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THE STATUS OF AMERICAN INTERESTS IN PHILIPPINE
NATURAL RESOURCES AND PUBLIC UTILITIES—
ANTICIPATED PROBLEMS

IRENE R. CORTES*

The relations which have developed between the Philippines and the United States during more than sixty years of close association have been variously described as "unique,"1 "peculiar,"2 and "special."3 The most unusual relations are those created by an amendment to the Philippine Constitution extending to citizens and corporations of the United States, for a period of twenty-eight years, equal rights with Filipino citizens and corporations in the exploration, development, and utilization of natural resources and the operation of public utilities. Parity rights, as this grant is popularly called, were the subject of bitter controversy in the Philippines when proposed and continue to arouse a great deal of feeling today.4 These rights will terminate on July 3, 1974, and with less than ten years left before the termination date, it becomes important to inquire into the extent and present status of the interests acquired under the amendment and to consider the legal effects of expiration of the parity period.5

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2 Hearings on H.R. 5856, Before the Senate Committee on Finance, 79th Cong., 2d Sess. 91 (1946).
3 A widely discussed book in the Philippines today is Taylor, THE PHILIPPINES AND THE UNITED STATES: PROBLEMS OF PARTNERSHIP (1964), published under the auspices of the Council of Foreign Relations. The "special relationship" which Mr. Taylor mentions between the Philippines and the United States is dubbed a "myth" which is fast disappearing, The Manila Times, Sept. 18, 1964, § 4-A (Editorial); "suspicious relations," Philippine Free Press, October 31, 1964 (editorial); although one other view taken is that the "special relationship" is not per se bad for the Philippines, the trouble lying in the lack of good Filipino leaders. Rama, Row Over State Visit, Philippine Free Press, October 31, 1964, p. 12.
4 As President Macapagal prepared for his visit to the United States in October 1964, an open letter from the National Economic Protectionism Association referred to parity rights as the "iniquitous aspect of the special relationship" between the Philippines and the United States "which remains as a shameful blot on American actions in the Far East in general and the Philippines in particular." Position Papers filed with the National Economic Council, mimeo. On the eve of the President's departure a demonstration was staged demanding abrogation of parity rights. Time, October 9, 1964, p. 34. Filemon C. Rodriguez, former chairman of the National Economic Council, cautioned against any commitments on parity without giving an opportunity for wide discussion in the Philippines. Manila Times, September 25, 1964, § 2-A.
5 The term "parity rights" has been expanded because of the revision of the Philippine Trade Act in 1955. But for purposes of this article it will be used only with reference to the rights granted to Americans under an amendment appended as an ordinance to the Philippine constitution in 1947.
To appreciate the significance of those rights it is useful to examine the provisions of the constitution affected by the amendment and the policies enunciated by those provisions.

**NATIONAL POLICY ON NATURAL RESOURCES AND PUBLIC UTILITIES**

The nationalistic character of the Philippine Constitution is demonstrated by the preamble which states that it is the aim of the Filipino people to "conserve and develop the patrimony of the nation," and by the Declaration of Principles which announces among other things that "the promotion of social justice to insure the well-being and economic security of all the people should be the concern of the States." Various provisions in the Constitution are designed to carry out these objectives; one of the most important is the article on natural resources which states the details of ownership, disposition, exploitation, development, and utilization. The draft submitted by the Committee on the Preservation and Utilization of Natural Resources was adopted by the constitutional convention with practically no substantial alterations. 

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6 **PHIL. CONST. art. II, § 5.**

7 **PHIL. CONST. art XIII, § 1-6 provides:**

Section 1. All agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State and their disposition, development, or utilization shall be limited to citizens of the Philippines, or to corporations at least sixty per centum of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no license, concession or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases, beneficial use may be the measure and the limit of the grant.

Sec. 2. No private corporation or association may acquire, lease, or hold public agricultural lands in excess of one thousand and twenty-four hectares, nor may an individual acquire such lands by purchase in excess of one hundred and forty-four hectares, or by lease in excess of one thousand and twenty-four hectares. Lands adapted to grazing not exceeding two thousand hectares, may be leased to an individual, private corporation or association.

Sec. 3. The Congress may determine by law the size of private agricultural land which individuals, corporations or associations may acquire and hold, subject to rights existing prior to the enactment of such law.

Sec. 4. The Congress may authorize, upon the payment of just compensation, the expropriation of lands to be subdivided into small lots and sold at cost to individuals.

Sec. 5. Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines.

Sec. 6. The State may, in the interest of national welfare and defense, establish and operate industries and means of transportation and communication, and, upon payment of just compensation, transfer to public ownership, utilities and other private enterprises to be operated by the Government.

8 SINCO, **PHILIPPINE POLITICAL LAW** 376 (2d ed. 1949).
The ownership of public utilities is limited to citizens and to corporations which satisfy the sixty per cent capital requirement. However, alien operators who acquired their franchises before the adoption of the Constitution may continue operating for the full period of their original franchises, but the Constitution prohibits the issuance of any new authorization.

The constitutional provision on conservation and utilization of natural resources reserve to Filipino citizens and to corporations or other associations which satisfy the capital requirement imposed by the Constitution, the right to own and operate public utilities as well as the privilege of acquiring public agricultural land and concessions for the exploitation and development of natural resources. However, these privileges are subject to limitations. The maximum area of land which may be acquired or grazing land which may be leased is fixed, and Congress may further limit the area. The ownership of natural resources remains with the State and the length of leases for development normally is set at twenty-five years, renewable for another twenty-five years. The operation of public utilities is also subject to a time limit.

No corporation or other association will qualify for these privileges unless at least sixty per cent of its capital is owned by Filipino citizens. However, since the constitutional provision refers to capital ownership, the Supreme Court has held that a corporation sole is not covered by the requirement; thus even when the incumbent church dignitary is an alien, the corporation sole can acquire land in the Philippines.

**Restrictions on Private Ownership**

Although title to agricultural land may have passed to a private party, certain restrictions are imposed by the Constitution on ownership rights. Most significant is the prohibition against transfer or assignment in favor of parties not qualified to acquire land in the public domain. An exception to this prohibition is transfer of ownership by

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9 Ishi v. Public Serv. Comm'n, 63 Phil. 428 (1936).

10 PHIL. CONST. art. XIV, § 8 provides:

No franchise, certificate or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or other entities organized under the laws of the Philippines, sixty per centum of the capital of which is owned by citizens of the Philippines, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. No franchise or rights shall be granted to any individual, firm, or corporation, except under the condition that it shall be subject to amendment, alteration or repeal by Congress when the public interest so requires.

hereditary succession. In a decision of far-reaching importance the Philippine Supreme Court interpreted the term "agricultural land" to include residential and commercial land. As a result of this decision, Filipino citizens who had sold residential or commercial lots to aliens brought suit to recover their land, offering to return the price paid. The Supreme Court, though not without dissent, denied relief by applying the doctrine of *pari delicto*, and indicated that the property transferred in violation of the constitution is subject to escheat to the state. As yet, no escheat proceedings have been instituted, and measures proposed in Congress prescribing the rules governing escheat of such property have failed to pass. Since the court denied relief the practical result has been that the aliens have retained the land. Further, the court has held that subsequent naturalization of the alien purchaser cures the defect in title to such land.

