

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

TRANSCRIPT OF THE PROCEEDINGS

SESSION No. 5

Wednesday, October 5, 2005

OPENING OF THE SESSION

At 3:24 p.m., the Chairman of the Commission, Jose V. Abueva, called the session to order.

CHAIRMAN ABUEVA

Our session is called to order.

NATIONAL ANTHEM AND PRAYER

CHAIRMAN ABUEVA.

We start with our usual singing of the National Anthem, to be followed by a prayer to be led by Commissioner Abarico.

(Singing of the national anthem)

COMMISSIONER ABARICO

Oh, Lord God Almighty, Creator of the Universe, You who guide the destinies of men and nations, we humble ourselves before Your omnipresence to pray for Your divine mercy and guidance for our country and the Filipino people who now compose a divided nation as we approach the crossroads of history. We pray oh God for our national and local leaders, that they may have the courage, the wisdom, and the sincerity to do what is right and just for the good of their constituents.

We pray oh Lord that You will also guide and bless our efforts in this Consultative Commission so that we may be able to find a way out of this maze of problems which threaten to derail our collective journey towards national unity, peace, and development. We thank You Lord for this rare opportunity to be here in behalf of our people, especially in Mindanao, whose silence for centuries was broken only by intermittent cries for rebellion and self-determination.

Oh Lord God, soften our hearts so that out of hatred and bitterness there will emerge true reconciliation and sincere understanding, and out of confusion and misdirection, there will be clarity and a sense of purpose. Oh Lord God, please enlighten our minds so that we may have a clearer vision of what must be done for the good of our country and people in accordance with Your supreme will. Amen.

PLEDGE OF NEW MEMBERS

CHAIRMAN ABUEVA.

I would like to announce that we have a new colleague, a new member of the Commission, joining us for the first time: Sr. Luz Emmanuel Soriano of Assumption

College, and we shall administer the pledge to her. And Atty. Raul Lambino is also here with us. We can have our pledge right now. Please come forward.

COMMISSIONER LORENZANA.

May we invite everyone to stand also for the ceremony?

CHAIRMAN ABUEVA.

Please raise your right hand and follow after me.

I, _____, as member of the Consultative Commission, created pursuant to Executive Order No. 453 series of 2005, do hereby solemnly swear that I shall faithfully discharge to the best of my ability this voluntary obligation of re-examining our present Constitution, in consultation with various sectors of society, to propose changes therein that would effectively address the political, social, and economic reforms needed by our country, and advance the general welfare of the Filipino people. So help me God.

ROLL CALL

CHAIRMAN ABUEVA.

Mr. Floor Leader, do we approve the Minutes?

COMMISSIONER APOSTOL

Mr. Chair, roll call.

COMMISSIONER LORENZANA.

[Calling the Roll]

1. Abarico
2. Abueg
3. Abueva
4. Acevedo
5. Adamat
6. Amin
7. Angeles
8. Apostol
9. Azurin
10. Bello
11. Bengzon
12. Bian
13. Bondoc
14. Chua

15. Dee
16. Duavit
17. Espina
18. Garcia
19. Gonzalez
20. Jimeno
21. Jurado
22. Lambino
23. Leviste
24. Lim [ABSENT]
25. Lorenzana
26. Magno [LATE]
27. Marohombsar
28. Matula
29. Mendoza [ABSENT]
30. Naval
31. Ortega
32. Ortiz-Luis
33. Paterno
34. Pedrosa
35. Rodriguez - [EXCUSED]
36. Romualdo [ABSENT]
37. Sarmiento
38. Seno
39. Soriano
40. Tendero [ABSENT]
41. Teves
42. Varela
43. Vilar
44. Yuchengco

COMMISSIONER LORENZANA.

We have five (5) absent out of 44. We have a quorum, Mr. Chairman.

APPROVAL OF THE MINUTES OF THE 29 SEPTEMBER 2005 SESSION

COMMISSIONER APOSTOL

Mr. Chairman, I move for the approval of the Minutes of September 29, 2005 session. The Minutes were distributed yesterday. There's a new one, very thick - 29 iyon.

COMMISSIONER LORENZANA.

29. It was distributed yesterday?

COMMISSIONER APOSTOL

We distributed it yesterday. If you look at your bag, you must have stuffed it there.

CHAIRMAN ABUEVA.

Any second? No objections? The Minutes are approved, with this caveat that any member who feel that their particular intervention is not accurately rendered or reported may request for correction with the Secretariat.

COMMISSIONER ESPINA
Mr. Chairman.

CHAIRMAN ABUEVA.
Yes.

COMMISSIONER ESPINA
This is okay, but I would prefer that in addition to the Minutes, the transcript be provided to the members, just like in Congress, where every word you say, including the mistakes are recorded, if that is possible.

CHAIRMAN ABUEVA.
Yes, a...

COMMISSIONER APOSTOL
We are still negotiating with the people who worked with the stenographers. Give us a little time on that, and we will do that.

COMMISSIONER ESPINA
Thank you, Mr. Chairman, thank you.

CHAIRMAN ABUEVA.
Thank you for that. We earlier on agreed that in the meantime, committee meetings will be in the form of minutes, summarized minutes, but plenary sessions would be recorded verbatim. But this is still the meeting of four committees, so it is the Committee of the Whole, so we'll follow the idea of having minutes in the meantime.

On the point of having so many documents being distributed everyday, we're incurring a lot of expenses on paper and ink and so on. And I have consulted with the Secretariat. We'll have to begin to recycle some of our papers. So I've suggested when they are distributing documents that are bound to be corrected and finalized and so on, that they use initially recycled paper. And we also invite you if you want to leave some of the documents, which you think have already been overtaken by a succeeding draft. Like yesterday, there's a series of lists of committee memberships, rather than throw them away, if you can just leave them on the table, the Secretariat will collect them for recycling. Believe me, it adds up. The cost adds up very quickly.

COMMISSIONER APOSTOL
Mr. Chairman.

CHAIRMAN ABUEVA.
Yes.

COMMISSIONER APOSTOL
We are still on the unfinished business. And yesterday, we have converted the Body into a Committee of the Whole. May I move that we should continue this Body to be treated as a Committee of the Whole?

CHAIRMAN ABUEVA.
Yes. This is a meeting of the Commission of the Whole and in fact, we are four committees meeting together: the Committee on the Form of Government, the

Committee on the Structure of the Republic, the Committee on Political Party Reforms and Suffrage and Electoral Reform, and the Committee on the National Patrimony and Economic Reforms.

So we have this unfinished business now. Earlier this afternoon, in a consultation meeting with the officers, we reached the consensus that one way to facilitate our discussion, and now we're entering into the debate on the form of government, is to initially just go around the table, and each one of us in very short time of not more than 3 minutes, shall indicate our preference on the issue, As we know, we are examining or reviewing the 1987 Constitution. We review to amending or revising it principally along the three ideas of the shift of the form of government from presidential to parliamentary, and the shift in the structure of the republic from unitary to federal, and the economic policy reforms. And we thought that it would be very useful to go around our joined tables here, and for not more than 3 minutes, indicate each one's views regarding the form of government -- whether we are in favor of maintaining or preserving essentially the present presidential form, with amendments maybe, or whether we prefer to the shift really to a parliamentary government. This is just a sensing, an early sensing before we go into a detailed debate, to have a sense of the whole Commission. So I would like to suggest...

COMMISSIONER ESPINA
Mr. Chairman...

CHAIRMAN ABUEVA.
Yes...

COMMISSIONER ESPINA
Yesterday we approved in general session what we are to take up today. And yesterday, the whole of it practically was on parliamentary, those who were in favor. Some in fact on the parliamentary are still going to deliver their propositions, proposals. Now we are changing it to 3 minutes, and not only on form of government but also structure, national patrimony, political...

CHAIRMAN ABUEVA.
Only on the form of government.

COMMISSIONER ESPINA
But even then. We're just trying to dramatize, Mr. Chairman, because if this is the trend, I would not want to be a part of it. I would suggest, Mr. Chairman, a full-blown discussion. Maski man lang katapusan ng Oktubre o November; anyway, deadline is December 15. Now I don't want to say this but I got a text while the officers were meeting, informing me of what was being discussed there, and requesting me to join. And I said I respect agreements. And the meeting was supposed to be for officers; I am not an officer. And then he told me what was happening. I did not go.

I just want to be clarified because from 1986 to now is how many years. Pinag-usapan natin yung possible change ng Constitution o hindi. Yun lang. And then, 3 minutes on...

CHAIRMAN ABUEVA.
This is just a sensing initially, to know what the collective preference is with respect to the issue of continuing the status quo or shifting to another form of government. And

then having the debate, I would like to say that we honor the listing of the speakers. We will still continue after this sensing.

COMMISSIONER APOSTOL

Mr. Chairman, we reverse the process. I move that we continue first with the speakers, after that we will go around and check, on the 3 minutes.

COMMISSIONER ESPINA

I would appreciate that compromise.

CHAIRMAN ABUEVA.

Let's proceed then, according to the order of the speakers.

COMMISSIONER APOSTOL

Mr. Chairman, I, I have not seen yet Commissioner Magno. So the next speaker, in fact, she was initially the number one, I don't know why it was changed, is Commissioner Carmen Pedrosa, otherwise known as the mother of Veronica Pedrosa. I move that we recognize her. Oh by the way, while she's delivering her speech or her piece, if you want to interpellate her, just give me your names, so that we can have the order of the interpellators. There should be no interruptions of the speaker. Interpellations should come in after the delivery of her piece. So Mr. Chairman, I move that we recognize...

CHAIRMAN ABUEVA.

Mr. Floor Leader, can you suggest a time limit for our speakers?

COMMISSIONER APOSTOL

She's supposed to talk only for 10 minutes. In fact I think her piece is only good for 5 minutes.

COMMISSIONER PEDROSA

Yes, agreed.

CHAIRMAN ABUEVA.

Please don't say that.

COMMISSIONER PEDROSA

Well, we have to put this on.

COMMISSIONER ADAMAT

Mr. Chairman.

CHAIRMAN ABUEVA.

Yes, Commissioner Adamat.

COMMISSIONER ADAMAT

May I just inquire when will the interpellation take place? Every after speaker?

CHAIRMAN ABUEVA.

After the conclusion of a statement.

COMMISSIONER ADAMAT

Thank you, Mr. Chairman.

COMMISSIONER PEDROSA

Looking at the different papers, it is easy to be involved in the technicalities of what you call textbook language of what makes a government able to serve, to govern better. Therefore I'd like to start by saying that I go by my feelings, by people I've talked to in the streets, and everyone seems to agree that the reason why we should change to parliamentary government is the effects of presidential government are all around us. Today, you look at the papers and they speak of the failure of the presidential system in this country. There's the gridlock, there's the delay of passing of economic bills, many other things. But basically, we are not being governed well precisely because of the structure of the present system. Therefore, if you're asking me why I am in favor of a parliamentary government, my answer is – it's all around us. There's no need to prove from the textbooks that presidential is better or the parliamentary system is better. In fact, government systems evolve through time. Even if I say that today, parliamentary system is what we need, it may happen that generations from now will find that it is also no longer true for them. That is the essence of government. It is a living thing. Or the constitution that supports it.

One of the things that keep coming around is, of course, the question of our system of elections where heads of government are elected at large. In other words, you're dealing with such huge constituencies that do not have any relation between the voter and the voted. People vote not knowing whether the person they are voting for is in fact capable, competent, and efficient for the role that you wanted to do. So the idea I think of parliamentary is, for me...the advantage is that you are going to break up the constituencies into sizes that enable the voter and the voted to have a real relationship, a political relationship. For example, the constituency of the member of Parliament is small enough for the citizens to know who he is and what he can do for his constituents. Then the members of Parliament are themselves members of a constituency that is the Parliament, for them to be able to say who among them is best to be the head of government, which is the Prime Minister.

And then the third very obvious problem we have in the Presidential system is the difficulty of removing a President. And I think we have seen this again happen. I mean, in theory, for example you might say this problem does not occur in the United States or other countries, but in the Philippines, it has happened again and again that we wanted to remove a President or we were dissatisfied with the work of a President, and we ended up going to the streets, and then we have the military coming in. So those are things that go against the presidential system, and we have experienced that the removal of a President or head of government in a presidential system is very difficult.

And the fourth one I think is term limits, which many people would not subscribe to. But I think the other side of the coin in fact is that when you do not vote for persons with term limits and in the Parliament you vote for a program of government and issues, then, you don't need term limits. What it does is really finish the programs and does it well; if you can't do it well, then you're out. This, for me, is a better substitute to term limit. A Parliament will be like that. And the political education of people has a greater chance, because instead of having elections based on personalities, you have elections based on issues. And that would be a good ground to educate the citizens politically. I think that sums it all -- my position on the parliamentary government being better than the

presidential system. It is the kind of system that will suit our present predicaments. Thank you.

CHAIRMAN ABUEVA.

Thank you.

COMMISSIONER APOSTOL

Interpellations should only be good for 3 minutes.

COMMISSIONER ESPINA

I will reserve my interpellations and include it in my proposal to retain the presidential system. So I will not interpellate.

COMMISSIONER APOSTOL

Commissioner Abarico is recognized.

COMMISSIONER ABARICO

Thank you Mr. Floor Leader. Commissioner Pedrosa, in your statement you concentrated on the parliamentary form of government, the need for the immediate and urgent need for adopting a parliamentary form of government. I think you failed to mention federalism as a parallel system.

[VOICE]

We're not discussing the structure yet.

COMMISSIONER ABARICO

Ah, not yet, but form of government. Okay. Kasi dito sa order of business, combined eh. Debate on the form of government/structure of the republic. However, I'd like to say here for the record that if you are impatient for the adoption of a parliamentary form of government, we in Mindanao are equally impatient for the adoption of federalism. And in the minutes given us yesterday, you were quoted here that it would take about 10 years for federalism to be fully institutionalized. I think that's too long, Ma'am, with due respect.

COMMISSIONER APOSTOL

Question, please, question.

COMMISSIONER ABARICO

But my question is what is the basic advantage of a parliamentary form of government over the presidential form of government, except that it is easier to remove the Prime Minister than the President?

COMMISSIONER PEDROSA

No, I think I mentioned more. And I think it's very crucial for the country to move forward that we shift to parliamentary, and one of the things I mentioned was in fact all you need is open your newspaper and you see, there before your eyes that there's gridlock, there's the constant conflict, not to mention that the system of election involves the expenditure of billions of pesos so that what happens in fact is our focus becomes on personalities and their money, and then vested interests...

COMMISSIONER ABARICO

Are you implying Ma'am that you're tired of the presidency of President Macapagal-Arroyo because she cannot be removed at this time?

COMMISSIONER PEDROSA

No, I did not say that, I didn't say that. What I am saying is that one of the problems of having a Presidential government is that it is difficult to remove a President, and we have had previous experience to justify that had we have a parliamentary system, it would have been easier, less bloody, and less complicated. You see, the important thing about the parliamentary is it insulates the rest of the country from political rivalries and wrangles.

COMMISSIONER ABARICO

But the danger of instability is there -- frequent changes of governments and Prime Ministers.

COMMISSIONER PEDROSA

No I don't think so. It may be true only in the beginning, but sooner or later it will dawn on people that this is the better way to deal with politicians or rival politicians... It happens within parliament rather than...

COMMISSIONER APOSTOL

Commissioner, may we remind you of your 3 minutes?

COMMISSIONER ABARICO.

Thank you very much. Frankly I don't mind having the president difficult to remove for 5 years if he or she is a good president.

COMMISSIONER PEDROSA

Exactly, that is what I am saying. But the meaning of "difficult to remove" is not the difficulty of getting him out but the difficulty of the system itself, you know? You have to prove, you have to go through impeachment. That is the problem I think. It's not easy.

COMMISSIONER APOSTOL

Commissioner Azurin is recognized.

COMMISSIONER AZURIN

Thank you. I'm glad you mentioned that we should avoid textbook prescriptions or definitions of forms of government. And this is precisely my question. The advantages you mentioned for the parliamentary system are in fact textbooks and I think if we decide, I agree with you perfectly that the current system has many problems. I am just exasperated and as frustrated as you are, watching the political drama everyday. But I think when we decide or when we propose an amendment for a change in the current system, I think we must be conscious and we should not think about the textbook and we should be conscious of the practical implications. This being in the case of the parliamentary system and by this we understand the fusing of an executive and legislative power, if now we see congressmen fighting over pork barrel, or over privileges, etc., this precisely is going to be magnified in the case of a parliamentary system because now there is no balance, there is no Congress checking the Executive, or there is no Executive checking the Congress and so it is easy for this group, this ruling coalition and some congressmen here would admit, don't you agree?

COMMISSIONER PEDROSA

No, I don't. You are talking about the check and balance actually, isn't it? I hate to use the word check and balance anyway because it becomes meaningless. What I am saying is that the parliamentary system has its own check and balance to the party system. So if you are elected as a party, let us say the LAKAS NUCD, the majority party, the members of Congress who are not in government will be the one, because there are debates everyday, isn't it? You have to stand for your program, so that will give check and balance.

It was mentioned already but I will mention it again. There is of course media as I said. I lived in London for 20 years and I know it works also because there is a very strong media representation in the parliament itself, and they are called lobbyists, lobby correspondents. You have a political lobby, similar to what they have in Washington. Instead of being lobbyists, they are media people and they are very powerful. They can go and really talk to people and they are treated not as reporters...

COMMISSIONER AZURIN

My question is ... so you are not afraid...

COMMISSIONER PEDROSA

No.

COMMISSIONER AZURIN

...that in practical terms this parliament will now vote itself many privileges, etc., and this is not a concern of yours? You feel that these checks that you mentioned will be sufficient?

