

"The Monitor" on Balatoc's Patent Case

(Special to The Christian Science Monitor)

MANILA, P. I.—A legal battle now being waged in the Supreme Court of the Commonwealth of the Philippines, over the title-patent to 22 acres on a seraggy precipitous mountain-side high in the Igorote country, may well be the turning point in American history in the Far East.

The mining industry of the world, which has looked to the Philippines as a promising field of endeavor, is anxiously awaiting the decision. Commercial organizations and all foreign companies which have invested millions in the Islands recognize that should the patent be refused on those rocky crags, title to property and the validity of contracts in the Islands may be victims of a legal revolution the outcome of which cannot be surmised.

In essence the case will determine whether in the eyes of the Commonwealth Government, American law ceased to operate with the establishment of the Commonwealth on Nov. 15, 1935, despite the fact that independence is not provided for before July 4, 1946.

When the Commonwealth Government was established on Nov. 15, 1935, the United States transferred to it authority to administer and govern the Islands. The United States retained control of foreign affairs and the National Assembly of the Philippines was not empowered to pass laws affecting currency, coinage, imports, exports or immigration without the approval of the President of the United States.

During the Commonwealth period the sovereign power of the United States is represented by the High Commissioner. He is appointed by the President and is his personal representative in the Philippines. This form of government is to continue until July 4, 1946, at which time the Philippines are to become independent.

With this in mind, the case involving the pin-point on the map of the Philippines, represented by the 22 acres, is being watched by all countries whose nationals have interests at stake in the Far East.

The Balatoc Mining Company, Inc., one of the two eminently successful gold companies operated by the pioneering Judge John W. Hausermann, owns a group of claims which were staked 22 years ago in accordance with an Act of Congress of 1902 which gave the Governor General of the Philippines authority to issue titles to mining claims staked on public lands. The Balatoc Mining Company complied with the provisions of the law, performed the required assessment work, and developed the claims into a part of the now phenomenally successful mine. In 1932 the company made application for patent survey as required by law. This was completed and expenses collected by the Director of Lands. In 1933, all requirements having been completed, application was filed for patent. From 1934 repeated requests were made for the issuance of the desired document, but none was forthcoming prior to the establishment of the Commonwealth Government.

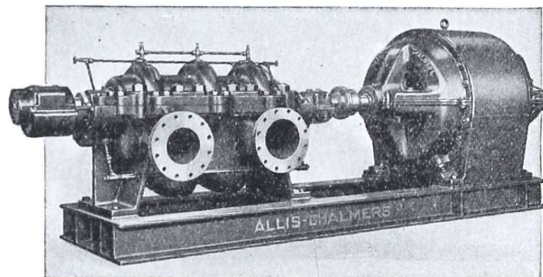
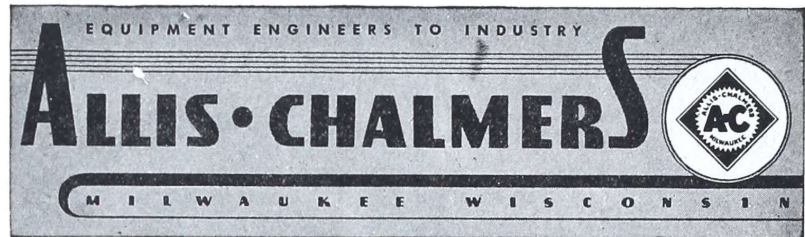
No Further Patents

With the establishment of the Commonwealth under the new Philippine Constitution,

the Balatoc Mining Company was informed that no further patents would be issued. No less a personage than President Quezon wrote, "I am positive that the Constitutional Assembly (in the framing of the Constitution) wanted to reserve to the State the ownership of all mines of every kind in the Philippines and that they would have given retroactive effect to that provision, even in the case of the mines which have been patented, had they been sure that this could be done without violating well known and accepted principles and rules regarding property and vested rights in a society, generally known as capitalistic."

