

In connection with the exposures in Manila, there has been talk, defensive talk, of the shocking Teapot-Dome scandal in Washington during the Harding Administration. But let it not be overlooked how the people reacted in that matter and what measures the Government took. The criminals went to prison, rich and highly placed as they were, and some say that Harding wished to die, and died, because of what had happened.

In any government there are always individuals who would take criminal advantage of their power if they had opportunity. That is to be expected. That is one reason why we have auditing and investigating bodies, prosecutors, judges, police, and prison-wardens. No people can rightly be blamed for the discovery of criminals in high official positions, but they are to blame if they keep them there.

Some Filipinos have said that the country is disgraced before the world, but a clean-up, the more complete, the better, would do more to impress other nations with the reality of Philippine competence in the ways of democratic government than has the past dubious party "unity" which, it has been plain for some time, enabled a clique of malefactors to maintain themselves in positions of power and honor.

The real test will come when it is seen whether masses of voters too easily misled or bought out-right, will still rally to them and keep them in power.

In a letter which some time ago the Chamber of Commerce of the Philippines sent to Secretary of Commerce and Industry Cornelio Balmaceda (the letter was signed by President Gil J. Puyat) protesting against the undue competition offered by the People's Homesite Corporation to private concrete-block manufacturers, — which letter no doubt had its weight in finally deciding the Government to call a halt to this competition, we have noted with satisfaction one sentence which read:

"It has been the consistent policy of the Chamber to oppose, as a general proposition, government in business, and countenance government investments in business only to pioneer in such lines where private capital is indifferent until such time as private capital is ready to take over, and where private enterprise cannot supply the demand or it indulges in practices detrimental to the welfare of the general public."

This statement outlines what we believe is a very sound policy. However, it also appears to us that the total record of the Philippine Chamber does not bear out that it has consistently opposed government in business, even as a general proposition.

The Chamber has, indeed, done much to encourage government interference and government competition with private business here, apparently in the belief that this interference and competition would affect foreign-owned business enterprises only or chiefly, and would in the end be to the advantage of Filipino-owned private business enterprise.

We have always believed that Filipino business, as time went on, would come to realize the fact that whatever is harmful to foreign business is also harmful to Filipino business, as well as to the people of the Philippines as a whole.

There is much to be said for cooperation between business and government and much can be achieved by such cooperation. But neither government nor business should lose sight of the fact that under the forms and processes of our capitalistic democracy,

government and business, respectively, must function as checks upon each other.

There is a natural tendency of government everywhere to become dictatorial and totalitarian, and this tendency is checked only by the people as a whole and their various other social institutions, among which industry and business are probably the strongest.

If business had its own way entirely, we would develop what has come to be known as fascism. If government had its way entirely, we would have totalitarianism, and the one is as bad as the other, with free private enterprise and all other freedoms ultimately suppressed under both.

Of late years, government here has gone much too far in the totalitarian direction in its interference with and control over the economic life of the people, and if the Philippine Chamber comes to realize this, a very important gain will have been made toward offsetting this very alarming trend, — alarming economically, politically, and culturally.

The American Chamber of Commerce has stood virtually alone in its opposition to this trend. It heartily welcomes any sign of conversion on the part of the Philippine Chamber to what should be its general function in assisting in the maintaining of a dynamic and progressive balance between the various social forces in this country.

When one of the highest officials of the Department of Justice, — God save the mark, officially urges a course of action upon the Government on the basis of a line of reasoning which would not have occurred even to an eighteenth century Borneo pirate, isn't it time we stop and consider? The more so as this course of action would seem to be in line with a decision of the highest court of justice of the land?

There must be no confusion here between the course proposed and the exercise of the power of eminent domain, one of the most majestic of all governmental powers and never used by any civilized government except under circumstances of great public necessity and then only with the greatest restraint. The power has been defined as —

"that superior dominion of the sovereign power over property within the state which authorizes it to appropriate all or any part of a property to a necessary public use, reasonable compensation being made."

No, this course urged upon the Government is one of outright confiscation, as of stolen goods, under the warrant of a decision of the Supreme Court of the Philippines, the notorious "Krivenko Case" decision, which purported to be an interpretation of the Constitution with respect to landownership and denied to aliens to right to hold any land whatever.

* Read It And Weep!
Suits Against Alien Landholders To Recover Property Urged On President

Solicitor General Felix Bautista Angelo urged the President yesterday to authorize his office to institute court action against alien-owned properties acquired in violation of the Constitution as interpreted by the supreme court in the celebrated Krivenko case.

The solicitor general told the President in a letter that "two alternative court actions are open to the government with respect to the land transferred to aliens in violation of the Constitution and existing law," namely:

1. Action for reversion and forfeiture or escheat to the state; and
 2. Action for the annulment of the prohibited transfers.
- The solicitor general urged the chief executive to define the government's policy in this regard. He pointed out that "further delay in instituting court proceedings is inadvisable."

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It is now proposed to dispossess, and without compensation, a whole class of Philippine residents and tax-payers of property they have acquired under the laws of the land as universally understood before the Supreme Court decision; property they worked for and paid for, and which forms, in many cases, the very stuff of their lives.

For this property consists of lands and the buildings and improvements on them, and it is *not* that alien landholdings here are so extensive as to present serious economic and social problems; these lands consist almost exclusively of small tracts on which places of business and homes have been erected.

