

THE COLLEGE OF LAW  
UNIVERSITY OF THE PHILIPPINES

BY

GEORGE A. MALCOLM  
*Dean of the College of Law.*

In extending greetings to the Philippine Law Journal, which I do most sincerely, for the establishment of a magazine for the closer relationship of the faculty, alumni, and students of the College of Law, and the members of the bar, and the dissemination of legal knowledge, has been one of my cherished projects for a number of years, I have considered that a history and description of the College of Law, University of the Philippines would be most opportune in this, the inaugural number of the Journal. Accordingly I make free use of a previous article on the same subject, omitting portions now obsolete, but adding thereto in order to bring the subject matter down to date.

There is, in the Philippines Islands, a unique legal system, in which the two great streams of the law, the civil, the legacy of Rome to Spain, coming from the West, and the common, the inheritance of the United States from Great Britain, amplified by American written law, coming from the East, have met and blended.<sup>1</sup> On the substantive law of Spain in force in the Philippines on American occupation, the new regime has grafted simplified code procedure, the Torrens system, a negotiable instruments law, American public and private corporation law, and similar statutes. The present Government has, moreover, been guided by the express injunction of President McKinley in his instructions to the Philippine Commission, that "It is especially important to the prosperity of the Islands that a common medium of communication may be established, and it is obviously desirable that this medium should be the English language." The legislative

---

<sup>1</sup> See Lobingier in *Review of Reviews* for September, 1905; and Abreu, in *Philippine Law Review* for May, 1914.

body carried forward the same idea by providing for English eventually to be the official language of the courts.<sup>1</sup> The courts, in interpreting and applying the law, have, consequently, in one opinion gone to the jurisprudence of Spain for authority, and have, in the next, applied the rules of the English and American common law.<sup>2</sup>

The complement of such a system of jurisprudence is obviously a school where students are trained, in the future official language, for the practice of law in the Philippine Islands. Experience shows that students have, at great expense, been sent to American Universities and have there acquired an excellent knowledge of the English language, and studied conscientiously the principles of American law, only, on a return to the Philippines, to find themselves hopelessly at sea in the Spanish law. Other students have pursued a course of legal study in the Universities of Spain or France, or in schools in the Philippines in which, in the Spanish language, the Spanish codes are studied directly, only to come forth unacquainted with the future official language of the courts where they are to practice, and unfamiliar with American adjective or substantive law, or cases. In both instances the method was wrong—the student was over-developed in one direction and under-developed in another.

The first indication that the Government was cognizant of such conditions came with the institution in the Philippine Normal School (afterwards carried on in the Junior College of Liberal Arts) of a preparatory law course. Act 1627 of the Philippine Commission, the Justice of the Peace law, gave legislative sanction to the idea when it was provided, in section 1 thereof, that "The Director of Education shall certify to the Governor-General the names of all persons, otherwise qualified, who shall have completed the course for magistrates at the Philippine Normal School or University, and have expressed their willingness to serve as justices." But, having prepared students to study law, the Government was apparently unable to provide the means for legal study for the students thus prepared. These students, on graduating in this course, were not fitted to take up a profession other than law without further study; they had not the means

---

<sup>1</sup> Act 190, Sec. 12; Act 1123, Sec. 1; Act 1427, Sec. 1; Act 1946, Sec. 1; Act 2239, Sec. 1.

<sup>2</sup> Opinion of Attorney-General Araneta, 4 Op. Atty. Gen., 510; opinion of Mr. Justice Carson in *U. S. v. Cuna*, 12 Phil. 241.

to attend American universities; they had not the knowledge of Spanish which would permit them to matriculate in the law schools of Manila. The situation of these bright young Filipinos, brought to the attention of the undersigned by them, appealed to his sympathy. Having found that the Secretary of Public Instruction did not favor the establishment of a College of Law in the University of the Philippines at that time, through the interest of the Educational Department Committee of the Young Men's Christian Association, the Association was persuaded to give law courses, open to both Americans and Filipinos. Under the heading of "Aim and Purpose" in its announcement of the educational courses, it was said:

"Preparatory courses in law are offered at present in the Junior College of Liberal Arts. English is to be made the official language of the courts in 1913. There is no school in the Philippines where either Filipinos or Americans can study law in English. To fill this need as well as possible is the desire of the Young Men's Christian Association in giving these law courses. Their purpose is two-fold: first, to train Americans and Filipinos who are properly qualified for the Philippine bar examination; second, to meet the needs of business men, civil service employees, etc., who desire to pursue certain legal studies without intending to practice law."

