REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

RAUL L. LAMBINO and
ERICO B. AUMENTADO,
TOGETHER WITH 6,327,952
REGISTERED VOTERS,
Petitioners,

- versus -

G.R. No. 174153
For: Certiorari and Mandamus

COMMISSION ON ELECTIONS,
Respondent.
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SECOND MOTION FOR RECONSIDERATION

1. Petitioner RAUL L. LAMBINO, in his own behalf, together with and on behalf of the 6,327,952 registered voters whose names and signatures appear in Annexes "01100000" to "17752041" of the Petition dated 25 August 2006 and Amended Petition dated 29 August 2006 filed with public respondent Commission on Elections (COMELEC), through the undersigned counsel, respectfully move with leave of court for the second reconsideration of the Decision dated 25 October 2006 and Resolution dated 21 November 2006, dismissing the present Petition for Certiorari and Mandamus, copy of which resolution was received by petitioners' counsel on 22 November 2006, on the following grounds that:

I. No majority vote was obtained to invalidate the 1528 certificates of verification issued by all the COMELEC Election Officers nationwide, because the voting on the factual issue of compliance with the percentage requirements was deadlocked at 7-7 with one (1) absention, and therefore the presumption of validity of the certifications remains.

II. The highly contentious vote of 8-7, holding that the proposition for a change in form of government constitutes a prohibited revision, cites as supporting authority inapplicable foreign jurisprudence,[1] and disregards applicable Philippine jurisprudence,[2] without even any explanation or justification.

ARGUMENTS

I. No majority vote was obtained to

[1] McFadden v. Jordan, 196 P.2d 787, 790 (1948). Lowe v. Keisling, 130 Or.App. 1, 882 P.2d 91 (1994). Holmes v. Appling, 392 P.2d 636, 638 (1964). In Re Initiative Petition o. 364, 930 P.2d 186, 196 (1996). Livermore v. Waite, 102 Cal. 113, 118-119 (1984). Amador Valley v. State Board, 583 P.2d 1281, 1286 (1978). Legislature v. Eu, 54 Cal.3d 492, 509 (1991). California Assocation v. State, 109 Cal.App.4th 792, 836 (2203). Adams v. Gunter, 238 So.2d 824 (1970). Fine v. Firestone, 448 So.2d 984, 994 (1984). Yute Air Alaska v. McAlpine, 698 P.2d 1173, 1184 (1985). Decision of 25 October 2006, pages 34-40, 42-43, 28.

[2] Del Rosario v. Carbonell, G.R. No. L-32476, 20 October 1970. Occena v. Comelec, G.R. No. 56350, 02 April 1981.

invalidate the 1528 certificates of verification issued by all the COMELEC Election Officers nationwide, because the voting on the factual issue of compliance with the percentage requirements was deadlocked at 7-7 with one (1) absention, and therefore the presumption of validity of the certifications remains.

2. At the outset, it is useful to note that the voting on the factual issue of compliance with the percentage requirements was deadlocked, with seven (7) Honorable Justices opining that the petition for initiative did not comply with percentage requirements,[3] while another seven (7) Honorable Justices holding that there was no sufficient evidentiary basis to make a ruling on the factual issue and voted to remand the case to the COMELEC En Banc for resolution of the factual issue,[4] and one (1) Honorable Justice abstaining on the said issue.[5]

3. Moreover, as aptly observed by the Solicitor-General in Paragraph 3 of Page 5 of his Motion for Reconsideration, out of the seven (7) Honorable Justices who opined that the petition for initiative did not comply with the percentage requirements, only five (5) Honorable Justices actually supported the factual finding of a "grand deception" and "gigantic fraud."[6] One Honorable Justice who once served as a distinguished trial judge,[7] did not support the factual finding of fraud, but instead opined that the petition for initiative did not comply with the verification requirement.[8] Another Honorable Justice who also once served as a distinguished trial judge,[9] likewise did not support the said factual finding of fraud, and instead opined that the petition for initiative did not comply with the signature requirement.[10]

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[3] Ponencia of Justice Antonio T. Carpio, pages 16-27 and 30-31, concurred in by Justices Ma. Alicia Austria-Martinez and Conchita Carpio Morales, citing non-compliance with the "full-text" requirement. Separate Opinion of Justice Ynares-Santiago, pages 2-4, citing non-compliance with the "full-text" requirement. Separate Concurring Opinion of Chief Justice Artemio V. Panganiban, pages 21-23, citing non-compliance with the "full-text" requirement and verification requirement. Separate Concurring Opinion of Justice Romeo J. Callejo, Jr., pages 38-42, citing non-compliance with the verification requirement. Concurring Opinion of Justice Angelina Sandoval-Gutierrez, pages 27-28, citing non-compliance with the signature requirement.

[4] Justices Reynato Puno, Leonardo A. Quisumbing, Renato C. Corona, Dante O. Tinga, Minita V. Chico-Nazario, Cancio C. Garcia, Presbitero J. Velasco, Jr..

[5] Separate Opinion, Justice Adolfo S. Azcuna.

[6] Chief Justice Artemio V. Panganiban and Justices Antontio T. Carpio, Ma. Alicia Austria-Martinez and Conchita Carpio Morales, and Consuelo Ynares-Santiago.

[7] http://www.supremecourt.gov.ph

[8] Separate Concurring Opinion of Justice Romeo J. Callejo, Jr., pages 38-42.

[9] http://www.supremecourt.gov.ph

[10] Concurring Opinion of Justice Angelina Sandoval-Gutierrez, pages 27-28.

4. Thus, at the end of the day, it is evident that upon the rendition of the Decision of 25 October 2006, as well as upon the issuance of the Resolution of 21 November 2006, no majority vote was obtained to declare as invalid the 1528 certificates of verification issued by all the COMELEC Election Officers nationwide, because the voting was deadlocked at 7-7. Accordingly, petitioners respectfully submit that these certifications, issued by public officers in the regular performance of administrative functions, continue to be presumed valid through this date.

Full-Text Requirement

5. The factual findings of a "grand deception" and "gigantic fraud," purportedly practiced by petitioners Lambino and Aumentado upon a vast majority of the 6,327,952 registered voters who signed and supported the petition for initiative,[11] is belied by the records of the present case whereby not a single one of these signatories was ever presented, examined and cross-examined by any of the parties to the case, by any Commissioner of the COMELEC En Banc, nor by any Honorable Justice of the Supreme Court, to prove the allegation that he/she was not allowed to see the "full-text" of the proposed amendments.

6. Interestingly, while it has been opined that the vast majority of the signers and supporters themselves were "left in the dark to fathom the nature and effect of the proposed changes,"[12] the Decision itself quoted the "full text" of the proposition embodied in the Petition for Initiative lodged with the Commission on Elections.[13] The Honorable Justice Angelina Sandoval-Gutierrez who did not join the factual finding of fraud, likewise quoted the same "full-text" of the proposition.[14] Finally, the Honorable Justice Romeo J. Callejo, Sr. who also did not join the factual finding of fraud, acknowledged that "(p)etitioners incorporated in their petition for initiative the changes they proposed to be incorporated in the 1987 Constitution."[15]

[11] Ponencia of Justice Antonio T. Carpio, pages 16-27 and 30-31, concurred in by Justices Ma. Alicia Austria-Martinez and Conchita Carpio Morales, citing non-compliance with the "full-text" requirement. Separate Opinion of Justice Ynares-Santiago, pages 2-4, citing non-compliance with the "full-text" requirement. Separate Concurring Opinion of Chief Justice Artemio V. Panganiban, pages 21-23, citing non-compliance with the full-text requirement.
[12] Ponencia of Justice Antonio T. Carpio, page 29, paragraph 3.
[13] Decision of 25 October 2006, pages 5-7.
[14] Concurring Opinion, Angelina Sandoval-Gutierrez, pages 5-7.
[15] Separe Concurring Opinion, Justice Romeo J. Callejo, Sr., page 3, paragraph 3.

