Espina that the term of office of all elected officials be extended until 2010, without elections.

Commissioner Bengzon also asked Commissioner Espina if the right conclusion was that charter change would happen in 2010. She also asked Commissioner Espina to define the powers of the President and the Vice-President. She inquired if a unicameral legislative body will be adopted and who the Prime Minister will be.

Commissioner Espina affirmed that the charter change would be effective in 2010 except for the transitory period. He stated that the President and the Vice-President will have the same powers that they have now. He concluded that the specifics of the transition period such as how it would be run, who would preside over it, would be decided later on through a consensus of the Body. Commissioner Pedrosa remarked that Commissioner Espina should propose based on what is best in his mind.

STATEMENT OF COMMISSIONER PEÑA

Commissioner Peña noted that the stakeholders of charter change are the senators, the local government officials, and the people. He added that offerings may be made to the officials but when it comes to the people, the charter change would be a harder sell. He noted the Committee discussion has resulted into a consensus on a unicameral legislative body. He suggested that the Body concentrate on the parliamentary form then come up with the system.

STATEMENT OF COMMISSIONER BENGZON

Commissioner Bengzon stated that in the French model, the President is the head of state and the commander-in-chief. She added that the President presides over the cabinet, heads foreign affairs and grants pardon. She noted that the Prime Minister in the French model, on the other hand, directs the operation of government, becomes the secretary of National Defense, and is in-charge of the legislation, regulation, and appointment to civil and military posts. Commissioner Bengzon noted that basically, a Prime Minister is like an executive secretary.

Commissioner Lambino expressed his preference for a modified parliamentary system of government -- a combination of the French model with Filipino touch. He proposed that in addition to being the head of state, the President should be the commander-in-chief and be in charge of foreign relations. He added that it is immaterial if the President is to be elected or appointed.

STATEMENT OF COMMISSIONER ESPINA

Commissioner Espina pointed out that the Body should approve first the concept of a transitory government. He noted that his proposal was for the transition period to last until 2010. According to Commissioner Espina, the President should finish her term until 2010.

Commissioner Peña noted that the transitory government is already approved by the Body and that there would be two sources of power in a transitory government. Commissioner Bengzon mentioned that there was a proposal to hold a plebiscite in February 2006 and to effect the new Constitution in 2010. She noted that if the new Constitution adopts a parliamentary form, then the transition government would be different from the change that was proposed.

Commissioner Lambino suggested that there should be a transition period, with the President and Vice-President serving until 2010 while the senators would serve until 2007 only. Commissioner Espina remarked that this proposal would be unfair to the senators.

Commissioner Acevedo expressed his concurrence in the proposal of Commissioner Espina. He noted that the best case scenario is for the country

to hold a constituent assembly in order to diffuse the current situation.

Commissioner Bengzon asked what the roles of the President and the Prime Minister would be in a transition period. Commissioner Espina replied that the Prime Minister would be the presiding officer of the unicameral body while the president would remain in Malacañang.

Commissioner Lambino asked Commissioner Espina if the power of the transitory President would be strengthened. Commissioner Espina noted that the process of impeachment would even be reduced by one-half.

Commissioner Lambino asked which body will try the President in case of impeachment. Commissioner Espina stated that the approval of a transitory government should be discussed first before going into specifics.

Commissioner Lambino believed that impeachment should only apply to non-elective positions. He added that in a transition period, the President should no longer be subject to impeachment. Commissioner Espina stated that Commissioner Lambino's idea is applicable to the regular government but as far as the transitory provisions, the President would still be removable by impeachment. Commissioner Lambino noted that there are no "two rules of impeachment."

Commissioner Bengzon stated that the specifics of the issue would be discussed the next meeting. The proposal of Commissioner Espina, she noted, would be part of the talking points of the meeting.

ADJOURNMENT OF MEETING

Upon motion of Commissioner Amin, there being no objection, the meeting was adjourned.

It was 6:28 p.m.

Certified correct:

JOSE C. BELLO, JR.
Committee Co-Chairman

_____ December 2005