The constitutional prohibition against transfer or assignment to aliens has been held inapplicable to leases of land, even for a period as long as ninety-nine years. Also, the executive department seems to have taken the view that government corporations such as the National Development Company or the Mindanao Development Company may lease tracts of land to private parties which exceed the area limitations in the Constitution.

Other limitations on private ownership of land arise from constitutional provisions on expropriation. Besides the traditional power of eminent domain, the Constitution permits expropriation of land upon

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12 PHIL. CONST. art. VIII, § 5.
15 Vasquez v. Li Seng Giap, 51 Off. Gaz. 717 (1955). The question may well be asked whether an alien should have been naturalized at all after having violated the constitution by purchasing the land. In the instant case that question was not raised. It may be possible to draw a distinction between acquisitions made before the Krivenko case and acquisitions made thereafter. In the former, the good faith of the alien purchaser may possibly be offered as an excuse in a naturalization case if the issue of violation is raised. But any alien purchasing land after the Krivenko case could plead good faith. The Revised Naturalization Law requires among other things that an applicant should be "of good moral character and believe in the principles underlying the Philippine Constitution," C.A. No. 473, § 2 (1939), PHIL. ANN. LAWS tit. 18, § 8 (1956), and within two years after a decision granting a petition for naturalization the applicant should not have "violated any Government promulgated rules, or committed any act prejudicial to the interest of the nation or contrary to any Government announced policies." R.A. No. 530, § 1 (1950), PHIL. ANN. LAWS tit. 18, § 29 (1956).
17 Lease arrangements between the National Development Co. and the Dole Pineapple Co. and between the Mindanao Development Co. and the American Fruit Co. were recently subject to public criticism.
payment of just compensation for the purpose of subdividing and selling it at cost to individuals.\textsuperscript{18} To effect land distribution, Congress is further empowered to limit the size of private agricultural land which individuals, corporations and other associations may hold.\textsuperscript{19} The recently enacted Land Reform Act affects all present owners of large estates, whether citizens or aliens.\textsuperscript{20}

The necessary consequence of these constitutional provisions is that aliens are barred from the exploitation of natural resources and the operation of public utilities. In addition, aliens may not acquire land from either the public domain or private sources except by hereditary succession. The bar on aliens was not to have become applicable to Americans until July 4, 1946, when the independence of the Philippines was proclaimed. This was because the Philippine Constitution which was adopted in 1935 had as one of its original ordinances the Tydings-McDuffie Law. This law provided that during the commonwealth period “Citizens and corporations of the United States shall enjoy in the Commonwealth of the Philippines all the civil rights of the citizens and corporations respectively, thereof.”\textsuperscript{221} However, prior to the end of the Commonwealth period and before the date of independence, an executive parity agreement was entered into, and the Constitution was subsequently amended in order to extend, for a period of twenty-eight years, national treatment to American citizens and corporations engaged in activities constitutionally reserved to Filipino citizens and corporations.

**BACKGROUND OF THE PARITY AMENDMENT**

In addition to incalculable loss in human life, the Philippines came out of the Pacific war a physically devastated country.\textsuperscript{22} Its economy was prostrate. As General Carlos P. Romulo put it: “Our productive capacity on the farms and in the mills and in the factories has been

\textsuperscript{18} PHIL. CONST. art. III, § 1(1) & (2); PHIL. CONST. art. XIV, § 4.
\textsuperscript{19} PHIL. CONST. art. XIII, § 3.
\textsuperscript{20} R.A. No. 3844 (1963).
\textsuperscript{22} President Sergio Osmena described the destruction in two principal cities of the Philippines in these words: “The statistics say that Cebu is 99 per cent destroyed. It would be hard to find the remaining 1 per cent... As for Manila itself, the business district is practically 100 per cent destroyed. The south residential district (where the best homes were) is 80 per cent destroyed. Public utilities in general are about 70 per cent destroyed. Factories and stores about 75 per cent destroyed.” \textit{Hearings Before the House Committee of Ways and Means, 79th Cong., 1st Sess. 49-50 (1945).}

Paul V. McNutt, United States High Commissioner in the Philippines at the time testified that the destruction in the Philippines was “as great if not greater than the destruction in the European theater.” \textit{Id.} at 32.
wiped out. We cannot start from scratch because we have nothing to start with except willing hands and unexploitable resources.3 The Philippines was retaken from the Japanese by American forces in October 1945; independence was set for July 4, 1946. A more inauspicious beginning for a new state could not have been imagined,4 but in spite of the gravity of the problems before them, the Filipinos did not ask for postponement of their independence. They did, however, look to the United States for assistance in solving their most pressing problem—rehabilitation of the Philippine economy.

United States assistance was extended under the provisions of two complementary acts passed by the United States Congress on April 30, 1946. The first was the Philippine Rehabilitation Act of 19465 providing for war damage payments. The second was the Philippine Trade Act of 1946.6 Enjoyment of full benefits of the Rehabilitation Act was made contingent on fulfillment of certain conditions imposed by the Trade Act. Thus, the Philippine Rehabilitation Act provides:

Section 601. No payment under Title I of this Act in excess of $500 shall be made until an executive agreement shall have been entered into between the President of the United States and the President of the Philippines, and such agreement shall have been effective according to its terms, providing for trade relations between the United States and the Philippines.7

Among other things, the Trade Act provides for extension of rights to American citizens and business enterprises to exploit natural resources of the Philippines.

4 At the Hearings Before the Senate Finance Committee, supra note 23, at 95, Paul V. McNutt said: "you will find the Philippines starting as an independent nation with a budget between 180,000,000 and 200,000,000 pesos with the anticipated revenue, on my estimate, which will not exceed 20,000,000 pesos, and you will find that budget deficit without any assurance of trade relations in the future, in an economy which, by our action was made dependent upon an American market." Before the House Committee on Ways and Means, Mr. McNutt said of the responsibility for the complete economic dependence of the Philippines on the United States market:

When you say trade in the Philippines, you mean the national economy. It is a trading economy. And I might and should say here and now that we, the United States, managed it that way. We are responsible for the sole dependence of the Philippines on the American market. Our businessmen and our statesmen in the past years allowed the Philippines to become a complete economic dependency of the United States to a greater degree than any single State of the Union is economically dependent on the rest of the United States. And when in 1934 we granted the Philippines their independence, effective on July 4, 1946, we still didn't do anything fundamental to change their economy. . . . Hearings Before the House Committee of Ways and Means, supra note 22, at 199.
Section 341. Rights of United States Citizens and Business Enterprises in Natural Resources.

