

Understanding our Constitution

Fernando I. Cojuangco

32 ATENEO L.J. 9 (1988)

SUBJECT(S): CONSTITUTIONAL

*KEYWORD(S): 1987 CONSTITUTION, COMMISSION ON APPOINTMENTS,
AMENDMENT*

The Article embodies the reaction of the Author to the controversy between the Executive and Legislative branches of the government with respect to the appointments made by the Commission on Appointments. In particular, Congress asserts that, under the 1987 Constitution, it can be determined which appointments will necessitate confirmation by the said Commission. The Executive branch counters saying that the appointments that require confirmation by the Commission are limited to those positions expressly mentioned in the Constitution. The consequence of this difference in positions led to the passing of a bill, which reflected the Legislature's stance, and the veto of the same by the President.

While the Author maintains that the gridlock is but a natural manifestation of the principles of checks and balances and separation of powers, he expresses concern over the threatened amendment of the Constitution by the Congress. The provision to be amended is Section 16, Article VII thereof on appointments. He disapproves of said resort and contends that being the basic law of the land, the Constitution must possess some sense of permanency. He goes on to say that notwithstanding the provisions in the Constitution providing for Amendments and Revisions, Congress must bear in mind that the amendatory process shall only be undertaken in response to fundamental changes in society. As the appointments issue falls short of this demand for a fundamental change in society, the same cannot validly serve as the basis for the proposed amendment of the Constitution. The solution to this problem simply is arbitration by the third branch of the government, the Judiciary. Thus, once the Judiciary rules in favor of one, the other has no recourse but to respect its pronouncement.