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THE FUTURE OF THE LEGAL PROFESSION¹

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Since the implantation of democracy in the Philippines our government has been a government of lawyers. To you who are determined to embrace the public profession of law, this may be a happy paradox. Of course, ours is a government of the people, by the people and for the people; but representative participation has made it in practice a government run by those to whom the people have delegated their authority; and almost invariably their representatives have been chosen from the lawyer class, often alluded to also as the "intellectual class". It was De Tocqueville who, writing in 1835, characterized the judges and lawyers as constituting the aristocracy in a nation because "the special information which lawyers derive from their studies ensures them a separate station in society; and they constitute a sort of privileged body in the scale of intelligence". And so it is that since the days of the Philippine Assembly the lawyers have been the undisputed political leaders, and democracy in form and in substance has marched on with their leadership. Indeed there is not a branch of our government in which the lawyer does not predominate.

These conclusions of fact did not fail to arrest the attention of our student population; and believing in the proposition that all men are created equal, convinced that this is a land of equal opportunity, and nursing the fond hope of belonging to this privileged aristocracy so that someday they will also be leaders, a large number of ambitious students flock to law schools with the result that every year there is a mass production of embryo lawyers.

And so it has come to pass that the profession of law is an overcrowded profession. In the United States the enormous increase of lawyers has become a problem of grave concern, indeed a serious obstacle to an effective bar integration,

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and Henry Adams deplors that this has led to a consequent lowering of the standards of the American Bar. Is this overcrowding in the law profession a cause of the degradation of the Philippine Bar? In attempting to answer this question, it seems pertinent to ask the following: Would De Tocqueville, were he living with us, have the same conception of the lawyer today as he had one hundred years ago? What, honestly, is the reputation of the lawyer today in the community? Is he held in same ancient estimation formerly enjoyed by the lawyers of old? Do you not often hear people say in derision that a lawyer nowadays is not worth five cents?

It is said that the intellectual aristocracy of the lawyer class is no longer an absolute certainty, if it does not exist only as an illusion. This criticism may not be exactly true, nor fair; but if I tell you that our claim to this ancient privilege of aristocracy is now open to serious inquiry and doubt; if I tell you that much of what passes today as legal learning is superficial knowledge crammed in law schools more concerned in the mass production of embryo lawyers than in their rigid preparation, a knowledge never enriched after school by progressive thinking because the lawyer is busy in the scramble for clients; if I remind you that the average lawyer thinks nothing but how to win lawsuits, and that his absorption in this practical task of his profession has left us with the unenviable reputation of being the least scholarly of the learned professions, you will agree to save this prevailing opinion about the present day lawyer from outright condemnation because you see that there are some grains of wheat in its bushel of chaff.

If the lawyer class is falling into disrepute in the eyes of the public, if it is sinking deep in the quagmire of degradation either because of the delinquencies of those engaged in the strenuous competition in the crowded profession of law who stoop too low in their methods of winning cases in utter disregard of the canons of professional ethics, or because members of the bar generally lack the necessary legal preparation and education exacted of the young lawyer of the present day, or because of the faults of the lawyer discernible in his relations to his brethren, to society and the government, it is the supreme duty of the Philippine bar to redeem itself to better safeguard the future of the legal profession. Needless to state the law schools have a large share of this serious responsibility.

To this end bar clubs or associations must be organized wherever they are necessary affiliated to and represented in a self-governing bar organization, call it an integrated bar organization if you please, under the leadership of those who are capable of governing the profession. Such bar associations must not only be militant in helping the administration of justice, but also capable of using an iron hand in curbing out malpractices among its members. I firmly believe that if the good name of the legal profession must be kept untarnished no leniency nor tolerance must be shown to those who flout the ethics of the profession. In this regard the co-operation of the bench and bar seems necessary.

Members of the legal profession should therefore realize the imperative necessity of a unified reputable bar. You will observe that in places where organized bar exists it has a high standing with the courts, the executive and legislative departments. There are certain forces, however, which undermine the existence of bar associations, and some factors which render difficult the organization of a strong bar. It is said that lawyers are unwilling to concede the superiority of the other and can not get along together. This belief seems to be well rooted that even in the field of matrimony I have known many a lawyer who does not choose to marry a woman lawyer for fear there will be perpetual argumentation and debate in the house. But this attitude so disruptive of an otherwise useful organization has been demonstrated as rank bigotry and narrow-mindedness. In Warren's History of the American Bar, you will note interesting accounts of how law clubs or bar associations were conducted during the Post-Revolutionary period of the history of the United States and the relation of lawyer to lawyer which was marked by spirit of cordiality despite intense professional rivalries, and how in periodic meetings lawyers read and discussed legal papers designed to develop the bar as a profession and judicial institutions. There is no reason why the same spirit cannot pervade our bar associations if lawyers are bent on upholding the standards of the bar and are conscious of their responsibility in the improvement of the government and nation.