COMMISSIONER PEDROSA

Yeah, I tell you something, so practical in life. You don't do something because you are afraid of what is going to happen. You do it especially the most important things in your life. That's not the way human beings should decide what is good for them. What then you can decide is what is bad for you, and this is obvious all around us. Are you saying to me that knowing how bad our government is and you are more afraid of the future than what we have now? You have no basis. But you have a basis of discarding the presidential system; you have no basis for taking up the parliamentary system. And I am willing to agree with you that something untried will still have to be tried but it will be very foolish to expect what you call what I think is mature to do something about the present situation and that is all there is. Thank you.

COMMISSIONER APOSTOL

Commissioner Leviste is recognized. I was thinking it was Commissioner Leviste, then Commissioner Jurado, then Commissioner Bondoc.

COMMISSIONER LEVISTE

My comments are very short. I do agree with the concerns raised by Commissioner Abarico and Commissioner Azurin on the speech of our colleague Commissioner Pedrosa. I just like to touch on the last portion of her speech where she said the present predicaments today require the shift to presidential system. I concede we have problems, but the problems do not require constitutional solutions. The problems we have are political and therefore political solutions are enough. I don't think the

presidential system has failed. I think we have failed the presidential system. Thank you, Mr. Chairman.

COMMISSIONER PEDROSA

I'm sorry, but can I answer? Yes, the political problems arose from the system. That is why you can't solve this political problem precisely because they are the result of what is in the Constitution. For example, the constitution says...the presidential system -- you have executive, the legislative, the judicial, all separate bodies, and today we ended up with the president and the legislature just fighting each other, instead of having a program of government on which people will vote them for. So when you are talking about politics, I think the politics that is happening is an outgrowth of the constitutional provisions, but I agree with you we shouldn't change constitutions for such problems, but in this case it has proven itself to be endemic in the system, this is why it's time to review. But as I said, you agree with Mr. Azurin, I completely disagree because the point is you cannot say that something is wrong or the implication of something that is still in the future. Or at least as an ordinary person, I am not a textbook person, as I said I don't know what happens after, I want to know what to do now with these problems we're facing.

COMMISSIONER LEVISTE

Thank you for your comments. I respect your opinion and we respectfully disagree with one another. Thank you, madam.

COMMISSIONER PEDROSA

Of course.

COMMISSIONER APOSTOL

Commissioner Jurado is recognized.

COMMISSIONER JURADO

Thank you, Mr. Chairman. I cannot help but agree with the observations of Commissioner Pedrosa, who generalized by saying that what is happening today is proof or evidence that we should give the existing system a very serious thought. I think she is saying that here we have gridlock in concrete form. It's a buttressing of the argument of Commissioner Angeles last night, where he said that the quality of the checks and balances produces a certain situation, which nevertheless results in a very strong President. In any case today, I think the gridlock is really paralyzing our country. One does not have to be interested in taking the side of the President or of Congress, but one would still be justified in expressing complete disapproval, perhaps disgust, over the state of affairs. If only because of this, there is a need to study the possibility of a real shift, of course we can always say...I'll put this in the form of a question, is the point you are making Commissioner Pedrosa that today what is happening is a clear demonstration of gridlock, and therefore, one basis that one can consider to change from the presidential to parliamentary form?

COMMISSIONER PEDROSA

Yes, other than gridlock, I also mentioned the expensive election because we elect our leaders nationwide where there is no primary relation between a voter and the voted. You know. We all know that. I mean here is the voter and this is going to be your candidate for President and the easiest one to spell I'll vote, the memory recall is more important than the qualities of the candidates. There are other things I mentioned here --

the expense it takes, the lack of knowledge of the voter and several other things but they are found in the Constitution.

That is what we are trying to do. We are correcting it so that it does not happen that way. So I'd like to refer again to the interpellation of Mr. Leviste who said that this is only a political problem. It's not. The politics arise from the construction of our state or government, which is in the Constitution.

COMMISSIONER APOSTOL

Commissioner Bondoc is recognized.

COMMISSIONER BONDOC

Salamat po. Good afternoon Commissioners. Just 2 questions. From your years of studies on the theory and practice of parliamentary government, what could you say is the downside of this form of government and how would we patch it up in case our country decides to go parliamentary?

COMMISSIONER PEDROSA

Well, really as I said, I am averse to making predictions of what could be, because although it has worked for Britain for example, it does not work in some other countries. I don't want to mention the names but the idea really is that we have to make parliamentary system work, like what we did with the presidential system. You see something can be good at the time that it was created, but through time, through the changes in society and history or events that happened, the character of the first presidential government is completely altered, which is what happened to us. It's not really something good or bad. It's really more like what can be done in the present time with the presidential government and what can be done with the parliamentary government at a certain future.

So downside will remain the same in the sense that there will also be people who will use the system to maneuver for their own vested interest. Nothing here I can think of now because as I said I favor the parliamentary system, the only one is that it is easier to change the people who can abuse it and have a change of government every now and then. As I said, most governments began that way; but then they found ultimately the composure to be a good parliamentary government and it takes a little time. And I think one of the amendments being suggested is in fact there will be no change of government within 2 years or 5 years. I am not sure.

CHAIRMAN ABUEVA.

In the proposal, a maximum of 5 years.

COMMISSIONER PEDROSA

Before we have a change of government?

CHAIRMAN ABUEVA.

No, no, no. not a change of government but the full life of a parliament.

COMMISSIONER PEDROSA

Yeah, yeah that's it.

COMMISSIONER BONDOC.

Thank you. I have another question because this matter of form of government always crops up in our discussions that any form of government should be the embodiment of the aspirations of the people, their history and culture, their requirements, their past, present and future needs. Would we say that our people are ready for the parliamentary form of government now and why?

COMMISSIONER PEDROSA

You know, when our founding fathers first formed the Constitution of Malolos, in fact they didn't call it parliament but what they wanted was an executive and legislative merger. In other words, legislative had a stronger role in government so if they merge the two functions. It was in fact a parliamentary government. So you are never ready if it's not what you're doing for the last how many years do we have presidential? You will be ready when it happens, you know what I mean...I cannot believe that when you say my child is going to good school but he doesn't know anything. You have to make him go to school so he will be prepared. That is my answer.

COMMISSIONER BONDOC.

Salamat.

COMMISSIONER APOSTOL

Commissioner Dee is recognized.

COMMISSIONER DEE

Thank you sir, Mr. Chairman. Madam Commissioner, you did not give any specifics on your proposal for parliamentary. There are many variations. Which one are you particularly supporting? Is it the one of Congressman Nachura?

COMMISSIONER PEDROSA

No, I really favor the British parliamentary system but because... it is still something that is more difficult to have at the present moment because there are no political parties. And then we have transitory provisions because of the existing presidential system. It may be that we might evolve it into a French system first and then evolve into British system later. So I didn't want to go into the details because those details are something that will surely happen. It's not in my power to suggest because I don't have the facts before me, nor the basis for it. But I am talking about the distinction between the British parliament and French parliament, but again we will have to adapt it to our present conditions, and what we want.

COMMISSIONER DEE

Another question, Madam Commissioner. Given the present situation of our electorate, you mentioned that in the present system the voters cannot relate to the candidate. But it's the same voters and don't you see a situation where the voters could still not be able to determine anything because in the parliament government, they will just be voting for their representative and therefore it will be the same thing, it would be personality based? What have you changed?

COMMISSIONER PEDROSA

The greater fault in the presidential of course is the election of a President because it is done at large. It's the same for the senators; they are elected at large. But I think in the matter of the constituency of a Representative, he is much closer to them than if they

were to vote for President or the senator. That is the premise of my statement that there will be a closer relation -- let us say they are ignorant but they can see their congressman if they have done something or haven't done anything. So if you are saying that, well, it doesn't mean that they are going to elect the good men, I completely agree with you but it's no longer someone who will go to the booth and say, "well, I don't know who the presidential candidate is, I'll just vote for the one I know, the actor guy I saw on television." That's really bad. But if it's in the province, the political education of the citizens can begin. Because they will say, "You know why we don't have a school. It's your representative. If you are a Member of Parliament, you should have helped us do that. "You know, all those things would be a more direct relationship. And I think it was Congressman Danas who told me, "You know it would be better because what you'll do is that if they do not perform well, you could throw a stone in his house because you know where he lives." It is just a joke but what I am saying is...

COMMISSIONER DEE

A final question Madam Commissioner. You talked about gridlock. Can you not foresee a gridlock that is even worse in the parliamentary system given the present situation here that the government itself will stay for 5 years against the people's will because all he has to do, the prime minister has a majority control. Let us say, whichever version you take...if there is 300 and he can control and he has 50% + 1, the majority, he can stay for 5 years. Isn't that the worse gridlock because now the people have no alternative but to stay with him for 5 years?

COMMISSIONER PEDROSA

Again, I think you're reasoning for something that is not there; I am reasoning for something that is there. In the case of the President, you said that who will stay. On what basis are you saying he will stay? Because you said that he will be tempted to stay or... No, the condition there is that he must achieve his program. If he does not achieve his program, then his party goes out, and so he seizes to be Prime Minister. But you're telling me that you give him 5 years therefore he'll stay for 5 years... It is easier for him... That's not something that we can argue about because it is not there. It's something you are saying.

COMMISSIONER DEE.

No, because the term as proposed is 5 years...

COMMISSIONER APOSTOL

Commissioner, your 10 minutes is already up.

COMMISSIONER DEE

Thank you, thank you.

COMMISSIONER APOSTOL

I hope that the presenter will also answer 3 minutes per question. Commissioner Bello is recognized.

COMMISSIONER BELLO

Thank you, Mr. Chairman. My dilemma really is what form of government should it be -- presidential or parliamentary. The premise in your presentation is that the gridlock is one of the basic reasons why we should shift from the presidential to parliamentary form of government. But basically this is due to the bicameral form of structure that we have

wherein the check and balance is derived or generated between the House of Representatives and the Senate. Have you ever explored the possibility of having also a unicameral parliament but strong presidential in order to avoid the gridlock? Because the gridlock that you are talking about is brought about, as I said, between the two independent chambers of the Congress.

COMMISSIONER PEDROSA

But my position is that, if you retain the presidential form of government and then have what you call a unicameral instead of shifting to parliamentary, is that the parliamentary is dedicated to a program so it's not as if it's just because they don't have an opposition; it's because of the system whereby if a party does not achieve the program that it is elected for, then it can be removed.

COMMISSIONER BELLO

But in the presidential form Madam, the President presents his or her program to government and it is the Parliament or the Congress that provides for the support in terms of budget. So the balance is still there between the President submitting her or his program and Congress providing the necessary funding.

COMMISSIONER PEDROSA

Then I will disagree with you because the gridlock is not only between the Lower House and the Upper House but also between the Executive and the legislature.

COMMISSIONER APOSTOL

Your 3 minutes is up. Commissioner Lambino is recognized.

COMMISSIONER LAMBINO

Thank you Mr. Floor Leader. I would like to follow up on the point raised by Commissioner Bondoc a while ago, regarding the significance of the form of government towards the culture and history of the people, that it must be something that is really already deeply rooted upon the people - the kind of government that should be followed or that should govern the Filipino people. Would you agree with me Madam Commissioner that the Filipino people, history and culture would be gearing toward or would have geared toward the parliamentary system than a presidential system?

COMMISSIONER PEDROSA

As I said, that was the education of our founding fathers. It really came from Europe. But I'm not saying that we could not have made a go of our presidential system. We could have, but that's not what happened. You know what I mean. If you say to me that it's rooted in our history, there's no such thing. It was the first attempt at government by our founding fathers...

COMMISSIONER LAMBINO

Under the Malolos Constitution...

COMMISSIONER PEDROSA

...yes, but they never had a chance. And I read from a book, I don't know whether it's true, that in the case of the United States when we were making our Constitution in 1787, President Quezon have said, "Gentlemen, I am sorry but you can't have your independence unless it's a presidential."

COMMISSIONER LAMBINO

Madam Commissioner, you are saying that the presidential system of government that was introduced by the Americans to us was really an alien, strange form of government that cannot be understood by the Filipino people then?

COMMISSIONER PEDROSA

No, no I didn't say that.

COMMISSIONER LAMBINO

..prior to the 1898 Malolos Constitution.

COMMISSIONER PEDROSA

No I didn't say that, I mean nothing is rooted in our country in that sense of the parliamentary and the presidential. We had the founding fathers... it was never tried. You know what happened. Then you had the presidential imposed and the presidential could have worked, but it didn't work and that is why we are going back to another system, which we are going to take an alternative system where we might make it work.

COMMISSIONER LAMBINO

Maybe it did not work because the people really did not understand the presidential system of government. Because if you would not mind Madam Commissioner, after the Malolos Constitution, the Americans came and then they started governing this country through the Spooner amendment of which they have appointed a strong military Governor General who was a dictator, answerable only to the President of the United States. Then after that, we have the McKinley instruction, and then we have the Philippine Bill of 1902, and then the Jones law of 1916 of which under that law we had the first Organic Act of the Philippines. But under the Jones law, we have a unicameral national assembly but still we were governed by an authoritarian governor general answerable to the President of the United States. And even the Tydings-McDuffie law that paved the way for the calling of a constitutional convention did not specifically provide for a bicameral Congress. In fact the 1935 Constitution provided initially a unicameral Congress. It was only in 1948 that it was amended to have a bicameral Congress.

So I believe in the question of Commissioner Bondoc a while ago regarding the system or form of government that should be adopted for the Filipino people must be something that is not stranger to them because I do believe personally Madam Commissioner that the presidential system of government is a government that is not understood by our forefathers at that time. That's why the Malolos...

COMMISSIONER APOSTOL

Question please, question.

COMMISSIONER LAMBINO

So would you agree with me Madam Commissioner that the parliamentary system is really the more acceptable form of government?

COMMISSIONER PEDROSA

No, I've never expressed myself in what's acceptable or what is good or what is bad. I have prefaced my remarks by saying that there are certain problems that we have now, political and economic that can be addressed by shifting from the presidential to the

parliament. And as I said again that it can change. You can begin with a presidential and make it work but it didn't work... We can make it parliamentary, it might work or it might not work...

COMMISSIONER APOSTOL
Commissioner, your 3 minutes is up.

COMMISSIONER LAMBINO
Thank you.

COMMISSIONER APOSTOL
May we recognize now Commissioner Marohombsar?

COMMISSIONER MAROHOMBSAR
Right now, many citizens believe that our political institutions or political system are not the problem. They believe that what is needed is simply for our people to be more responsible and to be more committed to the common good. I regret to say that right now our people have not politically matured and that is why political dynasties and family dynasties thrive in many areas. We allow this because our people have not matured. We sell our votes.

COMMISSIONER APOSTOL
Commissioner, question please.

COMMISSIONER MAROHOMBSAR
I think what is needed is for us to educate our people on the importance of their vote and the consequences of giving their votes to the wrong people or to the wrong candidates. We have to educate our people on their political rights.

COMMISSIONER PEDROSA
I agree with you. We need to educate our people, but that should not stop us from shifting our government to one that will work and not wait for the people to be educated. The design of the government is not based on having good people or good men. The design of government is on what will be effective for good governance, and this is something that has been said again and again. We have to have good people first before we can have a good government. That doesn't follow, that is not the consequence ...of course we have good men but with a well designed government you can even have bad men and still be able to govern well. In fact, I think that's one of the best sayings of the founders of the United States – the federalists, they said, "we have to make a government that can be run by stupid people." They said that.

COMMISSIONER APOSTOL
Your time is up Commissioner. So may we recognize Commissioner Adamat?

COMMISSIONER ADAMAT
Thank you Mr. Chairman. I'll go straight to the point. In the country today, it is a common knowledge that the ratio between the rich and the poor is that 90 percent poor and only 20 percent rich. My question is that, do you think that the government would be more responsive to the needs of the poor under a parliamentary system? If it is yes, how? The number two question is our country is a divided country politically speaking, do you think that a parliamentary system would be more conciliatory and that peace and

development will finally reign amongst the Filipinos? And number 3, do you think a parliamentary system would be more moralist than the presidential system? Thank you.

COMMISSIONER PEDROSA

I really think you asked the wrong question, because I am not the one who is going to teach you about morals, nor my entire approach about shifting government is something to make more moral people, nor make more rich or less poor people. That is not the consequence of studying a constitution – whether it is going to work for a country. That happens as a result of the intermingling of policies and factors and world now, globalization... There are so many factors involved in that. Right now what we are trying to do is to find a system whereby we can do better than what we are doing now. That's all. I am not asking for people to become good nor to be more moral, because that is something else. I feel that it is not the point of this work.

COMMISSIONER APOSTOL

Commissioner Francis Chua is recognized.

COMMISSIONER CHUA

Thank you. Commissioner Pedrosa, you made a very good presentation I was about to change my position.

COMMISSIONER PEDROSA

Did you change?

COMMISSIONER CHUA

Not yet. You said that presidential type of election is expensive.

COMMISSIONER PEDROSA

Very expensive.

COMMISSIONER CHUA

But what is your reaction to the observation of some *masa* that they are very poor, and this election spending is one way of redistribution of the wealth? How do you look at this thing?

COMMISSIONER PEDROSA

It's a false redistribution of the wealth because it's not productive. It's something you give. I mean there's no relation. I mean there are other ways of redistributing wealth than through payment for votes. I would definitely argue that way rather than say that...yes it distributes wealth but not the kind that should happen.

COMMISSIONER CHUA

As far as the presidential system is concerned, do you believe that there are other ways of improving it rather than discarding the presidential system and immediately go into the parliamentary system? Or would you believe that there's still any chance left for the so-called presidential system?

COMMISSIONER PEDROSA

This is a problem with the Philippines. The problem is before you and you're thinking of aggravating the problem by saying, let's just continue with it because it is wrong. Instead of what could be possibly right, what can we do to make it right? I'm sure there

are ways of doing it, but reforms have been tried for years now. We have tried so many things and it just doesn't work. I am not saying that therefore it will work with parliamentary system but it answers the questions of difficulty.

COMMISSIONER APOSTOL

Thank you very much Commissioner Pedrosa.

COMMISSIONER PEDROSA.

Thank you.

COMMISSIONER APOSTOL

We now call the next speaker.

