

- The need for amending the Constitution is long due. It is time to resolve the question of the presidential term: four years with, or six years without reelection?

THE PRESIDENTIAL TERM

Dean Roscoe Pound, one of America's foremost jurists, once said: "The law must be stable, but it cannot stand still." Another American, the late Mr. Justice Benjamin Nathan Cardozo, also observed that, in the law, "there must be rest as well as motion." These observations are significant, not so much for the apparent paradox they pose, as for their capsule description of the law's nature. That the law should not follow every passing whim and fad is too obvious to need emphasis here. But that it should be able to cope with every vital change in the national sphere is something on which there have been as many differences of opinion as those who have expressed them. Briefly, one side insists that the law, as set down at one point in a people's history, should be sufficiently comprehensive to apply to

every conceivable situation that will later arise. On the other hand, the now more prevalent side theorizes that provisions should be made to re-mold the law to important changes in the body politic.

To be sure, the observations above-cited have little significance when one considers only legislative enactments. They have particular application to so-called fundamental laws which in political systems as the Philippines would be found in written constitutions.

Here, the first part of Dean Pound's observation becomes cogent. Since, as ideally conceived, a constitution should embody the basic structure of a nation's political system, it would never be able to fulfill that function if changes of governments (or administrations) would be accompanied by changes in some part of that constitution. If one

set of elective officials would be able to impress upon the country their peculiar notions of how the government should be run, it is not too improbable that one administration might yet come to power with anarchistic or totalitarian ideas. Of course, it is more possible that sober officers will get elected—or at least individuals with a modicum of patriotic feeling. Wisely, however, the framers of our own Constitution have not chosen to leave the choice of a political system to ill-considered and passing fashions.

Thus, an elaborate procedure for amending the Constitution has prevented many administrations from forcing upon the people their peculiar ideas of governing this country. It is only when the necessity for a change has become so compelling and has been so long called for that a sufficient majority may gather enough courage to alter what their predecessors saw fit to leave unchanged. At this moment, the second part of Dean Pound's observation—"but it cannot stand still"—reveals its logical necessity.

One aspect of the constitutional structure which has long captured the attention of lawmakers and laymen alike is that governing the term of the President. The present provision gives the Chief Executive a four-year tenure with the right to seek re-election for a second term. It should be pointed out that this provision was not included in the original constitution drafted by the delegates to the Constitutional Convention thirty years ago. Some rather frank observers consider it as tailor-made for the late President Manuel L. Quezon.

In 1940, when MLQ's term was about to expire, enthusiastic fellow party-members launched a campaign to have the Constitution amended so that he might continue in office. At that time, the provision on the President gave him only 6 years without re-election. The press took up the cue and finally convinced every man, woman, and child all over the country that it was for their good if MLQ stayed on. Needless to say, the Star of Baler soon found himself faced with the pleasant prospect of shining for

four more years in the national firmament.

But there was only one Quezon—as the people were soon to find out. Racked with tuberculosis, Manuel L. Quezon, first president of the Philippine Commonwealth, died in America with only half of his second term over. The late Sergio Osmeña took over until the late Manuel A. Roxas stepped in as the Republic's first Chief Executive. Since Roxas, four men, including the incumbent, have succeeded each other, only two of whom have been re-elected to office.

All those years, up to the present, the constitutional provision on the presidential term has undergone serious study. Very recently, newspapers carried reports that, about the middle of this year, the original six-year term possibly without re-election will be reinstated. The incumbent President has prudently chosen to stay out of the picture by announcing that the amendment if pushed through and ratified by the electorate, should apply only to his successors.

At this juncture, it would be courting criticism to ex-

press opposition to the proposed amendment. The popular mind seems to have been molded into accepting its necessity as well as virtue. This should however be no reason to deter any intelligent discussion of the issue for even in a democracy, it should be conceded that it is an intellectual elite which determines ultimately what is good for this country. The majority should only be convinced after the elite is convinced.

