

The compromise bill, No. 3116, provided for the extension of the life of the Act until the end of 1953, but compromised on the amount of the tax, specifying that 17% would continue to be levied until June 30, 1953, the tax to be reduced to 12-1/2% during the period from July 1, 1953, to December 31, 1953. It also included, among the exemptions, payments for agricultural machinery and implements and payments for outstanding obligations contracted prior to March 28, 1951, as in Bill No. 2322.

The Committee's compromise bill was further amended on the floor, most of the amendments being minor ones and the principal one being the elimination from the original Act of the highly objectionable requirement that the tax shall be collected even on the payments of exempted imports, for later refund by the Bank. The amended Act now simply states that the tax "shall not be collected" on such payments. Besides the inclusion among the exempted imports of "agricultural machineries and implements and their spare parts and accessories", also exempted are the "supplies and equipment purchased directly by or for the Armed Forces of the Philippines and the Civil Aeronautics Administration as certified by the corresponding Department heads"; also "spare parts, equipments, accessories of airplanes and vessels of Philippine register", with certain reservations. The proposed amendment exempting payments for outstanding obligations contracted prior to March 28, 1951, the proceeds of which were used for agricultural and industrial rehabilitation, was lost.

It will be seen that the gains made against the continued imposition of the exchange tax, in spite of all the effort made to obtain more important modifications, are not great. The reduction from 17% to 12-1/2% will apply to only the latter half of the year 1953. On the other hand, the life of the Act has been extended for less than a year beyond the originally specified period.

And completely blocked was the earlier proposal that the tax be increased from 17% to 25%! Republic Act No. 814, amending the original Foreign Exchange Tax Act No. 601, is not as bad as it might have been in view of all the circumstances.

However, the only eventuality, with respect to the exchange tax, to which industry and business and the people as a whole can look forward to with any optimism, is its total abolition come end of the year 1953.

Meanwhile, and for as long as this capital-trap may continue to exist, we must give up all hope of any large private foreign capital investment in local enterprise.

This past session of the Philippine Congress, both the Philippine Immigration Act of 1940 and the Alien Registration Act of 1950 were again amended.

**Aliens "Fees" and the Rule of Law** The first was amended by Republic Act No. 749 which provides, among other things, for an increase in the alien head tax from ₱16.00 to ₱25.00, this tax being payable by every alien over 16 years of age admitted to the Philippines. The Act also increases various fees, as (1) for executing an application for a passport-visa for a non-immigrant, from ₱5.00 to ₱10.00; (2) for an extension of a re-entry permit, from ₱10.00 to ₱20.00; (3) for executing an application for an immigration visa, from ₱5.00 to ₱10.00; (4) for a petition for preference-quota status, from ₱10.00 to ₱40.00; (5) for a petition for a visa for a non-immigrant coming to pre-arranged employment, from ₱20.00 to ₱80.00. The Act furthermore provides that if an alien's certificate of residence has been lost, original fee, ₱50.00, the fee for a duplicate is ₱40.00; and while the fee for a re-entry permit is ₱20.00, the fee for a duplicate re-entry permit is ₱40.00. The fee for an extension of a temporary stay is ₱10.00 for every month of extension.

Even in the case of students, the Act provides that for every year, or fraction thereof, of a stay beyond two years, as a non-immigrant student, the fee is ₱50.00. This list does not include many other fees which the Act leaves unchanged.

Republic Act No. 751, which amends the Alien Registration Act, increases the annual report fee for aliens from ₱0.50 in documentary stamps to ₱20.00 in documentary stamps for all aliens 14 years of age or over, and from ₱0.50 to ₱10.00 for all aliens less than 14 years of age. The same Act increases the fee for a duplicate-original of a lost alien certificate of registration, original fee, ₱50.00, from ₱2.00 plus a 30-centavo documentary stamp, to ₱10.00.

The explanatory note prefixed to the original Bill stated:

"No less than ₱3,000,000 will be collected annually in the form of alien annual report fees if the proposed rates are approved."

This referred only to the revenues from the increase in the annual report fees, not to the increase in revenues expected from the increases in the other fees.

The sponsors of the two original bills were, in the one case, Representatives Macapagal, Allas, and Lacson, and, in the other, Representatives Macapagal, Cases, and Duran. Both were recommended for approval by the House Committee on Foreign Affairs, of which Representative Macapagal is the Chairman, and were duly approved, not only by the House, but by the Senate, and, finally, by President Quirino.

