■ The proposals here published were presented by an illustrious member of the Supreme Court of the Philippines, Justice Jose B. L. Reyes in an address before the Women Lawyers Association on July 21, 1967. Parts not directly pertinent to the title appearing here are excluded.

MEASURES TO SECURE PUBLIC CONFIDENCE

Ours is a world wherein distrust seems to reign supreme, specially in public life. An observer from some other world coming to reside among us would reach the conclusion that in our life the norm is a most cordial want of confidence in the loyalty or the integrity of the other man.

Thus, we see every measure or appointment by the Executive minutely scrutinized by the Legislature, and vice versa, lest somewhere hidden in ambush there should be an attempt to encroach upon the privileges of the other. In the Congress, majority and minority (with rare and honorable exceptions) view each other's proposals from a highly partisan or personal standpoint, and find nothing strange in taking advantage of every technicality to defeat the opponent's projects, regardless of their merit. National and local governments, public corporations and public officers are eternally bickering on questions of competence, jurisdiction, furiously debating who is to get credit for what. The public weal, and the convenience of the common man is laid aside and forgotten save to use them as an argument to support each debater's own stand.

Officialdom is burdened with a hundred controls, designed to prevent the rank and file from deceiving superior officials; the latter in turn are loath to delegate any of their powers, being unwilling to trust their subordinates. Distrust imposes the most detailed and formal recording of every single official acts; suspicion compels the higher functionary to review step by step the conduct of the persons under him. In government offices, general distrust buries one and

all in a deluge of multiple indorsements, quintuplicate copies, voluminous reports and innumerable and intricate regulations, to the exasperation of every one concerned.

Nor are the relations between government and the people free from the spirit of suspicion. The press has often complained of the difficulty in ferreting facts from administrative sources, an uncooperativeness evincing a deeprooted misgiving that every inquirer is impelled by ulterior if not sinister motives.

In natural reactions, the citizens respond by manifesting their distrust of administrative officers in various ways, the most conspicuous of them being indifference toward government-sponsored projects and a reluctance to contribute to the government's support. Time and again, tax authorities have openly lamented what they term a "lack of tax consciousness" in large segments of our population. Curiously, it never seems to occur to these worthiest that the stolidity of the citizen vis-a-vis their entreaties arises in a large measure from suspicion (if not actual belief) that tax moneys are not being devoted to the common good. The government's secrecy about its activities and actual expenditures largely contributes to this skepticism. To give you an example: The budget or appropriation laws only reveal *intended* outlays, but at no time does the government disclose its real expenditures nor the purposes for which the tax money has been in fact spent. When all private enterprises are required to render annual accounting of income and expense, why should not the government give a public accounting of its operations? The Constitution requires the "Auditor General to bring to the attention of the proper administrative officer expenditures or property which in its opinion, are irregular, unnecessary, excessive or extravagant," but such admonitions are buried in official archives and only rarely released to the media of information. Why could we not learn from other governments, Italy among them, where public income and expenditures are periodically audited and laid bare in public printed reports of the "Corte dei Conti"

(Court of Accounts) in which a representative of the opposition is a member?

Reflection will show that the basic reason of the citizens' indifference lies in a hidden belief, erroneous but widespread, that almost invariably, public officials tend to think first of themselves and of their party. That this corrosive idea, spreading out in ever widening area, like a drop of oil on a sheet of paper, is destructive of public confidence, will not be denied. That it must be checked before it undermines governmental stability is self-evident. Once the majority becomes convinced that the men that govern are no longer responsive to the needs and aspirations of the people, that those in power instead of serving endeavor to dictate as masters, it will lend a willing ear to those who advocate the overthrow of authority.

Whatever remedial measures should be adopted to arrest the danger must take into account the popular demand for a reasonable assurance that official conduct is solely motivated by the public welfare, and is not aimed, at the perpetuation of political or personal power. Our leaders recognize this, and no other reason lies behind the most favored proposal to be laid before the coming constitutional convention: that the President should not be re-elected.

I submit howover, that the prohibition should not be limited to the President, but should extend to all elective officials from the highest to the lowest without exception. If the purpose of the non-reelection is to ensure that legal duty and functions will be discharged without regard to self, then no single elective official can be excepted, just as no public servant may be exempted from the obligation of performing faithfully and well the duties of his office. Furthermore, the indefinite reeligibility of officials (typified by the immoral slogan of "equity of the incumbent" as if the occupant of a position had some sort of lien thereon) goes against the basic assumptions of democracy. How can the people exercise a proper choice of the fittest public servant, if other candidates besides the incumbent are to be practically denied a chance to be elected on a basis of equal opportunity

and thus show what they can or cannot do in office?