Briefly, then, these are the arguments for and against the present as well as the proposed terms for the President:

For the four-year term with re-election—a good President will have a chance to continue after his first term while a bad President will only have four years within which to hold office. Against this argument is the proposition that no provision of law should be made for a bad man.

Against the four-year term with re-election—the prospect of seeking immediate re-election will hamper the President who will be forced to spend part of his time mend-

ing political fences at the expense of the country. This argument, incidentally, has another facet — that a six-year term without re-election takes away the problem of having to court the people's favor at the risk of avoiding radical though meritorious policy decisions.

For the six-year term — the period of six years is the "ideal" period inasmuch as it avoids the danger of cramming long-range plans into four years at the same time averting the possibility of dragging policy implementation into a period of eight years. This argument, of course, has little logical basis since well-thought policies may well be implemented in less time, with equally good, if not better, results.

For the six-year term, without immediate re-election — while the incumbent will spend his entire first six years in working for the good of country without worrying about immediate re-election, the right to seek re-election after the lapse of six years since the end of his first term should give the people enough time to judge his

performance and compare it with his successor-predecessor.

Against the six-year term — the six years is too short for a good President and too long for a bad one. Apart from the argument that laws are made for good citizens, is the proposition which destroys this argument by maintaining that even four is too long for a bad President. In any event, the argument is too specious to merit serious consideration.

It should be evident at this juncture, that the focus of controversy is the provision allowing the incumbent to run for re-election. Whether the term is four, six, or eight, years, the accompanying provision permitting immediate re-election sufficiently destroys any argument in support of any of these terms. Whether some presidents spend their entire term or only a part of it in courting the people's votes is not as important as the fact that they do use prerogatives of their office for personal reasons. To a certain extent, this accounts for the prevalence of unethical, corrupt or outrightly immoral practices of our public officials.

Quite apart from all these considerations however is the fact that the President of the Philippines has powers such as his foreign counterparts do not have. Consequently, when an incumbent Chief Executive in the Philippines has his eye on the next presidential elections, the powers and prerogatives granted to his office by law become tempting weapons to be used in wiping out all opposition to assure re-election. This factor should thus be considered the old provision of six years without immediate re-election. For while the incumbent Chief Executive may not be able to run immediately after the end of his first term, he may still prepare for the time when he can, and to this end, he may well misuse his powers either by campaigning actively for a fellow party-member to succeed him who will, of course, reciprocate by doing all he can to help his predecessor assume office again.

One other factor should be taken into account. This is the problem of synchronizing elections. Even considering

only the expense entailed by holding nationwide polls, the prospect of re-ordering the periods of election to synchronize with the presidential polls is an easier alternative to adopt. If the election of the President were to be changed, that of the lesser officials would have to follow. This requires further amendment of the Constitution as well as of various laws governing terms of office of the different public officials.

The task is not thus as easy as it sounds. The most difficult part of the job has unfortunately not been completed yet — if one gives the proper authorities the benefit of the doubt that it has been started at all. This is the task of sitting down and examining the necessity for an amendment, its virtues as well as its defects, and, as a logical consequence, the good or bad it can do for the country. For while there is good reason to say that any term will do for a well-selected President put into office by a well-informed electorate, there is little reason to conclude that "things will take care of themselves." On the

by feeding the former with a distorted image of the government and its functions. The duly-elected representatives of the people have therefore the duty of setting aside partisan and petty differences bearing in mind only

that political fortunes may arise and fall but the Constitution — repository of a nation's aspirations and goals — remains as that nation's safeguard against tyranny and anarchy. — *Ferdinand s. Tinio*

A BORROWED HISTORY?

An Asian savant has truly said that a nation's strength lies in its history, its past. And he adds, we, in Asia, must make up our minds that we cannot borrow other people's history, and that if we stifle our own, we are committing suicide. When you borrow things that do not belong to your life, they only serve to crush your life.

We must show those who have over us that we have the strength of moral power in ourselves, the power to suffer for truth. Where we have nothing to show, we only have to beg. — Tagore.