CHAIRMAN ABUEVA.

Before the next speaker starts, I would like to suggest that since we are giving the main speaker 15 minutes and we have 10 interpellators with 3 minutes each. Actually it took 1 hour already for one speaker and 10 interpellations. I think we should limit it to that. Maybe less than 10 interpellators, or maybe 5, so we can give everybody a chance at least today. Can we agree on that? Still 15 minutes for the speaker ...

COMMISSIONER APOSTOL

15 minutes and then 5 interpellators, 3 minutes for each interpellator and 3 minutes for the proponent to answer.

CHAIRMAN ABUEVA.

Yes. So you have more opportunities for interpellating.

COMMISSIONER APOSTOL

So we may now listen to the next speaker. Commissioner Pablo Garcia has the floor.

COMMISSIONER GARCIA

Thank you Mr. Chairman and my distinguished colleagues. It was the legendary Justice Holmes of the US Supreme Court who once said, and I am quoting from uncertain memory, "the life of the law has not been logic; it has been experience." The life of the law has not been logic. It has been experience. The felt necessities of the times, the prevailing social and economic theories, intuitions of public policy avowed or unconscious, even the prejudices, which judges share with their fellow men have had a good deal, more to do than the syllogism or logic in shaping the rules by which men shall be governed. The presidential system as we know it was first implanted in our 1935 Constitution, which was adopted pursuant to the provisions of the Tydings-McDuffie law of the United States as a precondition to the grant of our independence. In adopting the presidential system by the framers of the Constitution, I think at that time they have no choice aside from their exposure to American law and jurisprudence. The Tydings-McDuffie law specified that the government that shall be established in the country shall be republican in form. With the adoption of the presidential system, we also embraced its bedrock principles of separation of powers and the principle of checks and balances.

Now after our experience of 70 years under the presidential system, we are beginning or our people are beginning to ask, has the presidential system served us well? Has it promoted or contributed to the realization of the ideals and aspirations of the Filipino

people? Have the noble and lofty objectives of the principles of separation of powers and checks and balances been validated in our political experience as a nation?

To answer these questions in the negative is being less than truthful. Yes, the presidential system has brought out some good. It has preserved our democracy, well except of course during the period of martial law, and it has protected our liberties. But Mr. Chairman and my colleagues, if it were not for the presidential system, we could have done much better. In our economy yes, under the presidential system we have been brought to where we are now, quite some distance from 1935, but the presidential system has not lived up to our expectations. It has not measured up to the ideals and aspirations of the Filipino people. We could have gone much farther than we are now if we had a faster and more efficient vehicle than the 1930 or 1920 model T-ford automobile, if we used a European BMW.

In the 1950's, in Asia, in terms of economic development and material progress, we were number 2, next only to Japan. Such Asian neighbors as Korea, Taiwan, Hong Kong, Singapore, and Malaysia were behind us. Now where do we stand? We are number 2 or number 3 from the bottom. We are above of course of Bangladesh and Vietnam and East Timor, but Vietnam is fast catching up. Mr. Chairman, what went wrong? The presidential system has not only failed to live up to our expectations, it has brought about some very serious ills that now afflict our body politics. The system has not been conducive to smooth, efficient and effective governance. It has brought about collisions and confrontations, deadlocks, standoffs between the executive and the legislative. These gridlocks and standoff have caused damage and prejudice to the public welfare. We remember during the time of Pres. Quirino, during the time of Pres. Macapagal, and during the time even of Marcos, and during the time of Pres. Cory Aquino and now during the time of Pres. GMA, the principle of checks and balances proved to be more checks than balance. Imagine what will happen to a corporation, the business of a corporation, if the decision of the president and CEO is opposed, contested and blocked by the board of directors.

Mr. Chairman, I agree with my seatmate here, Commissioner Espina, when he said government should be composed of 3 parts -- intellect, will and conscience. But nothing will happen; no actions can be done if the intellect and the will will not be together. The intellect and the will, the legislative and executive, must go together in order that there can be action, in order that we can move forward.

Mr. Speaker, the presidential system has resulted in a government of political compromise and political accommodation not only in the matter of legislation but also in the matter of appointments. The appointments of the president are blocked by the Commission on Appointments. May I ask for an extension of 2 minutes?

CHAIRMAN ABUEVA.

You are allowed one more minute provided that you don't refer to me as the Speaker.

[Laughter]

COMMISSIONER GARCIA

You know I preferred Mr. Speaker, ah Mr. Chairman who will be the Speaker of the House, or the Parliament - the prime minister...The presidential government has caused the evils, the ills that plague our body politics. Well, I will just go to a very important

point -- our election is very expensive for president. For president, I think from 6-8 billion pesos, so this is a source of corruption and it has corrupted our electorate. There are 7,107 islands in the country at low tide, how can a president campaign in all of these provinces, in all of these islands? He will have to use helicopters, planes and, most of all; he will have to have media exposure. A 30-second spot primetime is P80, 000.00 If you have 5 spots a day in 1 station that is P400, 000.00. And there are several stations Mr. Speaker. Also, this presidential system...

COMMISSIONER APOSTOL

Commissioner, you have one more minute.

COMMISSIONER GARCIA

Ok. It presents a clear and present danger during every election time that we can elect a president who is not qualified, does not have the competence and experience to lead our country. Because elections now for the president are based not on merit and qualifications but on popularity. Presidential timbres will step aside and choose a person; I will not name the person, just because of the popularity, the vote drawing power of that person. I am sure Mr. Speaker... Mr. Chairman, if former Senator Recto or Laurel were alive today and they run in a national election, they will be beaten by Sharon Cuneta or Dolphy. Yes, certainly. So Mr. Speaker, the time is now that we shift to the parliamentary system. It will not cure all the ills of our body politic but at least we can try something... Thank you.

CHAIRMAN ABUEVA.

Thank you, thank you very much, Commissioner Garcia.

COMMISSIONER APOSTOL

May we recognize Commissioner Abarico to interpellate?

COMMISSIONER ESPINA.

Mr. Chairman, the same reservations, no questions, I reserve my time for questions to my proposal.

COMMISSIONER ABARICO.

Thank you, Mr. Floor Leader, our colleagues here. Mr. Chairman, I have only one question to the distinguished Commissioner from Cebu. His presentation is full of historical allusions and in fact the conclusion is that the adoption of the presidential form of government imposed on us by our colonizer, the United States, was a costly mistake. And this was due to our leaders who are hungry for power at that time, like Quezon and Osmeña.

My question is if elections under the presidential system of government has become so expensive that the presidency can even be bought nationwide, isn't it logical to suppose or assume that it will be much easier to buy the prime ministership because they have only 300 or more parliamentarians? I have been asked this question in our discussions in Davao because I was also inclined to parliamentary system of government. I cannot effectively answer that. Can you please reply so I can relay your explanation, your answer to our people in Davao and Mindanao?

COMMISSIONER GARCIA

A political writer once said that legislation should be based on hopes rather than regrets. The members of parliament elected from the respective constituencies are supposed to be people of character, people of competence. And so... and they are nearer to their constituencies, so that if they allow themselves to be bought, they cannot face their constituency. The prime minister is supposed to be first *primus inter pares*, first among equals. And besides under a parliamentary system, we can build up and I think inevitably it will evolve in strong party system. It is party responsibility not personal responsibility. So I do not suppose that the members of parliament will allow themselves to be bought.

COMMISSIONER ABARICO

That is in theory Commissioner, what is the reality? Thank you.

COMMISSIONER APOSTOL

Commissioner Amin is recognized.

COMMISSIONER AMIN

Before I ask my question to the honorable Commissioner, I will lay my predicate. First, the Supreme Court nullified the P1.246 billion vote-counting automation contract with the Mega Pacific Solutions Inc. It was adjudged by the Supreme Court to be onerous on the part of the government. We lost money here. Second is the nullification by the Supreme Court of the contract between Manila International Airport and the PIATCO. We know that the PIATCO, according to the Supreme Court, the construction of the Ninoy Aquino International Airport is ineligible bidder. Now we lost money here. There is an alleged graft and corruption according to some people. Now, the third is the nullification by the Supreme Court of the AMARI contract. This is a joint venture agreement between the Public Estate Authority and the AMARI Coastal Bay Development Corp. We lost money here also. Now these are the 3 main major cases solved by the Supreme Court. Now, I would like to ask the Honorable Commissioner, can we recover this money if we establish and put up a parliamentary form of government? Can we hold these individuals or persons culpable or liable and give punishments thereto, Mr. Commissioner?

COMMISSIONER GARCIA

First, regarding the automation, the very costly automation -- if we go parliamentary we do not need automation because the elections will be confined in a small constituency. We don't have to count the votes nationwide, but only in a small constituency.

Now regarding the other question whether this money can be recovered, I believe we can recover because we have our normal or usual lawful process. These crimes will not prescribe in 20 years; so the prosecution can still be instituted against the persons responsible for these anomalous transactions.

COMMISSIONER AMIN

Well if that is the case, then we will have to shift to parliamentary instead of the presidential system of government.

CHAIRMAN ABUEVA.

Our next interpellator is Commissioner Mayor Sarmiento.

COMMISSIONER SARMIENTO

As the soldiers on the ground, based on our experience, there are so many bills filed by our Representative in Congress, in relation to his sponsorship for a national high school or other state college for that matter. Normally, it passes the House so fast, it goes to the process of first, second and third readings. But when it comes to the Senate, we always encounter some problems, especially coming from the region. And the last time we had a senator probably it was way back during early 1960's and nobody is there to represent us. Do you think in the parliamentary form of government, things will be a lot faster, especially the local bills filed by our representatives once there is a shift to parliamentary form of government?

COMMISSIONER GARCIA

Certainly. Because, I think what has been proposed is a unicameral Parliament so that it does not have to go to the Senate. Actually, the Senate is not doing any legislation right now but investigation. They, of course, approved 5 bills, according to the Senate President important bills, but the House I think approved more than 2,000 bills.

COMMISSIONER SARMIENTO

Mr. Commissioner, do you think that the relationship between the executive branch and the legislative branch if it's going to be merged will greatly improve and the departments will be able to fast track the implementation of the programs they would want to implement in the central government?

COMMISSIONER GARCIA

Certainly, of course, the idea of separation of powers was expounded lengthily by Montesquieu in 1780. It was in reaction to the absolutism of the monarchy. So they do not want to concentrate power in one man; they have to divide the powers into three, separation of powers, checks and balances. But that proved to be ineffective. It was counter-productive.

COMMISSIONER SARMIENTO

Thank you.

COMMISSIONER APOSTOL.

Next interpellator is Commissioner Lim.

COMMISSIONER LIM

Thank you Mr. Chairman. To Commissioner Garcia, maybe... It's sad that our nation is already myopic in its way of looking at things. I think it's worse that we will promote more myopic ideas. My question would be, don't you think that, first on the issue of it being costly, the presidential, don't you think that if we desynchronize it, it would be cheaper because the issue really why it is costly is lahat ho kasi ng election natin nakasakay sa ibang national and local officials natin. Number 2 ho, with the issue of it being non-receptive or not dynamic is because of the party system. Don't you think if we strengthen and just revert back to the two-party system that a lot of these things would be cured?

COMMISSIONER GARCIA

Whether you synchronize or not, a national election is really very expensive. In fact, the synchronization will distribute the cost; if you desynchronize, it would be just as expensive. Now, your second question is about?

COMMISSIONER LIM

With regards to the strengthening the two-party system, just like...

COMMISSIONER GARCIA

Precisely, a strong two-party system will evolve naturally if there is a parliamentary system in our country.

COMMISSIONER LIM

It promotes multi party, the parliament.

COMMISSIONER GARCIA

Right now under the presidential system, the president is very powerful so that if after every election, practically all the congressmen will gravitate towards the President. They belong to another party but they will join the party of the President. When President Macapagal was elected, the congressmen were Nacionalistas, so what happened, they joined... In the parliamentary system, there is stronger attachment to the party because if you are not carried by the party, then you have no chance of winning. You have the entire machinery of the party behind your candidacy.

COMMISSIONER LIM

Mr. Commissioner, in the local, the congressmen today, a lot of them, do not subscribe to the party, as a matter of fact, a lot of them were on their own and the party is secondary it is the reality...

COMMISSIONER GARCIA

Under present conditions, we do not have any political party to speak of. It is only a name, even in Congress. Now, they say you belong to this or that party. A parliamentary government is a party government responsible to the people.

COMMISSIONER LIM

Last question Mr. Chairman. In the event that we have achieved the strong party system and you have everything strong, what would stop them once they have absolute power? What would protect the Filipino people?

COMMISSIONER GARCIA

Again, again, again. This comes back to the question that we should not always fear beat the worst. If the power is exercised for the common good, what's wrong with it? Like our 1987 Constitution is a reactionary constitution; reaction to martial law, there is a provision there, which I believe is senseless or even nonsense. The President declares martial law and Congress can revoke it. The President is possessed of information, which the Congressmen do not possess. So he declares martial law on the basis of that information. There is an invasion or there is a rebellion; the President declares the martial law. And it is being debated in the Congress whether to revoke it or not. Now, this is in reaction to the martial rule of Marcos.

COMMISSIONER APOSTOL

Thank you very much Commissioner Garcia, the father of the governor of Cebu. The previous speaker was the mother. Now we will have another father of the governor as the next speaker, Commissioner Gerardo S. Espina, Sr., because the governor is the junior.

COMMISSIONER ESPINA.

No, the governor is not my junior, the congressman is. Thank you, Serge. The last point of Commissioner Garcia, I fully agree. This constitution was in reaction to a sad experience under Marcos. It does not necessarily however, make the system wrong. Perhaps we can just introduce amendments to every provision that has not contributed to the faster development of our country.

There have been arguments presented; I was taking notes while listening. One very striking is that in the presidential system it is very expensive because you have to campaign in every town, every province, every city if possible, but really not necessary; and that the parliamentary system is less expensive. I will use the same arguments I used in the 1972 Constitutional Convention. Pepe was there, he was our Secretary General. I said that the parliamentary system could be the most expensive. Why? Do you think a Prime Minister candidate will not financially support his every district candidate? He will have to. This is true in all parliamentary systems.

Next question, will the Prime Minister candidate be assured that he has the majority and therefore will surely win as Prime Minister? I say no, events can happen in between, so there is a possibility of second level of expense in the election of the Prime Minister from among the members of the Parliament. Is that the end of the expenditures? No sir, because of the provision that the Prime Minister can dissolve and because the members of parliament can vote a lack of confidence on the Prime Minister. The Prime Minister is everyday insecure. It happened in France, in the Fifth Republic. It happened in Italy where our speaker yesterday, Nachura, said that in Italy they had elections every 2-½ months and in France they had several elections in more than one year. We have Koizumi of Japan recently, when his reforms were not accepted by the Parliament, he dissolved Parliament and in order to assure his victory he took movie actors, TV hosts as candidates. So where is the argument that in the presidential system it is highly personalistic and not issue-oriented?

So there's the constant possibility that there is constant buy. In other words, in the 5 year-term, everyday you may have to pay a political debt. Especially on the basis of history, human beings in the early days, governments were formed to establish primarily only order. But as men and people increased, and as they became aware of the needs of existence and as they developed values and religion, no man has become an island, even then, more so now. We are under influence by need for money, need for power, need for security, need for safety. My God, we can imagine the pressure on the Prime Minister, on every member of the Parliament. So I say there is greater danger of more expenses in the parliamentary system.

It was mentioned earlier that "but this is normal that we develop something new;" but why not just improve on what we have rather than completely throw it away? It has been argued that in a presidential system, because of the system of popularity and name recall, qualifications and capability of candidates become of no significance. I say as someone said earlier we have failed the system, the system did not fail us.

It has been argued that the parliamentary system is more responsive because of the system that the Prime Minister can dissolve the members of Parliament.. and therefore they have to be program-oriented. It can also be true that under a parliamentary system, a party can control the country for 40 years or more. Japan more than 40 years, India, Malaysia and many others. So here you have two extremes. You have a parliamentary

system, which can be dictatorial at mahirap alisin dahil marami ang kakausapin mo, yung leaders ng partido; and a one-man dictatorship, natanggal natin kaagad si Marcos the moment we decided to really get him out. Again I say we failed the system.

Another is difficulty of removing the President, the same argument, potential of difficulty of removing dictatorship of the ruling class, the leaders of the members of the party. They would just decide among themselves, "o ikaw ngayon ha, after 6 years ako naman." It is now happening in parliamentary countries.

They say that let us have a symbolic President, my God, ang sabi ko if we really want to change the system bakit pa natin lolokohin ang tao, lalagyan natin ng symbolic President wala naman tayong tradition nyan? Only because we want to get the votes of the people to approve our proposal? Then convince me to become a supporter of the parliamentary and I will go all the way, let us remove the symbolic President. We don't need it and I will go for parliamentary system, but convince me. Presidential, that is youth-oriented, is it the fault of the system or the fault of the leaders and of the people. Again we failed the system; the system did not fail us.

In the presidential system, the parties are weak. And according to my kababayan Pabling, a parliamentary system develops a responsive two-party system. I say no, look at what is happening in Germany, ilang partido sila, they could not get an organized government. They're trading, nag-uusap-usap, horse-trading, sino ba, si Marcel ba o si Schroeder, or could it be somebody else because of the horse-trading? In Switzerland recently, one of the national leaders disagreed with the government; he resigned and says, "I would run against the present government." They belong to the same party, so again another possible defect in the parliamentary system.

Pabling says republican form of government is not necessarily presidential. I say neither is parliamentary. For republicanism primarily is representative government. When Aristotle said we have become too lodged we cannot govern ourselves directly. Let us elect representatives, our voice, because we have become too many. Now, in the Philippines we are increasing at the rate of 2.3% every year.

