

- A plea for the election of an independent body which shall meet, for the first time in the history of the country, to draft with full freedom a new constitution of the Republic of the Philippines.

THE NEED FOR A CONSTITUTIONAL CONVENTION

Conditions prevailing in the Philippines since the end of the last War warrant a serious reexamination of the basic governmental structure of our country. Since the 4th of July, 1946, when direct American influence over our public affairs was formally ended by the declaration of Philippine independence, the country has undergone a series of local and national disturbances which have disclosed to our observant citizens certain weak and unsuitable provisions of the present Constitution. These deplorable conditions affecting our body politic have developed under a governmental set-up largely made possible by certain constitutional provisions alien to our traditional conception of authority and duty.

This sad situation has enabled unprincipled persons in both public and private life

to take advantage of ill-defined responsibilities and non-existing restraints on official conduct and to capture power and prestige for their personal benefit. The excessive employment of money in elections threatens the maintenance of our democratic system. The gross misuse of government property and facilities in political campaigns and a habitual indulgence in personal vilification of candidates in newspapers and other methods of communication are sources of serious danger to public peace. They undermine social order and constitutional morality and expose the people to internecine strifes. The civil service has to be strengthened in several ways to fortify the basic organs of administration. It needs a much stronger guarantee of independence from partisan dic-

tation to enable it to recruit persons of high ability and tested integrity. The selection of judges needs improvement.

Taxpayers are oppressed by needless and irresponsible multiplication of government units and employees which reminds us of Parkinson's Law, and by a terrific addition of worthless activities. The criterion of public purpose, which alone makes a tax legal and just and which should be strictly and honestly observed, is ignored in a senseless orgy of spending public funds.

To say that the political affairs of the country, the moral behaviour of governmental officials and employees, and the tone and direction of business are in a state of serious confusion is to repeat a commonplace and banal observation. Without going any further, which is quite simple to do, these and a host of other valid reasons call for some changes intended to improve our present Constitution. At any rate, a general survey of the operation of the agencies established by our Constitution by special representa-

tives of the people with the end in view of replacing outdated features is doubtless necessary and urgent after a lapse of 31 years covering a period of colonial status and a period of national independence.

It is, of course, true that a good government depends more upon men of ability, honor, and integrity than solely upon laws and constitutions; but it is also true that many men of this type could only be attracted to government service under a constitution which could be so implemented that it could reduce the number of opportunists, adventurers, and semi-literates to compete with them for public offices by foul, degrading, and impertinent tactics.

It is but pure cynicism to assert that the Filipinos have been so influenced by cultural conditions of such a nature that any change in our Constitution will not improve our ability to solve our problems. There are still many in this country who are competent, honest, and sincere who would willingly serve the country even with the social and political ad-

versities now existing, provided that conditions of public service are changed under a constitution which largely reflects the best of our own historical and political ideas, social values, customs, and traditions.

Structurally our Constitution is largely American in origin. As such its basis were the conditions existing in the thirteen American colonies of England in 1776. It is not sufficiently adjusted to our own country and people whose cultural conditions, social ideas, and native political beliefs rest upon a background not quite identical with that of the Americans. A reorientation is urgently needed in view of our efforts to discover and assert our identity.

The delegates to our Constitutional Convention of 1934-1935 did introduce some changes not found in the American system, such as the unicameral legislature and a presidential term of 6 years without reelection, features which students and critics of government here and in America considered wise and desirable alterations. Unfortunately, these were almost immediate-

ly removed by amendments suggested to the Assembly by a President who wanted a much longer term of office for himself and who dominated the political party which controlled the National Assembly.

But even if these features were to be wholly or partly restored, the Constitution still contains provisions which are quite alien to the national ethos and so are left to slumber in peace. Some parts are contradictory to each other and have misled government officials into disregarding fundamental principles. Institutions of basic value to a modern state, such as one which should be given full and independent control over the nation's currency and monetary policies or one that assures a knowledgeable decision on educational and scientific development independent of political action, are not adequately provided in the present Constitution. The corrupting influence of power endangers the national welfare and democracy when all decisions on every subject, including those which require special expertise, are placed in the hands of political or-

gans such as Congress and the President.

The Constitution permits two methods of amending its provisions. The initiative is left with Congress. One method is for Congress to make the amendment proposals by a three-fourths vote of all the members of each house. Another is for Congress to call a constitutional convention, again by a three-fourths vote, to approve proposals for amendments. It is for Congress to choose which of these two methods should be used. But if the amendments are to be satisfactorily adjusted to the basic features of our country and the character of our people, they should be left to a constitutional convention to propose.

