

The College of Law, University of the Philippines, Its History and Proper Function *

IT was a happy thought that prompted your Dean to invite me to address you this afternoon. I come to you possibly a stranger, possibly merely a tradition. Yet since I organized your College, I hope you consider me as your friend.

For the record if nothing else, I think I should tell you of the founding and history of the College of Law, University of the Philippines.

Before and immediately after the inauguration of the American regime in the Philippines, legal education was necessarily conducted in the Spanish language exclusively. The first indication that the Philippine Government desired to deviate from this plan by providing courses in English, came with the institution in the Philippine Normal School (afterwards the Junior College of Liberal Arts of the University of the Philippines) of a preparatory law course. But having prepared students to study law in English, the Government was apparently unable to provide the means for legal study in English for the students thus prepared. The situation of these bright young Filipinos, brought to my attention when I was an attorney in the Bureau of Justice, aroused my sympathy. I found that the Secretary of Public Instruction who was the Chairman of the Board of Regents of the University of the Philippines, was unalterably opposed to the establishment of a law college in the University of the Philip-

ines at that time. Undismayed, I enlisted the interest of the Educational Department Committee of the Young Men's Christian Association. The Association was persuaded to offer law courses, open to both Americans and Filipinos.

Law classes conducted under the auspices of the Young Men's Christian Association opened in June, 1910, with approximately fifty students enrolled. These students included the cream of the student body who under ordinary circumstances would have registered in the University of the Philippines. As a result, the Board of Regents of the University changed its policy, and on January 12, 1911, provided for the establishment of a college of law in the University of the Philippines. The Young Men's Christian Association thereupon, pursuant to a previous announcement, discontinued its law courses at the end of the scheduled school year.

During the year that the law courses were given under the auspices of the Young Men's Christian Association, through the courtesy of the Director of Education, the Superintendent of the City Schools, and the Municipal Board, the classes secured quarters in the Manila High School, now Araullo High School in Intramuros, without expense. The following year when the University of the Philippines took over the law classes, the building located at No. 68 Isaac Peral was rented for the use of the College. Thereafter

* An address by Hon. George A. Malcolm, former Dean of the College of Law, before the student body of the College on Thursday, September 28, 1939.

the College of Law assumed joint occupancy with the College of Liberal Arts of the commodious University Hall then just erected.

The entrance requirements originally prescribed graduation from a high school; a law course of three years was grounded thereon. From the beginning, however, it was my purpose to establish high standards in legal education. Accordingly, when the Law College was taken into the University, the entrance requirements were raised to completion of a two years' preparatory college course and the law course was raised from three to four years of practical and thorough instruction.

Originally the faculty was composed exclusively of American judges and lawyers. This was made necessary because of the policy indorsed by the Young Men's Christian Association. I had in mind, however, to Filipinize the faculty gradually. The first Filipino brought into the faculty was Jorge Bocobo, then a clerk in the Executive Bureau, later to become Dean of the College of Law, President of the University of the Philippines, and Secretary of Public Instruction. From that beginning the faculty evolved into an exclusively Filipino body. Originally the law teachers were selected from government officials and practicing lawyers. Later I laid the foundation for a more permanent faculty consisting of law professors devoting their entire energies to the teaching of law. The law faculty has included many famous law teachers like Hon. Charles B. Elliott, former Justice of the Supreme Court of Minnesota and of the Supreme Court of the Philippine Islands and Secretary of Commerce and Police, Justices Johnson, Carson, Moreland, Villamor, Santos,

Villa-Real, and Diaz of our Supreme Court, Professor Ernest P. Conant who came to us from the University of Nebraska, Hon. E. A. Gilmore of the University of Wisconsin, later Vice Governor and now President of the University of Iowa, Hon. Quintin Paredes, then Fiscal of the City of Manila, and other equally renowned law teachers whose names time will not permit me even to mention. Suffice it to say that the law faculty included the cream of the Philippine Bench and Bar.

From the beginning I worked in close harmony with the student body. The student body in turn supported me on every occasion. The 1913 Law Class made a record for college spirit which set a standard that succeeding classes have endeavored to emulate. The College of Law soon established itself as the leader in college and university spirit. I take it that this leadership still continues.

When the first graduates left the College of Law in 1913, it was a moot question whether or not they were as well prepared to take the Bar Examinations as students coming from the Spanish language law schools. The question was soon answered, for beginning with that year the College of Law has maintained practically an unbroken record of success in the Bar Examinations. This has come about because as Dean I would not graduate any student who could not reasonably be expected to pass the Bar Examinations and who was not equipped to practise law. This policy was wisely continued by my successors. Also the law graduates of their own accord desired to establish and maintain the reputation of their *Alma Mater*, and incidentally their own personal reputations.