Pressure on providing jobs, health care, social services, education has become so fundamental, so serious, we should, instead, to my mind, focus on economic reforms. I am for opening and liberalizing our economic provisions in the Constitution. I am for allowing foreign ownership. Hindi naman madadala ng foreigners yung lupa. The arguments I have faced on several debates all over the country, that if we allow foreigners to own lands, mauubusan ang Pilipinong walang lupa para makapagpatayo ng sariling bahay. I say, hangga't walang pagkakataon sa hanapbuhay, hangga't mahina ang pagkakataon para kumita, walang Pilipino na ngayon ay hindi makakabili ng lupa na makakabili ng lupa kung sya'y walang trabaho. I say we should open possibilities for more investments in mining, in natural resources. And again my purpose is let business grow and everybody will grow. Shut the door of some fundamental segments of the society and you close the door for everyone.

Isa pa, they say that Marcos was a dictator in a presidential system. We elected Magsaysay, we elected Quirino, we elected Quezon, and we elected several other presidents. Isa naging dictator and we say condemn the system. I say simply correct the system. Remove certain areas that could promote dictatorship to grow in a national leader.

I will not share in the benefits of retaining a presidential system. I am 70 years old. Perhaps I will repeat, there was a time I dreamed when I was in Boys' Town orphanage that someday I might become President, because that is the essence of democracy. But now, I don't have any.. The most I had dreamed before was to be a Mayor of Manila because I was once a ward of Boys' Town, which was funded by Manila. My first government job was laborer-helper; I used to clean the table of Congressman Martin Isidro and several others. But God was kind. Pepe, I owe a lot, Abueva -- he was my thesis adviser. I wrote my thesis in 3 weeks and it was satisfactory to him. And when I was in the US, I had the opportunity to teach at Orienta in New York, Alberta in Canada, but Pepe invited me to come back. Sabi niya, Gerry kakaunti pa lang ang public administration expert na nakakaintindi, come home. I had no reason to come home; I had no father, no mother, only brothers. My wife, also a complete orphan, was a CPA, a magna cum laude, a working student in Philippine Women's University. She had a good job in an accounting firm.. We had no reasons to come home. But I was thrilled, excited by the offer of Pepe. Filipinos help Filipinos, so I came home, and I thank him, because kung hindi ako umuwi hindi ako naging Congressman, hindi ako naging Assemblyman, hindi ako naging delegate sa ConCon. I would not be able to share this golden opportunity of sharing my thoughts with all of you.

I will say I am glad I was allowed to explain but I am a team player, I will follow the decision of the majority. But I will certainly fight what I suspect or suspected that we might be just here as instrumentalities of certain principals. I will not accept that. I have not accepted that in my life. When I was a delegate, people were asking me bakit hindi ka ikinulong kaparehas ni Capulong o ni Ernie Rondon. The President talked to me a long time the night before the voting on the bad Marcos resolution. The following day somebody talked to me to abandon my position to ban Marcos and his family from running under the new constitution. When I voted I said, "You know it's a matter of belief," it could be Aquino there, it could be Laurel there, I would still vote in favor of the bad resolution. I am willing that under the new Constitution no one who holds tremendous power be allowed to run.

Pabling said hopes and regrets. And yet we are acting on regrets or tend to appear to be acting because of regrets. I had a talk with one very powerful man here.. [*Bell rings*] I kept three minutes of my questioning on two presentors with reservation that these be added.. that was a parliamentary strategy that I learned in 19 years for being in the elected position. Thank you..

And, a few weeks ago, tremendous crisis, I was asked, "Gerry what do you think?" I said, "Ma'am my study of political science, behavior research, shows that the strongest motivations are to hope is one and learning back is one." Bahala na ho kayo kung anong.. So I say, let's have hope. I pray to God that the mistakes and fears, and whatever we have committed under the presidential system ay wag naman mangyari under a parliamentary system. There is a concept in social science and sociology on the revolution of rising expectation – "let us not raise the hopes of the people so high, that when we are not able to fulfill, the regrets and frustrations will be deeper; we might not be able to influence their action." Thank you.

COMMISSIONER APOSTOL
Commissioner Matula is recognized.

COMMISSIONER MATULA

This is a question to Commissioner Gerry Espina. Commissioner Espina, I have been looking at the World Bank 2006 report and it was published I think in Business World last September 21, and it was shown there that for some Asian countries, the Philippines and Indonesia there is a glaring inequality. And with respect to the Philippines, only ten families control about 52.2% of the wealth of the nation; while in Indonesia the top ten families control about 57% of the wealth of the nation; while with the other countries in Asia, the top ten families control only below 20% of the wealth of the nation. And I did some research; I found out that the other countries in Asia have a parliamentary form of government, while the Philippines and Indonesia have a presidential form of government. What can you say about this?

COMMISSIONER ESPINA

About 45 years ago when we were under the presidential system, the Philippines was second only to the United States in development.

COMMISSIONER PATERNO

To Japan.

COMMISSIONER ESPINA

To Japan, thanks to Ting Paterno -- he was at the helm of our industry. And we were together elected as members of the Batasang Pambansa representing Metro Manila. And that is why Ting, I have to be honest, I was quite sad when I told you my concerns about parliamentary system. And I said perhaps what we might adopt is an improved parliamentary system under our time but more power to the President, just like France or perhaps even Egypt. And Ting, I always tried to be honest and open and you told me "Gerry eh Marcos yan." Marcos died long ago. Let us be hope-oriented, perhaps even creative to the extent of coming up with the political system that is primarily Filipino, the mixture of the presidential and parliamentary but more on the presidential power, but adopting a fundamental feature of the parliamentary system which is, the members of the cabinet should be from the elected members of the Parliament or Congress or assembly, so that they will be able to develop political accountability among the cabinet members because they will have to face election.

Unlike now, where a cabinet member can be as corrupt but because he does not have to run for election, basta gusto ako ni Presidente, ok lang. That is one weakness that I want to remove, maybe a marriage of the two.. but more powers to the President rather than what has been presented and what has been mostly presented that more powers on the Prime Minister and less on the President, which is nationally elected. Huwag na tayong mag-elect ng national President, Prime Minister na lang, okay, then I might be convinced. But you know if I can win just one in this to join me, I shall have improved my position 100%. Who knows I might even get more than one.

Even when I was at the University of Oregon, the spokesman of the Supreme Court was with me, and there was an election of student officers and there was one position, Senator at Large elected by all the students. There were senators for each departments and congressman for the class years. I filed my certificate for a candidate of the Senator at Large, I was called by the Dean of Student Affairs, "Mr. Espina, I have your certificate, are you serious?" Sabi ko, "of course, I want to test your democracy." Sabi ni Naskar sa akin, "Gerry, para tayong niloloko nito". I said, "Nas, when can we test how democratic America is?" And so I ran, and I put a big streamer at the center of the campus, "Gerry

Espina of the Philippines, candidate for Senator at Large, will be speaking here everyday from 2 to 3.”

COMMISSIONER APOSTOL

Please limit the answer to 3 minutes.

COMMISSIONER ESPINA

I am working on the hope concept of Commissioner Garcia. It was hope that drove me. And you know.. Naskar is in the Senate, and when I ran for Chairman of Executive Power Committee, nandoon lahat ng bigwigs -- 3 justices, 2 senators, Liwag, Vicente Cinco, Salvador Araneta and several other former congressmen and former fiscal. I was young; I was straight from the classroom.

COMMISSIONER GARCIA

You're still young.

COMMISSIONER ESPINA

...looking. And when Serrano spoke, Vicente Cinco talked to me, “Gerry, mag-withdraw na tayo, unanimous.” Nag-withdraw kasi siya as a candidate. Jun Davide talked to me in Bisaya, “Dong, withdraw na lang ta.” Sabi ko, all my life I lived on hope. And so I spoke there were 42 members, I got 32 votes, Serrano 12.

And so again, in this hall, if I get one more, 100% improvement, ano pa ang gusto ko?

COMMISSIONER APOSTOL

We could go now to the next interpellator, Commissioner Pedrosa.

COMMISSIONER PEDROSA

There are 3 questions I'll ask but they all refer to each other. My first question is “how long have we had the presidential system?” which can easily be answered. But related to that question is “Have we ever attempted to make the reforms that you are proposing during all that time and did they work?” And granting that they did not work as you can see all around us, all the defects that has made this country one of those backward in Asia, you still do not want to change the presidential system?

COMMISSIONER ESPINA

To be very, very detailed and particularistic, when I was elected, one of the first bills I filed, when we were in the Batasan was let us make smuggling a zero-sum game. Why? Why cannot we control smuggling? Yung nag-iismuggle, yun din ang bumibili sa auction mostly, alam ni Tony, ‘no. Sabi ko let us make it a zero-sum game, kasi 2 klaseng game yan e - multiple and zero-sum game. Sabi ko ipasunog natin yung mahuli na smuggled. Sabi ni Virata, “Gerry, mukhang malaki ang mawawala sa kaban ng bayan”. Ikako, short term lang yan, kasi ngayon yung nag-iismuggle pahuhuli sa dalawang shipment, makakalusot sa walo. Pero kung lahat ng mahuhuli, sunugin mo at hindi rin sila makakabili sa daan na nahuli..

COMMISSIONER APOSTOL

Commissioner Pedrosa is complaining.

COMMISSIONER PEDROSA

You are not answering my question, because smuggling is not a structural problem; that is a police problem, whatever. But the problem I'm trying to address to you is given the number of years that we have had a presidential system with a structure that way, have you ever tried to do some reforms and have they worked? And what you gave to me is smuggling.

COMMISSIONER ESPINA

Yes, yes, I did ...

COMMISSIONER PEDROSA

That is not, that is not related to the question.

COMMISSIONER ESPINA

I proposed that...

COMMISSIONER PEDROSA

We will have problems of smuggling even if we have a parliamentary government. What I'm saying to you is we are debating the structural problem.

COMMISSIONER ESPINA

I agree with you Carmen, that even in a parliamentary we can have smuggling.

COM PEDROSA

Of course.

COMMISSIONER ESPINA

But the reason I ran in 71 against all odds in Manila, against the candidates of Villegas, against the candidates of Bagatsing, against the candidates of Marcos, even, and against the candidates of Tolentino, is I have hopes that we can improve the constitution. But while we were debating I spoke in favor of reducing the voting age to allow greater participation in our electoral process. We were improving; we were debating then Martial Law was declared. So you asked me, did we try? I did. When I was elected in 1978, I did. When I was elected in Congress, I was the first one to file a resolution calling for amendments to the Constitution, including the adoption of a semi-parliamentary system. It was approved finally in my last term, but it sat in the Senate. 4 senators and 3 congressmen, we were in Singapore, we agreed na okay sa kanila, pero publicly they will oppose it, dahil ang sabi ko sa kanila, in Bangkok pala, alin ang gusto nyo mag-eelect tayo ng delegado and they will be completely free to change or at least kasali kayong mga senator. Inapura namin sa Congress, na-approve namin, pinadala, yung tatlo sa kausap naming tatlo, walang sumunod.

COMMISSIONER PEDROSA

Mr. Chairman, I still do not see him answering my question. Can I just say, a simpler question is: given the problems that we have in this country which come from the structure of the present system, his answer is not to do anything.

COMMISSIONER APOSTOL.

He's irrelevant.

COMMISSIONER PEDROSA

He wants us to continue to reforming an unreformable thing.

COMMISSIONER APOSTOL

May I request now, Mr. Espina...

COMMISSIONER ESPINA

Mr. Chairman, dalawa yung binanggit ni Carmen kanina, pangalawa itong irrelevant. I can even say all of us are irrelevant. Lahat ng gagawin natin dito, pag submit natin sa Kongreso, pag ayaw nila irrelevant tayong lahat eh. Pero may sinabi pa sya kanina, sa lahat ng nakita natin, we will be foolish if we will not change.

CHAIRMAN ABUEVA.

With the indulgence of Commissioner Espina, I just want to ask your permission, I have to go, and I'd like to ask our Vice Chairman to take my place.

COMMISSIONER ESPINA

Noted. Thank you. Does that mean that I will be on...

COMMISSIONER APOSTOL

You can continue, so that Carmen will not be complaining...

COMMISSIONER ESPINA

I want to hear more questions, baka makumbinsi ako e.

VICE CHAIRMAN ORTEGA.

Excuse me, Commissioner Espina, with my taking over the Chair, your rights are neither diminished nor increased.

COMMISSIONER ESPINA

I expected that from you.

COMMISSIONER APOSTOL

May we now call on Commissioner Jimeno.

COMMISSIONER JIMENO

Mr. Commissioner, Commissioner Espina, in our present system of government the judiciary, the supposed third branch of the government, receives only a mere 0.9% of the national budget. It's even less than 1%. In fact, because of this, it has spawned so much corruption in the judiciary.

There's a slow pace in the movement of the judicial processes, because there are many vacant salas in the courts, and the judiciary does not attract the best in the legal profession. And we know for a fact that this is because the judicial branch does not have as much bargaining chips, as does the legislature and the executive branches. They horse trade with one another, which the judiciary cannot do because it has nothing to offer to these 2 branches of government. My question is this, if we maintain the present system of government which is presidential, do you think there is any hope of distributing the resources of this government, of this nation more proportionately than it is now?

COMMISSIONER ESPINA

As I quoted Mabini, he said, "we need intellect." More rationality in the minds of the legislature and then more will in the executive. And the judiciary, like you said, suffers to be able to be the conscience as Mabini said because of what you described. This is true not only in the judiciary.

How about our teachers? You know our teachers are subject to 10% every month sa mga loan sharks. So what has been the result of our educational system? Our DAR beneficiaries get the lot, but no money to buy carabao, no money to buy fertilizers. They borrow from the manic, bibigyan ng 1 sakong fertilizer, to be paid with 5 sacks of palay that is more than 20% mark. Do we need a constitutional amendment for that? Do we need to shift from presidential to parliamentary? I say no.

COMMISSIONER JIMENO.

May I comment to that -- in our present constitution, the President is vested with a power to appoint all the judges. Our present constitution also does not give a budget to the judiciary; unlike in the proposed parliamentary system where budget can definitely be given already, it can be stated.

The constitution also says that there has to be a judicial and bar council, which will nominate persons to the judiciary. And the Judicial and Bar Council is composed of some members of the judiciary of course, there is also the Chief Justice there and representatives of the IBP. But what I am saying is the process of appointing judges is also political and so we don't get really the good ones. And not only that, we don't attract the good ones because of the very low budget. I think there is a need to change the constitution for that.

COMMISSIONER ESPINA

I agree, I plead guilty. I was in favor of the creation of the Judicial and Bar Council; I was in favor of creating a national police because at the time in 1972 there were certain areas in the country where walang media, walang telephone, so a Mayor who controls and supervises the police could be as dictatorial as he can be, walang nakakaalam. It's not the same now. Ngayon eh, what happens in your area the following day you see it on television.

So I say I made a mistake. Let's go back to the control of the police by the local officials, increase their salaries. I say we abolish the Judicial and Bar Council because it did not achieve what we thought it would achieve. Just like Pabling said, let's hope that you don't get all the hopes you pray for. So what happened, the Judicial and Bar Council, and I say this in the pamphlets that I have been distributing since 1987 when the plebiscite of this constitution was presented to the people. We have members of the Judicial and Bar Councils who are 80+ years old and there are even judges na sila-sila na lang ang nagde-decide kung sino yung isa-submit sa Presidente. Especially because nawala yung authority ng Commission on Appointments sa mga appointees, so wala nang political accountability ang mga nagrerekomenda sa pagkahuwes at justice sapagkat, sabi nga nila mafia na yung pagpipili ng recommendation ng Judicial and Bar Council. I'm sorry to use the word, no but what I mean to say is medyo sila-sila na lang. So I plead guilty to that and if we can amend the constitution, I will amend it along these two lines. It's in my proposal.

And that's why I said na huwag natin pag-usapan yung form. I agree with Professor Magno, let us be diagnostic, tingnan natin yung provision isa-isa, tingnan natin yung mali, baguhin natin yung mali, then we have an overview on it, and let us integrate ano yung mga kinorek natin, ano yung mga maling tinanggal natin. Maybe it will turn out parliamentary, maybe it will turn out mixed forms, maybe it will turn out still presidential. But I feel strongly we could have improved on our work because especially we have only up to December 15 and Congress may over take us.

COMMISSIONER APOSTOL

Your 3 minutes in answering is up. May we recognize now Commissioner Seno.

VICE CHAIRMAN ORTEGA.

May we thank first Commissioner Espina for that very enlightening peroration on the advantage of retaining the presidential system although it was short of convincing me. But it was a very nice presentation. Thank you, Commissioner Espina. Now we'll have the next speaker.

COMMISSIONER APOSTOL

No. Interpellator, your honor.

VICE CHAIRMAN

May interpellation pa?

COMMISSIONER APOSTOL

Yes, we still have interpellators. 2 more, Commissioner Seno and Commissioner Leviste.

VICE CHAIRMAN ORTEGA

Okay.

COMMISSIONER SENO

Commissioner Espina, we have been under this presidential system more than a century. We had traveled so long, we have undergone so much experiences and perhaps more wisdom. At the present time, where we are now, we are grappling with this constitutional gridlock and the marching and the chaos in the streets.. Under the present system, what could be the solution to this crisis that we are facing now? Can the presidential system address this? If it can be, why is this not being done now? We're just asking, so that we can point to the leaders in government what is wrong. Is there a failure of political will, I would like to know?

COMMISSIONER ESPINA

There is a saying, which goes like this: a river cannot rise higher than its source. They always look up and blame the leaders. Do we ever ask ourselves how we exercise our right or duty to vote? You are in labor, Commissioner Seno. From the time I was elected I introduced a bill to amend the law on probation, kawawa yung mga probationary workers. For no cause, basta within 6 months, they can be removed. I wanted to include them under the group na kailangan may cause. If they are not removed within 6 months for cause, they become regular. Donald Dee was invited. Management group did not object, they supported my bill, if you remember you were still.. the Labor group supported my bill, everybody supported my bill, and I was so happy. I even brought it to the Senate, it so happened that the Chairman of the Labor Committee who was an

industrialist, died. You know getting into politics, do you think it's easy? It's frustrating. And if you do not have the persistence you will not continue. But again as Commissioner Garcia said we should not lose hope. Maybe this is it; maybe this is the hope, or at least an initial step to hope. Yes, it can be improved in the system.