7. More importantly, the records of the present case show that opposing party One Voice, Inc. was able to access and secure for themselves a copy of the "full-text" of the proposed amendments posted at the website of Sigaw ng Bayan at www.sigawngbayan.com, www.sigawngbayan.net and www.sigawngbayan.org.[16] Opposing party even prepared a lengthy Matrix of the Sections and Articles of the 1987 Constitution Affected by Petitioners' Proposed Changes dated 26 September 2006, attached as Annex "59" of its Memorandum dated 11 October 2006. Based on the comprehensive coverage of the Matrix, it is reasonably evident that opposer One Voice, Inc. could not have prepared such a study unless it had a copy of the "full-text" of the proposition way way ahead of the litigation before the COMELEC En Banc and this Honorable Court.

8. Finally, the pros and cons of the proposition for a change in form of government, from a bicameral-presidential system to a unicameral-parliamentary system, were discussed extensively before the tri-media as a matter of public knowledge. Attached are two (2) representative samples of articles published in the Philippine Daily Inquirer, a national newspaper of general circulation, discussing the people's initiative, and quoting *verbatim* the text of various proposed amendments. Certification regarding the article entitled "The ABCs of a People's Initiative," attached as Annex "A." Certification regarding the article entitled "Revisiting the SC Ruling on Pirma," attached as Annex "B."

9. In sum, while the Decision would like the people at large to believe that a vast majority of the 6,327,952 registered voters who signed and supported the petition for initiative, were deceived into signing the accompanying signature sheets because they were never allowed to see the "full-text" of the proposed amendments, the main opposing parties and personalities, along with many other persons opposing the petition, so freely quoted and liberally criticized the same "full-text" of the proposition that was with wide public knowledge plastered all over the tri-media and electronic media.

[16] OneVoice Opposition-in-Intervention dated 05 September 2006, page 28, page 68.

Foreign Jurisprudence

10. In support of its holding that the petitioners purportedly failed to comply with the "full-text" requirement, the Decision cites foreign jurisprudence[17] which upon review of their rationale and context are clearly and plainly inapplicable. In fact, none of the cases cited in the *ponencia* expressly ruled upon the issue of the so-called "full-text" requirement for an initiative to amend the constitution.

11. In the case *State ex. Rel Patton v. Myers*,[18] the Supreme Court of Ohio resolved issues involving the signature requirement and the "one-subject" rule. The "full-text" requirement itself was not an issue. The subject was also a statue and not the state constitution. Incidentally, the ruling cited the provision of the Ohio State Constitution which expressly provided for a "full-text" requirement.[19]

12. In the case of *Whitman v. Moore*,[20] the Supreme Court of Arizona resolved the issue involving the signature requirement. Again the "full-text" requirement itself was not an issue. The subject was also a statue and not the state constitution. Incidentally, the ruling cited the provision of the Arizona State Constitution which expressly provided for a "full-text" requirement."[21]

13. In the case of *Heidtman v. City of Shaker Heights*,[22] the Supreme Court of Ohio resolved the issue involving the right of government employees to undertake an intiative. Again the "full-text" requirement itself was not an issue. The subject was also an ordinance and not the state constitution. Incidentally, the ruling cited the provision of

[17] State ex. Rel Patton v. Myers, 127 Ohio St. 95, 186 N.E. 872 (1933), Whitman v. Moore, 59 Ariz. 211, 125 P.2d 445 (1942), Heidtman v. City of Shaker Heights, 99 Ohio App. 415, 119 N.E. 2d 644 (1954), Christen v. Baker, 138 Colorado 27, 328 P.2d 951 (1958), Stop the Pay Hike Committee v. Town Council of Town of Irvington, 166 N.J. Super. 197, 399 A.2d 336 (1979), State ex rel Evans v. Blackwell, Slip copy, 2006 WL 1102804 (Ohio App. 10 Dist.), 2006-Ohio-2076, Capezzuto v. State Ballot Commission, 407 Mass. 949, 955 (1990), Kerr v. Bradbury, 89 P.3d 1227, 1235 (2004), Stumpf v. Lau, 839 P.2d 120, 124 (1992), cited in pages 14-15 of the Decision.
[18] 127 Ohio St. 95, 186 N.E. 872 (1933).
[19]Ohio Constitution, Article II, Section 1(g). "Any initiative, supplementary or referendum petition may be presented in separate parts but each part shall contain a full and correct copy of the title, and text of the law, section or item thereof sought to be referred, or the proposed law or proposed amendment to the constitution."
[20] 59 Ariz. 211, 125 P.2d 445 (1942).
[21] Arizona Constitution, Article 4, Part 1, Section 1(9). "Each sheet containing petitioners' signatures shall be attached to a full and correct copy of the title and text of the measure so proposed to be initiated or referred to the people, and every sheet of every such petition containing signatures shall be verified by the affidavit of the person who circulated said sheet or petition, setting forth the each of the names on said sheet was signed in the presence of the affiant and that in the belief of the affiant each signer was a qualified elector of the state, or in the case of a city, town or county measure, of the city, town, or county affected by the measure so proposed to be initiated or referred to the people."
[22] 99 Ohio App. 415, 119 N.E. 2d 644 (1954).

the Charter of the City of Shaker Heights which expressly provided for a "full-text" requirement."[23]

14. In the case of *Christen v. Baker*,[24] the Supreme Court of Colorado resolved the issue involving the signature requirement. Again the "full-text" requirement itself was not an issue. Incidentally, the ruling cited the provision of the Colorado State Constitution which expressly provided for a "full-text" requirement.[25]

15. In the case of *Stop the Pay Hike Committee v. Town Council of Town of Irvington*,[26] the Supreme Court of New Jersey resolved the issue involving the vagueness of a petition for referendum. Again the "full-text" requirement itself was not an issue. The subject was also not the state constitution but an ordinance. Incidentally, the ruling cited the provision of the Optional Municipal Charter Law which expressly provided for a "full-text" requirement concerning an initiative and referendum on an ordinance.[27]

16. In the case of *State ex rel Evans v. Blackwell*,[28] the Supreme Court of Ohio resolved the issue involving the verification procedure. Again the "full-text" requirement itself was not an issue. The subject was likewise not the state constitution but a law. Incidentally, the ruling cited the provision in the Ohio State Constitution which expressly provided for a "full-text" requirement concerning an initiative on a law.[29]

17. In the case of *Capezzuto v. State Ballot Commission*,[30] while the Supreme Court of Massachussets resolved the issue of a "full-text" requirement, the subject of

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[23] Charter of the City of Shaker Heights, Article III, Section 3. "Any initiative, supplementary or referendum petition may be circulated in separate parts; but each part shall contain a full and correct copy of the title and text of the proposed or referred ordinance or resolution, and the separate parts shall be bound together and presented as one instrument."
[24] 138 Colorado 27, 328 P.2d 951 (1958).
[25] Colorado Constitution, Article V, Section 1. "The first power hereby reserved by the people is the initiative, and at least eight per cent, of the legal voters shall be required to propose any measure by petition, and every such petition shall include the full text of the measure so proposed."
[26] 166 N.J. Super. 197, 399 A.2d 336 (1979).
[27] Optional Municipal Charter Law, Section 186. "Initiative petition papers shall contain the full text of the proposed ordinance."
[28] Slip copy, 2006 WL 1102804 (Ohio App. 10 Dist.), 2006-Ohio-2076.
[29] Ohio State Constitution, Article II, Section 1(g). "Any initiative, supplementary, or referendum petition may be presented in separate parts but each part shall contain a full and correct copy of the title, and text of the law, section or item thereof sought to be referred, or the proposed law or proposed amendment to the constitution."
[30] 407 Mass. 949, 955 (1990).

amendment itself was a statute and not the state constitution. The ruling thus cited the provision of the Masschussets State Constitution which expressly provided for a "full-text" requirement.[31]

18. In the case of *Kerr v. Bradbury*,[32] the Supreme Court of Oregon resolved the isue of a "full-text" requirement in connection with its publication, but again the subject of the amendment itself was a statute and not the state constitution. The ruling thus cited the provision of the Oregon State Constitution which expressly provided for a "full-text" requirement.[33]

19. In the case of *Stumpf v. Lau*,[34] the Supreme Court of Nevada resolved the issue of an additional "explanation" requirement. The "full-text" requirement itself was not an issue. The subject was not even about any amendment of the constitution. The subject was a public opinion poll on the constitution. Incidentally, we note that the Nevada Constitution expressly provides for a "full-text" requirement.[35]

