

# Corporate Crookedness

By Juan F. Hilario

Our mining industry gives great promise in the near future. It has produced in 1936 approximately P43,000,000 in gold. And it is estimated that the production this year will reach P55,000,000. At the present rate of growth, the mining industry will certainly supersede the sugar industry as the premier Philippine industry by 1940.

But there is today a breakdown of the legal provisions governing corporations engaged in the mining industry, thus enabling crooked corporation officials to commit corporate offenses without punishment. It looks as if the legal provisions referred to can be violated through trickery and subterfuge, and the unfortunate circumstance attending this mess is the fact that this "powerful" government appears to be helpless to save and rescue the gullible investing public from the clutches of the corporate malefactors.

## Dirty work

The corporate form of organization is a ready means by which dishonest individuals may defraud the investing public. There are many forms of crookedness practised in this country. Some of them are punishable and some of them are legal.

Notices appearing in the local press about corporations seeking permission from the Securities and Exchange Commission to sell their stock certificates to the public are interesting. In some of them, promotion fees are fixed at 10 per cent of the proceeds of the sales. In my opinion, the sum is rather exorbitant. In others, salaries of managers and other officers of the corporations are fixed at rates which these men can never hope to receive in the government or in private companies other than mining companies. It must be taken into account that mining ventures involve all possible degrees of hazard. Why, then, levy on the stockholders such exorbitant salaries? Of course, the Securities and Exchange Commission is not empowered to stop this corporate extravagance.



Time and again, the local press has shown that the mining industry appears to be concentrated in a few hands. It thus appears that the provision of our general corporation laws stating that "it shall be unlawful for any corporation organized for the purpose of engaging in agriculture or in mining to be in anywise interested in any other corporation organized for the purpose of engaging in agriculture or in mining; it shall be unlawful for any person owning stock in more than one corporation organized for the purpose of engaging in agriculture or in mining to own more than fifteen per centum of the capital stock then outstanding and entitled to vote of each of such corporations; it shall be unlawful for any corporation to own in excess of fifteen per centum of the capital stock then outstanding and entitled to vote of any corporation organized for the purpose of engaging in agriculture or in mining," has been grossly violated.

## Government action

It seems to me that corporations violating the provisions of paragraph 5, Section 13 of our Corporation Law should be dissolved by action of the government. Our Secretary of Justice is the foremost corporation lawyer in the Philippines, and perhaps action of the government should be initiated by him.

From a close study of the mining corporations, I have come to the conviction that in some of them, the common run of stockholders has been and is being exploited. Of course, exploitation differs from simple fraud in that it is more subtle, more difficult to trace and expose, and ordinarily gives no grounds for legal action to obtain redress. Exploitation is the twilight between legitimate business shrewdness and unquestionable fraud.

One of the simplest and most common of

methods is through payment of exorbitant salaries. Thus we find that dividends paid are unusually low as judged from the proportion between capitalisation and production.

Another common method of exploitation is through misuse by officers or directors of information which comes to them on the "inside" but which is unknown to the thousands of stockholders.

## How to defraud

Here is one legal method of making piles of money to the detriment of the stockholders in general. A person closely related to an important official controlling a certain mining company held some 800,000 shares some four months ago. The stock of the company was selling high. These 800,000 shares were unloaded on the market by lots of 50,000. The outcome was that the stock tobogganned, thus the stockholders lost many thousands of pesos.

Promoters, mine managers and operators, and officials of mining companies reap a rich harvest in salaries, bonuses, and dividends. The common run of the shareholders pay for their inexperience and gullibility.

My advice to the investing or speculating public is that they should protect themselves rather than depend on the government agencies for their protection.

## Advice

Here is a good advice from a business teacher: "If investors spent one-tenth of the energy studying finance, that they spend sitting before brokers' boards reading meaningless figures, hunting for tips, and feverishly absorbing the daily mass of false information that is carefully prepared for them by hungry promoters, the hallucination of par value would not long exist."

The Securities Act is good enough for present purposes. There is lacking a provision, whereby the officers of a given corporation should be compelled to declare larger dividends instead of withholding large sums of money as reserve or surplus funds.

The employment of the best available technical, financial, and legal experts does not necessarily favor the interests of the general run of shareholders. On the face of it, it rep-

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Corporate . . .