In the issue of this *Journal* for March, of this year, we published a list of government fees and other incidental expenses incurred by a hypothetical American, with a family who comes to take a position in the Philippines, say in a mining firm. In addition to the costs of the journey,—railroad fare, hotel expenses, sea or air transportation, new clothing suitable to the Philippine climate, and the loss and expense usually entailed in breaking up a household and setting it up again many thousands of miles away, these fees and incidental expenses were, as of a few months ago:

#### United States Passport

Husband.....	\$10.00	
Wife and 3 children (combined).....	10.00	
Application for 2 visas—Philippine Government.....	5.00	
2 visas.....	20.00	
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	\$45.00	₱ 90.00

#### Philippines

Husband		
Head Tax.....	₱ 16.00	
Alien Registration Certificate and stamps.....	50.30	
Immigrant Residence Certificate and stamps.....	50.60	
12 photographs (not paid to Government).....	7.00	
City Residence Certificate.....	.50	124.40
Wife		
Head Tax.....	16.00	
Alien Registration Certificate and stamps.....	50.30	
Immigrant Residence Certificate and stamps.....	50.60	
12 photographs (not paid to Government).....	7.00	
City Residence Certificate.....	.50	124.40
Child No. 1 (16 years old)		
Head Tax.....	16.00	
Alien Registration Certificate and stamps.....	50.30	
Immigrant Residence Certificate and stamps.....	50.60	
12 photographs (not paid to Government).....	7.00	123.90

Child No. 2 (14 years old)		
Alien Registration Certificate and stamps	50.30	
Immigrant Residence Certificate and stamps	50.60	
12 photographs (not paid to Government)	7.00	107.90
Child No. 3 (2 years old)		
Alien Registration Certificate and stamps	2.30	
3 photographs	3.50	5.80
Total		₱ 576.40

Under the two laws and recently amended, the fees and incidental expenses are as follows:

<b>United States Passport</b>		
Husband	\$10.00	
Wife and 3 children (combined)	10.00	
Application for 2 passport visas—Philippine Government	5.00	
2 passport visas for non-immigrants	20.00	
Petition for visa for non-immigrant coming to pre-arranged employment*	40.00	
	\$ 85.00	₱ 170.00

\* According to Commissioner de la Cruz, only the head of the family pays this fee.

<b>Philippines</b>		
Husband		
Head Tax	₱ 25.00	
Alien Registration Certificate and stamps	50.30	
Residence Certificate (For pre-arranged employes) and stamps	50.60	
12 photographs (not paid to Government)	7.00	
City Residence Certificate	.50	
		₱ 133.40

Wife		
Head Tax	25.00	
Alien Registration Certificate and stamps	50.30	
Residence Certificate (For pre-arranged employes) and stamps	50.60	
12 photographs (not paid to Government)	7.00	
City Residence Certificate	.50	
		133.40

Child No. 1 (16 years old)		
Head Tax	25.00	
Alien Registration Certificate and stamps	50.30	
Residence Certificate (For pre-arranged employes) and stamps	50.60	
12 photographs (not paid to Government)	7.00	
		132.90

Child No. 2 (14 years old)		
Alien Registration Certificate and stamps	50.30	
Residence Certificate (For pre-arranged employes) and stamps	50.60	
12 photographs (not paid to Government)	7.00	
		107.90

Child No. 3 (2 years old)		
Alien Registration Certificate	2.30	
3 photographs (not paid to Government)	3.50	5.80
Total		₱ 683.40

Before the recent amendments to the two pertinent laws, the total fees, etc. paid by such a small family amounted to ₱576.60; under the new amendments, the total fees, etc. amount to ₱683.40. This is just for the American and his little family to get into the country and to establish temporary residence and for him to take a position. Over and above this, he is, of course, subject to all the taxes, direct and indirect, which every head of a family has to pay.

In addition to the ordinary taxes, however, he had until the recent amendments, to pay an annual report fee

on his Alien Registration Certificate and those of his wife and all three children, of 50 centavos, or a total of ₱2.50 for the five certificates. This did not amount to much in money, but was a great bother. Under the amendments, this 50-centavo fee has been increased to ₱10.00, or, for him, a total of ₱50.00 a year.

If we suppose that after a few years, the American wants to go home for a vacation, he meets with new exactions. He must get an emigration clearance certificate, fee ₱20.00, plus 60-centavo stamp for every member of his family if they all go,—₱100.00 total. He must also get a re-entry permit in advance, fee ₱20.00, for every member of his family 14 years of age or over,—another ₱80.00. A re-entry permit, however, is only good for one year, and if he remains away longer, say because of an illness in the family, he has to make out a sworn application for an extension of the re-entry permits, which is ₱5.00 per application, or ₱20.00 for the four, and for the extended re-entry permits themselves, he is charged ₱20.00 each,—or a total of another ₱80.00.

This is still not all, for before he can leave the country he must get a tax clearance certificate, for each member of his family except the baby, at ₱15.00 each. He must also get a foreign funds control license to take home what money he has been able to save, and if, in spite of all, he has saved a few thousand pesos, the chances are that he will not be permitted to take more than a part of it.