I cannot give you the names of all the graduates of the Law College. When I was Dean I was able to call every student by name when I met him in the classroom or the office. I continued to do so with the alumni as long as I was connected with the University. Now that is an impossibility. But I will say that I have been inordinately proud of the splendid records made by the law graduates of the University of the Philippines, at the Bar, on the Bench, and in public life. Typical of them may be mentioned Manuel Roxas, president of the 1913 Laws who established the norm of excellence for the College and who ascended to become the Speaker of the House of Representatives and the Secretary of Finance; Jose Yulo, 1914 Law who from my humble clerk at ₱30 a month climbed the ladder of fame to become Secretary of Justice and the Speaker of the National Assembly; and Jose P. Laurel, 1915 Law who succeeded me on the Supreme Bench.

The standing of the College of Law, University of the Philippines, was early recognized here and abroad. In sorting old records recently, I came across a letter from the first President of the University of the Philippines. On retirement from office he wrote me in part as follows:

“UNIVERSITY OF THE PHILIPPINES, MANILA
OFFICE OF THE PRESIDENT

April 1, 1915.

My dear Dean Malcolm:

I cannot leave my active work in the University without expressing to you the very great debt I am under due to your remarkable work in founding and organizing the College of Law.

I consider that the history of the College of Law presents a remarkable achievement; that in four short years a force that you had organized yourself under great difficulties should have been incorporated in the University of the Philippines, largely through your efforts, and have obtained recognition by the Association of American Law College marks you out as one of the greatest organizers and administrators I have ever met. I have been particularly pleased with your cooperation in standing from the first for high standards of scholarship which has been one of my chief ideals for the University of the Philippines; that is because you are essentially a scholar yourself. * * *

Very faithfully yours,

(Sgd.) MURRAY BARTLETT
President

University of the Philippines.

Mr. George A. Malcolm,
Dean of the College of Law,
University of the Philippines,
Manila, P. I.

That letter was sent to me. But it was meant as an endorsement of the united effort of the faculty, alumni, and students who all were only intent with association with the best.

Why it is sometimes asked me, has it happened, that those early law graduates trained under my supervision developed into leaders who, guided by His Excellency the President, practically run the Philippine Government? Why were those graduates found to be more successful than other graduates? Of course the young men who graduated when I was Dean had in their favor more mature years. But in addition they possessed three qualities which made for success. In the first place,

everyone of them was equipped with both the English and the Spanish languages and they made this possible not only through classroom instruction but through personal development. In the second place, they ascended the road of hard work. These men dug out the law from the codes and reported cases, analyzed that law in the light of established jurisprudence, and learned to think logically for themselves without the present aids of notes, outlines, and case books which tend to formalize the teaching of law. They believed with Chief Justice William H. Taft that, "Those who come to the Bar by a mere trick of memory, and without thorough absorption of legal principles, are not likely to improve the tone of the practice to which they have succeeded by such means." In the third place, those graduates in my time recognized a *esprit de corps* which made them take pride in their own record, in the record of their Law College, and in the record of their country.

You who are law students will soon graduate from this College, will soon pass the Bar Examinations, and will soon enter upon the practice of the law; that is, most of you will, for inevitably a few must fall by the wayside. What should be your attitude toward life? If I may counsel you I would say: be yourselves. Be Filipinos proud of your native land and willing to make sacrifices for your native land. Participate in your class work and the Bar Examinations in an honorable manner, studying the law thoroughly and permitting no legal obstacle to dismay you. On graduation do not expect bright days to follow immediately but take any job whether in private practice or in the government that offers itself. There-

after live up to the ethics of your noble profession.

One discouraging feature about Philippine law relates to its immensity. There are no less than 4766 laws on the Philippine statute books. I say they are on the statute books, although many of them along with portions of our present codes are obsolete or repealed. A considerable portion of the time of a lawyer or judge is spent not in interpreting and enforcing the law, but in endeavoring to ascertain what the law is. The remedy is easy. All this miscellaneous mass of statutory law should be compressed into a code similar to the Code of the Laws of the United States approved by the Congress, or similar to the codes approved for Puerto Rico and many States of the American Union. It would not be a difficult job to accomplish and should receive early attention from the authorities. To tell the truth, I had in mind retirement from the Federal Service next April and subsequently had intended to offer my services gratuitously for the performance of this task. But other trained lawyers are available who could codify and simplify Philippine law so that it could be understood not only by lawyers and judges but by laymen as well.