COMMISSIONER APOSTOL.

Thank you very much Commissioner Espina.

COMMISSIONER AMIN.

Mr. Floor Leader, we have one very short question.

COMMISSIONER APOSTOL

Nag thank you na tayo.

COMMISSIONER AMIN.

This is about the Judicial and Bar Council.

COMMISSIONER APOSTOL

May I hope for a 5-minute recess. We have to more presentors.

VICE CHAIRMAN ORTEGA.

How many more presentors do we have?

COMMISSIONER APOSTOL

Two more.

VICE CHAIRMAN ORTEGA

I have here in my list only one more, that's Commissioner Azurin.

COMMISSIONER APOSTOL

Magno is around. Magno is supposed to be the first presenter but he was late.

VICE CHAIRMAN ORTEGA

So he will be the last.

COMMISSIONER APOSTOL

Magno will be the last.

VICE CHAIRMAN ORTEGA

Okay. Five minutes recess for personal necessities.

[The session was suspended and was resumed shortly thereafter.]

COMMISSIONER ORTEGA

The session is resumed. Mr. Floor Leader, who is the next speaker?

COMMISSIONER APOSTOL

Mr. Chairman, the arrangement that we have is Commissioner Azurin and Commissioner Magno. They will present their papers and then interpellation will come after the two...

VICE CHAIRMAN ORTEGA

You mean they will speak one after the other before interpellations.

COMMISSIONER APOSTOL

Yes.

VICE CHAIRMAN ORTEGA

Okay. So, Mr. Commissioners, please take your seats. Session is resumed. Our next speaker is Commissioner Azurin.

COMMISSIONER AZURIN

Thank you, Mr. Chairman. This will be very short. I will only make three points. Yesterday, I think this article was distributed to everybody. This piece that was distributed was written in response to the move to raise taxes and not in connection with the move to change the form of government. However, I am offering this as an input in considering the form, the structure and the functions of government within the effort to amend the constitution.

The three points that I'd like to make are: first, that the problems that the country face are principally the result of government failure. The most visible and obvious sign of government failure is the fact that anything that government builds is overpriced and anything that it operates, and the service that it operates is inefficient. But that is not the only sign of government failure. The government's failure is also reflected in the fact that the decisions, actions and policies of government are often not in the public interests and do not contribute to the overall welfare. In other words, the government does not do the right things. That's the first point I'd like to make.

The second point is that the reason that there is government failure is because politicians control government. Politicians represent special narrow interests. As many studies done by economists and researchers in the area of public choice, these decisions and actions of public officials are driven by the motivation to first, get elected, and second, to stay in power once elected. Now consequently, the decisions and actions and policies that we would expect from politicians will not necessarily, and will often not reflect overall public interest. Now, I often tell my students in strategy that in analyzing a situation, they should first understand the conditions that are changing, second, understand the distribution of power, and third, understand the motivations and real objectives of the players, which leads me to the third point I'd like to make.

The approach, I think, to dealing with the problem of government failure is to limit the power of government, meaning to reduce functions and to minimize the prerogatives of government and government officials. The rationale for this is that if you can see that politicians harm us by the decisions they make, which are made to favor narrow special interests that they represent, then we limit the harm that they can do by limiting the area within which to make those decisions. For example, we would like to minimize regulation of businesses, and the various interventions that government officials make into the economy. Now, this is not a brief for either the presidential or the parliamentary system. What it is a brief for is for less or limited government regardless of the form. My concern is the distribution of power. And basically, what I am saying is that the distribution of power will affect the decisions of government and government officials. My concern with the parliamentary system has currently presented, has currently described in the various

drafts, is that it allows too much concentration of power. It results in a government wherein the politicians who control the government are more powerful than the politicians who are now in control of this government.

And I am concerned with the possible abuse and the possible misuse of this particular power. So essentially, my bias is for a dispersal of power rather than for a concentration of power. And basically, my approach to this is to limit the functions of the government, reduce the prerogatives of government officials, and thereby limit what they can do. In other words, limit the harm that can be done to us, the public.

Thank you.

COMMISSIONER APOSTOL

Commissioner Azurin opted to answer interpellations now rather than wait for the presentation of Commissioner Magno. So we will now recognize Commissioner Garcia.

COMMISSIONER GARCIA

Thank you. Considering that all of us here, I think, believe that the people should be the source of power. Sovereignty resides in the people and all government authority emanates from them. But since the people, as a whole, cannot govern themselves directly, they have to establish a government composed of their chosen representatives. That is a Republican form of government. And the choice of the people who run the government must be in accordance to our traditional practice, election. And when there is election, there has to be politics or the art of government. By the way, I realized that the word politicians became a bad word for some people. But politics per se is not bad. It is the art of government. So when you say that "Let us remove the influence of politicians in government or limit the influence of the politicians," that would seem to be in contradiction...

COMMISSIONER APOSTOL

Question, please.

COMMISSIONER GARCIA

My question is in what way will you limit the influence of politicians in government that is established through politicians?

COMMISSIONER AZURIN

First of all, I don't recall saying anything about eliminating politicians. That is a given. If we are a representative democracy, we naturally will have politicians. The point that I was really making was that if we are going to create a structure, and we recognize that in fact, in the context of what was presented was during the second day as to the structure of the Philippine society, 8-9% control most of the wealth, and you have 91-92% who are poor. Naturally, it is the 7, 8 or 9% who will control political power and control government. This is again given. Let us be realistic about power relations here. Now, what I am saying is that necessarily, the people who will get elected will be those who belong to this particular narrow sector and they will naturally tend to represent that particular sector.

Now, in creating a structure, I think what we should be conscious of is that we do not allow, where we can limit, we do not allow politicians too much leeway so that they will have the potential to abuse the power that has been granted to them by the electorate.

COMMISSIONER GARCIA

That is precisely the problem. Who are these politicians you are referring to? Whose influence you want?

COMMISSIONER AZURIN

Any politician.

COMMISSIONER GARCIA

So any politician?

COMMISSIONER AZURIN

I am talking about, in the effort to create a structure of government, we will necessarily define the functions of government. What I am saying is let us focus on the functions of the government. We can limit the functions; we can limit the prerogatives of public officials, government officials, so that the potential to do harm is much less. For example, why are there such large amounts of discretionary funds, which is.. why is there pork barrel, why is government allowed to do certain things that it need not do? Please read the paper on the article I wrote.

If we limit what the government does, then we can limit the harm, the potential harm that can be done. And perhaps many of the functions that the government is currently doing can be done by the private sector. And I submit that it can be done more efficiently, more effectively done by a private entity subject with the competition of the market place. As a simple example, look at all the government corporations, they are all bleeding public money. Why is that? Because they are not efficiently run.

COMMISSIONER GARCIA.

All expenses of government are appropriated by law. We are a government of laws. Therefore, any expenditure is in accordance with law. The question is, who make the laws? The politicians. So how can you eliminate? I want your comment about this because I am getting lost. Not lost in the translation, but lost in the process. Anyway, thank you very much.

COMMISSIONER AZURIN

One sentence answer. It is my hope that the work of this Commission will lead to some change in that direction. I don't know whether that is possible or practical to believe. Perhaps it is completely optimistic, I don't know. Clearly, I do not believe that it will be done by the current politicians left to themselves. This is why I am saying that my hope is that this Commission will propose something that will somehow or some of it gets adopted. But as I have said, that is probably an optimistic belief.

COMMISSIONER GARCIA

Thank you for that but I think that our work here however will motivate it and I believe that all of us are. We will submit it to Congress, and we will not achieve what we recommend unless Congress will approve. And the Congressmen and many of the Senators are all politicians.

COMMISSIONER APOSTOL

Ok. So we now recognize Commissioner Amin.

COMMISSIONER AMIN

Mr. Commissioner, is it my impression that you are not adopting any form of the governments mentioned? Like for instance the presidential form of government? Or the parliamentary form of government? Or the federal form of government? You are saying about the taxes imposed.

COMMISSIONER AZURIN

No. As I have mentioned earlier, although the paper was written in response to a tax, I am submitting it as an input because of the discussion in terms of amending the..

COMMISSIONER AMIN

If you are speaking of tax....

COMMISSIONER AZURIN

Can I answer your question? What I said was that this is not a brief for a particular form. I can go either way. What I am saying is that whatever form it is, what is crucial for me is that the power of government and the power of government officials is limited in the functions thereby preventing the harm that politicians who have a lot of prerogatives can do. So what I am saying is we can craft any system here, what is crucial for me is that the power of government is limited. And that is not necessarily a function of one form or the other. From the beginning, as I have mentioned my concern is the parliament currently presented, in the proposals currently presented, is that the concentration of power has no checks. It has no way of checking the abuse of power.

COMMISSIONER AMIN

I would like to ask you if you are in favor of a plan of rationalizing tax holidays. You are talking about taxes given to investors and exporters.

COMMISSIONER AZURIN

That is a very general question, it will depend on the.. But like what I have already said, I am for open markets, less regulation, less intervention, no barriers to entry.

COMMISSIONER AMIN

What about the constitutionality of the e-vat? The Supreme Court has already decided on that matter. It is only a matter of motion of reconsideration.

COMMISSIONER APOSTOL

That's why I am interrupting because it is sub judice. Let us not be talking of sub judice matter. It is now pending with the Supreme Court. Another question?

COMMISSIONER AMIN

Well, he has not answered about the tax holidays, whether to rationalize or erase completely the tax holidays given as incentives to investors and exporters.

COMMISSIONER AZURIN

As I said, a specific tax holiday or a specific tax measure has to be decided on its own merits. As I have said in general, what I am for is a completely open market, no barriers to entry, no government or very little government intervention. So any tax measure proposed that is in line with this, I would be in favor of.

COMMISSIONER AMIN

Okay.

COMMISSIONER APOSTOL

Our next interpellator is Commissioner Sarmiento.

COMMISSIONER SARMIENTO

I just wanted to ask what politicians is he trying to address because we have the central government and we also have the local government units. As the representative of the League, it would be very hard for us to just generalize everything. Because the statement that you used politician intervention but with the paper you wrote, yes, I agree with less government. But when we say "politicians" that includes us. Now, I would like to take this opportunity to share to the members of this Commission what the Local Government Units have been doing in this country. You try to look at the records of the Galing Pook awards, so many government units are coming out with so innovations. Instead of working for the people, they are now working with the people. Our city has won and so have the other cities, municipalities and barangays in this country who were able to come up with so many programs. That is why I would like to ask what particular politicians are you trying to say - is that the central government politicians or the local government politicians?

COMMISSIONER AZURIN

It exempts all present company.

COMMISSIONER APOSTOL

Commissioner Jurado is recognized.

COMMISSIONER JURADO

I agree with the general principle being initiated by Commissioner Azurin that the government limit its functions or its attention to certain matters that are clearly belonging to it. Now, where I disagree is where he brings in reference to politicians. To argue that government should quit a large part of the market in which it is now participating is not to argue against politicians because even that minimal size government will still have to be run by political leaders. Therefore, for example, the question of corruption, as far as participation in a scope of government is concerned, that only represents wastage. It does not mean that the leaders are corrupt. Perhaps they are, but that is not the indictment of that system. The indictment is that instead of spending only one hundred pesos, it is spending two hundred. Therefore, an anti-corruption drive is always justified in any form whatsoever.

COMMISSIONER APOSTOL

Question.

COMMISSIONER JURADO

Mr. Chairman, I am very sorry but I am not really asking a question.

COMMISSIONER APOSTOL

We have only one speaker and that is Commissioner Azurin. Your turn is to interpellate. You deliver tomorrow.

COMMISSIONER JURADO

Mr. Chairman, what are you saying? I will stop now? That is okay with me. I still have a point to raise, but..

COMMISSIONER APOSTOL

You will have the floor tomorrow. Fifteen minutes. I will list you as one of the presentors tomorrow. Okay? We only have one presentor tomorrow, so now we will have two..

COMMISSIONER JURADO

I don't want to sound like lecturing, you know. But there are certain theoretical points that I thought have to be made explicit. Otherwise, we will be moving from one point to another. For example, our friends who had been our political leaders are feeling slighted or eluded to, which is incorrect. But incorrect only because the presentation of Commissioner Azurin implied that they are guilty. Not necessarily.. Small government does not mean that the politicians are meddling. No! It only means that the government is entering into activities in which it has no business entering.

COMMISSIONER APOSTOL

You are already debating. But anyway..

COMMISSIONER JURADO

Thank you, Mr. Chairman.

COMMISSIONER APOSTOL

May I call on the next interpellator?

COMMISSIONER ESPINA

Mr. Chairman, question to the proponent.

COMMISSIONER APOSTOL

We recognize Commissioner Lim.

COMMISSIONER LIM

Just one question to Commissioner Azurin. I also read your paper. Don't you think that between coming up with the limitation of the governance, whether it is for politicians or whomever, will it not be wiser if we just improve the checks and balances, as you have mentioned, so that there would be more protection rather than coming up with an environment of limitations? I think even this Constitution today, there are so many provisions that actually limit. That is why we always find a way, and as politicians, we always find a way to go around these limitations. So I think would it be better to just improve or enhance probably the checks and balance?

COMMISSIONER AZURIN

My answer to that is basically to say that I believe that if government doesn't have to do it, the government shouldn't do it. Principally because regardless of whether the government official or agency doing it is not corrupt or not, it will generally be done less effectively and less efficiently than if it is done by a private entity competing in a marketplace.

COMMISSIONER ESPINA

Mr. Chairman.

If I followed Professor Azurin correctly, you had the fundamental elements discussed. One is allocation of government authority or power, and the other one is motivation. What motivates leaders, politicians? Is this in fact the major thesis of the presentation, and therefore leading to a question as to -- should government share more power or should it reduce its intervention?

COMMISSIONER AZURIN

Could you repeat the specific question? Is it a major part?

COMMISSIONER ESPINA

I was listening and you mentioned about authority allocation and leading to should government exercise more powers or should it establish a little bit more of freedom to private institutions specially business corporations? And the other one is what motivates leaders to seek office and what motivates them to continue in office? These are central in your presentation.

COMMISSIONER AZURIN

Basically, what I am saying is that the politician is motivated first, by whatever his intention. He is driven first by the desire to get elected. Therefore, his actions will be consistent with this desire to be elected. Once elected his motivation is to stay in power. Thus, his actions and his decisions will be consistent with his motivation to stay in power. This is not to say that some politicians have less desire to stay in power than the others. There are of course individual differences and some may have more noble intentions than others. But basically, what I am saying is if this is the essential motivation, then the decisions and actions of this politician will be consistent with this particular motivation.

COMMISSIONER APOSTOL

Thank you.

COMMISSIONER ESPINA

I am sure, Mr. Chairman that the proponent is aware that in the United States, the basic political philosophy that separates the Republicans from the Democrats is practically on that central point of the use of government. For the Republicans, it is less government because the Republican Party was organized by businessmen. The Democratic party on the other hand, is the party of the middleclass, the party of the small businessmen. So when the American voters vote during the election, I would like to get confirmation from the proponent, kung gusto niya ng more government intervention, more social legislation, more laws to protect labor, more laws to protect the cultural minorities, he votes for Democratic party candidates. But if he sees that under a Democratic Party leadership, inefficient wastage of government funds, then he says let's elect a Republican President so that it will encourage business, it will encourage individual initiatives, and so on.. free enterprise.

Is this your understanding of that sharing of power or distribution of power?

COMMISSIONER AZURIN

Of course, there is that ideological difference between those who prefer more government and less – Republican versus Democratic. But that is not the essential point I am trying to drive at. Since we are discussing form of government, one of the things that is running through my mind -- because my struggle with the parliamentary system

has been that there is this fusing of legislative and executive power that is potentially very easy to abuse. Therefore, the struggle on my part is to find ways of saying, okay, if it's parliament, how do we check.. what are the mechanisms for checking this power? -- I understand the CMFP draft that their solution is to federalize and therefore disperse power. Of course, other alternatives are running through my mind. And one of these alternatives is to limit the functions of government therefore the potential abuse by the ruling coalition becomes less simply because you created a structure wherein they can only do this and not that. For me, this is a work in progress in terms of thinking about the form of government. And I am thinking of this limitation of functions as a possible way of checking the power of a ruling coalition in a parliamentary system.

COMMISSIONER APOSTOL

Commissioner Espina, your three minutes is already up. Thank you very much Commissioner Azurin. We are only allowed five interpellators. We have already six. May we call now on the next presentor, Commissioner Alex Magno?

VICE CHAIRMAN ORTEGA

Before that, we would like to thank Commissioner Azurin for his presentation.

COMMISSIONER MAGNO

Thank you Mr. Chairman. I have a thirteen-slide presentation just to discipline my own use of the Commission's time. I promise to be very prudent and economical with it. My presentation is an expansion of the point I tried to raise last night and as penalty, I was asked to present today. The point that I was trying to make is that the approach to a work ought to be with a diagnostic attitude and that the outcome or the report should be a diagnosis rather than a draft Charter.

Chartering the Future

The weakness of previous constitutions is that they addressed the past rather than the future. The 1973 Constitution tried to address what was wrong with our politics during the 60's and the '87 Constitution tried to address our problem with the '70s. We cannot legislate against the past. I think we should put that constantly in mind. Forget about it. We screwed up. Let's move on. And we should rather exercise our imaginations to build the foundations for a new future.

I will just discuss 13 concerns, one slide each. This is not a complete list but it is an example of the concerns we might entertain in considering what ought to be changed in the charter.

The first concern is the political economy of our elections, which I have been studying since 1987 but which I could not publish because I could not document my argument properly given the mysteries of electoral financing in the Philippines. The second is the composition of the political class; the cost of government; what I perceived to be the crisis of representation given the changes towards the 21st century; the accountability issue; the trend towards party disaffiliation; the problem of leadership recruitment; the problem of populism; and, the problem of competitiveness.