The disposition, exploitation, development and utilization of all agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces and sources of potential energy, and other natural resources of the Philippines, and the operation of public utilities, shall, if open to any person be open to citizens of the United States and to all forms of business enterprise owned or controlled directly or indirectly by United States citizens.28

Aware of the Philippine constitutional limitations, the United States Congress required that certain conditions be fulfilled before the Philippine Trade Act and the executive agreement authorized by it could be given effect. In explicit terms the Trade Act provides:

Section 402. Obligations of the Philippines.
The President of the United States is not authorized by section 401 to enter into such executive agreement unless in the agreement the Government of the Philippines agrees...

(b) That the Government of the Philippines will promptly take such steps as are necessary to secure the amendment of the Constitution of the Philippines so as to permit the taking effect as laws of the Philippines of such part of the provisions of section 341 as is in conflict with such constitution before such amendment.29

The above conditions appeared harsh even to some Americans. Congressman Lynch of New York asked: "Are we trying to do something for the Filipinos, or are we holding a club over their heads to make them change their constitution in order to get this temporary relief we are giving them?"30 The State Department also consistently opposed the inclusion of these conditions.31 However, it was urged that these

29 Ibid.
30 Hearings Before the House Committee on Ways and Means, supra note 22, at 136.
31 In a statement before the Senate Finance Committee, William I. Clayton, Assistant Secretary of State for Economic Affairs, said:

The other provisions in the bill which cause the Department concern are those which are inconsistent with our pledge of complete independence to the Philippines on July 4 of this year. Inspired by that pledge, the Filipinos fought loyally by our side during the war and I am sure the American people are determined that we should live up to this pledge in full.

Section 341 and 402 (b) of the bill require the Filipinos to give Americans in every respect the same rights as Filipinos in the exploitation of Philippine resources. The bill goes so far even as to require the Filipinos to amend their constitution which was approved by the President of the United States under the Tydings-McDuffie Act, in order to grant these rights to American citizens. If the Philippine Government does not take this action, it cannot have the tariff preferences granted by the bill. Moreover, other provisions of the bill, sections 404 (c), 501 (a) and (c), have the intent of securing for Americans in the Philippines the same rights as Filipinos in all other fields of activity and provide that if such rights
special rights were necessary in order to induce American capital investment in the Philippines. Following the war the Philippines was in no position to bargain on equal terms with the United States on future trade relations or war damage payments, and since full benefits of the Rehabilitation Act were conditioned on acceptance of the Trade Act, there was little choice left to the Philippines.

THE PARITY AMENDMENT

The process of amending the Philippine Constitution is a cumbersome one. An extraordinary majority of all members of the two chambers in joint session, but voting separately, may either propose amendments or call a convention to frame the proposals. The proposed amendments must then be submitted to the people for ratification.

The last measure approved by the Congress of the Philippines under the Commonwealth Government was the act authorizing the President of the Philippines to enter into an executive agreement in accordance with the provisions of the Philippine Trade Act of 1946. The measure also adopted certain sections of the act as local law, and undertook the necessary steps to amend the Constitution. This was not easily

are not granted, the President must terminate the trade arrangements for which the bill provides.

These provisions are not reciprocal. We cannot give the same rights to Filipinos. The bill would require the Filipinos to permit Americans, both individuals and corporations, to engage in many activities in the Philippine Islands from which Filipinos will, as aliens, be barred in this country. For example, they will be denied the right to mine oil, coal, and other important minerals in the public domain (30 U.S.C. 181), or to operate radio broadcasting stations (47 U.S.C. 310 (a)), or power plants (16 U.S.C. 797 (e)). Filipinos will be barred from the practice of several professions and from participation in certain commercial activities under the laws of many States. In a majority of States, they will be discriminated against with respect to real property rights.

These provisions are not necessary to protect existing American property rights in the Philippines. Hearings Before the Senate Finance Committee, supra note 23, at 58.

Congressman Bell stated that unless provision was made for the protection of American capital, it would not go into the Philippines and the “whole purpose of the bill would fail.” Hearings Before the House Committee on Ways and Means, supra note 22, at 226-27. McNutt at the Senate Finance Committee Hearing said that the measure was to encourage small investors and pioneers to help in the job of Philippine rehabilitation, emphasizing the emergency in the Philippines and the need to restore and develop its economy. Hearings Before the Senate Finance Committee, supra note 23, at 91-92.

Gen. Carlos P. Romulo, then Resident Commissioner of the Philippines in the United States, said: “we are in favor of this bill. Of course, if I would have written this bill, I would have written it differently. I would have had free trade in perpetuity, no quotas, the currency would not be as it is, the rights of the American citizens would be in the Treaty of Friendship. So that this bill, gentlemen, is not perfect, but it is evidently a compromise bill.” Hearings Before the House Committee on Ways and Means, supra note 22, at 246.

PHIL. CONST. art. XV.

accomplished for there was strong opposition to the proposed amendment. However, on September 18, 1947, the same legislature, meeting as the Congress of the Republic of the Philippines, approved, despite objections, a resolution proposing an amendment to the Constitution and adopted a law providing for holding a plebiscite and submitting the proposal to the people for ratification. In the meantime, the executive agreement was signed on July 4, 1946.

To insure ratification, President Manuel Roxas traveled to different parts of the country urging the people to vote for the amendment. The pro-parity group succeeded in allaying the fears that natural resources of the Philippines would fall into the hands of the far richer Americans if parity rights were extended to them. It was pointed out that for forty-eight years Americans in the Philippines enjoyed these rights and no undue exploitation had occurred. It was also argued that the Constitution contained built-in safeguards which could be applied to Americans as well as to Filipinos.

The amendment as approved is appended as an ordinance to the Constitution since it is of temporary duration. It provides:

Notwithstanding the provisions of section one, Article Thirteen, and section eight, Article Fourteen, of the foregoing constitution, during the effectivity of the Executive Agreement entered into by the President of

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39 In Mabanag v. Lopez Vito, 78 Phil. 1 (1947) a petition for prohibition was brought to prevent the enforcement of the congressional resolution proposing amendments to the Philippine constitution. The members of the Commission on Elections, the Treasurer of the Philippines, the Auditor General, and the Director of the Bureau of Printing were made defendants. The petitioners were eight senators, seventeen representatives and the presidents of three minority parties. The constitutionality of the resolution was challenged on the ground that it had not received the required number of votes provided in the constitution.

Three of the plaintiff senators and eight representatives had been proclaimed elected by the Commission on Elections, but the three senators were suspended by the Senate shortly after the opening session of the Congress following the elections because of alleged irregularities in their election. Also, because of irregularities in elections, the eight representatives were not allowed to sit in the lower House except to take part in the election of the Speaker, though they were not formally suspended.