The law courses received unlooked for assistance from the beginning. A circular was sent to the members of the Manila Bar and Judiciary, and without exception, everyone responding, favored the proposed plan. A tentative course of study, inclosed for their study, was, however, criticized, and from these suggestions and from a perusal of the catalogues of leading colleges of law, the undersigned, with the assistance of Judge Hurd, of the Court of First Instance, was enabled to draft a course of study. It was thought that it would be difficult to secure quarters for the classes, but through the courtesy of the Director of Education, the Superintendent of the City Schools, and the Municipal Board, a room in the Manila High School was made available without expense; a study room containing a small library was afterwards equipped in another quarter. It was thought that to obtain a faculty, not alone of lawyers, but of lawyers with experience in teaching, or with the proper temperament, would be impossible, but it proved the contrary. Hon. Charles B. Elliott, formerly Judge of the District Court of Minnesota, Justice of the Supreme Court of Minnesota, and Justice of the Supreme Court of the Philippine Islands, and then Secretary of Commerce and Police, the author of standard text books on

Insurance, Municipal Corporations and Private Corporations, and for many years a professor in the University of Minnesota, gave his enthusiastic support to the law courses not only accepting the deanship, but teaching a course himself. The writer was made secretary, and gave two subjects. Other members of the faculty were Mr. Justice Johnson, of the Supreme Court, author of excellent text books on Negotiable Instruments and Code Pleading, formerly secretary of the Department of Law in the University of Michigan, and for thirteen years a professor therein; Judge Lobingier, of the Court of First Instance, author of books on Philippine Practice and the People's Law, and of the oft-cited article on constitutional law in the American-English Encyclopedia of Law, and formerly a member of the Supreme Court of Nebraska and of the faculty of the University of Nebraska; Mr. Clyde A. DeWitt, of the Manila Bar, who had taught a number of years in the Philippines; Mr. W.L. Wright, of the Manila Bar, to teach public speaking, having been instructor in the same subject at Valparaiso University; Professor Fansler, of the University of the Philippines, to teach argumentation, a course similar to those given by him in the College of Liberal Arts; Judge A. S. Crossfield, of the Court of First Instance, who, from his varied experience was picked as the best man for the most fundamental of all law subjects, Contracts; Solicitor-General Harvey, with practical experience in criminal law, corporation law, etc., and most studious and conscientious in his work; and Judge Goldsborough, of the Code Committee, who at the time was investigating the very subject he was to teach. It was not expected that there would be over fifteen students, but notwithstanding there had been no opportunity for public announcement and the school was in the nature of an experiment, fifty well qualified students presented themselves for the opening exercises on July 1, 1910. With such enthusiastic support from the Bar, the faculty, the students, and the Young Men's Christian Association, the courses could not help but be an unqualified success.

The Board of Regents provided for the establishment of a College of Law in the University of the Philippines, on January 12, 1911. The Young Men's Christian Association, thereupon, pursuant to its previously announced policy, and upon the recommendation of the Dean and Secretary of the Law Courses, decided to discontinue the same at the end of the scheduled school year.

The College of Law, University of the Philippines, was organized with Hon. Sherman Moreland, Justice of the Supreme Court, and generally acknowledged to be one of the most brilliant lawyers and jurists in the Philippines, as Acting Dean, and the writer as Secretary. A number of prominent lawyers were added to the faculty. The building located at No. 68 Calle Isaac Peral, was rented for the use of the College. Two classes, the freshman, with 125 students, and the second year, including those students coming from the Young Men's Christian Association Law Courses, were enrolled and began work on July 5, 1911.

During the three years which have since elapsed the work of organization has been completed. The College now occupies the commodious University Hall jointly with the College of Liberal Arts. It has therein offices for its faculty, class rooms, a well equipped court room, and a working law library containing close to fifteen hundred volumes.

The faculty is divided into three classes: 1. The permanent faculty devoting all their time to the school composed of two Professors of Law, (Professor Conant and the writer) an Assistant Professor of Law, (Mr. Bocobo) and two instructors in law (Messrs. Hilado and Espiritu); 2. Members of the Manila Bar and Judiciary giving subjects for which specially qualified, consisting of Judge Lobingier of the United States Consular Court at Shanghai, Justice Carson of the Supreme Court, Judge Harvey of the Court of First Instance, Judge Goldsborough of the Code Committee, Commissioner DeWitt of the Board of Public Utility Commissioners, Prosecuting Attorney Paredes, Judge Abreu of the Court of First Instance, and Messrs. Villareal and Santos of the Bureau of Justice; 3. Special lecturers on narrow topics, numbering Judge Crossfield of the Manila Bar, Executive Secretary Villamor, Mr. Del Pan of the Code Committee, Mr. Ortigas Chairman of the Code Committee, Judge Ingersoll of the Manila Bar, Judge Sumulong of the Manila Bar, City Attorney Escaler, and Dr. Newberne of the Bureau of Health. The faculty which, as originally constituted under the Y. M. C. A., was necessarily composed of Americans exclusively has since changed, so that now it is made up of nine Americans and twelve Filipinos. Through the undersigned it is in close touch with the President of the University and the Committee on Law of the Board of Regents, Commissioner Palma, Justice Johnson, and

Mr. Escaler. These officials have always taken an exceptional interest in the welfare of the college.