The Constitution does not, of course, prescribe a criterion as to when it is proper for Congress alone to make proposals for amendments and when it is better for it to call a constitutional convention for making the proposals. Much depends upon the nature and purpose of the projected changes of the Constitution which are deemed imperative. But to be more specific, amendments

intended to alter the powers, privileges, duties, qualifications, disqualifications, terms of office, salaries, and perquisites of the President, members of Congress, the judiciary, or other offices provided in the existing Constitution as well as the fundamental rights and privileges of the people can best be decided and should be decided only through a constitutional convention. Not being connected with the existing organs of government, administration, or legislation, a convention could be expected to act with less prejudice and more freedom and impartiality than Congress. Moreover, it is more difficult for the President to exert pressure on convention delegates. For instance, months before the Constitutional Convention of 1934-1935 was held, President Quezon expressed strong objection to a unicameral legislature. He told some persons about it. A number of delegates, however, strongly advocated the unicameral plan and with the help of the Manila newspapers, which published a number of editorials in its favor, President Quezon re-

mained silent on the subject. The result was that the majority of the Convention was ultimately persuaded to adopt the unicameral legislature designated as the National Assembly.

But about four years later President Quezon thought of having the Constitution amended. It was then time for him to push through his personal preferences. With his control over the Nacionalista Party, it was easy for him to prevail upon the National Assembly itself to propose the necessary amendments reviving the Senate and removing the prohibition against the reelection of the President. Thus, he was able to accomplish through the legislative power of proposing amendments what he failed to see adopted in the Constitutional Convention.

For Quezon to favor a lengthening of his term even in this runabout way was to follow the practice of some undemocratic governments in Latin America. High Commissioner Francis Sayre, therefore, recommended a veto on this amendment by President Roosevelt on the ground that it was a step of

"exceeding danger to democracy" and a way to indefinite tenure and eventual dictatorship. Roosevelt, however, was then on the way to running for a twelve-year term and so could have been accused of inconsistency had he disapproved the 8-year term for Quezon. Incidentally, not satisfied with holding the office for 8 years, Quezon was able to persuade Mr. Osmeña to step aside from the presidency and to persuade the U.S. Congress to permit him to continue in office till the end of the War. Unfortunately for him death cut short his expectation.

The same case was experienced in pushing through the so-called Parity amendment to the Constitution. This measure or the idea behind it was opposed by the majority of Filipino leaders. It could never have been approved thru a constitutional convention. Therefore, President Roxas had to make Congress propose the Parity amendment which he had so wanted to see adopted. He even went to the extent of having some senators and representatives deprived of

their seats in Congress because he suspected them as unfriendly to the Parity amendment. A constitutional convention, which is more directly representative of the people, would never have approved such disgraceful change of the Constitution of a free people.

These two instances show that Congress could be easily influenced by partisan considerations and by official pressure to propose undesirable changes. It is quite obvious that if a change contemplated is simple and does not involve the interests of its members, Congress may properly be left to make the proposal. But in cases of basic alterations of the fundamental law, it is best for Congress to let the people elect special representatives to deliberate on proposed changes in a constitutional convention.

To our Senators and Congressmen this appeal is presented:

Give the people a chance to select as members of a constitutional convention men and women who in their opinion are best fitted to do one particular work —

to propose necessary amendments to the Constitution.

Give the people a chance to be represented in a constitutional convention which is completely free to propose changes in the structure of our government, changes that may affect the position and functions of the President, the Senators, the Congressmen, and other government agencies.

Give the people a chance to select delegates to a constitutional convention who are not at present enjoying government powers, privileges, and special advantages and are not, therefore, influenced by any thought of preventing the introduction of changes that may adversely affect their actual position in the government and their political standing.

The plebiscite for the final approval of the draft of a constitution cannot be seriously considered as an institution that makes a constitutional convention unnecessary as suggested by certain persons. Composed of millions of voters, it cannot initiate proposals of amendments with sufficient judg-

ment and deliberation. Its use is confined to merely saying Yes or No. It can accomplish this task with greater assurance of correctness when the proposals of amendments are the direct product of men and women specially selected by the people to make them.

One more point should be remembered on the selection of delegates to the constitutional convention. Authorities on the question are unanimously agreed that the legislature or Congress has no legal right to name specific persons or groups to sit as delegates in the convention. Neither is Congress authorized to provide that the delegates shall be elected at large. The delegates have to be chosen from "the various localities" of the country. By this method, according to authoritative opinion, the convention becomes truly and fairly representative of the people. The practice of including *ex officio* delegates

finds no valid support from authorities on constitutional conventions.

The Filipinos have never had a chance to hold a constitutional convention with complete freedom of action and under conditions of political independence since the Malolos Constitution was drafted and approved about 67 years ago. If for no other reason than to give them an opportunity to select delegates to formulate with utmost freedom a constitution more suitable to the conditions of their own country, our Congress should consider it their duty to call a constitutional convention to amend or revise the present Constitution. No expenditure of public funds could be deemed too high for this purpose. A general and careful revision of the basic law upon which our political, social, and economic structure is to rest is worth all the money the public treasury and Congress could muster. — V. G. Sinco.