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resents high salaries in diminution of possible dividends.

Investors will generally put their money in stocks whose quotation in the market does not fluctuate much. Speculators may follow carefully the manipulations of the market prices by the cleverest gang and thus make money.

Native handicap

Filipino companies own some really good mining properties. Their lack of ability to boost prices has handicapped them. Others with almost worthless mining properties were able to raise prices to 5 and even 10 times the par value. Filipinos have yet to acquire the technique of a Colonel Sellers or a J. Rufus Wallingford.

Investors must beware of mining companies or managing or operating companies which refuse to furnish information to bonafide applicants. Of course, confidential information must be withheld from the public.

It is another form of corporate crookedness that the pleasure trips abroad of corporation officers should be paid from corporate funds. To be sure, there is no law to stop this practice. Of course, a trip to find market for the product

of the company should be paid for from corporate funds.

For a generally keen analytical mind, it is easy to judge from the rate of dividends, the market quotations, and the nationality of the controlling officers, what corporations are guilty of corporate crookedness.

The danger of manipulation of prices of stock is more imminent when an organisation controls many mining companies through management or operating agreements or contracts. An organisation may become so powerful that it can ignore public interest and law.

—National Review.



The Premiere Mineral Exploration Association

The Premiere Mineral Exploration Association has just opened a complete assay laboratory right in the heart of the town of Surigao. The laboratory is said to be the most completely equipped in Surigao or in the whole of the Southern Islands. J. C. Malina, an Austrian Mining Engineer formerly assayer for Benguet Consolidated Mining Co., is the one taking charge of the assay laboratory. Mr. R. W. Stramler, formerly general superintendent of the Ukab and Kelly Mines in Baguio for Benguet Consolidated, is now general Superintendent for Premiere in Surigao. The Board of Directors of the Premiere Mineral Exploration Association are the following:

- Dr. E. Osmeña
- J. H. Renner
- H. Gasser
- A. P. Deen

The Premiere Mineral Exploration Association at present owns three properties in Surigao,— the Northern Pootoy group, the Southern Pootoy group, and the Malimono group. Besides doing exploration work the Association is also going into mining consultation and management of other properties and will also go into business selling mining equipment and mine supplies. An organization of this kind is needed in Surigao in order to help develop the mineral resources of the province and also to place present prospecting and exploration of mining properties in a more scientific basis. There are at present three American mining engineers in the staff headed by Mr. R. W. Stramler. Four more mining engineers are forthcoming from the United States.

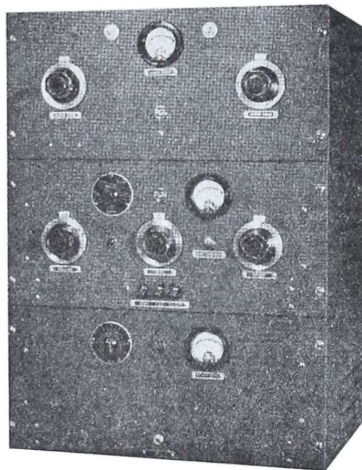


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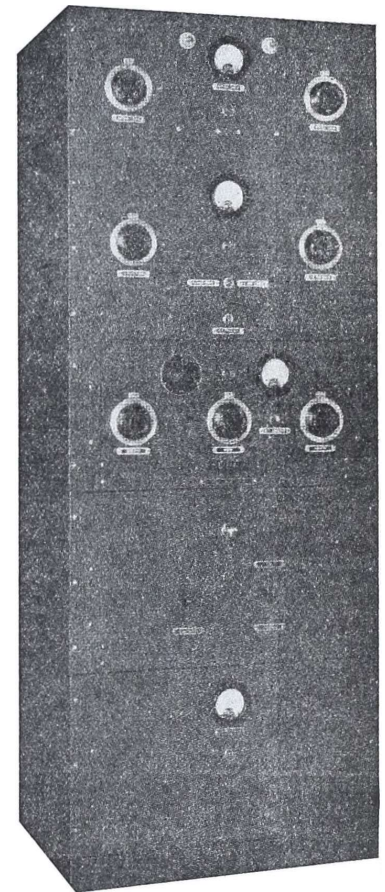
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