

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 taken 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, also known 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 Azoric 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.

tion and subsistence.—a substitute up to the time of the first possible embarkation for the nearest American port.

In effect this means that if such a man is willing to desert his family, — at least temporarily, he is aided to get out. Men who can not bring themselves to do that, can not be helped.

It must be emphasized that there is no prohibition against an American taking his foreign-born wife and children home with him to the United States or sending for them later. If he is an American in good standing and he and his family are not likely to become a public charge, he can obtain non-quota visas for his wife and children. But he himself must pay for their passage.

American Embassy and Consulate officials have no choice in this matter. Only Congress, by special legislation, could make things different. Special arrangements were made by the State and Army and Navy Departments to bring home the foreign wives of servicemen following the war. It is becoming time to consider the plight of American ex-servicemen in many foreign countries "who accepted discharge

abroad through misapprehension as to the possibility of being gainfully employed", — *the ex-servicemen and their families.*

Philippine independence has made for a number of changes in respect to the possible dealings of American officials here with American nationals. This now being foreign territory, American officials can no longer, for instance, deport American "undesirables". Only the Philippine Government may do that. Americans sentenced to prison here can not be sent back to the United States, but must serve out their terms here. No such wholesale repatriation of "undesirable Americans" could be resorted to as were carried out here several years after the close of the Spanish-American War.

Stranded American seamen must be returned to the United States by the shipping companies which employed them.

The situation for any American here without a job and without funds is a desperate one and the time has already come when more fortunate Americans are called upon to deal privately with a problem which should be of some concern to our Government at home as well as to our official representatives here.

## The Economic Development of the Far East

By Myron M. Cowen

*United States Ambassador to the Philippines*

THE Commission has before it the report and recommendations on industrial development by the Working Party. While the major discussion of this report will take place in the committee to which it will be referred, it seems appropriate at this time to offer some general remarks on the character of the report and on the problems of economic development in the Far East.

### *Need of Food Production*

While the United States delegation will wish to make some specific criticism of certain parts of the report when it comes up for committee consideration, in general we believe that the Working Party has made important progress in the past six months. Many of the recommendations are sound and useful. The United States delegation believes that emphasis on the broad phases of economic development is well placed, in particular on the articulation of agricultural, transport, and raw material factors with industrial growth. While the United States appreciates the importance to Asia and the Far East, of the development of new industries and of increased manufacturing output, it believes very strongly that economic development must be balanced, that as new industries are added raw material sources must be developed, transport improved, and agriculture modernized. While the Working Party terms of reference have properly kept its consideration of agriculture to the problem of agriculture requisites, the role of improved food production in a balanced economic development of the ECAFE region cannot be over-emphasized. It is paradoxical that an area that is primarily agricultural in nature should now be a net food importer.

Asia and the Far East must find a way to feed its growing population from its own resources so that its foreign exchange resources may become available for importation of capital goods and the whole range of commodities which the area requires for a higher standard of life. In planning for industrial development it is not easy to find the proper point between excessive dependence on a few crops or products to procure all imported needs, and the other extreme, complete autonomy. On the one hand, the United States Government endorses the attempts of countries in the ECAFE region to increase diversification of their economies to give better balance and to enlarge the working opportunities of their growing populations. On the other hand, an attempt at complete self-sufficiency for its own sake will result in the creation of industries which can be maintained only by extreme protective measures and at the cost of sub-standard employment conditions. Resources would be wasted and the consequence would be a lower, rather than higher, standard of life for the people.

In the opinion of the United States delegation, the Working Party shows an appreciation of this problem and the necessity for relating development, particularly of heavy industries, to the availability of raw materials. There are locations in the region favorable for an expansion of basic industry.... The economy of New Zealand is a prime example of a country which has achieved a very high standard of living — some estimate it to be the highest in the world — by concentrating its efforts upon agriculture and the processing of agricultural commodities.

### *Need of Local Capital Formation*

The United States delegation also welcomes the Working Party report on the steps which the countries concerned can take to promote their own industrial development. While outside assistance in the form of technical knowledge and capital goods can greatly assist the economic development of the

The text of an address made on December 1, 1948, by Myron M. Cowen, then Ambassador to Australia and head of the American delegation to the fourth conference of the ECAFE (Economic Commission for Asia and the Far East).