Such is the bed of roses which the Philippine law-makers have made for the aliens who live in the Philippines, among whom Americans are now included. And as they contemplate their situation,—if they remain cool enough to contemplate it, they wonder whether our law-makers know the meaning of what is known in jurisprudence as the Rule of Law, as opposed to the Rule of Status, and whether they know that the "movement of progressive societies" is from the rule of status to the rule of law, as only the latter can safeguard "that equality before the law which is the opposite of arbitrary government."

Our law-makers, as a whole, seem to be of the opinion that there is no limit to the rightful powers of the legislator and that "so long as all actions of the state are duly authorized by legislation", the Rule of Law is preserved, but this, declares an authority, "is completely to misconceive the meaning of the Rule of Law." He goes on:

"This rule has little to do with the question whether all actions of government are legal in the juridical sense. They may well be and yet not conform to the Rule of Law. . . By giving the government unlimited powers; the most arbitrary rule can be made legal, and in this way a democracy may set up the most complete despotism possible. . . It is possible to pursue a policy of ruthless discrimination against national minorities by the use of recognized instruments of economic policy [and other measures] without ever infringing the letter of the statutory protection of minority rights. . ."

"The Rule of Law implies limits to the scope of legislation; it restricts it to the kind of general rules known as [formal laws and excludes legislation aimed at particular people or at enabling anybody to use the coercive power of the state for the purpose of such discrimination. . . Such limitations of the powers of legislation imply the recognition of the inalienable rights of the individual, the inviolable rights of man. . ." (F. A. Hayek: "The Road to Serfdom.")

Disregard of the Rule of Law in legislating establishes a regime which "knows no other limit than that set by expediency" and which is therefore completely unethical. The aliens in the Philippines are being made to feel that they live under such a regime.

There was nothing even remotely approaching the situation in which aliens now find themselves during the years of American sovereignty and during the years of the Commonwealth. It came about during these last few years under the *Republic*.

**A**FTER the draft of this editorial had been prepared, the editor sent the included tables and several other pertinent paragraphs to Immigration Commissioner. Vicente de la Cruz, with the following self-explanatory letter:

Sir:

"We are considering the publication of an editorial on the new fees being charged in the Bureau of Immigration under the Immigration Act and the Alien Registration Act as recently amended. The editorial we have in mind would naturally be critical and we realize that it would probably not make pleasant reading for you (although, to be sure, you are not responsible for the laws it is your duty to execute). Nevertheless we feel that we may count on your assistance in avoiding errors of fact, as you would rightly object to them and we ourselves, have no desire to make things appear worse than they are.

"May we ask, therefore, that you be so kind as to go over the attached few pages of the draft and check them for any possible error and also for possible omissions? We would greatly appreciate your assistance. It goes without saying that we do not have in mind to criticize, directly, either your Bureau or yourself.

"Very sincerely yours, etc."

We were favored with the following very prompt and informative reply:

"Sir: This is to acknowledge receipt of your letter of July 25, 1952, requesting correction of the draft of your proposed editorial on the new immigration fees which were approved recently by Congress. It has been duly corrected as requested.

"Your editorial will certainly place the question of increase in fees in a very unfavorable light. As you will mention in that article the cost of the journey,—the costs of the photographs required for identification not paid to us, railroad fare, hotel expenses, sea or air transportation, new clothing suitable to the Philippine climate and the loss and expense usually incurred in breaking up a household and setting it up again many thousands miles away, together with the immigration fees, a false impression is necessarily created by your proposed editorial which might serve to discourage the travel of Americans to the Philippines. Nevertheless, we thank you for any constructive criticism as it is your right to make, and we are only explaining to justify our recommendation to Congress.

"Incidentally, we wish to mention the fact that as of April 30, 1952, we have the following number of aliens in the Philippines:

(1) Chinese	145,720
(2) Americans	11,754
(3) Spaniards	2,421
(4) British	1,065
(5) Germans	511
(6) Belgians	288
(7) Other nationalities	2,262
Total	165,976

"Naturally, all of the 165,976 aliens are affected by the two amended acts of legislation. When we recommended the approval by Congress of our revised immigration fees, we had no intention to adversely affect any American, or any alien for that matter, but it was only our intention to follow the recommendation of the Bell Mission which came to the Philippines a few years ago recommending the increase of government income so as to meet the expenses of our Government due to our necessary public services incidental to our independence. We thought of recommending exemption to Americans, Filipino-Americans, and Missionaries from the increase in fees, but since this would have constituted class legislation, we decided that we could not legally do it.

"For permanent residents no increase in immigration fees has been provided with the exception of the annual report fee which was increased from \$0.50 to \$1.00 in view of the importance of the service performed. The head tax was also increased from \$15.00 to \$25.00.

