

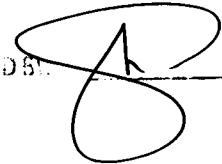
NINETEENTH CONGRESS OF THE }  
REPUBLIC OF THE PHILIPPINES }  
Second Regular Session }

24 MAR -4 P12 :46

SENATE

P.S. RES. NO. 941

RECEIVED BY



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Introduced by Senator Francis "Tol" N. Tolentino

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**RESOLUTION  
ADOPTING RULES TO AMEND AND/OR REVISE THE 1987 CONSTITUTION**

**Whereas**, on January 15, 2024, Senate President Juan Miguel F. Zubiri together with Senator Loren B. Legarda and Senator Sonny Angara filed Resolution of Both Houses No. 6 entitled "A Resolution of Both Houses of Congress Proposing Amendments to Certain Economic Provisions of the 1987 Constitution of the Republic of the Philippines, particularly on Articles XII, XIV and XVI;

**Whereas**, said resolution was primarily referred to the Committee on Constitutional Amendments and Revision of Codes which created Subcommittee on Senate Resolution of Both Houses No. 6 to be chaired by Senator Angara;

**Whereas**, Sections 1 and 2 of Article XVII of the 1987 Constitution state that:

"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 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.

The Congress shall provide for the implementation of the exercise of this right."

**Whereas**, the late Constitutionalist Father Joaquin Bernas, who was also a member of the Constitutional Commission that drafted the present Constitution, suggested what he called a "fourth mode", a charter change through Congress doing it as two houses in separate sessions, similar to the usual legislative process;

**Whereas**, Father Bernas explained the proposal in this manner:

"It will work pretty much like the legislative process. It can start in either house with a bill proposing a focused amendment. The house where the bill is filed threshes it out as it does legislative bills and concludes it with approval by a three-fourths ( $\frac{3}{4}$ ) vote of all the members. The approved bill is next sent to the other house for a similar processing. Once a constitutional amendment bill is approved by both houses, it can be submitted for ratification by the people during the next national election.

But where in the Constitution does one find this mode? The elements of this mode are all in Article XVII. The fundamental principle is that what is not prohibited by the Constitution, either explicitly or implicitly, is left to the discretion of Congress provided it can be traced somehow to the powers of Congress. It is clear from Article XVII that the power to propose amendments can only be activated by Congress. ***The two houses of Congress are not required, as they were under the 1935 Constitution, to be in joint session.*** Hence, it is quite possible for the two houses to formulate amendments the way they formulate laws—as they are where they are. Once one house is through with a draft, it is passed on to the other house for action. If there is a prohibition, it can come either from the letter of the Constitution (and there is none) or from the fundamental structure of our constitutional government. Thus, for instance, the implicit prohibition of joint voting comes from the bicameral structure of Congress;"<sup>1</sup>

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<sup>1</sup>Doable Charter change By: Fr. Joaquin G. Bernas S. J., <https://opinion.inquirer.net/33185/doable-charter-change/amp>. Accessed on March 3, 2024

**Whereas**, in order to harmonize the process, the Congress, in its respective rules, should provide for the process on how to initiate any amendment or revision of the Constitution;

**Whereas**, the Rules of the House of Representatives, specifically under Rule XXI Proposals to Amend the Constitution Sections 143 and 144, provides for the process in line with the suggested fourth mode mentioned by Fr. Bernas;

**Whereas**, a review of the Rules of the Senate reveals the lack of procedure for amending or revising the Constitution through said method;

**Whereas**, the closest rule of the Senate touching on this matter is the newly approved amendments to Section 42;

**Whereas**, the Supreme Court in **Gonzales vs COMELEC**<sup>2</sup> held that:

“Indeed, the power to amend the Constitution or to propose amendments thereto is not included in the general grant of legislative powers to Congress. It is part of the inherent powers of the people — as the repository of sovereignty in a republican state, such as ours — to make, and, hence, to amend their own Fundamental Law. Congress may propose amendments to the Constitution merely because the same explicitly grants such power. Hence, when exercising the same, it is said that Senators and Members of the House of Representatives act, not as members of Congress, but as component elements of a constituent assembly. When acting as such, the members of Congress derive their authority from the Constitution, unlike the people, when performing the same function, for their authority does not emanate from the Constitution — they are the very source of all powers of government, including the Constitution itself.”