20. By way of a general comment, we wish to stress that as materially distinguished from the express language of the state constitutions involved in the foreign rulings cited above, the 1987 Philippine Constitution does not so expressly adopt the so-called "full-text" requirement.[36] It is interesting to note that the *ponencia* of the Honorable Justice Carpio itself admits that the "full-text" requirement is not an absolute rule, inasmuch as "Florida requires only that the title and summary of the proposed amendment are "printed in clear and ambiguous language."[37]

21. In relation to the foregoing, we also need to consider that the 1987 Philippine Constitution on Suffrage does not require impose any literacy or visual ability requirement.[38] In fact the Constitution expressly provides that **"(n)o literacy**, property, **or**

[31] Massachussets State Constitution, Article II, Section 1. "An initiative petition shall set forth the full text of the constitutional amendment or law, hereinafter designated as the measure, which is proposed by the petition."
[32] 89 P.3d 1227, 1235 (2004).
[33] Oregon State Constitution, Article IV, Section 1(2)(d). "An initiative petition shall include the full text of the proposed law or amendment to the Constitution."
[34] 839 P.2d 120, 124 (1992).
[35] Nevada State Constitution, Article 19, Section 2(3). "The secretary of state shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the state, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment."
[36] 1987 Constitution, Article XVII Amendments or Revisions, Sections 2 and 4.
[37] Decision, page 14, paragraph 1, citing citing Advisory Opinion to the Attorney General RE Right of Citizens to Choose Health Care Providers, No. 90160, 22 January 1998, Supreme Court of Florida.
[38] 1987 Philippine Constitution, Article V Suffrage, Sections 1-2.

other substantive requirement shall be imposed on the exercise of suffrage."[39] The Constitution further expressly provides that **"(t)he Congress shall** also **design a procedure for the disabled and the illiterates to vote** without the assistance of other persons. Until then, **they shall be allowed to vote under existing laws and such rules as the Commission on Elections may promulgate** to protect the secrecy of the ballot."[40]

22. Taking these circumstances together, it thus becomes evident that the *ponencia* ruling and opinion that "the unbending requirement is that the people must first **see** the **full text** of the proposed amendments before they sign to signify their assent," virtually nullifies the constitutional rights of suffrage of Filipinos who literally cannot "see" because of a visual disability, or can see but cannot "read" because of lack of education. Surely, this unjust and absurd situation could not have been intended by the framers much less by the people, when they framed, approved and ratified the 1987 Philippine Constitution.

23. Petitioners here are not implying that they did not actually circulate and show the "full-text" of the proposed amendments to the signers. On the contrary the petitioners assert that in fact they circulated and showed the "full-text" of the proposition as embodied in their petition for initiative with attached signature sheet.[41] What petitioners are trying to show at this point is that the ruling and opinion of the *ponencia* regarding the so-called "full-text" requirement is without any authoritative basis under the Philippine legal system.

24. Interestingly, the case of *Whitman v. Moore*[42] cited in the *ponencia* of the Honorable Justice Antonio T. Carpio,[43] contradicts his other proferred view "that there is no presumption that the proponents observed the constitutional requirements in gathering signatures" and that "(t)he proponents have the burden of proving that they complied with the constitutional requirements in gathering signatures."[44] The case likewise contradicts the separate but similar proferred view of the Honorable Chief Justice

[39] Id, Section 1.
[40] Id, Section 2, paragraph 2.
[41] Memorandum dated 11 October 2006, pages 5-6, paragraphs 5-7, and page 80, paragaph 2(d).
[42] 59 Ariz. 211, 125 P.2d 445 (1942).
[43] Decision, page 14, paragraph 1.
[44] Decision, page 16, paragraph 1.

Artemio V. Panganiban that the verification of signatures "remains unproven by petitioners (Lambino and Aumentado."[45]

25. Thus, in the *Whitman* case,[46] the Supreme Court of Arizona ruled that:

> "It is, of course, a mere platitude to say that the people are the supreme power in our system of government. The history of our constitution and its adoption, to which we have previously referred, shows beyond the possibility of contradiction that the people themselves deliberately and intentionally announced that, by its adoption, they meant to exercise their supreme sovereign power directly to a far greater extent than had been done in the past, and that the legislative authority, acting in a representative capacity only, was in all respects intended to be subordinate to direct action by the people. **We, therefore, think that when there is any doubt as to the requirements of the constitution going only to the form and manner in which the power of an initiative should be exercised, every reasonable intendment is in favor of a liberal construction of those requirements and the effect of a failure to comply therewith, unless the constitution expressly and explicitly makes any departure therefrom fatal.**"… (emphasis supplied)
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> "As was said by the Supreme Court of Oklahoma in Re Initiative Petition No. 23 (35 Okl. 49, 127 P. 862, 866):
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> > "'* * * The right of direct legislation in the people must be administered by the officers charged with that duty in such manner as to make it operative. **If technical restrictive constructions are placed upon the laws governing the initiation and submission of these measures, the purpose and policy of the people in establishing the same will be entirely defeated, and instead of becoming an effective measure for relief from evils, under which they have heretofore suffered, there will be naught but an empty shell and a continuation of the conditions for which relief in this manner has been sought**. The people who circulate a petition to submit for the consideration of their fellow citizens, constitutional and statutory provisions for the most part are unquestionably animated by a purpose which to them and the signers thereof, at least, appears good. Those who circulate the petition will necessarily be drawn from the ranks of volunteers or those who, for a very small consideration, call attention to their fellow citizens to the measure proposed, and solicit their interest therein. Necessarily even with the best safeguards that can be thrown around the circulation of petitions, where such a large number of names are required, inaccuracies and technical departure from prescribed forms are certain to occur every time a petition is circulated. The people who sign the petitions often, if not generally, lack both convenience and the best writing materials to distinctly, legibly, and permanently attach their names thereto. All of these things are proper to be noted and taken in consideration in the administration of this law. It can be made effective or defeated by the officers charged with its administration, and it is our duty to sustain it, rather than destroy, if it can be accomplished within the law. **The presumption is that petitions which are circulated, signed, and filed are valid. People interested as the circulators of these petitions, and the others who sign them, are acting in the capacity of legislators. They are members of the largest legislative body in the state, and, where so acting, do so in a public or at least a quasi public capacity, and when so acting the law presumes**

[45] Chief Justice Artemio V. Panganiban, Separate Concurring Opinion, page 15, paragraph 1.
[46] 59 Ariz. 211, 125 P.2d 445 (1942).

> **the validity and legality of their acts, and even though it should be claimed that they were acting simply in a private capacity, until overcome by proof, their acts, involving the performance of ministerial or administrative duties, such as those performed in the circulation and signing of these petitions, are presumed to be legal and not fraudulent. * * *** (emphasis supplied)
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> '**These petitions, therefore, and the signatures thereto, are presumed to be valid**, and the presumption obtains on the filing of the objections in the office of the Secretary of State that those who have signed them are legal voters of the state of Oklahoma, and this is the one provision that is the sine qua non, the substantial material element necessary in every case to constitute a valid signature, **and the burden of proof to overcome this presumption should be and is, in every instance, upon the protestant, and, in the absence of any evidence of fraud, forgery, or other improper or wrongful conduct in securing the signers to the petitions sufficient to throw discredit upon the entire petition or upon a sufficient number, the same, in keeping with the presumption above noted, will be held valid**. We do not mean to hold that the circulator's affidavit can be dispensed with, but that technical defects therein will not destroy the petition. * * *'" (emphasis supplied)

26. Hence, the *Whitman* case teaches us that it is not for the petitioners Lambino and Aumentado to prove the genuineness and due execution of the signatures of the 6,327,952 registered voters and the 1528 Election Officers. The signatures of the registered voters are already presumed valid as they are, and more so now that they have been verified as shown by the 1528 certificates of verification. In the same manner, the signatures of the Election Officers are also presumed valid as they are. The burden of proof to overcome this presumption now falls on the opposing parties.