I don't know if it looks readable.

Electoral Financing

To run a major presidential campaign requires at least P3 billion or more. The record in the last senatorial campaign was a campaign.. well, this is of course not recorded in the Comelec. Everybody submits a proper legal expenditure statement. The last senatorial campaign broke all records when one candidate spent approximately a campaign kitty of P800 million. And another spent a campaign kitty of P700 million to become senator. A job that pays P35,000.00 a month. Most congressional campaigns need about P50 million. So that if we shift to a unicameral district base system, electoral financing will still be a problem.

Where does all these money come from? What are the implications of the electoral financing system on the nature of our politics? Is it sustainable? My position is that it is not sustainable unless the drug lords take over. It's a campaign financing culture that evolved during the time when we had a large, untaxed and undocumented plantation economy. So that the main sources of financing came from the plantation blocs – we had the sugar bloc, the tobacco bloc and in addition we have people lobbying for logging concessions, smugglers, minor gambling lords, etc. And money flowed from the periphery to the center, from the plantation owners through the two-party system to the center.

So that the political party was of central importance and in elections where the Senate, the political party basically chose marketable commodities, which produced Diokno, Salonga, Tañada, those sort of guys. Now it is reversed; we have Lito Lapid, Jinggoy Estrada, and whatever. The reason for that is electoral financing because electoral financing today goes through the presidential candidate, so that the first criterion for choosing a presidential candidate is bankability. Meaning, people will invest in it.

So when we have organized our elections need a large electoral bureaucracy and the system becomes vulnerable to fraud. We have to look at the informal and discretionary powers of elected officials as well as we consider this problem. Where I come from, a small town in Nueva Ecija, votes are bought for as high as P5 thousand each and a mayoral campaign in that small provincial town of 10,000 voters may require a kitty of P30 million per candidate. So there is clearly something wrong with the way we practice our democracy.

Understandably, much of that money that flows into the systems for electoral financing comes from the gray economy. I am using a euphemism. Every campaign manager and party treasurer knows that the bulk of electoral financing comes for that national elective office comes from less than a dozen major financing sources – dirty dozen lang yan if you mount a campaign. This is the invisible oligarchy of Philippine politics.

The main fundraiser is the presidential candidate. This is why all the political parties are shells of the past presidential campaigns. Everyone. Lakas is the Ramos party, LDP is the Mitra party, we have Danding Cojuangco's party, Miriam Santiago's party, although very small. The financing paradigm immediately entraps any elected President to campaign "investors" especially the dirty dozen - the 12 most important sources of campaign money, and therefore the 12 individuals who hold the largest amount of undocumented cash in the system. And as we make a recall on a more formal this system of electoral financing therefore becomes less and less viable. To save money, we filled basketball players, comedians, clowns and whatever.

The Political Class

There is, given this electoral pattern, a grossly inverse relationship between the extent of name-recall and the cost of waging an electoral campaign. Meaning the higher your name-recall, the less you have to spend. The political class is thus increasingly composed either of the extraordinarily corrupt or the inordinately glamorous. The inordinately glamorous soon become extraordinarily corrupt.

As the economy becomes increasingly formalized, there will be lesser sources of undocumented money available for electoral “investment.” And thus, the danger of narcopolitics becomes more imminent.

Whatever the form of government, the political class becomes less accountable under conditions where those seeking elective posts are, from the start, captive to electoral “investors.” This is regulatory capture at its highest form. The state, whatever form or shape it takes will be vulnerable to capture by the electoral financing oligarchy.

Cost of Government

The cost of government is the third issue. I’ll try to move at a faster phase to keep within my time. The devolution of power after the Local Government Code was enacted, doubled the size of the public payroll. So the public sector payroll is now at about 1.6 million where it used to be at 800 something thousand. That’s because the IRA is used as a.. some sort of a charity fund to create useless employment. Federalism could potentially lead to fiscal chaos, if that same logic continues. I came from a meeting over the weekend, which is why I was absent on the Economic Freedom Network.. There’s this brilliant insight by a South African economist, he said that the real economic miracle in India is that government was able to keep a billion talented and energetic people extremely poor for a century. The same could be said about us.

The iron law of any bureaucracy is to expand its turf and enlarge the volume of the social goods it is capable of wasting. With over 80% of total public finances going to personnel services and overhead, there is little available for capital outlay. So that government becomes a mechanism for wasting capital.

The fiscal needs of government have forced the public sector to compete for scarce capital resources. You know today that we have converted our direct borrowing into bonds, and the bulk of those bonds are purchased.. what we call the ROPs – the Republic of the Philippines paper that is purchased by Philippine banks. So that there’s less capital available in the market because government needs the money to pay a bloated payroll. Government, therefore, has become the main source of our underdevelopment. It has made capital inaccessible and the cost of money high.

At the same time, it is unwise to enforce fiscal discipline as a constitutional provision... We will not constitutionalize the problem. We must recognize that the immense capacity we have to waste our resources is a design problem. And reviewing the Constitution involves a matter of solving that design problem.. except some hoity-toity debate about federalism or the parliamentary form. We have to solve the design problem first otherwise we shift to the federal form tomorrow, we triple the size of the public payroll.

Representation Crisis

We are confronting as well, I feel, a representation crisis. We followed the traditional model for representation. And that traditional model is a function of an inferior cybernetic environment. The word “parliament” comes from the French word parler which is to speak... a parliament is literally a talking shop and it was a device that was invented at a time when people had to walk from their localities and assemble in a single place to enable a conversation. That is not true anymore. So the model for representation that is geographically rooted has become increasingly obsolete in an age where constituencies are mobile and proximity does not connote shared interests. The demographics have changed.

I just want to point that our Department of Transportation and Communications is the best example of bureaucratic antiquity. It represents a previous technological period when transport was communications. The railroad was the main line for distributing mail.. Now transport is not communications.

The same could be said for district representation in the age of cyber-constituencies, which is the 21st century. They frame representation in terms of geographic proximity although, in the modern economy, constituencies may be composed of people who are farthest from each other but are closest to each other in terms of activity and interest and that is a nuance of the new demographics that is not captured by the antiquated form of representation.

What, for instance, is the means we have for representing the constituency that demands fiscal sanity? There is no means for representing that constituency. There is every means for representing the pork barrel state.

Accountability/Expertise

The word accountability is much larger than we normally understand it to be in our usual political dialect. Accountability means that you sign accountable forms and submit to audit by COA. But there is a larger sense with which you can use accountability. For instance the short electoral cycles that we have been forced into in the present constitutional arrangement enforce a short horizon on governance. There is no accountability for the long-term consequences of decisions made pandering to short-term demands.

And this is the source of fiscal crisis. Political leaders would rather not tax and prefer to borrow because the pain would be endured at some later date after his term limits has been reached. It encourages a policy architecture that just sweeps the problem under the rug, passes it on to the future. But can you design government to be accountable to the future? Again, that is a design problem.

In the Information Age, which creates virtual constituencies, how may physically dispersed constituencies like migrant workers or overseas Filipinos who want to avail of dual citizenship? How can these constituencies be able to exact accountability from government?

As policy decisions are increasingly shaped by highly complex technical and scientific considerations, how may democracies be enhanced without diminishing the capacity of

our policy process to make “expert” choices? The whole debate on the VAT is not a matter for the Supreme Court to decide. It is a matter for the tax experts to decide, which is the best means.. and most effective means for raising revenues. And in the end, how do we balance accountability and expertise? Since experts are accountable to their science. That again, is a design problem.

Party Disaffiliation

In the past discussions that we had, there seems to be expectation that strengthening the political party system will be a means for producing statesmen or a method for exacting accountability. And there’s this political correctness about strong party systems. But we might have to temper that expectation. Political scientists have observed that all over the world, there’s a trend towards party disaffiliation. There’s an increasing disconnect between what parties think they represent and what constituencies want represented. Two weeks ago, Germany had their elections, the outcome was inconclusive, they have not formed a governing coalition to this day. That is a measure of the extent of party disaffiliation. In France, where you had very ideological parties, it used to be in the 50’s everybody in a survey had a political party that they voted for all the time. Today, only 20% of French voters had a political party or identified with a political party. So there is disaffiliation.

And the reason why this is.. is that in the 21st century the trend towards micro-constituencies, high social segmentation, and eroded political borders, and all these will challenge the traditional functionality of the party system. I am not very hopeful that we can strengthen our party system against the tide simply by constitutionalizing it.

How can we design new democratic institutions that will be able to deal with the eroding party systems and yet ensure some form of interest aggregation? That again is a design problem. And I hope we would spend more time about this rather than repeating the 1935 debate about parliamentary and presidential..

Leadership Recruitment

Among the vital functions of the political system is to produce leaders for the nation. You look at the political stage today and you know that our system has failed to produce leaders. In the 90’s maybe we can blame the Marcos dictatorship for killing off a generation of potential leaders but we can’t do that now. The pattern of electoral financing, which I tried to describe very briefly and which I could expound on for the next 2 days if you want to; the weakness of our party system; the method of representation, all these conspire to produce unremarkable leaders, and that is what we have. The extent to which our politics failed to produce statesmen implies, again, a serious design problem we must address. The political parties cannot produce leaders. The manner by which our elections are conducted, our whole electoral culture cannot produce leaders and so we have become a leaderless society.

More intensive globalization in the coming years will make quality leadership an even more important value the political system must produce. This is called the Guilliani factor, after the Mayor of New York. Now, how can we produce Rudy Guillianis? I don’t know, I think that is a thing that we should think about.

With the decline of party politics a near certainty, what design solution could there be to ensure that the political system will produce qualified leaders? I think part of the political impasse we're in now is the fact that you think the President has done bad things but everybody else will be worse so it's a very tragic situation, where you cannot enforce accountability because there's no alternative.

Populism

Now, populism is the devil of all democracies. But it is a devil that can be restrained or left unbridled. The present electoral and representational design of Philippine government has fostered populist policy-making at precisely a time when governments are supposed to lead nations with a larger and longer view of things. Patronage politics and the permeability of our public agencies to politicking have produced a severely inferior bureaucracy. And we cannot correct that by paying them more. I mean we have collected trash into our bureaucracy. How do we flush the trash out of that system and attract some semblance of talent into our bureaucracy. That is again a major constitutional design problem.

Patronage politics likewise produced a political culture of learned powerlessness and dependence on government brokerage. So that government is constantly brokering populist expectations.

All democracies are vulnerable to populism and populism in turn invites policy failure, and that policy failure in turn, causes discontent with democracy itself. Is there a design solution to this vicious cycle? So that we don't keep convening a constitutional convention every decade. Let me leave it at that.

Competitiveness

A central concern as a nation has been declining competitiveness. All global indices tell us that. And tell us in increasingly screaming terms that we're falling in the World Economic Index, we're falling in the Transparency Index, we're falling in the Competitive Index. The only way we could be consoled is to turn the charts upside down so we appear to be rising, like we're rising to number 2 in the Most Corrupt Societies rather than number 144 in the cleanest governments. Given the more complex technological and economic conditions of the 21st century, the whole idea of government is being reinvented. The very future of the nation-state as a method for organizing things is in doubt. New ideas on governance redefine the role of government as enabler of private activity rather than as regulator or controller.

The very idea of a "national" economy is losing ground to analytical categories involving what is called "natural" economies. For instance, 80% of China's fantastic GDP is produced only in the special economic zones. The rest of the God-forsaken country is still poor.

How do we design government to meet the demands of competitiveness? Not just the nimbleness of our legislature or the excellence of our planning bureaucracy. It's the way the whole government is designed. How can we design it so that we do not re-create the sort of Indian "miracle," which I mentioned earlier, and which the Indians are correcting today, where the state suppressed wealth-creation rather than enhanced it? Which has been the function of the Philippine state.

Those are the main concerns but not the totality of it because I am working with limited time.

Postscript: A Word of Caution

I end it with a word of caution. The 1987 charter was written by zealots who wanted to solve all the problems they thought they understood. And yet they tried to “constitutionalize” everything. It’s a charter that preempted creative and responsive policy-making... It enshrined old ideas in the basic law. We must strive, I think, to avoid that pitfall by proposing constitutional minimalism, which is the direct opposite of the 1987 document, which is constitutional overflow. The beauty of the British government is that it has no constitution at all. Democracies could actually flourish without constitutions. Constitutions can sometimes become instruments of prior restraint as we have seen in our experience in our 1987 charter. The breathtaking pace of social, economic and technological changes we anticipate demands that we produce a constitutional framework that frees our people to reinvent rather than entrap them in old orthodoxies. The best contribution this Commission could make is to convince our people that trashing the 1987 Charter is an act that liberates the future from the past.

Thank you.

VICE CHAIRMAN ORTEGA

Thank you for that very nice presentation Commissioner Magno. Before we proceed with the interpellation we would like to have a five-minute break so that they can start distributing the food. Then while we are having our dinner we will proceed with the interpellations. Thank you.

There is a request by the Chairman of the Committee on Transitory, General Provisions as well as Constitutional Commissions that all members of this committee remain after adjournment for just a couple of minutes.

Second announcement, tomorrow they will announce the agreed schedules of committee meetings starting Monday of next week.

Third, after we resume session we will continue with the interpellation of our last presenter, Commissioner Magno. After which, at the end of that interpellation we will have no more speaker for today. However, before we adjourn we will give every Commissioner a chance, we will go down the roll call and we will have every commissioner a chance for three minutes to say anything that he or she would like to say regarding form of government, with no interpellation. After that we shall adjourn until tomorrow at three o’clock where we have two more presentors and later in the afternoon at four o’clock we will have a resource person in the person of Congressman Jaraula of the House of the Representatives who will also talk on the report of the Committee in the House of the Representatives.

Thank you very much and enjoy your dinner because in a few minutes, we will start again the fireworks. We will ask Commissioner Magno if he has hard copies or if not he has to submit one to the Secretariat to reproduce.

COMMISSIONER AZURIN
Mr. Chairman.

VICE CHAIRMAN ORTEGA
Yes Commissioner Azurin.

COMMISSIONER AZURIN
Three minutes times 40 Commissioners is two hours.

VICE CHAIRMAN ORTEGA
Well, probably not everyone wants to speak anymore. If there is a suggestion to reduce it to two minutes we will make it two minutes.

COMMISSIONER AZURIN
Or can it be re-schedule for tomorrow?

VICE CHAIRMAN ORTEGA
Tomorrow maybe, some will not be tackled. Commissioner Abueg.

COMMISSIONER ABUEG
I suggest that the format of the minutes include the presentations.. together with the questions and answers during the interpellation period.

VICE CHAIRMAN ORTEGA
May we request the Secretariat to request the presentors today to give you a hard copy so that we can reproduce it for all the Commissioners? Thank you.

COMMISSIONER ABUEG
And also the questions and answers during the interpellations be included in the minutes.

VICE CHAIRMAN ORTEGA
Yun daw mga interpellations daw ng mga presentors, you can also reproduce that for all the Commissioners.

COMMISSIONER BENGZON
Mr. Chairman, in behalf of the Secretariat, as Deputy Sec Gen...what we have actually decided with the Secretariat is that any speeches or any presentations will have to be attached to the minutes and to form part of the minutes. So, maybe because we are also doing our austerity measures here if we can ask all the Commissioners to wait for the minutes anyway the reports will have to be attached there. And number two, in cases where we have plenary meetings, we have minutes that is not a transcript and the interpellations, the exact language verbatim of the interpellations and the answers will be in the transcript but will not be in the minutes. The minutes will be a capture of the deliberations.

VICE CHAIRMAN ORTEGA
Are we ready now to start the interpellation of our last presentor?

COMMISSIONER APOSTOL

Mr. Chair, if we will ask the body their preference in the form of government, we better abolish the committee on form of government because we have nothing to do anymore. We cannot even conduct a committee hearing because we...

VICE CHAIRMAN ORTEGA

We are not asking them to say what their preference is. We are giving them two minutes to say anything they want. If they want their preference so be it, if they do not prefer anything yet as of now so be it. Kanya-kanya ito.

COMMISSIONER APOSTOL

So it is not what the Chairman, pardon me, was saying. He asked everybody to give their preference in the form of government. Now, if we give the preference on the form of government, I move that we abolish the Committee on the Form of Government.

VICE CHAIRMAN ORTEGA

Ok, to cut it short hanggang gabi tayo dito, hindi tayo matatapos. Cut it short. We will take this up tomorrow after the interpellations we shall adjourn. Mr. Floor leader, I think we can start with the interpellations. Session is resumed.

COMMISSIONER MAROHOMBSAR

I found that the presentation of Commissioner Magno is very enlightening and very revealing at the same time but it makes me feel very sad because everything that he has described in his talk is actually happening in our place in the ARMM provinces. For instance, a Mayoral candidate spends as much as P30 million to get elected in a very small municipality. What does that person do after getting elected? The first thing he does is to get back what he has spent and to get more so that he can use it again in his reelection. And also nothing goes to the people at all. The IRA goes to the pocket of the elected officials and all other donations or aids from other institutions also go to the pocket of the elected officials. And what is worst is some of the political units now are headed by mayors who are drug lords. They got elected because they used money from drugs and the sad thing about it is Manila knows who these people are. We have report, given them the names of these people, the mayors, and the elected officials who are known drug lords in the areas but nothing has been done about it.

Actually, our elected officials do not seem to believe in accountability. They do not believe that they are accountable to the people and then we tell our people about this -- do not sell your votes because you will be suffering three to four years and what they tell us is "wala kaming magawa kasi they gave P1000 for our vote and why not get that because it is equivalent to one sack of rice!".

COMMISSIONER APOSTOL

Commissioner, question please.

COMMISSIONER MAROHOMBSAR

How can we do away with this kind of practice?