The three senators and the eight representatives took no part in the passage of the questioned resolution, nor were their memberships counted in the computation of the three-fourths vote required in proposing amendments to the constitution. If these members had been counted the affirmative votes would have been short of the constitutional requirement since there were twenty-four senators of whom sixteen voted for the proposal; and 96 representatives, 68 of whom voted for it. The presiding officers of each house certified that the proposal had been approved by the required three-fourths majority. The Supreme Court held that the proposal to amend the constitution is a political question and refused to interfere. It is of interest to note that two Justices who were members of the constitutional convention, dissented.

38 R.A. No. 73 calling a plebiscite on March 11, 1947 and appropriating funds for the purpose.

39 Pro-parity speeches of Senator Proceso Sebastian and Congressman Lorenzo Sumulong, 12 Law. J. 54, 57 (1944).
the Philippines with the President of the United States on the fourth day of July nineteen hundred and forty-six, pursuant to the provisions of Commonwealth Act numbered seven hundred and thirty-three, but in no case to extend beyond the third day of July nineteen hundred and seventy-four, the disposition, exploitation, development, and utilization of all agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces and sources of potential energy, and other natural resources of the Philippines, and the operation of public utilities, shall, if open to any person, be open to citizens of the United States and to all forms of business enterprise owned or controlled directly or indirectly by citizens of the United States in the same manner as to and under the same conditions imposed on citizens of the Philippines or corporations or associations owned or controlled by citizens of the Philippines.40

The parity issue, however, was not laid to rest with approval of the amendment.41 Any discussion of Philippine-American relations, whether in connection with military base agreements or with trade relations, will at some point touch upon parity rights. These rights have been identified as a constant source of irritation in the relations between two otherwise friendly nations.42

The executive agreement, based on the provisions of the Philippine Trade Act of 1946, gave American citizens and corporations rights in the Philippines which Filipinos were not accorded in the United States. In 1955 this exclusive agreement was revised during negotiations which resulted in the Laurel-Langley agreement.43 Among the changes the Philippine panel succeeded in securing was removal of the “non-reciprocal and politically humiliating provisions of the 1946 agreement.”44 The Laurel-Langley agreement deals primarily with trade relations, but the provisions dealing with parity rights are also important as they provide for reciprocity and other changes.

Article VI of the Laurel-Langley agreement gives Filipino citizens and corporations reciprocal rights over United States natural resources and public utilities subject to certain limitations: (1) the rights con-

40 Ratified on March 11, 1947 by a vote of 3 to 1. Hartendorf, A History of Industry and Trade in the Philippines 228 (1958). However, reports of the election also show that only about forty per cent of the voters turned up for the plebiscite.
42 Position paper filed with the National Economic Council by the Philippine Chamber of Industries, the Chamber of Commerce of the Philippines, the National Protectionism Association.
ferred may be exercised by citizens of the Philippines only with regard
to natural resources of the United States subject to federal control
and (2) Filipino citizens may exercise these rights only through the
medium of a corporation organized under the laws of the United States
or any of the States. Similarly, United States citizens may exercise
rights over Philippine natural resources only by incorporating under
Philippine law, provided that at least sixty per cent of the capital of
such corporation is owned or controlled by American citizens.

Article VI does not affect the right of citizens of either country to
acquire or own private land within the territory of the other. Each
country makes certain reservations regarding disposal of public lands,
limitation of fishing rights, and furnishing of communication services
or water transportation. The right of the several states of the United
States to impose limitations on activities of Filipino citizens and cor-
porations within those states is expressly reserved.45

45 The pertinent section of Article VI of the revised agreement provide:
1. The disposition, exploitation, development, and utilization of all agricultural
land, timber, and mineral lands of the public domain, waters, minerals, coal, petrol-
cum and mineral oils, all forces and sources of potential energy and other natural
resources of either Party, and the operation of public utilities, shall, if open to any
person, be open to citizens of the other Party and to all forms of business enter-
prise owned directly or indirectly, by citizens of such other Party in the same
manner as to and under the same conditions imposed upon citizens or corporations
or associations owned or controlled by citizens of the Party granting the right.
2. The rights provided in Paragraph 1 may be exercised, in the case of the Phil-
ippines with respect to natural resources in the United States which are subject to
Federal control or regulations, only through the medium of a corporation organized
under the laws of the United States or one of the States thereof and likewise, in the
case of citizens of the United States with respect to natural resources in the public
domain in the Philippines, only through the medium of a corporation organized
under the laws of the Philippines and at least 60% of the capital stock of which is
owned or controlled by citizens of the United States. This provision, however, does
not affect the right of citizens of the United States to acquire or own private agri-
cultural lands in the Philippines or citizens of the Philippines to acquire or own
land in the United States which is subject to the jurisdiction of the United States
and not within the jurisdiction of any State and which is not within the public
domain. The Philippines reserves the right to dispose of its public lands in small
quantities on especially favorable terms exclusively to actual settlers or other users
who are its own citizens. The United States reserves the right to dispose of its
public lands in small quantities on especially favorable terms to actual settlers or
other users who are its own citizens or aliens who have declared their intention to
become citizens. Each Party reserves the right to limit the extent to which aliens
may engage in fishing or engage in enterprises which furnish communications serv-
dices and air or water transport. The United States also reserves the right to limit
the extent to which aliens may own land in its outlying territories and possessions,
but the Philippines will extend to American nationals who are residents of any of
those outlying territories and possessions only the same rights, with respect to
ownership of lands, which are granted therein to citizens of the Philippines. The
rights provided for in this Paragraph shall not, however, be exercised by either
Party so as to derogate from the rights previously acquired by citizens or corpora-
tions or associations owned or controlled by citizens of the other Party.
3. The United States of America reserves the rights of the several States of the
United States to limit the extent to which citizens or corporations or associations
owned or controlled by citizens of the Philippines may engage in the activities speci-
The concessions secured by the Philippines in this revision have not been considered entirely satisfactory. While parity rights of Americans in the Philippines now extend to other activities besides those covered by the appended ordinance to the constitution, the reciprocity provision in favor of Filipinos does not in fact result in reciprocal rights for them. As one analyst points out, while the revised agreement meticulously provides for formal reciprocity, actual reciprocity is not likely to result from the application of the agreement. The imbalance of the political influences which each country is able to exert on activities of the other and the disparity of the political and economic influence of the minority of citizens of each country, engaging in, or proposing to engage in economic activity in the other country will prevent the achievement of real parity.\textsuperscript{46}

The late Senator Claro M. Recto pointed out that the new provision on parity opened the door still wider to economic invasion. He also pointed out that: (1) enjoyment of parity rights by Filipinos was limited to those natural resources in the United States subject to Federal regulation, while in fact most natural resources are under the control of individual states; (2) Filipinos have no surplus capital to invest abroad; and (3) denial of rights to American residents of states which do not allow similar rights to Filipinos could easily be circumvented by transfer of residence to a state which extends similar rights.\textsuperscript{47}

These criticisms, made on the floor of the Philippine Senate, were answered by Senator Lorenzo Sumulong who stated that the parity rights granted to Americans are subject to three reservations: (1) Americans must incorporate under Philippine laws before they can utilize Philippine natural resources; (2) the Philippines reserves the right to dispose of its public lands in small quantities on specially favorable terms to actual settlers or users who are its own citizens; and (3) the Philippines reserves the right to limit the extent to which aliens

\textsuperscript{46} Golay, \textit{op. cit. supra} note 44.

