

- This paper indicates specific parts of the present Constitution of the Philippines that should be changed for improvement.

GROUNDS FOR CONSTITUTIONAL REFORM

The year 1969 marks the 34th anniversary of the approval of the Constitution of the Philippines by the Constitutional Convention. This Constitution has served two stages of our national political life, the Commonwealth and the Republic. The first was the era of the Commonwealth of the Philippines which actually started in November, 1933, and ended on July 4, 1946, with a 3-year interruption occasioned by the Japanese Military Occupation of our country from 1942 to about the month of April, 1945. The second is the present era which started on July 4, 1946, the era of Philippine Independence. The only difference between the two eras with respect to our nation's status under the Constitution is that during the Commonwealth period the government of the Philippines,

while internally autonomous, had no control over certain matters such as foreign affairs, public indebtedness, and some emergency problems which were placed under the supervision of the American High Commissioner. But since Philippine Independence was declared, our government has been enjoying complete political freedom in all matters.

It is, therefore, obvious that we have had sufficient opportunity to observe how the present Constitution has worked in the hands of the Filipino people from 1935 to the present day. It has undergone a long and continuous practical test extending over one-third of a century. It has been used by elderly politicians, middle-aged leaders, and young possessors of power.

We may, therefore, ask these questions now: Has

this Constitution been successfully put into effect in the government of the country? Has it proved adequate to our needs and conditions? In the light of our experience, should this Constitution be retained in all respects? Obviously it is not possible to discuss these questions extensively at this time because they involve details that would take more time than what is available on this occasion. But in view of the coming constitutional revision in 1971, we shall indicate in a general way some basic points affecting the operation of our Constitution during the last 34 years.

To understand more closely the need for revising or retaining parts or all of the provisions of a constitution, it is important that we bear in mind the three essential parts, which every modern democratic constitution must contain. The first is the Bill of Rights which is an enumeration of the rights of every individual, citizen or alien, to be protected in his life, liberty, and property against arbitrary or unconstitutional action by the government; the second is the pro-

vision on the organization and principal functions of the government; and the third is the provision on the method of changing or amending the Constitution.

I do not believe that there is much to be said about the Bill of Rights in our Constitution now. I do believe, however, that practical means be so provided in expressed terms as to give them prompt application and strict enforcement against every violator regardless of his private or public position, his official rank, or his station in society. Our Constitution establishes a democracy; and the Bill of Rights represents an expression of the democratic belief in the dignity of man and the intrinsic worth of human life which should ever be upheld and respected.

It is in respect to the provisions on governmental organization and functions that our Constitution certainly needs some overhauling. This is a strong statement, and so it needs an intelligent and thorough discussion when the proper time comes.

But in a general way it may be categorically mentioned on the basis of what we have actually experienced during the last 34 years, that the organization and functions of the office of chief executive and the legislature of the Philippines call for serious alterations for the development of a truly responsive, effective, and honest administration and legislation for the country.

In regard to the executive or the Presidency, we have to admit that its powers are broad and extensive. The same observation applies to those of Congress. This legislative organ is vested with too many powers without any limitation whatever outside of the specific restrictions stated in the Bill of Rights which refer only to individual cases. It should be said that even in this field of restrictions, there are no effective sanctions which give sufficient assurance to the individual or the people against legislative excesses and abuses to put an end to legislative evils. The vagueness of the extent of the powers of taxation and the police power lends it-

self to excessive or abusive legislative or executive exercise of these prerogative privileges. It leads to an irresponsible curtailment of individual rights for no clear fulfillment of essential public purpose and no reasonable assurance of honest execution of declared public policy often used to hide ulterior motives.

With these background, we are therefore justified to raise this question: How could we put effective constitutional safeguards against intentional, fraudulent, or stupid acts of legislative chicanery and official malfeasance committed under forms of legislative authority? In my opinion this could be done to a certain extent by reducing the scope of congressional authority from a general grant of legislative powers to a grant of carefully enumerated legislative powers analogous in principle and purpose to the grant of enumerated powers to the federal Congress under the American Constitution. This is precisely an appropriate time for this change because the country has been quite frequently informed in a ge-

neral way about the advantages of the system of decentralization. In principle decentralization is limitation of national powers and proper distribution and allocation of residuary subjects of authority among local or smaller units of government.

We have often heard the oft-quoted statement of Lord Acton which runs: "Power corrupts; and absolute power corrupts absolutely." The proof of this statement appears quite evident in our country today in which high public officials have openly forgotten the democratic maxim that public office is a public trust and should never, therefore, be used for the enrichment of the office holder, be he a President, a senator, a congressman, a governor, a mayor, or any other office holder. Indeed, it is no longer a secret that a number of Filipinos run for public office merely for the purpose of enriching themselves. Apparently they have but scant use for the principle that a public office is a public trust. Persons aspire to hold high positions in the government without even thinking whe-

ther they have the proper intellectual, civic, and moral qualifications to perform the functions attached to them. Public positions attract many of them not because of the opportunities for service but because of the opportunities for improving their personal financial condition and their social or economic influence and prestige. In the words of an American commentator, to such persons public office is a *public lust*.