The Solicitor General of the Commonwealth in this test case is attempting to obtain the legal approval of the Supreme Court of the Islands to give the Commonwealth Government authority to repossess all mining claims, possession to which was given by contract with the United States of America. He contends that the Commonwealth Constitution gives the Filipino government authority over natural resources and that claims acquired under American jurisdiction have no title under the new government.

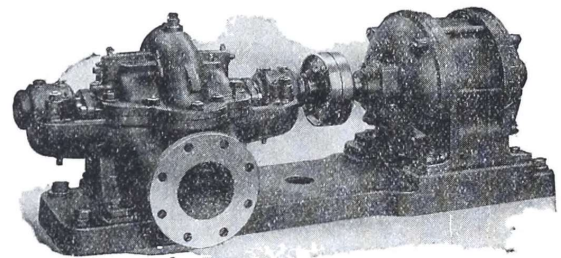
In other words, should the Manila Supreme Court decide against the Balatoc Mining Company it will establish that mining contracts made in the 37 years of American administration of the Philippines can be declared null and void under the Constitution of the Commonwealth. Business fears the short step which



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August 1937 Gold Production

Name of Mining Companies	August 1937		August 1936	
	Tons Milled	Value	Tons Milled	Value
Ambassador Gold.....	320	P 1,788.96	---	---
Antamok Goldfields.....	20,270	403,816.56	21,874	P533,572.00
Baguio Gold.....	5,816	109,920.80	5,465	89,095.90
Balatoc.....	37,997	1,165,738.66	38,109	989,456.18
Benguet Consolidated.....	25,744	791,075.80	25,012	725,448.76
Benguet Exploration.....	3,170	21,442.82	3,072	26,567.00
Big Wedge.....	3,269	142,204.28	3,195	120,727.48
Cal Horr.....	5,866	115,731.38	5,853	97,833.98
Coco Grove.....	No Production		---	101,562.24
Demonstration Gold.....	7,445	133,667.50	6,480	103,287.00
East Mindanao.....	3,324	46,118.38	---	---
Gold Creek.....	1,766.28	30,890.34	---	---
Ipo Gold.....	5,414	53,665.50	4,599	43,483.99
Itogon.....	24,810	297,639.24	15,470	207,422.81
I. X. L.....	7,408	171,696.07	6,306	126,505.00
Masbate Consolidated.....	27,889	254,415.04	37,709	189,821.00
Mindanao Mother Lode.....	---	---	---	---
North Mindanao.....	124 oz.	8,680.00	---	---
Northern Mining and Dev.....	59	924.53	503	6,378.04
*Royal Paracale.....	2,800	37,835.89	---	20,799.11
Salacot.....	6,420	35,467.00	5,057	35,423.00
San Mauricio.....	6,058	95,064.40	4,801	207,246.77
Suyoc Consolidated.....	6,168	128,778.76	5,867	123,324.58
Tambis.....	30,556.20 yds.	7,805.40	29,300 yds.	10,873.10
Twin Rivers.....	25,482	34,155.81	---	---
United Paracale.....	9,423	190,929.18	8,962	116,170.12
Totals.....	P4,279,452.30		P3,874,998.06	
July 1937 Production.....	P4,182,996.51		---	

*IXL Argos before.

will declare any contract prior to Nov. 15, 1935, cancelled.

The momentous decision which the local court must make will clearly establish the national thought of the Filipino toward America. If it decides against Judge Haussermann it will lend its legal approval to the expressed will of the Philippine Constitution which declares that all natural resources shall belong to the States, whether they be privately owned or not.

Cardinal Pillar

If the decision is against the Number One American miner of the Philippines, foreign capital will be extremely wary of investment in the Archipelago. Yet the nationalization of resources is one of the cardinal pillars of Manuel Quezon's program, and the local Supreme Court stands at the cross roads.

If the decision of the court requires that a patent be given to these claims, the Commonwealth Government will have to adopt a new policy toward nationalistic development of its resources of the Islands and toward Americans and foreigners. In the eyes of Americans and foreigners alike, and affirmative decision will be a guarantee to contracts in the Archipelago and will do much to improve American prestige in the Far East.