\textsuperscript{47} HARTENDORP, \textsc{Revision of the Trade Agreement} 124-49 (1961).
(including Americans) may engage in fishing or in enterprises which furnish communications services or air or water transportation. It should be noted, however, that reservations of a similar character were made by the United States.

Senator Tanada, in reply to Senator Recto's third criticism, stated that the Philippines has authority to determine the state of residence of an American, and can justifiably deny privileges to one who changes residence for the purpose of avoiding the law.\textsuperscript{48}

\textbf{EIGHTEEN YEARS UNDER THE PARITY AMENDMENT—EXISTING RIGHTS}

Special statutes implement the constitutional provisions on natural resources and public utilities. Public lands suitable for agricultural purposes are covered by the Public Land Act\textsuperscript{49} which prescribes who may acquire public lands and the modes of disposition. The Secretary of Agriculture and Natural Resources, acting through the Bureau of Lands Director, is charged with enforcement of the law. Although Americans enjoy parity rights in the acquisition of these lands, no application by an American corporation for agricultural lands has been made. The probable explanation is that the limited area which may be obtained renders acquisition of little value to American investors.\textsuperscript{50}

The development of mineral lands is governed by the Mining Act of 1936, which provides:

Subject to any existing rights, all valuable mineral deposits in public or in private land not closed to mining location, and the land in which they are found, excepting coal, petroleum, and other mineral oils and gas, which are now governed by special laws, shall be free and open to exploration, occupation, location, and lease, by citizens of the Philippines of legal age, or by associations, or by corporations organized and constituted under the laws of the Philippines: \textit{Provided}, That sixty \textit{per centum} of the capital of such associations or corporations shall at all times be owned and held by citizens of the Philippines.\textsuperscript{61}

The existing rights referred to in the act are rights in mines acquired by private parties by grant of patent prior to adoption of the regalian doctrine in the Constitution, or to mining claims already perfected.

\textsuperscript{48} \textit{Ibid.}


\textsuperscript{50} Interview With Nicanor Jorge, Director of Bureau of Lands, June 6, 1964.

when government under the present Constitution was inaugurated.\textsuperscript{52} Leases under this law may be for a period of twenty-five years renewable for a like period. However, information obtained from the Bureau of Mines indicates that since 1946 no American corporation has taken advantage of privileges available under the Mining Law.\textsuperscript{53}

The Petroleum Act of 1949 applies to mineral oils, hydrocarbon gas, bitumin, asphalt, mineral wax, and all other similar or naturally associated substances with the exception of coal, peat, bituminous shale, and other stratified mineral fuel deposits. The act provides for the granting of exploration, exploitation, refining and pipe line concessions. An exploration concession may be obtained for a four-year period, and is renewable for two periods of three years each. A substantial number of exploration concessions have been acquired by Americans but no exploitation concession had been granted as of June 1964, although there were a number of pending applications.\textsuperscript{54} An exploitation concession may be acquired for twenty-five years, renewable for another twenty-five years.

Coal-bearing lands may be leased in blocks of no less than fifty, nor more than 1200 hectares. A qualified applicant may be allowed no more than six separate blocks in one province, and then only if the aggregate amount leased does not exceed 1200 hectares. The period of the lease is twenty-five years, renewable for an equal period.\textsuperscript{55}

Grants of licenses and concessions for forest lands are made under the Revised Administrative Code,\textsuperscript{56} while licenses for fishing and the operation of vessels engaged in fishing in territorial waters of the Philippines may be obtained pursuant to the Fisheries Act.\textsuperscript{57}

The constitutional provisions on public utilities are carried out under the Public Service Act.\textsuperscript{58} The Supreme Court has ruled that due to the prohibition on issuance of any form of authorization except to parties specified in the Constitution, an alien who had been granted a certifi-

\textsuperscript{52} Salacot Mining Co. v. Rodriguez, 67 Phil. 97 (1939); Gold Creek Mining Co. v. Rodriguez, 66 Phil. 259 (1938).

\textsuperscript{53} Interview With Policarpio S. Cruz, Chief Legal Officer, Bureau of Mines, May 5, 1965.

\textsuperscript{54} Interview With Arturo Santos, Chief Legal Officer, Petroleum Division, Bureau of Mines, June 18, 1965.


cate of public convenience before the Constitution was adopted could not be allowed to increase his equipment.\textsuperscript{59} However, a corporation may be formed to operate a public utility, even if the sixty per cent capital stock requirement imposed by the Constitution has not been met at the time of its incorporation. It is enough that the requirement is satisfied at the time of application for a certificate from the Public Service Commission.\textsuperscript{60}

Brief reference has been made to the statutes which regulate the enjoyment of Philippine natural resources. These statutes provide that only Filipino citizens or corporations meeting the sixty per cent capital requirement, may be granted rights thereunder. However, during the life of the parity amendment, American citizens and corporations enjoy the same privileges. It must be noted that the existence of special privileges does not necessarily mean that Americans have taken advantage of them. In spite of parity rights, American investment in the development of natural resources has not been significant. Recent data from various sources indicates that the bulk of American capital in the Philippines has been invested in enterprises not coming under the parity amendment to the Constitution.\textsuperscript{62}

\textbf{Period Remaining Under the Parity Amendment}

The effective period of the parity amendment expires on July 3, 1974. Meanwhile, the agencies of the Philippine government charged with enforcement of the laws regulating grants of concessions and other privileges over natural resources and the operation of public utilities are confronted with the problem of determining how many more years American corporations applying for these concessions will be allowed to remain operating.

The legal officers in the Bureau of Mines, for example, hold the view that a petroleum exploitation concession or a mining concession may still be granted for the full twenty-five years regardless of the termination date of the parity amendment.\textsuperscript{62} The Bureau of Forestry has issued timber licenses to joint ventures between Filipinos and Americans which extend beyond 1974.\textsuperscript{63} On the other hand, no authorization granted by the Public Service Commission lasts beyond 1974.