COMMISSIONER MAGNO

In my paper I warned against being too expectant about constitutional solutions because it is both a process and a culture problem, a culture of instant gratification. For instance, we can have no constitutional solutions to that but we can design our electoral system

away from the present form, because the present form has been corrupted and the whole culture has evolved around it. The first thing, I think, we should do is to get rid of elections at large because that is where the cost are highest and political indebtedness is more severe. A recent study by the World Bank, Mr. Chairman, identified the Philippines as a country where the depth of political appointment is deepest. Not only does the President of the Republic appoint 4,000 people to various Boards -- and I am one of those appointees -- the President of the Republic also appoints bureaucrats down to the bureau chief level and so there's an extraordinary depth of political appointments which has politicized the bureaucracy and by every measure we have one of the most politicized bureaucracies in the world.

COMMISSIONER APOSTOL

Commissioner Pedrosa is recognized.

COMMISSIONER PEDROSA

I just want to ask what Commissioner Magno means, "to re-design our political institutions" and yet say that "I'm not really making a choice between presidential and parliamentary." So, in what form will this redesigning of the institution take place. What is the context of that?

COMMISSIONER MAGNO

Well, that precisely is my expression of discontent last night that by entering earlier into this debate to presidential versus parliamentary, we're trapped immediately in pre-fabricated models without identifying what sort of governance problems are we really trying to solve. In this case, we have put the cart before the horse. And I think the biggest value that this very exceptionally intelligent Commission could make is to put out a re-design government. One that is not trap in pre-fabricated notion of presidential versus parliamentary but one that designs specifically to address the way political culture and practice has evolved over the last century. That I think we can make as a value added..

COMMISSIONER PEDROSA

So I think that was the point of departure because we have specific mandate to explain to the people to shift to parliamentary federal. Having given us what's happening to this country, we still have to make certain decisions to enable us then to bring the issue to the public. People have different understanding especially among lesser educated than we are who know the problem in terms not of such design and all that. Well they just tell you "I'm sorry, I cannot get a job" and we should be able to tell them, "Under this system we might have a better chance of getting the job" or something to that effect. What I'm saying is that, this is the nature and mandate being given to us.

COMMISSIONER MAGNO

Probably, the reason people are by and large disinterested in this so-called great debate is that the terms of debate do not seem to be directed to the real problem that they perceived.

COMMISSIONER PEDROSA

Can I continue just one?

COMMISSIONER APOSTOL

Yes! But just shorten this one.

COMMISSIONER PEDROSA

So that's your point and that's a good one -- that we should direct our expositions and consultations with the people with that in mind, in articulating these problems also.

COMMISSIONER MAGNO

Yes ma'am. I think there's a serious disconnect between what we are talking about and what the people are interested in, di ba? They are interested in how do we bring down the level of corruption. How do we improve the quality of our bureaucracy? How do we change the expenditure paradigm of government so that not 85% of the budget goes to the payroll. How can we have a government that's meaningfully capable of bringing development or progress to the grass roots if it's nothing more than an employment agency?

COMMISSIONER PEDROSA

I think you have a brilliant exposition. But now, around this table, we will have to decide if we will go parliamentary or whether we go presidential. So, I would like to ask more from you in that sense that is.. what you're saying we could then have to pick a choice.

COMMISSIONER APOSTOL

Next Thursday, you will have the forum. You can have the debate during the plenary. So now we will now recognize Commissioner Espina.

COMMISSIONER ESPINA

I would rather address this question to the leadership. And my question is, are we trapped by these labels? If you will remember the first time Mr. Chairman, I suggested that we analyze what is the problem. Let us be diagnostic and then we put the meat.. and then maybe later, it may appear a presidential or maybe parliamentary or maybe mixed, or maybe totally Filipino, maybe totally creative. My suggestion was not entertained. I fully agree with the presentation of Professor Magno. I saw that with my own eyes. When I was invited by Danding to run for the Senate because hindi sila makakumpleto ng lineup. Ang sabi ko "ang gagastusin ko lang P7000". Padala ako ng konting tulong kay Danding ginastusan ko sa Philippine Airline, pinadala ko sa mga headquarters, pagdating ko ruon meeting na anduduon pa yung boxes of materials ko. Yun pala dapat meron pang budget para sa pagdidikit..

COMMISSIONER APOSTOL

Question?

COMMISSIONER ESPINA

Question is if we introduce change to make this rational yung spending, it could be what in we label - presidential or it could be parliamentary, but why do we have to name it now?! Let's put in the meat of this...

COMMISSIONER PEDROSA

Point of order. Is he interpellating?

COMMISSIONER ESPINA

Because kanina sabi mag-bobotohan sa presidential, parliamentary...

COMMISSIONER APOSTOL

A point of order raised by Commissioner Pedrosa. Please ask a question.

COMMISSIONER ESPINA

I will not ask Commissioner Magno because I'm supporting him on his position..

VICE CHAIRMAN ORTEGA

Order please! Isa-sa lang at mahina kalaban! Walang pagbobotohan ngayon. We are in the period of interpellations. Anybody who would like to ask a question from the presenter will have a chance.

COMMISSIONER ESPINA

So I will have no question. I just brought that point..

COMMISSIONER APOSTOL

Commissioner Amin is recognized.

COMMISSIONER AMIN

Mr. Commissioner Magno, you mentioned that federalism has the potential for fiscal crisis. Now, isn't it true that United States of America is the richest nation in the world and it has a federal form of government?

COMMISSIONER MAGNO

Yes sir. Even the United States has the biggest public debt in the world. Outstanding.

COMMISSIONER AMIN

What do you mean by fiscal crisis? Does the United States has fiscal crisis because the United States government is the richest nation in the world?

COMMISSIONER MAGNO

Yes sir, the United States has the most fiscal picture in the world. They owe a few trillion dollars in debt.

COMMISSIONER AMIN

Alright, second question. You mentioned also in your dissertation that China is dirt poor...but I had gone to Beijing and Beijing has improved. With 40 or 50 high-rise buildings, with 8 lanes of road, right lane and left lane... you say that China is dirt poor?

COMMISSIONER MAGNO

What I said sir was that 80% of China's GDP is produced by special economic zone.

COMMISSIONER AMIN

What do you mean by dirt poor?

COMMISSIONER MAGNO

Dirt-poor...yung interior provinces. They're still in the 18th century.

COMMISSIONER AMIN

How many percent?

COMMISSIONER MAGNO

90% of China's population are...

COMMISSIONER AMIN
Dirt poor?

COMMISSIONER MAGNO
...earning less than \$1.00 a day, Sir. Those are the standard figures.

COMMISSIONER AMIN
But China is not dirt poor.

COMMISSIONER MAGNO
China is very wealthy economy if you go to Shanghai and Beijing, all those economic zones...

COMMISSIONER AMIN
It is number 2 to the United States of America in terms of wealth.

COMMISSIONER MAGNO
No, sir. You're talking of per capita GDP.. per capita GDP in China is equal to ours - \$1,000.00.

COMMISSIONER APOSTOL
So, may we recognize the next interpellator, Commissioner Garcia?

COMMISSIONER GARCIA
Ok, thank you. I heard you say that the estimated cost of presidential campaign would cost to three billion pesos. What vintage is this? I was told that it can reach to six billion.

COMMISSIONER MAGNO
This is '92 vintage, sir, which I'm more familiar with.

COMMISSIONER GARCIA
Ah! 92.

COMMISSIONER MAGNO
Probably, more, sir. It's an underestimate, sir. Even in '92 pesos converted into 2001 pesos, the figures are relatively within that ballpark...

COMMISSIONER GARCIA
I also heard you say that a senatorial candidate with a reasonable hope of winning would spend about seven hundred million or eight hundred million.

COMMISSIONER MAGNO
I was talking about the record breaker. The first record was set in 2001 when one candidate spent half a billion. One candidate! In the 2004 election, one candidate spent eight hundred million and another one spent seven hundred million. Not necessarily their own money although they're perfectly capable of squandering that amount of wealth.

COMMISSIONER GARCIA
With this figures, would you rather say that national elections, with a national constituency, are rather very expensive, unrealistically expensive?

COMMISSIONER MAGNO

Well, it's less expensive if you are Lito Lapid... who spent something like fifty million for his campaign.

COMMISSIONER GARCIA

So that if we limit ourselves to... reducing the constituency into.. say a parliament district that would be less expensive.

COMMISSIONER MAGNO

I think the basic anomaly in our present setup is that every senator has more votes than the President of the Republic and that leads to the degree of arrogance and now the political impasse therein.

COMMISSIONER GARCIA

I think the reason there as politician, is that a voter votes for 12 candidates for senators, in the case of the President, it's either or. That's the reason why senatorial candidates get more votes than the President.

COMMISSIONER MAGNO

Nevertheless, Mar Roxas has eighteen million votes and Gloria Macapagal Arroyo 12 million.

COMMISSIONER GARCIA

It is possible that the supporters of, say FPJ, voted for him.

COMMISSIONER MAGNO

I understand that, sir. But it still remains that Mar Roxas has eighteen million and Gloria 12 million.

COMMISSIONER GARCIA

How much would that mean per capita in relation to the expenditures?

COMMISSIONER MAGNO

Voter turnout, you're asking proportions?

COMMISSIONER GARCIA

The going rate now for voters - 1,000? 500?

COMMISSIONER MAGNO

What do you mean? In vote-buying?

COMMISSIONER GARCIA

Yes, in vote buying because I heard you mentioned P500 or P5,000.00

COMMISSIONER MAGNO

Depende. Kung jueteng area.. if it's a non-jueteng area, I don't think people buy votes.

COMMISSIONER GARCIA

Also, I heard you say that the percentage of the public expenditure for personnel services would range to 80-85%.

COMMISSIONER MAGNO

80-85% sir, plus 10% for maintenance and operating expenses, that makes about 90-95%.

COMMISSIONER GARCIA

Tell me...10% will be left for MOOE or for services.

COMMISSIONER MAGNO

10% for capital outlay, which is normally buying new cars for government agencies.

COMMISSIONER GARCIA

What was revealing and even startling to me was that when you say...

COMMISSIONER MAGNO

One more figure sir, the debt service is bigger than the operating budget.

COMMISSIONER APOSTOL

Interpellator has one minute!

COMMISSIONER GARCIA

In your statement that if we go federal, if we create another layer of bureaucracy, then the expenditure for personnel services would triple. Is that correct?

COMMISSIONER MAGNO

I didn't reach that as an absolute conclusion. I just put that as a warning considering that with the passage of the Local Government Code, the public central payroll doubled.

COMMISSIONER GARCIA

So, you are warning against federalism.

COMMISSIONER MAGNO

Yes sir! Without fiscal restraint.

COMMISSIONER GARCIA

We take note of your warning.

COMMISSIONER MAGNO

Thank you sir!

COMMISSIONER APOSTOL

Commissioner Bengzon has the floor.

COMMISSIONER ESPINA

With the permission of Mr. Chairman, just one question...

COMMISSIONER APOSTOL

If Commissioner Bengzon will agree, I have no comment.

COMMISSIONER BENGZON

I give the floor to the Honorable Commissioner Espina.

COMMISSIONER ESPINA

Thank you, in two Congressional elections and Raul can attest to this, I was being convinced by my opponent in the... my third term.. to withdraw for fifty... no, it started at thirty million and he will finance my son to go. In this last election, Serge is aware, the same offer! Much, much more. I refused several meetings in Sulu... sabi ko "madali kang lokohin, tatanggapin ko; patatakbuhin ko yung anak ko for Governor, ififinance niyo; patatakbuhin ko yung isang anak ko for Congressman at least nag-commit ako. Hindi ako tatakbo." So this supports the point of Professor Magno that something has got to be done on expenditures at ang isang suggestion ko dyan ay and that's why I said 'wag munang.. subsidy from government on expenses. Parang sa America, percentage of votes, then you get so much. Suggestion lang yun! It does not necessarily have to be accepted.

COMMISSIONER MAGNO

The political standard here and the standard political correctness, for instance, in that campus across on the street is that the oligarchy is composed of the landowners. The thesis I am making is that the real oligarchy are the twelve major powerbrokers who invest in candidates and they are an invisible and unaccountable oligarchy.

COMMISSIONER APOSTOL

Is it okay if we go now to Commissioner Bengzon?

COMMISSIONER BENGZON

Thank you, Mr. Majority Floor Leader. I commend Commissioner Magno for a very excellent presentation, my former professor in Political Science at the University of the Philippines.

COMMISSIONER MAGNO

I deny that!

COMMISSIONER BENGZON

It show's your age. Contrary to your advice before I moved on and became a lawyer as you say "the agents of the people who just love to be the status quo". But, having in mind, Honorable Commissioner, the executive order creating the Consultative Commission, I would like to really ask and be clarified, because at the end of the day we are supposed to have an output or a deliverable... I would like to ask you how you envision the deliverable to be, given your premises.

COMMISSIONER MAGNO

Well, I envision the deliverable to be a diagnostic report with a few detailed recommendations.

COMMISSIONER BENGZON

But sir, isn't that in contrary to the Executive Order mandating us specifically and I quote..

COMMISSIONER MAGNO

Yes. I read the Executive Order and I think it will make us a rubberstamp Commission, because we're all disenchanting with the 87 Constitution, we'll jump into the parliamentary boat.

COMMISSIONER BENGZON

It's not even that, because I don't subscribe that we are locked up to that shift to parliamentary because I was one of the proponents who said that there should be a great debate. But only in this, it says "to conduct consultations and studies and propose amendments and revisions to the 1987 Constitutions." So, whether we stick to the Presidential with a little tweak or we move on to a parliamentary federal system, it should still be amendment and a revision to the 1987 Constitution. Am I right sir?

COMMISSIONER MAGNO

Yes Ma'am! But, I think it's up to the wisdom..

COMMISSIONER BENGZON

So how could a deliverable be a diagnostic study if we are supposed to put in an amendment and revision to the 1987 Constitution?

COMMISSIONER MAGNO

I think the length and depth and expanse of the report is up to the collective wisdom of this body. I will feel very uncomfortable if we put up a draft Constitution because we are not a Constitutional Convention or a Constituent Assembly. And we can put up a ten-volume work with all sorts of draft wordings but not a draft charter.

COMMISSIONER BENGZON

I think the proposal...

COMMISSIONER MAGNO

We could decide to do that and I will vote in the minority.

COMMISSIONER BENGZON

Okay. Just one more question. All of us came here with problems or solutions that we have in mind with regards to global competitiveness - the economy; the poverty, the political landscape; and the electoral problems. Don't you think that by proposing amendments and revisions to the 1987 Constitution and putting in provisions that would try to solve these problems, wouldn't that be enough instead of just a diagnostic... your proposal to have a diagnostic study?

COMMISSIONER MAGNO

My real fantastic dream is to write the Constitution myself. I'd like to do that! I could do that tonight and submit it to the Body tomorrow – an entire draft Constitution. It's just that I feel awkward. I don't think we should arrogate that nearly divine role being unelected representatives.

COMMISSIONER BENGZON

We are mandated to do that, sir. But that's not supposed to be submitted to the people. But it's a proposal for the President that the President may or may not bring it to Congress. Last question.

COMMISSIONER MAGNO

I'm just trying to avoid the situation where we become funny.

COMMISSIONER BENGZON

That's an opinion. Just last question – normally, when we study governments we normally typify them, if you have matrix of like... let's say seven countries you normally typify them either they're parliamentary but.. or presidential but.. If we are to follow your line of thinking..

COMMISSIONER MAGNO

The proper word in Political Science is to typologize them..

COMMISSIONER BENGZON

Yes. So, how do you envision the kind of government or structure that we should have? Should it be a presidential but.. or parliamentary but..?

COMMISSIONER MAGNO

If I were entrusted with a noble task of writing my fantasy Constitution I would probably be hard put naming the form of government... I think the question is premature, your honor.

COMMISSIONER APOSTOL

May we proceed now with the next interpellator after talking about fantasies.. Commissioner Adamat is recognized.

COMMISSIONER ADAMAT

Thank you Mr. Chairman. Mr. Commissioner, in your closing statement you made mentioned about this phrase which says, "thus, the best contribution of this Commission could make is to convince our people that trashing the 1987 Charter is an act that liberates the future from the past." Are you saying, Mr. Commissioner, that the Philippines is better off without a Constitution considering a multi-culturalism that we are in.

COMMISSIONER MAGNO

No. I was using some literary license para medyo poetic naman yung dulo. If we could convince our people that we need to abandon our 1987 Charter and replace it with something else that is better then, that is our best contribution. I'm just uncomfortable with playing a messianic role and delivering something like the Ten Commandments from heaven. We will look like an unmandated Moses; I'm extremely discontented with the 1987 Charter. To begin with, the grammar is bad and then it is a messianic document. It preempts policymaking. There are many things to be discontented about this Charter. But, I think our role is not just to air our discontent with that Charter but to demonstrate that there are design solutions to the design problems that we confront.

COMMISSIONER ADAMAT

But how about our multi-culturalism situation, wherein, I could just imagine, without a Constitution, how could an intercultural relationship amongst our people be effective in the process without a guideline or framework for harmonious relationship and for the delivery of basic services and for the attainment of peace and development for example...

COMMISSIONER MAGNO

Well, I would be suspicious about making motherhood statements about inter-cultural peace and happiness. Parang ano yan eh sagot sa Ms. Universe Contest, "I love world peace."

COMMISSIONER ADAMAT

Of course to include that is one of the political scenarios.

COMMISSIONER MAGNO

Yeah! I think the problem is not a cultural gap. It's a problem of a delivery gap due to ineffective governance systems. There are cultural stereotyping. But that is not a problem I think that the Constitution should solve. It's a problem that is solved by dialogue outside the process of constitutionalizing it. Because constitutionalizing peace and harmony will be a futile act and again we will look funny.

COMMISSIONER ADAMAT

You also made statements in the matter of.. "we are facing crisis in terms of design." Could you give us a glimpse of what is in your mind the best design that we can offer our people so that maybe this political crisis that we are in could be minimized, or if not eradicated?

COMMISSIONER MAGNO

I hope I don't appear to be making an intellectual strip tease here. But the fact is I have no idea how to solve these problems. I have no final ideas about how to solve these problems, which is why I try to patiently sit here and listen to you all and see if there are design solutions.