"With respect to aliens who came under pre-arranged employment, the following information is given: In 1946, only 3 came; 1947—173; 1948—207; 1949—196; 1950—200; 1951—288; and 1952—160; or a total of 1,227 arrivals from 1946 to 1952. Practically all of these paid the old rate of fee of \$20.00. Very few, therefore, came in even under the old rate. The increased rate of \$80.00 for pre-arranged employees is applicable to all nationalities.

"Again we want to state that in recommending the increased rates, we were only guided by the recommendation of the Bell Mission as stated above, as we need funds for public education, public health, peace and order, economic development, and other necessary activities. Whatever increase is made out of the two amendatory legislations, will go to help meet the expenses of the Government.

"It should not be forgotten that even in the United States which has plenty of government funds, its Congress has deemed it fit to increase the rate of taxation and fees; so is also the tendency of other governments throughout the world.

"Very sincerely yours,  
"VICENTE DE LA CRUZ  
"Commissioner of Immigration."

I N reply to this letter of the Commissioner, we should like only to observe, very respectfully, that a bureau of immigration is not generally organized as an entity charged with the function of collecting government revenues, as is a bureau of internal revenue or a bureau of customs. It seems to us that the distinction between govern-

ment taxes and government fees is being lost sight of. The costs of government are met by the levying of taxes, which are paid by everyone. Government fees are generally paid for certain services which directly benefit only those who pay the fees and these are generally just high enough to cover the cost of administration.

Republic Act No. 749, amending the Philippine Immigration Act of 1940, commented upon in another editorial in this issue of the *Journal*, besides

**Aliens Gagged and Denied Right of Appeal to the Courts** increasing various fees charged by the Bureau of Immigration in connection with aliens entering and leaving the country, contains a number of provisions which impress us as not only extremely dangerous but as definitely unconstitutional.

One of these is the following:

"Sec. 7. Section forty of the same Act, is hereby amended to read as follows: . . .

"(d) The Commissioner of Immigration may, in the exercise of his sound discretion, deny the release under bond of any detained alien who is the subject of exclusion or deportation proceedings, and the filing of an action before a court of justice seeking relief from any order, resolution, or decision rendered by immigration officials in connection with the exclusion or deportation proceedings shall not divest the Commissioner of Immigration of the power granted him under this section."

The explanatory note prefixed to the original Bill explained the purpose of this provision as follows:

"Under Section 7, it is stated that the discretionary power of the Commissioner of Immigration to permit the release under bond of an alien subject of exclusion or deportation proceedings is not subject to review or interference by the courts. . . .

Can the right of appeal to the courts be thus denied to anyone, and can the authority of the courts be thus limited? We do not believe so.

There is another provision in the Act which gives broad scope to the most flagrant abuse, particularly in connection with the protection of the authority given the Commissioner of Immigration by the provision just referred to. It runs:

"Sec. 5. The following grounds for deportation are hereby added to, as paragraph (14) of the subsection (a) of section thirty-seven, of the same Act, as amended, to read as follows:

"(14). Any alien who makes a public and malicious or libelous imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause dishonor, discredit, or contempt of the person of the President or Vice-President of the Philippines, or the members of the Congress of the Philippines without prejudice to whatever action, civil or criminal, the offended party may file against said alien. . . .

This provision renders the Act the most dangerous gag law which can have no conceivable place among the laws of a democratic country such as the Philippines has for some considerable period of years been believed to be.

It is true that the provision applies "only to aliens", but it denies them the right even to protest against the very discriminations which this same Act, in its other provisions, heaps upon them. Are the rights of free speech and press under the Constitution to be reserved exclusively to Philippine nationals? If this should meet with general acquiescence among them, then they themselves will in time be inevitably stripped of these same rights, for they can not be preserved by those who fail to recognize the necessity of their universality. It is not possible to maintain democracy undemocratically. Those who undermine it surely dig a pit for themselves.

"The American 'Alien and Sedition Acts'"—"The troubles with France [during the administration of John Adams], which for the moment had increased the strength of the Federalists and had enabled them to win their last political victory in the congressional elections of 1798-1799, was in the end to prove their undoing. Taking advantage of the war future and the temporary weakening of the Republicans, they pushed through Congress in 1798 four acts known collectively as the alien and sedition acts. A Naturalization Act lengthened the period of residence necessary for citizenship from 5 to 14 years while two alien acts gave the President the power to expel from the country aliens judged dangerous to the peace and safety of the United States and in time of war to expel or restrain aliens as he deemed fit. The alien acts were both enforced, but the accompanying Sedition Act, which made it a crime under penalty of fine or imprisonment to write or publish any false, scandalous, or malicious statement concerning the President or either house of Congress, or bringing into contempt or disrespect any officer was enforced. We might have given a partial excuse for some of this legislation, but the