When this is understood and when it is recalled that every system of law from the earliest customary and common law to the most advanced modern codes, including Philippine law, holds the home, especially, as peculiarly sacrosanct and surrounds the possession, the security, and the tranquility of the home with the strongest legal safeguards, then, surely, the course proposed must outrage every decent human instinct.

The Philippine Constitution plainly states that — "all agricultural, timber, and mineral lands of the public domain . . . belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens . . ."

This was illiberal enough, but was naturally not taken, — until the Supreme Court spoke, to apply to private lands or to lands utilized for industrial, business, or residential purposes. The Supreme Court, after tortuous ratiocination, concluded that the phrase, "agricultural, timber, and mineral lands of the public domain," really means, — using the classification of public lands in the Land Law as an *analogy*, all lands, public and private, for whatever use!

However, lawyers have questioned the decision can be accepted as final on this issue because the Constitution itself provides that decisions involving constitutionality must be concurred in by two-thirds of all the members of the Court. The Court numbers eleven justices; the decision was one of six to four.

The letter contained the results of the studies made by the solicitor general on the legal angles of any possible court action that should be taken towards enforcement of the constitutional provision and other pertinent provisions of existing statutes against the transfer of land to aliens.

The Solicitor General also disclosed that since the supreme court decided in the celebrated Krivenko case that the phrase "agricultural lands" includes urban and residential land within the meaning of the constitutional provision against the transfer of private agricultural land to foreigners, his office had in the future action towards the confiscation of all illegally acquired property now in the possession of aliens.

In sustaining his thesis that the state could confiscate private lands acquired by aliens, the solicitor general quoted pertinent portions of the Public Land Law, as amended, as Commonwealth Act 141. He said:

"Section 124 declares prohibited conveyances in favor of aliens unlawful and null and void giving to such conveyances (transfers) the effect of annulling and cancelling the grant and of causing the reversion of the property and its improvements to the state."

He asked, "In the event of such annulment and cancellation who else could claim title to the property except the original owner and grantor—the State?"

The solicitor general pointed out that reversion amounts to forfeiture. He added that no provision is made for the payment of compensation, none can be demanded by present owners.

"It may be noted that the alien holder himself has no right to compensation, for under the terms of the statute he acquires no title," the solicitor general said in expanding his theory that land now in alien possession was illegally acquired.

It was also pointed out in this connection that the state is barred from paying compensation to present holders as to do this would "completely defeat the purpose of the Public Land Act."

In the event that reversion or escheat proceedings do not prosper in the courts, the solicitor general said, the government should resort to the annulment of prohibited transfers of land to aliens as a possible line of action.

In urging immediate action, the solicitor general declared, "One unifying purpose runs throughout the Public Land Act, and it is to conserve the natural resources of the Philippines for the use and benefit of its citizens."

—*Manila Daily Bulletin*, February 19, 1919

As far as Americans here are concerned, the decision has been interpreted in official quarters as not affecting, for the time being and under the "parity principle," their rights, but this is little comfort to any man with a sense of justice or with an understanding of the conditions which must reign in a prosperous and happy country.

One of the learned justices of the Court advanced the idea that all lands are agricultural [or timber or mineral lands] because that is what is left when buildings are removed! So, presumably, all lands belong to the State because the State existed before the people(?).

Why not go a little farther back, into those geologic times when mighty earth-forces first raised Azotic rocks above the seas and which then, over eons of time, came to be inhabited by the first land-animals, — worms and crabs and primitive saurians? We should, perhaps, deed all our possessions over to them or their descendants, but they, oddly enough, include ourselves! So here we are, millions of years later, with a problem of elemental human justice still on our hands, badly muddled by our highest officers of justice.

Though the Solicitor-General seems to be blissfully unaware of it, it should be very clear that by applying the principle, if principle it can be called, of confiscation and forfeiture in this fundamental matter, or, in fact, carrying out at all this whole illiberal, unjust, undemocratic, and uneconomic land policy, we should forfeit the good opinion and respect of all civilized nations.

The American Chamber of Commerce has for some time had to render what assistance it could to an increasing number of Americans who appealed for help.* The majority of them have been young men, some ex-servicemen who stayed on, others who came after the war expecting to be able to find good positions here.

Our advise to both these classes of men generally is that they should go back to the United States because it is difficult for Americans and foreigners to obtain employment here except under circumstances of special demand and special fitness.

We would ask chambers of commerce and other agencies in the United States which may be concerned to encourage no one to come here except to fill some definite position of known tenure and at an adequate salary.

Some of the young Americans who have appealed to the Chamber are in truly pitiable circumstances. Numbers of them have married Filipino women, now have one or two children, and have found that they can not make a decent living here.

The American Embassy and the Consulate can do little for them, much as the officials there would like to be able to help. Under present laws, the alien wives of Americans and their children born abroad no longer automatically become American citizens, and hence there is no provision for their help.

Help is limited to American citizens, in such cases the husband and father alone. And help generally consists only of an assistance loan for repatria-

* Over 150 persons have asked the Chamber for help in finding employment during the past 6 months; over a third of this number applied during the past month. Some 90% of these persons are Americans, the rest are British, Australians, Spanish, stateless persons, and some Filipinos.