COMMISSIONER ADAMAT

Meaning you are just.. you're just giving us problems now to think of that design, which will design or charter our future.

COMMISSIONER MAGNO

Well, I'd rather call them provocations.

COMMISSIONER PEDROSA

Ok. One more, can I?

COMMISSIONER ADAMAT

Thank you, anyway, Mr. Chairman and thank you Mr. Commissioner...

COMMISSIONER PEDROSA

In the event that we divide the House and say those for Presidential and those for Parliamentary stand! Where will you be?

COMMISSIONER MAGNO

I'd probably be outside smoking.

[Laughter]

COMMISSIONER APOSTOL

Commissioner Azurin has the floor.

COMMISSIONER AZURIN

This is a short question. I was going to pass actually when I saw that it was 8:00 but.. the analysis that you presented was very well organized. This actually is, I think, familiar to all of us present here. Let me just ask, and I think, what would be different would be the conclusions made by each one here as a consequence or as an outcome of that analysis... in the sense therefore, so what! My question would be very simple; you just answer it yes or no. Would that analysis not lead to a conclusion that in the end, finally, the best solution is simply less government, limited government? That personally is my conclusion because I think the solution to the country's problems would be the result of the efforts of the business sector competing in the global market place and the function of government should be simply to get out of the way.

COMMISSIONER MAGNO

Well, government should create the conditions for wealth creation by its citizens and therefore, it's not just government stepping out of the way but government-enabling private processes rather than disabling private processes. The study by De Sotro pointed out that in the Philippines, to start a business, you need one hundred eighty signatures, and the average to do so is 9 months. I think we've improved...

COMMISSIONER AZURIN

I think that's exactly a case for government getting out of the way. If it got off the way then these things will happen. If you look at the example in India, Bangalore succeeded precisely because government wasn't even aware of what was going on there and private businessmen on their own built that whole business.

COMMISSIONER MAGNO

The same is true with our economy. I mean, Jollibee, East Wood City, the call business and our electronic exports which now account for 70% of our total exports developed out of benign neglect. Mainly because there was no policy; we did not know how to suppress them or tax them to death or set standards on them; the most prosperous dynamic sectors of our economy grew because there was benign neglect.

My problem with the proposed parliamentary form is that the essence of the parliamentary form is legislative supremacy. The reality of governance in the 21st century is that the space for legislation has diminished. Meaning, instead of domestic legislation, there are some things that the international standards organizations set for us; some things that WTO sets for us; decentralization devolves decision-making to the LGU's so that the space of actual governance at the national level is diminished. So, if we see that we have a non-productive Senate, they're just being true to actual conditions of governance. They really have nothing else to do except that we subsidize them in a very expensive way.

So, there are no easy answers to the problems. But I think, the starting point is to inventory these problems rather than start off with some prefabricated, cure all, snake oil solution. I think that's an excuse for intellectual indolence, your honor.

COMMISSIONER APOSTOL

Commissioner Lim has the floor.

COMMISSIONER LIM

Thank you Mr. Chairman. Although I totally subscribe to what the honorable Commissioner Magno was proposing, of course, this is not entirely with regards to the figures that were presented. Because it's basically a lot of our types, the barangay officials who are responsible for the vote-buying aspect so we would be more on the accurate level of stating what really is the cost more or less of our elections. My question would center over...do you think that the reason for the high cost of all of these elections would be because we have successfully diminished the reputable parties? To a point that we do not have established party systems already.. my point being, that if we have these strong parties being reputable and all that, it would at some point also solve the aspect of what you were discussing a while ago.

COMMISSIONER MAGNO

I'd rather approach it from a political economy perspective which I did. In the 50's or 60's, our political parties were financed by a robust plantation economy, which at that time accounted for 70% of the GDP. The plantation economy was not taxed. It was a largely untaxed sector. The money was undocumented so that the real electoral battle in the 60's was the battle between the tobacco bloc and the sugar bloc. Now, the plantation economy as we know is dead. And we have a lot of poor people trapped in this dead economies and the financing now comes from the center rather than from the periphery. So the party lost its role as the conveyor belt of financing and the marketing arm to project senatorial faces like Salonga or Tañada -- mga produkto nila yan. So, nire-recruit nila yan dahil sa nag-top sa BAR exam. Dahil yung financing side, the party is basically the aggregator of electoral finance from the landed economy.

Now, the economy is more corporatized. The BIR is chasing after people who don't pay the right taxes. So, all the money is documented in the formal sector. So, lahat ng kandidato, lahat ng party treasurer alam nila na wala kang makukuha dyan kina Donald Dee or kina Ayala. Makukunat yan! Pahiramín ka ng helicopter pero wala kang makukuha dyan. They are not the real electoral oligarchy. The real electoral oligarchies are those holding on to a large amount of undocumented money and that goes to the bankable candidates. Kung si Erap ang bankable, kahit tanga siya, bankable siya. Tapos siyang mag fi-finance ng senatorial niya, tapos pag-ikot nya sa probinsya may running rate yan. Pag courtesy call mo sa gobernador, P100,000. Mayor sa malaking ciudad, P100,000, sa maliit na bayan, P50,000 etc. May taripa yan.

VICE CHAIRMAN ORTEGA

Bakit hindi dumaan sa La Union?

COMMISSIONER MAGNO

Iniiwasan yung maliliit ang boto.

COMMISSIONER LIM

Kung ganun ang sitwasyon, hindi kaya...sana hindi mananalo yung mga the likes ng mga na-mention ninyo, kung maayos yung.. kunwari lang two-party system tayo at yun ang trabaho nila – iqualify. Kasi, ang Constitution natin nakakalungkot na marami ang mali ang interpretasyon dun sa probisyon na “able to read and write” lang. Kung maayos ang partido, sila ang dapat nag qua-qualify kung sino dun sa “able to read and write” ang karapat-dapat na botohan. Ang problema ho napakarami nating choices, sa totoong buhay ng election. Pwede ka pa ngang magpatakbo para bumasag ng boto e. Sa tunay na buhay ho, kung dalawa lang ang choices nila we will be choosing from which is the

best. Yun ang sitwasyon. Ang problem ho natin na create natin yung social environment na pwede tayong pumili sa kung sino ang pinaka-bulok, kung sino ang pinakamayaman. Ganun yun nagiging sitwasyon. As a matter of fact, sa totoong buhay, pag pumipili ka sa eleksyon parati nga tayong lesser evil, ni wala nga tayong hope papunta sa greater good. Hindi kaya kung ni-limit natin ang proseso para pag dumating naman ang panahon na pinag-uusapan ang Komisyon, ay papaano tayo papunta sa greater good someday.

COMMISSIONER APOSTOL

Question! Question!

COMMISSIONER MAGNO

I am sure there are a thousand and one ways to enforce party discipline and try and prop-up a party system. But the point I tried to make in my short presentation was that it will be an up-hill struggle because the trend globally is party disaffiliation. So, it will be a stilted, contrived system na parang something like marriage. Kayong dalawa lang ang pwedeng mag-sex. May institusyon. Kayong dalawa lang ang pwedeng kumain ng magkasabay. I mean you can always have a contrived system that will force everybody to be twiddledee or twiddledum... But it will be a contrived system. Let us not say that this is the solution to our problems.

COMMISSIONER APOSTOL

Commissioner Abarico.

COMMISSIONER ABARICO

Thank you Mr. Floor Leader. Very short, first, I would like to thank Professor Magno tonight for upsetting our traditional concepts of governments and constitutions.

COMMISSIONER MAGNO

Thank you, sir. That was the intention.

COMMISSIONER ABARICO

You have achieved that. But I have one question, Professor. I'm from Mindanao; the problem in Mindanao is no trivializing issue. The provinces composing ARMM are the poorest of the poor in this country. Poverty is rampant, perhaps more rampant than corruption in this country.

COMMISSIONER MAGNO

Let me just correct that small point since I've been working as consultant for some international aids (ODA) programs to help ARMM. It's not the problem of poverty and corruption. The problem is poverty because of corruption. There is no functional local government in ARMM. The European Union, the Japan-ODA guys, they do not know were to put their money because there is no functioning local government. There is a lot of money in the pipeline for Mindanao but we do not know how to absorb that money and even if it's absorbable, it would be an injustice because the return on capital, if the same money was brought to Panay Island or to Cebu, or to Bicol, it would be twice or thrice the return on investment if it was put to ARMM. But, we were laboring under this orthodoxy that the solution to the problem in the South is to throw more money at it...

COMMISSIONER ABARICO

May I finish my question?

COMMISSIONER MAGNO

Yes sir!

COMMISSIONER ABARICO

I think the problem is it is Manila deciding the future of Mindanao. We have no say. It's still imperial Manila calling the shots and we believe that we can solve our problems if we are liberated from the tentacles of Manila. There's no real autonomy there and we believe that the closest that we can get to liberating Mindanao and chartering our destiny is thru federalism. Honestly, people there are getting impatient.

From your own studies or your research, what would be the best approach to the problem of Mindanao? Is it self-determination, federalism or continued under the suffocating embrace of Imperial Manila?

COMMISSIONER MAGNO

None of the above sir, and I can deliver a second lecture on why. This is also a particular concern. The problem in Mindanao.. there's not one Mindanao. There are two Mindanaos -- there's functional Mindanao, which is booming and there's dysfunctional Mindanao. And the problem there is the availability of governance, which is why it is not even receptive to free money. We've been throwing free money at the ARMM since it was organized. Ang problema dun is that the COA could not even audit the ARMM, because they are met at the door at gunpoint. I'm helping run a bank - the Development Bank of the Philippines. We haven't audited our Jolo branch in four years kasi walang auditor na gustong magpunta and eventually we relocated our.. our bank into a cash unit and put it inside the military camp. So, there is a failure of governance.

I don't buy this Manila imperialism. It's like some adolescent boy na gustong lumayas sa bahay niya pero hindi naman niya kayang suportahan ang sarili niya. It's some adolescent fantasy, because Mindanao does not have the independent arm capability to resolve the peace and order problem there. Aasarin kayo sa mga Ilocano soldiers to go down there and do the fighting. Mindanao does not have fiscal resources to do capital investment but most important in the other Mindanao, the ARMM, there's no culture of modern governance. There's no clear understanding of the separation between the public and the private sphere. Every Governor of ARMM thinks that he is there to employ all his relatives. And he takes the presence of a Commission on Audit team as a personal insult. It's a problem of sensibility and let's not fudge over this problem by saying na Metro Manila Imperialism..

COMMISSIONER ABARICO

After a federal system of government..

COMMISSIONER MAGNO

I'm just trying to be emphatic with my idea sir, nothing personal.

COMMISSIONER ABARICO

Okay, but right now, the growing sentiment there is self-determination. I want to inform you. If you reject federalism for Mindanao, our alternative is self-determination.

COMMISSIONER MAGNO

Okay lang. I hope we do not debate under threat here. These are the tactics of Duterte..

COMMISSIONER APOSTOL

We are already debating here, so we go to the next speaker, I mean the next interpellator - Commissioner Lambino.

COMMISSIONER LAMBINO

Thank you Mr. Chairman. But before I'm going to ask Commissioner Magno I just would like to make a short manifestation regarding the statement of Commissioner Espina a while ago that there was a time when he was running for the election in the Biliran that I have some knowledge of sort of the negotiations going on regarding the possible withdrawal of Commissioner Espina from running again. Well, he informed me that there was talk going on and the other candidate also informed me that they're talking of a possible tie-up but I was never part of any negotiation. Neither was I aware of any offer of amount of money coming from either camp. So, just to clarify that point, Mr. Chairman.

COMMISSIONER ESPINA

To some extent that is true. But it was not a negotiation; it was an offer, which I refused. The fact is I ran again.

COMMISSIONER LAMBINO

Okay, Mr. Chairman, may I now ask a few questions from Commissioner Magno? He mentioned about electoral financing. Would you be willing to accept the possibility of subsidizing the political parties from the...

COMMISSIONER MAGNO

Yes sir.

COMMISSIONER LAMBINO

Thank you.

COMMISSIONER MAGNO

But given the culture of corruption, even that money will probably be misspent.

COMMISSIONER LAMBINO

Will you agree with me also when you stated that the danger of narco-politics becomes more imminent, will you agree with me that the situation will be more dangerous under a system of government that allows election nationwide?

COMMISSIONER MAGNO

Could you restate the question?

COMMISSIONER LAMBINO

You mentioned that the danger of narco-politics becomes more imminent.

COMMISSIONER MAGNO

Yes.

COMMISSIONER LAMBINO

Will you agree with me that this situation regarding the involvement of narcopolitics will even be more serious in a system that will allow a nationwide election?

COMMISSIONER MAGNO

If a presidential campaign requires P8 billion to run in a closely contested way, you're not going to raise that money from your white-collared corporate guys. And the take from jueteng is about twenty billion annually. So, from the jueteng lord sabihin mo 10%, 2 billion kulang pa sa kampanya. Whereas, the illegal drug industry has annual turnover of between 200 conservatively to 300 billion annually untaxed, of course. Which is why before the 2004 election, it was important to break up at least the most visible and politically proximate drug syndicates.

There's a rule in political analysis -- follow the money. It's a simple rule. Ngayon kung kampanya na at wala kang pera, saan ka tatakbo? Tatakbo ka sa may liquid. Ang liquid ngayon dahil epektibo yung anti-jueteng crackdown.. ang liquid nila ngayon yung drug lord, and in large volumes, and you can get in Hong Kong dollars even if you want to. But the preferred currency is US dollars because it's more compact. Mas maraming halaga ang kasya sa isang maliit na portfolio kesa piso dahil piso as we saw in that great debate with Senator Revilla during the impeachment process, Ilang kilo ba ang apat na milyong piso?

COMMISSIONER LAMBINO

So the probability that a candidate running for an elective office that would require him to campaign nationwide, would have the tendency to raise money from the so-called underground financiers.

COMMISSIONER MAGNO

My own sentiment your honor is that we do not change the charter now; we will become the next Colombia.

COMMISSIONER LAMBINO

Next question, Mr. Chairman, you mentioned that the best contribution that this...

COMMISSIONER MAGNO

Again the lesser evil is jueteng.

COMMISSIONER LAMBINO

The best contribution that this Commission can do is to convince our people to trashing the 1987 Constitution. If I remember correctly there are 18 Articles and 318 sections of this 1987 Constitution and as you have mentioned, it constitutionalized every problem..

COMMISSIONER MAGNO

And solved none of them..

COMMISSIONER LAMBINO

..and according to one Justice it is the most talkative documents so far... So you mean to say that the 1987 Constitution is the root cause of the problem in the country?

COMMISSIONER MAGNO

Sobra naman yan! The root cause of our problem is ourselves – we keep blaming somebody else, we're blaming imperialism or Imperial Manila or whatever; blame somebody else, that is a Malay degenerative trait.

COMMISSIONER APOSTOL

Commissioner Leviste is recognized then after that, the last interpellator will again be Commissioner Pedrosa.

COMMISSIONER LEVISTE

Thank you Mr. Chairman. I do not wish to interpellate Commissioner Magno. I just want to associate myself with his presentation. I share his views on the engineering design if you will of what you need to do. I spoke yesterday; I was speaking about the need to have a simple Constitution, a functional one, one that promotes the market economy, one that drives the private sector to move the economy. I really think many of the problems of Mindanao are rooted in peace and order.

I share his views in his concern.. in his dichotomy between functional Mindanao and non-functional Mindanao. I know Mindanao a little not as well as my other colleagues here from Mindanao but the functional areas in Mindanao are booming. Davao, Cagayan de Oro City, General Santos, Saranggani province. But unfortunately there are some specific areas, which for reasons already mentioned by Commissioner Magno, which needs to be energized, organized and I have direct knowledge of this fact that Malaysian investors went to the ARMM area. They were sent by the Malaysian government, the Malaysian government are very much interested ...

COMMISSIONER APOSTOL

My I interrupt you? You will have your chance to present that tomorrow because you will be one of the first presentors. Now, just ask the question.

COMMISSIONER LEVISTE

I just want to compliment and associate myself with the..

COMMISSIONER APOSTOL

Then, do that tomorrow.

COMMISSIONER MAGNO

Thank you, your honor.

COMMISSIONER PEDROSA

Okay, one last...

COMMISSIONER APOSTOL

One last question, Commissioner Pedrosa.

COMMISSIONER PEDROSA

You know the last presentor, Mr. Magno, I think is very erudite but I'm not very erudite.

COMMISSIONER MAGNO

I hope that is not an obscene word.

COMMISSIONER PEDROSA

No, but I think the use of the word "contrived"... When people are attempting to do things regardless of the quality of what they're doing, you cannot always make it even or put it in a spirit of malice or.. is contrived. It's not worth it. I think, sometimes we have to go through the "ek-ek."

COMMISSIONER MAGNO

There's no malice involved. Just emphasis...

COMMISSIONER APOSTOL

May we go to the last question?

COMMISSIONER PEDROSA

We really have to go through "ek-ek" sometimes..

COMMISSIONER APOSTOL

Before I turnover the Chair to the Chairman, just to inform the body that tomorrow's agenda will be -- approval of the minutes of October 3, approval of the amendments to the Rules of Court. We amended this because we are collapsing some of the committees -- then on the unfinished business, we will continue with this debate. Our presentors will be Joey Leviste and Commissioner Jurado. Then, on the other matters, we will have a resource person in the person of Congressman Jaraula, the Chair of the Committee on Constitutional Amendments of the House of Representatives. That's it.

Now, I turnover the Chair to the Chairman.

ADJOURNMENT OF SESSION

COMMISSIONER APOSTOL

Mr. Chairman, I move for adjournment until tomorrow at 3:00 p.m.

[VOICES]

I second the motion.

VICE CHAIRMAN ORTEGA

Is there any objection? There being none, the session is adjourned until 3:00 p.m. tomorrow.

It was 8:32 p.m.