Not alone do we have all of this statutory law in the Philippines, but in addition there are thousands of decisions of the courts, some published in the Philippine Reports, but others hidden away in records and unknown even to attorneys-at-law. What attitude should you as students and prospective graduates assume toward these decisions? Under the rule of *stare decisis* established jurisprudence is entitled to respect in order that there may be stability in the law. Nevertheless I am

happy to note that a sensible and practical view of the doctrine of adherence to precedent is slowly gaining ground. Based on the decision of the Supreme Court of the United States in *Great Northern Railway Co. v. Sunburst Co.*, 287 U. S. 358, the Court of Appeals of Kentucky handed down recently in *Payne v. City of Covington*, 123 S. W. 2d 1045, a decision in which it was said:

"From an examination of the cases and authorities referred to it will be found that in no state of circumstances does the *stare decisis* rule require courts to continue to adhere to a clearly demonstrated erroneous opinion, although they are much more reluctant to depart from the law as declared in a prior opinion when such declaration affects individual property rights and commercial transactions whereby such rights are acquired.

"We conceive, however, it to be competent for a court, in overruling a prior adopted principle, to preserve in the overruling opinion all rights accrued under the prior declaration, the same as if they had been created or arose out of a former existing statute which was later repealed by the legislature."

A poem has been written by an anonymous author satirizing the doctrine of precedents. Permit me to cite it as a "precedent" on "Precedents."

"A wabby calf walked through the wood,

But why, it never understood;
And as it wandered in and out,
Its trail would turn and twist about;
The mother cow, with anxious mind,
Its footsteps trailed right close behind;

A boy, with joyous care-free laugh,
Too, tramped along behind that calf;

And other folks, ere since that day
Have trudged along that crooked way.

For though that calf has long been dead,
Folks blindly follow where it led.

An olden Judge in wig and gown,
With solemn tones the law laid down,

And by the wagging of his jaw
Decreed that thus and so was law;
Reporters printed what he said,
And now in legal tomes 'tis read.
His worth we lawyers glibly quote
And cram them down the Judge's throat,

For courts are loath to break away
From that which was decreed that day,

But meekly follow precedent
And go the way that ancient went.
Yet lawyers have the nerve to laugh

At those who trail that wabby calf."

Let me urge you not to become legal secret-service agents who endeavor solely to search out a case good or bad to support your cause. On the contrary, take the decisions merely as aids to a knowledge of the law. Get down to the philosophy underlying the decisions and statutes and then apply this doctrine to your facts. In other words, I want you to be not blind worshippers of precedent, not blind adherents of technicality, but real lawyers who seek out legal rules and equitable principles that establish justice for all whether rich or poor, whether a high official or a lowly peasant.

On graduation you will likewise be confronted with the problem of what your attitude should be towards the public. I would like to see you join a Bar association and become active therein. I confess that the present Bar As-

sociations in the Philippines are most ineffective in accomplishing anything worthwhile for the legal profession and the public, but do not let this discourage you. You yourselves can help to revitalize these organizations so that they may be active associations, so that they may confirm and defend the ethics of the profession, and so that by unity the legal profession may take the lead in public affairs.

In addition, you will be confronted with the problem of whether or not you should enter politics. Although some will advise you not to become politicians, my opinion is that there is nothing wrong in a young man being ambitious and, in order to make effective his ambition, entering public life. Of course you should realize that politics and law, like oil and water, do not mix. But if you have a fair chance to be elected to a public office—whether it be to the council of your municipality or to the legislative body of the Commonwealth—go ahead, take your chance and become a politician in the better sense of the word.

I severed my connection with the College of Law, University of the Philippines in July, 1917. Thereafter for some years, I offered instruction in the courses in Constitutional Law and Legal Ethics, but took no part in the administration of the University. I was succeeded by Dr. Bocobo and later by the present Dean, Professor Jose Espiritu, a member of the first graduating class. Although, therefore, I have not been associated with the University for a good many years, I wish to tell you that the pleasantest days of my life were spent here in this College

striving to help develop the youth of the land into leaders of their country. I personally will never be the President of the Philippine Republic, but some student trained by me will assuredly fill that high and responsible position. Thus will the seal of approval be written on my work in the Philippines.

My friends, the Philippines needs a legal education with high standards. The Philippines needs legal literature produced by eminent scholars. The Philippines needs a strong and harmonious Bar Association. The Philippines needs a judicial system keeping to its own sphere, abhorring technicality, and accomplishing justice promptly. The Philippines needs codes of laws and simplified procedure. The Philippines needs lawyers who adhere scrupulously to their oaths of office. The Philippines needs leaders patriotic in ideals but practical in the realization of the realities. The field is wide. There is work for all. Do your duty as befits good lawyers and good citizens, as befits graduates of the College of Law, University of the Philippines.

It was my good fortune to deliver the salutatory address of the College of Law, University of the Philippines three decades ago by organizing the Law College. It has become my duty today to deliver what may be a valedictory. I am confident that I shall be able to take with me not only memories of the past glories of the College of Law but an assurance for the future that the Law College will maintain its position of leadership in the University for the good of the Commonwealth. Buena suerte. Mabuhay. Good-bye.