But it seems that the bulk of the profession know no other function and responsibility than that which lawyers discharge within the four walls of the judicial chamber. They do not seem to have the true perspective of the function which the profession should perform toward society at large. The ma-

terialistic urges of the age have tempted lawyers to forsake the general practice of law and organize law firms and corporations representing big business, owing more loyalty to them, responsible only to themselves and their conscience and not bother about the public weal or the government, preferring to stay in the sidelines, when issues affecting governmental agencies or defects existing in them and requiring reform are discussed. The ordinary run of lawyers believe that their duty is to win lawsuits; and to win lawsuits they must pile precedent upon precedent, musty with age, to astound the judge with their so called "legal learning" acquired by mechanical memorization of rules and precedents rather than by progressive study of the principles back of them; and they do not concern themselves about expounding new theories and principles that should govern their case in accordance with the modern social needs and developments because the judge who was chosen from their ranks cannot appreciate principles beyond the cold pronouncements of dead judges that have ruled their thinking. It is such narrow-minded intensely individualistic lawyers that defeat the leadership of an organized bar, hamper its growth and development, and contribute nothing to the solution of the complex problems that arise in our constantly changing world.

The problem of building a strong reputable bar is not the problem of the Philippine bar alone. "By their fruits ye shall know them", and we have always looked to law schools of good standing for the improvement of the legal profession. Our judges too, who are more cognizant of the defects in the administration of justice and whose experience best qualifies them to counsel us in the solution of this problem should take a leading part in the task of raising the standards of the bar. We can not stress too strongly here the fact that the profession of law is for those who really have an aptitude for it, who have stamina, courage, resourcefulness, wit, judgment and "capacity for creativeness". A person of average intelligence should be discouraged to join this profession, and the definitely inferior student should be advised by the faculty to stop the study of law, for even if he passes the bar examinations after repeated attempts by a stroke of luck he will be a hopeless case in the profession. While it is true that it is impossible for a student to learn all the law during the period of legal education and this because subjects are constantly changing and expanding due to the demands of new conditions, faculties should insist on a broad

cultural background, and should discourage students from restricting their studies to a single field. Legal education and training is absolutely incomplete if the element of practical experience is missing. Practice clubs and moot courts where mock trials are conducted may be all right in their way, but I believe that instead of training the mind of the student in the manufacture of evidence resorted to by some so called "skilful lawyers", he should be taught how to handle actual cases in legal clinics or law offices. If the circumstances render the accomplishment of this difficult, then since internship in hospitals required of medical students prove to be of incalculable value, it is not amiss to suggest therefore that candidates for admission to the bar should be required to undergo some sort of probation under actual conditions of practice. The earlier rules of the Supreme Court of New Jersey required that candidates must serve a clerkship with an attorney for at least 4 years and should give satisfactory evidence of his knowledge of practice. An innovation in this direction deserves some serious study. It should be borne in mind by all concerned that the ebb and flow of social and economic changes, and the transformations that rapidly supervene in this age, exact a much higher standard of legal training and education, and demand of the young lawyer today higher qualifications than those required in the earlier years. Under present circumstances, however, I would suggest to the students of law that they should, as much as possible, acquire practical experience in courts and law offices. Visit court rooms and watch the trial of cases, observe how they are conducted and presented by lawyers from the filing of the first pleadings until their final disposal by the judge. Get acquainted with the court and its atmosphere, with the clerk of court's office, the sheriff's office, with every office that will be of assistance to you in your future practice. Then in your barristers clubs or junior bar associations, lead in the discussion of current problems affecting the administration, the government, and the nation, for a unified bar will have need of your ideas and learning if it wants to have its influence felt in the settlement of public issues.

If there is an organized bar in the Philippines guiding opinion in the formulation of policies of our government, we have not heard of it. If the lawyers as a body have been presenting proposals for legislative enactment, discussing scientifically fit subjects of modern legislation at their meetings, we

have not seen them. There is truth in the observation that only the physician or scientists can gather together at conventions, and leave the public always impressed with notable achievements, in their respective lines. But with the co-operation of the law schools and the active members of the bar, as well as the judges, in exacting compliance with the requirements of a more effective method of admission to the bar, only the most capable and worthy will be chosen to join the legal profession; and I venture the prophecy that with these well chosen lawyers upholding the dignity of the profession, discharging their proper duties toward the improvement of the conditions not only of the profession but also of the nation, active in progressive thinking, and alive to the new problems arising from the forward push of liberal democracy, the legal profession will survive its rich tradition of leadership in politics and reform.