The view in the Bureau of Mines is that if concessions now available

\textsuperscript{59} Ishi v. Public Serv. Comm'n, 63 Phil. 428 (1936).
\textsuperscript{60} People v. Quasha, 49 Off. Gaz. 2826 (1953).
\textsuperscript{61} See Appendix I.
\textsuperscript{62} Interviews cited notes 53, 54 supra.
\textsuperscript{63} Bureau of Forestry.
will terminate on July 3, 1974, no American enterprise is likely to risk investment in mining ventures. The legal officers of that bureau advance the theory that the phrase "in no case to extend beyond the third of July nineteen hundred and seventy-four" used in the parity amendment refers to the initial grant of rights, and providing a grant is made prior to expiration date of the amendment, the applicant may be given the full period under the governing statute. Under this view a mining concession obtained in 1972 will last until 1997.

The question remains, however, whether this reading of the parity amendment is consistent with the policy enunciated in the Constitution and in the amendment itself? It should be noted that the Constitution not only prescribes the qualifications of those who may be granted rights over natural resources, but it also specifies how and for what period the rights acquired may be enjoyed. Thus, while ownership may be obtained over agricultural land of the public domain, other natural resources may only be leased for a limited period. The limitation on the duration of the lease is as much a part of the constitutional restrictions as the qualification of the lessee.

The parity amendment must be read as a whole and related to article XIII, section 1 and article XIV, section 8 of the Constitution. It is "not to be considered as an isolated bit of design and color, but it must be seen as an integral part of the entire harmonious picture of the Constitution." Thus, the rule established in the Constitution is that only Filipino citizens and corporations which meet the sixty per cent capital requirement may be granted rights over natural resources and authorization to operate public utilities. An exception is established in favor of Americans by reason of the parity amendment; the amendment modifies the rule for a specified period. During its effective period the amendment prevails over article XIII, section 1 and article XIV, section 8 and suspends the application of these provisions to Americans. The amendment becomes inoperative on July 3, 1974, and the suspended restrictions will then apply to Americans.

The amendment states that the rights "shall... be open to citizens of the United States..." It may be argued that use of the word "open" suggests acquisition of rights rather than exercise of rights, and

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64 Kirkpatrick v. King, 228 Ind. 236, 243, 91 N.E.2d 785, 788 (1950).
65 Since the denial of these rights to aliens is by constitutional provision, it cannot be taken to offend the due process clause of the same constitution.
that by using the word "open" the draftsmen meant to provide for acquisition of leases similar to those which Filipinos might obtain. On the basis of *Ishi v. Public Serv. Comm'n*, it might also be contended that a franchise survives even though a new authorization cannot be given.

Any resolution of this ambiguity must be made in light of what the draftsmen of the parity amendment intended by the use of the word "open." Since the amendment employs the word as it is found in the Philippine Trade Act of 1946, sections of which were passed as Philippine law, the views expressed in the United States Congress as well as those held in the Philippines on the subject of parity rights are instructive.

The objections to the provision of the Philippine Trade Act of 1946, which required amendment of the Philippine Constitution, were previously noted. Paul V. McNutt, former U.S. High Commissioner in the Philippines, who strongly advocated the enactment of the measure and appeared in committee hearings in the United States Senate and the House of Representatives, justified the provision by stating: "We are not making a permanent arrangement here.... This merely establishes certain conditions that we believe to be necessary and desirable to invite American capital, which is the only available capital in the world today, into the Philippines to restore and develop their economy.... *If there were no emergency in the Philippines, I would not, of course, suggest such a provision....*"

That the proposal to amend the Constitution contemplated granting special privileges to Americans *only* during a period of twenty-eight years is implicit in a statement made by Lorenzo Sumulong, at the time parity rights were being debated in the Congress of the Philippines:

> [W]ith respect to mineral or forest lands all they can do is to lease it for 25 years and after the expiration of the original 25 years they will have to extend it, and I believe it can be extended provided that it does not exceed 28 years because this agreement is to be effective only as an ordinance and for the express period of 28 years.... Now coming to the operation of public utilities, as every member of Congress knows, it is also for a limited period under our constitution; for a period not exceeding 50 years. And since this amendment is intended to endure only for 28 years, it is my humble opinion that *when Americans try to operate public utili-

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67 63 Phil. 428 (1936).
69 *Hearings on H.R. 5856 Before the Senate Finance Committee, 79th Cong., 2d Sess. 91-92 (1946).* (Emphasis added.)
ties, they cannot take advantage of the maximum provision in the Constitution but only the 28 years which is expressly provided to be the life of this amendment.\textsuperscript{70}

In the light of the above considerations it is submitted that, on the expiration of the parity amendment, the constitutional restrictions upon aliens regarding Philippine natural resources and public utilities will be revived as to Americans. From that date the Constitution will bar them from the "disposition, exploitation, development, or utilization" of Philippine natural resources and the operation of public utilities. The special circumstances surrounding \textit{Ishi}\textsuperscript{71} can hardly be invoked to support the view that an authorization to operate a public utility under the parity amendment can survive the amendment itself. In \textit{Ishi} the original certificate had been issued under a law passed prior to the Constitution, and Ishi was granted authorization to operate for a specified period. That law, unlike the parity amendment, had no termination date. Hence, Ishi could not have known that the period stated in his certificate issued pursuant to the law would be shorter than that specified. When the Constitution was passed, he had a vested right to continue operating his transportation service and the Constitution protected that right, although it prevented him from securing any other authorization.

On the other hand, a grantee of any concession under the parity amendment has notice of the expiration date of that amendment and can claim no vested right to continue operating beyond 1974. These concessions are contracts between the Philippines and the grantees. In making these contracts the parties are bound to take into account the constitutional restrictions which become part of the contract even though no provision to that effect is incorporated therein. The statutes under which the terms of the lease are drawn will have to be applied in a manner consistent with the restrictions imposed by the Constitution. When one considers the unanimity among members of the constitutional convention on the policy of reserving to citizens the Philippine natural resources and public utilities,\textsuperscript{72} and the controversy which attended the adoption of the parity amendment, the conclusion is inescapable that the amendment, being an exception of limited duration to constitutionally established rules, should be strictly construed. The

\textsuperscript{70} 12 \textit{Law. J.} 59 (1947). (Emphasis added.)
\textsuperscript{71} 63 \textit{Phil.} 428 (1936).
circumstances surrounding its adoption also indicate that the limited
duration of the privileges it grants to Americans was an important con-
sideration in its acceptance by Filipinos.

A uniform policy regarding the granting of rights during the remain-
ing period under the amendment is of utmost importance. The lack of
uniformity and the existence of conflicting theories among public offi-
cials regarding the duration of concessions may be expected to produce
future complications. At this stage an opinion from the Philippine
Department of Justice would help to clarify the situation by indicating
to the various agencies charged with the processing of applications for
concessions the position to take on this problem.