27. The foregoing statement is not a sophisticated argument about a complicated issue of law governing the technical rules of procedure. Far from it, this statement is merely a simple application of the basic rules of evidence governing burden of proofs and presumptions to the facts of the case as shown by the evidence on record.

Verification Requirement

28. The Honorable Chief Justice Artemio V. Panganiban opines that the petition for initiative lodged before the COMELEC En Banc contains "unverified signatures."[47] With all due respect but the Honorable Chief Justice may be mistaken. Petitioners Lambino and Aumentado have in fact attached to the Petition for Initiative lodged with the Comelec En Banc, the 1528 certificates of verification issued by all the Comelec

[47] Separate Concurring Opinion, Chief Justice Artemio V. Panganiban, page 15.

Election Officers nationwide, marked as Annexes "1" to "1528" of the said petition.[48] The 1528 certificates of verification are also incorporated by reference to the present Petition for Certiorari and Mandamus.[49]

29. The Honorable Justice Romeo J. Callejo, Sr. opines that the certificates of verification in almost all the legislative districts in the Autonomous Region of Muslim Mindanao (ARMM) are ineffective because the verification was sub-delegated by the election registrars to barangay officials.[50] With all due respect but the Honorable Justice may be mistaken. There is persuasive authority to the effect that "the rule that requires an officer to exercise his own judgment and discretion in making an order does not preclude him from utilizing, as a matter of practical administrative procedure, the aid of subordinates directed by him to investigate and report the facts and their recommendation in relation to the advisability of the order. Also, administrative authorities having power to determine certain questions after a hearing may make use of subordinates to have the hearing, and make their determination upon the report of the subordinates, without violating the principles as to fairness of hearing or delegation of powers."[51] Accordingly, the election registrars in the exercise of their administrative functions are not barred from deputizing barangay officials to make a preliminary verification of signatures and submit their recommendations thereon. The moment that the election registrars adopt the preliminary findings and recommendations, the findings become their own with full responsibility and accountability.

Signature Requirement

30. The Honorable Justice Angelina Sandoval-Gutierrez opines that the petition for initiative lodged before the COMELEC En Banc contains the signatures of only "two registered voters" namely petitioners Lambino and Aumentado.[52] With all due respect but the Honorable Justice may be mistaken. Petitioners Lambino and Aumentado have in fact attached to the Petition for Initiative lodged with the Comelec En Banc, the 6,327,952

[48] Memorandum, pages 6-7, paragraph 9.
[49] Id.
[50] Separate Concurring Opinion, Justice Romeo J. Callejo, Sr., pages 38-41.
[51] Administrative Law-A Text, Neptali A. Gonzales, 1979 ©, pp. 43-44, citing 42 Am. Jur. 389.
[52] Concurring Opinion, Justice Angelina Sandoval-Gutierrez, Pages 26-29.

signatures of the registered voters from all the election districts nationwide who joined and supported the said petition, marked as Annexes "01100000" to "17752041" thereof.[53] The 6,327,952 signatures of registered voters are also incorporated by reference to the present Petition for Certiorari and Mandamus.[54]

Remand of Case to the Comelec En Banc

31. At this point, it may be useful for petitioners to reiterate their position on the factual issue of compliance with the percentage requirements of the Constitution, that the circulation of the petition for initiative together with the signature sheets are presumed to be compliance with the requirements of the constitutional provisions, statutes and implementing rules and regulations;[55] that the registered voters who signed the signature sheets circulated together with the petition for initiative are presumed to have understood the proposition contained in the petition;[56] that the right to withdraw a signature is a strictly personal right, and the right terminates upon verification of the signature by the election officer;[57] that the signatures of the signers are presumed to be genuine and the burden is on him who attacks their genuineness to prove that they are not genuine;[58] that the circulation of the petition for initiative is presumed to be in good faith and without any fraud or mistake;[59] that the verification of the signatures of the registered voters by the election officers is presumed to be regular, and that any failure of the election officers to perform their administrative functions will not bar the petition for initiative but will instead deem the petition sufficient;[60] that as a general rule, the findings of the election officers confirming the genuineness and due execution of the signatures of the registered voters, are not reviewable by the Comelec En Banc;[61] that the petition for initiative is presumed to be sufficient in form and substance, and the burden of proof to show its invalidity rests on those who oppose it;[62] and that the opposers have the burden of proof

[53] Memorandum, page 6, paragraph 9.
[54] Id.
[55] Memorandum, Annex B, paragraph (d).
[56] Memorandum, Annex B, paragraph (f).
[57] Memorandum, Annex B, paragraph (g).
[58] Memorandum, Annex B, paragraph (h).
[59] Memorandum, Annex B, paragraph (i).
[60] Memorandum, Annex B, paragraph (j).
[61] Memorandum, Annex B, paragraph (m).
[62] Memorandum, Annex B, paragraph (o).

to rebut the evidentiary presumptions that official duty has been performed regularly, that all relevant issues were raised and that the law has been obeyed.[63]

32. Nonetheless, petitioners respectfully manifest that they will submit to the judgment and discretion of the Honorable Court to remand the case to the COMELEC En Banc for a resolution of the factual issues involving compliance with the percentage requirements. However, petitioners respectfully reserve their right to invoke before the COMELEC En Banc the presumption of regularity for the 1528 certificates of verification issued by all the COMELEC Election Officers nationwide in the course of the official performance of their administrative functions.

II. The highly contentious vote of 8-7, holding that the proposition for a change in form of government constitutes a prohibited revision, cites as supporting authority inapplicable foreign jurisprudence,[64] and disregards applicable Philippine jurisprudence,[65] without even any explanation or justification.

33. It is noteworthy that six (6) out of eight (8) Honorable Justices who voted that the proposition constitutes a prohibited revision,[66] rely mainly in the ruling of the Supreme Court of California in the case of *McFadden v. Jordan*.[67] However, upon a closer review of the rationale and context of *McFadden*, it becomes clear and plain that this case is not applicable to the Philippine legal setting.

34. In the case of *McFadden*, the Supreme Court of California ruled and opined as follows:

> "[2a] The only method provided in the Constitution by which it can be revised is set forth in section 2 of article XVIII. That section requires (1) a vote of two-thirds of the Legislature to recommend that the electors vote "for or against a

[63] Memorandum, Annex B, paragraph (s).
[64] McFadden v. Jordan, 196 P.2d 787, 790 (1948). Lowe v. Keisling, 130 Or.App. 1, 882 P.2d 91 (1994). Holmes v. Appling, 392 P.2d 636, 638 (1964). In Re Initiative Petition No. 364, 930 P.2d 186, 196 (1996). Livermore v. Waite, 102 Cal. 113, 118-119 (1894). Amador Valley v. State Board, 583 P.2d 1281, 1286 (1978). Legislature v. Eu, 54 Cal.3d 492, 509 (1991). California Assocation v. State, 109 Cal.App.4th 792, 836 (2203). Adams v. Gunter, 238 So.2d 824 (1970). Fine v. Firestone, 448 So.2d 984, 994 (1984). Yute Air Alaska v. McAlpine, 698 P.2d 1173, 1184 (1985). Decision of 25 October 2006, pages 34-40, 42-43, 28.
[65] Del Rosario v. Carbonell, G.R. No. L-32476, 20 October 1970. Occena v. Comelec, G.R. No. 56350, 02 April 1981.
[66] Ponencia of Justice Antonio T. Carpio, page 34, concurred in by Justices Ma. Alicia Austria-Martinez and Conchita Carpio Morales. Separate Opinion of Justice Ynares-Santiago, pages 10 and 17. Concurring Opinion of Justice Angelina Sandoval-Gutierrez, pages 20 and 22. Separate Concurring Opinion of Justice Romeo J. Callejo, Jr., pages 30 and 37.
[67] 196 P.2d 787, 790 (1948).

convention for the purpose"; (2) a vote in favor of such a convention, by a majority of the electors voting; (3) the calling of such a convention and the election by the people of delegates thereto; (4) the adoption by the convention of a proposed constitution; (5) ratification by the people of such constitution.

