

Congress as a Constituent Assembly: Examining the Extent of its Discretion in the Amendatory Procedure

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An analysis of the past and present Philippine Constitutions reveals that the fundamental law of the country is, strictly speaking, not fundamental. Just like any ordinary statute, it is subject to change in order to adapt to changing times. This Note examines the ambiguity of the 1987 Constitution's provision regarding the constituent assembly, i.e., the provision does not specify whether the two houses of Congress must come together in joint session or whether they should vote jointly or separately. The issues arising therefrom are resolved by determining the extent of the discretion of Congress in the amendatory procedure.

The Note begins by extensively outlining the Constitutional amendatory process and the concept of Judicial Review. The Constituent Powers of Congress are subsequently discussed, including two approaches in interpreting the questioned provision. In the final analysis, the Author advances that while the matter of coming together in joint session is a political question, the question as to how Congress must vote on proposed constitutional amendments is a justiciable one. Although the present Constitution is likewise silent on the method by which the requisite three-fourths vote is to be obtained, it is contended that there exists a standard by which the Courts can be guided in resolving this issue. This standard is to be found in the *constitutional structure* and the *architecture of the government* established by the Constitution.