However, should the decision be adverse, it is a foregone conclusion that the case will be taken directly to the United States Supreme Court which still has jurisdiction over all cases under the American flag.

The effect of an adverse decision and an appeal to the United States Supreme Court upon the attitude of the American people toward Filipino independence is a point not being overlooked by local Manila attorneys. American

sentiment is now favorable toward the Filipino and his nationalistic aspirations. But it could turn overnight. And it probably would if the validity of 37 years of American contracts were destroyed in the Philippines.

This was front-page news in the *Christian Science Monitor*, Boston, Monday, July 26, from its Manila correspondent.

Reasons Why . . .

(Continued from page 26)

because they had farmed successfully, though it did not follow. It further seems to have been a general supposition that places to mine could be selected much as fields for hemp or cane, and like a crop, cultivated into production.

Widespread failure, heaped upon the calamity of dubious titles, depressed the market.

The final situation is such that it is hard to define where honest purpose was abandoned and roguery began. Audacity, in our view, was the most common fault: the audacity of groups of amateur incorporators whose overwrought imaginations beheld pots of gold at the foot of every rainbow in the mountains, who also took it for granted that making a paying mine out of a deposit found to be of commercial value was an easy task, whereas it is one of the most exacting responsibilities in the industrial world—more so in the Philippines than elsewhere.

How claims overlapped was fantastic, and how these conflicting rights were defended became gruesome as war—contending companies hiring gangs of thugs to patrol their lines; and

then it was to turn out, in the end, that what everyone was fighting over was not even a good mess of pottage, but in fact, as ground to mine for gold, nothing at all. This depressed the market, not merely exhausting capital but dissipating illusion and leaving bitterness in its stead. Our personal experience was that a year's vacation, just staying home, the radio and telephone cut off, would have been the most profitable employment we could have sought; we worked right on, as everyone did, pandering to illusions of bonanza gains, and into the maw of these avid musings went our earnings and savings.

While the frenzy continued, and let us say that it was universal to the Islands, the Escolta took the fullest advantage of its every possibility. The optimum was probably reached on the day one house sold frankly for 50 centavos an edition of stock it had taken up at par 10 centavos: subscribers boasted of their luck, or the special pull they had, that had enabled them to buy these shares at 50 centavos.

Meantime the penny-share trick had been popularized, taking in clerks and day laborers who got to preferring mining shares to *jueteng* or the sweepstakes as a device for gambling. When a new company organized, whole schools of these little customers overwhelmed the officers with eagerness to get in on the ground floor. Board averages were rising; no one asked much about what property was to be exploited or about prospectors' assays and reports, or who was behind the project—all that was asked was the chance to subscribe and make a first payment, the receipt for which could be sold the next day at some fantastic premium.

When this played out, as eventually it had to do, sharp depression of the market followed: all the little holders rushed in to sell, and since the real worth of a property had never concerned them, to sell at any price that would salvage some of their gambling money. Nothing associated with the properties involved precipitated this panic, to speak in general terms of accuracy, and nothing, of course, associated with the administration of the mining, the corporation, and the blue-sky laws, because the government had not had time to overtake the situation—and has not had time to do this herculean task yet. Perhaps the start of it was Morgenthau's sterilization of superfluous bullion he was buying from abroad, soon followed by demands from interested sources (the gold-share speculator wouldn't know that) that gold be put back to \$20.67 an ounce. But its real beginning was President Quezon's proposal to cut the Commonwealth period short, since this scared the big fellows who played the board with sugar profits.

This depressed the market. Meantime, some money from China had come into the Philippine market in mining speculations, but had soon grown chary of the situation and had withdrawn again. Talk of how much London was going to interest herself here had also flourished, then subsided; and nothing developed in the situation to get London really started here, or get China to take a new hand in the game. Moreover, nothing will: for whatever mining that may develop here, the Islands have capital enough of their own—the field is not grand enough for European players, and any