The constitutional provisions on the office of President of the Philippines were partly influenced by the exaggerated popularity of the dictatorships at the time the Constitutional Convention met in 1934. That was around the period when dictators were able to maintain effectively peace and order and to produce some improvement on the living conditions of the masses in their country thru ruthless action even to the extent of depriving the people of much of their basic freedoms. At a time when the world was suffering from a terrible economic depression, the temporary success of the dictators, specially Germany's

Hitler and Italy's Mussolini, made a strong impression on the leaders in many other countries, including unfortunately the Philippines. Their visible record of sensational achievement in suppressing labor troubles, maintaining normal production of factories, keeping the regularity of the movement of trains and other public vehicles, preserving strictly national discipline and order, providing workers with three meals a day, and reducing poverty and destitution urban and rural areas deflected the attention and feeling of most people from official abuses, from the sufferings of certain elements, and from inherent evils of authoritarianisms. In nations beset by spreading misery and economic chaos, the apparently beneficial results of totalitarian practices produced followers among heads of states in various degrees. Even President Franklin Delano Roosevelt had found it expedient to adopt many of the methods of highly centralized authority in order to hasten the recovery of the American people from the unprecedented economic crisis.

The Philippines could not escape the general influence of the times. Her leaders felt the popularity of strongly centralized authority in a chief executive. Hence, the powers given to the office of the President in the Constitution then being formulated were magnified to a much greater extent than what is good for a free and democratic government.

With the exception of certain new provisions on social, economic, and educational subjects, the Constitution of the Philippines is basically a copy of the Constitution of the United States with respect to the system of government administration. It is what is known as presidential system. The powers of the President of the United States have been copied and vested in the President of the Philippines. But while in the United States, which is a federal organization, its President is given only those powers directly affecting the national affairs, in the case of the President of the Philippines, the powers given him by our Constitution include not only powers necessary for the

administration of the nation but also powers over local governments which in the United States are left to the governments of the different states. Hence, the powers of the President of the Philippines include the totality of the powers of the President of the United States and those of the governors of the different states.

Studying the conditions of the countries and their governments organized during the last 20 or 25 years all over the world, the eminent American scholar Henry Steele Commager stated: "It is sobering, but not surprising, that of the sixty some nations that have come into existence since 1945, not one has adopted the American form of government." The conclusion has been that the American presidential system of government is not suitable for countries other than the United States.

In this country of ours, however, not one voice has been seriously raised over the last few years advocating a different system than what we have copied from the United States with the exception of that of former

President Sergio Osmeña, the late Senator Claro M. Recto, the late Senator Jose Laurel, and the former Senator Manuel Briones. Their advocacy for a system of parliamentary government appropriate to our political needs and innate inclinations finds strong support from their mature experience in public life and from their keen observation of the political psychology of the Filipino people.

It is time that we extend the scope and depth of our studies to other systems of government for our country. The results of such studies may then be presented and considered in the Constitutional Convention which will be held in a year or so from today. It is time that we should avoid as much as we could the organization of a system which enables a man to say: "What are we in power for?" It is time that some constitutional means be adopted to prevent an official to use his post "to provide for his future." What we have been experiencing requires a different legislative organization, an organization vested with enumerat-

ed and specific powers rather than one vested with general legislative powers so as to reduce as much as possible the misuse of vast privileges and the abuse of an unlimited discretionary authority over all kinds of subjects. In addition, we should define a more meaningful set of qualifications for public officials in order that our country could have the benefit of the services of men of mature experience, of honest convictions, and of high intelligence, character, and education. With such type of men in public office, we will have government officials who will tend to behave not as masters but as responsible servants of the people.

Suffrage is a right that should not be indiscriminately granted to all citizens regardless of their maturity, their sense of responsibility, their intelligence and education, their stake in the orderly condition of the community, and the degree of

their consciousness of the nature of public office as a public trust. The gross misconception of democracy as the rule of a majority formed and created by the ignorant, the semi-literates, the half-wits, the indifferent, the bribe-takers, the trouble-makers, the hoodlums, and thugs is not worth defending, preserving, and observing. It is erroneous and must be avoided. It is not the authentic idea of democracy as the institution designed for the protection of the dignity of man and the worth of the human life. Democracy cannot be established and realized by the most adroit mechanical and procedural devices of electoral regulations. The new Constitution must give emphasis on the personal qualifications of the voter and on a strict adherence to their observance.

These, in brief, are some of the grounds which should be considered in revising the Constitution of the Philippines. — *By V. G. Sinco.*