"**In Livermore v. Waite (1894)**, 102 Cal. 113, 117-119 [36 P 424, 25 L.R.A. 312], **this court declared, "Article XVIII of the constitution provides two methods by which changes may be effected in that instrument, one by a convention of delegates chosen by the people for the express purpose of revising the entire instrument, and the other through the adoption by the people of propositions for specific amendments that have been previously submitted to it by two- thirds of the members of each branch of the legislature.** [The provision for amendment by initiative was added in 1911, art. IV, § 1.] {Page 32 Cal.2d 333} **It can be neither revised nor amended except in the manner prescribed by itself, and the power which it has conferred upon the legislature in reference to proposed amendments, as well as to calling a convention, must be strictly pursued.** Under the first of these methods the entire sovereignty of the people is represented in the convention. The character and extent of a constitution that may be framed by that body is freed from any limitations other than those contained in the constitution of the United States. If, upon its submission to the people, it is adopted, it becomes the measure of authority for all the departments of government, the organic law of the state, to which every citizen must yield an acquiescent obedience. ... The legislature is not authorized to assume the function of a constitutional convention, and propose for adoption by the people a revision of the entire constitution under the form of an amendment ... The constitution itself has been framed by delegates chosen by the people for that express purpose, and has been afterwards ratified by a vote of the people, at a special election held for that purpose, and the provision in article XVIII that it can be revised only in the same manner, and after the people have had an opportunity to express their will in reference thereto, precludes the idea that it was the intention of the people, by the provision for amendments authorized in the first section of this article, to afford the means of effecting the same result which in the next section has been guarded with so much care and precision. The very term 'constitution' implies an instrument of a permanent and abiding nature, and the provisions contained therein for its revision indicate the will of the people that the underlying principles upon which it rests, as well as the substantial entirety of the instrument, shall be of a like permanent and abiding nature. On the other hand, the significance of the term 'amendment' implies such an addition or change within the lines of the original instrument as will effect an improvement, or better carry out the purpose for which it was framed." (See also 5 Cal.Jur. § 11, pp. 559-560; 16 C.J.S. § 7, pp. 30-31; 11 Am.Jur. § 25, p. 629.) (emphasis supplied)

"[3] **The initiative power reserved by the people by amendment to the Constitution in 1911 (art. IV, § 1)** applies only to the proposing and the adopting or rejecting of "laws and amendments to the Constitution" and does not purport to extend to a constitutional revision. That amendment **was framed and adopted long after the decision in Livermore v. Waite** {Page 32 Cal.2d 334} (1894), supra, 102 Cal. 113. [4] **By well established law it is to be understood to have been drafted in the light of the Livermore decision.** (See 50 Am.Jur. §§ 321, 322, pp. 312, 313.) As said in Estate of Moffitt (1908), 153 Cal. 359, 361 [95 P. 653, 1025, 20 L.R.A.N.S. 207], "**[A] familiar and fundamental rule for the interpretation of a legislative statute is that it is presumed to have been enacted in the light of such existing judicial decisions as have a direct bearing upon it.**" (See also, to the same effect, In re Halcomb (1942), 21 Cal.2d 126, 129 [130 P.2d 384], and cases there cited.) [2b] It is thus clear that a revision of the Constitution may be accomplished only through ratification by the people of a

> revised constitution proposed by a convention called for that purpose as outlined hereinabove. Consequently if the scope of the proposed initiative measure (hereinafter termed "the measure") now before us is so broad that if such measure became law a substantial revision of our present state Constitution would be effected, then the measure may not properly be submitted to the electorate until and unless it is first agreed upon by a constitutional convention, and the writ sought by petitioner should issue." (See Livermore v. Waite (1894), supra, 102 Cal. 113.) [5] Mandamus is a proper remedy. (Gage v. Jordan (1944), supra, 23 Cal.2d 794, 800, and cases there cited.)

35. Thus, in the *McFadden* case, the Supreme Court of California observed that when the provision for initiative to amend the constitution was incorporated into the California State Constitution, the prevailing judicial doctrine under the case of *Livermore v. Waite*[68] was that "amendment" was distinguished from "revision" in form and substance. Accordingly, it behooved the California Supreme Court to interpret the constitutional provision for initiative in light of the judicial doctrine prevailing at the time of adoption of the provision.

36. In contrast to the context and background of the California legal system, the judicial doctrine then prevailing in the Philippine legal system, at the time that when the provision for initiative to amend the constitution was incorporated into the 1987 Philippine Constitution, as pronounced by the Philippine Supreme Court in the cases of *Del Rosario v. Carbonell*[69] and *Occena v. Comelec,*[70]was that "amendment" includes "revision" and any distinction in form was subordinate to the absence of any distinction in substance. Accordingly, if we follow the rational of the *McFadden* case, then it behooves the Supreme Court of the Philippines to interpret the constitutional provision for initiative in light of the judicial doctrine prevailing at the time of adoption of the provision, that "amendment" includes "revision."

37. Regarding the case of *Livermore v. Waite*[71] which served as the precedent of the *McFadden* case, the context and background of this case also shows that it is not applicable to the Philippine legal system. As explained by Justice Makasiar in his Separate Opinion in the case of *Javellana V. Executive*, the view that the sovereign people cannot violate the procedure for amending or revising the constitution which they

[68] Livermore v. Waite, 102 Cal. 113, 118-119 (1894).
[69] Del Rosario v. Carbonell, G.R. No. L-32476, 20 October 1970.
[70] Occena v. Comelec, G.R. No. 56350, 02 April 1981.
[71] Livermore v. Waite, 102 Cal. 113, 118-119 (1894).

themselves defined, is not applicable to a unitary state like the Philippines.[72] The view is applicable only to a federal state like the United States, "in order to and preserve the existence of the Federal Republic of the United States against any radical innovation initiated by the citizens of the fifty (50) different states of the American Union, which states may be jealous of the powers of the Federal government presently granted by the American Constitution. This dangerous possibility does not obtain in the case of our Republic."[73]

38. Incidentally, this insight of Justice Makasiar is applicable not only to the *Livermore* case, but to all other foreign cases such as the *McFadden* case, which rules and opines that the manner of proposing "amendments" or "revisions" to the constitution "must be strictly pursued."[74]

39. In addition to the *McFadden* and *Livermore* cases, the Decision also cites other foreign jurisprudence[75] which upon review of their rationale and context are clearly and plainly inapplicable.

40. In the cases of *Amador Valley v. State Board,*[76] *Legislature v. Eu*[77] and *California Assocation v. State*,[78] the Supreme Court of California merely followed the rational established in the *McFadden* case. Thus, it reasonably follows that these subsequent cases are also inapplicable for the same reason as the *McFadden* case.

41. In the cases of *Lowe v. Keisling*[79] and *Holmes v. Appling*,[80] the Supreme Court of Oregon ruled in the context of applying constitutional provisions which expressly differentiate between the mode of amendment and the mode of revision, by expressly setting different voting requirements between them: i.e. "majority vote of all the members

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[72] Javellana v. Executive Secretary, G.R. No. L-36142, 31 March 1973, Separate Opinion, J. Makasiar.
[73] Id.
[74] Livermore v. Waite, 102 Cal. 113, 118-119 (1894). McFadden v. Jordan, 196 P.2d 787, 790 (1948).
[75] Lowe v. Keisling, 130 Or.App. 1, 882 P.2d 91 (1994). Holmes v. Appling, 392 P.2d 636, 638 (1964). In Re Initiative Petition No. 364, 930 P.2d 186, 196 (1996). Livermore v. Waite, 102 Cal. 113, 118-119 (1984). Amador Valley v. State Board, 583 P.2d 1281, 1286 (1978). Legislature v. Eu, 54 Cal.3d 492, 509 (1991). California Assocation v. State, 109 Cal.App.4th 792, 836 (2203), cited in pages 34-37 of the Decision.
[76] 583 P.2d 1281, 1286 (1978).
[77] 54 Cal.3d 492, 509 (1991).
[78] 109 Cal.App.4th 792, 836 (2203).
[79] 130 Or.App. 1, 882 P.2d 91 (1994).
[80] 392 P.2d 636, 638 (1964).

elected to each of the two houses"[81] for the former; and "at least two-thirds of all the members of each house"[82] for the latter. This express and unmistakable distintion is nowhere to be found in Article XVII Amenments or Revisions of the 1987 Philippine Constitution. Hence, it reasonably follows that this foreign case is not applicable to the present case. A comparison of the pertinent constitutional provisions read as follows:

Oregon State Constitution	**1987 Philippine Constitution**
"**Method of amending Constitution**. Any amendment or amendments to this Constitution may be proposed in either branch of the Legislative Assembly, and if the same shall be agreed to **by a majority of all the members elected to each of the two houses**, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the secretary of state to the people for their approval or rejection, at the next regular general election, except when the legislative assembly order a special election for that purpose." (emphasis supplied) *Article XVII Amendments and Revisions, Section 1.* "**Method of revising Constitution**. (1) In addition to the power to amend this Constitution granted by Section 1, Article IV, and Section 1 of this Article, a revision of all or part of this Constitution may be proposed in either house of the Legislative Assembly and, and if the proposed revision is agreed to **by at least two-thirds of all the members of each house**, the proposed revision shall, with the yeas and nays be entered in their journals and referred by the secretary of state to the people for their approval or rejection, notwithstanding Section 1, Article IV of this Constitution, at the next regular state-wide primary election, except when the Legislative Assembly orders a special election for that purpose. **A proposed revision may deal with more than one subject** and shall be voted upon as one question." (emphasis supplied) *Article XVII Amendments and Revisions, Section 2.*	Section 1. Any amendment to, or revision of, this Constitution may be proposed by: (1) The Congress, upon a vote of three-fourths of all its Members; or (2) A constitutional convention. Section 2. Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered votes therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter. The Congress shall provide for the implementation of the exercise of this right. Section 3. The Congress may, by a vote of two-thirds of all its Members, call a constitutional convention, or by a majority vote of all its Members, submit to the electorate the question of calling such a convention. Section 4. Any amendment to, or revision of, this Constitution under Section 1 hereof shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not earlier than sixty days nor later than ninety days after the approval of such amendment or revision. Any amendment under Section 2 hereof shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not earlier than sixty days nor later than ninety days after the certification by the Commission on Elections of the sufficiency of

[81] Oregon State Constitution, Article XVII Amendments and Revisions, Section 1.
[82] Oregon State Constitution, Article XVII Amendments and Revisions, Section 2.

	the petition.ARTICLE XVII Amendments or Revisions

42. In the case of *In Re Initiative Petition No. 364*,[83] the Supreme Court of Oklahoma ruled in connection with a non-binding legislative. It did not even involve an initiative to propose laws or amendments to the state constitution, much less did not involve the issue of "amendment" and "revision" by way of an initiative. Moreover, the ruling was made in the context of a constitutional provision which expressly provided for a "one-subject" rule for amendments to the constitution.[84] In contrast to the state constitution of Oklahoma, the 1987 Philippine Constitution does not provide for a "one-subject" rule with respect to amendments to the constitution. Accordingly, it reasonably follows that this foreign case is not applicable to the present case.

43. In contrast to the foreign cases cited above, the Supreme Court of the Philippines has already settled the matter of "amendment" and "revision" in the cases of *Del Rosario v. Carbonell*[85] and *Occena v. Comelec*[86] by ruling that **"'amendment' includes the 'revision' or total overhaul of the entire Constitution,**" and that **"whether the Constitution is merely amended in part or revised or totally changed would become immaterial the moment the same is ratified by the sovereign people."**[87] While petitioners are mindful, and do not wish to be disrespectfull, of the opinions of eminent jurists that "amendment" is distinguished from "revision" in both form and substance,[88] petitioners nonetheless respectfully submit that their individual views will have to give way to the binding rulings of the Supreme Court in the ordinary order of things, and under the principle of *stare decisis* or the doctrine of precedent. In this regard, petitioners replead its arguments contained in paragraphs 128-134 of pages

[83] 930 P.2d 186, 196 (1996).
[84] Oklahoma State Constitution, Section XXIV-1. "No proposal for the amendment or alteration of this Constitution which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for amendment of this Constitution by articles, which embrace one general subject, each proposed Article shall be deemed a single proposal or proposition."
[85] Del Rosario v. Carbonell, G.R. No. L-32476, 20 October 1970.
[86] Occena v. Comelec, G.R. No. 56350, 02 April 1981.
[87] Del Rosario supra. Occena supra.
[88] Separate Opinion, J. Antonio, Javellana v. Executive Secretary, G.R. No. L-36142, 31 March 1973. Dean Vicente G. Sinco, Philippine Political Law, 2nd ed., p. 46. Joaquin G. Bernas, S.J., The 1987 Constitution of the Republic of the Philippines: A Commentary, 2003 Edition, pages 1293-1297.

65-69 of its Memorandum dated 11 October 2006, and in paragraphs 27-38 of pages 16-21 of its Motion for Reconsideration dated 09 November 2006.

44. Consistent with the rulings in *Del Rosario v. Carbonell* and *Occena v. Comelec*, the Honorable Justice Leonardo A. Quisumbing opines as follows: that "this petition (is) one mainly involving a complex political question;" and that "(c)learly, by the power of popular initiative, the people have the sovereign right to change the present Constitution," and "(w)ether the initial moves are done by a Constitutional Convention, a Constituent Assembly, or a People's Initiative, in the end every amendment—however insubstantial or radical—must be submitted to a plebiscite" and "(t)hus, it is the ultimate will of the people expressed in the ballot, that matters."[89]

45. In view of the foregoing, it may be noted that the Honorable Justice Reynato S. Puno also opines as follows: that "the Constitution sets in black and white the requirements for the exercise of the people's initiative to amend the Constitution (i.e. percentage requirements; frequency of amendments)," and that "(c)ompliance with these requirements is clearly a justiciable and not a political question."[90]

46. While on the surface the respective views of the Honorable Justices Quisumbing and Puno appear to be inconsistent with each other, petitioners respectfully submit that a closer review of their opinions reveal that they are conceivably consistent and reconcilable with each other, because the former pertains to the **nature or content of the proposed constitutional amendments** contained in a petition for initiative, while the latter pertains to the **manner of compliance with the constitutional requirements** for filing a petition for initiative to amend the constitution.

47. While petitioners respectfully and unquestionably adhere to the view of the Honorable Justice Puno that indeed "(c)ompliance with these (constitutional percentage and frequency) requirements is clearly a justiciable and not a political question," petitioners likewise respectfully concur with the view of the Honorable Justice Quisumbing (as petitioners would understand it), that the nature or content of constitutional amendments proposed by way of a people's intitiative is not a justiciable

[89] Separate Opinion, Justice Leonardo A. Quisumbing, pages 1-2, paragraphs 1-2.
[90] Dissenting Opinion, Justice Reynato S. Puno, pages 53-54.

question (involving the purported technical distinctions between "amendment" and "revision") but instead is a political question, because at the end of the day "it is the ultimate will of the people expressed in the ballot, that matters."

Drafting Requirement

48. The Honorable Justice Adolfo S. Azcuna opines as follows: that "revisions are not allowed through direct proposals by the people through initiative" because "there is no one to draft such extensive changes, since 6.3 million people cannot conceivably come up with a single extensive document through a direct proposal from each of them;" and that if "(s)omeone would have to draft it" then "that is not authorized as it would not be a direct proposal from the people."[91] With all due respect but the Honorable Justice may be mistaken. Petitioners respectfully submit that the view is self-contradictory.

49. Firstly, there is nothing in the wording of Section 2 of Article XVII of the 1987 Constitution that requires each and every voter who comprise the petitioning 6.3 million people to draft his own amendments. The constitutional provision speaks only about the people who propose the amendments. In other words, the constitutional provision is not about who drafted the proposed amendments, but rather who proposed it. Based on the standard of reason, it ought to be sufficient if the proposed amendments are drafted by one voter, and circulated to the other 6.3 million people, for comment, acceptance or rejection. The proposed amendments are still by the people, of the people, and for the people, the moment they sign and adopt it as their own. Secondly, assuming for the sake of argument that there is a substantive rather than a procedural distinction between "amendment" and "revision" based on the "quantitative" and "qualitative" tests under the Philippine jurisdiction, it cannot be denied that even a *simple amendment* needs to be drafted by "someone." Thus, under the view that if "someone would have to draft it" that "would not be a direct proposal from the people," even a *simple amendment* drafted by "someone … would not be a direct proposal from the people." Hence, under this view, the people can never for practical reasons propose even a *simple amendment*

[91] Separate Opinion, Justice Adolfo S. Azcuna, page 5, paragraph 4.