**Termination of Parity Rights**

Nothing short of another constitutional amendment will bring about
an extension of the special privileges now enjoyed by Americans over
Philippine natural resources and public utilities once the specified
twenty-eight year period expires. An act passed by the Congress of the
Philippines in 1946 provides:

> Existing laws or the provisions of existing laws granting privileges,
> rights or exemptions to citizens of the United States of America or to
corporations or associations organized under the laws of any of the states
> of the United States of America, which are not enjoyed by citizens or
> nationals of any other foreign state or by corporations or associations
> organized under the laws of such state, are hereby repealed unless they
> affect rights already vested under the provisions of the Constitution or
> unless extended by any treaty, agreement or convention between the
> Republic of the Philippines and the United States of America.73

What effect will the expiration of the parity amendment have on
American rights acquired under it? The constitutional guarantees of
due process and equal protection of the laws, as well as the provisions
pertaining to expropriation, protect vested rights.74 Thus, where title
to land has passed to Americans, the termination of the parity amend-
ment will not divest them of the title. However, the constitutional
limitation regarding transfer or assignment will have to be observed.

The effect that termination of parity rights will have on leases, con-
cessions or franchises is uncertain. If a grant is made to expire on July
3, 1974, how much time will the grantee be given to wind up his affairs?
What disposition is to be made of the improvements he may have intro-

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73 R.A. No. 76 (Oct. 21, 1946), PHIL. ANN. LAWS tit. 18, § 43 (1956).
74 PHIL. CONST. art. III, §§ 1(1), (2).
duced as lessee? An American lessee who continues operations after 1974 would be exercising rights which under the applicable provisions of the Constitution are reserved to Filipino citizens. What action may the government be expected to take? These are some of the problems which may be anticipated. It would seem that the statutory provisions under which the grants were made and the conditions of the grants themselves will govern, provided that they are not inconsistent with the constitutional restrictions previously discussed.

It is possible that the consequences resulting from expiration of the parity amendment may be averted, and the operation of concessions over natural resources continued beyond 1974. This could be accomplished by the transfer of at least sixty per cent of the capital of affected enterprises to Filipino citizens. A study has revealed that foreign investment in the Philippines concentrated in public utilities, mining, and manufacturing has largely been converted into joint American-Filipino ventures. A number of enterprises started by American residents have become joint ventures through the trading of securities on the local stock exchange. Notable among these are the Manila Gas Company and the Goodrich Philippines Co., Inc. The former became a Filipino corporation in 1962. Also, while the extracting of minerals, forest products and other natural resources would be denied to aliens not meeting the sixty per cent investment requirement, the processing of these products may be undertaken by them. For years the Philippines has exported logs and mineral ores which are then processed abroad.

The termination of the special privileges of Americans under the parity amendment need not, therefore, put an end to investment possibilities in the Philippines. As a matter of fact, in spite of special privileges, American investment in the development of Philippine natural resources has not been as substantial as had been anticipated. Other factors have had greater influence on the investment climate. The Securities and Exchange Commission figures, for example, reveal that

75 In the discussions of the constitutional convention in 1935 a question was raised regarding the disposition of the property of a water power company after the termination of its grant. Delegate Manuel Roxas at one point said it would depend on the terms of the grant, and later spoke of the property becoming property of the government. *Proceedings Before the Philippine Constitutional Convention, supra* note 74, at 5719, 5720.


77 Public Service Commission.

from 1962 to June of 1964, Americans had invested more capital in corporations and partnerships engaged in manufacturing in the Philippines than in agriculture, mining and quarrying, and transportation enterprises combined.\(^7\)

When the parity amendment expires, only Filipino citizens and corporations satisfying the sixty per cent requirement of the Constitution will be entitled to utilize Philippine natural resources and operate public utilities. The Anti-Dummy Law\(^8\) implements constitutional and statutory citizenship requirements imposed as a condition for the enjoyment of certain rights, or privileges and imposes penalties for acts committed to evade those requirements. The Supreme Court has indicated that this law will be strictly enforced.\(^9\)

The constitutional convention in adopting the sixty per cent capital requirement was satisfied that this was sufficient to place executive control of a corporation in the hands of Filipinos. A proposal to require seventy-five per cent was rejected because it would not strengthen control and would impede the investment of foreign capital.\(^10\) However, even with less than forty per cent of the stock of the corporation, aliens could gain control if the remainder of the stock were widely distributed among the general public. All the Constitution requires is that sixty per cent of the capital of such corporation belong to citizens; the Anti-Dummy Law adds that "it shall be unlawful to falsely simulate the existence of such minimum of stock or capital. . . ."\(^11\) Thus, if there is bona fide compliance with the requirement, neither the Constitution nor the Anti-Dummy Law will be violated by a corporation whose effective control might in fact rest with aliens. However, one of the prohibitions of the Anti-Dummy Law precludes "any person, not possessing the qualifications required by the Constitution or existing laws to... intervene in the management, operation, administration or control thereof, whether as an officer, employee or laborer therein, with or without remuneration except technical personnel whose employment

\(^7\) See text accompanying note 63 supra.
\(^10\) Proceedings Before the Philippine Constitutional Convention, supra note 72, at 5736. Delegate Manuel Roxas, later President of the Republic of the Philippines when the parity amendment was adopted, advocated a uniform 60% capital requirement, instead of 75% for corporations utilizing natural resources and 50% for those in the public utilities business.
may be specifically authorized by the President of the Philippines upon recommendation of the Department Head concerned.\textsuperscript{284} A strict interpretation of this provision suggests that an alien could not act as director of a corporation engaged in the exploitation of natural resources or the operation of public utilities.\textsuperscript{85}

**SHOULD PARITY RIGHTS BE EXTENDED?**

When it became known that President Macapagal was to make a state visit to the United States in 1964, he was urged by various groups in the Philippines to discuss with President Johnson the matter of parity rights.\textsuperscript{86} However, the joint communiqué issued by the two presidents made no direct reference to these rights.\textsuperscript{87} Sometime after his return to the Philippines, President Macapagal is reported to have said that the termination or extension beyond 1974 of parity rights under the Constitution depends on the decision of whoever will be president then. He does not, therefore, feel it necessary to take a stand at present. The termination date, 1974, is still far off, and he apparently believes the government should be given more time to study the matter.\textsuperscript{88}

Thus, parity rights under the Constitution have once more become a live issue in the Philippines. Upon instructions from President Macapagal, the National Economic Council has conducted hearings on the question of whether or not the Laurel-Langley agreement should be re-negotiated. The Position Papers received by the National Economic Council reveal the stand of various groups on the question. In a joint statement, the Philippine Chamber of Industries, the Chamber of Commerce of the Philippines, the National Economic Protectionism Association, and the Chairman of the Committee on Tax and Legislation not only opposed the extension of parity rights, but would go further and ask the United States to voluntarily renounce these rights now.\textsuperscript{89}

The American Chamber of Commerce of the Philippines, on the other hand, favors the extension of the reciprocal national treatment

\textsuperscript{284} C.A. No. 108, § 2-A (Oct. 30, 1936), as amended, R.A. No. 234 (June 14, 1947), **PHIL. ANN. LAWS** tit. 18, § 41 (1956).