At any rate, even if an elected official should prove satisfactory, there is no assurance that another man may not prove to be better; so that to give full play and significance to the popular sovereignty, reelection must be forbidden to all incumbents at least for the succeeding term.

I am not so naive as to assume that such a constitutional amendment will automatically cure the ills adverted to; but until behavioral science can enable us to diagnose accurately the morals and character of men, we must be content with removing opportunities for abuse.

A complementary measure, in so far as civil service positions are concerned, should be the pruning of the legislative practice of indirectly abolishing positions by suppressing appropriations therefor in the yearly budgets. Not that it is intended to deny legislative bodies the power to abolish any non-constitutional positions; but the exercise of the suppressive faculty must be regulated by requiring that the elimination be made expressly in a separate measure that will plainly expose the reasons for the abolition, and make clear that no private or personal motives intervene. In this manner, the security of tenure intended by the Constitution would be immeasurably reenforced.

The strengthening of public confidence in the judiciary boils down in the last analysis to two objectives: the avoidance of possible partiality in the judges and the minimizing of delays that weigh heavily on the poor. This is a subject upon which I must tread gingerly, for it has been discussed repeatedly and to a great length by personalities much more competent and better qualified than myself; and if I touch upon it, it is merely to complete my exposition of basic measures to be adopted anent the subject here discussed. The main defect in the present system of selection and promotion in the judiciary lies in that they are entrusted exclusively to the departments that are susceptible and more responsive to political pressure and motivations: the Executive who nominates and the Legislature that confirms. Neither the Judiciary nor the

Bar, the most independent institutions of all, play any role in the matter. This naturally opens the door to suspicion and conjecture that judges, who are after all human, remain susceptible to pressure from those who can block their appointment or promotion; that judges cannot be truly independent until they reach the Supreme Court. The obvious parry to such mistrust would be a requirement that the Presidential selection should be made from lists submitted by the Bar and approved by the Supreme Court, or else, as is provided in the Italian Constitution, section 104, that the selection of judges be done by a Superior Council of the Judiciary (Consiglio Superiore della Magistratura) of which the President of the Republic is *ex-officio* Chairman, and composed of the Chief Justice of the Supreme Court, the Solicitor General, and by representatives elected by the Judges themselves, as well as by university professors and lawyers with at least fifteen years practice, chosen by the Legislature.

It would certainly appear logical that the Supreme Court, to whom decisions of judges and briefs of advocates are submitted daily, should be at least consulted on judicial appointments and promotions, together with the representatives of the Bar associations, whose members are or should be familiar and acquainted with the candidates. And let me say right here that it is an error to assume that the selection of municipal Judges is not as important as that of the Judges of superior courts. On the contrary, it is their appointment that should be more carefully considered, and their qualifications and character more assiduously assessed; for like the police, they are in intimate contact with the greater mass of litigants, and it is by their performance and independence that the entire judiciary is appraised by the people.

The delays in litigation, upon the other hand, cannot be significantly reduced by the judges alone; it can only be the result of a cooperative effort of Bench and BAR. Here, the Bar's ideals are paramount; the sincere recognition by the lawyers that they, as much as the Judges, are ministers of Justice, selected and appointed to help and

not to hinder it, is of supreme importance. It is unfortunate that some lawyers appear to subordinate the needs of justice to that of their clients, willingly sacrificing every other consideration to that of success in the litigations that they conduct.

On the whole, the records of the ladies who have chosen the legal career is an enviable one, and justifies the hope that through their instinct for fairness and decency, we may finally rescue from oblivion the cardinal maxim of the noble Roman *jurisprudentes*: "*No omne quod licet honestum est*," — not everything that is permitted is honourable. — *By Justice J. B. L. Reyes, Manila Times, July 27, 1967.*

HIMS NOT HERS

An attorney and his four-year-old son were walking solemnly home from church when the small boy looked up with a puzzled expression.

"Daddy, why do they always say 'amen' when they pray?" he asked earnestly. "Why don't they ever say 'awomen'?"

The lawyer explained as best he could that it was an old established custom, with a Biblical precedent. But the boy seemed unconvinced.

"I think," he said, after some consideration, "that it's because all the songs are hymns." — *Norfolk Virginian-Pilot.*