"since 6.3 million people cannot conceivably come up with a single … document through a direct proposal from each of them."

"Quantitative" and "Qualitative" Tests

50. The Honorable Justice Antonio T. Carpio opines that "(a) change in a single word of one sentence of the Constitution may be revision and not an amendment," citing "(f)or example, the substitution of the word "republican" with "monarchic" or "theocratic" in Section 1, Article II of the Constitution (which) radically overhauls the entire structure of government and the fundamental ideological basis of the Constitution."[92] With all due respect but the Honorable Justice may be mistaken. Petitioners respectfully submit that the view is inherently flawed and absolutely impossible of conceptualization, even if we assume for the sake of argument that there is a substantive rather than a procedural distinction between "amendment" and "revision" based on the "quantitative" and "qualitative" tests under the Philippine jurisdiction.

51. As explained by the Honorable Justice Reynato A. Puno, there are three major sets of constitutional provisions: the **constitution of liberty**, the **constitution of government** and the **constitution of sovereignty**.[93] It is thus plain and incontrovertible that the suggested change in a single word cannot exist by itself, without necessarily amending if not outright repealing, and language or wording of Article III (on the Bill of Rights), Articles VI, VII, VIII, IX and X (on the Legislative Department, Executive Department, Judicial Department, Constitutional Commissions, and Local Government), and Article XVII on (Amendments and Revisions). It will also amend if not repeal Article XII (on National Economy and Patrimony).

52. Under the cited example, the people will not have any rights reserved or granted to them, except upon the grace of the monarch or the church. Any and all official acts of the said government agencies will mean nothing, unless approved by the monarch or the church. The sovereign will no longer be the people, but rather the monarch or the church. All the wealth will be owned by the monarch or the church. All the power will be vested in the monarch or the church. Thus, it is obvious that an overhaul of the language

[92] Decision, page 44.
[93] Dissenting Opinion, page 37, pargraph 2, citing Garner, Introduction to Political Science, pages 397-398.

and wording of the provisions of the cited Articles cannot be avoided, without being irreconcilably inconsistent with the supposed change in a single word from "republican" to "monarchic" or "theocratic."

53. The Honorable Justice Adolfo S. Azcuna opines as follows: that "the proposed changes can be separated and are, in my view, separable in nature-a unicameral legislature is one; a parliamentary form of government is another;" that "(t)he first is a mere amendment and contains only one subject matter," while "(t)he second is clearly a revision that affects every article and every provision in the Constitution;" and that "(t)hese (changes in the legislature from a bicameral body to a unicameral body) are mere amendments, substantial ones indeed but still only amendments, and they address only one subject matter."[94] With all due respect but the Honorable Justice may be mistaken.

54. Firstly, assuming for the sake of argument that there is a substantive rather than a procedural distinction between "amendment" and "revision" based on the "quantitative" and "qualitative" tests under the Philippine jurisdiction, the Separate Opinion does not explain why a substantive change in the form of the legislature from a bicameral body to a unicameral body is an amendment, while a similar substantive change from a presidential system to a parliamentary system is a revision. While the Separate Opinion acknowledges that the resulting changes that may be made in the text of pertinent constitutional provisions that refer to the legislature are merely "perfunctory and ministerial in nature," in the sense that such changes pertain only to the name of the legislative body, the same Opinion apparently declines to make a similar acknowledgement of the "perfunctory and ministerial in nature" of any resulting changes in the text of pertinent constitutional provisions that refer to the chief executive, without making any reasonable explanation for this substantive differentiation.

55. Secondly, while there are no fixed international standard forms for a presidential system and for a parliamentary system of government, petitioners respectfully submit that the essential difference between these two (2) systems is as follows: a presidential system is where the executive branch exists independently of the

[94] Separate Opinion, Justice Adolfo S. Azcuna, pages 6-8.

legislative branch,[95] while a parliamentary system is where the executive branch exists in dependence of the legislative branch.[96] In other words, a presidential system is where the executive and legislative powers of government are lodged in separate political bodies,[97] while a parliamentary system is where the executive and legislative powers of government are lodged in one unified political body.[98] Put in another way, a presidential system is where there is a separation of the executive and legislative powers of government,[99] while a parliamentary system is where there is a fusion of the executive and legislative powers of government.[100]

56. By way of example, the modern private corporation may be cited as a working model of the parliamentary system. Under the standard set-up of corporations, the shareholders vote for their representatives in the governing board.[101] The board in turn assumes the power and responsibility, not only to establish the appropriate corporate policy,[102] but also to elect the suitable chief executive and other corporate officers who will be tasked to implement the established policy.[103] The simplified system of governance employed by the modern private corporation maximizes not only flexibility but also accountability.

57. With this fundamental distinction mind, petitioners respectfully submit that a shift from a presidential system to a parliamentary system may theoretically be effected and implemented, by simply changing the selection or election process under Section 4 and other closely related provisions of Article VII of the 1987 Constitution, whereby the President will be elected by the Members of Congress instead of being elected by the people at large. With this simple and limited change in the selection or election process, we will have in essence a parliamentary system in place of a presidential system. This is so even if the chief executive retains the job title of "President" without necessarily changing it to a new job title of "Prime Minister." After all, job titles merely pertain to

[95] http://en.wikipedia.org/wiki/Presidential_system.
[96] http://en.wikipedia.org/wiki/Parliamentary_system.
[97] wikipedia Presidential supra.
[98] wikipedia Parliamentary supra.
[99] wikipedia Presidential supra.
[100] wikipedia Parliamentary supra.
[101] Corporation Code of the Philippines, Section __.
[102] Corporation Code of the Philippines, Section __.
[103] Corporation Code of the Philippines, Section __.

the form of the position, rather than to the substance of its powers and functions.

58. Under this theoretical change, will a shift in form of government from a presidential system to a parliamentary system still be considered a "revision" under the so-called "quantitative" and "qualitative" tests? Clearly the change is simple and limited, and should easily pass the tests indicated.

One-Subject Rule

59. Based on the foregoing discussion, it appears that the view of the Honorable Justive Adolfo S. Azcuna is more appropriate for purposes of pursuing an argument based on the so-called "one-subject" rule, rather than based on the so-called "quantitative" and "qualitative" tests.

60. Assuming for the sake of argument that there is a "one-subject" rule under the Philippine jurisdiction, it may indeed be reasonably argued that a change in form of government from a "bicameral-presidential" system to a "unicameral-parliamentary" system covers two (2) subjects. This is so because a bicameral or unicameral legislature may exist in both a presidential or parliamentary system. Thus, the United States of America has a bicameral legislature under a presidential system. On the other hand, the United Kingdom has a bicameral legislature under a parliamentary system (although its upper house is subordinate to the lower house in terms of political power). Looking to the Philippine Constitution of 1899 also known as the "Malolos Constitution," the Philippines established a unicameral legislature[104] under a parliamentary system,[105] (although apparently the system was not implemented due to the revolutionary conditions at that time). Moving forward to the Philippine Constitution of 1973, the Philippines again had a unicameral legislature[106] under a parliamentary system,[107] (but apparently the system was still not implemented because of the martial law condtions during this time).

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[104] Philippine Constitution of 1899, Article V The Legislative Power.
[105] Philippine Constitution of 1899, Articles VI The Executive Power and VII The President of the Republic. Article 58 provides that "(t)he President of the Republic shall be elected by absolute majority of votes by the Assembly and by the special Representatives, convened in chamber assembles."
[106] Philippine Constitution of 1973, Article VIII National Assembly.
[107] Philippine Constitution of 1973, Articles VII The President and Vice-President and IX The Prime Minister and the Cabinet. Section 2 of Article VII provides that "(t)he President shall be elected from among the Members of the National Assembly by a majority vote of all its Members for a term of six years from the date he takes his oath of office, which shall not be later than three days after the proclamation of the National Assembly, nor in any case earlier than the expiration of the term of his predecessor."