The student body numbers one hundred and fifty. There are also about eighty in the preparatory law course which, with the admission of graduates of the Ateneo de Manila and Silliman Institute, would indicate that even with high entrance requirements of two years of college work, and strict and thorough legal instruction, attendance is bound to increase. Were the entrance requirements lowered so as to admit high school graduates, there is no doubt that over one thousand would enroll, but it is not our desire to compete with private schools or to draw from the other professions. The student council composed of the heads of the different organizations and a representative from each class and the college alumni controls student enterprises. The loyalty, spirit, and sacrifices of our students can not be commended too highly.

The courses of instruction are so arranged that, upon completion of a two years' preparatory college course the student receives three or four years of *practical and thorough instruction for the practice of law in the Philippine Islands*. These courses follow the American law school method as to logical sequence, e.g., Contracts coming in the first year, and other subjects, as Agency, dependent and ancillary thereto, later. They follow the Spanish law school method in that the law in force in the Philippines and the cases construing the same, are studied, e.g., in Civil Procedure, a study of Act 190 of the Philippine Commission, preparing the student for Philippine practice. Text-books and syllabi are used where possible in the freshman year, when the student, verdent in the law, is totally unacquainted with cases, how to find them, and how to study them properly when found. The case system, with outlines, is used thereafter, where feasible. But always the portion of the written law of the Philippines which is included within the scope of the subject, and the leading opinions of the United States Supreme Court, or of the Supreme Court of the Philippine Islands, construing the same, are thoroughly covered. Emphasis is placed on such practical subjects as moot court work, and conveyancing; not only is it believed that students should understand the principles of code pleading, but they should *know how* to institute and conduct a case through all its stages; not only should students be

familiar with the essential requirements for a good contract, will, mortgage, partnership agreement, etc., but they should *know how* to draft such documents.

A thesis amounting to a contribution to legal knowledge, is made a prerequisite to graduation. Prizes for scholarship and for the winners of college contests are awarded during each academic year.

With the institution of this Law Journal, and next year, of a post graduate review course and a free legal dispensary in connection with the work of the Public Welfare Committee; with action on our application for membership in the Association of American Law Schools; with the organization of the alumni association, and with legal research work begun by members of the faculty, the plans, which I have had, will have been realized. We have next to organize and develop a School of Finance and Business Administration in connection with this College.

With the foregoing description of the College of Law, I conclude as I did in the article from which this is taken—

The stock objection to a Government law school in the Philippines was, and is: "There are too many lawyers and politicians in the Philippines." In a measure, the statement is correct. The Philippines do not need so-called lawyers, who are only able to fulfill Aaron Burr's ironical definition of Law: "Whatever is boldly asserted and plausibly maintained."<sup>1</sup> The Islands do not require politicians who believe with the cynical Voltaire that: "The art of government is to compel two-thirds of the people to pay all they can to support the other one-third." Even the description of a juris-consult, by Cicero, is not sufficient: "Skilled in the laws, and in the usages current among private citizens, and in giving opinions and bringing actions and guiding his clients aright."<sup>2</sup> What is needed is, not a greater quantity, but a finer quality of men, who, thoroughly grounded in a general education, have builded thereon an understandable comprehension of the existing law and institutions of the Philippines, and who upon graduation, can practice law in the official language and take a leading, progressive part in good government. The College of Law will fail in its duty just so far as, through over-kindheart-

---

<sup>1</sup> Magruder, *Life of Marshall*, page 203.

<sup>2</sup> Quoted in the *Yale Law Journal* for November, 1911, page 72.

edness or laxity the road to the practice of law or to a place in public life is made easy.

The school can not hope to accomplish its plans, or to assume its proper place by merely striking the rock and expecting there to burst forth a complete college—but varying the figure of speech, as was said in the Talmud:

“The foolish man says, ‘It is impossible that I should be able to remove this immense heap. I will not attempt it.’ But the wise man says, ‘I will remove a little today, some more tomorrow, and more the day after, and thus in time I shall have removed it all.’”<sup>1</sup>

Said Alexander Hamilton, quoting from Hume, to show that a perfect constitution is not possible: “The judgment of many must unite in the work; experience must guide their labors; time must bring it to perfection, and the feeling of inconvenience must correct the mistakes which they inevitably fall into in their first trial and experiment.” The idea thus so appropriately stated by this eminent statesman is just as true in its application to the College of Law. It can, however, even now, have as its ideal that which President Bartlett so aptly phrased in his inaugural address as “efficiency.” The College of Law, University of the Philippines can, under any circumstances, and at all times, aim at being primarily a college of law *of* the Philippine Islands, *for* the Filipinos and other residents of the Islands, and eventually, particularly as students are graduated and gain experience, *by* the Filipinos.

---

<sup>1</sup> Quoted in 219 U. S., page XV