**Whereas**, to give life to said mode, it is high time for this August Chamber to amend the Rules of the Senate; **Now, Therefore, Be It**

**Resolved, as it is hereby resolved, by the Senate of the Philippines, To** Provide the Appropriate Rules For Amending or Revising the Constitution which shall read as follows:

**PROCEDURE  
FOR ANY AMENDMENT TO OR REVISION OF THE 1987  
CONSTITUTION**

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<sup>2</sup> G.R. No. L-28196 November 9, 1967

**SECTION 1. - ANY AMENDMENT TO OR REVISION OF THE 1987 CONSTITUTION MAY BE PROPOSED BY CONGRESS, UPON A VOTE OF THREE-FOURTHS OF ALL ITS MEMBERS EITHER THROUGH JOINT OR SEPARATE CONSTITUTIONAL SESSION ASSEMBLED.**

**SECTION 2. - IN CASE OF SEPARATE CONSTITUTIONAL SESSIONS, THE SENATE MAY PROPOSE AMENDMENT TO OR REVISION OF THE CONSTITUTION THROUGH A RESOLUTION CALLED FOR THAT PURPOSE AND APPROVED BY THREE-FOURTHS ( $\frac{3}{4}$ ) OF ALL ITS MEMBERS SUBJECT TO THE CONCURRENCE OF THE HOUSE OF REPRESENTATIVES.**

**THE ADOPTION OF RESOLUTIONS PROPOSING AMENDMENTS TO OR REVISION OF THE CONSTITUTION SHALL FOLLOW THE PROCEDURE FOR THE ENACTMENT OF BILLS; PROVIDED, THAT, THE SENATE SHALL ONLY BE CONSIDERED TO BE IN THE EXERCISE OF SAID CONSTITUENT POWERS ONCE ITS APPROPRIATE COMMITTEE SUBMITS FOR PLENARY DEBATES ITS COMMITTEE REPORT ON THE MATTER AND THE SENATE CONVERTS ITSELF FROM A LEGISLATIVE BODY TO A COMPONENT ELEMENT OF A CONSTITUTIONAL ASSEMBLY. IN THIS REGARD, THE SENATE SHALL MEET IN THE MORNING TO DISCUSS THE SAID PROPOSED AMENDMENT/S UNTIL SUCH TIME THAT IT MAY DEEM NECESSARY PRIOR TO THE HOLDING OF ITS REGULAR SESSION AT THREE O'CLOCK (3:00) IN THE AFTERNOON FOR ITS REGULAR SESSION; PROVIDED, FURTHER, THAT IN CASE OF DISAGREEMENT BETWEEN THE VERSIONS ADOPTED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES, A CONFERENCE COMMITTEE OF BOTH CHAMBERS SHALL BE CALLED TO RECONCILE THE DISAGREEING PROVISIONS.**

**THE REPORT OF THE CONFERENCE COMMITTEE SHALL FOLLOW THE FORMAT PROVIDED IN RULE XII, SECTION 35 AND MUST BE APPROVED BY A VOTE OF THREE-FOURTHS ( $\frac{3}{4}$ ) OF ALL THE MEMBERS OF THE SENATE VOTING SEPARATELY FROM THE HOUSE OF REPRESENTATIVES.**

**SECTION 3. - ANY PROPOSAL TO AMEND OR REVISE  
THE CONSTITUTION SHALL BE VALID WHEN RATIFIED  
BY A MAJORITY OF THE VOTES CAST IN A PLEBISICTE  
CALLED FOR THE PURPOSE.**

*Adopted,*

  
**FRANCIS "TOL" N. TOLENTINO**  
*Senator*