61. On the other hand however, it may also be reasonably argued that a change in form of government from a "bicameral-presidential" system to a "unicameral-parliamentary" system covers only one (1) subject which is the merger of executive and legislative powers in the present House of Representatives. Thus, the substantive change may affect at least two (2) major Articles on the Legislative Department and the Executive Department, but undeniably there is still only one (1) subject which is the fusion of legislative and executive powers in one (1) political body.

62. The peculiar circumstance of having two (2) opposing yet equally reasonable interpretations of one (1) rule of law which is the so-called "one-subject" rule, should not be surprising because in the first place the "(l)aw is an ordinance of reason for the common good, made by him who has care of the community, and promulgated,"[108] and "reason" as we know is as expansive as the universe itself.

63. So how do we now proceed to resolve the irreconcilable dispute between (2) opposing yet equally reasonable interpretations? Petitioners respectfully submit that we do so by following the wise and learned teaching of the Honorable Justice Reynato S. Puno that where "we cannot be guided with certainty by the inconclusive opinions … it behooves us to follow the **cardinal rule in interpreting Constitutions,** i.e. construe them to give effect to the **intention of the people who adopted it,**" which is to construe the Constitution "**liberally and on broad general lines, to accomplish the object of its establishment and carry out the great principles of government-not to defeat them."**[109]

64. Thus, even under the so-called "one-subject" rule, it behooves us to construe the proposed change in form of government involving a shift from a bicameral-presidential system to a unicameral-parliamentary system, as "one-subject" involving the fusion or merger of executive and legislative powers in one (1) political body – the House of Representatives (which undeniably is the one government body that has the broadest and fairest representation of all the Filipino people from Luzon, Visayas and Mindanao).

[108] St. Thomas Aquinas, *Summa Theologica*, Part II, First Part, Qu. 90, Art. 4.
[109] Dissenting Opinion, Justice Reynato S. Puno, page 44, citing T.M. Cooley, I A Treatise on Constitutional Limitations 143-144 (8th ed. 1927) and H.C. Black, Handbook of American Constitutional Law S. 47, p. 67 (2nd ed. 1897).

Foreign Jurisprudence

65. In support of its holding that the proposed change in form of government involving a shift from a bicameral-presidential system to a unicameral-parliamentary system, violates the so-called "one-subject" rule, the Decision cites foreign jurisprudence[110] which upon review of their rationale and context are clearly and plainly inapplicable.

66. The cases of *Fine v. Firestone*[111] and *Adams v. Gunter*[112] were resolved by the Supreme Court of Florida in the context of an applicable provision in the Florida State Constitution which expressly provided that an initiative to change the constitution "shall embrace but one subject and matter directly connected therewith." In other words, the Florida State Constitution expressly provided for a "one-subject" rule. In contrast to the Florida State Constitution, the 1987 Philippines Constitution does not at all expressly or even impliedly provide for a "one-subject" rule. Hence, it is evident that the cited foreign rulings above cannot with reason be used to support a Philippine Supreme Court ruling that imposes a "one-subject" rule purportedly under the authority of the 1987 Philippine Constitution. The pertinent constitutional provisions governing initiative to amend the constitution, from both the Florida State Constitution and the 1987 Philippine Constitution, read as follows:

Florida State Constitution	**1987 Philippine Constitution**
"Initiative.—**The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment**, except for those limiting the power of government to raise revenue, **shall embrace but one subject and matter directly connected therewith**. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight	"**Amendments to this Constitution may** likewise **be directly proposed by the people through initiative** upon a petition of at least twelve *per centum* of the total number of registered voters, of which every legislative district must be represented by at least three *per centum* of the registered voters therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter." (emphasis supplied) "The Congress shall provide for the implementation of the exercise of this

[110] Fine v. Firestone, 448 So.2d 984, 994 (1984) and Alaska v. McAlpine, 698 P.2d 1173, 1184 (1985), cited in page 28 of the Decision. Adams v. Gunter, 238 So.2d 824 (1970), cited in pages 38-40 of the Decision.
[111] Fine v. Firestone, 448 So.2d 984, 994 (1984).
[112] Adams v. Gunter, 238 So.2d 824 (1970).

percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen." (emphasis supplied) *Florida State Constitution, Article XI Amendments, Section 3.*	right." *Article XVII Amendments or Revisions, Section 2.* "Any amendment under Section 2 hereof shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not earlier than sixty days nor later than ninety days after the certification by the Commission on Elections of the sufficiency of the petition." *Article XVII Amendments or Revisions, Section 4, paragraph 2.*

67. The case of *Alaska v. Alpine*[113] was resolved by the Supreme Court of Alaska in the context of an initiative to amend a statute, and not of an initiative to amend the constitution. Incidentally, the State Constitution of Alaska does not provide for initiative to amend the constitution.[114] Moreover, the State Constitution of Alaska provided for a "one-subject" rule with respect to an initiative to amend a statute.[115] In contrast to the context and subject matter of this foreign case, the present case involves an initiative to amend the constitution, and as explained above, the 1987 Philippines Constitution does not at all expressly or even impliedly provide for a "one-subject" rule. Hence, it is manifest that this cited foreign ruling cannot again with reason be used to support a Philippine Supreme Court ruling that imposes a "one-subject" rule under the 1987 Philippine Constitution.

P R A Y E R

68. Wherefore, premises considered, petitioners respectfully pray that:

(a) Upon consideration of the Second Motion for Reconsideration, judgment be rendered:

[113] Alaska v. McAlpine, 698 P.2d 1173, 1184 (1985).
[114] Alaska State Constitution, Article XIII "Amendment and Revision."
[115] Alaska State Constitution. Article II "The Legislature," Section 13. "Form of Bills. Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."" Article XI "Initiative, Referendum, and Recall," Section 1. "Initiative and Referendum. The people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum." Article XII "General Provisions," Section 11. "Law-Making Power. As used in this constitution, the terms "by law" and "by the legislature," or variations of these terms, are used interchangeably when related to law-making powers. Unless clearly inapplicable, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article XI."

(i) Reconsidering and setting aside the Decision of 25 October 2006 and Resolution of 21 November 2006, dismissing the present Petition for Certiorari and Mandamus, for lack of merit;

(ii) Setting aside the public respondent COMELEC's Resolution dated 31 August 2006, which denied due course to the Petition for Initiative, for having been issued with grave abuse of discretion;

(iii) Ordering that a Writ of Mandamus be issued directing the public respondent COMELEC to comply with Section 4, Article XVII of the 1987 Constitution, and to set the date of the plebiscite, based upon a finding that the petition for initiative is sufficient in form and substance;

(iv) By way of an alternative prayer, affirming the declaration in the Resolution of 21 November 2006 that Republic Act No. 6735 is the appropriate implementing statute for the people's constitutional right of initiative to amend the constitution; declaring that the proposition for a change in form in government involving a shift from a bicamerial-presidential system to a unicameral-parliamentary system does not constitute a prohibited revision; and remanding the present case to the COMELEC En Banc for adjudication of the factual issues, specifically the compliance with the constitutional percentage requirements, and the determination of the genuineness and due execution of the supporting signatures;

(b) Petitioners be granted such other reliefs as may be just or equitable under the premises.

Quezon City for Manila. 07 December 2006.

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VERIFICATION

I, **Raul L. Lambino**, Filipino, of legal age, married, with office address at Autoland Building, 1616 Quezon Avenue, South Triangle, Diliman, Quezon City, Philippines, under oath, depose and say:

1. That I am one of the Petitioners in the above-captioned case;
2. That I have caused the preparation and authorized the filing of the foregoing Second Motion for Reconsideration;
3. That I have read the contents thereof and the allegations therein are of my own personal knowledge or based on authentic records.

Quezon City, Philippines, 07 December 2006.

Raul L. Lambino
Affiant

SUBSCRIBED AND SWORN to before me at Quezon City on 07 December 2006, affiant exhibiting his Comm. Tax Cert. No. 07758589 issued at Mangaldan, Pangasinan on 05 January 2006.

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Series of 2006

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Raul L. Lambino **Demosthenes B. Donato**