\textsuperscript{85} In Macario King v. Hernaez, Gen. Reg. No. L-14859 (March 31, 1962), the Supreme Court held that in the retail trade business the employment of a person who is not a Filipino citizen even in a “minor or clerical or non-control position is prohibited.”

\textsuperscript{86} Manila Times, Sept. 25, 1964.


\textsuperscript{88} Manila Times, Nov. 2, 1964.

\textsuperscript{89} Joint Statement, Position Papers filed with the National Economic Council.
for American citizens and juridical entities in the Philippines and for Filipino citizens and juridical entities in the United States for an indefinite period beyond 1974. It recommends that the Philippines give serious consideration to the extension of reciprocal national treatment to citizens and juridical entities of other friendly nations. The Chamber of Agriculture and Natural Resources takes a position similar to that of the American Chamber of Commerce. The president of the Chamber of Agriculture and Natural Resources stated that "those who fear extension of such privileges to Americans are more haunted by illusory rather than realistic results and expectations." The statement goes on to say that if the Philippines is sincere in its desire to attract foreign investments, the national treatment given to Americans should be extended to nationals of the other free countries of the world.

CONCLUSION

The Philippines still needs foreign investment and American investors have always been welcome, but whether their special privileges under the parity amendment should be retained is a problem which the Philippines will have to resolve in the next few years. Judging from recent developments in the Philippines, it would be very difficult to secure another amendment to the Constitution in order to extend the special treatment given to Americans. Opposition to any move to prolong the parity amendment is building and may be expected to continue to do so. Militant nationalistic groups concerned with the Filipino identity will stand in the way of continuing an arrangement that has been considered an impairment of Philippine sovereignty. Without completely striking out the possibility of an extension of parity rights under the Constitution, it would seem more feasible to take the necessary steps to ease the process of termination. At the very least, an official statement concerning the status of acquired rights after the termination date should be made.

APPENDIX I

A comprehensive census of foreign investments of the United States covering four selected years shows the following figures of direct investments by Americans in the Philippines: (U.S. DEP'T OF COMMERCE, 90 Statement filed with the National Economic Council, Sept. 18, 1964.
91 Memorandum filed with the National Economic Council, Sept. 1, 1964.)
U.S. INVESTMENTS IN FOREIGN COUNTRIES, Tables 1, 2, 3 at 89-91 (1960).

<table>
<thead>
<tr>
<th>Year</th>
<th>All Industries Total</th>
<th>Agriculture</th>
<th>Mining &amp; Smelting</th>
<th>Petroleum</th>
<th>Manufacturing</th>
<th>Public Utilities</th>
<th>Trade</th>
<th>Finance &amp; Insurance</th>
<th>Miscellaneous</th>
</tr>
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<tbody>
<tr>
<td>1950</td>
<td>149</td>
<td>15</td>
<td>(*)</td>
<td>23</td>
<td>47</td>
<td>30</td>
<td>(*)</td>
<td>-1</td>
<td>(*)</td>
</tr>
<tr>
<td>1957</td>
<td>306</td>
<td>14</td>
<td>(*)</td>
<td>67</td>
<td>69</td>
<td>38</td>
<td>17</td>
<td>6</td>
<td>(*)</td>
</tr>
<tr>
<td>1958</td>
<td>341</td>
<td>-</td>
<td>(*)</td>
<td>79</td>
<td>78</td>
<td>40</td>
<td>-</td>
<td>36</td>
<td>(*)</td>
</tr>
<tr>
<td>1959</td>
<td>385</td>
<td>-</td>
<td>(*)</td>
<td>86</td>
<td>85</td>
<td>45</td>
<td>-</td>
<td>36</td>
<td>(*)</td>
</tr>
</tbody>
</table>

* Included in total

The more recent statistics released by the Central Bank of the Philippines give the following investments of newly registered American business organizations in the Philippines during the years 1960-1961. (CENTRAL BANK OF THE PHILIPPINES, DEP'T OF ECONOMIC RESEARCH, Statistical Bull. No. 13, at 121 (1961).)

<table>
<thead>
<tr>
<th>KIND OF BUSINESS</th>
<th>PAID IN CAPITAL</th>
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<tbody>
<tr>
<td></td>
<td>1960</td>
</tr>
<tr>
<td>Agriculture</td>
<td>-</td>
</tr>
<tr>
<td>Forestry, fishing &amp; livestock</td>
<td>161</td>
</tr>
<tr>
<td>Metal mining</td>
<td>-</td>
</tr>
<tr>
<td>Non-metallic mining and quarrying</td>
<td>10</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>550</td>
</tr>
<tr>
<td>Construction</td>
<td>10</td>
</tr>
<tr>
<td>Electricity, gas and water services</td>
<td>40</td>
</tr>
<tr>
<td>Wholesale and retail</td>
<td>239</td>
</tr>
<tr>
<td>Banks and financial institutions</td>
<td>32</td>
</tr>
<tr>
<td>Insurance</td>
<td>82</td>
</tr>
<tr>
<td>Real Estate</td>
<td>18</td>
</tr>
<tr>
<td>Transportation, storage &amp; communication</td>
<td>152</td>
</tr>
<tr>
<td>Community and business service</td>
<td>29</td>
</tr>
<tr>
<td>Recreation and personal services</td>
<td>52</td>
</tr>
</tbody>
</table>

TOTAL | 1,375 | 2,881 |

The Securities and Exchange Commission figures on the amount of paid in capital of newly registered American corporations and partnerships in the Philippines from 1962 to June 1964 are as follows: (DEP'T OF COMMERCE AND INDUSTRY, REPORT OF THE SECURITIES AND EXCHANGE COMM’N, 1964.)

<table>
<thead>
<tr>
<th>KIND OF BUSINESS</th>
<th>STOCK CORPORATIONS</th>
<th>PARTNERSHIPS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PAID IN CAPITAL 1962</td>
<td>1963 June 1964</td>
</tr>
<tr>
<td>Agriculture</td>
<td>51,900</td>
<td>263,780</td>
</tr>
<tr>
<td>Commerce</td>
<td>424,946</td>
<td>369,535</td>
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<tr>
<td>Construction</td>
<td>161,420</td>
<td>11,175</td>
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<tr>
<td>Manufacturing</td>
<td>15,974,077</td>
<td>2,314,869</td>
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<tr>
<td>Mining &amp; Quarrying</td>
<td>89,824</td>
<td>50,200</td>
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<tr>
<td>Services</td>
<td>390,631</td>
<td>7,492</td>
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<tr>
<td>Transportation</td>
<td>207,400</td>
<td>145,050</td>
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